



THE MADRAS LEGISLATIVE ASSEMBLY.

Friday, the 4th February 1949.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVA-SHANMUKHAM PILLAI) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
BILL, 1949.

MUHAMMAD RAZA KHAN SAHIB:—"Mr. Speaker, Sir,
I should like to make one submission before we proceed with the

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next item on the Agenda. The other day we were discussing the Madras Sugar Factories Control Bill, 1948, and we were almost at the end of it when the House adjourned and I submit, Sir, that if we take up that Bill now, I do not think that it will take more than an hour or so, for the House to finish it and pass it into law. I should like to know why we should not take up that Bill now, Sir."

MR. SPEAKER:—"Then we will have to change the order of business and it cannot be done unless on a motion for the purpose. Since no such motion has been made and approved by the House, the present order in the Agenda will stand."

* THE HON. DR. T. S. S. RAJAN: "Mr. Speaker, Sir, I beg to introduce the Madras Hindu Religious and Charitable Endowments Bill, 1949, and move—

Under rule 111 of the Madras Assembly Rules, the concurrence of the Legislative Council be obtained in setting up a Joint Select Committee of both the Houses consisting of thirty members to consider the Bill (twenty members from the Assembly and ten members from the Council)."

"Sir, in introducing this Bill, I know I am rather on very sensitive grounds, because it is a Bill which has caused a lot of anxiety in the public mind and especially in the minds of those who feel keenly that this Bill is going to interfere with religion. I just want to mention here that this is not the first time in the history of the Legislature of this Province and in fact of this country, that the Government have thought it necessary to interfere with religion and religious institutions. The present Hindu Religious Endowments Act which empowers the Government to appoint a Board to look after the various religious institutions in the Province and which has been on the statute book for quite a long time is a thing well-known to all of us. Therefore this Bill is not a new innovation brought in by this Government with regard to religious institutions of the Hindus of this Province. Time and again, Governments, both Indian as well as foreign were obliged to interfere with the management of all religious institutions in this Province. It is also known, that even long before, the East India Company took upon themselves the responsibility of managing religious institutions in India and they continued to do so for a very long time, when it was brought to their notice that it was not their duty to look after and manage Hindu religious institutions. It was also recorded that they as Christians, had nothing to do with religion and religious institutions, and their responsibility lay with the management of Christian institutions only. After a spell of years of mismanagement of these institutions by the Hindus themselves the Government of the day had been obliged to take upon themselves the responsibility of managing such institutions and interfering with their internal working.

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"The institutions decayed and a long history of mismanagement is there. Subsequently when the Government came under diarchy the Hindu Ministers of that time felt that it was their duty to take up the responsibility and in doing so they got legislative sanction for bringing in the Hindu Religious Endowments Bill, which gave certain powers to the Government through the Endowments Board to manage those institutions. That is there in the Statute Book even now. Therefore the argument that the Government have not interfered with matters of religion and they should not do so now does not hold water. The Government have considered this to be their responsibility so far. In the meantime when the Congress Ministry was in charge of the Province in 1939, as the Minister for Hindu Religious Endowments, I felt the need and the necessity for overhauling the Religious Endowments Board which was functioning. I consulted legal opinion, the High Court, the Advocate-General and many others who could give an authoritative interpretation of the law in the matter and with their consent and co-operation I drafted a Bill called the Hindu Religious Endowments Bill. The Bill was circulated to the Cabinet of the time and had their approval, but before we could put the Bill into the Statute Book we resigned for political considerations and therefore the Bill lapsed. The responsibility for administering Hindu Religious Endowments fell to the Advisers who came after us and they also felt that a lot of improvements were to be made in order to see that the Act worked properly. In fact they brought in some amendments which did not seriously interfere with the constitution of the Board and its rights. Some minor improvements were made. The major improvements suggested were left over for a responsible and popular Government to come. Until such time the Endowments Board was allowed to continue. We have taken charge two years ago and the Hon. the Premier who is in charge of Endowments has after administering the department for nearly two years, again came to the conclusion that the present Board and its management must be thoroughly overhauled and the rules and regulations that are embodied in the old Act modified considerably. This draft Bill has been before the public more than once. It was proposed to be introduced last year and all the Members of the Legislature had a copy of the Bill. Since then the Government were very busy with legislations of various kinds, particularly the Zamindari Abolition Bill which had a bearing on the inams that were devoted for religious purposes. That Bill was on the anvil and we could not push through this Endowments Bill. The time has now come for pushing through the fresh Bill. That is the genesis of this Bill as I understand it and as the Cabinet understands it.

"Questions have been raised about the Secular State and it is therefore said that we should not interfere with regard to religious matters. In putting forward this argument reference has been made to the sections of the draft Constitution that is being framed. We have examined the question and we have

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been assured that we are within our rights to handle religious institutions and endowments that are contained in it. We have also the responsibility as a Government to discharge our duty towards those trusts. More than that, the zamindari legislation that has been passed has thrown upon us a further responsibility to take up things into our care and manage them. The question may be asked, 'why not ask the Hindu Religious Endowments Board to do it?' Yes, certainly the Hindu Religious Endowments Board may be trusted to do it. The Government are not satisfied that the Board during its existence has done any effective work to rectify the mistakes for which it was brought into being. The Board has done good work in the sense that according to the Statute under which it was created it has discharged its duties. They were not able to go beyond the provisions of that law. They did not have the power to carry out the wishes of the public or of the trust in the matter. It was a compromise legislation, if I could say so. At the time the Bill was introduced the position was nebulous. The trusts and endowments were such that the Government could not effectively frame laws because there was the fear that they would be interfering too much with religion. But the Government could not possibly keep quiet. Public agitation was insistent for some sort of control over those institutions and that was why the old Panagal Ministry framed this legislation for the constitution of the Hindu Religious Endowments Board. Though it has been in operation for quite a long time we find that the badly-managed temples and trusts still continue to be badly managed. And though there is a certain amount of auditing and restriction, the trustees of public funds provided for religious and charitable institutions have not been functioning in the sense in which they were conceived. Those people who endowed the trusts for the Hindu community in general and for religious purposes were not able to bring the necessary pressure upon those institutions except by a prolonged and tedious process in the carrying out of which much time was wasted and the institutions suffered badly and sometimes the trusts also ceased to exist. These things still continue. Therefore we felt that we should again come forward with a proper legislation which would control these institutions properly for the benefit of those for whom they were created. It is not as if we are rushing into a legislation. We are not very fond of rushing it simply because we want the legislation. We have felt the need for it and the Governments before us have felt the need for it and the Government which immediately preceded us felt the need for it. Feeling the need as we do, it is our duty to create an institution in such a way as to take away all the evil effects of the present Endowments Board. The fear of interfering with religious institutions has always been there with an alien Government, but with us it is very different. We may be called a secular Government and it is so. But it does not absolve us from protecting the funds of the institutions which are meant for the service of the people. It may be that it is looked down in the

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name of religion but after abuse has crept in and is continued in the name of religion can any Government look on and see the funds being misused or misappropriated. As elected representatives of the people we do feel that we have a responsibility in the matter. If we are to discharge our duties, in the way in which we propose to do we are doing a service which the public wants us to do. Whatever the future Constitution might say when it becomes an Act, under the present Constitution we have complete power to undertake a Bill as we have done. We have got every power to deal with Endowments Board as we want it to be. No question of interference with religion could ever be put forward. If in the event of the Constitution coming in and taking away the power which we possess and if we have again to come to this House for powers we shall not hesitate to do so. To-day we have the power to go into the question and with all its implications this Bill proposes to do that.

"Then the question may be raised: 'Has the Endowments Board satisfied you in its working?' To the extent that it has powers, it has satisfied. For every question of proper management or any action that it has to take to prevent bad management it is required to be controlled and subordinated by decisions of the High Court which sits in appeal over it.

"There are many decisions of the Endowments Board which got turned down completely by the High Court. There are some decisions of the Board that are supported by the High Court. What happens with regard to the Board is that it sits in judgment over cases, passes its own verdict, and it also has got an appeal to a full bench of its own. Two or three Commissioners constitute the full bench. There is no finality about it because it is open to the party to take the matter to the High Court. If this tortuous procedure is to be perpetuated for years together what happens is that the trusts become impossible of management. Because when once litigation takes ten years, fourteen years or twenty years, or two generations, what is to become of the trust that is involved. What becomes of the rights of those people who are to be protected by these trusts? Such lapses have invariably happened, and particularly with regard to the question of property vesting in the inalienable rights of some of those who are entitled to take part in those trusts, recourse to law has become the rule. It came to such an extent that the Endowments Board could function only by taking over some duties and employing men to discharge their duties and asking accounts to be kept and audited. All these safeguards put into the Board, have invariably become useless. They have never been able to put right the accounts, unless, under the extraordinary powers they possessed, they took over the whole management and put it under an officer of their own nomination. Unless they take upon themselves all these powers, these executive officers, under the rules of notification under the law, cannot do it. Even that can again

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be questioned in all courts and may be taken to the highest court of appeal. No management, however, valiant it may be, could function with this perpetual interference from courts. Most of these Endowments have been misused, and have always been badly administered. They have perpetually been held by people who have been benefited by these trusts. There are some temples which are taken over and managed well. For instance, I may say that the Tirupati Devasthanam which is now under the control of a committee and also indirectly under the Board itself, is discharging its trust to a certain extent satisfactorily. Before the Government interfered in it and made a committee responsible for it, the Tirumalai-Tirupati Devasthanam was absolutely in a chaos. One Mahant was sitting and ruling over the temple affairs for generations, and was bagging enormous sums from pilgrims who, out of devotion and faith, gave enormous sums of money to the temple as offerings. The Mahant used these moneys more or less as one sole heir who is entitled to dispose of the money as he liked. Things came to such a pass, that the Government were forced to interfere. Although the Mahant is now only a member of the committee, the working of the temple has become very, very difficult. The Tirumalai-Tirupati Devasthanam is a *zamin* property. I am sure the new *zamindari* legislation will take hold of this *zamin* and administer it according to law. The *zamins* that were administered by the Devasthanam Committee came to such a stage that revenue has fallen so short that it is not possible for them to run the *zamin* at all with the resources they get. The resources have been dwindling. Because it is God's property, the *ryots* refused to pay their dues. There was no control over the management of these *zamins* with the result that the cost of running the *zamins* far exceeded the resources and revenues of the *zamins*. The result was that hundreds and thousands of rupees in the hundies had to be shelled out for the maintenance of the *zamin*. More than once, the Devasthanam authorities appealed to Government to take over the *zamins* themselves and manage them. That is what we propose to do now under the new *zamindari* legislation. We have taken care to see that the charities born out of these endowments shall be maintained. We as a Government have taken, and committed to ourselves, the responsibility of taking charge of those charities which are born out of those endowments, and we have taken care to see that the amounts shall not dry up. The responsibility of the Government is to see that these trusts are saved. Is it not our duty to see that these trusts discharge their functions properly? The Bill wants to do that. We propose that the endowment Board shall go, and that the endowments shall be managed by a department of the Government directly. We claim that it would tend to better management of the trusts. I just want to say that this is not the first time in the history of the Hindu religion that the State has interfered and taken over the trusts. The States of Mysore, Cochin and Travancore have taken their temples under their control. That means, it has become the responsibility of those States to see that the temples are properly

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administered. That is exactly what we propose to do now. We propose to administer the Hindu Religious Endowments not for any particular group of people, but for all Hindus. We propose to utilize the funds so earmarked for all Hindus, high or low, without any privilege to particular individuals or groups of people. When once the State takes over all the funds and the management, they become the property of the State. Every individual Member who sits here is entitled to ask questions with regard to the management of these temples and endowments. There will be a budget, and all expenditure will be voted by the Legislature. This will mean a very effective control over the management of temples. The administration of the temples will not escape public control and criticism. As every department of the Government is under the control of the elected representatives of the people, we propose that these Hindu Religious Endowments shall be controlled by Hindus. To-day, we cannot control them. No member of this Legislature can ask any questions with regard to the expenditure of any Devasthanam or Trust. They are precluded from so doing by the Hindu Religious Endowments Board, which is working there under a separate Act. Members of the Legislature have no right of scrutiny of the expenditure of the endowments and trusts. They can only say that they are badly managed; beyond that they cannot have any individual criticism. In no district are the endowments and trusts properly managed. I can say that without fear of contradiction. There are roughly over 3,000 temples and 300 mutts in this Province. The moneys that are handled by these mutts and temples are enormous. All these are beyond the powers of the Legislature. We have created the Hindu Religious Endowments Board. This Board has got the responsibility, but not the backing of the electorate. Therefore, the reason for this legislation is very clear. We want to take charge of these trusts. It is often said that when trusts become public property, they will go to benefit everybody and anybody. It is not at all so. Nobody can say that it will be used for other purposes. The idea is that there shall not be a group of people who say that in all the endowments and trusts they shall have a share. Sir, after all is said and done, the Hindus are the majority in this Legislature. These trusts are for the benefit of the Hindus. We form the majority in this House. It really passes my comprehension to be told that these trusts and endowments will be misused. In fact, it is to prevent groups of people, who have been in charge of these trusts for generations, from misusing the trust funds, and to run the trusts in a better and efficient manner, that Government want to take over the trusts. Therefore, Sir, the trusts are taken over with a view to avoid unnecessary litigation and better management. Unnecessary litigation takes place in this land because of many provisions of law which have simply strangled society and institutions. Law in this land is in such a way that it takes generations to decide appeals. The moneys of the trusts are spent on unnecessary litigation. This Bill wants to put an end to this unnecessary litigation.

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"I may tell you, Sir, the depths to which these people have degenerated. While going to Kurnool—I remember very well—I visited a temple and I found to my amazement that a few days before, the temple was devastated and the image, the God that has been worshipped, has been removed and destroyed."

SRI V. RAGHAVAYYA:—"Murdered! . . ."

THE HON. DR. T. S. S. RAJAN:—"Murdered. It may be that the God may not cry. The archaka or the priest there heard from some lawyer advising him that he would be the next reversioner of the God. Sir, such things happen and the rights are confused and there are many cases of disputes. Cases like the one have happened in many places. God after God and idol after idol have been destroyed. There is not a village and there is not a town in which there is not a temple and where a certain man is eating away the national wealth in the name of God. Therefore, Sir, it will be simply foolish on our part to close our eyes when such things happen. The time has come and history has marched on when things have to be looked at from the point of view of the human being. Sir, when there is starvation all round, there are some groups of people engaged in festivals and feasting. But, Sir, there are some people who denounce us for bringing forward this Bill. There is a propaganda carried on to-day by certain groups of people, calling themselves by whatever names, whether it be black-shirts or communists, against these temples and mutts. Because we have got freedom of speech and freedom of the Press to-day, people are carrying on all sorts of propaganda in the newspapers and the Gods are being abused. When such things go on, should we merely look on? This Bill only enables us to do something and to do that something, a machinery is created so that the temples may be taken over immediately without being perpetually abused, seeking protection under law. Can society go on looking at temples in this way leaving them in the lurch? Can we say, we shall not interfere with religion and keep these temples perpetually debased? Sir, I feel it is the responsibility of the Government to remedy that defect and such a position must be tackled. Should we allow the abuse to go on uncontrolled under all forms of legal protection and the like? That, Sir, we refuse to do. We say, we the Hindus, as representatives of the people who have attained their freedom, are forced to do the duty which has become incumbent upon us and to see that these trusts, these temples and these dharmsalas and a number of other institutions are better managed and effectively managed and controlled by the legislature as the legislature has control over everything else. It is the people's Government and, therefore, it is the responsibility of this Government to do so. There is no use of saying, 'I got it from God and, therefore, I manage it myself; you cannot interfere in these matters.' Sir, that sort of logic, that sort of argument will not pass current in these days. Nowadays people are awake; they demand explanation and they offer criticisms. If we do not do these things now, it may be that a deluge may overtake the temples also as it has overtaken

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the society in some other countries unless we act in time. So, let us tackle the position now so that there may not be any catastrophe on Hindu religion and Hinduism as a whole just as it has overtaken people in China and elsewhere. We say that insult of God and using the name of God for ulterior purposes and such other injustices cannot be tolerated. The rights of human beings have become so dominant in the political life of the world to-day that even empires are dwindling and crumbling to pieces. Before such a deluge overtakes this country also, should we not do something to see that our religious rights are well-established and these wrongs are remedied, whether they be in the mutts or temples or by some high priests? As long as people's money is being abused and the people's funds are being abused, we cannot sit quiet. We will have to go into the whole question and remedy those defects because we are responsible to society as a whole. If the mutts or temples had proper machinery or were taking pains to see that such wrongs were not committed, and that the institutions are maintained properly, then, we would have no quarrel. But, to-day, Sir, we see they are not. The old faith is being torn to pieces by new ideas and new interpretations are being offered to fundamental principles of our faith on which the whole religion is based. Therefore, Sir, we have to do this as Hindus also and it is our responsibility as Hindus. For this purpose, the Hon. the Premier, who is in charge of the department and myself who claim to be Hindus and who claim equally to be devoutly religious—though nowadays religion has come to be understood in so many ways and there are different manifestations of religion—have to bring in this measure. Sir, I am as good a Hindu as any other man. I am interested in this religion and I support this with religious faith. My faith is equally true as anybody else's. Because I have got full faith in these institutions, I have to bring in this Bill and not because I do not want these institutions but because I do not want these institutions to be destroyed, because I want to see that these institutions are maintained properly, because I want to reconstruct and strengthen these institutions. It is for that that I am bringing in this Bill.

"Sir, the poor man in the street has got to be protected, I find that when men are threatened with starvation and with death, the temples are celebrating festivals. While people are dying for want of food, some groups of persons are enjoying and celebrating festivals and wasting foodstuffs in the name of God. It is the duty of the Government to see that the surplus food wherever it is, is supplied to poor people. It is part of the religious duty of the man to do so. It is on these lines that I want this Bill to be understood."

"Then, Sir, some people ask, what guarantee is there that your Government will carry out the objects in view. Sir, at least, our Government is ready to do this and we have taken the responsibility to do this. The Members sitting in this House, the voters and the man in the street will look after this when the Bill is passed. It will be in their purview to see that it is acted up to. I cannot

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perceive any other Bill like this. I cannot see any other God except the suffering humanity which calls for our help. Because I realize this and because I feel that God can be realized only in this way, I have taken the responsibility for this Bill in the full faith that I am doing this correctly and for the benefit of the poor people of this land. This Bill aims at setting up an efficient agency for the proper utilization of the funds of the mutts and temples and for the better administration of these temples and mutts. Therefore, Sir, I am asking our hon. Friends to judge us fairly and well. It is the love of religion that has prompted us to bring forward this Bill and whatever the agency that is created, we have got to go before the agency of public opinion and the opinion of the people that are affected. It is they that should judge the action of this Government in matters of this kind including religion. Sir, after all, what is religion if it is not meant for the good of the people? It may be that this particular form of faith may not appeal to certain groups of people. If there are any mismanagements and if there are any mishandlings in the administration of this Act, there are two hundred and odd members sitting here and there are hundreds of newspapers which may flash the views of the public in a moment. It is not my business to say that such and such a man is mismanaging and that another man is doing this and that. There are, of course, some good heads of mutts but there are also bad heads who do not understand religion. Now, political rights have been assured to us by the State, and the right to control the property of these religious institutions. After all those people who have endowed these mutts or charities have endowed them with the full faith that their administration would be carried on efficiently and properly. I am bringing forward this Bill in the trust that I am discharging the duty in the sense in which I understand it. The essential principles of humanity have got to be understood and applied to the society as a whole and with that basic principle, and with the goodwill of the Members, I have brought forward this Bill.

"Sir, I make bold to say that the Hindu community to-day knows about this Bill for a very long time. The Bill has been before the public for over a year and nobody raised any objection. I had been in charge of this department for over two and a half years and I know what should be done. To-day the hon. Premier is in charge. He is a very orthodox and devout man and he feels that this Bill is absolutely necessary. He knows as well as anybody else the importance of the Hindu temples and he feels like that because he wants to see that the temples and mutts are better administered and there is no use of coercing the legislators by threats of starvation. That is not *satyagraha*. I know that certain men for the purpose of seeking the support of certain sections of Members of this House and to gain public sympathy for their movement, are doing this and they are trying to pour cold water on the Bill. But, public opinion is as strong as ever. I am yet to see an organized public opinion expressing itself against this Bill. The Bill was before the public for the last one year, but we have

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yet received any organized body of public opinion saying that this Bill is bad. Of course, there has been some protest. It is no wonder because that protest is from some groups of people who are unduly benefited by the present state of affairs at the expense of the common man and also from persons who think that faith consists only by maintaining these institutions in their present condition.

"But they cannot hold that view, Sir, when there is a case of abuse. These institutions figured in the law courts, and a lot of money was wasted. It is this tragic state of affairs that has made me feel that there should be some legislation on this matter and that should be the law of the land.

"Sir, this Bill is not an ordinary Bill or any financial legislation. It interferes with something that cannot be seen and ascertained. The gruesome mismanagement that has gone on for years together has not yet evoked the conscience of religious people; I do not know why. Sir, I was myself born and have grown in a temple-village in Srirangam, where there is the biggest Vaishnavite shrine in the whole of India. I have seen that the power of God has not risen up against the conflict that had been raging between two parties that were fighting in the law courts; God disappeared and God starved. The case was taken up to the courts, petitions were presented before foreigners from England who were acting as judges, in the name of God; English judges had to give judgment as to what God he was, and what he was not, when he should be present and when he should not, because the parties were fighting like dogs. Such has been the degradation of the observance of the Hindu religion. The public has not raised even a word of protest against this state of affairs. They simply go to the law courts again and again. That is the state of society we are in. In society alive or dead, is it conscientiousness that our Gods are disgraced and that our charities are being abused? I am sure, Sir, that this Government feel it, as also this House. Only there may be some faults in the present Bill, but the House may well scrutinize it, call evidences before a Select Committee duly constituted for the purpose of reporting on this Bill, and finally it, taking its own time. But anyhow the thing must be done. We cannot delay this legislation any longer. I know just now there was a reference to delay it. But how can I, feeling as I do and knowing the real state of affairs, be a willing party for further adjournment? If the Government of India pass a constitution for the country, we shall abide by it. But I cannot understand the argument that the Government should not take charge of the trusts and charities in this Province, for the purpose of better administration. I feel, Sir, that I have got the inherent right to move in this Bill, and pass it through the two Houses of this Legislature. I cannot certainly be coerced into doing anything which is not just and fair. Therefore, I want this House to report this Bill in this spirit. If the Bill is defective, let all improve it, offer criticisms, for it is a matter of faith and

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religion, and I shall not be a party to shutting out criticisms in this House. I invite now this House to consider this Bill in all its aspects and constitute a Select Committee consisting of twenty Members from this House, and ten from the Upper House, to report on this Bill, to investigate, scrutinize and finalize the same and bring it back to this House for final approval. With these words, I introduce this Bill."

MR. SPEAKER:—"Motion moved—

'that under rule 111 of the Madras Assembly Rules, the concurrence of the Legislative Council be obtained in setting up a Joint Select Committee of both the Houses consisting of thirty Members to consider the Madras Hindu Religious and Charitable Endowments Bill, 1949 (twenty Members from the Assembly and ten Members from the Council).'

"As this is an important Bill, I have allotted two days for discussion, for a large number of Members want to take part in the discussion. The Hon. Minister in charge of the Bill will reply either to-morrow evening or on Monday morning, after question-time."

SRI A. VAIDYANATHA AYYAR:—"Mr. Speaker, Sir, I move—
that the Madras Hindu Religious and Charitable Endowments Bill, 1949, be circulated for eliciting public opinion thereon.

"The Hon. Dr. Rajan in charge of this Bill has said that this Bill is not a new one, but had been originally passed in a different form in 1925, and that Act has been in vogue in this Province for more than twenty years. Another point he mentioned was that the interference of Government with regard to religious institutions is not a new one, and said that even in the days of the John company, this has happened. The argument that has been adduced by him in favour of this Bill is that now there has come a stage when Government should take charge of the endowments.

"But my point is this. The Bill now has come at a time when new rights and principles have been evolved by the Constitution Act, some of the sections of which have already been passed. The rest of the Act will be finally passed before August 1949. These fundamental rights of the new constitution have already been passed by the Constituent Assembly which is a sovereign body, and any article that has been passed by it does not require the assent of the Crown or the Governor-General. The opinion of constitutional lawyers is that even before the whole constitution is finally put as a whole, sections of it which have already been passed become the law of the land immediately after the passing thereof. Even supposing that some of the sections have been passed, it is up to us to see that we, as a Provincial Legislature, should not do anything which will throw doubts on the validity of the Act."

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"There is one difference which the Hon. Minister has not noticed, i.e., the fundamental change with regard to the law-making powers of the Legislatures, after the sittings of the Constituent Assembly. Prior to the constitution (that is now being framed), under the Government of India Act, the legislatures had power to interfere and pass laws with regard to religious and charitable institutions; as will be seen in Article 34 of list 2—called the Provincial list.

"Secondly, before the Consambly sat, the powers of the Parliament or the Indian Legislature were almost supreme and sovereign, and they could pass any Act, and even interfere with religion. And as Dr. Rajan has pointed out, I could also point out to as many as 120 such Acts that have already been passed. But now we have to consider the new position, whether in the light of the fundamental rights enunciated by the Constituent Assembly, we are justified in rushing through this measure just now.

"Sir, with your permission, I will take the House through the articles that have already been passed, which stand on the threshold of becoming final law of the land, and also their effect upon any law that we are making here, and also the substantial difference between the position of the legislature now, and that prior to the functioning of the Consambly.

"First, let us take Part III—Fundamental Rights of the citizens, under the constitution (proposed), and consider laws which have been made till now. Acts, which have already been passed, if they are in any way inconsistent with these fundamental rights, to that extent, will be void. This is Article 8 (1) of the Fundamental Rights Chapter. The next article states that the 'State shall not make any law which takes away or prejudice the rights conferred by this Part, and any law made in contravention of this Clause shall to the extent of the contravention be void.'

"As I said just a little while ago, before the passing of these articles on fundamental rights, the Legislature was supreme, the English Parliament was supreme with regard to its powers over us, and the delegated powers to the Indian Legislature were equally supreme. In that way, it had a supreme right to enact any legislation. But now the power to enact legislation by the Parliament or the State Legislature has been considerably restricted by the passing of the articles on fundamental rights. That is the first thing that is essential for any Popular Government or a self-governing nation. Of these fundamental rights, the rights relating to religion are enumerated in Articles 19 to 22. There are two kinds of rights. One relates to the individual rights—freedom of conscience and free profession, practice and propagation of religion. The article reads:

'19 (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.'

In exercising such fundamental rights a person may to some extent infringe upon what would be necessary to be prevented by law.

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Certain of these are enumerated in the section itself. For instance, the wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion. Again sub-section (2) enumerates some exceptions. For instance, if a man's religion requires that his child should be married between 7 and 12 years, in the interests of social welfare and reform he can be prevented from doing so. Throwing open of Hindu religious institutions of a public character to all sections of Hindus has been saved by sub-section 2 (b). Supposing a man says that his religious practice requires that no other man's house should be within a furlong, or that somebody has got to be pushed away from the public road, he cannot be allowed to do so. Sub-section (2) (a) says that the Legislature may pass laws regulating or restricting any economic financial, political or other secular activity which may be associated with religious practice. (Sri K. Bhashyam: 'Regulating but not taking away.') It is only here that we hear for the first time that regulating means taking away.

"Sir, Article 19 (2) (a) refers to the individual practice of religion, but the practice of religion may be not merely individual but sectional. A section of the public, a religious denomination it may be the Hindus or Muslims—may have their own sectional institutions. There are Vaishnavites, Saivites, Thegalais, Vadalais and so on. They may have their own sectional institutions. The Constituent Assembly says that they have freedom to manage their own religious affairs and to own, acquire and administer properties for religious or charitable purposes. This is referred to in Article 20. Mr. Speaker, I would request you to note the special stress laid on the words 'freedom to manage.' Article 20 contains the fundamental right to administer properties for religious and charitable purposes. If according to this article I shall have the right to establish and maintain institutions myself, I do not know how the Hon. Minister says: 'What can prevent this Government from taking charge of any temple?' He challenges for a legal duel or a constitutional duel. Unless you ignore altogether Article 20, you cannot do that.

Mr. Speaker, I am going to take you through some portions of the Bill to show that what is given by the Constitution as a fundamental right is sought to be taken away on the floor of the House, by the Hon. Minister in charge of the Bill as well as the Premier, who he says is a very religious gentleman and about whose religion and piety the Hon. Minister speaks highly. But, Sir, I am concerned here with my fundamental rights, namely, that every religious denomination shall have the right to own and acquire movable and immovable property and manage its own affairs in matters of religion. It is a well-known fact that the incidence of ownership of a property is the right of the owner to manage, enjoy and dispose of it. In the case of charitable trusts, the power of disposition may be subject to some restriction. But with regard to management it is a part of the ownership right. Hence there is the last sub-clause which says:

(d) to administer such property in accordance with law.

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It is a fundamental right to administer such property. It was stated that the words 'in accordance with law' mean that the Government may pass any law taking away the administration and vesting it in the Government. Administering the property in accordance with law does not mean that a law can be passed taking away the administration itself. That will make the fundamental rights a mockery. The rights may be regulated, but the substance of them cannot be taken away. 'In accordance with law' is a wise provision which has been introduced. While a particular denomination or a religious section has got a right to administer, if there is maladministration or mismanagement, a law may be passed laying down the way in which the administration should be carried on. This has been done in the past, but the Legislatures have always recognized the right of every denomination to manage its own institutions and administer its own properties. While doing so, they have passed laws preventing mismanagement from time to time. If there is mismanagement of a religious or charitable institution, any man may file a suit in the Court. If there are numerous cases likely to be started, in order to prevent vexatious litigation, section 92 of the Civil Procedure Code, provides that any two or more persons with the sanction of the Advocate-General or the Collector may bring in a suit for the purpose of removing a trustee or calling for accounts. It is that kind of law that is referred to. Another way in which you can understand the words 'in accordance with law' is you must administer the trust properties in such a manner that you do not infringe upon another person's properties or rights, or you do not trespass on another man's rights or take away another person's properties.

"Sir, there is also another remedy under the Charitable Endowments Act of 1890. Under that Act, if a person is not satisfied with the way in which an endowment is managed, he can simply file a petition in the District Court on twelve annas stamp-paper, asking for accounts of the trust for two years to be produced and audited. If the Court is not satisfied with the accounts or the management, it may take necessary action. This is a wise provision. Though there is sufficient latitude for the purpose of interfering with the administration where there is maladministration or mismanagement, it does not take away the elementary right of ownership and management of the denominations concerned. It is a well-established law. In India several sects and sub-sects are regarded as corporations. Subject to the trusts being there, the ownership and administration of them vest only in the particular denomination itself. If the Government are not satisfied with the remedies suggested by the Courts for mismanagement, it is open to them to add to them so as to make the remedies effective. But the administration should not be taken away from the denominations which own those institutions. The law that is expected to be made is one which can regulate the management but not take away the management, which is a fundamental right recognised by the Constitution. The Hon. Minister in charge of the Bill, Dr. T. S. S. Rajan, said that if the Government took over the management they would do it better, and that that was why they

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have introduced the Bill. Therefore it is perfectly clear that what is intended to be done is taking over the whole administration and management, root and branch. The question is whether such a Bill does not go against article 20. There are certain clauses of the Bill now before us which show beyond any possibility of doubt that this Bill sins against the fundamental rights. Clause 6 of the Bill makes no pretence that it maintains any fundamental rights. It says:

'6 (1) Subject to the provisions of this Act, the general superintendence of all religious institutions and endowments shall vest in the Provincial Government.

(2) Such superintendence shall include the power to pass any orders which may be deemed necessary for the proper maintenance or administration of any religious institution or endowment.'

Clause 15 says:

'15. Subject to the control of the Provincial Government and the provisions of this Act—

(1) the general superintendence of all religious institutions and endowments shall vest in the Commissioner;

This is secondary vesting, the primary vesting being in the Government.

MR. SPEAKER:—"The hon. Member may continue his speech at 3 p.m. after lunch."

The House adjourned for lunch.

(After lunch—3 p.m.)

SRI A. VAIDYANATHA AYYAR:—"I was mentioning, Sir, that it is the duty of the Commissioner under this Bill to see to the proper management of the secular affairs of the religious institutions. It is well-known that any person who establishes a religious or charitable endowment has got the right to provide for its management and to change it in the manner prescribed by law. Now that right should necessarily be with the denomination which has established these endowments. But, what the present Bill proposes to do is to take this right of management and administration from out of the hands of these denominations and place it in the hands of the Government, the Commissioner, the Deputy Commissioners and Assistant Commissioners appointed by them.

"Clause 18 of the present Bill provides: 'The trustee of a religious institution (and hereafter it will also include a charitable institution if the Government notifies it accordingly and the trustee includes also a matathipathi) shall be bound to obey all orders issued under the provisions of this Act by the Provincial Government, the Commissioner or the Deputy or Assistant Commissioner.' That means the trustee of the mutt is reduced to the position of a servant. Now, if you look into Dimond's

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famous book on Master and Servant, you will find that the servant is bound to carry out the orders of the master in any matter. So, clause 18 reduces the matathipathi to such a position. This, therefore, goes directly against the right that is to be conferred under the fundamental rights.

Again, this Bill also proposes to interfere in religious matters and make it the duty of the Commissioner and also of the Government to interfere in such matters. It is said to be a Secular Government from the day of the Independence at least. It is being time and again declared by the Prime Minister of India and accepted in Parliament and also by the Constituent Assembly that our State, including the State of Madras, is only a Secular State and yet this Bill proposes to invest the Government and the Commissioner with powers to supervise religious rights.

"Clause 15 (2) of the Bill provides: 'It shall be the duty of the Commissioner to see to the proper management of the secular affairs of religious institutions and to the due performance of rituals, ceremonies and other religious observances' in connection with religious institutions. That means the Commissioner shall prescribe how many water prokshnas should be performed, what kind of nivedyam should be made and what kind of 'thulasi' should be given first and in what manner. These are said to be the duties of the Commissioner. Again, you will find from Section 86 what kind of interference could naturally be carried out under the rules to be made by the Government. That is the clause which provides for the rule-making powers under the Bill. It is the logical result of the Government taking over the management of institutions. Section 86 (1) provides: 'The Provincial Government may make rules to carry out all or any of the purposes of this Act and for the methods by which religious institutions should promote the interests of the Hindu religious endowments.' This Government is expected to make rules with regard to promoting the interests of Hindu religious institutions. Is that the duty of a Secular State? Is it not inconsistent with that? Throughout the course of the proposed Bill we find everywhere interference with the affairs of the institutions.

"Then, clause 16 (1) provides for powers to enter anywhere into a religious institution. It is expected that wherever there are worshippers, with the exception of the archaka, no other person is entitled to enter the sanctum sanctorum, but according to the section any gentleman calling himself an Assistant Commissioner or an Inspector can get into the sanctum sanctorum of a religious institution by virtue of the powers given in section 16 (1).

"Again, clause 32 (1) provides for the dismissal of hereditary and non-hereditary trustees. That again is a matter which the particular section or the particular denomination alone ought to do. We find in the case of both mutts and other religious institutions powers to interfere have been given to the executive and

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how much shall be done or put up. Also clauses 38 (1) and 41 (1) provide for such interference in the case of mutts and temples. Another very curious kind of interference is in cases where there is a dispute about who is to be a matathipathi and the power of appointment in the interim is given to the Government in the case of mutts. I do not know whether they can appoint matathipathis and what kind of appointment they are going to make. What is found in the section is, they are to appoint matathipathis. That is what we find in the Bill.

"Further, there is a very vicious kind of interference with ordinary established rights of parties which is now obtaining, which is also found in the earlier Act, and is found in the present Act also, for which there is no justification. Where, for instance, an institution is a religious institution, assuming it comes under the present Bill, some other person or some other law Court must decide whether it is a religious institution or not. You cannot make the very person, that is, one of the parties who is entitled to take up the management if it is a religious institution, to be the deciding authority also as to whether an institution is a religious institution or not.

"Section 43 (a) gives power to the Deputy Commissioner to decide whether an institution is a religious institution or not. Then, a person may be a hereditary trustee who has got certain rights over the institution, but the question whether he is hereditary or non-hereditary shall again be decided by the Deputy Commissioner himself and whether a particular endowment or money is a religious endowment is again to be decided by the Deputy Commissioner. If the endowment is of a secular character, neither the Government nor the Commissioner should have any right of management over it, but to decide whether it is of a religious or secular character, power is given to one of the parties. I do not know how the authors of the Bill would like to do should there be a quarrel between the neighbours as to the ownership of a wall and whether they will give the right to decide that to one of the parties. An interested party should never be made the judge also. That is what we find in clause 43 (e). And what is more, sub-clause (d) of the clause says: 'whether any person is entitled by custom or otherwise, to any right, honour, emolument or perquisite in any religious institution and what the established usage of a religious institution is in regard to any other matter' shall all be decided by the Deputy Commissioner. The Deputy Commissioners will be the judges with regard to these matters.

"There is no doubt a kind of hierarchy is prescribed for appeals to the Deputy Commissioner, the Commissioner and the Provincial Government, but the power of interference of the Court is reduced to the minimum, because only on question of law or when the order is contrary to law or having failed to determine some material issue of law you have the right of resort to Court and that too to the High Court.

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"Then we find such an important thing as the Cypres doctrine, that is whether the fund of a charitable or religious institution can be diverted to other purposes. The Deputy Commissioner has to decide that under section 45. And what is more curious is, it may be the property of a temple and it can be appropriated to any educational or charitable purposes even though it is not the objects of the institution. You cannot rob Peter and pay Paul and therefore you cannot divert such funds for other purposes and then that power is conferred only on the Deputy Commissioner.

"Similarly the surplus funds of religious and charitable institutions can be diverted to other educational purposes under clause 45.

"There is one other very intimate interference and an all-embracing one which they have provided and that is the notification of all religious institutions, including mutts. As soon as such a notification takes place, all the previous schemes will lapse and the Government may appoint salaried officers and the more the number of institutions notified the more will be the number of executive officers whom they will appoint. According to the proviso to clause 58 (1) in the case of a mutt, only such powers and duties as appertain to the administration of its endowments shall be assigned to the Executive Officer. Apparently, the authors of the Bill thought that it was a mild way of giving powers in saying like that, but in fact, in substance it means that the administration of the endowments should be assigned to the Executive Officer. That is against the Fundamental Rights and apparently they have satisfied themselves that they are not going to take away the 'rudraksham' of the matathipathis. Of course, we are very thankful for that. But there it stands. This kind of interference is, I say, against the substance of Fundamental Rights that have been enacted. We have been told that article 19 would in some way help. I have already referred that article. Article 19, as passed by the Constituent Assembly, refers only to individual rights as would be seen from the reference to religious practice which is found in the proviso and we have to be guided by article 20. There are other serious inroads into the Fundamental Rights as we can find from other portions of the Bill. It is article 21 of the Fundamental Rights, which says—

No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

Naturally, with such kind of articles and being a Secular Government, when we attempt to take over the administration of religious and charitable institutions, we are faced with difficulties. Clause 62 of the proposed Bill refers to contributions to be collected from every religious institution at a certain proportion and sub-clause (4) enacts that these sums collected, shall form part of the revenues of the Province. That means that they

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become taxes but nevertheless they should be used only for the remuneration of the Commissioner and the Deputy Commissioner and expenses incurred purely in respect of these religious institutions. If this is not a direct interference and flying in the face of article 21 of the Fundamental Rights and making the Government carry on sectional activities, I do not know what it is. The Hon. Minister Dr. Rajan said, 'We are after all a majority community and the Hindus being a majority community, we must take it.' That is forgetting the Constitution and forgetting the nature of the Government. It does not matter whether we are 99 per cent or 100 per cent. The law is the same and is expected to be the same for all especially in the case of a Secular Government and merely because the Hindus happen to be 90 per cent, it would not entitle the Government to take into their own hands the management of institutions.

"There is one other peculiarity that we find in this Bill. There is a definite provision in the Fundamental Rights that wherever there is a breach of the Fundamental Rights, there shall be a right to move the Supreme Court. That much-hated civil suit is provided for in the Fundamental Rights of the Constitution. Article 25 (1) provides 'the right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Act is guaranteed.' In due course the Supreme Court is expected to give or to delegate its powers to a number of other courts, so that they may be easily available for motions being made in the Subordinate Courts. It would not be surprising, therefore, if the powers conferred by this article are available even in the District Courts and Subordinate Courts. That is provided for in article 25 (2). There is a further provision in article 25 (4) which says, 'That the rights guaranteed by this article shall not be suspended except as otherwise provided for by the Constitution.' Therefore, this is an inviolable right. Unless you amend the Constitution, you cannot prevent the resort to courts for safeguarding the Fundamental Rights.

Clause 85 of the proposed Bill says:

Save as otherwise expressly provided in this Act, no notification issued, order passed, decision made, proceedings or action taken, scheme settled or other thing done under the provisions of this Act by the Provincial Government, or the Commissioner or a Deputy or an Assistant Commissioner

The words 'any other subordinate servant' alone are unfortunately omitted.

"Sir, it is an absolute attempt to give complete exemption, even the violation of the Fundamental Rights not to be brought before a Court of Law. That is hardly a matter for congratulation.

Similarly, clause 89 (1) says:

No suit or other legal proceeding in respect of the administration of a religious institution, or in respect of any

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other matter or dispute for determining or deciding which provision is made in this Act, shall be instituted in any Court of Law, except under and in conformity with the provisions of this Act.'

In this clause we find an attempt to deprive the people of their Fundamental Rights. The Hon. Minister in-charge of the Bill said, 'I have been legally advised that at present I am in a position to have this Bill brought before the Assembly and passed.' All right. But the question is, when we form part of the Union of India and certain fundamental rights have been declared in its constitution and in the light of which alone even the present laws have to be tested and future laws have to be passed, is it not the duty of this Legislature and of the Government who placed this Bill before this House, to wait and see how far we are within the Fundamental Rights in framing this Bill. At one stage, here and elsewhere I pressed the Hon. Minister Dr. Rajan what benefit does it give, if, by the time, it goes to the Select Committee and returns back in the course of five or six months—the Constituent Assembly passes the Constitution Act, then we will have to see whether this law is right or wrong. The Government may say, 'we are not afraid of being tested. Let this be decided by a legislation or law suits and if there is anything wrong, then some amendment will be made in respect of that.' That is not a proper attitude that this Government should take especially as they form part of the Union of India. I will take it that these are not absolutely clear. Some of the ablest lawyers in this land are within the City of Madras. A retired Federal Court Judge is here; and there are also retired Advocates-General and Law Members, who are all of opinion that this may go against the Fundamental Rights. But the Hon. Dr. Rajan is pressing home this Bill over the Assembly as he thinks that he has got the legal advice in this matter. In fact I was surprised when the Hon. Minister said that this Bill has been waiting for 12 years from 1937 or 1938. Sir, a thing which has waited for 12 years and three years after the present Congress Government took charge of the Province of Madras, can well afford to wait for another six months and this legislation need not be brought. It is the 'luggnasandhi' stage. It is well-known in astrology that a child born of such 'luggnasandhi' lives short. I know that the Hon. the Premier is very particular about the passing of this Bill and more so, Dr. Rajan and that is the reason why I ask them to wait till then when certain of the provisions at least are likely to be ripped open as soon as the Constitution Act is passed.

"As my next point is a question of policy, this is not the proper attitude to adopt. We are going to have the Constitution Act here. We are a subordinate State and we are bound to accept it whether it is good or not. Therefore, it is not right at all that we should ignore it. Of course, what is contained in the Fundamental Rights is being ignored and disregarded. As a sample, we can find it in respect of the employment under the State.

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Article 10 (2) of the Constitution Act says :

'No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth or any of them be discriminated against.'

But here, the Communal Government Order is not merely enforced but it has been extended in the last few days to temporary people also. So also in the educational institutions, we find discrimination with regard to the admissions on grounds of caste or creed. Is this kind of discrimination found in the Fundamental Rights? In the Engineering College, Medical College and in several other important institutions, the same thing is being well kept up.

There is a provision in the Fundamental Rights for the freedom of trade. But here we are still in the middle of the discussion on the Madras Sugar Factories Control Bill which restricts the freedom of trade. Doctor Rajan may say that that Bill is in the best interests of the people. The proof of the pudding lies in the eating thereof. But I say, Sir, that it is not fair for the Government to ignore the hand of the clock and then say we are going to do it.

Next, we find how harsh the Bill is. This Bill reduces 'madathipathi' to the position of a servant, when servant is a problem in these days as we know and we cannot treat workmen in a different capacity and every single fine of one anna provokes strikes with considerable trouble to all of us. In clause 80 of the proposed Bill, the 'madathipathis' or the trustees of the temple or the trustees of charitable institutions are treated as criminals. If a man refuses, neglects or fails to comply with the particular demands made under this Act—failure may be due to his wife's illness or may be he himself is ill—then he shall be liable to pay to the Local Government such penalty not exceeding five hundred rupees as they may determine. This is a penalty for failing to furnish such accounts, returns, reports or other information relating to the administration of the religious institution or its funds, property or income at such time and in such manner as may be required by the Government. I do not know whether this kind of legislation has been enacted in any country in the world. Now that the learned Advocate-General is here, I hope he would be able to enlighten us, and there again the onus of proof is thrown on the unfortunate trustee. 'Unless he shows reasonable cause to the satisfaction of the Provincial Government,' he shall be liable to pay them a sum not exceeding five hundred rupees."

MR. SPEAKER:—"The hon. Member has already taken an hour."

* SRI A. VAIDYANATHA AYYAR:—"I shall take a little more time. It is just reducing well-recognized principles to dust. When you swallow anything, you must swallow just that quantity which you will be able to digest. The definition of 'religious charity and charitable institutions' is rather wide and all-embracing

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and I am afraid that it will even take in cases where some money is provided for *manjal kumkum* on some such occasions in our household for *navarathri*. I wish to invite the attention of the House to clause 5 (11); the wording is 'occasion of a religious character' and supposing I say that on my father's anniversary half a dozen people shall be fed, not necessarily from my own community, it will become a charity. That is how it has been defined. Let us take clause 5 (3); the result of that would be that for the first time, charitable endowments will be brought under the Act and I do not know what the Government are trying to handle; I feel they are trying to handle hot coal. They must know that every community in every place has during the past hundred years built up large amounts by way of *mahimai* and they are keeping it apart for running rest-houses, schools and other charitable institutions. For instance, the Nadar Mahimai of Virudunagar amounts to 6 or 7 crores and the annual income alone goes up to 4 to 6 lakhs of rupees and other communities like the Sourashtra community and the Konar community have got this system of *mahimai* and with that they are running temples, rest-houses, schools and other charitable institutions. If the definition is to be accepted one-third of the property of the Province—that is the estimate that has been given to me—is likely to be taken hold of by the Government. Is it proper and is it right? Sir, profession and practice of the Government do not seem to go together. We have been told day after day that the Government would bring in the Panchayats Bill so as to enable people to manage their affairs themselves. Our ancestors were wise and they allowed sections of the people to have their own property and manage them to the best of their ability and they were left to themselves. Of course, mistakes may arise and people go to court and have them rectified. That has been obtaining in this country so long and I ask now, Sir, is it not a vote of censure on the five crores of people living in this Province now that the Government have in an implied manner charged them saying: "You have not managed and are not capable of managing your sectional affairs yourselves and I alone can do it best; as a matter of fact on account of the votes of the people and the franchise exercised by them, we have to run them and being a popular Government we are entitled to do it." To say that means that you will go your own way irrespective of the people and nevertheless want their votes when the time comes. The Hon. Minister asked us why the Government should be chastised on the assumption that they would be including all temples by notification. But experience indicates to us the other way. There are cases where notifications of some of the principal temples were challenged before the High Court and they were set aside and so it is difficult to say that the Government will not take over these things. Then, Sir, if the Government take over these institutions, what about their future? It was frankly admitted by the Hon. Minister in charge of the Bill that the Government are not going to build temples or establish mutts. But, when Government have got a stranglehold over all these institutions which men will come forward with endowments. The moment he endows, immediately, it goes to the control of

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the Government. Every man who endows does so in the belief that it would be managed according to his desire and tastes and what will happen if it is said that the wishes of the donor never come into the picture? As a lawyer, I may tell you, Sir, that time and again many have come to me asking me for advice in what way the endowment may be made so that it might not come under the control of the Board. That is how the donor views the question. The matter has also to be looked at in another aspect; would our religion improve and would the institutions improve? It must improve, in its own parental surroundings. If a child is unwell, it has to be taken to the doctor for a cure but it is wrong to say that the child should be handed over to the doctor because it is unwell. It can grow only in its own parental household and not with the doctor. The Hon. Dr. Rajan said that mismanagement of temples and mutts should be rectified. Right. But, has not mismanagement been rectified all these years? In England, for instance, there is the Board of Commissioners of Charity and if there is any difficulty, they can move in the matter of filing suits; in this Presidency also, the Advocate-General has sanctioned the filing of suits. But the Hon. Minister says that it would be a long process and there would be delay. Supposing, for instance, there are many cases of people occupying some others' property, would it be right for the Government themselves to take up the matter while in fact they had been directing the affected people to go to courts. If in the case of non-cognizable cases, the Police man merely makes an entry in the diary and asks the party to go to court, can the Government say that they will take up all cases of this nature as there are many in number. The Government can only lay down the law and they must act according to the law. In this connexion I can think of no happier comparison than that which my hon. Friend Mr. Viswanatham cited. He said: 'You can make laws saying how the household shall be conducted and the children treated, prescribe that the householder shall not beat his wife or his children and everything should go on in an orderly manner'. It is one thing embodying the details of these things in an Act but quite another to say that because these things had not been done, the Government will take over the management of the household—the wife and children of the householder. This is the best illustration that I can give of the process through which the Government are taking us just now.

"There is another danger that I foresee. Apparently the Hon. Minister feels that once the thing is departmentalized, the millenium will dawn. Has it come true with regard to the departments of Government; take the Food Department. I heard it said that there is corruption among the Supply Officers. During the period of the last control we were able to get rice at the rate of 2½ measures but now it has come down to 1½ and we are forced to go to the blackmarket for feeding our children; and regarding distribution of cloth, cloth selling at rupees two or two and a half is sent to the villages while the retailer is not taking bales and bales of the required quality from the wholesaler. Therefore, the larger the amount of bureaucratic control,

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the less is there the chance of the thing being properly and peacefully administered. That is why I suggest you to keep off. After all religion is what a man thinks about it and if I worship in a particular way, my Muslim brother might call it idolatry. I know as a matter of fact when people were prepared to admit Harijans into the temples, one section was not prepared to admit them, the then-galais or the 'vadagalais' and that is the kind of bitterness that we have. Let there be some kind of sectional control. And about the matathipathis, the Hon. Advocate-General knows 21 Madras, an outstanding judgment by Justice Subramaniya Ayyar and Bashyam Ayyangar. In the case of the idol, there are two, the one that is kept in mind, the impersonal God and the idol. But regarding the Gurus, the first Gurus, be it Ramanuja or Sankara, were considered as embodiments of God and their successors were considered on a like footing and God is supposed to live in every person who occupies that position and people who go there, however sophisticated they may be, prostrate themselves before them and give *patha kanikkais* and treat them as embodiments of God. What is the way in which this Bill proposes to deal with them if not as mere servants of the Assistant Commissioner? When you put a man in charge of them and say that they must obey all his orders, I ask whether it is not a slur cast on Matha Gurus. I ask the Government why don't they try it with regard to other people? I know they will not and they cannot, because the people know that to degrade your spiritual gurus is nothing short of sacrilege."

THE HON. DR. T. S. S. RAJAN :—"On a point of order, Sir. There is no question of degrading anybody. I never said in introducing the Bill that we meant any insult to anybody or put any restrictions upon the actions of others. I find that the hon. Gentlemen is visualizing a position which I never in any way intended."

MR. SPEAKER :—"It is not a point of order; it is only a personal explanation."

* SRI A. VAIDYANATHA AYYAR :—"I was not stupid enough to say that the Hon. Dr. Rajan ever really intended so. If he had intended it, I know he should have done it when he was in a perverse mood. The natural result of what he does will be what I have pointed out. The greater misfortune is that he still does not realize that it is the natural result of his action. When we go to a Minister's Chamber to get an interview, how much of oiling has to be done? For a Matathipathi to get an interview, how much he will have to pay to the duffadars and Assistant Commissioners? Formerly the payment to a peon in the Sub-Registrar's office was 4 annas. Now the cost of living is higher and therefore he demands 12 annas. Unless you pay 12 annas, you cannot get a document registered or get entry into the office. Fortunately not much of registration is going on on account of the income-tax business. I am in great trepidation. What I am really afraid of is that the moment a mutt or temple becomes a Government institution, the duffadar at the gate will hold out a hundi and say 'Pay 4 annas in this

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Otherwise you cannot enter. God is in the ante-chamber and you cannot see him. To get entry into it will be as difficult as it is to get entry into a Government office, and there will be a lot of difficulty for the poor.

"The Hon. Dr. Rajan was overflowing with sympathy for the poor and said that only in the interests of the poor he had brought forward this Bill. Many persons in this world have started their original propaganda under the guise of sympathy and tenderness for the poor. Hitler started his propaganda in that manner. Mussoloni did likewise and Emperor Hirohito also did likewise, and we all know where it has landed the people. This is an unwarranted interference with the life of the poor man.

"Then it is said: 'Blackshirts are there. Hindu faith has fallen from its ideals. There is the cry of 'Kadavul ozhigha'. In my own street there is an organization which started with saying 'Uchikudumi ozhigha' and ended with 'Kadavul ozhigha'. It is the sort of Government Bills that are enacted which as a matter of fact increases that tendency."

MR. SPEAKER :—"I will allow only ten more minutes to the hon. Member."

SRI T. VISWANATHAM :—"This is a very important Bill and I submit that sufficient time may be allowed to the hon. Member."

MR. SPEAKER :—"As many as 30 Members want to speak and I cannot allow any more time."

*SRI A. VAIDYANATHA AYYAR :—"A press note issued by the department of which the Hon. Minister is in charge says that there was not much opposition to the Bill except from the *Hindu* and one or two other newspapers. Such a casual manner of treating the *Hindu* is not right. Among the one or two other newspapers, the *Swadesamitran* also is included. Till now I have been of opinion that the *Hindu* is an established institution so far as English papers are concerned and the *Swadesamitran* is equally so among the Tamil papers. That is not the way in which a Minister should treat the opposition to this Bill. If I do an act or make a statement, the value of the criticism or commendation of it depends upon the person from whom it emanates. Sometimes error creates curious bedfellows and papers like *Viduthalai*, *Puducherry* and *Kilguchi* support the Hon. Dr. Rajan in respect of this Bill. I think that if a paper like *Viduthalai* supports me, it is the surest possible indication that I am in the wrong.

"It has been said that the object of the Government in introducing this Bill is not to interfere in religious matters but that they are likely to interfere only in civil matters. There is Article 35 of the Draft Constitution of India. Why I am emphasizing the Constitution is this. It appears that this Government are taking up an attitude as if they are surrounded by an ocean on all sides and that they are cut off from the Indian

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Union. That should not be the attitude. Article 35 says that the State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India. If you say that you are going to interfere only with the secular or civil side, why should not there be an uniform code for the whole of India? Though this Article does not come under Fundamental Rights, it is included in the Directive Principles of State Policy. In the light of this, I am unable to understand the attitude of the Government. We have got the Hindu Religious Endowments Act under which the courts have got something to do. There is section 93 with regard to non-religious endowments. Why should the Government single out the Hindu charitable endowments instead of enacting an uniform charitable endowments legislation for the whole Province which will bring us to the proper level and which will clearly indicate the line up to which the Government can interfere and beyond which they cannot.

"One of the other points of the Hon. Dr. Rajan was that this Bill would avoid litigation. On the contrary, I feel that this Bill will lead to a plethora of litigation, because every management will have to come forward with a suit for settling this or that question and contest whether any order passed against it is right or wrong. It will lead to the same amount of litigation and probably even more and on matters of more vital importance than what prevailed at the time the Hindu Religious Endowments Act was passed.

"Why should we rush through this legislation just at this particular time? We are faced with storm everywhere. On the industrial side, the Government are faced with strikes. They have nationalized a section of bus transport and they are faced with strikes leading to a number of arrests and dislocation to traffic. Then there is the food problem."

MR. SPEAKER :—"Let the hon. Member come to the subject proper."

SRI A. VAIDYANATHA AYYAR :—"I am saying that for these reasons it is better not to tread into this field. There are many more urgent matters requiring attention. With famine in Gujarat, Bombay and other places, there is hardly any likelihood of a sufficient quota coming into this Province. We have imposed restrictions on the inter-district transport of foodgrains and passed orders that lorries should not ply during nights. But lorries are plying during nights and are carrying foodgrains. When we complain to the District Magistrate, he says: 'What can I do? I have got only one Firka Supply Officer and a peon under him. What can that single officer do?' When we approach the Police, they say that they are helpless in the matter. Problems crying for solution are numerous. Even my Hon. Friend, Dr. Rajan, admitted that Communism is growing and there is propaganda everywhere. All these ills cannot be cured unless you deal with the root causes. People are not very much concerned with whether you administer the religious endowments or Mr. Chinaiya Pillai. They are more

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concerned with food. The price of foodstuffs is rising like a rocket. The Government are paying a higher price and still they are not able to procure enough quantity. When all these problems are there, the Hon. Food Minister is asked to spend his time on a Bill at this Lagna Sandhi time, the time between now and the coming into operation of the new constitution. Why should not we concentrate on items which will help the people? We, as a Government, are giving a wrong lead to the people. When the people are asking for food, the Government are giving them the Endowments Bill, the Sugar Bill and so on. As a matter of fact, the people who are affected by this Bill form only a small section of the population. The majority of the people want their day-to-day ills to be cured. Article 32 of the Draft Constitution provides for a number of things : provision of right to work, to education and to public assistance in case of unemployment, old age, sickness, disablement, etc. Cholera has become a regular feature every year. Blackmarket and corruption prevail in every department. Why should temples and religious institutions also be placed at the mercy of Government servants? Everybody says and even the Hon. Dr. Rajan admits that our administration is not as perfect as it ought to be. If you cannot obtain the maximum benefit from the existing departments, why should you take in new responsibilities and make confusion worse confounded? I submit that these religious institutions may be left alone for the present.

" There are about 25,000 charitable institutions, 27,000 temples and according to the Hon. Dr. Rajan, there are about 3,000 mutts including the small ones. If all these come under the control of the Government, there will be an epidemic of appointments everywhere. In the Central Assembly, it was said that when we wanted more food, we were given more Secretaries. The hon. Member who said so added something which was not complimentary and I do not propose to repeat it in this House. There will be a tendency to go on appointing Executive Officers and Assistant Inspectors. Let us not place ourselves open to the charge that instead of improving the endowments, we are improving the number of officers running the endowments.

" Only one more point and with that I will close. I ask the Hon. Dr. Rajan how many new temples the Hindu Religious Endowments Board has constructed and how many new endowments it has secured. If the Government want to kill Hindu religion, let them proceed with this Bill. "

MR. SPEAKER :—" Thirty members of this House want to take part in this debate and, therefore, I am going to fix 20 minutes as the time-limit for each speaker. "

SRI T. VISWANATHAM :—" May I suggest, Sir, that, as this is a very important Bill on which many of the members want to have their full say, it is better that no time-limit is fixed. I am sure, Sir, that they are not going to repeat what others have said

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and, on a Bill like this, which the Hon. Premier is so anxious to see passed because of its importance and urgency, I submit that free expression of opinion should be allowed by the Chair and I am sure the House will co-operate with you in its speedy passage, even if 30 or 40 members desire to take part in the discussions of this Bill. "

MR. SPEAKER :—" I have no objection to members giving full expression to their views on this Bill, but that does not mean that I should not fix a time-limit. If some hon. Members wish to take one or two minutes more, I am, of course, prepared to allow them some more time. "

THE YUVARAJA OF PITHAPURAM :—" Mr. Speaker, Sir, I rise to second the amendment moved by my hon. Friend, Mr. A. Vaidyanatha Ayyar. After his exhaustive and brilliant criticism, there is not very much left for me to say. Therefore, I would only confine myself to a very few observations on this Bill.

" Sir, in seconding this amendment, I do not in the least question the *bona fides* of the Government and particularly that of the Hon. Premier. But intentions are not sufficient; and hopes alone will not do the trick, for when it appears, in black and white, what flows from it is the crux of the problem. Therefore, all that I say should be viewed from that angle and it is not with any obstructive intentions that I offer these observations.

" Sir, in the first place, I do not know why the Government are so keen at this stage to shoulder additional responsibilities, and more so, in a Bill of this sort. Being a secular State, should we not be doubly careful before we embark on an enterprise which cannot be called an enterprise of a secular nature?

" Sir, the Bill brings before us one very important question and that is this. Are we justified in interfering to this extent in the relationship between the two units, namely, man and god? Wisely or foolishly, men—at least a great many of them—have some sort of a belief in the existence of a god and have got some sort of a feeling towards god and all these trusts and endowments which fall within the orbit of this Bill are but expressions of the individual relationship between man and god. Therefore, to me, these institutions as a whole are but aspects of that concrete belief of the man in the existence of some supernatural power. After all, a number of endowments are made with the sole object of getting some spiritual solace and in making those endowments, people feel that those endowments ought to be used and managed in a particular way and by a particular set of people. The moment the State interferes, the moment the State comes into the picture, people begin to feel that it is a sort of usurpation, if I may use that expression, of the functions of the trustees concerned by the Government and so, I feel that the State would be taking a very grave responsibility on its shoulders in taking over these religious institutions. I will give the House, Sir, with your permission, a concrete

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example. My father, some time back, endowed to the tune of a lakh of rupees towards the Andhra Brahma movement. He had certain views of his own on that matter and he wanted that people of a certain kind should manage the trust. And now the Government steps in and says that it is going to take away that trust property or funds from that body and is going to manage the whole trust itself. In that case, would not the Government be nullifying the very objects and intentions which were in the mind of the creator of that trust? This is one of the very many examples which might have escaped the notice of the mover of this Bill. Therefore, in all humility, I submit that this sort of interference is almost a tirade, however unintentional it may be, against god and man. God can look after himself, but man cannot and, therefore, I appeal to the Government to pay more attention to the human aspect of this question.

"There is just another point, Sir, which I like to place before the Government. Whatever the legal aspect of the question might be at present, the fact remains that the Constituent Assembly has, as so brilliantly explained by my hon. Friend, Mr. Vaidyanatha Ayyar, adumbrated certain fundamental rights and that very soon the Constitution Act would be on the statute book. Is this the time, Sir, to rush through a legislation of this sort in total disregard of the intentions of the fathers of our constitution and creators of these trusts and other religious endowments?

"Sir, this precedent of trying to rush through a legislation in the face of what the Constituent Assembly has passed, is very potent. If we are going to nullify the spirit of the Constitution even before it is put on the statute book, I shudder to think what respect that constitution can command with reference to the Governments of the future.

"With these observations, Sir, I request the Government to go slow and concede this very modest demand for circulation of the Bill for eliciting public opinion, a process which is entirely parliamentary. Let us not ride the high horse, for, if we ride too high a horse, when the fall comes and if it comes, it will be a terrific bump."

MR. SPEAKER:—"Amendment moved—

that the Madras Hindu Religious and Charitable Endowments Bill, 1949, be circulated for eliciting public opinion."

"The original motion as well as the amendment are before the House for discussion."

SRI L. N. GOPALASWAMI:—"Mr. Speaker, Sir, while I do not claim the legal knowledge that my learned and revered friend Mr. A. Vaidyanatha Ayyar possesses and which he has shown while discussing the provisions of the Constitution Act, I claim that I know sufficiently the mind of the Hindu public and I can assure the House that it does not want that the Government should now take upon themselves the responsibility of maintaining all these religious institutions. Let it not be misunderstood, Sir, that

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in supporting this amendment, we are either irreligious or that we want these institutions to go on in this haphazard way or that their funds should be misused and that their accounts should not be submitted for scrutiny. Far from that. One of my friends asked me, when I told him that I am going to support this amendment, 'Oh, what, you, who have been a Harijan worker all these twenty years, should think of supporting religion by favouring this amendment!' That is a thing, which I am not able to understand. If I had done any service for the Harijan cause, it was not out of disrespect for my religion. It is a wrong notion to suppose that a Harijan worker should not have any faith or belief in religion and its precepts. If anybody has taken up the cause of Harijan uplift merely with a view to bring the Hindu religion into contempt, then, Sir, I can only tell him that he has not understood Mahatma Gandhi. If Mahatma Gandhi had been pleading throughout his life for the entry of Harijans into Hindu temples, he did so, not with the intention of bringing down the Hindu religion or to disecrate the temples and the high ideals for which they stand, but because he intensely felt that God that is enshrined therein should be made available for worship to all people of the same religion and that the poor Harijans who also belong to the Hindu fold should not be excluded from worshipping God.

"Leaving aside that aspect of the subject altogether, I now come to the Bill itself. I really ask the Government, what is the hurry about this Bill? The Hon. Dr. T. S. S. Rajan himself said that the Bill has been there for twenty years and more. We all know that these mutts and these religious endowments have been in existence from time immemorial and if we want really to help them, improve their working and usefulness and put them on a sound basis, this is not the way to do it, nor is it going to be done within a period of a few months. If we really want the whole thing to be ransacked, thoroughly overhauled and placed on an enduring basis, then as my hon. and learned Friend, Mr. Vaidyanatha Ayyar has pointed out, we will have to go through the matter very carefully and slowly and devise ways and means of governing these innumerable institutions after consulting all the parties and interests affected and after obtaining the opinion of the public in a concrete manner. About 25,000 charitable endowments, 20,000 temples and 300 mutts are involved and these are not small things. Their income covers about one-third of the revenues of this Province and if these institutions are to be taken over by the Government, then they should think twice before launching upon such a big scheme.

"Another aspect of the question that I should like to place before this House is this, and that is our attitude towards the minorities. Claiming as we do to represent a major portion of the population of this Province, it is but fair and proper that we should respect the feelings of the minority, however few they may be. Even if there are only a few persons who believe that the taking over of these temples and other religious institutions by the State is not called for by religion, why not let them have a long rope?

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Why not hear what they have got to say in the matter? What are their arguments? They allege that the Constitution Act is now on the anvil. It is going to be enacted and passed into law in the course of a few months. If you will allow them some time, they will put, through a court of law, an injunction petition, stating that a secular State which India has been constituted to be, shall not and cannot interfere in religious institutions or with their administration and management. If the Government are so interested in these Hindu religious institutions and are so eager to rush through the legislation in this hasty manner, then they should do so only on two grounds. The first is that they should say that they have no regard for the feelings of the minorities.

"The second is they are afraid of the Constitution Act and are trying to get round the Constitution by passing this legislation just now in order that it may not affect this piece of legislation. In both these things the Government are not right. We should be charitable to our opponents. If they feel that they are going to gain their object by waiting for a few months we should be chivalrous enough to grant that. Nothing is going to be lost and in that brief period these mutts and institutions are not going to segregate their properties or sell them away.

"Another point is that if we are really going to abide by the new Constitution we should certainly give respect to the clauses passed already. We should not do anything now because we are at present within our rights under the present Constitution and because the new Constitution has not come into force.

"We all want our Hindu religion to be in its proper place. We should like to enliven it with fresh enthusiasm so that it may shine in all its glory and all the religious institutions can be models for any religious person to copy. But instead what are we now doing? We seem to think that by the golden touch of the Government everything will be improved. As my hon. Friend has pointed out we have already laid our hands on too many irons and we are now taking up another. Here, it is not merely a political or economic matter, but it is a religious one where we should fear to tread. But we forget that we are now treading upon the susceptibilities of religious people. If we are a secular State we should not interfere in these religious matters. As my friend has pointed out, if religion should thrive it should thrive in its own parenthood. However interested they may be, a Government which says it is secular, cannot interfere in these matters and say: 'I know how best to manage your institution, you please give it over to me.' It is just like saying 'You do not know how to manage your household, I will manage it for you'. That should not be the attitude of the Government.

"Thirdly, Sir, the respect that we give to our religion can only be measured by the way in which we treat our religious heads. No doubt there is a strong feeling that our religious heads are not up to the mark. But there are also so many other heads and ruling princes who are not up to the mark. What do we do with them?

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We cannot reform them by simply disowning them. That reformation could be done only by our showing our proper respect to the matathipathis. Of course the respect should be mutual. But by merely saying 'You do not know how to manage', we will not be giving them the respect they deserve. If we really want to respect our matathipathis it cannot be done by passing a legislation like this stating that we are going to manage all the endowments and by putting them under some Commissioner, etc.

"Lastly, Sir, I would like to say only one thing before I close. By merely taking over the institutions the Government are not going to improve them at all. Let them point out a single instance where the Government have done better than a private institution in any walk of life. They have not been able to do that. After all what is a Government? The Government have not got the magic wand at their command. They have also got to deal with the same people that you and I have got to deal with. Unless the calibre of the general public is improved we cannot expect better results. Simply by making a motor driver or conductor an employee of the Government by taking over the bus, we are not going to make him a better man altogether showing greater respect to the people or doing greater service to them. Therefore I submit that this piece of legislation is rather very hasty and we can afford to wait for eight or ten months. We should give an opportunity to our opponents because we are not here to pass legislation by the mere strength of our majority. We should pass a legislation which is reasonable and people should be afforded an opportunity to get their grievances redressed. If these poor people think that the Constitution Act is going to help them why then should we deny them that privilege. I therefore request the Hon. the Minister to just ponder over the matter. If the Government have waited for 25 years they can certainly afford to wait for 10 months more. I request him to just postpone this Bill till the Constitution Act takes effect."

SRI K. T. KOSALRAM :—"Mr. Speaker, Sir, இப்பொழுது நம்முன் ஸ்டீல் கொண்டு வரப்பட்டிருக்கும் இந்த மசோதாவை பொதுஜன அபிப்பிராயத்திற்கு விடவேண்டுமென்று கனம் நண்பர் A. வைத்யநாதய்யர் அவர்கள் பிரேரேபித்துள்ள இந்த தீர்மானத்தை நான் எதிர்த்துப் பேச வந்திருக்கிறேன். (Cries of 'hear, hear.') தான் ஒரு சட்ட நிபுணர் என்ற முறையில் இந்த சட்டத்தைப்பற்றி அவர் சொன்னார். அவர்கள் சொன்ன சட்டமானது இன்னும் Constitution Assembly-ல் நிறைவேற்றப்படவில்லை என்பது நமக்கு தெரிந்த விஷயம். அவர் அதிலுள்ள ஆர்டிகிள் 20-ஐப் பற்றி மட்டும் சொன்னார். ஆனால் ஆர்டிகிள் 19-ல் என்ன சொல்லி இருக்கிறது என்றால் இதைக் கொண்டுவருவதற்கு மாகாண சர்க்கார்க்கு அதிகாரம் இருக்கிறது என்பதை ஞாபகப்படுத்த விரும்புகிறேன். ஆனால் அந்த Constitution நமக்கு அடுத்த ஆகஸ்டுமாதத்திற்குமேல் தான் இந்த தேர்தலுக்கு frame ஆகி வரப்போகிறது. அதற்கு முன்னால் செய்யும் இந்த சட்டம் அந்த Constitution ஆல் பாதிக்காத என்பதும் நமக்குத் தெரிந்த விஷயம். ஆகையால் சட்ட பூர்வமான விவரங்களைப் பற்றி விவதிப்பது என்பது தர்மமல்ல. இந்த மசோதா சட்டமானால் வந்ததும் ஒழிந்து போய்விடலாம் என்று அவர் சொல்லுகிறார். உண்மையில் வந்தது மதத்தை அழிப்பதற்கு இந்த சட்டத்தை நமது பிரதமர் கனம் O. P. இராமசாமி ரெட்டியார் அவர்கள் கொண்டுவரப்பட்டிருக்கிறது."

[Sri K. T. Kosalam] [4th February 1949]

காரர்கள் வளர்ச்சியடைகிறார்கள். இவ்விதம் நாம் பிறியோக்கிலிருப்பது தான் அவர்கள் முன்னால் வருவதற்குக் காரணம். எந்தக் கட்சியாக இருந்தாலும் சரி, கம்யூனிஸ்ட் காரர்களாக இருந்தாலும் சரி, கருப்புச் சட்டைக்காரர்களாக இருந்தாலும் சரி, சோஷலிஸ்டாக இருந்தாலும் சரி எவர் சொல்வது மக்களுக்கு நன்மையாக இருக்கிறதோ அதை நாம் செய்வது அவசியம். மக்கள் சொல் தில் எது நன்மை என்று தெரி கிறதோ அதை நாம் எடுத்துக்கொள்ளவேண்டும். இவைகளை கவனிக் காமல் தவிரிட்டதால்தான் காங்கிரசை குறை சொல்லுகிறார்கள். அதனால் நாட்டில் கொந்தளிப்பு ஏற்பட்டு மயாதிபதி ஜனங்களையும் ஹிந்து மதத்தையும் அழிக்கிறார்கள் என்று சொல்லப்படுகிறது. இந்த நிலைமையில் இன்னும் சில நாளைக்குப் பார்த்துகொண்டிருக்க முடியாது. ஏதோ ஒரு சநாந தர்மத்தைச் சேர்ந்தவர்களில் சிலரால் தூண்டப்படுகிற வர்கள் இதற்கு எதிர்ப்பாக உண்ணாவிரதம் இருப்பேன் என்று சொல்லிக் கொண்டு ஐந்து கோடி மக்களில் ஒருவனாக இருந்துகொண்டு இந்த சட்டத் தை நிறுத்திவிடுவேன் என்று சொல்வது முடியாது. அந்த ஐந்து கோடி மக்களால் தேர்ந்தெடுக்கப்பட்ட அங்கத்தினர்கள் தான் இப்பொழுது சட்ட சபையிலிருக்கிறார்கள். அவர்கள் செய்யும் சட்டத்தை ஒருவர் உண்ணா விரதம் இருந்து நிறுத்துவது என்றிருந்தால் அதற்காக அங்கத்தினர்கள் பயப்படப்படுவதில்லை. இப்படி ஐந்து கோடி ஜனங்களில் ஒருவர் உண்ணா விரதம் இருந்து இதை நிறுத்தவேண்டுமென்று சொல்வது ஜன நாயகம். எந்த சட்டத்தை இயற்றினாலும் அதற்கு எதிர்ப்பு உண்டு. அதனால் பாதிக்கப்படுகிறவர்களும் உண்டு. எந்த சட்டம் கொண்டு வந்தாலும் அதனால் பாதிக்கப்படுகிறவர்கள் எதிர்த்தால் அதற்காக சட்டத்தை நிறுத்திவிட்டால் நாட்டில் ஒருவித மாறுதலையும் எதிர்பார்க்கவே முடியாது. நம் சமுதாயத்தில் எத்தனையோ பேர்கள் சட்டங்களினால் பாதிக்கப்படுகிறவர்களிருக்கிறார்கள். அதற்காக நிறுத்தவது என்று அது தீர்மானமாகிறது. ஆகையால் இந்த எதிர்ப்புக்காக பொதுவான அபிப்பிராயத் திற்கு விரைவாகவே தீர்மானம் எடுக்கவேண்டும். அப்படியே போகிறார்கள். Select Committee-ல் கனம் வைத்தியநாதையர் தங்களுடைய அபிப்பிராயங் களைச் சொல்லலாம். Amendment முன்மாதக் கொண்டு வரலாம். Select Committee-ல் இந்த மசோதாவை வேண்டாமென்றும் சொல்ல லாம். அல்லது முஸ்லிம்களுக்கும் கிருஸ்தவர்களுக்கும் சேர்த்துக்கொண்டு வரலாம் என்றும் சொல்லலாம். முஸ்லிம்களுடைய கோவில்களையும் கிருஸ்த வர்களுடைய கோவில்களையும் இதில் சேர்த்து விடலாம் என்றும் சொல்ல லாம். செலக் கமிட்டி அங்கத்தினர்களுக்கு எல்லாவிதமான உரிமைகளு ன்றுகின்றன. இன்னும் இந்த மசோதாவைப்பற்றி விசாரிப்பதற்கு அவர்களுடைய ஜாஸ்தி பண்ணலாம். அவர்களுடைய நோக்கங்களை அங்கே சொல்லலாம். எல்லாருடைய கருத்துக்களையும் அங்கே நிகாட்டு செய்து கொள்வலாம். முன்னால் ஜமீந்தாரி ஒழிப்பு மசோதாவில் Select Committee-ல் எவ்வளவோ மாறுதல்கள் செய்தார்கள். Select Committee-யிலிருந்து அது வந்தபோது பல மாற்றங்களுடன் வந்தது. அதேபோல் இதுவும் வரும்படியாகச் செய்ய முடியுமாய்வு ஸ் அபியர் ஆங்கே செய்யலாம். அவ்வளவுக்கும் அங்கே அதிகாரம் இருக்கிறது. ஆகையால் இப்பொழுது பொதுவான அபிப்பிராயத்திற்கு விரைவாகவே தீர்மானம் சொல்லுவது சரியல்ல. உடனே இதை pass பண்ணி ஒரு வருஷம் தள்ளிக் கொண்டு நடுத்தபொலில்லாமல் துரிதமாகக் கொண்டு வர வேண்டுமென்று தேர்ந்தெடுத்து இதுதான் நான் முடித்துக்கொள்ளுகிறேன்.

SRI T. VISWANATHAM:—Mr. Speaker, Sir, before I begin to speak, may I just ask whether the Advocate-General will intervene in this debate and speak on the legal points raised by my hon. Friend Mr. Vaithyanatha Ayyar?

MR. SPEAKER:—I wish to know from the Hon. Minister whether the Advocate-General will speak on this Bill.

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THE HON. DR. T. S. S. RAJAN:—The Advocate-General is listening to the debate. He will say something to-morrow; but not to-day.

SRI T. VISWANATHAM:—Mr. Speaker, Sir, certain points having been raised by Mr. Vaithyanatha Ayyar on the legal and constitutional aspect of the Bill, and the Advocate-General being present here, I thought it would add to the usefulness of the debate if the Advocate-General intervened at this stage. It would also enable us to proceed with the discussion on a better and enlightened level. But as the Hon. Mover of the Bill has said that the Advocate-General will reply in the end, we, with our own limited understanding of the constitutional position, will only proceed groping in the dark to find some light somewhere.

"The Hon. Minister in charge of the Bill in winding up his speech said 'we have got an inherent right to pass what legislation we can; Constitution Act or no Constitution Act we will do what we have got in our mind.' It is exactly to check this kind of assumption of powers—I do not say it is a deliberate and wicked assumption but it is an assumption which comes into the head of Governments which are run by big majorities—in all written Constitutions certain safeguards are provided. If proof of the necessity of such safeguards was needed at any time in the history of not only this country but of every other country where fundamental rights are reduced to writing in Constitutions, as they are in our draft Constitution, the assumption of the Hon. Dr. T. S. S. Rajan is ample proof of it. He speaks of inherent right! But the framers of the Draft Constitution also know that this inherent right that is adumbrated has an expanding tendency and becomes very much more particularly in these days not only in this country but in every country where the executive wants to try to assume to itself sovereign and independent powers. It is only to guard against the evils of such assumptions, these safeguards are provided in the Constitution and the framers of the Constitution know this. That is why, Sir, in Chapter V of this Draft Constitution certain fundamental rights have been enunciated and one of them is this:

"Any law which tries to abridge any of the fundamental rights secured in this Constitution shall be invalid to the extent of the repugnancy."

Why is it, Sir, that they thought it right to frame this clause? It is because, in matters of religion, people who have known the history of not only this country but the history of Europe and America, have known it to their cost that in matters of religion, differences tend to become very great and very acute leading to disruptions. The record of European history and the records of our own history bear witness to this. Wars have been fought on this land and in this world on the ground of religion or religious misunderstandings arising out of religious denominations or faith. To-day if you look around the world to certain of the conflicts that are going on in the Middle East you will find there again that

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religion is at the source of a great fight that is going on. Having had experience of these, and desiring to take advantage of examples of history and the warnings of history, the framers of our Draft Constitution have thought that with regard to religion, at any rate, in this country, the State shall have nothing to do. Sir, that is the spirit, that is the purport, and that is the object with which the fundamental rights with regard to religion have been incorporated in the Draft Constitution. It is said that every religious denomination—not merely of a particular faith like Muslim faith or Hindu faith or Christian faith, but even the denominations in it (which is very comprehensive)—or any section thereof shall have the right to establish and maintain institutions for religious and charitable purposes, to manage its own affairs in matters of religion, to own and acquire movable and immovable property, and to administer such property in accordance with law. Sir, this is the provision that has already been passed by the Constituent Assembly. It may be asked that the Draft Constitution has not yet become final, and therefore why should we bother about it now. But I submit, Sir, that we are at the beginning of a critical period in this country. Having got over certain difficulties, we are trying to set right our own affairs in our house. When we are trying to frame our Constitution, and when those who are in charge of the affairs of India have thought it fit to keep the State away from the troubles of religious faiths and religious denominations so that we can have a good secular Government based upon economic and political considerations rather than on religious grounds, is this the time for us—when actually the Draft Constitution is being discussed in the Constituent Assembly—to bring in a Bill like this? As if in a very innocent way, the Hon. Dr. Rajan made the suggestion and he also wanted us to believe that we are almost in a chaotic stage with regard to religious institutions. I think he used the word "chaos" and said that there is absolutely no law to govern these *Matahipathis* and trustees of the temples, and that we are all in a land where there are no laws regarding the trust properties. He spoke that people were mismanaging the endowments and trusts and yet they were not under the control of any law.

Then, his arguments would have been perfectly right and absolutely right and everyone of us would have supported, if really speaking, there was no law on this subject. If we are in a country where there is no law with regard to the administration of charitable or religious endowments, if we are in a country where there is no law with regard to acquisition of property or the disposal of property, if we are in a country where there is no law to rectify misappropriation or to punish misappropriation, then his arguments would have been perfectly right. But, he comes forward and tells us on the floor of this House with all naïveté that Government have been trying for the last so many years, more than twelve years, to rectify the defects of this kind. He says, 'There is so hurry, I am not anxious that this Bill should be passed at once. But the Bill must, however, be introduced.' As I have submitted before,

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going back to a very old period, when Government have in 1863 passed the Religious and Charitable Endowments Act, they gave the title to the Act like this: 'An Act to enable the Government to divest itself of the management of religious endowments.' That Government thought that Government is best which governs least. It is an old political maxim. I still believe it is very correct. The Hon. the Mover of this Bill should understand the implications of what the hon. Mr. Vaidyanatha Ayyar has said. The present lay tendency of the Government is not to divest themselves of the management of several things. In fact, they have taken in hand the administration of so many things, so many branches of human life and social life with the result that it has almost become impossible for the Government to go on with any sense of calmness or any capacity to regulate its Government. The hon. Mr. Vaidyanatha Ayyar pointed out as an instance the administration of the Food Department. I shall not isolate any single department in this matter. Because there are too many things in the hands of Government, the position has become so difficult that almost every department has got out of control. I submit, Sir, that it is not good for a Government to take more subjects into its hands than it can digest.

Then, Sir, when I was referring to the fundamental rights, I submitted that public opinion sometimes goes upon slogans, sometimes fleeting and transient considerations come and cloud our minds. It is only to guard against this that this particular provision has been made that the management of religious institutions shall be left to the persons composing that particular religious denomination or religious faith. Sir, Government has got the inherent right to regulate the laws regarding acquisition of property or disposal of property. It has also got rights to pass laws about the disposal of public revenues but I suppose it has not got the right to take upon itself the entire direct management of a person's home or property; or likewise of faiths and denominations. The Hon. the Mover has said, I have got the power to-day whatever it may be tomorrow. But, Sir, the position is this. In olden days there were religious sanctions. They ceased to exist with the advent of foreign rule. A foreign Government was ruling us. They made certain laws and they controlled the people who were in charge of these charitable and religious institutions. But, at the same time they were neutral in religious matters. As I submitted, Sir, the Act was passed in 1863; but it did not deal with Hindu religious or charitable endowments or Muslim or Christian religious or charitable endowments in particular. It was a general law. Until then, not only in this Presidency but also in other Provinces, the Board of Revenue had the power of management. Then, they found that it was all wrong to continue the management of these religious and charitable institutions. On the other hand, they found that it is of fundamental importance to repose faith in the people who are near and around these temples, people who contribute to the religious worship and the maintenance of those temples.

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and people who form that particular denomination. They found that it is those people that must be given the voice in the management of those temples. Following this decision, in the year 1863, they thought that the Government should divest itself of the management of all these temples. What did they do? They did not leave it in the air. You will find the whole thing regulated in Sections 6 to 12 of that Act. It is for the first time they created a machinery whereby they vested the initiative in the local people and the devotees composing the particular faith or denomination, people who have more lawful interest, and gave them an effective voice in the administration of those temples, not merely on the religious side inside the temple but also in matters regarding the property and other questions pertaining to the temples. They also created electoral colleges. It is only these things that have been subsequently borrowed and incorporated in the Hindu Religious Endowments Act. In this connection, I would refer to the Statement of the Objects and Reasons of the present Bill. It is stated that the provincialization of the administration of the Hindu Religious Endowments of this Province was recommended on several occasions in the past since 1929. I really cannot exactly understand in what sense the word 'provincialization' has been used. I shall advert to that subject later on. Possibly Government means that instead of controlling by law the internal management of the temples, it was recommended that direct administration of temples should be taken over by the Government. Assuming that that was the meaning, I am offering my remarks.

"Sir, the Statement of Objects and Reasons says:
The provincialization of the administration of Hindu Religious Endowments in this Province was recommended to Government on several occasions in the past since 1929; but the recommendation could not be given effect to for one reason or another. It has been pointed out that the Madras Endowments and Escheats Regulation, 1817 (Madras Regulation VII of 1817), distinctly recognized the principle that it was the duty of the Government to keep a strict watch over religious trusts and endowments and that effect was given to this principle till 1840, by the exercise of efficient and stringent control over Hindu temples through Government officers. The Government have carefully considered the question and have decided to provincialize the administration of Hindu religious endowments; and the main object of this Bill is to give effect to it.

Sir, it is not denied that it is the duty or the responsibility of the Government to keep a strict watch over religious trusts and endowments. That is not the real point. Some amount of propaganda has been made that those who want that this Bill should be circulated for eliciting public opinion of those who have pointed

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out that there is some difficulty at this stage in passing this Act are against the purification of the managements of these temples or against keeping a strict watch over them. Certainly it is not so. I may make it very clear. No one is more anxious than myself to make these managements pure and more pure. May I ask what the Hon. Premier who was in charge of this subject for twenty months or the Hon. Dr. Rajan has done in improving the management of these temples? Absolutely nothing, so far as I know. I have not seen them come to my area; I have not seen them come to any temple there. I have only seen them giving directions to anybody whatsoever supinely and things have been going on because no living interest has been created in the minds of persons near and around the temples. In my place there are temples; but, I do not have any voice in the management of those temples. People there do not look forward to me or to those in that place because we are not their masters so far as temple administration is concerned. Administration is carried on by wires that are sent out from Madras. When such is the case, how can you expect the management of the temple to be good? Temple managements will be all right and will be bound to be all right when and only if those persons who are near and around the temples are given the power to have a strict watch and to exercise vigilance over them. I may submit that that is the only proper way by which temple administration can be purified. Only in that way he can keep these temples pure and the lives of those who are in their charge also pure. If he wants to ensure this, then he must give effective power to the people around who can easily keep a watch and an effective watch over them, because Government cannot control them from this place. I may submit to the Government that by concentrating these powers at Madras, they will not be able to control the temples or to purify them. It is easily understandable that there is prospect of patronage when there is concentration of power in the hands of the Government itself and there are people to be satisfied by the Government here and there and everywhere. I am not attributing any particular bad motive to any individual but in the final analysis, it comes to this, that the sources and distribution of patronage are being transferred to the seat of Government at Madras. It would mean nothing more. In this connection I would remind you of Government's replies on the floor of the House to supplementary questions on anti-corruption, anti-black-marketing and profiteering. They were to the utter dissatisfaction of most of the members of this House.

"Sir, I submit that provincialization or transfer of officers from one place to another will not lead to the improvement of the temples. The centralized form of control will only make the temple administration fail. Already the general public are almost tired of our incapacity to deal with the many problems which we have in hand and if we add to these problems, the temples and there are as many as 27,000 temples and 27,000 mutts, about 3,000 endowments and 3,000 charitable institutions—where shall we be? Of

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course, Government have got their own advisers on policy. I cannot, as a small man, offer any advice on the policy of the Government. But, I have got to express my opinion from the experience which I have in the management of these institutions. My experience is that this centralized form of Government from Madras will fail and will fail miserably. Sir, from that point of view, it is wrong for the Government to take over the management of these temples. Now that the Constitution Act is shortly to come into force, Government should stop interfering in these matters. The Hon. the Mover said that Government have shown their earnest desire for the last twelve years and after due consideration, they have come forward with this Bill. But, I may submit, Sir, this is the first time that they are coming with such a measure. If you go into the provisions of the Act of 1863, you will see that there are ample provisions to help the Government to control these institutions without any sense of partiality. But, Sir, the provisions of the present Bill seek to concentrate power in the hands of the Government. It enables them to shower their patronage. Therefore, Sir, I submit that it is better to put more life and to give more power to the existing Board rather than try to take the managements of these temples upon themselves.

Then, Sir, it is stated in the Statement of Objects and Reasons that Government have carefully considered the question and have decided upon the provincialization of the administration of the Hindu Religious Endowments. I submit, Sir, that provincialization is not the best method. At one stage of the argument, the Hon. Dr. Rajan appealed to the sentiments and said, "Shall I keep quiet when these Matadhipathis are mismanaging and when the people are starving while dinners are going on and sumptuous meals are taken inside the temples?" But, Sir, I may ask, whether day in and day out, morning and evening and at nights, tea parties and dinner parties, are not held in the Mount Road within Government House compound while we see hundreds of stragglers without any cloth at all and without any food, outside the compound? People are suffering like that, yet our dinners and feasts are going on galore in the Rajaji Hall. Sometimes we hear the cries of those who are unfed and are starving. Even hearing them, we go on with these things. Therefore, Sir, I submit that in order to consider the merits of a legislation, it is not right for Dr. Rajan or for me or for anybody else to refer to these starving millions as an argument. Sir, the starving millions are not going to be fed by the temples coming into the hands of the Government.

MR. SPEAKER:—"The hon. Member may continue his speech tomorrow. The House will now adjourn and meet again tomorrow at 11 a.m."

The House then adjourned to meet again at 11 a.m. the next day.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS BILL, 1949

THE MADRAS LEGISLATIVE ASSEMBLY.

Saturday, the 5th February 1949.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVASHANMUKHAM PILLAI) in the chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BILL, 1949—cont.

MR. SPEAKER:—“ Now, Mr. Viswanatham will continue his speech. Before he speaks, I must inform the hon. Member that he has already taken the time allotted to him. The hon. Member can take ten minutes more.”

SRI T. VISWANATHAM:—“ With your permission I would take half an hour.

“ Mr. Speaker, Sir, the Hon. the Mover of the Bill wanted to persuade the members of this House by saying, ‘What is it, after all, I have done? The Government have, on several previous occasions, put on the Statute Book several Acts interfering or concerning the management, administration and governance of these religious institutions.’ And therefore, he said, ‘since the previous Government have done it, there is nothing wrong now for me to pursue the same policy.’ There is a particular distinction, Sir, between the measures taken by the previous Government and the measures which the present Government want to take in this behalf. Hitherto we had no written constitution. We had a foreign Government. That being so, they did not interfere in our religious matters. For example, the then Government was paying some money to the Ecclesiastic Department but on that account they did not interfere with the internal affairs of Christian churches. That is the kind of neutrality observed then. Now, what has really happened is the non-interference which was the policy of the Government as stated from time to time by mere announcements and statements, has been reduced to writing in the shape of the Fundamental Right of a citizen. It is not merely to the Christians; it is not merely to the Muslims but it is also to the Hindus that there is a fundamental right. We should not forget the very simple fact, the one fundamental fact, that these Fundamental Rights cannot be ignored by those who form the Government. In almost every country it always happens that those who form the Government generally represent the majority of the people of that country and yet these Fundamental Rights are always written in the Constitution. Therefore, the argument that Hindus being the majority community, the Government have got the right to interfere in the management of temples which are reserved to the

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members of the denomination, does not hold water. So also the argument advanced by the Hon. Minister that previous Governments have interfered or have enacted some measures in this behalf, does not hold water.

“ Sir, I may submit that the position has changed after the Constituent Assembly came into being. It may be argued by the Hon. Minister that the Constituent Assembly has not yet passed the Constitution Act and therefore, according to the Government of India Act, we have got every right to do whatever we want with regard to this matter. I may submit, Sir, that there is a difference between mere legality and constitutional propriety. We should see in what conditions we are now conducting our legislative business both in Madras as well as in Delhi. There is practically no parallel to this in the history of any country in the world. The Foreign Government has gone out of this country transferring the administration to us. Certain transitory provisions have been enacted but at the same time a Constituent Assembly has been set up and about 45 members of this House are also members of that Assembly. Therefore, I submit we cannot ignore the proceedings of the Constituent Assembly. We cannot ignore the Articles that have already been adopted by the Constituent Assembly. It does not matter if the Constitution Act has not been finally and fully accepted by the Constituent Assembly. We cannot get away from the fact that already some of the articles are there, and these 45 learned members of this House who go there and vote for the adoption of those Articles, cannot say, whatever might have been said at Delhi, here we will give our seal of approval to the Government in interfering and taking over the management of those institutions. I say it would be an act of incongruity and that is why I submit that apart from mere legalistic interpretation, the Hon. Mover of the Bill must take all these together into consideration. We cannot affirm one thing in Delhi and deny it on the floor of this Assembly. That is why, I say that the point raised by the hon. Mr. Vaidyanatha Iyer is perfectly a sound one.

“ The Hon. the Mover of the Bill also said that the constitutional aspect has been examined. I have no doubt that the Government must have examined it. But it was given out in the newspapers that eminent constitutionalists including a retired Chief Justice of the Federal Court of India were of the opinion that its validity would be doubtful. Apart from the question of validity, I am talking about the question of propriety. When legislation is going on there, in the Constituent Assembly we are contemplating here to contravene directly certain provisions of it and this amounts to nothing but contempt for the Constitution. There must be some propriety in any action the Government might take. Therefore, I submit that the legality and the constitutional propriety must be considered together rather than separately.

“ Then, speaking on the necessity for passing this Bill, the Hon. the Mover said that the Hindu Religious Endowments Board

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has failed in its purpose because there is a constant and perpetual interference by the Court. Here again, the Honourable Minister has betrayed the mind of the Government while the ostensible object of this legislation is to improve and purify the administration of temples and charitable endowments, the real object seems to be to see that whatever they do by executive administration, they shall not be questioned by anybody in a Court of law. But like King Charles's head, the plea of maladministration of temples comes up to oust jurisdiction of Courts. The Hon. Minister said that it is the perpetual interference of Courts, the tortuous procedure of Courts which does not enable the Executive to do whatever it likes and that is the reason why he is taking powers under this Bill. It is a wrong attitude. On several occasions we have made reference to it on the floor of the House and I do not know whether the Hon. Minister in charge of the Bill was present when the discussions took place. It is wrong to say that we will pass new legislation because we do not like the interference of Courts; the procedure followed in Courts is tortuous and therefore, we want to deprive the people of their rights and exclude the jurisdiction of the Courts. On his own admission, there are 27,000 mutts and temples and as for charitable institutions their figure goes to astronomical numbers. Is it open to him to suggest that he would deprive the people of their remedy rather than help them to achieve the object, namely, the purification of the administration of these institutions? From the beginning to the end of his speech yesterday, he was saying that the administration of most of these things was bad and corruption had crept in. It is true. But it is also true that when for the first time the Government directly want to take up the management of these private institutions as part of Government administration, it is just and proper that the Government should have a little introspection. We are in a privileged position and we make a sweeping suggestion, sitting on the Treasury Benches, that these charitable or educational institutions are corrupt and we want to take them ourselves. When we say all these, we must also be very certain and be very careful to see how the public are receiving our statements. At present, Sir, what is the credit that we have? We have read the statement of Sardar Patel on us, Congressmen. Pandit Jawaharlal tells us directly in Rajaji Hall that thus and thus is the credit that the Government and the legislature have in our Province and has pointed out to us our own mistakes; why should we forget our own mistakes and why should we forget the level of the credit which we are now commanding and why should we try to condemn others? The Hon. Dr. Rajan said: 'Why should they who submitted to the judgment of foreign judges to-day object to an enactment like this?' It is unfortunate that in those days our fathers had to submit themselves to the jurisdiction of foreign judges; but does that mean that our submission was of our own free will? It was not and that is the reason why, when we are framing our own constitution, we are trying to define what should be the powers of the Government and what should be the scope of

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Governmental activities, what should be the right of individuals and also of denominational groups. When we are doing that, it is not right for us to give as an example what we did some years ago when we had no control and no right to regulate our own affairs. To persuade us, the Hon. Dr. Rajan said: 'Can I, as a member of Government keep quiet when God is shut out; when God is starved and sometimes killed?' I submit that God is there; neither can he be shut out nor shut in nor killed nor created nor be made to live. That is a proposition that I need not labour; he has not become so helpless as to need the protection of this Government."

MR. SPEAKER:—"I have fixed a time-limit and the hon. Member has taken more than the time allotted; he cannot be speaking for more than an hour."

* SRI T. VISWANATHAM:—"I will not incur the displeasure of the Chair, I am only submitting, Sir, after all you can manage things very nicely. (Laughter.)

"God does not need the help of the Government to be placed in his own proper place; if there is such a God let me not have him. Statements like that will only tend to confuse things and people will misunderstand our faith. Our God is the same as the God of the Muslim, or of the Christian; there is only one God and there is no other and we also say the same thing: 'Ekameva Advitiyam'. For Dr. Rajan, who is not merely a Hindu but a pious Hindu, an orthodox Hindu according to his profession—it might have been by way of peroration or just meant to create an impression in the minds of the people—it is not right that he should have taken up that attitude and spread misunderstanding among the people about our religious doctrine and religion."

N. MUHAMMAD ANWAR SAHIB BAHADUR:—"From yesterday, Sir, God is very frequently quoted from this side and that. On a point of order, Sir, can He be freely cited as a witness? Can it be a matter for discussion here on the floor of the House?"

MR. SPEAKER:—"It is no point of order at all."

SRI T. VISWANATHAM:—"As usual whenever my friend rises, it is not a point of order but a point of humour. (Laughter.)

"Gods cannot be made demonstrable witnesses here but he is within me and outside, nay in the entire Universe and let us not try to draw the red herring across the path and canvass support for the Bill saying that Gods have been starved or shut up by factions. Let us not spread false doctrines. In fact, it is to safeguard the propagation of wrong religious doctrines that these fundamental rights have been embodied in the Constitution and it has been accorded to the individuals and to people that compose a particular denomination and that is the reason why the Government should have no hand in dealing with the management of these institutions."

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Looked at from the merits, the Bill is wrong. Let us look at it from another angle; it is not merely Muslims or Christians; there are many denominations and history has recorded various conflicts between one denomination and another. Dr. Rajan may be good and broad-minded but where is the guarantee that the person whom he may be appointing or transferring or whom I may recommend for transfer from Vizagapatam to Tirunelveli, does not belong to an altogether different denomination? If you only know the differences of opinion between, for instance, the Advaitins and the Visishtadvaitins and see how easily the temperature can be worked up even on the interpretation of a single sloka in the Bhagavadgita, you can realise the situation and judge what harm and damage it is going to cause and what quarrels it will engender. It will lead to quarrels and history has recorded it in the blood of those who had sacrificed their lives for the propagation of their faiths and beliefs. Let us not assume the role of Kumarila Bhatta coming again to restore lost things; the various philosophies of the various denominational groups are there and they are propagating their tenets and their principles and they know how to conduct their own affairs. The Hon. Dr. Rajan said that we would not interfere with all that. But if we refer to Clause 43, we see that Deputy Commissioner's decision or that of the Commissioner will be final. The Commissioner may be a Saivite and the dispute may be with reference to a Vaishnavite temple or the Deputy Commissioner may be a Thengalai and the temple may be a Vadagalai temple and it will not be possible for the Hon. Minister to be so vigilant as to see whether a particular officer posted to a place belongs to a particular denomination; it will be a colossal and impossible task for the Government. Why should the Government then invite this kind of extra trouble? The Hon. Minister said that the public are with him. May I draw his attention to the fact that it was the public that demanded the crucifixion of Christ? There are certain aspects of life which cannot easily be determined and it is not easy to say how the public feel about them and it is to guard ourselves against ill-considered opinions that in the Constitution safeguards have been provided, safeguards with regard to religion and the practice of religion. Let not Dr. Rajan think that public opinion is always with him in these religious matters. I will not labour that point except to say that we should not lay much store by it. He also said that we are perfectly within our rights in proceeding with the measure, but as I have said, Sir, we are committing a constitutional impropriety if not an actual illegality inasmuch as 45 of our own members are in the Constituent Assembly and they have given their approval to that Article and to-day we cannot say that they will deny what they have affirmed at Belhi. If we really want to purify our temples, let us have a general law. In this connection, I would in all humility request him to go through the provisions of the Act of 1863, which is a Central Act. They made provision there that power should vest in the devotees, in the people close and around the temples in the locality and they should have an effective voice; do it now and then only the

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temples will be purified. Otherwise, what happens? I have got five temples in my place and neither the archakas, nor the accountants nor the trustees will care for me because each has got a god-father here in Madras. We may be the worshippers and we will have to put up with him and we cannot control him because there is somebody else to protect him in Madras. It would, therefore, be proper and just and right and desirable to follow the provisions of the Act of 1863. I submit that this Bill may go back and that the Government should frame another Bill on the lines of the 1863 Act. We should purify the administration of religious and charitable institutions and endowments of not only the Hindus but also of all other denominations. I stand for purity in all branches of administration not merely of temples. I shall give my wholehearted support if the Bill is framed in a different manner. I hope the Hon. Minister will frame the Bill in such a way that these temples will once more become the centres of learning and culture from which light will flash to the various corners of the world, as they were in the past. Let us attempt to revive their past glory and pave the way for a more glorious future rather than pass laws which in the ultimate analysis are intended to concentrate more and more administrative powers in the hands of the executive."

SRI A. VEDARATNAM PILLAI:—“கனம் அக்ரஸனாதிபதியவர்களே, இந்த தர்ம பரிபாலன சட்டத்தை ஒரு மகப்பற்றற்ற அரசாங்கம் கொண்டு வந்து நிறைவேற்றுவது கூடாது என்று பலமான ஆட்சேபணை இருந்து வருகிறது. மகப்பற்றற்ற அரசாங்கம் இதை நிர்வாகம் செய்கிற பொறுப்பை அடியோடு எடுக்காமலிருந்திருந்தால் இதற்கு ஆட்சேபணை ஒன்றும் கிடையாது. இப்பொழுது அரசாங்கம் எடுத்துக்கொண்டதாகவும் இல்லை, இல்லாததாகவும் இல்லை. இப்பொழுது தர்ம பரிபாலன போர்டு ஒன்றை நியமித்து அதன் மூலம் தர்ம ஸ்தாபனங்கள் நிர்வகிக்கப்பட்டு வருகிறது. அதனால் வருகிற நன்மை, தீமை பெயர்களுள்ளும் இந்த அரசாங்கத்திற்கு வருகிறதேயல்லாமல் அந்த போர்டை மாத்திரம் அது சேரவில்லை. இன்றைய நிலைமையில் அந்த பொறுப்பை ஏற்க தயாராக இருப்பவர்கள் இன்று போர்டில் தலையிட்டு எந்த விதமான காரியத்தையும் செய்வதற்கு சாத்தியமில்லாமலிருக்கின்றது. இன்றைக்கு அங்கிருக்கும் நிலைமையானது இப்பொழுது அதை எடுத்துக்கொள்ளவேண்டிய நிலைமைக்கு வந்திருக்கிறது. இப்பொழுது இருக்கும் போர்டின் நிர்வாகத்திறமையினால் இந்த தர்ம ஸ்தாபனங்கள் எல்லாம் நல்ல முறையிலில்லாமல் சீர அழிந்திருக்கிறது என்பதை நாம் மறுப்பதற்கு இல்லை. ஆனால், ஒரு சில ஸ்தாபனங்கள் மட்டும் நல்ல நிலைமையில் இருக்கிறது. மற்றவைகள் இன்னும் மோசமாகவும் கேவலமாகவுமுள்ள நிலைமையில் இருக்கிறது என்ற விஷயத்தை மறுப்பதற்கு இல்லை. சட்டசபை அங்கத்தினர்கள் அதில் தலையிட்டு சீர்திருத்தம் செய்வதற்கும் இல்லை. அதை நல்ல முறைக்குக் கொண்டுவரவேண்டுமென்றால் இப்பொழுது போர்டு இருக்கிற அமைப்பில் அதற்கு வேண்டிய அதிகாரம் இல்லை என்று சுற்ப்படுகிறது. இது சம்பந்தமாக சட்ட சபையில் கேள்விகள் கேட்டதற்கு அவைகளை அனுமதிக்கப்படுவதும் இல்லை. ஆகையால் போர்டு இப்பொழுது இருக்கும் நிலைமையில் அதிகாரச் சத்தை பூராவும் அரசாங்கம் எடுத்துக்கொண்டு அதை வகளை சீர்திருத்தம் செய்யக்கூடிய நிலைமைக்குக் கொண்டுவருவதனால் அதில் என்ன தவறு இருக்கிறது. ஆனால் இது சம்பந்தமாக இப்பொழுது டில்லியில் நடந்து வருகிற அரசியல் தீர்மான சபையில் விதி ஏற்பட்டிருக்கிறது. அதில் நம்முடைய மாகாண அரசாங்கம் தலையிட்டுச் செய்வதற்கு அதிகாரம் கிடையாது என்று ஒரு பெரிய வாதத்தைக் கிளப்ப

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பட்டிருக்கிறது. அந்த அரசியல் நிர்ணய சபை 20-வது விதியில் இந்த விஷயமாக தலையிடுவதற்கு விதி இல்லை என்று கூறுவதாகக் கூறுகிறார்கள். ஆனால் அதற்கு ஒரு amendment வந்திருக்கிறது. அந்த விதியில் சொல்லியிருப்பது என்னவென்றால் 'to administer such property in accordance with law' என்று அந்த 20-வது விதியில் இருக்கிறது. இதைப்பற்றி அரசியல் நிர்ணய சபை கூட்டிக் கூட்டத்தில் விவாதம். வந்தபோது நம் முடைய மாகாண பிரதிநிதியான ஸ்ரீ அனந்தசுயானம் அய்யங்கார் இதற்கு ஒரு திருத்தத்தை அங்கே கொண்டு வந்தார். இந்த தீர்மானத்தை பல அங்கத்தினர்கள் படித்துப் பார்த்திருக்கலாம். அது என்னவென்றால் 'in accordance with law' என்பதற்குப் பதிலாக 'in accordance with custom and usage' என்பதுதான். ஆனால் இந்த திருத்தம் அங்கே நிறைவேற்றப்படவில்லை. அதன் காரணத்தால் 25 அங்கத்தினர்கள் கையெழுத்திட்டு மறுபடியும் அதை நிறைவேற்றவேண்டுமென்று அரசியல் நிர்ணய சபை கூட்டிக் கூட்டத்திற்கு அனுப்பியதை பண்டித ஜவஹர்லால் அவர்கள் இதற்கு ஆட்சேபித்து தோற்றுப்போனதின் காரணமாக இதை மறுபடியும் கொண்டுவர முடியாது என்று சொல்லிவிட்டார். அதனால் இந்த திருத்தத்தை வாபஸ் வாங்கிக்கொண்டிருக்கிறார் என்பதை உங்களுடைய கவனத்திற்குக் கொண்டுவர விரும்புகிறேன். ஆகையால் மத சம்பந்தமான ஆட்சேபணை இருந்திருந்தால் பண்டித ஜவஹர்லால் அவர்கள் ஆட்சேபித்திருக்கமாட்டார்கள். திருத்தம் நிறைவேற்றமுடியாதவே இருந்திருப்பார்கள். தோல்வி அடைந்ததும் உடனே வாபஸ் வாங்கிக்கொள்ளப் பட்டது. ஆகையால் இதில் சட்ட பூர்வமாக தப்பு இருக்கிறது என்பதாக எனக்குத் தோன்றவில்லை. நான் சட்ட நிபுணன் அல்ல. அங்கே நடந்த விஷயங்களை கவனித்துதான் நான் சொல்லுகிறேன். மத சம்பிரதாய விஷயங்களில் இவர்கள் புருந்து ஒன்றும் தவறு செய்வதற்கு இடம் இல்லாது செய்திருக்கிறார்களேயல்லாமல் மத சொத்து இவைகளை பரிபாலனம் செய்வதில் எவ்வித தப்பான விதியும் இந்தச் சட்டத்தில் இருப்பதாக எனக்குத் தோன்றவில்லை. எவ்வளவோ சட்ட நிபுணர்கள் கலந்தாலோசித்து Advocate-General அவர்களுடைய ஆலோசனையையும் பரிசீலனைசெய்து அதன் பிறகு தான் இந்த சட்டத்தை இப்பொழுது கொண்டுவந்திருக்கிறார்கள் என்பதாகவே நான் அறிகிறேன். இம்மாதிரியான தப்பு இருந்தால் அவர்கள் அதைக் குறிப்பிட்டு தடைசெய்திருப்பார்கள். எவ்வளவோ ஆலோசனைக்குப் பிறகு இந்த சட்டம் கொண்டுவந்திருக்கும்போது அதில் தப்பு இருக்கும் என்று சொல்ல முடியவில்லை.

“இன்னும் ஒரு விஷயம். தர்மஸ்தாபனங்களின் சொத்துக்கள் சம்பந்தமாகவும் மத சம்பந்தமாகவும் எந்தவிதமான வரியையும் விதிக்கக்கூடாது என்று விதி இருக்கிறதே என்று நண்பர் கனம் எ. வைத்தியனாதையர் எடுத்துக்கூறினார். தர்மஸ்தாபனத்தில் ஒரு மதத்தின் அபிவிருத்திக்காக ஒரு புதிய வரிபோட்டு அந்த மதத்தை பரிபாலிக்கக்கூடாது என்று இந்த சட்டத்தில் கூறப்படுகிறதேயன்றி தர்மஸ்தாபன சொத்திற்கு வரிவிதிக்கக் கூடாது என்றிருப்பதாகத் தோன்றவில்லை. இப்பொழுது இருக்கிற நிலையில் இந்த சட்டத்தைக்கொண்டுவந்ததை ஆட்சேபிப்பதற்கு ஒரு நியாயமும் இல்லை என்று எனக்குத் தோன்றுகிறது. இன்னும் இதை பொது ஜன அபிப்பிராயத்திற்கு விட்டுக்கொடுக்கவேண்டுமென்று கூறுகிற விஷயத்தைப்பற்றி இரண்டொரு வார்த்தைகளைக் கூற விரும்புகிறேன்.

“இந்த சட்டம் ஒரு ஆண்டுக்கு முன்பாகவே கொண்டுவந்த நிறைவேற்றி யிருக்கவேண்டிய விஷயம். இப்படியே பத்திரிகைகள் வாயிலாகவும் போதிய பிரசாரம் நடந்திருக்கிறது. ஆகையால் ஒரு அண்டாக அபிப்பிராயத்திலிருந்திருக்கிறது. ஏதோ சிலர் இதில் சிரத்தை உள்ளவர்களும் சயநல அக்கரையுள்ளவர்கள் மாததிரம் இதைப்பற்றி ஊக்கம் எடுத்துக்கொண்டு இருக்கிறார்களே அல்லாது சாதாரணமாக உள்ளவர்களுக்கு இதில் சிரத்தை இருப்பதாகத் தோன்றவில்லை. சொந்த சிரத்தையுள்ளவர்கள் இதை ஆட்சேபிக்கிறார்களே யொழிய வேறு ஒருவரும் ஆட்சேபிக்கவில்லை. இதை நிறைவேற்றினால் பின்னால் அரசியல் நிர்ணய சபை சட்டம் நிறைவேற்றிய பிறகு இதற்கு ஆபத்து வரக்கூடும்

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என்றும் சொல்லப்படுகிறது. அந்த சட்டம் கொண்டு வந்த பிறகு இதைக் கொண்டு வந்தால் அதே ஆபத்தான பின்னாடியும் வரும். ஆகையால் வருகிற ஆபத்தை எதிர்பார்க்காமல் இன்றையே இதை நிறைவேற்றுவது தான் நல்லது. வரும் ஆபத்து இதை நிறைவேற்றிய பிறகு வந்தாலும் அதற்குத்தகுந்த சீர்திருத்தம் செய்துகொள்வதில் தவறு இருப்பதாக நான் கருதவில்லை.

“இன்னும் Select Committeeக்கு போகிற காலத்தில் இன்னும் பல முக்யமான விஷயங்களை கவனிக்கவேண்டுமென்பதை நான் இங்கே குறிப்பிட விரும்புகிறேன். நம் மாகாணத்தில் மிகப் பெரும்பாலான தர்மஸ்தாபனங்களும் மடங்களும் இருக்கின்றன. இன்னும் ஏராளமான ஆலயங்களும் இருக்கின்றன. அவைகளில் ஏராளமானவைகள் என்னுடைய ஜில்லாவாகிய தஞ்சையில் தான் இருக்கின்றன என்பதை உங்களுடைய கவனத்திற்குக் கொண்டுவர விரும்புகிறேன். பெரிய பெரிய கோவில்களும் மடங்களும் அங்கேதானிருக்கின்றன. அவைகளில் சில முக்கியமான பெரிய ஸ்தாபனங்கள் நன்றாக நடந்து வருகிறது என்னும் விஷயத்தை, மறுப்பதற்கில்லை. திருப்பனத்தான் ஆதினம் நல்ல முறையில் ஒழுங்காக நிர்வகிக்கப்படுகிறது. அதே போல் சங்கராச்சாரியார் மடம் நல்ல முறையில் நடந்து வருகிறது. மற்றவைகளும் இதே மாதிரி நடந்து வந்திருந்தால் இந்த மாதிரியாக ஒரு சட்டம் கொண்டுவர வேண்டியதவசியமே கிடையாது. தர்மபுரம் மடத்தைச் சேர்ந்த ஆலயங்கள் தர்மஸ்தாபன போர்டால் நிர்வகிக்கப்படும் ஆலயங்களைக்காட்டிலும் திறமையாக நடக்கிறது என்னும் விஷயத்தை நாம் மறுப்பதற்கு இல்லை. இந்த மாதிரி எல்லா ஸ்தாபனங்களும் நடந்து வந்திருந்தால் இந்த மாதிரியான சட்டத்தைக் கொண்டுவந்திருக்கவேண்டிய அவசியமில்லை. இவைகளைத் தவிர பலஸ்தாபனங்கள் ரொம்பவும் கேவலமான முறையில் ஒழுங்கு வீனமாகவும், தகாத முறையிலும், வெட்ககரமாகவும், கேவலமாகவுமுள்ள முறையிலும் நடந்து வருவதால் இந்த அரசாங்கம் அதில் தலையிட்டு அதற்கு ஒரு நல்ல பரிகாரம் தேடவேண்டுமென்று இதைக்கொண்டுவந்ததாக நாம் அறிகிறோம். அவர்கள் இந்த சட்டத்தைக் கொண்டுவருகிறகாலத்தில் சில முக்யமான விஷயங்களில் கவனம் செலுத்தப்பட வேண்டுமென்று நான் கூறுகிறேன்.

“இன்றையதினம்கூட Endowment Board நிர்வாகப்பற்றி புகார் வருகிறது. பல இடங்களில் ஆலயங்களுக்கு சரியான தகுந்த உத்யோகஸ்தர்களை நியமிக்காத காரணத்தால் இம்மாதிரியான ஊழல்கள் வந்திருக்கின்றன. அங்கே தெய்வபக்தி, மதவிஷயம் இவைகள் இல்லாதவர்களை நியமித்ததின் காரணத்தால் அவர்கள் ஆலயங்களில் செய்யத் தகாத காரியங்களைச் செய்கிறார்கள் என்று புகார்கள் வந்துகொண்டிருக்கின்றன. நம் அரசாங்கம் இதை கவனித்து முக்யமாக, Select Committee அங்கத்தினர்கள் இதற்கு பாகுபாடு அளிக்கவேண்டும் என்பதைச் சுட்டிக்காட்ட விரும்புகிறேன். இப்பொழுது நியமிக்கப்படும் அதிகாரிகள் ஆலயங்களுக்குள் பாதரசை அணிந்தகொண்டும், சுருட்டிப் பிடித்துக்கொண்டும், இதர தகாதகாரியங்களைச் செய்துகொண்டும் இருக்கிறார்கள். இதனால் அவைகளுடைய நிர்வாகம் சுக்னித்தபோய் விட்டது. ஆகையால் இவைகளுக்கு ஒரு பரிகாரம் தேடிச்செய்வது எவ்வளவோ அவசியமாக இருக்கிறது. இதுமாதிரியான காரியங்கள் நடைபெறாமல் பாகுபாத்துக்கொள்ளவேண்டியது மிகவும் முக்யமான விஷயம். இப்பொழுது அரசாங்கத்தில் கல்வி இலாகா என்றும், இஞ்சினியரிங் இலாகா என்றும் இருக்கின்றன. அந்த கல்வி இலாகாவிற்கு ஆசிரியர்களாக இருக்கிறவர்கள் ஒரு நல்ல பயிற்சிபெற்று தேர்ச்சியடைந்து ஸ்தாபனத்திற்கு வரவேண்டுமென்று வைத்திருக்கிறார்கள். இஞ்சினியரிங் இலாகாவிலும் தேர்ச்சிபெற்றவர்கள் அதிகாரிகளாக வரவேண்டுமென்று வைத்திருக்கிறார்கள். அதைப்போலவே இந்த தர்மபுரிபாஸ்தாபனத்திற்கும் உத்யோகஸ்தர்கள் பயிற்சிபெற்று ஆகமஸாஸ்திரங்களில் அவர்கள் தேர்ச்சிபெற்றவர்களாக வரவேண்டுமென்றிருக்கவேண்டும். இதை நினைக்கும் உத்யோகஸ்தர்களுக்கு சர்ஸ்திரம் பூராவினும் மாண்புமிகு அமைச்சர்கள் இருக்கவேண்டும். அவர்கள்தான் இதை நிர்வகிப்பார்கள்.

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செய்யமுடியுமெயல்வது சய மரியாதைபோன்ற மேலே சொன்ன தகாத காரியங்களைச் செய்கிறவர்களை ஸ்தாபனத்தில் வைத்துவிட்டால் இப்பொழுது இருக்கும் கஷ்டம் போகாது இன்னும் சீர்அழிந்து போய்விடும் என்னும் விஷயத்தைச் சுட்டிக்காட்ட விரும்புகிறேன். இந்த மாதிரியான விஷயங்களில் நல்ல யோக்கியமுள்ளவர்களை அந்த இடத்தில் நியமிக்கவேண்டும். அப்பொழுதுதான் அவர்கள் நன்றாக நிர்வாகம் செய்வார்கள். திருப்பதி Oriental காலேஜ் மாதிரியான காலேஜ்களில் பயிற்சி பெற்று திறந்தவர்கள் இந்த ஸ்தாபனங்களில் பதவி வகிக்கவேண்டும் என்ற ஒரு திட்டத்தை ஏற்படுத்தவேண்டும். பெரிய மடங்களில் நிர்வாகம் வகித்தவர்களும் சிறந்த நிபுணர்களும் சாஸ்திர ஆராய்ச்சி உள்ளவர்களுமாக இருந்தபோதிலும் அவர்கள் மதப்பற்று இல்லாதவர்களாக இருப்பதின் காரணத்தால் இப்பொழுது குறைபட்டிருக்கிறது. அதேபோல் தர்மபுரம் ஆதினம் Oriental College-ல் ஒரு ஏற்பாடு இருக்கிறது. மடாதிபதிகள் தம்புரான்கள் இவர்கள் உள்ள காலத்திலிருந்து இவைகளுக்கு வருகிறவர்களை பிரம்மச்சாரியாக இருக்கவேண்டும் என்றும் அவர்கள் ஆயுள் பூராவும் இதில் உழைத்து அவர்கள் தங்களுடைய ஆயுளையே இதில் அர்ப்பணம் செய்து உறுதிப்படுத்தி அதன் மூலமாகத்தான் அவர்கள் அந்த பண்டார சந்தி ஸ்தானத்திற்கு வரவேண்டுமென்று முயற்சி எடுத்துக்கொண்டிருக்கிறார்கள். அரசாங்கம் இதை எடுத்துக்கொள்ளும் காலத்தில் இந்த விஷயங்களில் முகப்பமாக அதிகம் கவனம் செலுத்தவேண்டுமென்று நான் அவர்களைக் கேட்டுக்கொள்ளுகிறேன். அந்த காலம் முதற்கொண்டு இந்த ஸ்தாபனத்தை நிர்வகித்துவருகிறவர்கள் எவ்வளவோ தங்களுடைய வாழ்நாட்களை அற்பணம்செய்து நல்ல கருத்துகளை உலகத்திற்கு போதித்து வந்திருக்கிறார்கள். அவர்கள் உயர்ந்த ஊழியம் ஆற்றல், அறிவு எல்லாம் படைத்தவர்களாக இருந்தார்கள். உண்மையான ஆராய்ச்சியுள்ளவர்களாகவும், ஒழுக்கமுள்ளவர்களாகவும் இருந்தால் அவர்களுக்கு மதிப்பு இருக்குமேயல்லாது நாம் மதிப்புக் கொடுக்கவேண்டுமென்று சொல்லவும் சட்ட பூர்வமாகக்கொடுக்கும்மதிப்பு உண்மை மதிப்பு ஆகாது. அவர்கள் தர்ம ஸ்தாயித்திற்கு தகுந்த மதிப்புள்ளவர்களாகத்தானிருக்க வேண்டும். அந்த நிலைமைக்கு வருவதற்கான ஏற்பாடுகள் நம் தர்ம பரிபாலனம் செய்வதற்கு அடிப்படையாகச் செய்யவேண்டும். சாதாரணமாக தெருவில் படித்து விட்டு வந்தால் அவன் மடாதிபதியாகி விடக்கூடாது. சிறு பிராயத்திலிருந்து தகுதியுள்ளவர்களாக இருந்து கல்வி, ஒழுக்கம், உறுதி, ஊக்கம் இவை யெல்லாம் நிறைந்தவர்களாக இருக்கிறவர்கள் இந்த ஸ்தாபனத்திற்கு வரும்படியாக அதற்கு வேண்டிய போதிய பாதுகாப்பு அளிக்க வேண்டுமென்று கேட்டுக் கொள்கிறேன்.

இன்னும் இந்த மாதிரியான தர்ம ஸ்தாபனத்தின் சொத்துக்களில் சிலவு போன்ற உபாயங்களை இருக்கக்கூடிய மிச்சத்தை கெல்லாம் வேறு இனங்களுக்கு சிலவு செய்யாமல் புராதனபாடல் கேட்கிறவர்களுக்குள்ள ஆலயங்களுக்கு பழைய பார்த்த புராதனத்தாரணம் செய்து வரவேண்டுமெயல்வது வேறு விதமாக எந்த இனங்களுக்கும் சிலவிடக் கூடாது என்பதைக் கூறவிரும்புகிறேன். அதேசமயத்தில் தர்ம ஸ்தாபனத்திற்கு கொடுக்கப்பட்ட பொருள் போன்றவைகளைத் தவிர வேறு இனங்களுக்கு சிலவு செய்யாமல் அந்த ஸ்தாபனத்தா எந்த இனத்திற்காக ஒதுக்கினாலோ அந்தே இனத்திற்கே அதை சிலவு செய்யும்படி ஒரு ஏற்பாடு செய்யவேண்டும். அதனுடைய வருவாய், மூலதனத்தையோ வேறு இனங்களுக்கு சிலவு செய்யாமல் பாதுகாப்பளிக்க வேண்டும். இப்பொழுது இருக்கும் ஆலயங்களில் எவ்வளவோ கல்வெட்டுகளிருக்கின்றன. கல்வெட்டுகள் புரிந்த இராஜ இராஜேஸ்வரன் என்னுயிரம் என்ற ஒரு இடத்தில் தென் ஆற்காட்டில் ஒரு சீராமத்தில் ஒரு காலத்தில் அதாவது 1048 கி.பி.-யில் பெரிய கலாசாலை வைக்கப்பட்டு பல சாஸ்திர விஷயங்கள் யெல்லாம் அங்கே போதிக்கப்பட்டதாக நம்முடைய கல்வெட்டுகளிலிருக்கின்றன. திருப்பனந்தாளில் இராஜ இராஜேஸ்வரன் 1067 கி.பி.-யில் ஒரு தர்மம் ஏற்படுத்தியும் வைத்துக் கல்வெட்டு வைத்தாலும் அதை பராமரித்து வந்ததாகவும் கல்வெட்டுகளிலிருந்து தெரியவருகிறது. 1121 கி.பி.-யில் திருவாரூரில் வைத்துக் கல்வெட்டு வைத்து அதை ஆராய்க்குக்கு போதிக்கப்பட்டதாக கல்வெட்டுகளில்

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கூறப்படுகிறது. தலைவர் அவர்களே, அந்தக் காலத்தில் தர்மகர்த்தாக்கள் எந்தக் காரியத்திற்காக தர்மத்தை ஏற்படுத்தினார்களோ எந்த மாதிரியாக அவர்கள் தர்மம் செய்து வந்தார்களோ அதை அறிந்து அந்த முறையில் அதற்கு ஏற்பட்ட தனத்தை சிலவழிக்க ஏற்பாடு செய்யவேண்டுமெயல்லாமல் அதை வேறு இனத்திற்கு அதன் வருவாயையோ அல்லது மூலதனத்தை யோ கொண்டுபோய்விடாமல் பாதுகாப்பு அளிக்க வேண்டும் என்ற விஷயத்தை வற்புறுத்த நான் விரும்புகிறேன்.

"அதே சமயத்தில் பல தர்ம ஸ்தாபனங்களிலுள்ளவர்கள் இப்பொழுது சயநல முறைகளில் புகுந்தகொண்டிருக்கிறார்கள். அவர்கள் சர்க்காருக்கு எடுத்துத்தேவண்டிய கிஸ்தி முதுலியவைகள் செலுத்தாமல் அப்படியே விட்டுவிட்டு அதை சர்க்கார் தங்களுடைய கிஸ்திக்காக எடுத்திருக்கொண்டுவரும்போது செல்வாக்குள்ளவர்கள் தங்களுடைய ஆட்சி வைத்து அந்த சொத்துக்களை தாங்களே எடுத்துக் கொண்டுக்கொண்டிருக்கிறார்கள். அப்படி எடுத்துக்கொண்டு வந்த பிறகு எதிர் காலத்தில் தங்களுடைய பெயருக்கு மாற்றிக்கொண்டுமிருக்கிறார்கள். ஆகையால் இந்த மாதிரியான சயநலக்காரர்கள் இன்னும் சொத்துக்களை கைப்பற்றும்விருக்கும்படியாக பாதுகாப்பு அளிக்க சட்டத்தில் பாதுகாப்பு செய்யவேண்டுமென்ற விஷயத்தை நான் சுட்டிக்காட்ட விரும்புகிறேன்.

"இன்னும் பார்த்தால் இப்பொழுது இருக்கும் அதிகாரிகளில் பலர் தங்களுடைய உத்யோகம் இந்த சட்டத்தால் போய்விடும் என்று பல நாட்களாக முறையிட்டுக்கொண்டிருக்கிறார்கள். இந்த சட்ட சபைக்கு நான் வரும் போது கூட ரயிலில் ஒரு சில உத்யோகஸ்தர்கள் என்னிடம் வந்து தங்களுடைய உத்யோகம் போகாமல் தங்களுக்கு பாதுகாப்பு அளிக்க வேண்டுமென்று கேட்டுக்கொண்டார்கள். தான் எவ்வளவோ இந்த தர்ம ஸ்தாபனத்திற்கு பாதுகாப்பு கொடுப்பதற்கு எடுத்துக்கொண்டு வந்ததால் தனக்கு ஒன்றும் நேரிடாமல் தன்னை பரிபாலிக்கவேண்டுமென்று சொல்லிக்கொண்டு இருந்தி போய்விட்டார். அவர் இறங்கிப்போன ஓர் நிமிஷத்திற்கெல்லாம் அதே Compartment-ல் உட்கார்ந்திருந்த இன்னொரு நபர் வந்து என்னிடம் சொல்லுகிறார், அந்த ஆசாமி தங்கனிடத்தில் இப்பொழுது சொன்னை வார்த்தைகளை எடுத்துக்கொள்ளக்கூடாது என்றும் தன்னுடைய அடுத்த Compartment-க்கு வந்தால் அவர் வைத்து விட்டுப்போகச் சிகரெட் முதலிய லாகிரி வஸ்துக்கள் அப்படியே அங்கே இருக்கிறது நான் காண்பிக்கிறேன் என்றும் சொன்னார். இன்னும் அவருடைய ஹீட்டிற்கு காய்களிகள் போகிறது என்றும், ஸ்கூம் வாங்குகிறார் என்றும் சொன்னார். ஆகையால் நல்லவர்களாகவும் யோக்கியமுள்ளவர்களாகவும் ஸ்தாயிதர்களில் இப்பொழுதுந்தால் அவர்களையே நியமிக்கப்படவேண்டும் மென்றும் சொல்லியபடுகிறது. ஆகையால் அரசாங்கம் எதிர் காலத்தில் இதற்கு நியமிக்கப்படுகிறவர்களை தகுதியுள்ளவர்களாகவும் யோக்கியமுள்ளவர்களாகவும் ஆலயங்களில் பொறுப்புள்ளவர்களாகவும் நியமிக்க வேண்டுமென்று சுட்டிக்காட்ட விரும்புகிறேன். இவைகளுக்கெல்லாம் பாதுகாப்பு அளித்து சட்டத்தை அவசியமானபடி மாற்றி முக்யமாக அப்புவறுதல்கள் இல்லாமல் செய்யவேண்டும். அப்படிக்கொண்டுவந்தால் எந்தவிதமான ஆட்சேபமும் ஏற்படாது. இப்பொழுது இருப்பவர்களை வைத்துக்கொண்டாலும் தேர்ச்சி பெற்றவர்கள் வந்தவுடன் அவர்களை நியமித்துவிட்டு இவர்களை தாட்சணியமில்லாமல் பரிசீலிப்பெற்றுவரும்படி நியமிக்கவேண்டும். இந்த நிர்வாகத்தில் தேர்ச்சி பெற்றவர்கள் கைப்பதால் அவர்கள் உட்கார் நியமிக்கவேண்டும். இது விஷயங்கள் யெல்லாருக்கு அமிட்டி அளிக்கின்றனவர்களும் கனம் பேர்பார் இராஜேஸ்வரன் அவர்களுக்கு நன்றி தெரிவித்துக்கொள்கிறேன்.

இன்னுக்கு உணவு பஞ்சம் இருக்கிற காலத்தில் இந்த தேவஸ்தாயித ஊரில் சில நூற்றுக்கணக்கான சர்க்கர் நிசங்களை சாருபடி செய்துமீள் தரிசு கொண்டு வைத்திருக்கிறார்கள். இந்த மாதிரியாக ஆலயங்களில் போதிய விசயம்மிருந்தால் ஆயத்தாகவே முடியும் என்பதைச் சுட்டிக்காட்ட விரும்புகிறேன். ஆகையால் இது விஷயத்தில் எதிர்காலத்தில் நிர்வாகம் அளிக்கிறவர்கள் திறந்துபுள்ளவர்களாக இருக்கவேண்டும் மதிப்பிடப்படும்

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செய்யக்கூடியவர்களாக இருக்கவேண்டும். சங்கரர் ஹிமயம் முதல் கன்யகுமரி வரையில் சென்று உபநிஷத் கீதை முதலியவைகளை பிரசாரம்செய்து மதத்தை ஆதரித்து வந்தார்கள். மதப் பிரசாரம் செய்யக்கூடியவர்களை நியமிக்க வேண்டுமெய்யல்லாது மதப்பற்றில்லாதவர்களை நியமிக்கவே கூடாது. இப்பொழுது மதத்திற்கு எதிர்ப்பு இருக்கிறது. இதற்கெல்லாம் காரணம் இப்பொழுது பிரசாரம் இல்லாதததான் முக்கியமான காரணம். சங்கரர் மதத்தை பரப்புவதற்கு ஹிமயம் சென்று அங்கங்கே மடங்களை ஸ்தாபிதம் செய்தார்கள். துவாரகையில் ஸ்தாபிதம் செய்தார். அங்கங்கே உபநிஷத்களையும் கீதையையும் பிரசாரம் செய்து வந்தார். அப்படிப்பட்ட காரியத்தை செய்தால்தான் அரசாங்கம் இதை எடுத்துக் கொண்டதற்கு பெருமை இருக்குமே யொழிய இப்பொழுது இருக்கும் நிலைமையில் இதை விட்டுவிட்டால் இன்னும் சீர் கேடான நிலைமைக்கு வந்து மேலேசொன்ன ஊழல்களும் வந்துவிடும். அந்தவிதம் வராமல் இந்த சட்டத்தில் பாதுகாப்பு அளிக்கவேண்டுமென்பது அவசியம் என்பதைச் சுட்டிக்காட்ட விரும்புகிறேன். அரசாங்கம் இதை எடுத்துக்கொண்டு சீர்திருத்தம் செய்து நல்ல முறைக்குக் கொண்டுவருவதாக இருந்தால் இந்த சட்டத்தினால் தப்பு இல்லை. தர்மபரிபாலனம் சரியாக நடக்கவேண்டும் என்பதுதான் அரசாங்கத்தினுடைய நோக்கம். சரியாக நடத்தினால் எந்தவிதமான ஆட்சேபனையுமில்லை. சரியாக நடக்காததை சீர்திருத்தம்செய்வது என்பதுதான் இன்றைய பிரச்சனை. தர்மம் சரியாக நடக்காததை கடவுள் சீர்திருத்தம் செய்யார். சரியாக நடத்தவதை மனித ரூபத்தில்தான் செய்யலாம். இவைகளை யெல்லாம் எடுத்துக் கொண்டு சீர்திருத்தம்முறையில் செய்யவேண்டுமெய்யல்லாது சீர்கேடானமுறையில் நடத்தினால் குளிக்கப்போய் சேறு பூசிக் கொண்டதைப்போலாகும். அதற்கு எடுத்துக் கொள்ளாமலேயே இருக்கலாம். இது ஒரு முக்கியமான வேலை. ஆகையால் பொறுகருக் கமிட்டி யாருக்கு ஒரு மகத்தான பொறுப்பு இருக்கிறது. நம் நாட்டில் சரியாக நடக்காத காரியத்தை சரியாக நடத்துவது என்ற காரியத்தைச் செய்யப் போகிற இந்த விஷயத்தில் பூர்ணகவனம் செலுத்தி நல்ல முறையில் எதிர்காலத்தில் நடக்கும்படியாகச்செய்ய முன்வருவார்கள் என்று நான் அவர்களைக் கேட்டுக்கொண்டு கனம் டாக்டர் இராஜன் கொண்டுவந்த இந்த பிரேரணையை முழுமனதுடன் ஆதரிக்கிறேன்.

SRI N. S. VARADACHARI:—“Mr. Speaker, Sir, I am glad that the motion moved by the Hon. Minister who introduced the Bill has evoked a free and frank discussion. At the outset let me say that I cannot honestly accept the motion, as its acceptance would mean the acceptance of the principles on which this Bill is framed. I wholeheartedly support the amendment that the Bill be circulated for eliciting public opinion. The fundamental principles of this Bill are entirely opposed to the democratic traditions that we ought to inaugurate in this country. It is said that religion is in danger. I am sorry the Hon. Minister raised this cry. Religion has never been in danger in this country for centuries and centuries past and will never be in danger despite the frantic efforts of the most irreligious people. It may be that a teaching might have come from this denomination or that denomination. But the sum total of all the teachings that have been left behind is sustaining us in the proud position in which we are. I do not object to control over religious institutions, and I shall deal with charitable institutions a little later. It should not be understood that those who want this Bill to be circulated for eliciting public opinion are opposed to any kind of control over religious institutions. There is a law already which in effect means partial control over the secular administration of every religious institution in the land. You say

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that from experience you find that that law is defective in certain respects. If that is so, why do you move from control to administration? Why not strengthen that control, why not correct the errors that have crept in, and why not put better personnel in charge of that control which you inaugurated years ago? If the working of the Hindu Religious Endowments Board does not satisfy you, there is no use in merely provincializing the service. You must find out in what respects the authority of the Board is ineffective, what errors have crept into the administration by that Board and then seek to correct them. There is a world of difference between control and administration, and this was very ably illustrated by my hon. Friend, Mr. T. Viswanatham, the other day. If you give me eight ounces of rice and ask me to manage my kitchen within that ration, it is control. But if you go further and say that you will prepare food for me within those eight ounces, it is management. There is a vital difference between these two positions and I would ask the Government to ponder over and find out for themselves whether this kind of taking over the administration of temples and charitable institutions is a matter of practical wisdom. Sir, I am not going to argue the legal aspect of this Bill. It is for lawyers to agree or to differ. The present Advocate-General of Madras might be in a position to say that this Bill does not conflict with the so-called fundamental rights already enacted in the Constitution Bill now under consideration by the Constituent Assembly at Delhi. But there may be other lawyers, other judges, and other eminent jurists who might take a different view. It is best to refer the matter to the Advocate-General of the Government of India, if the Government think it fit to do so. Let them take the highest legal opinion in the matter. The Government should not be satisfied merely with the legal opinion obtained from one source only, when they find themselves in conflict with the Constitution Act of this country. In the reference to public opinion, you may include judges of eminence. You may also ask for other opinion from constitutional lawyers as to how far this Bill would be in consonance or not, with the fundamental rights envisaged in the new Constitution. Even if the constitution in its entirety has not become law, we are morally bound to observe every one of the provisions of the fundamental rights already enacted at Delhi. If there is the slightest doubt in the matter, Government would do well to hesitate, and to go a little bit slower, rather than take a leap in the dark. I would suggest, that if they cannot wait until they refer the matter to eminent jurists all over the country and obtain their opinion, there are several retired judges in this Province who might be asked to give their opinions on its legal aspect. I do not wish to examine this Bill from the legal or constitutional aspect of it, because that has been very ably put before the House by my hon. Friend on the other side, Mr. A. Vaidyanatha Ayyar, but I would look at it from the point of view of practical wisdom. Sir, it was said almost in derision by the Hon. Dr. T. S. S. Rajan that the two denominations in a community quarrelled with each other and went to the highest court of law presided over by an Englishman. The Hon. Dr. Rajan ought to know, and I am sure, he knows it, that if

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the law of the land then said that these appeals would be heard only in India and that no appeals would be allowed to go to the Privy Council, no denomination or sect, however hostile the feelings between them might be, would have gone to that court. What is the object of going to a court? It is to get a judicial examination of any question by an impartial and disinterested judge. The judge does not know the caste or the community of the parties to the dispute and he decides the dispute in the most impersonal manner possible. May I remind my hon. Friend Dr. Rajan that in the most crucial moment in the history of our country, Mahatma Gandhi agreed to refer a dispute to Sir Maurice Gwyer, who was then the Chief Justice of the Federal Court, although he was an alien to this country, the object being that he was a person, who, apart from all our quarrels, would be expected to bring to bear upon that question a judicial mind. Therefore there is nothing wrong in adopting a procedure like that.

"In fact, the best administration of temples is assured by a system in which you keep control and leave the initiative and the enterprise of management to the skill of the local people. You have never done that up till now. That is my charge against the present Hindu Religious Endowments Board. Instead of controlling you are proceeding to nationalize Devasthanams, and the result is you are incurring losses. Sir, I am using a very familiar phrase in explaining these things. There is a peculiar order of things with this Government. They give priority in the matter of nationalization to the spending departments; and are very slow and hesitant in nationalizing departments where they could get ample revenues which would fill the coffers of the State. What is the hurry in provincializing the Hindu Religious Endowments Board. When the question of the nationalization of the bus transport was discussed in this House, a lot of objections were raised by members, although it is an income earning department. Here we are exactly reversing the order of things. The Government do not know which items should be given priority in the matter of nationalization. Where are you going to find the money to administer these religious endowments after this Bill is passed? That department is going to claim innumerable number of officers, like Commissioners, Deputy Commissioners, Assistant Commissioners, etc., and numerous other subordinate officers belonging to that hierarchy. What will be the result? There will be no incentive in the local people to chastise wrong trustees and nobody will come forward to complain even about very bad trustees. Therefore the best system of administration for these temples and religious institutions is somewhat on the model of local boards and panchayats, using, to the maximum extent possible, local people and their initiative. But then you will say that they will be as defective as the local boards and panchayats. On that score, you are not scrapping all the local boards and centralizing all power in the Treasury Bench.

"Further I submit that there must be some things which ought to be done by the people themselves. If they cannot do it efficiently

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elsewhere, let them at least keep a vigilant watch over these charitable and religious institutions. What does this Bill propose to lay down as policy? The Commissioners are the highest authority and their orders will be final even in respect of the determination of the intentions of the donors and founders of the endowments. I thought that Government will hesitate on such matters. There is nothing that keeps this Government away from the grip of these institutions, but there are enough provisions in it to grasp power of any kind and to extend patronage as they like. These, I say, are the fundamental objections to the principles of this Bill.

"Now, Sir, take for example how these charitable and other endowments are administered in England, or even in the Native States in our own country, like Travancore or Mysore or some other States. There you will find ample room for initiative and expansion by the local people to administer and control them. That State is best governed which is governed the least. We are hurrying up legislation after legislation, Bill after Bill and passing laws after laws, even without understanding the meaning or implication of such measures. The Hon. Dr. Rajan referred for instance to the Tirupati Devasthanam and the zamin lands in its possession to-day. He conveniently forgot that it was the Government at that time who asked that its surplus money should be invested in the purchase of that zamindari estate. It was not left to the option of the trustees. They gave permission to the trustees to do so and they did. What is the position to-day? The zamindari will be forfeited to the Government, subject of course to payment of some compensation, and only charitable inams are exempted from the operation of that measure. Is it the fault of God that things have been carried in this manner? I raised this very question at the time of the passing of the Zamindari Abolition Bill and no definite answer was given to it. The Hon. Dr. Rajan was not present in the House then and the Hon. Minister for Revenue conveniently answered 'We do not mean to apply this provision to the zamindaris but only to petty inam villages.'

"Sir, let me tell you that one effect of all that the Government are doing is this, which they have not noticed. The charitable impulses of the people will be dried up as a result of this measure. The Government will be regarded as the richest magnate in the country who can afford to spend any amount of money on temples. You know the fate of many temples in this Province already. How many temple properties have been sold in auction to realize some of the contributions to the Hindu Religious Endowments Board? I say that more temples have gone to ruin by such contributions than by the neglect of the authorities in charge of the temples. Hereafter nobody will agree to that principle of contribution. The Government will have to spend for everything themselves. If this Bill is passed into law. Is that a fair position that you can take up consistently with your finances? This Bill would throw heavier and heavier responsibilities on the shoulders of the Government, and these institutions will become a crushing burden on

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Government resources ultimately. Therefore my advice is that you should proceed with this Bill slowly, examine all the implications from the practical point of view and take decision also on its constitutional aspect, not depending upon the advice of one competent authority alone, but upon the cumulative wisdom of several competent authorities.

"Sir, my hon. Friend, Mr. Vaidyanatha Ayyar, used the word strangle-hold. He described this Bill as a strangle-hold over these institutions. I do not wish to use that word, but we know what sort of people you are going to put in charge of these institutions after they are taken over by Government. You have asked, 'what is the public opinion against this Bill?' 'What is the public opinion in favour of this Bill?' I ask. You have never given time for the public to examine this question as a whole."

MR. SPEAKER:—"Let not the hon. Member use the word 'you' as it means that the Chair has not given time for the public to examine this Bill."

SRI N. S. VARADACHARI:—"Sir, the Hon. Speaker is supposed to be outside this House and to only direct the House. What I have said does not mean that he has not given time. My reference is only to the Government. People outside are asking that all these implications should be fully examined. Are you going to dry up the wells of public and private charity by passing a measure of this sort? Are you going to close the door against charitable impulses of the people in the country? You may not intend it, but that will be one immediate effect of this Bill, which is meant not to control but to manage these charitable and religious institutions. Sir, the Hon. Dr. Rajan said that he was a devout Vaishnavite. I may not claim to be as devout as he is. But in my worship at Tirupati I visit that temple far more frequently than do the members of that wonderful Board which manage the affairs of that institution. (Interruption.) It is my own place, Mr. Bapineedu, even as Eluru is yours. Please do not interrupt me by such wrong statements. Who are the members of the Board and how do they function? I shall tell you, Sir. They come by the last train before the meeting takes place. They sit in the Committee Room, as it is called. The meeting is said to start at 10 o'clock. Cars are sent for them and they generally come at 10 and they transact business as it is done in the directorate of a public company. I grant it that they should not conduct endless discussion over every little subject. But you must know what happens. They will be higgling and haggling over this appointment and that appointment and finally all big questions—like the renovation of the temple and looking after the temple and the proper management of the properties—take a low place in the agenda. Then they go away in the evening suddenly. The trains are so conveniently arranged that they leave by the Bombay Express which leaves Renigunta at 6 o'clock and reach their places the next morning. I ask

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"Is that a fair way of administering things? Suppose instead of this you had a panchayat at Tirupati of the learned people there, would it not be better? It is not as if character is wanting in Tirupati and is sequestered in the benches of this House. There is any amount of character available outside. We never make use of it. Don't make use of them for administration. Recruit your engineers as you like, recruit your professors as you like though that is the wrong way of going about the business. But why do you recruit these people merely on the ground of patronage? Have they any interest in the matter? Have they any local feeling in the matter? This is an institution not created by the Hon. Minister, but by the Great Ramanuja centuries ago. What a fine idea those old people had of religious reform and of secular administration! There must be a balance in all these things even as we want balanced food. In the administration of temples there must be a balance between sentiment and power; good feeling on the one hand and initiative on the other. What is fit for private enterprise and what is fit for administration by private people should never be sought to be vested in the Government of the day. That is my fundamental objection to the Bill and that is why I support the proposal that it be referred for public opinion. If the Government do not refer it for public opinion then they get committed to the substance of the Bill and afterwards it would look awkward to get over it. Take the struggle of the inamdars. At first the Government did not understand it. Why did they exempt them at the end, consulted the higher authorities so many times and took the mischief out of the Bill? It was because at first they did not examine all the implications."

"Sir, at another place we suggested that this Bill might be subject to a complete examination by a committee. It was not agreed to. What is this obstinacy in not agreeing to a complete examination of all the details of the Bill before the principles are accepted and the Bill is laid before a Joint Select Committee? It is said for instance that vested interests will rise and oppose every measure of reform. But they are about to create the biggest vested interest in the country, namely, the Government of the day being in charge of all private religious and charitable endowments. There are other Acts and there are other provisions and laws which give them enough powers to control. If the powers are not sufficient let them take more power, but why do they want their management? Is it their object to stifle all charitable endowments in future? Will anybody contribute anything hereafter when they come to know that the Government have taken over everything and that it is the duty of the Government to find funds to run particular institutions. Sir, prices may be low or prices may be high. The cost of running the administration may become top-heavy during a period of high prices but still private endowments somehow managed on and people collected together and did something because there was the community sense about the whole people which restored life to the endowment. But when Government takes it over, would they

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really add to every endowment at a time of high prices when the endowment itself falls very much short of needs. They should think about all these things. I am not examining article by article, Sir. It is not my function. I say the foundation of the whole Bill is wrong. Please do not put your house on a cracked foundation. Think well before you build on it.

"Sir, there was a reference to suffering humanity. I know, Sir, that the Hon. Dr. Rajan has gone and will be going always to the succour of suffering humanity. But he lives in the emotional paradise of purified religion. I am afraid with the over-centralization that becomes the important feature of the Bill, which takes away initiative of the common man and with the apprehension well founded in my mind, that it might well dry up all charitable impulses in the country, we will sooner or later be in the dark corners of a decadent religion and the wearing away of fine sentiments and cultural understanding. Are we going to improve the centres of religion by a change over from control to management? Please for Heaven's sake do not do it.

"The Hon. Minister finally asked: 'Where is public opinion against this Bill.' My answer to that is there is no public opinion either in favour of the Bill. If at all there is some opinion forcibly expressed against the principles of this Bill which leads from control to administration, it has been expressed by us the representatives of the people. There I may remind Mr. Kosalram that we have consulted our constituencies and we have known for ourselves that the public are certainly opposed to the Bill, at least a large part of the public. But there may be supporters for this Bill also. I do not say that we should thrash out all details in public. But what is the reference they have made. Have the Congress committees clearly expressed themselves on this Bill? Was it part of your election manifesto? Nothing of the kind. Of course everything cannot come into the election manifesto as an item. That is why, whatever is not part of that and whatever is opposed even by a small number of people,—it may be for the moment that the opposition is smaller than the support—must be given the consideration it deserves. Sir, reference to public opinion does not mean that you throw away the Bill. But it does mean that there is a considerable volume of opinion in the country which goes against the fundamental change involved in this Bill from control to direct administration. I do not want that on every section of the Bill the public should express an opinion. It is not usual. And I do not say that it should take very long. It may be done within a few months, even 2 months. You may ask every body to submit his opinion on this. But how is public opinion to be ascertained. Have you any definite practical idea that would satisfy the meaning of 'public opinion'? I mean public opinion to be the opinion of the common people which could be ascertained through the organisation which they have formed. The opinions of jurists, and the judges who are available to place facts to consult, should be ascertained regarding the constitutional aspects of the Bill. Then there is the enlightened volume

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of opinion which can examine the details of the Bill and codify its practical wisdom. Now, Sir, that is what I mean by reference of the Bill to public opinion. It is not shelving the Bill. It is not as if we do not want control over endowments or even charitable endowments to a little extent. But we want that the people should be left to themselves to manage by local initiative. The Government can guard and chastise but they should not do anything to make it all their own. The result will be they will lose the power of chastisement and the wild routine that will grow will be a convenient cover for corruption. If you want to get rid of fraud and corruption in most of these institutions the surest way to do it is to set up local committees composed of respectable men who could advise on these matters. It is not as if you should listen to every story that is said about the matadhipathis and others. Mr. Vedaratnam Pillai referred to certain people in the Tanjore district as bad people. But there are also many good people. And amongst us we have bad people also. I have often been accused as a very bad man, very obstinate and sometimes obstinate to the point of being chastised. I say it is good to be so, because it is only then that you draw public opinion clearly and forcibly and in all its intensity so that you may see what you are doing and so that you may realise the risks in the leap that you are taking. You have not thought about its consequences. You have not analysed the cost that the future generations may be forced to bear because of this punishment you inflict on them. I say punishment (Gong). I will take only five minutes more, Sir. If local initiative is left to itself and if you administer these things through some local board inefficiently constituted I say there will be ample room for proper management. Do you think that there is no chastisement for bad trustees these days? Are all the religious heads free to go about as they like. There are some people like that I admit. But such people will have less and less following. That is the way the law operates. Even a bad tree wears off slowly. First its leaves fall off and then its roots perish. What you do is to wait for the natural process of deterioration but slow chastisement which operates more surely in the case of religious institutions than in the case of others. In England have they nationalised all religious institutions? The Archbishop is appointed on the advice of the Prime Minister by the King. All the churches in the country count and have wholesome moral influence and no Archbishop will be appointed even by such a high authority as the King on the advice of the Prime Minister who clearly does not command the confidence of the various branches of the Church. Churches have been disestablished long ago, but still are all the properties of churches and charitable endowments taken over in England—a civilized country and a country where democratic administration truly prevails whatever Englishmen may have done in India. They do things honestly and with good care. Let us also take good care in what we do. I say up the first thing first. We saw the other day the food policy being criticized very severely in the Central Assembly. That is the urgent problem now. I do not now propose to deal with it. That is the one

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know, Sir, that the Ramana Maharishi Ashramam does not come under the purview of the Religious Endowments Act? Why, Sir? When there is a rule that all mutts and temples must be brought under the purview of the Religious Endowments Act, why this mutt alone should be left out? (Interruption by Sri R. V. Swaminathan.) It is not now; when you do so you can say so. The Treasury Bench is also having our esteemed friend, Mr. Avinashilingam Chettiyar, who happens to be a devotee of the great soul, Ramakrishna Paramahansa. He has started institutions in his (Sri Ramakrishna's) name. I do not know whether the Ramakrishna Ashram comes under the purview of the Endowments Act. Because the Ramakrishna Mission has its headquarters in Bengal the provisions of the Hindu Religious Endowments Act would not touch them. These are all matters which we have to look into. I shudder to think that all the mutts are sought to be brought under the purview of this new legislation. I know, as a matter of fact, that the officers administering the Endowments Act are not the people to administer mutts. You all know, Sir, that in the Nilgiris we have a mutt, and I am a humble student of that mutt. At the time when the Religious Endowments Commissioner came to the mutt without notice, he wanted to see the Guru, i.e., the head of the mutt. Unfortunately, it was 9 o'clock when the Guru was meditating. His disciples could not approach him then, because in our religion meditation is the greatest thing. What happened then? The officer returned and sent a notice saying: 'why not this mutt be notified for inclusion under the Act?'. This is the sort of people we are having. What more we are going to have when the new Bill becomes an Act? What will be the sort of people that we will have to control these religious charities and endowments? This point must receive greater consideration by the select committee which the Hon. Minister proposes to set up."

MR. SPEAKER:—"The hon. Member will continue his speech on Monday."

BEGUM SULTAN MIR AMERUDDIN:—"I want to know, Sir, for how many days more we will be sitting."

MR. SPEAKER:—"The Hon. the leader of the House will answer your question on Monday."

"I now adjourn the House till 11 o'clock on Monday; the 7th instant."

The House then adj

THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS BILL, 1949—cont.

THE MADRAS LEGISLATIVE ASSEMBLY.

Monday, the 7th February 1949.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVASUBRAMANIAM PILLAI) in the Chair.

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III.—GOVERNMENT BILLS.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BILL, 1949—cont.

* SRI V. I. MUNISWAMI PILLAY:—“ Sir, the chief reason why I feel that mutts are to be exempted from the provisions of this Bill is that they have got their own history behind them. It was on the lives of the great personages who were practising religion as set up by our ancestors that these mutts have been created in order to enable others to have an insight into the religion that has been practised by them. That being the case, it is but proper that they should be left out of the purview of this Bill. It is also known, Sir, that the great Upanishads, Brahma Sutra and Patanjali Yoga Sutra were imparted by the great rishis to their disciples and these have come to the knowledge of the world. So, Sir, it is the service rendered by some of the great sages in the past that has given rise to the establishment of these mutts. Apart from this, Sir, these mutts have not got endowments as in the case of temples. Either on account of the love that the disciples had for the guru or for the service rendered by him in the matter of giving religious education to disciples, the students and devotees made contributions which they called ‘guru kanikai’ to the rishis or heads of mutts and as such those contributions cannot be construed as endowments made to these mutts.

“ Secondly, Sir, I do not think that the various heads of mutts in this Province have been consulted regarding the efficacy of the provisions of the Bill that is before the Assembly. Moreover, it will be dangerous if the possessions in the hands of the gurus or heads of mutts and to what use they have to be put, are to be brought within the purview of this enactment.

“ Now, Sir, let us examine some of the provisions of the Bill. For instance, taking clause 5 dealing with definitions, sub-clause (8) defines ‘mutts’ as meaning ‘an institution for the promotion of the Hindu religion, presided over by a person whose duty it is to engage himself in imparting religious instruction or rendering spiritual service to a body of disciples or who exercises or claims to exercise spiritual headship over such a body and includes places of religious worship or instruction which are appurtenant to the institution.’ So, Sir, this definition further strengthens my arguments that mutts are not like ordinary temples but that they have come into existence for some special reason.

“ Again, when we come to sub-clause (12) of clause 5 it says: ‘religious endowment’ or ‘endowment’ means all property belonging to or given or endowed for the support of mutts or temples

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... I do not agree that whatever is given to the head of a mutt can be construed as an endowment belonging to the mutt. It may be the personal property of certain heads of mutts who have come forward to give religious instruction to those who seek it.

“ Now, ‘religious institution’ is defined in sub-clause (13) of the same clause as meaning ‘a mutt, a temple or a specific endowment’. How can a specific endowment, though it has been described as such, become a religious institution? I am unable to understand the implication of the definition of a religious institution.

“ Sir, sub-clauses (13) and (14) of the main clause 5 are so ambiguous that it will not be possible to work up the provisions of this Bill with a definition contained therein which requires very careful examination and recasting.

“ Sir, in Chapter II, clause 6, it is said that in the matter of managing these mutts, temples, etc., the Government or the Hon. Minister who proposed this Bill, proposes to have the provincialization of the services. Sir, before this Government came into existence when the Advisers’ regime was functioning in the Province and previous to it also we had, what we call, the Ecclesiastical department. That department was abolished because there was no necessity. But, now, I feel that the present Government envisages to bring in a department similar to that description which, I do not think, will be in the fitness of things to-day. If the Government is anxious to have provincialization of these services, they must create, I may say, the pre-requisite for it and that is the creation of a college or institution where people who are willing to serve in the betterment of these mutts or temples must be given training as to the way they must act and also manage these institutions. We know, for instance, in the Himalayas under the Ramakrishna Mission, there are such institutions at Mayavathi and Almora where those people who are willing to take service under the Ashram, are given training and they themselves have to undergo concentration and other things for more than ten years and then, they are drafted to the various institutions to conduct these mutts. So, I feel that if the Government are anxious to preserve the sanctity of these mutts and other religious institutions, the pre-requisite is that they must start an institution whereby all these people can be given training so that they can be fit to keep these places sacred and also see that the philosophic side of Hinduism does not lose its value.

“ Now, Sir, we come to clause 15 in Chapter IV. It is said: ‘It shall be the duty of the Commissioner to see to the proper management of the secular affairs of religious institutions ...’ I do not understand the Commissioner supervising the secular or the spiritual side of a mutt. It will be always mixed up and confusing and greater confusion will be made if these people are allowed to interfere either with the secular side or the spiritual

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side of the religious institutions. So, this point also has to be examined and proper amendments made so that the affairs of temples or mutts need not suffer.

"In clause 16, it is said that 'if any such officer is resisted in the exercise of such power or discharge of such duty, the magistrate having jurisdiction shall, on a written requisition from such officer, direct any police officer not below the rank of Sub-Inspector to render such help as may be necessary to enable the officer to exercise such power or discharge such duty.' Sir, are we to allow the police to interfere in the affairs of religion? It is most unfair that we should call on the police to tackle either the person or any other thing in a religious institution. I think it is highly injurious to the well-being of any temple if this clause is allowed to stand as it is.

"Again, Sir, clause 39 drives people or those people who are in charge of religious institutions, to rush to a court if there is a difference of opinion. This very Bill also creates scope for litigation which you must avoid with all the force that this Assembly can command. If it is the desire of the Government to rectify the things in the temples and mutts, I feel, Sir, that the Select Committee and the Hon. Minister who is in charge of this Bill must take into account some of the suggestions which I have just now made. Also, those mutts like the Ramanu Maharishi Ashram or the Ramakrishna Mission Ashram, must be left out from the scope of this Bill. If it is not possible, at least all those mutts which are in receipt of a revenue of less than two thousand rupees per annum must be left out from the scope of this Bill.

"Again, in the matter of administering these mutts and temples, besides the officials which this Bill proposes to have, I strongly feel that a Board representing people who have got a clear insight into the various philosophies of Hinduism and also such people who have had enough and more experience of administering big temples, should be set up so as to assist those officers contemplated in the present Bill. Further, in our Province there are only three mutts that have been created by the Harijan Saints. There is one Nandanar Mutt—of which you yourself know—named after the great devotee Nandan and there are Datchinamurthi Mutts both in Madras and in Nilgiris and these have come into existence due to the greatness of the heads of these mutts. These mutts also must be left untouched. So, in the interests of the philosophy of Hinduism which has given a greater life to the western world—a great western philosopher said, 'The religion of "Vedanta" is the solace of my life and the solace of my death'—I say, let us not kill this Hindu religion by tampering with it in this manner. With these few observations, I support the motion of the Hon. Minister to refer the Bill to a Select Committee and express the hope that my suggestions may be taken into account."

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SRI R. V. SWAMINATHAN :—"கனம் தலைவர் அவர்களே, நமக்கு முன்னால் இருக்கும் இந்த மசோதாவை முழுமனதுடன் ஆதரிக்கும் மனதுடன் சில வார்த்தைகள் சொல்ல விரும்புகிறேன். அதே சந்தர்ப்பத்தில் எனது மதிப்பிற்குரிய கனம் வைத்யனாத்யயருடைய திருத்தத்தை பலமாக எதிர்த்து சில வார்த்தைகளைக்கூற விரும்புகிறேன். இந்த மசோதா சம்பந்தமாக பேசிய கனம் டாக்டர் இராஜன் அவர்கள் ஒரு சிறிய பிரச்சினையாகச் செய்தார். அவர் அதில் இந்த மசோதாவின் அவசியத்தைப்பற்றியும் இதை உடனே சட்டமாக்கப்படவேண்டுமென்பதைப்பற்றியும் சொல்லி அதற்கான சில காரணங்களையும் எடுத்துச் சொன்னார். இந்த சட்டசபையில் அநேகம் அங்கத்தினர்கள் இதுவரை பேசி இருக்கிறார்கள். ஆனால் இதை எதிர்த்துதான் பெரும்பாலோர் பேசினார்கள். அப்படிப் பேசிய அங்கத்தினர்களெல்லாம் கனம் டாக்டர் இராஜன் சொன்ன ஆணித்தரமான காரணங்களுக்கு சரியான பதில் சொல்லவே இல்லை என்று நான் நினைக்கிறேன். இதை எதிர்க்க வேண்டுமென்ற நோக்கத்துடன் பேசினார்கள் தவிர வேறு ஒன்றுமில்லை."

MR. SPEAKER :—"நீங்கள் ஒருவருடைய motive-ஐ question பண்ணக்கூடாது."

SRI R. V. SWAMINATHAN :—"ஆனால் நான் அறிந்தமட்டில் அவர்கள் பேசியதெல்லாம் அரசாங்கம் மதசம்பந்தமான காரியங்களில் தலைமிடக்கூடாது என்ற ஒரே காரணத்தைத்தான் திருப்பித் திருப்பி சொன்னார்கள். சட்டசபையில் மட்டுமல்ல, சட்டசபைக்கு வெளியே இந்த மசோதாவை எதிர்ப்பவர்களும் இத்தகைய காரணங்களையே சொல்லுகிறார்கள். இவைகளைக் கேட்டு காத சலித்துப்போய்விட்டது. இது மிகவும் பத்தாம் பசலிப் பேச்சாகவே இருக்கிறது. பதினேழாம் நூற்றாண்டில் இவ்வித காரணங்களை எடுத்துச் சொன்னால் பொருத்தமாக இருக்கலாம். இந்தக் காலத்தில் இத்தகைய காரணங்கள் கூறுவதை சகித்துக்கொண்டிருப்பது நமக்கு கஷ்டமாகவே இருக்கிறது. ஒரு காரணம் சொன்னார்கள். **Constituent Assembly**-ல் மதம் சம்பந்தமான ஒரு பிரிவு பரிசீலனையிலிருக்கிறது. அது முடிவு அடைவதற்குள் இங்கே இத்தகைய சட்டம் செய்யக்கூடாது என்றும் சொன்னார்கள். ஆனால் இந்திய பார்லிமெண்டில் பரிசீலிக்கப்பட்டுவருவது வெரும் **Draft Constitution** தான் என்பதும் அது இன்னும் சட்டமாக்கப்படவில்லை என்பதையும் மறந்துவிட்டே பேசுகிறார்கள். அது சட்டமாவதற்குள் இங்கே எவ்வித மசோதாவும் கொண்டுவரக்கூடாது என்று சொன்னால் அதை ஒப்புக்கொள்ள முடியாது. இப்பொழுது அங்கே **Draft Constitution** இந்திய பார்லிமெண்டில் விவாதத்தில்தான் இருக்கிறது. இவர்கள் கூறும் விதியானது வேறுவிதமாக திருத்தப்பட்டுவிடவும் எதுவிருக்கிறது. ஆகையால் நாம் இந்த மசோதாவை தைரியமாகக் கொண்டுவரலாம். இப்பொழுது இருக்கிற **constitution** பிரகாரம் நாம் இவ்வித சட்டம் செய்வதற்கு நமக்கு உரிமை இருக்கிறது. வார்ப்புகிற ஒரு சட்டத்தைப்பற்றி நாம் இப்பொழுது யோசிக்கவேண்டுமென்பதும் அதை எதிர்பார்த்து இப்பொழுது நாம் ஒன்றுமே செய்யக்கூடாது என்பதும் எனக்கு விளங்கவில்லை. **Draft constitution**-லுள்ள பிரிவுகளைக்கூட இங்குள்ள திறமைவாய்ந்த எக்ஸ்பர்ட்கள் சிலர் பரிசீலனைசெய்து தாராளமாக இந்த மசோதாவைக் கொண்டுவரலாம் என்று சொல்லுகிறார்கள். எனவே முன்னுக்குப் பின் முற்றான அபிப்பிராயம் தெரிவிக்கப்பட்டுள்ள ஒரு காரணத்திற்காக மிகவும் நியாயமான, நீதிவிளைவிக்கக்கூடிய ஒரு நல்ல மசோதாவை நிறுத்திவைக்கக்கூடாது என்றும் உடனே இது சட்டமாக்கப்படவேண்டுமென்றும் கருதுகிறேன்."

"அடுத்தபடியாக பொதுஜன அபிப்பிராயம் அறிவதற்காக பிரச்சிக்க வேண்டுமென்றுவெறு சொல்லுகிறார்கள். பொது ஜன அபிப்பிராயம் கிடைத்தபிறகுதான் நாம் இதைப்பற்றி யோசிக்கவேண்டுமென்ற ஆட்சேபணையைக் கிளப்புகிறார்கள். ஆனால் பொதுஜன அபிப்பிராயம் என்பது என்ன, எப்படி, என்பதைப் பார்க்கவேண்டும். இந்த சட்ட சபையில் உள்ள 215 அங்கத்தினர்களும் பொதுஜனங்களுடைய பிரதிநிதிகளில்லையா

[Sri R. V. Swaminathan] [7th February 1949]

என்று கேட்கிறேன்? நாம் லட்சக்கணக்கான வேட்டர்களால் தேர்ந்தெடுக்கப்பட்டு இங்கே வீற்றிருக்கிறோம். நாம் இப்பொழுது பொது ஜனங்களுடைய பிரதிநிதிகளாக இருந்துகொண்டிருக்கிறோம். பொது ஜன அபிப்பிராயத்தைத் தெரிவிக்கின்றோம். அவ்விதமிருக்கும்பொழுது எத்தனாக மறுபடியும் பொது ஜன அபிப்பிராயத்திற்குவிடவேண்டுமென்று கேட்கிறேன்? இந்த மசோதாவானது இன்று நேற்று வரவில்லை. இந்த மசோதா பல வருஷங்களாக பொது ஜனங்களுக்கு மத்தியிலிருக்கிறது. இதற்குமுன்பாக கனம் டாக்டர் இராஜன் அவர்கள் சென்ற 1937-ம் வடிகம் இராஜாஜி பிரதமராக இருந்தபோது **Endowment** இலாகா மந்திரியாக இருந்தபோது இந்த மசோதா நயமிக்கப்பட்டு பொது ஜனங்களிடத்தில் சமர்ப்பிக்கப்பட்டிருக்கிறது. பிறகு அந்த மந்திரி சபை இராஜினாமா செய்ததால் அதைக் கொண்டுமே முடியாமல் போய்விட்டது. ஆகையால் இந்த மசோதாவின் முக்கியமான கருத்துக்கள் பொதுஜனங்களுக்கு புதிதாக வந்தது அல்ல. பத்து வருஷங்களாகவே பொதுஜனங்களால் பரிசீலிக்கப்பட்டு வந்திருக்கிறது. அப்படி இருந்தபோதிலும்கூட மறுபடியும் இந்த மந்திரிசபை தேர்தலுக்கு நின்று பொதுஜனங்களிடத்தில் எராளமான வேட்டுகள் பெற்று இப்பொழுது இங்கே நிர்வாகத்தை நடத்திகொடுக்கிறது. அப்படி இந்த மசோதா கூடவே கூடாது என்றிருந்தால் பொதுஜனங்கள் மறுபடியும் நமக்கே வேட்டுகள் அளித்து நம்மை பிரதிநிதிகளாக தேர்ந்தெடுத்திருப்பார்களா என்று கேட்கிறேன். ஆகையால் மறுபடியும் இதை பொதுஜன அபிப்பிராயத்திற்கு விடவேண்டுமென்று சொல்வது எதற்கு என்று புரியவில்லை.

“நாம் இப்பொழுது இவைகளில் தலையிடுவதற்கு மடங்களில் என்ன நடக்கிறது என்று வேலித்துப் பார்க்கவேண்டும். இப்பொழுது தர்மஸ்தாபனங்களையும் மடங்களையும் சரிவர நடத்தாமல் அதிலுள்ள மடாதிபதிகளும், பண்டார சன்னதிகளும், அதன் சொத்துக்களை தங்களுடைய சொந்த வாழ்க்கைக்கு உபயோகித்துக்கொண்டிருக்கிறார்கள் என்பதை யாரும் மறுக்க முடியாது. சில மடாதிபதிகள் சரியான முறையிலும் நியாயமான முறையிலும் நடக்கவே இல்லை. ஆனால் எல்லோருமே அப்படி இருக்கிறார்கள் என்று சொல்லவில்லை. சிலர் உயரிய முறையில் இருக்கலாம். ஆனால் பல மடாதிபதிகளும், பண்டார சன்னதிகளும் மடங்களில் உள்ள பணத்தை தங்களுடைய சொந்த உபயோகத்திற்காக சிலவு செய்து கொண்டிருக்கிறார்களே யொழிய நல்ல வழிகளில் பணத்தை சிலவு செய்வதே இல்லை. தர்மகாரியங்களுக்கும் மதசம்பந்தமாகவும் அவர்கள் சிலவு செய்வதே இல்லை. இந்த மடாதிபதிகள் செய்யும் காரியங்களை கவனித்தால் ரொம்பவும் கேவலமாக இருக்கிறது. அதற்கு உதாரணங்கள் எவ்வளவோ சொல்லலாம். தலைவர் அவர்களே, அவர்களைப்பற்றி இப்பொழுது சொல்ல ஆரம்பித்தால் அவர்களுடைய மானம் போய்விடும். இந்த மடாதிபதிகள் வரும் வருமானத்தை தங்களுடைய சொந்த சுகபோகங்களுக்கும் லீலா விநோதங்களுக்கும் தான் சிலவு செய்கிறார்கள். மிகவும் ஆடம்பரமாக வாழ்க்கை நடத்துகிறார்கள். இவர்களுடைய சொந்தப் பணமா அல்லது இவர்களுடைய தகப்பனார் அல்லது பாட்டனார் கொடுத்த பணமா? புராணகாலங்களில் பல தர்மகர்த்தாக்கள், தர்மகாரியங்களுக்கும், தெய்வீக, மதசம்பந்தமான காரியங்களுக்கும் ஒதுக்கிவைத்த சொத்தை இவ்விதம் துர்விநியோகப்படுத்துகிறார்கள். இத்தகைய சொத்திலிருந்து கிடைக்கும் வருமானத்திலிருந்து மடாலயங்கள் அமைத்து மதத்தை பரப்புவதற்காகவே தர்மகர்த்தாக்கள் பணம் கொடுத்து அவைகளுக்கு *grants* நியமித்தார்கள். டிஸ்பெண்டிகளாகவுள்ள தற்போதைய மடாதிபதிகள் இந்தச் சொத்திலிருந்தும் பணத்தைக் கொண்டு மடத்தை நிர்வகித்து தெய்வீக வழிபாடுகள் செய்வதுடன் மதத்தையும் காப்பாற்றவேண்டிய பொருப்பை மறந்து வருமானத்தை தங்களுடைய சொந்த சுக போகங்களுக்கு உபயோகப்படுத்தி வருவதினால்தான் இந்த மசோதா கொண்டு வர அவசியமாகியது. மடாதிபதிகள் மிகவும் பாடோபமான வாழ்க்கை நடத்திவருகிறார்கள். நீண்டகாலத்திற்குள் ஏற்பட்ட ஒரு சம்பவம் எனக்கு ஞாபகத்திற்கு வருகிறது. ஒரு சமயம் நான் சுமார் பத்து வருஷங்களுக்கு முன்னதாக ரயிலில் பிரயாணம் செய்தபொழுது ஒருவர் மிகுந்த ஆடம்பரத்துடன் ஒரு பெரிய ஜமீந்தாரைப்போல் ரயிலில் நான் இருந்த வண்டியில் ஏறினார். அவரைப் பார்த்ததும் நான் உண்மையில் ரயிலில் பிரயாணம் செய்கின்றேனா அல்லது ஏதாவது சினிமாகாட்சி பார்த்துக்கொண்டிருக்கின்றேனா என்ற சந்தேகம் வந்தது. ஏனென்றால் அந்த வண்டியில் வந்து ஏறி எனக்கு முன்பாக உட்கார்ந்துகொண்டிருப்பவர்போன்ற ஒருவனு அதுவரு முன்னதாக நான் பார்த்த ஒரு சினிமாவில் கண்ட பண்டார சன்னதியோன்று இவர் காட்சியளித்தார். அவர் விசித்திரமான காட்சியளித்தார். காதில் வைரகுண்டலம், கழுத்தில் வைரமாலை, விரல்களில் தங்கவெணை ஜோலிக்கும் மிகப் பெரிய வைர மோதிரங்கள், ஜரிகை, பட்டினலான காலி ஆடை இத்தகைய ஆடம்பரத்துடன் காட்சியளித்தார். அவர் அணிந்திருந்த ஆடையாபரணங்கள் சுமார் லட்சம் ரூபாய் மதிப்பிருக்கும். சகலத்தையும் தூரத்து சன்னியாசம் பூண்ட, மதம் தெய்வம் முதலியவற்றிற்கு தொண்டு செய்ய தன்னை அற்பணித்த பண்டார சன்னதிகளுக்கு மக்களின் நன்மையே தன்னுடைய நன்மை என்று கருதுகிறவருக்கு அதிலும் ஒரு சந்தியாசிக்கு இவ்வளவு மதிப்புள்ள ஆடையாபரணம் எதற்கு என்று கேட்கிறேன்? இந்த பணம் யாரால் வந்தது? இவர்களுடைய தகப்பனார் பாட்டனார் வைத்த சொத்தா? இவ்விதம் ஆடம்பர வாழ்க்கை நடத்த? தர்மகர்த்தாக்கள் தர்மகாரியத்திற்குக் கொடுத்த சொத்தை இவர்கள் இவ்விதம் சுகபோகம் அனுபவிப்பதா என்று கேட்கிறேன். இந்தவிதமாக துர்விநியோகம் செய்கிறவர்களை தடைசெய்ய ஒரு சட்டம் வேண்டாமா என்று கேட்கிறேன். இவ்விதம் அக்ரமம் செய்கிறவர்களை தடைசெய்வதற்குத்தான் இந்த மசோதா கொண்டுவரப்பட்டிருக்கிறது. நாம் இந்தவிதமான அநியாயத்தையும் அக்ரமத்தையும் தடுக்காமல் எதற்காக அரசாங்கம் நடத்துவது? இவைகளை யெல்லாம் தடுக்காமலிருந்தால் இப்பொழுது நடப்பது பொது ஜன அரசாங்கம் என்று சொல்ல முடியுமா? மடங்களுக்கும் ஸ்தாபனங்களுக்கும் லட்சக் கணக்காக வருமானம் வந்துகொண்டிருக்கிறது. அதை அவர்கள் என்ன செய்கிறார்கள். மத அபிவிருத்திக்காக அவர் என்ன செய்திருக்கிறார்கள் என்று கேட்கிறேன்? மடாதிபதிகள் தங்களுடைய சுகவாழ்க்கைக்குதான் சிலவுசெய்து வருகிறார்களே யொழிய மத அபிவிருத்திக்காக சிலவு செய்யவே இல்லை. இந்நாட்டில் கிருஸ்தவ மிஷினரிகள் தங்களுடைய மதத்தை அபிவிருத்தி செய்வதற்கு எவ்வளவு பணம் சிலவு செய்துவருகிறார்கள் என்பதை நாம் பார்க்கின்றோம். அதனால் அவர்களுடைய மதம் எவ்வளவு தூரம் இந்த நாட்டில் பரவி இருக்கிறது என்பதையும் நாம் அறிவோம். கிருஸ்தவர்கள் தங்களுடைய மதத்தை விருத்திசெய்து வருவதற்கு அந்நிய நாட்டிலுள்ள கிருஸ்தவ மதாபிமானிகளிடம் பணம் பெற்று இந்திய நாட்டில் கிருஸ்தவ மதம் பரவ பாடுபட்டார்கள், பாடுபடுவருகிறார்கள். இவ்விதம் இந்த மடாதிபதிகள் ஏதாவது செய்திருக்கிறார்களா? மடாதிபதிகளும் பண்டார சன்னதிகளும் தங்களுடைய லீலாவிநோதங்களுக்குச் சிலவு செய்வதில் ஒரு பாசமாவது ஹிந்துமத அபிவிருத்திக்காக சிலவு செய்திருப்பார்களேயானால் இந்த நாட்டில் வேறு அன்னிய மதம் இவ்விதம் பரவி வேறுன்றியிருக்குமா? இவர்களுடைய போக்கிலே ஹிந்து மதத்திற்கே அழிவு வந்துவிடுமோ. என்று பயந்துதான் இந்த மசோதா கொண்டுவரப்பட்டிருக்கிறது. இன்னும் சில மடாதிபதிகளைப் பார்த்தால் அவர்கள் வெளியிலேயே வராமல் ஒரு கோட்டைபோன்ற மானிகை கட்டிக்கொண்டு அதன் நடுவில் வசித்துவருகிறார்கள். வெளியில் வருவதற்கு பயந்து கொண்டு அப்படி வசித்து வருகிறார்களோ என்று கருதவேண்டியதாக இருக்கிறது. இன்னும் அவர்கள் தங்களுடைய லீலாவிநோதங்களுக்காக வெளியே போகவேண்டுமென்றால் தங்களுடைய கோட்டைக்குள்ளிருந்தே ஒரு சுரங்கம் வைத்துக்கொண்டு அதன் மூலமாகவே போய் வருகிறார்கள். இந்தவிதமாக சுரங்கம் வைத்துக்கொண்டு அதன்மூலமாக வெளியே வந்து தங்களுடைய லீலாவிநோதங்களைச் செய்துவருகிறவர்களை அடக்குவதற்கு ஒரு சட்டம் வேண்டுமா? வேண்டாமா என்று கேட்கிறேன். இத்தகைய ஒரு நல்ல காரியம் செய்து சீர்திருத்தம் செய்யவேண்டுமென்றால் Democracy-க்கு விரோதம் எனவே ஒன்றும் செய்யாதே

7th February 1949] [Sri R. V. Swaminathan]

பரத்துடன் ஒரு பெரிய ஜமீந்தாரைப்போல் ரயிலில் நான் இருந்த வண்டியில் ஏறினார். அவரைப் பார்த்ததும் நான் உண்மையில் ரயிலில் பிரயாணம் செய்கின்றேனா அல்லது ஏதாவது சினிமாகாட்சி பார்த்துக்கொண்டிருக்கின்றேனா என்ற சந்தேகம் வந்தது. ஏனென்றால் அந்த வண்டியில் வந்து ஏறி எனக்கு முன்பாக உட்கார்ந்துகொண்டிருப்பவர்போன்ற ஒருவனு அதுவரு முன்னதாக நான் பார்த்த ஒரு சினிமாவில் கண்ட பண்டார சன்னதியோன்று இவர் காட்சியளித்தார். அவர் விசித்திரமான காட்சியளித்தார். காதில் வைரகுண்டலம், கழுத்தில் வைரமாலை, விரல்களில் தங்கவெணை ஜோலிக்கும் மிகப் பெரிய வைர மோதிரங்கள், ஜரிகை, பட்டினலான காலி ஆடை இத்தகைய ஆடம்பரத்துடன் காட்சியளித்தார். அவர் அணிந்திருந்த ஆடையாபரணங்கள் சுமார் லட்சம் ரூபாய் மதிப்பிருக்கும். சகலத்தையும் தூரத்து சன்னியாசம் பூண்ட, மதம் தெய்வம் முதலியவற்றிற்கு தொண்டு செய்ய தன்னை அற்பணித்த பண்டார சன்னதிகளுக்கு மக்களின் நன்மையே தன்னுடைய நன்மை என்று கருதுகிறவருக்கு அதிலும் ஒரு சந்தியாசிக்கு இவ்வளவு மதிப்புள்ள ஆடையாபரணம் எதற்கு என்று கேட்கிறேன்? இந்த பணம் யாரால் வந்தது? இவர்களுடைய தகப்பனார் பாட்டனார் வைத்த சொத்தா? இவ்விதம் ஆடம்பர வாழ்க்கை நடத்த? தர்மகர்த்தாக்கள் தர்மகாரியத்திற்குக் கொடுத்த சொத்தை இவர்கள் இவ்விதம் சுகபோகம் அனுபவிப்பதா என்று கேட்கிறேன். இந்தவிதமாக துர்விநியோகம் செய்கிறவர்களை தடைசெய்ய ஒரு சட்டம் வேண்டாமா என்று கேட்கிறேன். இவ்விதம் அக்ரமம் செய்கிறவர்களை தடைசெய்வதற்குத்தான் இந்த மசோதா கொண்டுவரப்பட்டிருக்கிறது. நாம் இந்தவிதமான அநியாயத்தையும் அக்ரமத்தையும் தடுக்காமல் எதற்காக அரசாங்கம் நடத்துவது? இவைகளை யெல்லாம் தடுக்காமலிருந்தால் இப்பொழுது நடப்பது பொது ஜன அரசாங்கம் என்று சொல்ல முடியுமா? மடங்களுக்கும் ஸ்தாபனங்களுக்கும் லட்சக் கணக்காக வருமானம் வந்துகொண்டிருக்கிறது. அதை அவர்கள் என்ன செய்கிறார்கள். மத அபிவிருத்திக்காக அவர் என்ன செய்திருக்கிறார்கள் என்று கேட்கிறேன்? மடாதிபதிகள் தங்களுடைய சுகவாழ்க்கைக்குதான் சிலவுசெய்து வருகிறார்களே யொழிய மத அபிவிருத்திக்காக சிலவு செய்யவே இல்லை. இந்நாட்டில் கிருஸ்தவ மிஷினரிகள் தங்களுடைய மதத்தை அபிவிருத்தி செய்வதற்கு எவ்வளவு பணம் சிலவு செய்துவருகிறார்கள் என்பதை நாம் பார்க்கின்றோம். அதனால் அவர்களுடைய மதம் எவ்வளவு தூரம் இந்த நாட்டில் பரவி இருக்கிறது என்பதையும் நாம் அறிவோம். கிருஸ்தவர்கள் தங்களுடைய மதத்தை விருத்திசெய்து வருவதற்கு அந்நிய நாட்டிலுள்ள கிருஸ்தவ மதாபிமானிகளிடம் பணம் பெற்று இந்திய நாட்டில் கிருஸ்தவ மதம் பரவ பாடுபட்டார்கள், பாடுபடுவருகிறார்கள். இவ்விதம் இந்த மடாதிபதிகள் ஏதாவது செய்திருக்கிறார்களா? மடாதிபதிகளும் பண்டார சன்னதிகளும் தங்களுடைய லீலாவிநோதங்களுக்குச் சிலவு செய்வதில் ஒரு பாசமாவது ஹிந்துமத அபிவிருத்திக்காக சிலவு செய்திருப்பார்களேயானால் இந்த நாட்டில் வேறு அன்னிய மதம் இவ்விதம் பரவி வேறுன்றியிருக்குமா? இவர்களுடைய போக்கிலே ஹிந்து மதத்திற்கே அழிவு வந்துவிடுமோ. என்று பயந்துதான் இந்த மசோதா கொண்டுவரப்பட்டிருக்கிறது. இன்னும் சில மடாதிபதிகளைப் பார்த்தால் அவர்கள் வெளியிலேயே வராமல் ஒரு கோட்டைபோன்ற மானிகை கட்டிக்கொண்டு அதன் நடுவில் வசித்துவருகிறார்கள். வெளியில் வருவதற்கு பயந்து கொண்டு அப்படி வசித்து வருகிறார்களோ என்று கருதவேண்டியதாக இருக்கிறது. இன்னும் அவர்கள் தங்களுடைய லீலாவிநோதங்களுக்காக வெளியே போகவேண்டுமென்றால் தங்களுடைய கோட்டைக்குள்ளிருந்தே ஒரு சுரங்கம் வைத்துக்கொண்டு அதன் மூலமாகவே போய் வருகிறார்கள். இந்தவிதமாக சுரங்கம் வைத்துக்கொண்டு அதன்மூலமாக வெளியே வந்து தங்களுடைய லீலாவிநோதங்களைச் செய்துவருகிறவர்களை அடக்குவதற்கு ஒரு சட்டம் வேண்டுமா? வேண்டாமா என்று கேட்கிறேன். இத்தகைய ஒரு நல்ல காரியம் செய்து சீர்திருத்தம் செய்யவேண்டுமென்றால் Democracy-க்கு விரோதம் எனவே ஒன்றும் செய்யாதே

[Sri R. V. Swaminathan] [7th February 1949]

என்று சொல்லுகிறார்கள். ஏழை விவசாயிகளுக்கு நன்மை செய்ய வேண்டுமென்று ஜம்ந்தார் ஒழிப்பு மசோதா கொண்டுவந்தால் அதுவும் Democracy-க்கு விரோதம் என்று சொல்லுகிறார்கள். Democracy என்ற வார்த்தை எந்த விதத்திலும் வளைந்து கொடுக்கக்கூடிய, இஷ்டம் போல் அர்த்தம் செய்துகொள்வதற்கு ஸாய்க்கான அளவுக்கு மலிந்து விட்டதால் தான் 'Great Hitler' democracy என்ற வார்த்தையைக் கூட வெறுத்தார் என்று நினைக்கவேண்டியதிருக்கிறது. இந்த மசோதா வை எதிர்த்து இப்பொழுது ஒருவர் உண்ணாவிரதம் இருக்கிறார். இந்த மசோதாவே கூடாது என்று அவர் சொல்லுகிறார். ஜனங்களால் தேர்ந்தெடுக்கப்பட்ட ஒரு மந்திரி சபை ஒரு மசோதா கொண்டுவந்தால் அதை வேண்டாமென்று சொல்பவர் எதிர்த்து பிரசாரம் செய்வதா அல்லது மசோதாவை எதிர்த்து உண்ணாவிரதம் இருப்பேன் என்று பயமுறுத்துவதா என்று கேட்கின்றேன். இவ்வித உண்ணாவிரத பயமுறுத்தல்களுக்காக பயந்து இப்பொழுது நிறுத்திவிடுவா? இவ்விதம் பயமுறுத்துவது ஜனநாயகமா என்று கேட்கிறேன். இதை சிந்தித்து பார்க்கவேண்டும். இதுபற்றி எனக்குப் பல கடிதங்கள் வந்திருக்கின்றன. எனக்குத் தெரிந்த நண்பர்கள் சிலர் எழுதியிருக்கிறார்கள். நீங்கள் எதற்காக சட்டசபையில் இருக்கிறீர்கள். இந்த மசோதாவை நிறைவேற்றி சட்டம் இயற்றி உடனே அமுலுக்கு வரும்படி ஏற்பாடு செய்யவேண்டும். இல்லாவிட்டால் நாங்கள் உண்ணாவிரதம் இருப்போம் என்று சொல்லி எழுதியிருக்கிறார்கள். பிற்போக்கு வாதுகளின் சூழ்ச்சியில் சிக்கி இந்த மசோதாவை அமுலுக்குக் கொண்டுவராமலிருக்கக்கூடாது என்றும் எழுதியிருக்கிறார்கள். ஆகையால் இந்த அரசாங்கம் என்னதான் செய்யமுடியும் என்று கேட்கிறேன். யாருக்குப் பயப்படுவது. மசோதா கூடாது என்று உண்ணாவிரதம் இருப்பவருக்குப் பயப்படுவதா அல்லது சட்டம் உடனே வேண்டும் இல்லாவிட்டால் உண்ணாவிரதம் இருப்போம் என்று சொல்லுகிறவர்களைப் பயப்படுவதா என்று கேட்கிறேன். ஆகையால் ஒவ்வொருவரும் அவரவர்கள் இஷ்டம்போல் சொல்லும் முன்னுக்குப்பின் முறணை உள்ளதை எல்லாம் கேட்டு நடந்து விஷயத்தைக் குழப்பிக் கெடுப்பதுதான் ஜனநாயகமா என்று கேட்கின்றேன்.?

“இன்னும் அதிகமாகப் பேச விரும்பவில்லை. இரண்டொரு விஷயங்களை மட்டிலும் சொல்ல விரும்புகிறேன். மனதிற்கு இஷ்டமில்லாமல் சொல்லவேண்டியதாக இருக்கிறது. இப்பொழுது இந்த சட்ட சபையில் இந்த மசோதாவை எதிர்த்துப் பேசிய கனம் அங்கத்தினர்கள் எல்லாம் மதத்திற்காகவோ அல்லது தேசத்திற்கோ நன்மை ஒன்றும் செய்யவில்லை. அவர்கள் தங்கள் செய்கையால் தங்களை அறியாமலேயே ஹிந்து மதத்திற்கும் மாகாணத்திற்கும் கெடுதல்தான் செய்துவிட்டார்கள். ஏனென்றால் இம்மாதிரியான பிரச்சினை எழுப்பி நாங்கள் செய்த காரியத்தின் மூலமாக பல வருஷங்களாகப் போராடி பத்து வருஷத்திற்கு முன் கொல்லப்பட்ட வகுப்பு வாதத்திற்கு உயிர் கொடுக்கின்றார்கள். கருப்புச் சட்டை, ஜஸ்டிஸ் கட்சி போன்ற வகுப்புவாத இயக்கங்களுடன் காங்கிரஸ் பல வருஷங்கள் போராடி அடைந்த வெற்றியைக் கெடுத்து அந்த இயக்கங்களுக்கு புத்துயிர் கொடுப்பதாகவேயாகும். சென்ற தேர்தலில் அந்தக் கட்சிகள் தோல்வியடைந்து இயக்கமே இல்லாமல் போய்விட்டது. அப்படி மடிந்துபோன கட்சிகளுக்கு இந்த எதிர்ப்பு உயிர் கொடுப்பது போலாகும் என்று நான் அவர்களுக்கு எச்சரிக்கை செய்கிறேன். இப்பொழுது பார்த்தால் நாட்டில் கருப்புச் சட்டை பிரசாரமும், கம்யூனிஸ்டு பிரசாரமும் அதிகமாகி வருகிறது. இவ்விதமான எதிர்ப்பு இருந்தால் அவர்கள் பார்ப்பன சூழ்ச்சியைப் பாருங்கள் என்று கேலி செய்வதற்கு இடம் கொடுப்பதுடன் அவர்கள் கட்சி வலுப்படுவதற்கும் உதவுவதுபோல் ஆகலிடும். ஆகையால் கனம் வைத்யனாத்யயர் அவர்கள் இவையகளை எல்லாம் ஆலோசனை செய்து பார்க்கவேண்டுமென்று கேட்டுக்கொள்ளுகிறேன்.

“இன்னொரு முக்கியமான விஷயத்தைச் சொல்ல விரும்புகிறேன். இந்த சட்ட சபை அங்கத்தினரும், தமிழ் நாட்டு காங்கிரஸ் கமிட்டி தலைவருமான கனம் காமராஜ் நாடார் அவர்களை 'விடுதலை'ப் பத்திரிகை ரொம்பவும் பலமாக தாக்கி வருகிறது. இது சம்மந்தமரக விடுதலை

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பத்திரிகையைச் சேர்ந்த நண்பர் ஒருவரை இவ்விதம் தாக்குவதற்கு காரணம் என்ன என்று கேட்டேன். காரணம் ஸ்ரீ காமராஜ் பார்ப்பண சூழ்ச்சியில் அகப்பட்டவர். இந்த மடாலய மசோதா ஒன்றமில்லாமல் போய்விடப் போகிறது பாருங்கள் என்று நான் ஸ்ரீ காமராஜ் அவர்களுக்கு இந்த மசோதா உடனே அமுலுக்கு வரவேண்டுமென்ற ஆசை உள்ளவர் என்று சொன்னேன். இந்த நிலைமையைப் பாருங்கள். சட்ட சபையிலே இவர்களை எதிர்ப்பைத் தாங்கவேண்டியதிருக்கிறது. வெளியில் அவர்கள் எதிர்ப்பைத் தாங்கவேண்டியதிருக்கிறது. இந்த மசோதாவைப் பிரேரித்துள்ள மந்திரி டாக்டர் ராஜன் ஒரு பழுத்த வைஷ்ணவர். மதத்தில் எவ்வளவோ நம்பிக்கை கொண்ட பிராமணர். அவரே இந்த மசோதாவைக் கொண்டுவந்திருக்கும்போது இதற்கு என்ன எதிர்ப்பு இருக்கிறது என்று கேட்கிறேன்.”

SRI S. NAGAPPA:—“On a point of order, Sir. The Leader of the House is leaving the House and the Hon. Minister in charge of the Bill, Dr. Rajan, is not in the House.”

MR. SPEAKER:—“The Hon. Dr. Rajan has gone out and while going, he has told me that the Hon. Mr. Sitarama Reddi would be taking notes and he is here.”

SRI R. V. SWAMINATHAN:—“இந்த நிலைமையில் இந்த மசோதாவானது ரொம்பவும் அவசியம் என்பதைத் தெரிவித்துக் கொள்ளுகிறேன். இந்த மசோதா சீக்கிரம் அமுலுக்கு வருவதற்கு ஏற்பாடு செய்யவேண்டுமாய் மந்திரி சபையைக் கேட்டுக்கொள்கிறேன். இந்த மசோதா Select கமிட்டிக்குப் போகவேண்டியது அவசியம். அங்கே அதை நன்றாக பரிசீலனை செய்து மதத்திற்கு ஆபத்து வரக்கூடிய விதிகளைப் பரிசீலித்து திருத்தி நல்லமுறையில் அமைக்க முடியும். இந்த Select Committee-ல் கனம் வைத்யனாத்யயரும் அவருடைய நண்பர்களும் இருப்பார்கள் என்று நம்புகிறேன். எனவே அங்கு செலக்ட் கமிட்டியில் இருக்கக்கூடிய குறைகளை நிவர்த்தி செய்துகொள்ளலாம் என்று தெரிவித்துக்கொள்கிறேன்.

“அடுத்தபடியாக நம் மந்திரி சபைக்கு தலைவராக உள்ள கனம் ஓமந்தார் ராமசாமி ரெட்டியார் அவர்களே இந்த மசோதா வருவதற்கு முக்கிய மூலகாரண புருஷர். ஓமந்தார் மிகுந்த மத பக்தியுள்ளவர். அவர் இங்கு சபையில் வந்து உட்காரும்போதெல்லாம் நெற்றியில் விபூதி அணிந்துகொண்டுதான் வருவார். பார்த்தால் எப்பொழுதும் தெய்வபக்தி உள்ளவராகவே காட்சியளிக்கின்றார். ('A voice: உங்களுடைய நெற்றியிலும் விபூதி இருக்கிறது).’, ஆம், தலைவர் அவர்களுடைய ரூமில் இருந்தபோது யாரோ ஒருவர் கோலிலுக்குப்போய்விட்டு வந்து விபூதி கொடுத்தார். இட்டுக்கொண்டேன், அதைப்போலவே நண்பர் கனம் அண்ணாமலை-யின்னையும் இருக்கிறார். அவரும் எப்பொழுதும் நெற்றியில் விபூதி அணிந்து கொண்டுதான் வருவார். ஆனால் இன்று நெற்றியில் ஒன்றும் இட்டுக் கொள்ளாமல் வந்திருக்கிறார். எல்லோருக்கும் மதம் ஒன்றுதான் எல்லோரும் மதத்தில் பற்றுதல் உள்ளவர்கள்தான். எங்களுடைய எண்ணம் என்னவென்றால் ஹிந்து மதம் அழிந்துபோகாமல் தேசம் பூர்வரீதியே ஹிந்து மதம் பரவவேண்டுமென்பதுதான். ஹிந்து மதம் உலகம் பூராவும் பரவவேண்டும். அதற்கு வேண்டிய காரியங்களைச் செய்யவேண்டும். ஆகையால் இந்த மசோதா பிரசாரம் இந்த மடாதிபதிகளுடைய சொத்துக்களையெல்லாம் சட்ட பூர்வமாக ஒரு வழி செய்தால் தெய்வகாரியங்களுக்குச் சிலவு செய்து போக மீதம் உள்ள பெருத்த ஆஸ்தியைக் கொண்டு ஹிந்து மதத்தை தேசம்பூராவும் பரவுச் செய்ய உபயோகிக்கலாம்.”

SIRNA KANAR HAJI MOULVI S. A. F. IBRAHIM SAHIB BAHKUR:—“On a point of order, தேசத்தில் ஹிந்து மதம் ஒன்றுதான் வேறு மதம் இல்லை என்று கேட்கிறேன்.”

[7th February 1949]

SRI R. V. SWAMINATHAN :—“ இந்த தேசத்தில் ஹிந்து மதம் மற்ற மதங்களுக்கு விரோதமில்லாமல் பரவலெண்ணென்பதுதான் என் ஐசை. இந்த தேசம் ஹிந்துக்கள் தேசம். அதற்காகத்தான் இந்த ஹிந்து மதம் ஓங்கி வாழவேண்டுமென்று ஆசைப்படுகிறேன். மதசம்பந்தமான ஸ்தாபனங்களில் கோடிக்கணக்கான பணம் இருக்கிறது. அவைகளை சட்டத்தின் கீழ் கொண்டுவந்து மதத்திற்காகவே சிலவு செய்ய வேண்டும். கிருஸ்தவர்கள் லட்சக்கணக்கான பணத்தை செலவு செய்து கிருஸ்தவ மதத்தை பரப்பி வருகிறார்கள். அதுபோன்று நாமும் செய்ய முயற்சிக்கவேண்டும். ஆகையால் எல்லோரும் இந்த மசோதாவை ஆதரிக்கவேண்டும். ஹிந்து மதத்தை செழிக்கச் செய்யவேண்டும் என்ற ஒரே விதமான உயரிய நோக்கத்திலேயே மசோதா கொண்டுவரப்பட்டிருக்கிறது என்பதில் எவ்வித சந்தேகமுமில்லை. மறுபடியும் இந்த மசோதாவை எல்லோரையும் ஆதரிக்கவேண்டுமென்று கேட்டுக்கொண்டும், உள்ம. வை.ய். கூதய்யரை தன்னுடைய திருத்தத்தை வாயில் வாக்கிக்கொள்ளுவனா? மென்றும் கேட்டுக்கொண்டு என்னுடைய பிரசங்கத்தை முடித்துக்கொள்ளுகிறேன்.”

MAHIN SCHAMNAD SAHIB BAHADUR :—“ Mr. Speaker, the Hindu Religious Endowments Bill introduced by the Hon. Dr. Rajan denies to the Hindu community or sections of it fundamental rights of freedom of religion and religious worship in their temples in their own way. In the communal or sectional temples elected and endowed by a particular section of the community, other sections of the Hindu community have no right and as such have not been allowed any right of management or of performing pujas or of partaking in the religious feasts on festival days. This rule has been recognized from time immemorial by all concerned and even by the court of law. So, Sir, the Commissioners to be appointed under this Bill should have control only over the secular administration, maintenance of accounts and audit and they should have no control over the religious aspects and they should not interfere with the existing and long-established and lawful religious practices, customs, usages and rights of the institutions. If there is any doubt about this, it should be settled in the court of law. In the case of religious institutions belonging to a particular section the appointment of trustees or managers or any paid servants should be from qualified persons belonging to the same community, as it obtains in the case of mosques and churches. The income of these religious institutions should be applied only for the religious purposes for which they were founded and endowed and they should not be utilized for any secular purposes which are not intended by the donor or founder. In the case of the Muslim wakf properties the income should be only spent as intended by the donors and the appointment of trustees or managers should be made according to the directions of the donor or founder. The communal temples of Gowdaya are subject to the secular and spiritual jurisdiction of their own Swamijis and it is they who have got absolute rights and they enjoy special and exclusive privileges in the temples of their own community. The secular Government have no right to interfere with their religion and in religious affairs, and the Government should not interfere with religion and religious worship of communities and groups of different faiths and should not sponsor

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legislation against them in open violation of fundamental rights guaranteed to them in the constitution. In matters of legislation affecting religion which affects the conscience and rights of millions of people of different communities and faiths, legislation should not be embarked upon in different provinces and States in different ways as they choose. The States of Mysore, Cochin and Travancore do not interfere with religious administration of communal or sectional temples. Regarding this legislation, there is no urgency or hurry and therefore, I suggest that the consideration of the measure may be postponed till after the Constitution of the Indian Union is completely passed by the Constituent Assembly. You may ask me, Sir, whether this Bill affects the Muslim religion or mosques. I say, Sir, in my faith there is only one God and one religion in the whole world and therefore, I support the amendment.”

* **SRI M. S. PATTABHIRAMIAH** :—“ Mr. Speaker, the object of the Bill is the reform of the administration of Hindu temples and mutts and I welcome this attempt to reform the administrative aspect of the temples of our Province. But as drafted and published, the Bill goes far beyond the declared object and the consequences even if the Bill is passed with slight amendments at the Select Committee to which it is proposed to refer, would be disastrous not only to the Hindu religion for the promotion of which the Bill is brought forward but also to the Government and the people of this Province. Here and elsewhere the supporters of the Bill very often quote Article 19 pertaining to rights relating to religion in the Fundamental Rights adopted by the Constituent Assembly and they depend upon sub-clause (2) which says:

‘ Nothing shall . . . preclude the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice.’

and they say that the State has a right to interfere as they interpret the words here, namely, ‘ religious practice ’; and easily forget or exclude out of consideration the words ‘ regulating or restricting any economic, . . . or other secular activity which may be associated with religious practice.’ Under this Bill, you are not only regulating or restricting activities which are connected with religious practices but you are directly interfering with religious practices also. Provision is made whereby authority is given to Government to make rules prescribing rituals and ceremonies of temples and mutts. Is it not direct interference with religious practice? It is not financial or secular or economic activity connected with religious practice; rituals or ceremonies are directly connected with religious practice and it is religious practice itself. Let us take an analogy. A constable is posted at Round Tana to regulate traffic and just imagine, Sir,

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what it will mean if he takes into his mind to take over the whole traffic into his power and jumps into every car that goes there. You may easily imagine the consequence. Similarly also if the State is permitted to regulate or restrict certain activities which are intended for social welfare and for other beneficial purposes, what will be the result—if the Government take upon themselves the whole management into their own hands—will it not be absurd? Cannot any one with imagination foresee the terrible consequences which will ensue by the Government taking over thousands of temples and mutts—a task for which the Government are neither prepared nor equipped. Do we not find that there is lack of trained personnel in every nation building activity of the Government? You are going to take over the management of thousands of temples and mutts without any personnel whatsoever. You will have to establish colleges for them and colleges for the study of philosophy and theological doctrines. Really, Sir, mutts are not what they are defined in the Bill:

'an institution for the promotion of the Hindu religion, presided over by a person whose duty it is to engage himself in imparting religious instruction or rendering spiritual service to a body of disciples or who exercises or claims to exercise spiritual headship over such a body.'

"I submit, Sir, it is entirely wrong. Mutts are the continuation of institutions established by great philosophers who propounded a particular theological doctrine in their own way.

"Sir, Hinduism has many theological doctrines. Hinduism defines the conception of Godhood, the relationship between soul and God and how we can approach God in different ways and by following different theologies, enunciated by different sages and Acharyas. The great Acharyas of old who founded these mutts have propounded certain theological doctrines for their followers. Our great Guru Sri Sankaracharya, for instance, propounded the philosophy of Advaita, and our Acharya Ramanuja propounded the philosophy of Visishtadvaita, and similarly Sri Madhvacharya propounded the Dvaita philosophy, while various other great Saivite mutts of Tanjore have been propounding and elucidating their own doctrines and Saiva philosophy, namely, the Pasupathi doctrine. They are not there, as Christian missionary institutions are, to propound and propagate their particular brand of religion. These mutts are there for propounding and elucidating any doubts for people who seek to learn and know things from them. Now you are going to take over those mutts. The apology for taking over is that they are mismanaged. No doubt, it is true some of the Matathipathies are debaucherous and vicious. He denies that. But, is taking over the entire administration of these mutts into the hands of the Government and running them themselves, the remedy? Sir, we have heard of a story in the New Testament, which states that once when

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the Great Jesus Christ was passing along a road, he saw a group of people throwing stones upon a woman who was condemned to death by being stoned, for being unchaste. The great Teacher at once called these people to come by his side and addressed them as follows: 'Friends, if anyone of you had not been unchaste in your minds, let him throw the stone first.' You know the result of the admonition in the story. Every one dropped the stone from his hand. Sir, this is a story from the Bible. Do we not find men in Government departments who are as vile, if not more, and as notoriously corrupt as some of these Matathipathies. What have we done to put them down? If there is something wrong in this Government, do we ask the Central Government to take over this Government into their hands? No. We try to reform and rectify our mistakes. Simply because we find that one limb in the body is sick, we do not separate the head from the trunk and deprive the body of its life. The State has every right to regulate, restrict, and to punish any mutts or Matathipathies for mismanagement or for corruption. There are enough provisions in our existing laws to deal with such things. It has been argued very often and has been incessantly put forward before this House both by the Hon. Minister in charge of the Bill as well as by other members, that even the foreign British Government had introduced measures regulating the administration of religious institutions. For example, the Regulation of 1817 is one of such measures. It controls the mosques, the Muslim religious and charitable endowments and also the Hindu temples and Hindu charitable endowments. But now in this Bill we have restricted its scope and made it applicable only to Hindu religious institutions and endowments. At the same time, we say that this is a very urgent measure. How has it become so very urgent now in the case of Hindu religious institutions, and why it is not so urgent in the case of Muslim endowments? Are they paragons of virtue? Are there not complaints that even endowments made by Christian missions and charities appertaining to them are mismanaged and that some of the heads of such institutions have misappropriated their funds? I have heard many such complaints myself. We have not touched them and why? I am sure hon. Members would have read the leading article of the recent issue of the *Hindu*, wherein reference was made to the arguments advanced by the Hon. Dr. T. S. S. Rajan, who now pilots this Bill in the Legislative Council the other day, for referring the Muslim Wakfs Bill brought in by Mr. Abdul Latif Farookhi, for public opinion. The same arguments must apply to this Bill also. What is sauce for the goose must be sauce for the gander also! If we pursue this argument to its logical end, we must take up legislation in regard to the regulation of all religious institutions and endowments, including Muslim wakfs and Christian endowments. We cannot do that. That, Sir, is entirely against the idea and principle of a secular State. The definition of a secular State is clear and definite. What was our difference with the Pakistan State? Pakistan wanted to have a theocratic State, that is to say, a religious State, while we did not believe in it. We did not believe

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that it would do any good to the people of the country if the State whose ideal is to promote a particular religion wants its subjects to follow that religion. That is why we have become a secular State. One of the clauses of this Bill states that it will be the duty of the Commissioner to frame rules for the promotion of the Hindu religion. Sir, we have very often claimed and I have also referred to it many times in this Assembly that the Hon. Premier who is the sponsor and the Hon. Dr. T. S. S. Rajan, who pilots this Bill are, no doubt, very devout Hindus. But their being great devotees of the Hindu religion is itself a very great handicap and a drawback in this Government. If they take so much care for the reformation or the resuscitation of the Hindu religion, they must equally care for the reform and resuscitation of the Muslim religion and religious institutions, like the mosques and the Muslim wakfs. They cannot complacently say that because they belong to the Hindu religion, and are great Hindu devotees, they have no right to interfere with other religions and their institutions.

"Sir, the Bill says that the Commissioner, Deputy Commissioner, the Assistant Commissioner and every officer or servant appointed to carry out the purposes of this Act, shall be a person professing the Hindu religion. Has the Hindu religion only one particular faith? Has it got only one particular doctrine? Are all the temples and mutts preaching the same doctrine and asking us to worship the self-same image or idol. No. We have different doctrines, different methods of worship and different conceptions of God and images to worship. Sir, the other day, the Hon. Dr. T. S. S. Rajan referred to the murder of a God. From this, we can understand, what idea he has of these temples and mutts. He calls himself as devout a Hindu as any other, and I do not deny it. These are Gods according to him. But, Sir, his ideation of Hinduism as evidenced by his utterances here, in this Assembly on this occasion is not correct. They are but symbols of the various Prakrithies which are intended to help us to concentrate our thoughts upon the invisible form of the Almighty. Still he says that these Gods have been murdered or that they have been allowed to starve. Oh! what a tragic state, to which we have come to, and what a great and merciful heart has the Hon. Dr. T. S. S. Rajan.

"Sir, coming to the point, if there is a Vaishnavite temple, and if you put in a Saivite as a Commissioner or a Deputy Commissioner, what will happen? You know the great difference between these two sets of people. In the southern districts, there are, what is known as Veera Vaishnavites and Veera Saivites, and they are poles apart. Their ideas of nomenclature or nama-rupa of God are different and their methods of worship are also different. Such a great freedom is given in our Hindu religion, allowing people to follow their own theological doctrines, which are entirely opposed to one another. While such is the case, if we put a Vaishnavite Commissioner in charge of a Saivite temple, the whole thing will come to a collapse.

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In the descriptive narration of the wars of the reformation in Europe we find that sectarians of one self-same religion fought each other with greater bitterness and hatred than in fighting the followers of a different religion. Motley, the historian, alludes in his history of the Rise of the Dutch Republic, how the partisans fighting against the Pope were using the Crescent for their banner to irritate the Catholics who were then fighting the Turks. Human nature being what it is, the same things would happen here also. We are all familiar with the feuds even between the Thengalais and the Vadagalais in some of the Vaishnavite temples. Then what will become the fate of these temples, if such appointments are made? They will desecrate these temples. These temples have been going on somehow all these days, with all the faults of the administrators and managements. They have been giving some spiritual solace to the people, who were devotees of the temples. These temples will now become deserted and in course of time, the temples themselves will be ruined, if such officers are placed in charge of them.

"Further, Sir, by taking over the administration of these temples and religious endowments into their own hands, the Government will have to employ thousands of people under them and it will be a very great responsibility for them to undertake, especially at this time, when the finances of the Government are in a straightened condition. But that apart, they will have very great power and patronage to distribute and they will be in a very enviable position. They would really wield very great power and influence in making these appointments and would be able to show their patronage to their own men. What guarantee is there that these things will not happen?

"Sir, the Hon. Minister said that the Government are not pushing on with this measure with any sinister motive. We do not attribute any motives to them. We believe that they are sincere and strong in their conviction that this reform is necessary. But who can tell what the result will be? Do they think that by taking over all these temples and mutts they will be reformed and people will become more religious and that this measure will bring in a millennium and that our country will become prosperous? If they think so, then I must say that they are in a fool's paradise. The results, on the other hand will be entirely different. The temples will be deserted; people will have no faith in temples and the temples will be desecrated, when the Government take over these temples. All be desecrated, when the Government take over these temples. Democracy of the foreign pattern will be surely ruinous, if it is introduced in a temple administration.

"Therefore for a secular state it is not at all proper to take over the management of religious institutions. Sir, Travancore was quoted as an example where an Indian State has taken over control of temples and administered them properly. That was the background of some of the arguments advanced. It was also suggested that because the matipathis have been corrupt and the temples here have not been properly administered Hinduism

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has lost a number of people to the Muslim and the Christian community. And some emotional speeches were made here and elsewhere, Sir, to the effect that we should take over the temples and mutts and stop these things. But, Sir, did they think of the population of Travancore and Madras Province and did they know that the largest number of Christians in any particular area was found only in that State. Were that Government able to stop the conversion to Christianity in Travancore by taking over the temples and mutts. Therefore it is wrong to say that by taking over and managing temples and mutts we would prevent Hindus going to other religions. Even in Travancore it is stated that the temples are under the direct control of the Maharaja. But I do not want to go into the legal aspects of the question.

"In the year 1817 when the British Government wanted to take over the temples in order to see that they were managed properly they viewed all the religions equally. They wanted to reform the administration of all the religious institutions. But are we doing that? No. The Hon. Dr. Rajan stated, Sir, in the Legislative Council that the Muslim community was an influential community, when he wanted that the Muslim Wakfs Bill might be circulated for eliciting public opinion. But are there not influential people amongst us, the Hindus? Do they not deserve this consideration? In 1863 when the British Government divested themselves of the power it was said that they did so because of the agitation by the missionaries. We cannot blame the British Government, Sir, in this. The British Government here had many sins to answer. But the East India Company and the British Government did not want to propagate the Christian religion in this country. If they had done so and if they had sided the missionaries the people of our country would have been entirely different. But they were commercial men. They cared only for profits and sometimes they were even against the missionaries. There was an agitation in the years 1830—39. After 1839 there was no agitation by the Christian missionaries and the British divested themselves of the power in the year 1863 after the Great Indian Mutiny. Before that in the year 1860 the Indian Penal Code had been passed and there were provisions to book the bad and mismanaging matathipathis, temple managers, etc. Why are we not using those provisions which are already available?" (The hon. Member had not finished when the Hon. Speaker called on the next Member to speak.)

SRI T. S. PATTABHIRAMAN:—"Mr. Speaker, Sir, I rise to support the Bill that is before the House. It is my proud privilege, Sir, as a young Hindu to offer my solicitations to the Hon. Mr. O. P. Ramaswami Reddiyar and the Hon. Dr. Rajan who have had the tenacity and the courage to bring this revolutionary Bill before the House and place it for approval in the present session. It is really surprising, Sir, that a number of people within this House and outside are carrying on an agitation in a most undemocratic manner to scuttle this Bill even in

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its infant stage. This is not a new proposal, Sir, which has been sprung on the public as a surprise. In its published form the Bill has been before the public for more than one year and it is surprising that hon. Members in the House should say that public opinion is not yet moulded and that more time should be given.

"After all, Sir, this Bill has been long overdue and I submit that this Bill must be passed into law as soon as possible in deference to the wishes of the majority of the population of the Province. This Bill does not contemplate the abolition or the complete acquisition of all mutts and temples and their endowments and property. This wants only to regulate and ensure that the religious institutions and the endowments are properly administered and their income is duly appropriated for the purpose for which they were founded. I am surprised, Sir, that any Member of the House belonging to and interested in the great Hindu community should object to the very noble purpose which has been envisaged in the Bill. On the other hand this Bill should have been welcomed by one and all who call themselves Hindus. They should have been offering their co-operation for the speedy passage of the Bill. I am surprised that hon. Members in the House who are noted for their integrity, for their learning and who are noted for their patriotism and service for the poor should raise the slogan that religion is in danger in the country. Unfortunately in the pre-partition days it had been the proud privilege of the Muslim League to say that religion was in danger and attack all the issues in the name of religion and scuttle them. It is surprising that the very same people who attacked the Muslim League for raising the slogan that religion was in danger should now raise the same slogan. I must ask, Sir, with the greatest respect for the learned authorities who have propounded here that Hinduism will die or will be killed or become extinct if this Bill became law, whether it is a compliment to the Hindu religion or an insult, a religion which has stood like the rock of Gibraltar and like the lofty Himalayas. Sir, this has never been conquered by the successive invasions of the nomadic tribes and the Huns and the other successive generations of invaders who have passed through Hindusthan. Hinduism has not been subjugated and it will keep its head at a high level. I am afraid, Sir, that statements are being made here without understanding their implications. It is a religion which has been nurtured by the Great Acharyas, Sankaracharya, Ramanujacharya, Madvacharya, Raja Ram Mohan Roy, Ramakrishna Parahansa, Swami Vivekananda and Mahatma Gandhi. It is an insult to all to raise this cry if they are really interested in the Hindu religion. I may assure hon. Members who are opposing the Bill because they are afraid that the Hindu religion will be no more in the country, that they are living in a fool's paradise. The Hindu Religion shall never die as long as the world exists. They can be assured of that. Unfortunately, what is being done here in the name of religion? Atrocious things are being done by the matadhipathis and by the

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persons who have been given public properties to be managed like temples and others by public spirited persons. These matadhipathis have been a blot on the Hindu community, a scourge on the Hindu religion due to their activities, past and present. I am surprised, Sir, that my learned Friend, Mr. Pattabhiramiah, was telling us of things that are being done for the propagation of religion by the Saivite and Vaishnavite matadhipathis. The less said about the matadhipathis south of Chidambaram the better. All things are happening in the name of religion. It is regrettable, Sir, that this Bill should be opposed. After all this Bill does not want the matadhipathis or the mutts to be completely abolished.

"I am afraid, Sir, that the hon. Member, my respected Friend Mr. Vaidyanatha Ayyar, when he moved his amendment has shut his eyes to a section of public opinion, though they may be in a minority, yet who are a vociferous minority, that there should be no religion, no mutts and no charitable institutions in the Province. There is already a very strong opinion like that though now it may be in a minority. They may become powerful. They are doing much harm in the Province by propaganda that the religious places are not places of God, not places of religion but of all unearthly and unholy things that must be put an end to. I want to know whether Mr. Vaidyanatha Ayyar who opposed the Bill knows that public opinion in the Province is growing that all the mutts and temples should be abolished once for all if this Bill is not brought in and made law. After all this Bill does not contemplate the abolition of mutts, etc. Let nobody worry that the mutts will be abolished and their properties confiscated and that the matadhipathis will be made to starve. This Bill only contemplates the proper management of the properties. Why should there be any objection. If as my hon. Friend stated every thing is all right and every thing is in a beautiful condition and there is absolutely nothing to worry, and they are symbols of virtue and purity, why should they be afraid that this Damocles's sword is coming. Until they go wrong this will not touch them. If they think that the matadhipathis are doing all their duties properly and all the endowments have been properly managed there is no need to be afraid of this Bill. But because some of these persons have been blackmarketing in the religious endowments and these people have been going wrong and squandering public money and because these people have been doing things which have been a disgrace to Hinduism, they are going to be punished and not those who are doing things properly. Sir, I am not one of those who says that all matadhipathis are blackguards and rascals. But I must say that most of these matadhipathis are not very desirable persons at present. Their history, life, manners, customs and habits have been the subject of many a book and film in the Province. But did anybody dare criticise them. When the Bill came here it must have been welcomed by one and all who want our religion to thrive. It says that the present blot on our religion should be

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removed and Hinduism made purer, brighter and more lively so that more people can come and join the Hindu religion. I appeal to my friends not to break the Hindu religion by opposing this Bill. Sir, there are only two things to be done. It is a Hobson's choice. Either take it or reject it. My friends admitted while opposing this Bill that there are irregularities, that there have been variations, and that the matadhipathis have been very defective in their duties towards society, religion and endowments. This Bill only seeks to mend matters and put things in order so that Hinduism may live. If my learned friends should pursue their opposition to this Bill, there is only one way of ending these matadhipathis and endowments, and that is, to finish them once for all because, in this state of hopelessness, deterioration and rottenness, mutts cannot exist for long. The Black Shirt organization—the Dravida Kazhagam—is aiming at the abolition of the temples and massacring all the mutts. Aligning themselves with the Communists they are doing propaganda that these institutions do not deserve existence on moral, social, political, economic and ethical grounds. Are you going to allow this rottenness to continue and strengthen the hands of the Black Shirts? Or are you going to give a helping hand to this Bill which tries not to end but to mend matters. I must warn the persons who are proposing amendments that this Bill must be shelved or that religion is in danger, or that the State has no right to interfere in religion, that they are playing into the hands of the Dravida Kazhagam which aims at the annihilation of this religion, a religion which is the solace of millions of people. You are now strengthening the hands of people who are atheists like Communists. I must appeal to men who are fasting and who are making all sorts of allegations that their imagination is running riot with fears of all things. I must appeal to them, Sir, 'think twice before you act; you have two alternatives; either mend the situation so that Hinduism may live and prosper, and the endowments may serve their purpose, or end them'. There is no other choice. There is no half-way house. There is no via media. You must see that the institutions are useful to the society and to religion for which they stand. Otherwise they must be ended, and their properties should be confiscated. I request those people who oppose this Bill to ponder over these matters deeply. What will be the repercussions? What will be the state of things that will take place in the country in future? What will be the ultimate result? I appeal to my friends not to press the amendment for circulating the Bill for public opinion. Public opinion is already overwhelmingly in favour of this Bill. The minority of public opinion, I must say, is in favour of total abolition of all the temples and mutts. I must say that even a handful of persons should not oppose this Bill. I appeal to them not to kill Hinduism in this manner by trying to help that minority. It is not the way. The Bill is only trying to salvage Hinduism. It is only an attempt to purify and mould Hinduism into a better type. We expect your co-operation. I appeal to you to support this Bill.

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"One word to the Hon. Minister. Clause 17 of the Bill is an insult to the younger generation. It says—

'No person may succeed or be appointed to, or hold, the office of the trustee of a religious institution—

(b) except in the case of a hereditary trustee, unless he is not less than thirty-five and not more than seventy years of age.'

I must very strongly protest against this injustice to the youth of this country. It is not as if elderly people alone are religious. The younger generation are more honest than elderly people. ('Hear hear.') (Interruption.) My friend says experience. It is experience only out of work. There should be no distinction between elders and youngsters. In foreign countries youngsters are entrusted with responsible work. So, let there be no distinction in the house of God. Let it not be a standing insult to the youth of this country that they are not to hold the office of trustee or manager. It is a very serious insult. I say it is not deliberate but that there has been some slip in drafting. I wish to appeal to the Hon. Minister not to insult the youth but entrust them with responsible work. We have trusted the youth in the fight for Freedom. Trust them in the proper and good administration of temples and mutts also. You please delete that clause and give scope to all people irrespective of age.

'I finally appeal to hon. Friends in this House to pass this Bill without opposition so that Hinduism may be saved before it is too late.'

* SRI A. SUBRAMANIAM :—“தலைவர் அவர்களே, இந்த மசோதாவை ஆதரிக்கும் தோரணையில் சில வார்த்தைகளைச் சொல்ல விரும்புகிறேன். இந்த மசோதாவின் பேரில் சில அங்கத்தினர்கள் ஆதரித்தும் சில அங்கத்தினர்கள் எதிர்த்தும் பேசினார்கள். ஆனால் நாங்கள் இந்த மசோதாவை வெகு நாட்களுக்கு முன்பாகவே இந்த சட்டசபையில் எதிர்பார்த்தோம். அப்படி எதிர்பார்த்து வந்ததைப் பார்த்து ரொம்பவும் எமாற்றமடைந்தோம். ஏனென்றால், மதம் என்பதை இவர்கள் இன்னதென்று புரிந்திருப்பார்களானால் இத்தகைய கூச்சலுக்கு இடமிருந்திருக்காது. மதம் என்பது மக்களுக்கு நல் வழிகாட்டும் பாதை. மதம் என்பது உண்மை, சத்தியம், நேர்ப்பாதை என்பதுதான் அதன் அர்த்தம். இது எம் மதத்திலிருந்தாலும் நமக்குச் சம்மதம். நிர்வாகம், சத்யம், நேர்மை, இவைகள்தான் மதத்தில் குறிப்பிட்டிருக்கிறது. எந்த மதமாக இருந்தாலும் அதிலுள்ளவர்கள் அந்த மதத்திற்கு விரோதமாகவும் அந்நியான முறையிலும் நடந்தால் அதை சீர்திருத்தவேண்டியது தான். சத்யத்திற்கு விரோதமாக நடந்தால் அதைக் கண்டித்துதான் ஆகவேண்டும். அந்தமாதிரி நடப்பதை தொலைக்க சட்டங்கள் செய்வதில் ஒரு குற்றமில்லை. இப்பொழுது மதத்தின்போல் பலவிதமான கெட்காரியங்கள் நடந்துவருகிறது. இப்பொழுது பொறுத்தமற்ற காரியங்கள் நடந்துவருவதால் அதற்காக ஒரு சட்டத்தை இயற்றினால் அதை எல்லோரும் ஆதரிக்க வேண்டியதுதான். இப்பொழுது மதத்தின் பெயராலும் மடாதிபதிகள் பல அட்டூழியங்களைச் செய்துவருகின்றார்கள். இன்னும் சில கோவில்களில் பல அக்கிரமங்கள் நடந்துகொண்டிருக்கிறது. இதுவும் சொற்ப காலமாக நீடித்துக்கொண்டே வருவதாகவும் சொல்லப்படுகிறது. மதத்தின் பெயரால் இம்மாதிரியான பல அட்டூழியங்கள் பல நாட்களாக நடந்து வருவதால் இம்மாதிரியான மசோதாவைக் கொண்டுவந்து அதை முன்பாகவே தடைப்படுத்தி யிருக்கவேண்டும்.

[7th February 1949] [Sri A. Subramaniam]

இவ்விதம் சீர்திருத்தம் செய்யவேண்டுமென்று சொல்லும்போது அதற்காக எதிர்ப்புகள் ஏற்படுகிறது. இன்னும் பலர் தவறான அபிப்பிராயங்களைக் கூறுகிறார்கள். இன்றைக்கு புத்தர் மதம் ஏற்பட்டு 2,300 வருடங்களுக்குமேலாகிவிட்டது. அது எங்கும் பரவி ஏதோ ஓர்மாதிரி நிலையிலிருக்கிறது. 1,300 வருடங்களுக்கு முன்பு உண்டான இஸ்லாம் மதம் எவ்வளவோ உண்மையான நிலையிலிருக்கிறது. 1,948 வருஷங்களுக்குமுன்பு உண்டான கிருஷ்ணமதம் உலகெங்கும் பரவி யாவரும் போற்றும் வண்ணம் வியாபிக்கின்றது. இவ்விதம் எல்லா மதஸ்தர்களும் தங்களுடைய மதங்களை சீர்திருத்தி நல்ல வழிக்குக் கொண்டுவந்து கொண்டிருக்கும்போது நமது ஹிந்து மதம் எந்நிலையில் இருக்கிறது என்பதை சற்று யோசித்துப் பாருங்கள். நமது இந்த மதத்திற்கு ஆதியுமில்லை, அந்தமுமில்லை. அது அதன் சுதன் பாதாளத்திற்கு அப்பறப்பட்டது. அது எங்கும் நிறைந்தது என்று சொல்லிக்கொண்டிருப்பதில் பிரயோஜனமில்லை. இவ்விதம் சீர்திருத்தம் நிலையிலிருக்கும் ஒரு மதத்தை சீர்திருத்த ஒரு மசோதா கொண்டுவந்தால் அதற்கு எதிர்ப்பா? அதற்காக உண்ணாவிரதம் இருப்பதா? அப்படி உண்ணாவிரதமிருந்து தீவிரமாக இதை எதிர்ப்பேன் என்று சொல்வதையும் பேசுவதையும் பார்த்தால் என்ன என்பது எல்லோருக்கும் புரியவில்லை. ஹிந்து மதத்தை உண்மையாக காப்பாற்றவேண்டுமென்றால் மடங்களில் இருக்கும்படியான கெட்காரியங்கள் நடக்காமல் சீர்திருத்தம் செய்யவேண்டியதுதான். இப்பொழுது மடங்களுக்கு ஸ்சக்கணக்கான வரும்படி வருகிறது. கடவுளின் பெயரால் வேறுகாரியங்களை செய்வதாக இருக்கின்றது. இவ்விதம் ஏராளமான பணம் வந்துகொண்டிருப்பதை நல்ல முறையில் செலவுசெய்யும்படி செய்தவர்களுக்கு ஒரு மசோதா கொண்டு வந்தால் அதை யாரும் மறுக்கமுடியாது. இந்த மடாதிபதிகள் ஏதோ பெரிய காரியங்களை செய்வதாக சொல்லுகிறார்கள். அவர்கள் மதத்தைப் பற்றி என்ன செய்தார்கள். அவர்கள் அரிய பெரிய படங்களையும், தேவபங்களையும் அல்லது பிம்பங்களையும் குறிப்பாக இடிகாசங்களையும், புராணங்களையும் எந்த முறையில் பயிற்சிசெய்திருக்கிறார்கள், பிறருக்கு பயிற்சி கொடுத்திருக்கிறார்களாவென்று கேட்க ஆசைப்படுகிறேன். இதற்காக அவர்கள் ஒன்றுமே செய்யவில்லை என்பது எல்லோருக்கும் வெட்ட வெளிச்சமாகத் தெரியும். இம்மாதிரியாக ஒரு காரியமும் செய்யாமல் பணங்களை நுகராத காரியங்களுக்கு சிலவுழித்துக் கொண்டிருப்பதை தடை செய்வதற்கு ஒரு மசோதா கொண்டுவந்தால் அதற்கு இவ்வளவு எதிர்ப்பு வேண்டுமா என்று கேட்க ஆசைப்படுகிறேன். இன்னும் இந்த சட்டத்தினால் ஏதோ கோவில்களெல்லாம் கெட்டுப்போய்விடும் என்று சொல்லுகிறார்கள். அப்படி, தேயு, வாயு, ஆகாயம், பிரதிவி என்று சொல்வது கூடிய சேஷத்தியங்களில் ஒன்றாக ஆகாயம் என்று சொல்லும்படியான சிதம்பரம்கோவிலில் இப்பொழுது போய் பார்த்தால் தெரியும். தென்னை மரமும், பனைமரமும் முளைத்திருக்கின்றன. இன்னும் நூறு, வேம்பு, ஆல் முதலிய மரங்களும் வளர்ந்து பெருத்து வருகின்றன. இவைகள் இப்படியே வளர்ந்துகொண்டுபோனால் கோவில் சுவர்கள் என்னவாகும் என்பதைக் கேட்க ஆசைப்படுகிறேன். அந்த கோவிலுக்கு நியமித்த Trusteesகள் என்ன செய்கிறார்கள், இவைகளை சீர்திருத்தம் செய்ய என்ன நடவடிக்கைகள் எடுத்துக்கொண்டிருக்கிறார்கள் என்று கேட்க ஆசைப்படுகிறேன். நியமனம் செய்த Trusteeகளை கூட இவைகளை ஏன் கவனிக்கவில்லை என்று கேட்பதற்கு நமக்கு அதிகாரம் இப்பொழுது இல்லை. சில மடங்களில் வரும் வருமானத்தை அவர்கள் ஏதோ ஒருவிதமாக சிலவுழித்து வருகிறார்கள். சுவாமியின் பெயரால் வரும்படி வருகிறது. நாம் கடவுள் பெயரால் என்னசெய்தாலும் அவர்கள் கேட்கமாட்டார்கள். அவர்களுக்கு பக்தி இருக்கிறது என்று நினைத்து விடுகிறார்கள். ஆகையால் கோவில்களை ஏன் சீர்படுத்துவதில்லை என்று கேட்க மாட்டார்களென்றிருக்கிறார்கள். அதனால்தான் முளைத்துவருகிற பெரிய பெரிய மரங்களை இன்னும் அழித்து சீர்படுத்தவில்லை. இந்த மாதிரியாக எங்கு பார்த்தாலும் பல ஊழல்கள் நிறைந்திருக்கின்றது. மேலும், சில சிறிய கோவில்கள் உட்பட பெரிய கோவில்களில் துரிஞ்சல்களும்,

7th February 1949

Mr. SPEAKER :—" The House will now adjourn and meet again at 2-30 p.m."

(After lunch—2-30 p.m.)

MR. SPEAKER:—"Will the hon. Member kindly resume his seat? None of the Members on the Treasury Bench has come."

[The Hon. Sri K. Madhava Menon then entered the Chamber.]

(നക്ഷത്ര ചിഹ്നം ഉൾക്കൊള്ളുന്നു.)

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[Sri A. Subramaniam]

“இன்னொரு விஷயம். இந்த மஹாத்மை பொழுது அபிப்பாயத் திருக் கொண்டு வரவேண்டுமென்று சிலர் கூறுகிறார்கள். இப்பொழுது இந்தக் கணப் பொழுது என்ன அரசாங்கம் என்று கேட்கிறேன். பொது ஜனங்களால் தேர்ந்தெடுக்கப்பட்டு அவர்களுடைய பிரதிநிதிகளாகத்தான் நாம் இங்கே விற்பிறக்கிறோம். பொது ஜனங்களுடைய குறைகளைப் பொக்கி அளவுகளுக்கு நலிவைகளைச் செய்வதற்காகவே நாம் இங்கே இருக்கிறோம். அதற்காகவே, இந்தச் சட்டத்தைச் செய்கிறபோது மறுபடியும் பொது ஜன அபிப்பாயத்திற்கு விடவேண்டுமென்று கூறுவது என்னவா? சத்தியாகாதம். இப்படி நாம் ஒன்மொன்றுக்கும் பொது ஜனங்களுடைய அபிப்பாயங்களைக் கேட்காததால் புரட்சிகரமான காரியங்களைச் செய்யப் பின்பு விடக் காலதாமதம் ஏற்படும். இன்னும் பல சிந்திப்பதன் அதிவந்தகாரம் தெரிந்ம். தீண்டாமைய ஐயிர்பு சட்டம் கொண்டு வந்தோம். அதற்கு பொது ஜனங்களுடைய அபிப்பாயங்களைக் கேட்டால் அதற்கு தீர்ப்பங்களில் ஒப்புக்கொண்டிருப்பார்களா. மது விலக்கு, ஜமீன் ஐயிர்பு சட்டங்கள் கொண்டு வந்தோம், அவைகளைப் பொது ஜன அபிப்பாயத்திற்கு விட்டுத் தந்தால் நமக்கு அதற்கு விளைத்திருக்கும் என்பதை நாம் நினைத்திருப்பார்களேனவாம். அவைகளை நாம் எவ்வளவு சீக்கிரத்தில் நிறைவேற்றியிருக்கிறோம் என்பதைக் கவனிக்கவேண்டும். மேலும், விற்பனை வரி, வன் நிவாரண சட்டம், பலதரத்த தடைபோன்ற சட்டங்களையும் பொது ஜனங்களைக் கேட்காமலேயே நாம் இங்கு சட்டம் செய்திருக்கின்றோம். அதைப் போலவே இப்பொழுது நாம் ஒரு புரட்சிகரமான சட்டத்தை செய்திருோம். அதற்கு எதிர்ப்பு இருக்கத்தான் இருக்கும். எவ்வளவோ வருஷகாலமாக நம் நாட்டிலிருந்த கேட்ட பழக்கமாகிய தீண்டாமையை ஒழித்தோம். அதைப்போலவே மது விலக்கு சட்டமும் செய்தோம். அவைகளை நிறைவேற்றியபோது பொது ஜனங்களைக் கேட்டிருந்தால் இன்னும் கொஞ்ச நாளைக்கு தள்ளிவைக்கலாம் என்றுதான் சொல்லியிருப்பார்கள். ஆகையால் இந்தச் சட்டத்தை உடனடியாகச் செய்ய வேண்டும். ஒத்திப்போடக்கூடாது. ஒத்திப் போட்டால் கிளர்ச்சி ஏற்படும். தேசத்திற்கு நல்ல காரியம் செய்வதாக இருந்தால் அதை நாமாகவே செய்யலாம். நாம் பொது ஜனங்களால் தேர்ந்தெடுக்கப்பட்டவர்களானதால் நாம் செய்யும் காரியங்களில் அவர்கள் எள்ளளவும் குறை கூறமாட்டார்கள். நிச்சயமாக வரவேற்பார்கள். ஏதோ ஒரு சிலரிடத்தில்தான் எதிர்ப்பு தோன்றுகிறது. ஏனென்றால் அவர்கள் இந்த மஹாத்மாவின் உள் கருத்தை சரிவர தெரிந்துகொள்ளவில்லை என்பதுதான் நான் எண்ணுகிறேன். மஹாத்மா ரொம்பவும் அழகாக அமைக்கப்பட்டிருக்கிறது. சீர்திருத்தம் செய்ய திருத்தங்கள் வேண்டுமென்றால் செய்து கொள்ளலாம். சுலபமாக இருக்கு செய்யவேண்டிய ஆராதனை, அபிஷேகங்கள் சொல்வதில் தவறுகள் ஏற்படும் என்று சொல்வது தவறாகும். பொது ஜனங்களால் வழங்கப்பட்ட தரும சொத்துக்கள் அவர்கள் சரியான

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மாடி கணக்குகள் வைத்துக்கொள்ளவேண்டுமென்பதுதான் இந்த மசோதாவின் நோக்கம். சரியான முறையில் வருமானங்களைச் செலவு செய்ய வேண்டுமென்பதுதான் இந்த மசோதாவின் நோக்கம். வருமானத்தில் சிலவுகள் கொடுக்க மிச்சம் இருப்பதைக் கொண்டு பாவிக்கவும், ஆஸ்பத்திரி முதலிய பல முக்கியமான காரியங்களுக்கு உபயோகித்துக்கொள்ளலாம். இவைகளையெல்லாம் செய்தால் நல்ல முறையில் நடப்பதை நாம் எதிர்பார்க்கலாம் என்பதற்காகத்தான் இந்த மசோதாவைக் கொண்டு வரப்பட்டிருக்கிறது. அதற்காகவே இம்மாதிரியான சட்டங்களை நாங்கள் வரவேற்கின்றோம். இந்த மாதிரியான சட்டம் இதுவரையில் வராத இரும்பைப்பற்றி பொது ஜனங்கள் கண்டிப்பாக ஆட்சேபித்திருப்பார்கள் என்பதைச் சொல்லிக்கொள்ள ஆசையிருக்கிறது. அதோ பொது உடைய கட்சிக்காரர்கள் சொல்லுகிறார்கள். சுகுடபுச் சட்டைக்காரர்கள் சொல்லுகிறார்கள். உண்ணாவிரதமிருக்கிறார்கள், சட்டம் செய்யாவிட்டால் உண்ணாவிரதம் இருப்பதாக சிலர் கூறுகிறார்கள். அதற்காக சட்டம் செய்யவேண்டுமென்பதில் பிரயோஜனமில்லை. நியாயத்தின் பெயரால், நீதியின் பெயரால் மதத்தை சீர்திருத்தம் செய்யும் நன் நோக்கத்தின் பெயரால் இதை உடனே சட்டமாகச் செய்யவேண்டுமென்று கேட்டுக்கொள்ளுகிறேன். இம்மாதிரியான ஒரு சட்டம் மிக மிக அவசியம் என்பதைத் தெரிவித்துக் கொண்டு இந்த மசோதாவை நான் மறுமுறையும் ஆதரிக்கிறேன்.

SRI R. SUBBAYYAR:—“Mr. Speaker, Sir, at the outset, I propose to deal with some objections raised against this Bill, constitutional as well legal. This Bill has been opposed on two or three constitutional grounds by my esteemed and hon. Friend, Mr. Vaidyanatha Ayyar, as well as others. It is said, Sir, that this Bill offends against one of the clauses under the fundamental rights passed recently by the Constituent Assembly. The objection is that it offends against the clause guaranteeing freedom of religion, the practice of religion and the propagation of religion. But, I am afraid, Sir, having regard to the language used in one of the clauses of the Bill that this objection, although it may seem formidable at first sight, is not warranted. I refer to clause 6 of the Bill which contains the necessary words complained against. Clause 6 says:

Subject to the provisions of this Act, the general superintendence of all religious institutions and endowments shall vest in the Provincial Government.

Likewise, Sir, under clause 15 of the Bill, ‘this general superintendence of all religious institutions and endowments shall vest in the Commissioner’. I do not know, Sir, how this superintendence is construed to be direct management by the Government. To me it seems there is a fundamental misunderstanding of the scope of this Bill by many of the speakers. It would seem that the Hon. Dr. Rajan who introduced this Bill is also under a similar misapprehension. He also spoke in a strain which would warrant such a misapprehension. In fact, when I heard him, I also got the impression that the Government was going to take over directly the management of the temples and religious institutions. Well, Sir, with that background, I read all the clauses of the Bill a number of times with a view to convince myself whether the misapprehension that, under this Bill, Government is really going to take over directly the management of these religious and charitable institutions is warranted or not. And I am driven to

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the conclusion that after all, it is not the correct interpretation because these officers and these superintendents can in no circumstances be regarded as direct managers of those institutions. It means only control. To supervise is to direct or to control. It does not mean that you take away the entire management in your own hands under this section. There is no doubt that the sub-clause of this main clause may tend to create such an impression or give room for such an interpretation. Sub-clause of this main clause says:

Such superintendence shall include the power to pass any orders which may be deemed necessary for the proper maintenance or administration of any religious institution or endowments.

Here, the words ‘pass any orders’ may lend themselves to such an interpretation. No doubt, the words are too wide and rather capable of such interpretation. I am sure the Hon. Minister will take note of this and remedy the defect in proper time.

“Sir, in order to impress upon hon. Members of this House, I would like to illustrate my argument by one or two examples. We are all familiar with the kind of superintendence that Government officers exercise over many aspects of life. For example, recently we passed the Shop Assistants Act. Under that Act, Government have appointed Shop Inspectors and other categories of officers. Their duty is to superintend and check and to see how things are being done in the shops. Under that Act, they can regulate the hours of business; they can also enter any business premises and they can do so many other things. Now, Sir, can it be direct management of those particular shops or the coffee-hotels or other places of business by the Government? I am sure no man will say that it is direct management of these institutions by the Government. Likewise, Sir, there are School Inspectors. Everybody knows that there are institutions run by private management, by public trusts, by Government and others. Now they are all subject to one law. These Supervisors and Inspectors make periodical inspection and the hours are regulated. So also, this can be done in the case of temples. Periodical inspections are made, remarks are passed and in the light of those remarks, matters are rectified now and then. These Inspectors also inspect private institutions. Does it mean that the Government has taken over the management of these institutions directly in their own hands? Not at all. Likewise, courts appoint guardians to take charge of properties of minors. They also appoint Receivers and do so many other things. These people manage the properties of their wards. Now, Sir, these officers are practically under the control of the court and they work at the instance of the court. Does it mean that they are directly managing those properties? They are merely officers of the court and are carrying out the directions of the court. Likewise, these Endowments Officers, call them Commissioners or by any other name, are only officers of the Government who are given some powers to control the trustees and other people who are in charge of these

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institutions, so that these institutions may work for the good of the public. If you view it from that standpoint, it means only that Government is trying to take power in order to check and control these institutions. To say that this power given to the officers or commissioners to control them or supervise them is giving them rights of interference is, to my mind, not correct. That is not what the Bill attempts to do. To say that in a secular state, no Government can take such powers of control or direction over religious, charitable or public trust is against all known canons of political theories and even democratic practice. Such a power exists and has been exercised by every State. In our own Presidency, there are a number of Acts which go to show that such power was exercised not only by the East India Company but subsequently as well. This exercise of the power of the state to control these institutions is not to say that the Government is taking over the direct management of these institutions. It has been said time and again that a secular state has no business to interfere with the profession, practice and preaching of religion. It is a proposition with which nobody has any quarrel. But does this Bill in any way interfere with the practice of religion in its various aspects in these various charitable and religious institutions which exist to-day? To have a control over the budgets of these institutions, the expenditure of these temples, to pass the dittams and so on—is that taking over the management of the temples directly by the Government? Or is it only exercising control over the institutions for the good of the public? I can understand this argument, if in the guise of this Act, the Government sought to interfere and change the mode of worship in the temples or introduce innovations, as for example, in a predominantly Thengalai temple introduce Vadagalai forms of worship, in a Saivite temple introduce Vaishnavite forms of worship and *vice versa*, or if they interfered with the established customs and usage with regard to the utsavams and so on. Then it may be said that the Government is trying to interfere with the profession and practice of religion. Or supposing the Government said that no religious denomination shall hereafter preach such and such tenets which are opposed to the Government's way of thinking, then I can understand it being said that the Government is interfering with the profession and practice of religion. No doubt, there are certain provisions in the Bill which are too wide of the mark and which require to be modified in the light of the criticism offered on the floor of the House and elsewhere. But to say that no such Act should be passed because it would amount to interference with the profession and practice of religion is to say too much. So the first constitutional objection—that this Bill offends against one of the clauses of the fundamental rights conferring freedom of worship and practice and profession of religion—is altogether baseless.

"Sir, another argument is that the Bill offends against one of the clauses of the fundamental rights which says that no tax shall be levied on income from properties endowed for religious

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and charitable purposes. That seems to me to be a formidable objection, no doubt. But it can be certainly considered in the proper place and if legal opinion is of the view that it offends against one of the fundamental rights, I am sure the Government will take the necessary steps to modify it.

"Another objection is that in the new set-up,—whatever justification there was in the olden days for the State to interfere with religion in the matter of endowments and charitables,—it has been time and again stressed by no less a person than the Prime Minister of India and many other important leaders, that the State is a secular State and that it will have nothing to do with religion. True, a secular State has no right to interfere with the religious practices and beliefs of the people. But the whole question is: 'Does this Bill in any way seek to interfere with the practice or profession of any particular set of religious beliefs?' That is the crux of the problem. To me there seems to be absolutely nothing of the kind. It is the right of a secular State, more so of a modern democratic State, to have some control over public trusts and public expenditure. Otherwise there will be no check over the malpractices of many of these trustees and many of the despicable things that are being done in the name of religion. If such a control over temples and religious institutions should be deemed to be interference with religion, then I have no argument. But it is merely control or check, and not interference with religion and any modern State is justified in enacting laws in this matter and if it did not do that, it would be failing in one of its fundamental duties.

"Having said that, Sir, I should like to say a few words about the position taken up by the Government in placing the Bill before the House and moving for a reference to a Select Committee. Sir, before any Bill is placed before the House, I should expect the Government to have gone into full details, to have collected all the necessary statistics, taken expert legal opinion and satisfy this House that there is immediate necessity for the passing of this measure and that if no such measure is immediately passed, bad will go to worse and worse will go to worst. But neither in the Statement of Objects and Reasons to the Bill nor in the speech of the Hon. Minister who moved this Bill, do I find anything which shows the immediate necessity for the passing of the Bill. It has been stated that the provincialization of the administration of the Hindu Religious Endowments has been pending before the Government from 1929 onwards but for one reason or other it has been dropped and that the Government have taken it up now after 20 years. Is it a justification for passing this Bill now? Provincialization may be a laudable object, no doubt, but the Hon. Minister who introduced this Bill made a very sweeping remark about every religious endowment and charitable trust and said that everything is bad and, therefore it is, that he is coming forward with this Bill. What are the statistics with regard to this; how many religious trusts or maths or charitable institutions have been mismanaged or badly managed; how many

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trustees misappropriated funds from the charitable trusts; how many trusts or religious institutions are perpetrating those horrible and unutterable things said against them, and is the House in possession of any facts with regard to these matters? I fail to see any convincing argument coming forth from the side of the Government necessitating the immediate passage of this Bill. Therefore, I would urge that before the Government made any such sweeping statement as that of condemning every trustee in this Province, condemning every religious head and the head of every institution based upon charity, they collected statistics and put those things in our possession, so that we could judge and then decide as to what to do. They have not done that. Therefore, I am constrained to say that from the Government side there is not any valid argument for the immediate passage of this Bill.

"Now, Sir, hon. Members are aware that some time during last year a similar Bill was published and it was also discussed at the Party meeting. The Statement of Objects and Reasons in that Bill stated that the President of the Endowments Board felt some such thing and he wanted that the whole thing must be put on a different basis and, therefore, they published the Bill and were trying to introduce it before the Legislature. Now, the present Bill is the same Bill re-published with the deletion of those particular words and something else put in place of the original Statement of Objects and Reasons. Beyond that, and except for some minor changes, I do not find anything different from what the bill originally was. It amounts to saying that because the President of the Board felt that it should be abolished, the Government must take the entire thing in their hands and appoint Commissioners, and the Government are proceeding to do this. Sir, some time back in placing a particular Bill before this House, the Hon. Minister who introduced it said that High Court Judges wanted such and such a thing to be passed and so we are passing. Now, here it is a case of the President of the Endowment Board who wants such and such a thing to be done and, therefore, they are doing it. I am, of course, aware that that has been deleted from the present Statement of Objects and Reasons, but virtually it is so. That would not be a fair justification for the passage of the Bill or for placing it before us now.

"I am constrained to say another thing with regard to the departmentalization of this endowments branch. I agree with my learned friend, Mr. Vaidyanatha Ayyar, in the many things he said about the evils of departmentalization. We know, as a matter of fact, no department of Government . . ."

MR. SPEAKER:—"The hon. Member's time is up."

SRI R. SUBBAYYAR:—"Yes, Sir, I will close. No department of Government is free from charges of corruption, jobbery, nepotism and so on and this, Sir, will be adding one more department to Government and add to the evils already attaching to various departments. At any rate, that one argument at least

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must prevail on Government and they must think twice before they launch on this departmentalization scheme. It is not a question similar to nationalization or anything of the kind, but there are some provisions in this Bill which are objectionable from every point of view. Among them, I may state, as the main and the most important, the tendency to grab at the powers exercised by the ordinary civil courts of the land, and take all the powers vested in the law courts and confer them upon their officers without these officers being responsible for any malpractices or breaches of law or breaches of trust placed into their hands. Such a thing, I submit, is an unmitigated evil and must be resisted from every point of view. We have been seeing this tendency in every one of the measures that is being enacted now where all the powers are being taken away from law courts and vested in Government officers. That is a very objectionable thing and more so in a young democratic State like ours where the rights of citizens have to be safeguarded, these executive inroads have got to be guarded against. Therefore, Sir, it is one of the main objections to this Bill.

"Sir, there are also some other features in the Bill which require to be remedied. For example, the power to dismiss the trustees whether hereditary or non-hereditary; the provision for the notification of religious institutions and other charitable trusts; the power to pass any order which the Government deem fit and the power to divert excess funds in the hands of these charitable institutions to other purposes, no doubt of a similar nature. These, Sir, are dangerous things and if allowed to be there might be taken hold of by any set of godless people who may be replacing you in the future."

* SRI N. ANNAMALAI PILLAI:—"கனம் தலைவர் அவர்களே, இன்றையதினம் நம் முன்பு இருக்கும் இந்த மசோதாவினைமீது circulation-க்கு விடவேண்டுமென்று கனம் வைத்தியநாதர் கொண்டு வந்திருக்கும் திருத்தப் பிரேரணையை ஒப்புக்கொண்டு சில வார்த்தைகளைச் சொல்ல விரும்புகின்றேன். மத விஷயத்தில் அரசாங்கத்தார் தலையிடுவதில்லையென்று சொல்லவில்லை. ஆனால் நாம் election-க்கு நின்ற காலத்தில் இந்த விஷயத்தில் தலையிடுவோம், இதில் சீர்திருத்தம் செய்வோம் என்று mandate நாம் கொடுத்து வரவில்லை. இந்த சட்டத்தை செய்வதற்கு உரிமை நமக்கு இருக்கிறது என்று சில தேர்ந்தெடுக்கப்பட்ட மெம்பர்கள் சொல்லும்போது எனக்கு ஆச்சர்யமாக இருந்தது. ஜனங்களுடைய பிரதிநிதிகள் என்ற முறையில் இந்த சட்டத்தை செய்துவிடுவதென்றால் ஜனங்கள் ஒப்புக்கொள்வார்களென்பது அர்த்தமில்லை. நம்மை அவர்கள் எந்த வேலைகளைச் செய்வதற்கு அனுப்பினார்களோ அந்த வேலைகளைத்தான் செய்யவேண்டுமே தவிர மத சமுதாயங்களிலும் சொத்துக்களிலும் நுழைந்து துணிந்து சட்டம் செய்தால் ஜனங்களுடைய கோபத்திற்கு ஆளாவோம். நாம் கொடுத்த வாக்குறுதியில் தவறு செய்வார்களாவோம். ஆகையால் இந்தச் சட்டத்தைக்கொண்டு வருவதன்முன்பு ஜனங்களுடைய அபிப்பிராயமும் ஆதரவும் இதற்கு இருக்கின்றதா என்பதைப் பார்த்துக்கொள்வதென்றும். அப்படி பார்க்காமல் மூர்க்கமாக கொண்டுவந்தாலும் இந்த சட்ட சபையில் அதைச் சட்டம் செய்தாலும் நாம் ஜனங்களுடைய நம்பிக்கையை இழப்பதோடு அவர்களிடம் கொடுத்த வாக்குறுதியை புறக்கணித்துவிடும்படியும். சட்டங்கள் செய்வதாக இருந்தால் ஆராய்ந்து அறிந்து பார்த்துதான் சட்டம் செய்யவேண்டும். சில காரியங்களைத்தான் அவசரமாகச் செய்யலாம்.

[Sri N. Annamalai Pillai] [7th February 1949]

ஆனால் ஆயிரக் கணக்கான வருஷங்களாய் சமூக பழக்க வழக்கங்களி
லிருந்து வருவதை மாற்றவேண்டுமென்றால் அதற்கு சமூகத்தின் சம்மதம்
இருக்கிறதா என்பதை முன்கூட்டியே தெரிந்துகொள்ளவேண்டும். கேவ
லம் சட்ட சபை மெம்பர்களாகிவிட்டதால் எதை வேண்டுமானாலும் செய்து
விடக்கூடாது. இதைப்பற்றி விவாதம் நடந்தபோது கூச்சிக் கூட்டத்தில்
70 பேர்கள்தான் ஆஜராய் இருந்தார்கள்.

MR. SPEAKER :—“ நீங்கள் அறைப்பற்றி இங்கே சொல்லவேண்டிய
தில்லை. ‘பில்’ சம்பந்தமாக சொன்னால் போதும்.”

* Sri N. ANNAMALAI PILLAI :—“ ஆகையால் பூரண பொறுப்
பாக இந்த மாகாணத்திற்கு இந்த தீர்மானம் கொண்டுவரப்படவில்லை.
உதாரணமாக சமீபத்தில் இரண்டு தினங்களுக்குமுன் கனம் டாக்டர்
இராஜன் அவர்கள் பேசியபோது மெம்பர்கள் பூரணமாய் வரவில்லையென்
றால் அதற்கு தான் ஜவாப்தாரியா என்று சொன்னார். அவர்தான்
ஜவாப்தாரி என்று சொல்லுகின்றேன். ஆயிர வருஷங்களாக பழக்க
வழக்கத்திலிருந்தக் கொள்கையை இந்த சட்டத்தால் மாற்றுவீது என்
றால் அது பொம்பவும் அபாயமானது. இன்றைக்கு இந்த சட்டத்தை
நாம் செய்துவிட்டால்—இந்த சபையில் இருந்தவர்கள், முகம்மதியர்கள்
நாஸ்திகர்கள் இருக்கிறார்கள்—அவர்கள் பின்னாடி பொருப்பை ஒப்புக்
கொள்ளும்போது கோவில்களில் கல்லுதானே இருக்கிறது. தேவா
லயங்களில் அபிஷேகம் செய்வது எதற்கு பால் கொண்டுபோய் ஊற்று
வது எதற்கு நெய், தேன் முதலியனவைகளைக் கொண்டுபோய் கொட்டுவது
எதற்கு அணைகள் உணவு பொருள்கள்தானே அவைகளை ஏன் விரயம்
செய்யவேண்டுமென்று கேட்கலாம். பிற மதஸ்தர்கள் நம்மைக் கட்டுப்
படுத்துவதற்கு இடம் ஏற்படும். அது மிகவும் அநீதியான விஷயம்.
இந்த சட்டத்தால் ஹிந்து மதத்திற்கு எவ்வளவோ கஷ்டங்களும் இடஞ்
சல்களும் ஏற்படலாம். இதனால் பிற மதங்களுக்கு ஆதிக்கம் உண்டா
கும் நிலைமை ஏற்பட்டுவிடும். அது மாத்திரமல்ல. ஹிந்து சமூகத்தின்
நிர்வாகத்தை ஒரு இஸ்லாம் சமூகத்தைச் சேர்ந்தவரோ, ஒரு கிருஸ்தவ
மதத்தைச் சேர்ந்தவரோ அல்லது நாஸ்திகரோ நிர்வாகம் செய்ய ஏற்
படலாம். ஹிந்து மதத்தில் அபிமானம் உள்ளவர்களாக இருந்தால்
அவர்கள் இந்த சட்டத்தை ஒப்புக்கொள்ளமாட்டார்கள். இந்த மாதிரி
யான சட்டங்களை ஒப்புக்கொண்டால் அது பயித்தியக்காரத்தனமேயொழிய
வேறு ஒன்றுமில்லை. ஆகையால் நான் சொல்லுகின்றேன், இந்த பெரிய
விஷயத்தை சர்க்கார் circulation-க்கு விட்டு எல்லா மெம்பர்களுக்கும்
நோட்டீஸ் கொடுத்து அவர்கள் எல்லோரையும் வரும்படிசெய்து தீர்க்க
மாக யோசனை செய்து அதன்மீது ஒரு முடிவு கட்டுவேண்டும். அது
மாத்திரமல்ல. இப்பொழுது ஆயிரக்கணக்கான வருஷங்களாய் ஹிந்து
மதத்தை ஆதரித்துவந்த இந்த தலைவர்களமீது குற்றம் சாட்டப்படுகிறது.
குற்றமில்லாதவர் இந்த உலகத்தில் ஒருவரும் கிடையாது. படைத்தக்
கடவுள்தான் குற்றமற்றவன். மனிதனாய் பிறந்தவன் தவறு செய்வது
சகஜம்தான். சில மடாதிபதிகள் குற்றம் செய்தால் எல்லோரையும் ஒன்றாக
நினைத்துவிடக்கூடாது. கனம் வேதரத்னம் பிள்ளை சொன்ன பிரகாரம்
எவ்வளவோ மடாதிபதிகள் நல்லவர்களாயிருக்கின்றார்கள். முக்யமாக
சங்கரர் மடம் எவ்வளவோ நல்ல நிலைமையிலிருக்கின்றன என்றார்.
இவர்களுக்கெல்லாம் சட்டம் கொண்டுவந்து பழி வாங்குவது என்றால்
அது நன்றாக இருக்குமா ஜயிந்தார்கள் இருக்கிறார்கள். ஸ்டேட்டுகள்
இருக்கின்றன. அவர்கள் தவறு செய்தால் அவைகளை நிர்வகிக்க Covert of
Wards வைத்திருக்கின்றோம் அதைப் போலவே மடாதிபதிகள் குற்றம்
செய்தால் அவைகளை சர்க்காருடைய மேற்பார்வையில் வைத்து சீர்திருத்த
வழி தேடினால் நன்றாக இருக்கும். சீர்திருத்தம் செய்வதென்றால் வர்ச
களை கண்டுபிடித்து அவர்களிடத்தில் பொருப்பை கொடுக்கவேண்டும்
யல்லாது ஒரேயடியாக நம் தலைமேல் சுமந்து கொள்வது என்பது சரி
இல்லை. இன்றைய தினம் நம்முன்னால் எவ்வளவோ வேலைகள் செய்ய
வேண்டியது இருக்கின்றது. மகாத்மா காந்தியடிகள் சொல்லிய வேலை
களை இன்னும் நாம் நிறைவேற்றவே இல்லை. கிராமங்களில் ஒரு வேலை

7th February 1949] [Sri N. Annamalai Pillai]

யும் யாரும் செய்வதேயில்லை. அங்கே யாரும் போவதாக இல்லை. எல்
லோரும் இங்கேயே இருந்துகொண்டிருக்கிறார்கள். அவர் இட்ட வேலைகளை
நாம் செய்வதற்கு நம்மால் முடியாமலிருக்கிறது. எங்கு பார்த்தாலும்
லஞ்சம் தாண்டவமாடுகிறது. இவைகளை போக்குவதற்கும் சீர்திருத்தம் செய்
வதற்கும் எவ்வளவோ வேலைகள் இருக்கும்போது அவைகளைச் செய்வதற்கு
நம்மால் முடியவில்லை. நாம் கட்டுப்பாடாக வேலை செய்யவேண்டும்.
எல்லாவற்றிலும் கை வைத்துவிட்டு குட்டையைக் குழப்பி பருந்திற்கிட்டது
போலாகாமல் பார்த்துக்கொள்ளவேண்டும். எந்த வேலைகள் அவசியமோ
அவைகளைத்தான் செய்யவேண்டும். இந்த மாதிரி சட்டங்களை இயற்றினால்
அடுத்த election-ல் இந்த அரசாங்கம் வெளியே போகும்படியாக ஏற்பட்டு
மற்றவர்கள் உள்ளே வரும்படியான நிலைமை ஏற்பட்டுவிடும். காங்கிரசிற்கு
பெரிய அபதீர்த்தி வந்துவிடும். காங்கிரசுக்கு இதுவரை நல்ல பெயர்
இருந்திருக்கிறது. அதற்காகவே 30 வருஷமாக நான் என்னுடைய வாழ்
நாளையே அர்ப்பணம் செய்து என்னுடைய வாழ்வையும் அர்ப்பணம்
செய்திருக்கிறேன். கனம் வைத்யனாதய்யர் கொண்டுவந்த திருத்தம் ஒரு
நியாயமான திருத்தம். அவருடைய கோறிக்கையை நிறைவேற்றும்படி
எல்லோரையும் கேட்டுக்கொள்ளுகிறேன். இதை circulation-க்கு
விடவேண்டுமென்று நான் கேட்டுக்கொள்ளுகின்றேன். அகில இந்திய
சட்ட சபையில் இதைப்பற்றி சட்டம் வரப்போகிறது. அதற்குள்ளாக இப்
பொழுது இந்த ட்டத்தை நிறைவேற்றினால் அது கொஞ்சமும் நியாயம்
அல்ல. நாம் இதைச் செய்வது மக்களுக்கு வஞ்சகமும் மோசமும்
செய்வதாகும்.”

MR. SPEAKER :—“ வஞ்சகம், மோசம் என்று சொல்லக்கூடாது.
அவைகள் இந்த ‘பில்’லில் இல்லை.”

Sri N. ANNAMALAI PILLAI :— மறைமுகமாக சட்டம்
செய்வது நியாயமல்ல. நான் ஏதாவது தப்பாக சொன்னால் அதை
புத்துக்கொள்ளுகிறேன். மேலும் இன்னொரு வார்த்தை சொல்ல விரும்பு
கிறேன். இந்த சட்டத்தை எதிர்த்து ஒருவர் உண்ணாவிரதம் இருக்கிறார்.
அவருக்காகவாவது இந்த சட்டத்தை நிறுத்திவிடலாம். ஆனால் அப்படி
நிறுத்தினால் சர்க்காருடைய மரியாதை குறைந்துவிடும் என்று நீனைக்க
லாம். கேவலம் ஒருவருடைய உண்ணாவிரதத்திற்காக சட்டத்தை நிறை
வேற்றாமல் விடுவதா என்று சிலர் சொல்லுகிறார்கள். காங்கிரஸ்காரர்களுக்கு
உண்ணாவிரதத்தில் நம்பிக்கை உண்டு. பிரிட்டிஷ் சர்க்கார் அரசாட்சி
நடத்திய காலத்தில் ஜேதந்திரதாஸ் என்பவர் ஒருவர் உண்ணாவிரதம்
இருந்தார். எதற்காக வயிற்றுக்கு உணவு கேட்டார். அரசியல் கைதி
கலை கேவலமாக நடத்தி வந்தார்கள். அதற்காக அவர் உண்ணாவிரதம்
இருந்தார் சர்க்கார் அவர் செத்தாலும் சாகட்டும் என்று சொல்லி
வந்தார்கள். அந்த கைதி 63 நாட்கள் உண்ணாவிரதம் இருந்து கடைசி
யில் மடிந்து போனார். அவர் மறைந்துபோன பிறகுதான் பிரிட்டிஷ் சர்க்
காருக்கு புத்தி வந்தது அந்த உண்ணாவிரதத்தை கங்கிரஸ்காரர்கள்
ஒத்துக்கொண்டார்கள். பிறகு அரசியல் கைதிகளுக்கு எ. பி. டி. என்று
மூன்று கிளாஸ் பிரித்துக் கொடுத்து சாப்பாடு போடார்கள் என்பது
எனக்கு ஞாபகம் இருக்கிறது அப்பொழுது நானும் ஜெயிலில் இருந்
தேன். ஆகையால் ஒருவர் உண்ணாவிரதம் இருந்து உயிர் துறந்தால்
நாம் ஊக்குதையாக இருக்கவேண்டும். காங்கிரஸ்காரர்கள் மெம்பரும்
பாடு பட்டவர்கள். உண்ணாவிரதத்தில் நம்பிக்கை வைத்திருந்தார்கள்
என்பதைச் சொல்ல விரும்புகிறேன். ஆகையால் அவர் உண்ணாவிரதம்
இருப்பதைச் சண்டை உலட்சியமாக இருந்துவிடக்கூடாது. பிரிட்டிஷ் அரண்
கம் அப்படி 63 நாட்கள் பட்டினி கிடக்க விட்டு அலட்சியமாக இருந்து அவர்
மடிந்துபோனதால் அவர்களுடைய அரசாட்சிக்கு அழுக்கு ஏற்பட்டுவிட்டது.
பிரிட்டிஷ் அரசாட்சியைப்போல நம்முடைய அரசாட்சிக்கும் கண்கூடம் ஏற்
படாமலிருக்கவேண்டும். காங்கிரஸ்காரர்கள் நியாயம் செய்வார்கள் நன்மை
செய்வார்கள் என்று நம்பியிருந்த ஜனங்களுக்கு நாம், நம்பிக்கை குறை
யும்படி காரியங்களைச் செய்துக்கூடாது. கனம் வைத்யனாதய்யர் போன்ற
பெரிய தேசபக்தர்களிடம் ஜனங்களுக்கு நம்பிக்கை உண்டு. அதற்காகவே

[Sri N. Annamalai Pillai]

[7th February 1949]

அவர் தங்களுடைய வாழ்நாட்களை அற்பணம் செய்திருக்கிறார். அவருடைய செவ்வைய புகழ்ந்து பேசுவதற்கு எனக்கு சக்தி கிடையாது (a voice இதுதான் சமயம்) என் நண்பர் கனம் கந்தசாமி அவரைப் புகழ்வதற்கு இதுதான் சமயம் என்று சொல்லுகிறார். இதுதான் சமயம் இல்லை. இன்னும் "எவ்வளவோ சமயங்களுக்குக்கின்றன. கோபுரத்தின்மீது ஏறியிருந்துக்கொண்டு சொல்லவேண்டும். அதை விட்டுவிட முடியாது. அவர் சட்டத்தில் ஆர்வம் படைத்தவர். எந்தக் காலத்திலும் காங்கிரசிற்கு உழைத்தவர். அவர் ரொம்பவும் தகுதி வாய்ந்தவர். உப்பு சத்யாகிரக காலத்தில் எல்லோரும் ஒடிப்போன காலத்தில் காங்கிரஸ் பெயரே மறைந்த காலத்தில் இவர் ஒருவர் முன்வந்து அந்த இயக்கத்தை நடத்தி உப்பு சத்யாகிரகத்திற்கு முதன் முதலில் நான் வருகிறேன் என்று பெயிசுவர். அவர்தான் என்பதை நான் இந்த சந்தர்ப்பத்தில் சொல்லிக்கொள்ள விரும்புகிறேன். அப்படிச் சொல்லிக்கொள்வதற்கும் பெருமை யடைகின்றேன்."

SRI P. KANDASWAMI PILLAI :—" Sir, on a point of order, I wish to know whether a member is entitled to use, during discussion, such words as 'sin' and other vulgar words? "

MR. SPEAKER :—" 'Sin' is not a vulgar word."

SRI N. ANNAMALAI PILLAI :—" கனம் கந்தசாமி பிள்ளை எனக்கு இங்கிலிஷ் தெரியாது என்று சொல்லுகிறார். நான் ஜெயிலில் இருந்த காலத்தில் கொஞ்சம் இங்கிலிஷ் கற்றுக்கொண்டிருக்கிறேன். அவர் சொல்வது என்ன என்பது எனக்குத் தெரியும். இந்த சந்தர்ப்பத்தில் மீ வைத்தியநாத அய்யரைப்பற்றி சொல்வதில் ஒரு தப்பும இல்லை. ஆகையால் தலைவர் அவர்களே நாம் இப்பொழுது அலட்சியமாக இருக்கக்கூடாது. காங்கிரஸ் தொண்டர்கள் பலமுறை சிறை சென்று பட்டினி கிடந்து காரியங்களை சாதித்துக்கொண்டிருக்கிறார்கள். ஒரு சந்திரன் நம்முன் பட்டினி கிடக்கின்றார் என்றால் நாம் அதை அலட்சியமாக விட்டு விடக்கூடாது. நாம் நம்முடைய தலைவரிடத்தில் மரியாதையாக இருந்து போல் பட்டினியாக கிடப்பவரிடம் நாம் கொஞ்சம் கவனத்தைச் செலுத்த வேண்டும். உங்களுக்கு நியாயம் செய்ய உரிமை உண்டு. மனிதனுக்கு தோன்றுவதை எங்கும் சொல்ல உரிமை உண்டு இப்பொழுது ஒரு தப்பான காரியத்தை செய்கிறார்கள். இந்திய சட்டசபை முடிவு செய்த பிறகு இதைப்பற்றி நாம் யோசிக்கலாம். Circulation க்கு விட்டு அதன் முடிவு தெரிந்தவுடன் இந்த பேச்சை எடுத்துக்கொள்ளலாம். ஆகையால் இதை circulation-க்கு விடவேண்டியது அவசியம் என்பதை நான் தெரி வித்துக்கொள்ளுகிறேன்."

"மற்றும் ஒரு வார்த்தை சொல்ல விரும்புகிறேன். நம்முடைய அரசாங்கமானது எப்பொழுது மத விஷயத்தில் தலையிடுகிறதோ அப்பொழுது அதற்கு ஆபத்தான நிலைமை ஏற்படும். ஆகையால் ஜாக்கிரதையாக இருக்க வேண்டும். பனகல் மந்திரி சபை காலத்தில் இந்த மாதிரி செய்ததால் அவருடைய கூட்டமே இல்லாமல் மறைந்துபோய்விட்டது. அதேபோல் காங்கிரஸ் சர்க்கார் இந்த சட்டத்தைக் கொண்டுவருகிறது. அதனால் என்ன கதி ஆகப்போகிறதோ தெரியவில்லை. ஆனால் நானும் காங்கிரஸ்காரன் தானே என்று சொல்லலாம். துரியோதனனிடம் விதர்ணன் ரொம்பவும் நியாயமாக நடந்து வந்தான். அவர்களை பாண்டவர்கள் அடித்தபோது எல்லோரும் சேர்ந்து அடிப்பட்டார்கள். எல்லோரையும் வெளியேற்றும் போது என்னையும் சேர்த்து வெளியேற்றிவிடுவார்கள் என்பது நிச்சயம் என்பது எனக்கு தெரியும். ஆகையால் பதராத காரியம் சிதராத என்பதுபோல் யோசித்து காரியத்தைச் செய்யவேண்டும். ஆராய்ந்து பார்த்த பிறகுதான் ஒரு காரியத்தை செய்யவேண்டும். ஆகையால் இந்த சட்டத்தை circulation-க்கு விடவேண்டுமென்று கேட்டுக்கொண்டு என்னுடைய வார்த்தையை முடித்துக் கொள்ளுகிறேன்."

*** SRI M. A. EASWARAN :—**" Mr. Speaker, Sir, in supporting the Bill moved by the Hon. Dr. Rajan, I want to say a few

கனம்

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[Sri M. A. Easwaran]

words on it. This Bill has been introduced just to manage better all temples and charitable endowments which are being mis-managed now. But somehow our friends, our educated friends, the supporters of Hindu religion, said that their fundamental rights have been taken away by the introduction of this Bill. What is the fundamental right that is being taken away in this Bill? The fundamental right to mismanage these endowments is taken away in this Bill. I know there are certain fundamental rights in religion. What are the fundamental rights in Hindu religion? Only 5 per cent of the people rule 95 per cent of the people! Is this a fundamental right? Of these 95 per cent of the people, one-sixth of them are Chandalaras and all other people are Sudhras. They have been exploited in the name of God and religion by these people who form 5 per cent of the population of this country. They have been kept illiterate. That is the kind of Hindu religion which has hitherto been going on in this country. Our Hon. Speaker would not have come to this position, had it not been for Mahatma Gandhi. It was he who lifted the Harijans to a better place. In Malabar, there is a backward community called 'Nayadis'. They could not move about in the streets and they have to keep themselves two furlongs away from public roads even when they beg for alms."

MR. SPEAKER :—" Let the hon. Member speak on the Bill."

*** SRI M. A. EASWARAN :—**" Yes, Sir, I am speaking only on the Hindu religion. I am just saying that the fundamental right of a citizen is not taken away in this Bill. Hindu religion is there. A Nambudri Brahman can marry any number of times from any family. That is a fundamental right. Till very recently in the Travancore State, Brahmans even though they had committed murder, could not be hanged. Is this a fundamental right? "

MR. SPEAKER :—" The hon. Member is still deviating from the Bill."

*** SRI M. A. EASWARAN :—**" Sir, I am not deviating from the Bill."

MR. SPEAKER :—" But I am afraid, if the hon. Member continues to speak in this manner, I will have to ask him to sit down."

*** SRI M. A. EASWARAN :—**" Last year the Hon. Speaker and myself had been to a temple in Kumarapalayam in the Salem district. Though that temple has got vast property, it is not managed properly. We had to wade through thorns scattered all over the temple before we could reach the precincts of the temple. Thus in spite of various endowments, these temples are not properly managed. That is why this Bill has been brought in to stop this kind of mismanagement. Therefore, I support the motion moved by Dr. Rajan."

[7th February 1949

SHIMATHI K. LAKSHMI AMMAL :—“ தலைவர் அவர்களே, இந்த ஹிந்துமத தர்ம பரிபாலன சட்டத்தை நான் ஆதரித்து சில வார்த்தைகளைச் சொல்லுகிறேன். ஹிந்து மத ஸ்தாபனங்களில் சர்க்கார் தலையிடக்கூடாது என்பதாகத்தான் இங்கே அதிகம் எதிர்ப்பு இருந்து வருகிறது. சர்க்கார் தலையிட்டு அந்த சொத்துக்களை பூராவும் எடுத்துக் கொண்டு நடத்தப்போவதாக இந்த சட்டத்தில் இல்லை என்பதை நாம் நன்றாக தெரிந்து கொள்ளவேண்டும். இப்பொழுது ஹிந்துமத பரிபாலன ஸ்தாபனங்களை நடத்துபவர்கள் சரியான முறையில் நடத்தாததால் அவைகளை சரியாக நடத்தவேண்டுமென்று அதில் தலையிடவேண்டுமென்றால் இப்பொழுது இருக்கும் சட்டத்தில் நமக்கு இடமில்லை. அதற்காகவேதான் இப்பொழுது இந்த சட்டத்தைக் கொண்டுவருவதன் நோக்கமாகும். இப்பொழுதுள்ளவர்கள்தான் அதை சரியானபடி நடத்தப்போகிறார்கள். அப்படி நடத்தாவிட்டால் அவர்களை நீக்கிவிட்டு அந்த இடத்தில் வேறு ஆட்களை நியமிக்கவே இந்த சட்டத்தைக் கொண்டுவருகிறார்கள். அது இல்லாமல் இதற்குமுன் பேசியவர்களில் சிலர் ஏதோ காங்கிரஸ்காரர்கள் எலெக்ஷனில் நாம் இதைச் சொல்லிவருவதில்லை, அதைச் சொல்லி வரவில்லை என்று காரணங்கள் சொல்லிவருகிறார்கள். அது ரொம்பவும் கேலிக் கூத்து இடமான விஷயமாகும். காங்கிரஸ் என்றால் பொது ஜனங்களுடைய பிரதிநிதிகள்தான். காங்கிரஸ் வேறு, பொதுஜனங்கள் வேறு அல்ல. பொதுஜனங்களுடைய நன்மைகளுக்காகவே காங்கிரஸ்காரர்கள் வேலை செய்வார்களென்று பொது ஜனங்களுக்கு நம்பிக்கை இருக்கிறது. ஒவ்வொரு விஷயத்தையும் நாம் எலெக்ஷனில் சொல்லிவந்தோமர் என்று சொல்ல முடியாது. இதற்குமுன்கூட சில முக்யமான சில சட்டங்களைக் கொண்டுவந்திருக்கிறோம். ஒவ்வொரு சட்டம் கொண்டுவரும்போது மாறுபட்ட அபிப்பிராயமுள்ள சிலர் அவைகளை எதிர்த்து வந்தார்கள். ஆனால் அவைகளைப் பொருட்படுத்தாமல் நிறைவேற்றினோம். ஆலயப் பிரவேசம் ஒரு உதாரணம். மதுவிலக்கு, ஜரீன் ஒழிப்பு முதலிய சட்டங்களை இயற்றினோம். அவைகளை இயற்றி பிற மாகாணங்களுக்கு வழிகாட்டியாக நாம் செய்ததுபோல் இந்த சட்டத்தையும் தைரியமாக நிறைவேற்றவேண்டுமாய் கேட்டுக்கொள்ளுகிறேன். இந்த மாதிரியாக நாம் சட்டங்களை இயற்றியபோது மத்தியில் இருக்கிற ஊழல்களை சீர்திருத்தம் செய்வதற்கு இதுமாதிரியான நன்மைகளைச் செய்கிறார்கள் என்று சொன்னால் அது நன்றாக இருக்கும். மத்தியின் பெயரால் எவ்வளவோ அக் கிரமங்கள் நடந்துவருகின்றன. அது எல்லோருக்கும் தெரிந்த விஷயம். அப்படி இருப்பது தெரிந்திருந்தம்கூட இதை ஆட்சேபிப்பது ரொம்பவும் ஆச்சரியப்படக்கூடிய விஷயமாக இருக்கிறது. சர்க்கார் ஹிந்து மதத்தை ஆதரிக்கவேண்டுமென்றால் இதை நாம் சரியான முறையில் செய்ய வேண்டியது நம்முடைய கடமை. இதுவரையில் அப்படி செய்யாமலிருந்ததால் மற்ற மதங்கள் நம்முடைய மதத்தில் தலையிடக்கூடிய நிலைமைக்கு வந்திருக்கிறது. ஹிந்துமத பரிபாலன சொத்துக்களை மட்டுமே ஏன் எடுக்க வேண்டுமென்று கேட்கப்படுகிறது. பிற மதங்களில் நடத்தும் ஸ்தாபனங்களில் இவ்வளவு ஊழல்கள் இல்லை என்பது தெரிந்துகொள்ளவேண்டிய விஷயம். முக்கியமாக கிருஸ்துவர்களை எடுத்துக்கொள்ளுங்கள். அவர்கள் கல்லியம் பரப்புதல் மூலமாக நம் நாட்டுக்கு எவ்வளவு நன்மைகளைச் செய்து வருகிறார்கள் என்பது எல்லோருக்கும் தெரிந்த விஷயம். இதை மீளாமல் காந்தியவர்களே பலமுறை பாராட்டி சந்தோஷப்பட்டிருக்கிறார். ஹிந்துமத ஸ்தாபனங்களின் சொத்துக்களைக்கொண்டு ஹிந்து மதத்திற்காகவோ அல்லது மதக் கல்விக்காகவோ இதுவரை ஏதாவது செய்திருக்கிறார்கள் என்பதை ஒருவரும் ஒப்புக்கொள்ளமுடியாது. இதைப் பற்றி உண்டு என்று யாரும் ருசுப்படுத்தினால் நன்றாக இருக்கும். என்னை ஊழல்களை, உடனடியாகக் கொடுக்க ஹிந்து மத ஸ்தாபனங்களின் சீர்திருத்த வேண்டும், அரசியல் நிர்ணய சபையில் ஜவாஹர்லால் நேரு அவர்களின் தீவிர பிரவேச எடுத்தக்காடப்படுகிறது. அதே 19 (1) பிரிவின்மீது வார்த்தைகளைச் சேர்த்து விடுவதற்குத் தயார் to மயில் கொண்டு நல்லது வாய் மலர் என்று கூறப்பட்டிருக்கிறது. இந்த அம்சத்தை நினைந்துகொள்ளுங்கள் மத ஸ்தாபனங்களுக்கு நீங்கள் கொடுத்ததுகளை நினைக்கும் உரிமை உண்டு. ஒன்றிருக்கும் ஆதித்ய மத ஸ்தாபனங்கள்

7th February 1949]

[Srimathi K. Lakshmi Ammal]

களில் இந்த அம்சம் இல்லை என்பதை எல்லோரும் ஒப்புக்கொள்வார்கள். எனவே இந்த மத ஸ்தாபனங்கள் தங்கள் செபத்தை நிர்வகிக்கும் உரிமையை இழந்துவிட்டன. மேலும் அதே சட்டத்தில் 19-வது ஷர்த்து இரண்டாவது உட்பிரிவில் மத விஷயங்களில் சர்க்கார் தலையிடும் உரிமையைப்பற்றி தெளிவாக எடுத்துக்கூறப்படுகிறது. மத சம்பந்தப்பட்ட எந்தப் பொருளாதார, அரசியல் அல்லது பண சம்பந்தப்பட்ட நடவடிக்கைகளிலும் சர்க்கார் தலையிட்டு ஒழுங்குபடுத்தி கட்டுப்பாடு செய்வதை இந்த பாகத்தின் எந்தப் பிரிவும் பாதிக்காது என்று கூறப்படுகிறது. அதற்கு அடுத்தபடியாகவே சமுதாய நன்மைக்காகவும், சமூக சீர்திருத்தத்திற்காகவும் சர்க்கார் எந்த சட்டம் செய்வதையும், இந்த உரிமை பாதிக்காது என்று தெளிவாகக் கூறப்பட்டுக்கிறது. எனவே நம் சர்க்காருக்கு இந்த புதுச் சட்டம் செய்வதற்கு முழு உரிமையும் சட்டமும் இருக்கிறது.

“ சர்க்கார் ஹிந்து மத ஸ்தாபனங்களில் தலையிடுவது இதுதான் புதிது என்று நினைத்துக்கொண்டிருக்கிறார்கள். புதிதல்ல. **Madras Regulation 7 of 1817** என்ற சட்டத்திலேயே நிர்வாகத்தின்மீது கடுமையான கண்காணிப்பு செலுத்தவேண்டுமென்று கொள்கை ஒப்புக்கொள்ளப்பட்டிருக்கிறது. இது 1840 வருடம்வரை அமுலிலிருந்தது. சர்க்கார் உத்தியோகஸ்தர்கள் அந்த காலத்தில் ஹிந்து கோவில்களின்மீது திறமையான மேற்பார்வை செலுத்திவந்தார்கள். இப்பொழுது ஒரு சிறு கூட்டத்தார் செய்யும் கிளர்ச்சி போலவே அக்காலத்திலும் செய்ததின் பயனாக அப்போதிருந்த அந்நிய அரசாங்கம் இந்தக் கட்டுப்பாடுகளை கைவிட்டனர். அதன் விளைவுதான் இன்று கேழ்வி கேட்பாரற்று நாட்டுமாம் பரவிக்கிடக்கும் ஊழல்கள் நிறைந்த மடங்களும், ஹிந்து மத ஸ்தாபனங்களும் ஆகும். எனவே நாம் சிலநூடைய எதிர்ப்புக்கு பயந்து அவசியமான் சீர்திருத்தத்தை இந்த சமயத்தில் செய்யாது விட்டுவிட்டால் இந்த ஊழல்கள் நீடித்து நடப்பதற்கு நாமும் அனுகூலமாக இருக்கிறோம் என்றே பொருள்படும். எனவே ஊழல்களை உடனடியாகப் போக்கி ஹிந்து மத ஸ்தாபனங்களை சீர்திருத்துவது உடனடியாக செய்யவேண்டிய வேலையாகும்.

“அடுத்தபடியாக சட்டத்திலுள்ள சில குறைபாடுகளைக் காட்டி, சிலர் சட்டத்தையே எதிர்க்கிறார்கள். சட்டத்திலுள்ள சில குறைகளை நீக்குவதில் கஷ்டமல்ல. குறிப்பிட்ட சில பிரிவுகளை திருத்தப் பிரேரேபணைகள் மூலம் சரிப்படுத்திக்கொள்ளலாம். சர்க்கார் உத்தியோகஸ்தர்களுடன் ஊழல்களில் லஞ்ச ஊழலும் இருக்கிறது. இந்த மாதிரியான ஊழல்களிருக்கும்போது கோவில்களையும், ஹிந்துமத ஸ்தாபனங்களையும் சர்க்கார் உத்தியோகஸ்தர்களின் தயவின்மீது ஏன் விடவேண்டுமென்று கேட்கிறார்கள். இந்த லஞ்சமும், blackmarket-ம் சர்க்கார் உத்தியோகஸ்தர்களில் மாறாததன் காரணமாக இருக்கிறது என்று எண்ணுவது மிகவும் ஆச்சரியமாக இருக்கிறது. வியாபாரிகளிடத்திலும் நடந்துகொண்டிருக்கிறது. அவைகளைப் போக்குவதற்குப் பிரயாசைப்பட்டுக்கொண்டிருக்கிறார்கள். இவ்விதம் பூதலென்று நியாய மெண்டைப்பற்றியும் நாம் புறாரி கொண்கொண்டேயேயிருந்து சர்க்கார் ஒன்றையுமே நடத்துவதற்கு சர்க்காரையே விட்டுவிடவேண்டும். இவ்வகளை யெல்லாம் போக்குவதற்கு வழி காட்டவேண்டுமே யல்லாமல் பேசிக் கொண்டு போனால் தற் காரியமும் செய்ய முடியாது. ஆகையால் இந்த சட்டத்தை எல்லென்றும் மனப்பூர்வமாக ஆதரிக்கவேண்டுமென்று கேட்டுக் கொள்ளுகிறேன்.”

இன்னொரு முக்யமான விஷயத்தைப்பற்றி சொல்ல விரும்புகிறேன். அனைத்துப் பற்றி சொல்லவேண்டாமென்றிருந்தேன். ஆனால் என்னுடைய தகப்புரை போலுள்ள கனம் அண்ணாமல் பிள்ளை அவர்கள் சொன்னதால் அனைப்பற்றி நானும் சொல்லவேண்டுமென்று நினைக்கிறேன். இதைச் சுட்டினால் நான் தரக் கூடாது. முன்னால் உண்ணாவிரதம் இருக்கும் சவுரமுனிசுவாமி பூசித்தேன். அவர் ஒரு ஆழ்காத வராநாயக வகுத்தாமலிருக்கிறார், அவர் நன்றாகத்தானிருக்கிறார். அதி மாத்திரத்தில் அதன் எவ்விதமோ பறம் தொன்பர் எழுந்தி காண்பிறந்துகி விட்டார்கள் என்பதுடன், ரொம்பவும் காண்பிறந்துகி உண்மையில்

[Srimathi K. Lakshmi Ammal] [7th February 1949]

என்றும் சொன்னார். நான் அவரிடம் பேசிக்கொண்டிருந்தபோது இந்த காங்கிரஸ் வாழும் என்று கேட்டார். நான் அதற்கு நீங்கள் இந்த காங்கிரசினுட்தான் இப்பொழுது சுதந்திரமடைந்து இந்த கொட்டைக்கு முன்பாகவே ஒரு ஓலை குடிசை போட்டுக்கொண்டிருக்க முடிகிறது என்று சொன்னேன். சும்மா பயம் காட்டி உண்ணாவிரதம் இருந்து இந்த சட்டத்தை நிறுத்திவிடுவேன் என்று சொன்னால் அது முடியாத காரியம். அவர் தண்ணீரை குடிப்பது இல்லை என்று சொல்லுகிறார். அது ஆண்டவனுக்கத்தான் தெரியும். தண்ணீர் குடிக்காமலேயே 13 நாட்கள் இருக்க முடியுமா என்பதை யோசனைசெய்து பார்க்கவேண்டும். அது ரொம்பவும் சிரமமான காரியம். தண்ணீர் குடித்தால் நல்ல உயிர் 40 நாள் என்று சொல்வார்கள். அப்படி இவர் இருப்பதாகத் தெரியவில்லை. அந்த சுவாமிஜிக்கு அவ்வளவு சக்தியிருந்தால் எல்லாவற்றையும் மாற்றிவிடலாம். உண்ணாவிரதமிருந்து ஒரு நன்மையையும் செய்ய முடியாது. இந்த உண்ணாவிரதத்திற்காக நாம் சட்டத்தை நிறைவேற்றும் விட்டு விடுவது என்பது முடியாத காரியம். ஆகையால் எல்லா அங்கத்தினர்களும் இந்த சட்டத்தை ஆதரிக்கவேண்டுமென்று கேட்டுக்கொண்டு இத்தான் நான் முடித்துக்கொள்ளுகிறேன்.”

* **SEEMATHI V. SEETHALAKSHMAMMA:**—“అధ్యక్షా, డాక్టరు రాజ్ గారు తీసుకొనివచ్చిన ట్యూబుంటి పొందు దేవాదాయ, ధర్మాదాయ వట్ట ప్రకరణ విల్లుకు నేను బలపరిచుచున్నాను.

“ మన పూర్వులు ఇదిపర్లలో తమ ముందు తరములవారికి నొందు నుతమున నేమో, నొందునుతముయొక్క ఉత్పన్నత విశా, దాని ఆశర్మములే మో తెలుసుకొనుటకుగాను, పెద్దలయొక్క, గొప్పవారియొక్క శిక్షాగ, శిలాదిగుణాలను గ్రహించుటకుగాను, ఈ దేవాలయములను, నుతములను స్థాపించియున్నారు. ఇంతేకాకుండా ఈ భర్తసంస్థల సక్రమముగా నిర్వహించుటచేయుటకుగాను వాటికి తగినంత ఆదాయమును ఇచ్చేటటువంటి ఈనాములు మొదలైనటువంటి వాటిని ఏర్పాటు చేసినారు. మన పూర్వులయొక్క అభిప్రాయములలో ఈ భరి, సంస్థలన్నియు సక్రమముగా నిర్వహించబడతానని, వాటి శ్రేష్టతలు, మతాధికములు హంపవతుల వ్యాప్తికి వాటుబడవలెనని, నొందు నుతముయొక్క ఉత్పన్నత ఆశర్మాలను ప్రజలకు జూపించి, వాటిలో ప్రజాభివృద్ధి కలుగజేయవలెనని మృతమేకాని నేరుకాదు. కాని ఇప్పటికి కొంతకాలమునుంచి కొంతమంది మతాధికములు, భర్తశ్రేష్టలు, తమకు వచ్చుచున్న ఆదాయములను దుర్వినియోగము చేయుచుటువంటి సంగతి మనకందరము తెలిసినది. ఇందుచేత ప్రజలలో చాలా అసంతృప్తి వర్ధిల్లి ఉన్నది. ప్రజాభిప్రాయాన్ని గురించి 1922 వ సంవత్సరములో ఉత్పన్నమునంటి Justice Party వారు ఒక బిల్లును దాని చేశారు. తరువాత 1927 వ సంవత్సరములో Religious Endowments Board అనేటటువంటి వేదికో ఒక సంస్థను ఏర్పాటుచేసి, ఈ సంస్థద్వారా ఈ దేవాలాయ, భారతదాయములను సక్రమంగా నిర్వహించుటకు కొన్ని ఏర్పాటులుచేశారు. కాని ఈ Board వారికి ఇచ్చినటువంటి అధికారములు ఈ భారతదాయ, దేవాలాయములలోని అనివీరిన ప్రాధికారాలింక పూర్తిగా తొలగించటానికి అనుకూలము కలిగియుండలేదు. కాబట్టి ఇటువంటి వాటిని పూర్తిగా తొలగించుటకుగాను, ఈ దేశమన మన కాంగ్రెస్ గవర్నమెంటువారు ఇటువంటి తక్కువ బిల్లును తీసుకొని రావడము చాలా సంతోషించవలసినటువంటి విషయము. ఇంతకుముందు కొంతమంది గౌరవనీయులు (ప్రెజ్డెన్సీ న్యాయాధికారులు) తెచ్చినటువంటి సవరణలు బలపరుచుచు ప్రభుత్వమునకు మత విషయములలో భారతము కలుగజేసుకోవలసినది తెలియజేసినారు. ఈ భర్తదాయములలో నేను వివరించలేదు. మరలను నేను అప్పటి ప్రజలునుతమ ప్రతిభలను అనుమతించి ఇచ్చినంతకొంతకాలానికి ప్రాధికార నిర్వహణకేను అనుమతి తెలియజేసినాను. నేను భారతదాయములలో భారతమునకు భయముకొంది. కాబట్టి ఈ దేవాలాదివిషయములను

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ధర్మాధాయాలను సక్రమముగా వినియోగించేటట్లు చూచేవాడ్యత ప్రభుత్వమువారి మీద ఉన్నదని తుపవిచేయబడ్డారు. ఇందువలననే నేను ఈ బిల్లును support చేస్తున్నాను. ఈ విషయములన్నింటిని ప్రభుత్వమువారు గుర్తించి తన ఛార్జీకులు పి. కార్పొరేటర్ ఈ ధర్మ సంస్థలను విరూపించేవారో ఆ ధర్మాలకొరకే ఈ ఆదాయాలను వినియోగపరచి వృద్ధులే ఈ సంస్థలు సక్రమంగా నడుస్తాయని, హిందూమతము అభివృద్ధి చెందుతుందని మనవిచేస్తున్నాను, అదేకాక గౌరవ సభ్యుడు అన్నామరై పిల్ల ఈ బిల్లు పెట్టినందువల్ల నానీకము రాష్ట్రములో వచ్చునన్నారు. అలా కాదు, ఈ బిల్లు పెట్టకపోయిన సంస్థలు క్షీణించి రాష్ట్రములో నానీకమువచ్చుటకు అవకాశము ఉన్నది. అందువల్ల కొంత ఖండి గౌరవసభ్యులు ఈ బిల్లుకు ప్రజాభిప్రాయము అనుకూలముగా లేదని, కాబట్టి ప్రజాభిప్రాయాన్ని పూర్తిగా తెలుసుకోటానికిగాను ఈ బిల్లును కోంతకాలము ఆస వరకని అంటున్నారు. నా అభిప్రాయములో ప్రజాభిప్రాయము ఈ సభలోని గౌరవ సభ్యుల అభిప్రాయముకు వ్యతిరేకముగా ఉండదు. మనమందరము ప్రజల ప్రతి నిధులము. ప్రజాభిప్రాయమునే గుర్తించే ఈ బిల్లును నేను బలపరుచుచున్నాను. ముఖ్యంగా మా ఆర్థిక దేశములో ఈ బిల్లుకు వ్యతిరేకాభిప్రాయము లేదని నేను మనవిచేస్తున్నాను.

“ఈ రోజున మేము ఇక్కడ ఉపవాసము చేయుచున్న స్వాముల వారిని చూచి నాము. వారు గత 14, 15 రోజులనుంచి జలంసుండా లీనుకొంటుంటేవని ఆక్కడ ఉన్న వారు చెప్పారు. వారు జలమైన లీనుకొంటున్నారో లేదో నాకు తెలియదు. కాని అయ్యనడుట్టుకు చాలా దృఢముగా ఉన్నారు. అందువల్ల ఇటువంటి వారి ప్రాయోగ వేతాలకు భయపడి, యీ బిల్లును ఆలశ్యముచేయవలసిన అభిప్రాయములేదు. ఈ బిల్లు విషయంలో ప్రజాభిప్రాయము పూర్తిగా ప్రభుత్వమువారిని జలపరమమన్నదని మనవి చేస్తున్నాను. ఈ సంస్థలన్నింటిని ప్రభుత్వమువారు స్వాధీనము చేసుకొని వాటిని సక్రమముగా నిర్వహించి మిగులు ఆదాయముతో అనాదులైన కంటివాళ్లకు, గుడ్డివాళ్లకు కరణాలయాల కిట్టించి వాళ్లకు జీవనోపాధి వగైరా ఈ సంస్థలద్వారా కలుగజేసి ఆభ్యాధిృక్ ప్రజాభిధము చేయించిన సంస్థలయొక్క భుజయోగము అదర్శము ఆధివృద్ధి పొందును, కాబట్టి ఈ బిల్లును వెంటనే Select Committee వారిచేత పరిశీలించి తొందరగా చదువుచేయించవలసినదిగా ప్రభుత్వమువారిని కోరుచున్నాను.”

* SRI A. KAMESWARA RAO:—“ Mr. Speaker, I wholeheartedly support the Bill because in my opinion it is the only piece of legislation which comes at the proper time and has been brought in by proper people. If we do not take courage in our hands now and pass this legislation people will become dead against us. If you go to the country side you will see hundreds and thousands of acres of lands occupied by mutts and temples, are all mismanaged. Generally the mutts are the last resort of scoundrels and rogues and many of those who are socially and morally fallen, immediately change their clothes take to kashaya and become sanyasins.”

SRI V. RAGHAVAYYA:—"On a point of order. If the speaker had mentioned any person in particular, I would have no objection but the speaker says that most fallen people usually change their dress into kashaya dress and become sanyasins."

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MR. SPEAKER:—"He is simply giving expression to his own impression of sanyasins, about people becoming sanyasins. He never said that all people wearing kashaya were rogues and he only said some fallen men and rogues had become sanyasins."

* SRI A. KAMESWARA RAO:—"The cultivators working on the lands get nothing out of them and these people usurp the produce. Further, Sir, when we have passed a measure of land reform like the Zamindari Bill, it is necessary that we should pass a legislation of this nature because thousands of acres of lands are in the hands of mutts where a class of parasites are fed but they do nothing and batten in the name of God. Is anything objectionable aimed at by the Bill? No. If I were put in charge of the portfolio, I will sweep off all these mutts and I will remove those Gods in whose name you are cheating the public and a class of parasites is growing."

SRI A. VAIDYANATHA AYYAR:—"Mr. Speaker, we are now dealing with legislation regarding madathipathis as well as temples. Can it be said on the floor of the House, 'I will sweep away the Gods.' To call madathipathis as scoundrels, is it proper and is it consistent with the dignity of the House?"

MR. SPEAKER:—"The hon. Member I believe said he would do it if he had the power; he has perhaps lost sight of these words."

SRI A. VAIDYANATHA AYYAR:—"That is only with reference to his capacity to do it; but, Sir, is it proper for him to say that he will do such a thing on the floor of the House?"

MR. SPEAKER:—"There is nothing wrong in saying like that."

* SRI A. KAMESWARA RAO:—"I would surely do that because it is in the name of God that all these things are going on. To me, Sir, what is good is God and what is truth is God 'Aham Brahmosmi.' I am myself God and what Mahatmaji said is God and it is not as if these things should be perpetuated in the name of God. What is aimed at is the proper and just management of the temples. We are not proposing to confiscate the lands of the mutts and temples; we are not trying to abolish the mutts or religious institutions. We are only appointing managers and executive officers to see that money is properly spent. You see the difference in the management of the affairs of the Tirupati temple. Now schools are built and money is utilized for the betterment and development of the people. Regarding the fast that is going on outside, can anyone put his hand on his heart, and say that the fast is not a bogus one? I know that particular person who is fasting there and also know what he is."

MR. SPEAKER:—"Let the hon. Member not refer to it."

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SRI V. RAGHAVAYYA:—"Is it proper to attack a person like that and is it decent to utter such words as: 'I know the person and I know what he is'?"

MR. SPEAKER:—"It is not unparliamentary. That much I can say but regarding the question whether it is decent, it is left to the speaker himself."

* SRI A. KAMESWARA RAO:—"I know parliamentary practice better than my hon. Friend, Mr. Raghavayya. I am saying with all the feelings that I have about it. There is another man who is also fasting who has lost some Rs. 80,000 in some contract business with the Government and why do not you show the same sympathy towards him also?" (Cheers from the galleries.)

MR. SPEAKER:—"Somebody in the galleries is clapping his hands; if he repeats it, I will have to clear the galleries."

SRI A. KAMESWARA RAO:—"When the people's Government is in power if time and again some Tom, Dick or Harry goes on fasting and misusing satyagraha, just like the R.S.S. people, we cannot govern the country, we must have courage to govern with an iron hand for otherwise you will not be worthy of the trust reposed in you by the people who have returned you to power. When you appoint people to manage these things, we must try to select the best men. My hon. Friend, Mr. Vaidyanatha Ayyar, was saying that there might be nepotism, corruption and therefore do not appoint people for this purpose. I say, Sir, when you have to govern, you have to appoint people but in appointing people you must see that good people are appointed and if the persons whom you appoint are bad, you must remove them at any moment. In the name of the people's government, you must come to the rescue of the toiling millions on those lands which are mismanaged; otherwise you will be doing great injustice to the people themselves. I am surprised that in this progressive legislature—it is not the legislature of the days of British imperialism—there are people who support the mutts. If there is mismanagement, they will see our hand but if the things are managed quite nicely, like the properties of the Ramana Maharishi Ashramam, we will have to do nothing but supervise things from the outside. I do not see the reason why there should be any objection to this progressive legislation."

"It being four o'clock, I will continue my speech to-morrow, Sir."

THE MADRAS LEGISLATIVE ASSEMBLY.

Tuesday, the 8th February 1949.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVA-SHANMUKHAM PILLAI) in the Chair.

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THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS BILL, 1949—cont.

SRI A. KAMESWARA RAO:—" Mr. Speaker, Sir, yesterday I was referring to the fact that this is a progressive legislation for which there should be no objection from any quarter.

" Now, Sir, I should like to read a sentence from the Statement of Objects and Reasons to this Bill, which says, that power has been taken to extend the provisions of the Bill and the rules made under it with suitable modifications to any public charitable institution over which it may be found necessary to assume control. Sir, in my view, this is a very moderate Bill brought in by our pious and saintly Premier, the Hon. Sri O. P. Ramaswami Reddiar. I have gone through the whole of this Bill and I found nothing objectionable to raise a hue and cry in the country. It is only the interested parties who are affected by this Bill, probably the trustees and the management of the mutts and charitable

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endowments who are actually enjoying the fruits of those endowments, that are against this legislation and nobody else. Of course, some people are trying to make political capital out of this legislation and they instigate people to go on fast and write things against the Government. I think, Sir, that the Government is quite right in bringing forward this legislation, which is, as I said, a moderate one. They should have gone a little further and have liberated all the lands belonging to these mutts, and handed them over to the actual cultivators of the soil and given them pattas, and used the revenues collected from those lands for these charitable purposes. Such a bold step, such a revolutionary step, I do not find in this Bill. In spite of this Bill being a very moderate one, there is still opposition to it and I am only sorry for it.

"Then, Sir, as regards some of the provisions of this Bill, especially the clauses relating to the service inams, there is no mention about the Archakas, who have really kept up the temple in a good state, and who have been there doing service for years together. Provision has been made only for Devadasis whose inams will be enfranchised by the imposition of quit-rent. As regards Archakas who have been hereditary holders of the post, they are going to be displaced and no provision has been made for them. Some sort of compensation or some sort of right must be conceded for the Archakas in this Bill.

"Then Sir, as regards the abolition of the existing Boards and re-constituting them, I think that there must be some provision in this Bill to absorb those people who have put in a number of years of service, and all of them should not be discharged peremptorily. I hope that the Hon. Minister in charge of this Bill will see that none of the present office-holders is sent out or victimized without proper reasons. There are very intelligent and very upright persons who have been working in the present Religious Endowments Board, as Commissioner or as President or in any other capacity and they should also be absorbed in the future set-up.

"Sir, it is needless for me to quote many of the instances of mismanagement and corruption that is going on in these religious and charitable endowments. I know, for instance, that in Sattana-palli taluk, a man died, endowing about a hundred acres of land to a charitable institution, but after his death, the lands fell into the hands of some relatives and they are eating away that property and the purpose for which that property was endowed has not been carried out, and the endowment is almost decaying."

MR. SPEAKER:—"Let the hon. Member confine his remarks now to the general principles of the Bill. When we take up the clauses in detail at the second reading, he can go into all these details."

SRI A. KAMESWARA RAO:—"Sir, when speaking of these mutts, a painful incident comes to my mind. I remember, when

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I was just out of the jail in 1921 after one year's incarceration, and my family was going through poverty, Sri Sankaracharya came to my village. My father who had then given up his Government service and all my brothers who had also given up their employments and suffering under poverty, were asked to contribute a sum of Rs. 101 to the Acharya, in the name of God, and in the name of the mutt. We could not resist the compulsion and we had to mortgage the last utensils to pay that contribution of Rs. 101. I therefore submit, Sir, that no mercy and no quarter should be shown to these mutts. They have lost all the human sympathy and fellow-feeling in them. They are simply grabbing whatever money they could get at from their disciples by way of Pathakanikas and Sambavanas. All these things should be stopped immediately. This Bill is aiming at the control of such mutts, which have plenty of lands and money, which are being wasted.

"Sir, I should like to see that after this Bill becomes law, all these cultivable lands are taken over from these religious and charitable endowments and brought under a system of collective farming by the State. The poor agricultural labourers who are now working on these lands should be given the patta. Such funds that you get as land revenue from these lands should be utilized for the maintenance of those institutions and a portion of it may be utilized for the general good of the public, for example, on some educational or health purposes.

"Sir, it is rather too late now when we introduce a Bill like this in our country. Look at some of the progressive countries of the world and see how the Government of those countries have taken over the administration of the charitable endowments into their own hands by passing legislations of this sort quite a long time ago. It is, in my opinion, merely foolishness and ignorance to oppose a good measure like this."

MR. SPEAKER:—"The hon. Member should withdraw the words 'foolishness and ignorance' unconditionally, because every Member has a right to oppose the Bill in the House."

SRI A. KAMESWARA RAO:—"I withdraw those words, Sir. I say, Sir, that it is not proper for some of the Members to oppose this Bill, which is a very beneficial measure. It is not proper for persons to oppose this Bill, which is full of beneficial provisions and which is aiming at the very rectification of the evils that are persisted in in these mutts and charitable institutions. I see no other thing in the opposition to this Bill than the making of political capital out of this and bringing the Government of the day into discredit. One of the arguments put forward by the people who are trying to oppose is this. Wait till the next elections take place and see who comes into power. I warn you, Sir."

MR. SPEAKER:—"You warn me?"

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SRI A. KAMESWARA RAO:—"I warn the people who are opposing the Bill, Sir. I would like to say that the next elections or the future elections that might come will only bring more progressive elements into this House. Certainly you cannot say who will come. They would say 'how can you tolerate such a legislation which gives a free hand to exploit the poor and unhappy toilers?' So the slogan 'wait till the next elections' will only go against those who are opposing the legislation. As regards the coercive methods that are being used in order to coerce . . ."

MR. SPEAKER:—"Member after member has referred to the coercive method. The hon. Member is repeating the same thing about the fast, etc. Let not the hon. Member repeat them again."

SRI A. KAMESWARA RAO:—"I only say, Sir, that if really people have understood these measures, they would come in large numbers and demonstrate against such methods. It is already happening in this City and there has been a popular protest against such fasts and to a great extent the people are proving that they are behind the Government in this legislation. I, Sir, would only like to conclude my speech with an appeal to the Hon. Minister that he should see that the poor archakas who are about 4 lakhs are taken into consideration and their rights are preserved, especially in the Andhra districts where they are not paid servants, but are people who are enjoying inams. They should be shown some concession because they are the poorest of the lot and they are people who have kept the Gods in spite of so many invasions by the Muhammadans and others. I appeal to the Hon. Minister to see that nobody is affected by the abolition of this Board and all those servants who are there are reappointed and absorbed in the department. With these words, Sir, I support the legislation and I congratulate the Government."

* **SRI K. BHASHYAM:**—"Mr. Speaker, Sir, the motion before the House is to introduce the Bill and refer it to the Select Committee. And there is an amendment to the motion that the Bill should be published for public criticism. The question now for consideration is whether we ought to take the Bill at once or it should be taken a little later. That is the main question that has to be discussed on the floor of the House. But we are really transcending that point and going into the question as to who is really responsible for the wrong or the misdeed, whether it is the mutts or the matathipathis or even the temple trustees. When we say that the Bill should at least be referred for public opinion, it does not mean that we are opposed to any reform in the matter of the management of the temples or the mutts or any of the charities. There is still the idea that this thing is done in real haste and that this should be really published for the purpose of eliciting opinion. Let there be no mistaken impression about what we say. The real

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matter is whether this Bill was really published for public criticism. One point was made by the Hon. Minister, Sir, when he said that in September 1947 they had already published the Bill and for sixteen months now it has been before the public and if there was any criticism to be made it ought to have been made and when there is no criticism it can be taken that there is no criticism at all. That is one of the points that was made by the Hon. Minister and I say that it is thoroughly and wholly based on a misconception. We know that when this Government publish their Bills they do not take it for months together because they are not serious about them. So, they put them on and withdraw them also. If they published this Bill in September 1947 it does not mean that they were so serious about it. It is only when it is placed before the Congress Legislature Party and they give a mandate that the Bill might be pushed through in the Legislature, it can be said that the Government are serious about the Bill. So far as this Bill is concerned it was only the other day that it was considered in the party and they came to a certain conclusion on the matter. Therefore I respectfully submit that it is not correct to say that the people have not sent in their opposition before the Legislature. Congress Party has really said that this Bill may be introduced in the House. Therefore that argument that there have been sixteen months for the purpose of opposition is really without any foundation and cannot be taken as of any value or worth.

"In September 1947 a Bill was published. But, is this the same Bill that was published then? This Bill was published only a fortnight or 10 days ago. Though in the main it is the same Bill there are certain differences between the Bill published in September 1947 and this one that is now before us, especially in the case of the question of the abolition of the Board altogether. If I remember aright the proposal in the old Bill was that the Board and its Members and all the staff should be provincialized and put on a provincial line. Now there is the important proposition that the whole Board must go and all the persons who are really there must be sent away. I do not know what is to become of these persons. Therefore it is not correct to say that this Bill has been before the public in its present form for sixteen months or so."

"Another thing which I want to point out is this. It is said that there is no opposition and therefore 'let me go on with the Bill.' I ask the Government whether they have brought in this Bill because the public have demanded it. They only say: 'We introduce this Bill because there is no opposition. Therefore let us go on.' Sir, if at all any change is to be made in any law of the land, it must be on the demand made by the public in respect of the change. But that process has been reversed here. They seem to say: 'We think, sitting in the Secretariat here, that a change is necessary. We have put a Bill before you. Because there is no opposition we are entitled to carry on.' Is that the correct view to take on the principles of legislation? It is not so."

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"Sir, reference has been made to the Regulation of 1817 for the purpose of safeguarding all the religious and charitable endowments. I know that in ancient times when a trustee was found guilty of offences against the temple and its property, he was burnt alive. That was the injunction. What did the Government do under the Regulation of 1817? They said—

'It shall be the duty of the Board of Revenue to take such measures as may be necessary to ensure that all endowments made for the maintenance of establishments of the description above mentioned are duly appropriated to the purpose for which they were destined by Government or the individuals by whom such endowments were made.'

They only said that 'the superintendence of all endowments in land or money granted for the support of mosques, Hindu temples or colleges, is hereby vested in the Board of Revenue'. They did not interfere in the internal management. They made a law which is applicable to all religions. You cannot tell a section of the people 'we will hit you in the first instance; you are guilty of offences.' It is not as if other people are angels and Hindus alone are sinners. That is hardly fair. You say when it is a question of endowments of other religions, there will be difficulty. You say 'I will await public opinion; I will circulate the Bill; I will publish it, and place it before the people.' But when it comes to Hindu endowments, you say, 'No, I must take it up at once.' Why this urgency, Sir? Why is this hurry when matters are really in the hands of your own Commissioners who are managing 22,000 temples and 300 mutts? The persons who are there are all appointed by your own Commissioners. If there is anything wrong in these temples, it is the Board that is to blame. How can the persons in charge of the mutts and temples be blamed? To blame the mutts and charitable endowments for mismanagement, is hardly fair. Therefore, I respectfully submit that the Government must submit this Bill to public opinion.

"Sir, this Bill is a very ambitious one. True there have been cases of mismanagement. True there has been some dereliction of duty on the part of some mutts and temples. For the fault of a few persons, to label all persons in charge of temples and religious endowments as persons who have been eating the Trust money, is hardly fair. There have been breaches of trust in some cases. I ask, Sir, are the Government so powerful as to put all things right? Are there not breaches of trust, embezzlement and misappropriation of public money? What do you do in those cases? You only punish the individuals. Government do certainly take care to see that things are put right. It is a fact that there have been breaches of trust funds and the funds of religious endowments. Say, that you want to exercise control over these endowments and trusts. That is the way to administer them properly and not by taking over their administration by Government themselves. You expose yourself to suspicion or even accusation that your servants are going to be put in charge of these

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endowments. There is corruption and embezzlement of public money everywhere. We are unable to drive out corruption. We are unable to put public servants on a proper footing. Why then should you take more and more work and expose yourself to the accusation that your servants are going to be put in charge of these institutions? Is there no competent person to manage these endowments properly? I know there is a saint at the top and there are satellites sitting around him. If these institutions are left in their own hands, they would look after them. But you are appointing officers and managers to 22,000 temples and 300 mutts. Are you going to manage these institutions properly? Past experience has shown that Government management is not so good. It is not even better than the management by the Board.

"It has been pointed out that these institutions are well managed in the Mysore State. There are two factors there. One is that these institutions have been handed down from generation to generation. It has been a tradition there. The persons at the top are Hindus who are known for their faith in temples. They are pious people and they believe in rites and rituals. But what are the persons whom the Government here are going to appoint? You are not going to give them any training in religious matters. You are not going to teach them what rituals are. It is said that persons must be well-versed in *Agamas*. How are you to get these persons? It will come to a question of a cadre of service, just like the cadre of Collectors, and persons will be pushed up from behind whether they are qualified or not for the post. You are not going to do better than what the Board has done. When Government take over the management, there will be an Ecclesiastical Department, and persons will be appointed to the posts whether or not they know anything of religion or mutts. It is so hopelessly a difficult matter for the Government to take up this work. It is said that there is need to deal with religion, because people are not pious. But I want to ask whether by passing this Bill we are going to make them better? It is said that Communism is spreading and irreligion is rampant. Sir, you believe in God and you believe in ceremonies. To-morrow who are going to be in power, we cannot say. Is it safe to entrust the working of these mutts and temples in the hands of Government? I respectfully submit that this Bill is wholly atrocious. This Bill is a very ambitious one. It seeks to take powers not only in respect of temples but also mutts and charitable endowments, private and public. How many charitable institutions are there? How many schools are run by charitable endowments? How many *thannirpandals* which are instituted by private men are to be taken over and managed by Government? How many officers the Government should have? Sir, sub-clause (11) of Clause 5 says—

'religious charity' means a charity associated with a Hindu festival, observance or occasion of a religious character, whether it be connected with a math or temple or not.

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For instance, I leave a certain amount of money to my daughter so that on the Deepavali day she may distribute cloths to the poor. It is a Hindu festival. According to this sub-clause you may say 'I will manage this endowment myself, and I will put a man to manage it'. I ask, Sir, is that what is intended? If you are to take over religious charities like these, how many men you should have to administer them? All this officializing the mutts and temples shows the distrust in the people whom you rule over to-day. Cannot Government leave it to the people themselves? In the political field, you are trying to have panchayat administration. You want to make people self-sufficient. You want the people to administer public funds. Why not do the same thing so far as temples go? In olden days, these panchayats have been managing these affairs. Whether it was good or not, it was better management. Why take away the hereditary trustee and put in a new recruit who does not know anything of religion, but who comes there with his hat, boot, and cigarette in his lips? Is this man going to preserve religion? My experience has so far been that the hereditary man may have been guilty of small breaches of trust. He may take some garden produce or he may take some other help from the institution. But during the festivals, his prestige is involved. He puts thousands and thousands of rupees for the purpose of performing that festival. He is pleasing his *Kuladaivam* then. It is his family *Daivam*. Therefore, he says 'I will spend all the money'. Is it right, Sir, to dismiss that man? A man makes a charity and he entrusts it to persons who will carry out that charity in accordance with his wishes. Schools, colleges and *thannirpandals* are run on charities. Is it possible for Government to take over all these charitable endowments? It is too ambitious a Bill. Let Government at least restrict the Bill to temples for the present. The Government may postpone charitable endowments for some time. If the Hon. Minister is sincere, he should be prepared to accept basic changes in the Bill when it goes before the Select Committee. Let him not say 'I voted against the amendment' then.

"Sir, we are interfering with the internal administration. We propose to fix the *dittam* or scale of expenditure in the institutions. The *dittam* may provide for six worships. But Government may say one is enough. The *dittam* may provide for two or three measures of rice. But you may put it at one measure saying 'Does God eat food'? Therefore, if Government really want that these institutions should be administered properly, let them exercise control over the administration and not take over the institutions themselves. Let them develop local committees for the proper management of the temples. As regards maths, the disciples of the maths will take care of the maths. They will form a committee to advise the *matathipathi* on secular matters. What is being done in foreign countries in respect of trust properties? In England, there is the Trust Act under which charity commissioners are appointed. They have powers to

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investigate, check and inspect everything in trusts. If they notice any breach of trust, they bring it before courts. All schemes are scrutinized by these commissioners. There is budgeting, auditing and inspection of accounts. I can understand a Government taking up all these things. But it is quite a different thing to say 'I will interfere with private management; I will interfere by issuing a notification'. What will happen if you dismiss the trustee or Swami? Are Government going to appoint another Swami for that purpose. The whole principle of the Bill is based on the distrust of the people who are managing the institutions. Therefore, Sir, if you really change the Bill altogether, I will gladly support it. You have to take into account local sentiments, local interests concerned and local enthusiasm and then really organize and harness them for the purpose of managing these institutions. But, if you take upon yourselves, the management of those institutions at this stage, it will be very difficult for you and you will not be able to get out of the mesh.

"Now, Sir, what is being done to-day? The Board has collected about 16 lakhs of rupees by way of charities. These sixteen lakhs have accumulated all from temple money. Do the Government want to make a present of this to the Hon. the Finance Minister in order to help the Budget? Sir, these sixteen lakhs have been collected from some small temples also. Because they have to pay a certain percentage, they had to sell certain temple jewels. Therefore, Sir, there is a very great danger of these sixteen lakhs of rupees being used for purposes other than for which it is intended. If that happens, it will really be an act of vandalism, if I may say so. If at all you want to bring in a Bill for the improvement of the administration of the temples, do it properly and in a right manner. Consult the various denominations and also the persons who are really at present managing those temples and mutts. Let them offer their remarks; take their advice and make them really interested in the temples. Sir, you cannot compare these religious institutions and temples to schools. In every district, there are many schools and we send persons from here to inspect those schools but the village people have no control over the schools themselves. Any amount of representation by them in the matter of some improvement goes without avail, because there is a wide gulf between the persons who manage the affairs of those schools and the people of the locality. But, if you really want a harmonious relationship to be maintained and if you want the best results to be achieved, then you should take into account the opinions of the local people. The necessity is the more in the case of these religious institutions.

"Sir, at this stage, I do not want to go into the details because all the details have been gone into by various speakers. If in spite of what has been said that the Bill should be circulated for public opinion, if you really want to proceed with the Bill and refer it to the Select Committee, please have a good select committee which will go into the various suggestions and criticisms made in this House and modify the Bill in such a manner that it

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will conform to the constitution and will also make it effective against the embezzlement of public money. If that is to be done, Government should lend a willing ear to the various managements administering the temple affairs at present.

"I should also like to point out that Government should take into consideration not only my suggestions but also the suggestions of the various people concerned in the matter from outside and from the mufassal and then the Select Committee should go into the Bill and also through the various suggestions. Therefore, Sir, I support the motion for circulation of the Bill for the purpose of eliciting public opinion."

Sri A. S. SAHAJANANDA :—"கனம் தலைவர் அவர்களே, இந்த மசோதாவானது தர்மசம்பந்தமான விதிகளைக் கட்டுப்படுத்தும் மசோதாவாக இருக்கிறது. இந்த மசோதாவைப்பற்றி சொல்லும்போது சாதாரணமாக பாடசாலை, பள்ளிக்கூடம், மடம், ஆலயம் சத்திரம் முதலியவைகளைப்பற்றிதான் சொல்லப்படுகிறது. அவைகளையெல்லாம் பாதிக்கும் படியாக இப்பொழுது இந்த மசோதா வந்திருக்கிறது. இந்த மசோதா சம்பந்தமாக எவ்வளவு சொல்லியிருக்கிறதோ அவ்வளவும் என்னைப் பொறுத்திருக்கிறது. நான் ஒரு மடாதிபதி. மடாதிபதிகளின் பிரதிநிதியாக நான் பேசுகிறேன். நான் நடராஜர் மடம் வைத்திருக்கிறேன். பாடசாலை, பள்ளிக்கூடம், ஹைஸ்கூல் வைத்து நடத்துகிறேன். அவைகளின் சார்பாக இந்த மசோதாவை எதிர்த்துப் பேச வேண்டுமென்று எனக்கு கட்டினாயிட்டிருக்கிறார்கள். நானும் காவிலஸ்திரம் உடுத்திருந்தேன். இந்த சட்டசபையில் வந்து கலந்து கொண்டு பொய்யும் பித்தலாட்டமும் பேசவேண்டியிருப்பதால் நான் காலி வஸ்திரத்தைக் கீழ்த்து விட்டு சாதாரண உடையுடன் வந்திருக்கிறேன்."

THE HON. SRI K. MADHAVA MENON :—"On a point of order. சட்டசபையைப் பார்த்து பொய்யும் பித்தலாட்டமும் என்று சொல்லலாமா என்று கேட்கிறேன்."

MR. SPEAKER :—"(அங்கத்தினரைப்பார்த்து) பொய், பித்தலாட்டம் என்று சட்டசபையில் அங்கத்தினர்களைப் பார்த்து பேசக்கூடாது. நாம் எங்கிலோரும் ஹரிசத்திரன் மாதிரி பேசுவதாக நினைத்துக்கொண்டு பேச வேண்டும்." (சிரிப்பு)

Sri A. S. SAHAJANANDA :—"ஆகையால் நான் மடாதிபதி என்ற முறையிலும் மடாதிபதிகளின் பிரதிநிதி என்ற முறையிலும் பேசுவதற்கு எனக்கு உரிமை இருக்கிறது. சாதாரணமாக இம்மாதிரியான சட்டங்களைக்கொண்டுவர மத சம்பந்தமுடைய பெரியவர்களைக் கலக்கவில்லை. ஆதலால் கொண்டுவந்தது தவறு. இந்த அரசாங்கம் (seolar ஸ்டேட்) மதப்பற்றற்றது என்று பெயர் வைத்துக்கொண்டு இந்த மசோதாவைக் கொண்டுவரலாமா என்று கேட்கிறேன். இம்மாதிரியான மசோதாவைக்கொண்டு வந்தால் அதனால் கிருஸ்துவர்களையும், முஸ்லிம்களையும் ஆபீசர்களாக போடும்படியாக இருக்கும் அப்பொழுது seolar ஸ்டேட் என்று எப்படி சொல்லமுடியும்? அந்த சட்டத்தைக் கொண்டுவர மத சம்பந்தமானவர்களைக் கேட்கப்படவில்லை. இத்தனியார் வேண்டுமென்றால் இத்தனியார் கல்வி பயின்று பட்டம் பெற்று வரவேண்டுமென்று சொல்லப்படுகிறதெய்யொழிய ஒரு வைத்ய இலாகாவிலிருந்து நியமிக்கவேண்டுமென்று சொல்லப்படவில்லை. அதே போல் கல்வி இலாகாவிற்கு நியமிக்க வேண்டுமென்றால் அந்த இலாகா கலாசாலைகளில் பயின்றுவந்தவர்களைத்தான் நியமிக்கவேண்டும். வேறு இன்னவிற்கு தேர்ச்சியடைந்தவர்களை நியமிப்பது என்பது முடியாதது. கல்விச் செய்கிறவர்கள் சரியாகக் காரியங்களைச் செய்கிறார்களே என்று பார்த்துக்கொள்ள வேண்டும். மடாதிபதிகளும் மருத்துவர்களும் கருவிகளும் என்று பார்த்துக்கொள்ள வேண்டும். இப்பொழுது சர்க்கார் மடம்

8th February 1949]

[Sri A. S. Sahajananda]

திருவாடுதரை ஆதினம், இராமகிருஷ்ண மடம் முதலியவைகள் வெகு நன்றாக நடைபெறுகின்றன. அவைகளை ஏன் இந்த மசோதாவைக் கொண்டு வருவதற்கு கலக்கவில்லை என்று கேட்கிறேன். அது ரொம்பவும் குற்றமானது. கல்வி இலாகாவிற்கு நியமிக்கவேண்டுமென்றால் Director of Public Instruction-ஐ கலப்பதுபோல் இந்த மசோதாவைக் கொண்டு வருவதற்கு மடாதிபதிகளுக்கு தலைவராக உள்ள சங்கராச்சாரியரை ஏன் கலக்கவில்லை என்று கேட்கிறேன். அப்படி கேட்காமல் செய்வது மதப்பற்றற்ற சர்க்காருக்கு அழகல்ல.

"இந்த மசோதாவினால் கமிஷனர்களையும், I.C.S. ஆபீசர்களையும், Deputy Commissioner களையும், டிபுடி கலெக்டர்களையும் போடும் போது முஸ்லிம்களையும் கிருஸ்துவர்களையும் விலக்க முடியுமா என்று கேட்கிறேன். மத சம்பந்த முடைய தென்னாலும், மதத்தைக் காப்பாற்றுகிறோமென்றாலும் அதற்குதடையாயுள்ள சுயமரியாதைக்காரர்களையும் கருப்புச் சட்டைக்காரர்களின் இயக்கத்தினமீதும், 'விடுதலை' போன்ற பத்திரிகைகளினமீதும் ஏன் நடவடிக்கை எடுக்கப்படவில்லை. அவர்களை ஏன் இன்னும் ஒடுக்கவில்லை என்றும், அவர்களின் மீது என்ன நடவடிக்கை எடுத்துக்கொண்டுருக்கிறார்கள் என்பதையும் கேட்க விரும்புகிறேன். நம் முடைய மதத்தைக் காப்பாற்றுவதென்றால் மதத்தைக் காப்பாற்ற அரசாங்கம் என்ன நடவடிக்கைகள் எடுத்துக்கொண்டிருக்கிறார்கள் என்பதைக் கேட்கிறேன்."

"தலைவர் அவர்களே, இந்த மசோதா பிரிமியரால் கொண்டுவரப்பட்டது என்று சொல்லுகிறார்கள். ஆனால் பிரிமியர் ஆரம்பத்தில் மடாதிபதி களைக்கூட்டித்தான் புத்திசொன்னாரேயொழிய மடாதிபதிகளின் அபிப்பிராயங்களைப் பிரிமியர் கேட்கவில்லை. மடாதிபதிகளைப் பற்றி அவதூறுகப்பேசுவதை என்னால் பொறுக்க முடியாது மடாதிபதிகளை குருவாக்கக்கொண்டாடவேண்டும். மடத்தின் இலட்சணங்களைத் தெரியாமலும் மடாதிபதிகளைப் பற்றி தெரியாமலும் சட்டம் கொண்டு வருகிறார்கள். மடத்தின் இலட்சணம் என்பது நிகண்டு, 'அறியாமை, சத்திரம், மாயை முனிவாசப் போ' இவைகள்தான் இந்த சட்டத்தில் அறியாமை சத்திரம் இவைகளைத்தான் சொல்லப்பட்டிருக்கிறதெய்யொழிய மற்றவைகளைப்பற்றி சொல்லப்படவில்லை. ஆகையால் மடம் என்பது ஆலயத்தைவிட சிறந்தது. எந்த மதத்திலும் குருமார்களை தெய்வமாகவும் மரியாதையாகவும் நடத்துகிறார்கள். மடாதிபதிகள் தெய்வத்தைக்கண்டவர்கள். ஆதலால் அவர்களை தெய்வமாகக் கருதவேண்டும். ஆனால் நமது சபையில் சிலர் சாதுக்களை நாடோடிகளென்றும் சொல்லுகிறார்கள். அந்த தெய்வ உருவங்களை அவட்சியமாகவும் பேசுகிறார்கள். அதனால் என் மனம் புண்படுகிறது. அப்படியே பேசி மடாதிபதிகளை சட்டத்திற்குப்படுத்துவது ரொம்பவும் கொடுமை. மடங்களில் ஒரு குரு இல்லாவிட்டாலும் மற்றொருவர் இருப்பார்கள். அவர்கள் பேசும் தெய்வம் எனக் கருதப்படவேண்டும். நாம் கோவில்களுக்குப்போனால் அங்கே இருக்கும் தெய்வம் நம்மோடு பேசாது. ஆனால் மடங்களுக்குச் சென்றால் அங்கே மடாதிபதிகள் என்று சொல்லக் கூடிய தெய்வம் நம்முடன் பேசக்கூடியவை. ஆகையால் மடாதிபதிகளை தெய்வமெனவழிபடவேண்டும்."

"இன்னும் இந்த சட்டம் மடாதிபதிகளின் உரிமைகளைப் பரிசீலித்து, ஒரு மடாதிபதியை நீக்கிவிட்டால் யார் யாரை நியமிப்பது என்பது தெரியவில்லை. அப்படி நியமிப்பதற்கு மடலட்சணம் தெரிந்தவர்கள் யார் இருக்கிறார்கள்."

"மேலும் அரசாங்கத்திற்கும் ஆடிட்டருக்கும் நிர்வாக அதிகாரிகளுக்கும் பணம் கொடுக்கவேண்டுமென ஏற்படுகிறது ஆபீசர்களுக்கு ரூ. 103, ஆடிட்டருக்கு ரூ. 1-8-0 முதலிய சிலைகள் ஏற்படுகிறது சிறிய மடங்களுக்கு அப்படிக்கொடுப்பதற்கு பணம் இருக்கிறது என்று கேட்கிறேன் இந்தச் சட்டத்தினால் இன்னும் நான்கு வருஷங்களில் விற்கு மதமே இல்லாமல் பேசியவிடும் போலிருக்கிறது. அக்கிரமம் செய்கிறவர்களையும் விரையம் செய்கிறவர்களையும் கண்டிக்கவேண்டியது அவசியம்" காண்.

[Sri A. S. Sahajananda]

[8th February 1949]

தருமபுரம் நன்றாக நடைபெறவில்லை. தர்மபுரத்தில் மெய்கண்டார் காலேஜைவைத்து எடுத்துவிட்டார்கள். அங்கே இப்பொழுது நல்லவர் இல்லை. போலீஸார் ஈசாயை மடம், சிக்கல் மடம், சிதம்பரம் பொன்னம்பலசாமி மடம், திருக்களர் மடம், முதலியவற்றில் இப்பொழுது ஆப்கன்களை வைக்கிறார்கள் எடுத்துக்கொள்வதற்கு சட்டமேவண்டியதுதான். சிறிய மடங்களில் எதோ 10, 20 பரதேசிகளுக்கு அன்னம் போட்டுவருகிறார்கள். அவைகள் நடந்துவருகிறது. அவைகளை எடுத்துக்கொண்டு ஆப்சர்கள் போட்டால் அவைகளுக்கு பணம் கிடையாது. மேலே சொல்லப்பட்ட மடங்களுக்கு மடாதிபதிகளே இல்லை. அவைகளை எடுத்துக்கொண்டு நடத்தலாம். மசோதாவில் பல திருத்தங்கள் செய்யவேண்டும். திருத்தாவிடில் ஒன்று மத்ததை அழிக்கும் சட்டமாகவே இருக்கும்.

இன்னும் சட்டத்தினால் சமயம் கெடக்கூடாது. இந்த சட்டத்தில் சமய வளர்ச்சிக்கு இடமில்லை. மேலாட்டிலும் நம் நாட்டிலும் சட்டத்தால் மத்ததைக் காப்பாற்றவில்லை. இராமானுஜர், சங்கரர், புத்தர், கிருஷ்ண முதலானவர்கள் காந்தி முதலியவர்கள் ஆன்மார்த்த உழைப்பில் மத்ததை பரப்பினார்கள். நம் நாட்டிலுள்ள மடங்கள் வேதங்களாலும் ஆகாயங்களாலும் ஏற்பட்டன. சிவாகமம் தெரியாதவர் பூஜை செய்ப்புறமுடியாது. மதுபரிபாலன போர்க்கு பலமளித்து நடத்தலாம். கமிஷனரும் நிருவாக அதிகாரிகளும் ஆகமங்கள் படித்தவர்களாக இருக்கவேண்டும். துறவிகள் மீது அதிகாரம் வகிப்பதால் படித்த துறவிகளே கமிஷனர்களாக இருக்கவேண்டும். சில ஸ்தாபனங்களில் சுயமரியாதைக்காரர்கள் கமிஷனர்களாக வந்திருப்பது எனக்கு தெரியும். அவர்களுக்கு மதசபங்களைப்பற்றி என்ன தெரியும். மடாதிபதிகளின் சங்கம் நிறுவி அதன் மூலம் பரிபாலனம் செய்யவேண்டும். ஆகையால் பொது அபிப்பிராயத்தையும் மடாதிபதிகளின் அபிப்பிராயத்தையும் கேட்கவேண்டியது அவசியம். Select Committee-க்கு அனுப்பினாலும் அங்கே ஆகமம் தெரிந்த பண்டிதர்களும், துறவிகளும் இருத்தல்வேண்டும். ஆப்சர்களை நியமிக்கும்போது காமிக ஆகமம், ஆசார்ய லட்சணம் உரைத்த அத்தியாயத்தை அறிந்தாலொழிய அவர்களை கமிஷனர்களாக நியமிக்கக்கூடாது. காமிக ஆகமம், ஆசார்ய, லட்சணம் உரைத்த அத்தியாயம் 136-137-வது சுலோகங்கள் திசைகள் பெற்று ஆகமம் தெரிந்திருந்தாலொழிய பூஜை செய்யக்கூடாது. அந்த 136, 137 சுலோகங்களில் சொல்லுவது 'திசை இறுதியில் ஆதிசைவர்களுக்கு சிவாகமங்களில் செவ்வையாக பாண்டித்தியமிருப்பதால் பார்த்தாலய பூஜைக்கு யோக்யருவார்'. சிவாகமம் தெரியாவிடில் பூஜைக்கு அருகரல்ல. காமிகாகமம் ஆகையால் கமிஷனர்களும் நிருவாக அதிகாரிகளும் தருமகர்த்தாக்களும் ஐந்து வருஷம் வைதீகம் படித்தவர்களாக இருத்தல் வேண்டும். அப்படி படித்துவந்து இராமகிருஷ்ண மத்ததைப்போன்று நடத்தவேண்டும் ஆகையால் இந்த சட்டத்தை இப்பொழுது அவசரமாகக் கொண்டுவராமல் புது அர சாங்கம் வந்த பிறகு கொண்டுவரலாம். அல்லது கணம் வைத்யனாதய்யர் சொல்லுகிறபடி பொதுஜன அபிப்பிராயத்திற்கு விட்டு அதன் பிறகு கொண்டுவரலாம் என்று கேட்டுக்கொள்ளுகிறேன். ஆகையால் நமது கணம் வைத்யனாதய்யர் கொண்டுவந்த திருத்தத்தை ஆதரிக்கிறேன்.

* SRI D. V. RAMASWAMI:—“Sir, I am thankful to you and to the Hon. the Leader of the House for giving the Members of this House full opportunity to express their opinions on an important measure like this and I fully appreciate the object of the Government. Sir, this Bill has been brought forward in order to remedy the defects in the managements of the religious and charitable endowments in this Province. While agreeing to that proposition, I am one of those who believe that there are more serious problems which the Government have yet to tackle which are purely secular matters, like the prevention of corruption, hoarding and black-marketing. In these directions, we have not been able to achieve the object because the public have not been

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co-operating fully with the Government in all these measures. When such is the case, much more will be the difficulty to achieve such public co-operation when religious institutions are sought to be taken over by the Government.

“Sir, it has been ably pointed out by Mr. Vaidyanatha Ayyar and also by the Yuvaraja of Pithapuram that there is a fundamental objection to this Bill and their argument was, ‘Can a secular Government take upon itself the management of religious, and charitable institutions and trusts? Can our Legislature interfere or restrict the rights of individuals or persons who manage those religious institutions?’ Sir, that being the main question, the proposition is, ‘Can we at this stage, when the question of the fundamental rights and the section dealing with those fundamental rights in the new constitution have already been passed by a House wherein our Province has been fully represented by no less than 45 representatives—can we, at this stage, do anything which will take away that right which has already been conceded?’

“Secondly, Sir, it may be noted also that our Government as well as the Government of the Indian Union of which we form part, claim to be secular and not religious or theocratic states like Pakistan. There it is possible for people—I do not wish to use the word ‘molested’—but it is possible for people’s rights to be prejudiced on account of their religion. But, we should be very cautious in applying our minds to measures which interfere with such matters. For the first time, we Indians, feel that we are free to legislate for our good. But, in matters like this which are vital problems, there are the Leaders at Delhi to shoulder the responsibility. Important problems like securing food for the millions and also housing for the masses and guaranteeing a better health for the poor village folk are engaging the attention of the Government so much so Government have to find several crores of rupees for large measures like the improvement of irrigation, execution of river-projects, construction of hospitals, formation of linguistic provinces and so on. Sir, considering the present Indian State of affairs, we can say that matters are in utter confusion and by your action in bringing in a measure like this, you will only be adding to the confusion which is already prevailing. Only when there is an absolute and urgent necessity which justifies the taking up a Bill of this nature can the Government take up such measures in hand. But, now what do we find? People who are learned, people who are entitled to great respect and people who spent their lives in interpreting the law and the Sastras have given their definite opinion that this Bill need not be pursued at this stage but it should be deferred until such time that we are in a position to have a clear view both on the legal aspect as well as from the point of view that public opinion requires such a measure like this. Therefore I am very sorry that the Government are not able to see the sincerity and the strength of public opinion. By public opinion I mean the opinion of persons who have devoted some portion of their time and energy to serve the

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cause of religion, not merely in social reform or economic uplift. It is a vital matter for those who have built up these institutions. People like our hon. Friend Mr. Vaidyanatha Ayyar who used to be called to Wardha by the Father of the Nation for consultation in regard to temple entry and other measures of social reform intended to remove the encrustations in the field of religion, have earnestly pleaded for postponement of the consideration of the Bill till such time as public opinion is elicited on it. I feel it is quite proper that the Government should kindly reconsider their attitude and not rush through this legislation which is of doubtful value. Some gentlemen have spoken disparagingly about persons who have wanted that more time should be given to the consideration of a Bill of this nature. I am reminded of the saying of Socrates with regard to who are our friends. He said:

'Think, not of them as friends who simply say "Aye Aye" to what you say, but only those honest friends who will give their criticisms of your follies.'

Therefore, your friends are those who will suggest ways and means of carrying out your reformatory views in such a way and at such a time and with such safeguards that the reforms will be absolutely applauded by everyone who is interested in the institutions affected by the reform. In my humble opinion, it seems to me that it is neither necessary nor desirable to press the motion for reference to select committee which if accepted would mean that the House has accepted the very principle of the Bill. I therefore appeal humbly to the Premier and the Hon. Minister to reconsider the matter and see if they could not accept the motion of Mr. Vaidyanatha Ayyar."

* DR. D. S. RAMACHANDRA RAO:—"Sir, it is with considerable reluctance that I rise to speak on this Bill. Very strong feelings have been engendered in the discussion of this Bill. While we profess that religion ought to bring us peace and goodwill, when questions bordering on religion are touched, unnecessary heat is being generated. Therefore I made up my mind not to speak. But since the occasion has arisen, it would be cowardice on my part not to say how I feel on this question. Sir, the Government is strong, powerful and has great backing and can do what it wants to do. That is the very reason why I appeal to the Government: let not the hour of success be the hour of defeat.

"I have known Dr. Rajan for many years and always admired him for his pluck and courage. When he was Public Health Minister in the previous Government, overnight he put an end to caste in the medical profession. It was done through his daring. All in the medical profession are greatly indebted to him. When he makes up his mind he can do big things. While in this Government, he has used the privilege and the right of his profession and told us when to starve and when to feed lightly. Occasionally when great people came to Madras he gave us enough for sumptuous lunches and dinners and told us that we ought to be happy and contented with our lot. Finally the task of piloting this Bill

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has fallen on him. I have waited with considerable interest to see whether the old Rajan would come here also. Though in his own Province, in his own field, he has been an expert, in dealing with the legal ramifications of this Bill he has proved almost a novice. Probably he has been asked to do a thing which as a medical man he cannot. We medical men have sometimes to cut to the quick to cure. There may be some difficulty in trying to bring his experience to bear upon this problem. He has not given us any adequate reason for this. He quoted authority. He said that since he is piloting this Bill and the Premier is in sympathy with it, everything must be well with the Bill. His conclusions and his method of approach to the legal point of view has been rather tortuous and not altogether convincing. The problem has to be approached from the practical point of view. I do not hold any brief for the madathipathis and those who are in charge of religious endowments in this country. I have often heard people being dissatisfied with the management of these institutions. But the remedy suggested seems to me to be worse than the disease. To teach the people to do the right thing in the right way at the right time is not easy. Legislative interference is not the solution. If the Government believe that legislative interference and ruthless way of dealing with it is the only way of solving the problem satisfactorily, I have not the slightest objection for the Government trying this experiment. But if it is merely a legal quibble, then when we quit the scene a new Government will come and undo everything that we have done. But when the question is social and moral and there are spiritual sanctions behind it and the feelings of those who are in charge of the religious faith of the people are involved, the approach must be quite different. You cannot compel a people or a group of people to be more moral than they really are. That does not mean you should be satisfied with things as they obtain today. When things go altogether wrong the Government have already got the power to interfere. But, Sir, interference is one thing and complete control is another. If you find that things have gone very wrong you can come down with all your might and crush the delinquent, but you cannot altogether do away with an institution which has enshrined the highest religious instincts of the people.

"Sir, I have heard the cry that religion is in danger. Any religion worth the name need not fear of being in danger. So long as there is truth, beauty and love in any religion, it can never be in danger. But it is in the aids that these religious mutts are going to be given by the state, that the danger lies. Religion has its enemies, but the worst enemies are from among its followers who do not live up to the highest ideals of the religion. I myself am conscious of the darker side of almost all the religions and Hinduism is no exception. At the same time I am conscious of the highest ideals of Hindu religion its conception of duty, love, goodness, etc. Whether you can supplement these by what you are advocating, I have my own doubts. Sir, the hon. Member Swami Sahajananda has just hinted at one way of solving this

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problem namely calling of a round table conference of all the religious heads and those who manage the affairs of these institutions. Sir, in spite of all that is being said, there is something that is best and highest that is preserved in these institutions. . . ."

MR. SPEAKER:—"The hon. Member may continue his speech after lunch."

The House adjourned for lunch.

(After lunch—2-30 p.m.)

DR. D. S. RAMACHANDRA RAO:—"Sir, I would like to refer to an experience of mine in London. It was at the time of the Second Round Table Conference. Mahatmaji happened to be there then. An English friend of ours, greatly interested in India, has asked all the young men and young women in London to meet at a social gathering. A great many people, young and middle-aged, particularly young, assembled there. There were graduates, post-graduates and students who lived in that country for several years. This lady put it to them this way. 'Now, your elders including Mahatma Gandhi have come here to negotiate with the British Government as to what the policy of the Indian Government should be in future. As young men and young women, the hope of the future, have you got anything definite to contribute so that I can send a message to Mahatma Gandhi that Young India wants this thing to be done in the name of the country?' She asked the young men and young women to tell the audience and also come to a definite conclusion so that it might be sent to Mahatma Gandhi. Man after man rose and spoke, ably seconded by women, young and middle-aged. Their main dictum was that India had one grievance, one obstacle, that obstacle must be removed and if that obstacle is removed India would be free and India would be great. But, if that obstacle continues to exist, India could never lift up her head and never hope to do her duty. What was that obstacle, they were asked. It was, they said, *religion*. Religion had been the stumbling block of India and so long as people for religious reasons close to keep themselves apart and break their heads, even in the name of God, the nation can never be one. If you want India to raise herself, let religion go. That was the opinion given almost by everybody who spoke there. Then I went over to the United States. There young India was actuated by the same motive. But, Sir, all that is very best, highest and noblest in the country has been enshrined by religious ideals and spiritual enthusiasm. Mahatma Gandhi won because he kept up the spiritual fervour of the country, spoke with spiritual force and carried everything through it. And he won our freedom by spiritual force. Now, if that was the motive that actuated Young India some ten or twelve years ago, I want you to see for yourselves and judge whether there has since been any considerable change in the angle of vision."

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"Sir, in European countries we have seen what irreligion has done and we have seen what religious fanaticism as well as religious disruption have created. But, to us now with all our communal differences, the only factor that could really keep us all together is not irreligion but religion, the fatherhood of God and brotherhood of man and into this holy sanctuary can the State with any propriety interfere, make any inroads and take away, as it were, the spiritual birthright of a nation. No doubt, religion is not as pure as it might be and many enervations have crept in through centuries of cupidity and stupidity on the part of those who should have known better and should have conducted it on better lines, but still there is a limit for everything. No doubt, mistakes have been made, and those who were in charge of the spiritual ideals of people have often desecrated those high ideals of fatherhood of God and brotherhood of man. How are we to deal with this problem? Is it by calling in the State to interfere? And what is the chance of India being one if you are going to remove altogether the brakes or the controls of religion? When religions go wrong or when religious heads prove unworthy of their calling, of course, it is open to the State to come to the help of the people by getting rid of them. You may make legislation strict if you like, but you should make people feel that it does not go over their heads in religious affairs. Sir, that is one thing. You cannot always keep things going. I suggest that the State has the right to purge and to purify. . . ."

MR. SPEAKER:—"The hon. Member's time is up. He has already taken 20 minutes. How many minutes more does the hon. Member want?"

DR. D. S. RAMACHANDRA RAO:—"Five minutes more, Sir."

MR. SPEAKER:—"Yes."

DR. D. S. RAMACHANDRA RAO:—"Thank you, Sir. But, you cannot possibly usurp and supplant, because spiritual growth is a growth from inside, and no external authority can change the heart or the angle of vision. Sir, we call ours a Secular State and pride in our State being a Secular State and a democratic State. A Secular State, cannot interfere in religious management. You may control but not usurp! Again we call ourselves a democratic State. What is democracy? It is the capacity to understand one another and to come to a compromise with one another. And, Sir, has our democratic State compromised with others' ideals? Even in our own Party, is it not simply the holding up of hands? Have we compromised with one another? Have we seen the other side of the picture at all, and have we taken the trouble to do it? Sir, when things are in that way, if you are going to let the State interfere in religion, have you got the means to do it? Of course, your ideals may be good, but you must have the means to carry them out. Pandit Nehru the other day said there is a dearth of getting A.I. . . ."

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Sirdar Patel also said the other day that the chief obstacle to our Government is the lack of talent, lack of experience. But when in a Secular State to administer secular things you find it difficult to get A-1 men, what in regard to these religious institutions you are going to do so as to touch the hearts of the people? Have you got the men with requisite education, requisite culture and requisite spiritual touch and of moral enthusiasm? If you are asking the State to interfere in religion, religion won't be in danger, but the State would be in danger and our Government will expose the bankruptcy of the State to the public.

"Now, Sir, there is another question that you will have to consider. The Hindu community is a large community. To-day you may pass one set of rules or laws and to-morrow you may change them. By their great momentum the masses might do and undo things. But there are smaller minorities who may in the long run be affected and this very principle of interference by the State may affect them seriously. Can they break this? Therefore, when you once allow the thin end of the wedge to get in, can you give us the assurance that it would be stopped there and would not advance further and so also the so-called secular State in trying to use its influence will not gradually become fascist in its ultimate ramifications. I would, therefore, advise before it is too late that while you profess our State to be secular, keep it on secular lines. Again, if you want to be democratic, there is no harm in accepting the amendment of my hon. Friend Mr. Vaidyanatha Ayyar, because he asks for nothing more than the postponement of the consideration of the Bill by a few more months. You will not lose anything by accepting that amendment. It may be you are right, but why not see the other side of the picture? They want only a little more time to consider. Let things settle themselves. After all what is this breathless haste for? Is it democracy altogether? It is annihilation of the very principle for which we fought. We have fought against autocracy and we are now considering ourselves democratic, but we are simply plunging headlong towards fascism. Therefore, I trust that the Government would think twice and thrice before undertaking a principle which violates the very principle for which we fought hard and even died."

Sar. M. KANNIYAPPAN :—“தலைவர் அவர்களே இன்றைய தினம் நம்முன் கொண்டுவருந்துள்ள லிபிந்து மத தர்மப்பிரபலன் சட்ட திருத்த மசோதாவை நான் முழு மனதுடன் ஆதரிக்கிறேன். இன்றைய தினம் அரசாங்கம் கொண்டுவந்திருக்கக்கூடிய இந்த மசோதா ஒரு புரட்சிகரமான மசோதா என்பதுதான் என்னைப்போல் உள்ளவன் நினைக்கிறான். இந்த மசோதாவைப்பற்றி பொது மக்கள் என்ன நினைக்கிறார்கள் என்பதற்குள் இதில் வரவேற்கிறார்கள் என்பதை தவிர பொது மக்கள் ஆதரிக்கவில்லை என்று சொல்வது மிகவும் தவறுதலான காரியம். இன்னும் மத்தியத்தினத்தை விலையத்தையற்றி பேசியபோது சில மடாதிபதி என்னுடைய முறையில் நடப்பதாகவும், சிலர் அப்படி நடக்கவில்லை என்பதாகவும் கூறக்கூடாது என்பதையும் கேர்த்து பேசப்படுகிறது என்றும் சொன்னார்கள். இப்பொழுது நம் தேரட்குமுன் பட்டினி கொட்டும் சவுகரியத்தைப் பற்றியும் பேசப்படுகிறது. அவர்களுக்கு நான் ஒன்று சொல்லுகிறேன். அவர்கள் சந்திரகாந்தா என்னும் சினிமாலை பார்த்துக்கொள்ளுங்கள்.”

8th February 1949] [Sri. M. Kanniyappan]

நான் நினைக்கிறேன். உண்மையில் இந்த மடாதிபதிகள் யெய்க்கூடிய காரியங்களையும் அக்கிரமங்களையும் பார்த்தால் இந்த மடாதிபதிகளை அறவே ஒழித்துக் கட்டவேண்டியதுதான் என்று தோன்றும். அதையேதான் இந்நாட்டில் மக்கள் விரும்புகிறார்கள். எல்லா பொதுமக்களும் இதை ஆதரிக்கவில்லை, ஆகையால் பொதுமக்களுடைய ஆதரவு இதற்கு இருக்கிறது என்று பார்த்த பிறகு இதைக் கொண்டுவரலாம் என்று நம்முடைய தலைவர் கணம் வைத்தியனாதய்யர் அவர்கள் ஒரு திருத்தத்தைக் கொடுத்திருக்கிறார்கள். அதைப்பற்றி பலரும் பேசினார்கள். நான் இந்த இடத்தில் சொல்லுகிறேன் வேண்டுமானால் இன்றையதினம் நான் இராஜீனாமா செய்கிறேன். இங்கு இருக்கக்கூடிய கணம் என். எஸ். வரதாசாரியா அவர்கள் இராஜீனாமா செய்து விட்டும். இந்த பிரச்சனை சம்பந்தமாக அவருடைய வட்டத்திலேயே எலெக்ஷனுக்கு நிற்கலாம் அப்பொழுது யாருக்கு தேர்தல் கிடைக்கிறது என்று பார்ப்போம். அதிலிருந்து பொதுமக்கள் இந்த திருத்த சட்டத்தை ஆதரிக்கிறார்களா இல்லையா என்பது இன்னும் ஒரு வாரத்திற்குள் தெரிந்து கொள்ளலாம், என்று எண்ணுகிறேன். எந்த முறையில் வேண்டுமானாலும் நான் நிற்கிறேன். அவருடைய வட்டமானிய திருவல்லிக்கேணியிலேயே சொல்லுகிறேன் வரட்டும் என்று கேட்கிறேன். இன்னும் ஒன்றைக்கூட சொல்லுகிறேன். இன்னும் இங்கே பேசுகிறபோது பலர் பலதைச் சொன்னார்கள் அதில் கணம் அண்ணாமலை பிள்ளை அவர்கள்கூட சொன்னார்கள். நாம் ஒருவரை பட்டினி போட்டு பார்த்துக்கொண்டிருப்பதா என்று சொன்னார்கள் அவர் நெடுநாளாக தேசத்திற்கு உழைத்தவர் பல நல்ல காரியங்களைச் செய்தவர் என்றும் சொன்னார்கள். இந்த சுவாமிஜியின் பூர்வ கதையைப்பற்றி கொஞ்சம் சிந்தித்துப் பார்த்தார்களா என்று கேட்கிறேன். மடாதிபதிகளைப்போல இந்த சுவாமிஜியை பொது மக்கள் உண்மையாக தெரிந்து கொண்டிருப்பார்களேயானால் அவரைப்பற்றி பேசவேமாட்டார்கள் அவருடைய பெயர் ஆதியில் கணேசய்யர் என்பது எல்லோருக்கும் தெரியும் என்று நினைக்கிறேன்.”

MR. SPEAKER :—“அதைப்பற்றி நீங்கள் இங்கே பேசக்கூடாது மசோதா சம்பந்தமாகத்தான் பேசவேண்டும்.”

Sri M. KANNIYAPPAN :—“ அவரைப்பற்றி பவர் இங்கே பேசுவதால் தான் நானும் அவரைப்பற்றி இங்கே குறிப்பிட்டேன். ஆனால் அவரைப் பற்றி பேசினார்களேயொழிய அவருக்கு பக்கத்திலேயே தண்ணீர் இல்லாமல் ஒருவன் 20, 22 நாங்களாக உண்ணாவிருதம் இருக்கிறானே அவனைப்பற்றி யாரும் பேசுவதாகக் காணோம். அவரைப்பற்றி கேட்பாரில்லை அவர் அங்கே ஒண்டியாக வாடுகிறார் அவர் அரசாங்கத்தி னிடம் செய்த எதோ வியாபார கணக்கு விஷயமாக அப்படிக்கிடக்கிறார். அதைப்பற்றி ஒன்றுமே பேசப்படவில்லை. இங்கு மாநிதிதொகைப் பற்றி வருகிறபோது அதற்காக கண்ணீர் விடுவது அதற்காக ஆட்களை வைத்து சிரத்தைகாட்ச்சொல்லி சலுகை கொடுப்பதைப் பார்க்கிற போது அரசாங்கம். அவைகளை எடுத்துக்கொண்டால் என்ன தப்பு வந்து விடும் என்பதுதான் புரியவில்லை. இன்றைய தினம் பல ஊர்களில் திருவாங்கூர் சமஸ்தானத்தில் அரசாங்கம் எடுத்து நடத்துகிறது. கொச்சி யில் அரசாங்கம் எடுத்து நடத்துகிறது. மைசூரிலும் அரசாங்கம் எடுத்து நடத்துகிறது என்று எண்ணுகிறேன். அவ்விதம் இந்த அரசாங்கம் மடக் களையும் கோவில்களையும் எடுத்து நடத்தினால் உண்மையாக ரீந்திருத்தும் வகையில் எல்லா விஷயங்களையும் கவனிக்கப்படும் என்பதுதான் என்னைப் போலுள்ளவன் எண்ணுகிறான். இன்றையதினம் அந்த பணத்தை எடுத்து ஆஸ்பத்திரிக்கும், பள்ளிக்கூடங்களுக்கும் இன்னும் பலதரப்பட்ட வேலை களுக்கும் செலவு செய்து கொள்ளலாம் என்பதைத்தான் நினைக்கிறேன். நேற்றையதினம் இங்கே பேசியவர்கள் இவ்விதம் நாம் கூடம் இயற்றினால் அங்கே இருக்கும் ஆண்டவனுக்கு கோபம் வருமென்றும் கோவில்களும் மடங்களும் அழிந்து போகமென்றும் சொன்னார்கள் இன்றைய தினம் நான் சொல்லுகிறேன் ஆண்டவன் பெயரால் பெரியதவறுதல்களைச் செய்து கொண்டுமுருந்தால் ஆண்டவன் பொறுக்கமாட்டான். ஆண்டவனுடைய

[Sri M. Kanniyappan] [8th February 1949]

மக்களும் பொறுக்கமாட்டார்கள். இவ்விதம் தப்பிடம் நடக்காமலிருப்பதற்காகவே அரசாங்கம் அவைகளை எடுத்துக்கொள்ள வேண்டியதாக இருக்கிறது என்பதை ஜனங்கள் தெரிந்து கொள்ளவேண்டும். எந்த முறையில் இந்த மடங்களில் தப்புகள் நடைபெறுகிறது என்று பார்க்கும்போது அங்கே இருக்கும் மடாதிபதிகள் ஒரு ஆடம்பர வாழ்க்கைக்காகவே அங்கேயிருக்கும் பணத்தை செலவழித்துவருகிறார்கள். அவர்கள் ஒரு ஊரைவிட்டு வேறு ஒரு ஊருக்கு போவதாக இருந்தால் கோஷாவாகவே போகிறார்கள். அவர்கள் பங்களாக்களில் தான் வசிக்கிறார்கள் அவர்கள் வசிக்கும் பங்களாக்களில் ஒருவரும் போகக்கூடாது. அவர்கள் செய்யும் காரியங்களை ஒருவரும் பார்க்கக்கூடாது என்று வைத்திருக்கிறார்கள். அப்படி வைத்திருப்பதால் தான் அவர்கள் செய்யும் தவறுகளை பார்ப்பதற்கு முடியாமலிருக்கிறது. அப்படி தப்பித்தவரி யாராகிலும் போய்விட்டால் அவர்களை உள்ளே விடாதுபடிக்கு ஆட்களை வைத்து தடுத்து விடுகிறார்கள். ஏன்? அவர்களுக்கு பணம் இருப்பதால் அப்படி குண்டர்களையும் தடியர்களையும் பணம் கொடுத்து வைத்து தங்களுடைய பங்களாக்களை காவல்புரிந்து வரும்படி ஏற்பாடு செய்திருக்கிறார்கள். அதற்காகவே அவர்கள் டீச்சு கணக்காணி ரூபாய்களை செலவு செய்து அவர்களை நியமித்திருக்கிறார்கள். இது சம்பந்தமாக கும்பகோணத்தில் நடந்த ஒரு சம்பவத்தைப்பற்றி பத்திரிகைகளில் பார்த்திருக்கலாம். அப்படி அடாத காரியங்கள் செய்து விட்டு அந்த மடாதிபதிகள் தங்களிடமுள்ள பணத்தினால் தப்பித்துக் கொண்டுவிடுகிறார்கள். எவ்வளவோ பெரிய தவறுதல்களைச் செய்யக் கூடிய மடாதிபதிகளை சீர்திருத்துவதற்கு அரசாங்கம் ஒரு புரட்சிகரமான சட்டத்தைக் கொண்டு வந்து அதை நிறைவேற்ற வேண்டுமென்றால் அதற்கு எதிர்ப்பா என்று கேட்கிறேன். அப்படி பொதுஜன அபிப்பிராயத்திற்கு விடாமல் நிறைவேற்றினால் அடுத்த எலெக்ஷனில் வருவார்களா என்று கேட்கப்படுகிறது. இதையே தலைவர்களும் கேட்கிறார்கள். எடுத்ததற்கெல்லாம் எலெக்ஷனு என்று கேட்கிறேன். அடுத்த எலெக்ஷனில் வெற்றியடைவதற்காக இப்பொழுது இதை எதிர்த்துப் பேசவேண்டுமென்று பேசுவது அவ்வளவு நியாயமல்ல அதற்காகவே சிலர் இதை எதிர்த்துப் பேசினால் நிச்சயமாக நான் சொல்லுகிறேன் அவர்கள் அடுத்த எலெக்ஷனில் வெற்றியடையமாட்டார்கள் என்று. அவர்களால் வரவும் முடியாது. இங்கே கூடியிருக்கும் எல்லா அங்கத்தினர்களும் நேர்மையாக நடந்து கொண்டு நம்முடைய அரசாங்கம் கொண்டு வந்துள்ள இந்த மசோதாவை அவசியமாக ஆதரிக்கவேண்டும். இதைக் கொண்டுவந்துள்ள நமது தலைவர் ஓமந்தூர் இராமசாமி ரெட்டியார் ஒரு கடவுள் பக்தர்தான் அவருக்கு இந்த மசோதாவினுடைய நன்மைகளைப் பற்றி தெரியாதா என்று கேட்கிறேன். நம்முடைய கவர்னர்-ஜெனரல் கனம் C. இராஜகோபாலாச்சாரியார் காலத்திலேயே இந்த சட்டம் கொண்டுவரப்பட்டது. அந்த மந்திரிசபை இராஜினாமா செய்த பிறகு இந்த சட்டம் வராமல் போய்விட்டது. அப்பொழுது இந்த சட்டம் வந்திருந்தால் கனம் வைத்தியனாதய்யர் இதை எதிர்த்திருப்பாரா என்றுதான் கேட்கிறேன் அப்பொழுது ஆதரித்தே பேசியிருப்பார். அப்படி இல்லாமல் இன்றைய தினம் ஒரு நல்ல நிலைமையில் உண்மையான தத்துவத்தை உணர்ந்து சுவாமியினிடம் பக்தியோடு இருக்கக்கூடிய நம்முடைய கனம் ஓமந்தூர் இராமசாமி ரெட்டியாரால் கொண்டுவரப்பட்டிருக்கிற இந்த மசோதாவை எல்லோரும் ஆதரிப்பதோடு டில்லாமல் கனம் வைத்தியனாதய்யர் கொண்டுவந்த திருத்தத்தை ஆட்சேபிக்கும்படியாகவும் நான் கேட்டுக்கொண்டு என்னுடைய வார்த்தையை முடித்துக்கொள்கிறேன்."

SRI P. KANDASWAMY PILLAI:—"Mr. Speaker, Sir, I am really happy to be here on this important occasion to speak a few words on behalf of the Government and I am glad that they have introduced the Bill. The Bill can be divided into several parts. I wish to divide this Bill into three parts, the endowments, the maths and the temples. Several maths have got money enough to manage their own affairs. But all of us can

[Sri P. Kandaswamy Pillai]

agree that the amount they receive from the Government or from the estate, is not utilized for the full benefit of the society for which it exists to-day. I think, Sir, there will be no two opinion about this matter. Because all enlightened people are here in this august Assembly, every one of us can search our heart and say whether the amount is spent fully for the benefit of the society for which it exists or for the benefit of the administrators and people who are in charge of its affairs. I venture to say in this House to-day without any fear of contradiction, that it is misused for the benefit of the persons who are engaged in its affairs whether it is a temple or a math and whether it is a big 'swamiji' or a simple person. Of course, they give the account and they present the budget. But if you go into the matter, you will find out clearly that a lion's share of the amount is spent for their personal advantage. Therefore, there is every necessity why the Government must look into the matter and come to the rescue of the society. We have assured to our people that all privileges will be given to them after the advent of our freedom.

"Now, coming to 'pujas', we must see whether the temple pujas and rituals are performed according to *Agamas*. That is my question because all our habits and customs and rituals are enunciated in the temples for the uplift of the religion. What is religion? Scientifically, if you analyse religion, you will see that religion is there to mould the character of the people. To mould the character of the people, they must have a society in which they must live like brothers. All the human beings are sons of God. (At this stage the Deputy Speaker occupied the Chair.) Therefore, all the people must feel united and feel the brotherhood. In our present day customs and habits either in the temples or in the maths, there is enough disunity and there is enough fight between each other. There is not at all the recognition of brotherhood. These 'matadhipathis' and persons who are managing temples never care to know that they exist for the unification of the society. They are there to give religious education. They are there to educate the people either in the religious aspect or at least in 'bhakthi'. Therefore, when they do not realize their responsibility and the temple authorities do not execute their duties properly for the advantage of the people and when they do not care to educate the people in religious matters, then what is the purpose served by allowing them to continue in their own way. So, there is ample justification for our people's Government, the Congress Government, to take up the management of these religious institutions for the benefit of the society.

"Then, again it is stated on the floor of the House that this Government want to employ their own men in the religious institutions. Are they going to import people from China, Japan and England? Certainly not. Our own brothers and our own men who have got religious knowledge and courage to execute duties will be appointed there.

[Sri M. Kanniyappan] [8th February 1949]

மக்களும் பொறுக்கமாட்டார்கள். இவ்விதம் தப்பிதம் நடக்காமலிருப்பதற்காகவே அரசாங்கம் அவைகளை எடுத்துக்கொள்ள வேண்டியதாக இருக்கிறது என்பதை ஜனங்கள் தெரிந்து கொள்ளவேண்டும். எந்த முறையில் இந்த மடங்களில் தப்புகள் நடைபெறுகிறது என்று பார்க்கும்போது அங்கே இருக்கும் மடாதிபதிகள் ஒரு ஆடம்பர வாழ்க்கைக்காகவே அங்கேயிருக்கும் பணத்தை செலவழித்துவருகிறார்கள். அவர்கள் ஒரு ஊரைவிட்டு வேறு ஒரு ஊருக்கு போவதாக இருந்தால் கோஷாவாகவே போகிறார்கள். அவர்கள் பங்களாக்களில் தான் வசிக்கிறார்கள் அவர்கள் வசிக்வும் பங்களாக்களில் ஒருவரும் போகக்கூடாது. அவர்கள் செய்யும் காரியங்கள் ஒருவரும் பார்க்கக்கூடாது என்று வைத்திருக்கிறார்கள். அப்படி வைத்திருப்பதால் தான் அவர்கள் செய்யும் தவறுகளை பார்ப்பதற்கு முடியாமலிருக்கிறது. அப்படி தப்பித்தவரி யாராகிலும் போய்விட்டால் அவர்களை உள்ளே விடாதுபடிக்கு ஆட்களை வைத்து தடுத்து விடுகிறார்கள். ஏன்? அவர்களுக்கு பணம் இருப்பதால் அப்படி குண்டர்களையும் தடியர்களையும் பணம் கொடுத்து வைத்து தங்களுடைய பங்களாக்களை காவல்புரிந்து வரும்படி ஏற்பாடு செய்திருக்கிறார்கள். அதற்காகவே அவர்கள் லட்சக்கணக்கான ரூபாய்களை செலவு செய்து அவர்களை நியமித்திருக்கிறார்கள். இது சம்பந்தமாக கும்பகோணத்தில் நடந்த ஒரு சம்பவத்தைப்பற்றி பத்திரிகைகளில் பார்த்திருக்கலாம். அப்படி அபாத காரியங்கள் செய்து விட்டு அந்த மடாதிபதிகள் தங்களிடமுள்ள பணத்தினால் தப்பித்துக் கொண்டுவிடுகிறார்கள். எவ்வளவோ பெரிய தவறுதல்களைச் செய்யக் கூடிய மடாதிபதிகள் சீர்திருத்துவதற்கு அரசாங்கம் ஒரு புரட்சிகரமான சட்டத்தைக் கொண்டு வந்து அதை நிறைவேற்ற வேண்டுமென்றால் அதற்கு எதிர்ப்பா என்று கேட்கிறேன். அப்படி பொதுஜன அபிப்பிராயத்திற்கு விடாமல் நிறைவேற்றினால் அடுத்த எலெக்ஷனில் வருவார்களா என்று கேட்கப்படுகிறது. இதையே தலைவர்களும் கேட்கிறார்கள். எடுத்ததற்கெல்லாம் எலெக்ஷனா என்று கேட்கிறேன். அடுத்த எலெக்ஷனில் வெற்றியடைவதற்காக இப்பொழுது இதை எதிர்த்துப் பேசவேண்டுமென்று பேசுவது அவ்வளவு நியாயமல்ல அதற்காகவே சிலர் இதை எதிர்த்துப் பேசினால் நிச்சயமாக நான் சொல்லுகிறேன் அவர்கள் அடுத்த எலெக்ஷனில் வெற்றியடையமாட்டார்கள் என்று. அவர்களால் வரவும் முடியாது. இங்கே கூடியிருக்கும் எல்லா அங்கத்தினர்களும் நேர்மையாக நடந்து கொண்டு நம்முடைய அரசாங்கம் கொண்டு வந்துள்ள இந்த மசோதாவை அவசியமாக ஆதரிக்கவேண்டும். இதைக் கொண்டுவந்துள்ள நமது தலைவர் ஓமந்தூர் இராமசாமி ரெட்டியார் ஒரு கடவுள் பக்தர்தான் அவருக்கு இந்த மசோதாவினுடைய நன்மைகளைப் பற்றி தெரியாதா என்று கேட்கிறேன். நம்முடைய கவர்னர்-ஜெனரல் கனம் C. இராஜகோபாலாச்சாரியார் காலத்திலேயே இந்த சட்டம் கொண்டுவரப்பட்டது. அந்த மந்திரிசபை இராஜினாமா செய்த பிறகு இந்த சட்டம் வராமல் போய்விட்டது. அப்பொழுது இந்த சட்டம் வந்திருந்தால் கனம் வைத்தியனாதய்யர் இதை எதிர்த்திருப்பாரா என்றுதான் கேட்கிறேன் அப்பொழுது ஆதரித்தே பேசியிருப்பார். அப்படி இல்லாமல் இன்றைய தினம் ஒரு நல்ல நிலைமையில் உண்மையான தத்துவத்தை உணர்ந்து சுவாமியினிடம் பக்தியோடு இருக்கக்கூடிய நம்முடைய கனம் ஓமந்தூர் இராமசாமி ரெட்டியாரால் கொண்டுவரப்பட்டிருக்கிற இந்த மசோதாவை எல்லோரும் ஆதரிப்பதோடு டில்லாமல் கனம் வைத்தியனாதய்யர் கொண்டுவந்த திருத்தத்தை ஆட்சேபிக்கும்படியாகவும் நான் கேட்டுக்கொண்டு என்னுடைய வார்த்தையை முடித்துக்கொள்கிறேன்."

SRI P. KANDASWAMY PILLAI:—"Mr. Speaker, Sir, I am really happy to be here on this important occasion to speak a few words on behalf of the Government and I am glad that they have introduced the Bill. The Bill can be divided into several parts. I wish to divide this Bill into three parts, the endowments, the maths and the temples. Several maths have got money enough to manage their own affairs. But all of us can

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agree that the amount they receive from the Government or from the estate, is not utilized for the full benefit of the society for which it exists to-day. I think, Sir, there will be no two opinion about this matter. Because all enlightened people are here in this august Assembly, every one of us can search our heart and say whether the amount is spent fully for the benefit of the society for which it exists or for the benefit of the administrators and people who are in charge of its affairs. I venture to say in this House to-day without any fear of contradiction, that it is misused for the benefit of the persons who are engaged in its affairs whether it is a temple or a math and whether it is a big 'swamiji' or a simple person. Of course, they give the account and they present the budget. But if you go into the matter, you will find out clearly that a lion's share of the amount is spent for their personal advantage. Therefore, there is every necessity why the Government must look into the matter and come to the rescue of the society. We have assured to our people that all privileges will be given to them after the advent of our freedom.

"Now, coming to 'pujas', we must see whether the temple pujas and rituals are performed according to Agamas. That is my question because all our habits and customs and rituals are enunciated in the temples for the uplift of the religion. What is religion? Scientifically, if you analyse religion, you will see that religion is there to mould the character of the people. To mould the character of the people, they must have a society in which they must live like brothers. All the human beings are sons of God. (At this stage the Deputy Speaker occupied the Chair.) Therefore, all the people must feel united and feel the brotherhood. In our present day customs and habits either in the temples or in the maths, there is enough disunity and there is enough fight between each other. There is not at all the recognition of brotherhood. These 'matadhipathis' and persons who are managing temples never care to know that they exist for the unification of the society. They are there to give religious education. They are there to educate the people either in the religious aspect or at least in 'bhakthi'. Therefore, when they do not realize their responsibility and the temple authorities do not execute their duties properly for the advantage of the people and when they do not care to educate the people in religious matters, then what is the purpose served by allowing them to continue in their own way. So, there is ample justification for our people's Government, the Congress Government, to take up the management of these religious institutions for the benefit of the society.

"Then, again it is stated on the floor of the House that this Government want to employ their own men in the religious institutions. Are they going to import people from China, Japan and England? Certainly not. Our own brothers and our own men who have got religious knowledge and courage to execute duties will be appointed there.

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"It was pointed out that if a Saivite is appointed to Srirangam temple, he will not be able to execute the temple affairs properly and similar difficulty will arise if Vadagalai people are appointed to administer Thengalai temples. I am sure that in that matter the Government are more fully aware of the difficulties than a number of us who speak about them but do not practice the same. Regarding appointments, the Government, I am sure, will take every precaution to select persons who will be competent to discharge their duties to the fullest satisfaction of the people. Then it was said that the State should not interfere with religion. I may tell them, Sir, that even from the days of Akbar, they were taking care of religion and they have given several gifts to temples and if in the management the temple authorities did anything wrong, they interfered in order to set right things. When the Raja of Panagal introduced the Hindu Religious Endowments Bill, we opposed the measure tooth and nail because at the time there was the Britisher ruling the country and he belonged to another religion. After the Congress Government took charge, very happily our Rajaji put this portfolio in the hands of his best friend. We cannot be deterred simply because slogans are raised with the object of securing votes for the future. Srimathi Lakshmi Bharathi during the course of her speech yesterday explained how from the beginning the State was legislating; did not we have the Shop Assistants Bill, and the Harijan Temple Entry Bill? The Government legislate on all aspects of life but they do it for the good of the people. They do it all the world over and we are also copying it. The British Government when they were here did not allow us to do our duty properly. Now that we have undertaken a great responsibility we should not fear as what we are attempting is one-hundredth of our task ahead under Swaraj. We are adepts in the matter of managing temple affairs and we shall do it quite nicely and well and there need be no fear about that. We are a religious-minded people compared to any other people in the world and we need not despair of undertaking this business. Regarding the complaint that we wish to appoint our own men, I hasten to tell you, Madam, that we should not suspect the integrity of the member in charge of the Bill and the Premier is an earnest religious man and he is a disciple of the great Tiruvannamalai math and Dr. Rajan is highly religious and in spite of his being an England-returned man, he has not abandoned religion and he is following religion according to the strict spirit and letter of the Geetha; his is not a religion of antiquity but practical religion. I am sure the public are behind the Government in this measure. My hon. Friend Mr. Annamalai said that we have not mentioned about this in the election manifesto. But let me tell him that we have not stated so many things in the manifesto. As a Government we have to do things according as circumstances warrant, according to the needs of the moment; if an emergency arises, we have to legislate having an eye on the benefit to society and it does not mean that every one of our acts during the period of our Government, must have stated in the manifesto. Supposing rice is in short supply, have we mentioned in the manifesto that

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we shall supply wheat? It is not necessary, for it is dictated as a matter of urgency. I am sorry, I have to say that the Bill has evoked the opposition of my hon. Friend Mr. Vaidyanatha Ayyar, a very ardent Congressman and he and I are friends ever since 1921 when politics began in South India. I have been with him ever since then; he has been very good outside and he was representing popular opinion, but I am sorry after entering this Assembly he is acting against popular will in very important measures. He is a man associated with Harijan uplift and was the first to introduce temple entry in South India; I have got the greatest respect and regard for him and it is he who got a good name to this Province. But in spite of all that I am unable to support his view point. Nobody can stand against popular will. After all, what is the object of the Bill? What is the object of the Hon. Premier and Dr. Rajan to bring in a measure to ruin Hindu religion, as if they are not Hindus? On the contrary, with all sincerity, they want to rectify things. In the Vaishnava granthas it is said 'if there is pain and the doctor puts his knife on the spot, the patient will cry out or even abuse him, but when the pus is removed and he is relieved of the pain, he will thank him and he will praise the doctor.' So also eventually people will thank them. We have got very great responsibility after we have obtained freedom and we have so many problems. In the interests of the country, we have to take courage and take it up. As an instance of mismanagement, I can tell you of one within my knowledge. There is a math in Dhanushkodi. That is a place where we have no hotels and one cannot get food except from Spencers. A boy was carrying my bundles and he took me to the math. A Brahmin was provided with a leaf and given a square meal, but for me a ball of rice with some mixture was given along with other beggars. When I asked why I was given this, they told me it was so because I was not a Brahmin and that I was not entitled to be treated with respect like the Brahmins and they said the endowment was like that though the donor is a Nattukottainagarathar. I enquired about the management and I understood that a daily allotment was about Rs. 30, out of which they spent Rs. 5 or so and they merely wrote accounts for the balance and showed it as having been spent and the manager was making a daily profit of Rs. 25. This is but one specimen of how the maths are managed and there are thousands of them. It is not only a matter of my experience but of every Congress member; if he will search his heart, he will repeat the same thing; we have visited the villages and we have visited choultries and dharmsalas and we know how things are. It is not meant that immediately the Bill is passed, we will take up the management the next morning. Wherever there is mismanagement, the Government will very carefully watch them and only when they are convinced that there is something radically wrong, the Government will step in and enquire and as a punishment they will appoint their own men and precautions will be taken to see that the daily pujas and rituals are done in accordance with the agamas. We know, Sir, there is an agitation but it is all the newspaper variety because the papers

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are on the other side. The temples and maths should be correctly maintained in the manner the donors wished them to be, in the interests of the people for whom the donor endowed his properties. Several things might have been written in the documents and let us take into account how it will have to be viewed in the present conditions and we have to come to a decision on things not because Mr. Vaidyanatha Ayyar is opposing and Dr. Rajan is bringing it forward. If anything is good, we have to take it even from our enemies and if a bad thing is offered even by our friends, we have to reject it; we must have to decide on the merits of the question; we must not swallow it because it comes from a particular quarter. Every one knows the objects of the Bill and every one knows the present condition of most of the maths and they can well imagine what the consequence will be of the passing of the Bill. Nobody need have any doubt that it will not do good. Yesterday, Mr. Annamalai Pillai was lamenting very much and said that because his leader, Mr. A. Vaidyanatha Ayyar, said like that, he would support that. He said several things in his angry mood. I do not find fault with him. He is an elderly gentleman and he is lavish in the use of his language. Let him be content with it. My humble submission is that this Bill must be passed and the full benefit of the temples and maths must go to the people. Service to the people is the object with which we have come here and for which we are here. Mr. Annamalai Pillai said that we would be annihilated if we passed this Bill. That is not a correct view. My humble request to this august Assembly is that it should support this Bill "

SRI R. RAGHAVA MENON:—"Madam, when the Government are dealing with such an important subject as the religious life of the Hindus of this Province, they must take counsel from persons who are interested in, and are competent to speak about the Hindu religious institutions before passing any Act. On the strength that they are a popular Government, this Government have passed several laws. But those laws are entirely different in their nature from the Bill that is now before the House. It is a very serious step that we are taking a step that is going to affect the religious life and institutions and, to a certain extent, the spiritual life of this Province. This Government who say that they are a secular Government want to pass this Bill. Several religious-minded persons have endowed religious institutions which cater to the needs of this nation which is famous for its religion and spiritualism. We are not like the Western nations. If India counts for anything in the world and if she can boast of anything valuable and of which the rest of the world stand in need, it is her religious life and spiritualism. This Government have introduced a Bill which is going to affect those religious and spiritual aspects of life. Hence I say that this is one of the most important Bills. The electors never thought that the Government would deal with religious institutions and the Members were not returned to the legislature on that issue. Having been returned, the Members may now claim the power to legislate with regard to every

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aspect of life of the citizens. The Government want to pass an all-comprehensive legislation bringing all the Hindu religious institutions under their direct management without even providing for an appeal to a court of law. This is a very serious step, and before taking such a step the Government must think twice. They must take counsel from competent persons, persons who know the religious or spiritual side of our life. The hon. Members of this Assembly may be very able and very educated. But all of us cannot lay claim to much knowledge of religion. We must not be carried away by the idea that because we have been elected as Members of this august Assembly, we have got the power, that whatever we do is right and that there is no other side to the question. A spirit of irreligion and iconoclasm is sweeping over the world. (Abdul Hameed Khan Sahib Bahadur: 'A spirit of destruction.') Irreligion and iconoclasm have some destructive elements in them. We must not be guided by that spirit. Once we pass a Bill, it will be very difficult to go back or repeal it. The prestige of the Government will stand in the way. Since there is no hurry, it is but right that a Bill of this magnitude affecting the most essential aspects of our national life should be circulated and the advice of competent persons obtained. There is no use of consulting people who do not believe in religion and rules of social conduct. There is no harm in taking a little more time. When a secular Government take up the management of religious institutions, there is no limit to where the interference will end. The hon. Sri P. Kandaswami Pillai said that this august Assembly had got the right to pass any laws. True. But the people also have got the right to say that a secular Government must administer in a secular way. For a Government to say that they are secular and at the same time interfere in religious institutions is a bit ludicrous. I am not unmindful of the fact that some matathipathies may not be behaving properly. The maths under their control may not be properly managed and there may be diversion or misappropriation of funds. The Government are already taking action in such cases and they appoint executive officers. Why not strengthen that control instead of bringing in a Bill to supplant the institutions altogether and appoint your own men? As one Member complained, we have not got men to administer the work that we have already undertaken. Some of our most vital departments are under-manned, as we have not got adequate number of proper men. If you put young men who are not religious-minded in charge of temples and maths, they will say: "Let God wait. Let me have my iddly and coffee first." Administration by such persons will cause great havoc. So, let us improve the existing machinery instead of trying to superimpose a new set of officials and a new administration. When we are not able to do things satisfactorily in the directions in which we have already gone, let us not venture into new directions in our enthusiasm and anxiety to improve everything, especially in religious matters. Our young men are not very familiar with religion, they are brought up in an atmosphere of No-God, and

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they have no respect for law and authority. Under the circumstances, it is better that the Bill is circulated for public opinion instead of being sent to a Joint Select Committee. After all, a Joint Select Committee consists only of some Members of the Assembly and the Council. The subject on hand is such that on it we have to get the opinion of people who know something about religion, religious leaders, and men of ripe experience and mature judgment. Let us reform and improve the existing machinery. If maladministration persists in religious institutions even after that, then the Government can take over the management themselves, even though they may be a secular Government.

"The hon. Mr. M. Kanniappan said that the people were watching. If you do a wrong thing, the people may be silent because they have not got the power to check you. Once elected, we have got the power to legislate in the name of the people. Some of our actions may be such that when we ask the public, they may not give a glorified account. There is no use of saying that public opinion is watching the progress of this Bill. Opinion of the people who know the subject and are qualified to speak on it alone should count. Such people will not tolerate interference by Government in religious matters. We cannot say that all that we do is for the good of the people. Only those that are good can be said to be for the good of the people."

"The Hon. Minister piloting this Bill is an experienced Member. Still I submit to him that when we undertake such a measure on behalf of the people, let us not lay ourselves open to the accusation that by virtue of the majority strength the Bill was passed in the teeth of opposition. Let us allow sufficient time to the public to express their opinion especially that section of the public which is competent to express an opinion on this Bill."

* SRI A. KALESWARA RAO:—"Madam, Deputy Speaker, I do not like that the proceedings of this Assembly should, in any way, be influenced by the fast that is carried on by a Swamiji opposite to Fort St. George. It is wrong to fast for these things. We cannot be coerced. On any measure anybody may fast and try to evoke our sympathies, as also the sympathy of the public. But I consider it as a misuse of Satyagraha or of hunger-strike. At the same time, I also condemn the action of certain people belonging to the black shirt movement molesting that Swamiji by throwing stones at him. I do not think it proper to attribute motives to either side, when we are discussing this very important Bill. The Hon. Dr. T. S. S. Rajan has moved this Bill with the highest of motives in order to improve the administration and management of the religious and charitable endowments and my hon. Friend Mr. Vaidyanatha Ayyar has moved an amendment to send it out for eliciting public opinion and to consider it again after getting all the aspects of the question, legal as well as factual, thoroughly examined. On both sides there is no insincerity;

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there is no bad motive whatever. Both are actuated with the best of motives and to say that some people are opposing this Bill merely for political purposes or for election purposes is as wrong as it is to say that those who support this Bill do so in order to get favours from the Ministers. Both insinuations are equally wrong. I am a social reformer and I believe in what I do and I have never gone even once in my lifetime to get Thirtham from the Acharya-swami Sankaracharya. I shall not go to hell, on that score, but on the other hand, I have sufficient faith that I shall go to heaven if there is any merit in my acts and in my beliefs. I want to remind the House in this connexion that while a mere social bill like the Anti-Bigamy and Divorce Bill, which sought to confer equal social rights to both men and women with regard to marriage and divorce, was referred to public opinion by this august House, why a Bill like this which is much more drastic and much more revolutionary should not be referred for public opinion. My Bill was after all a social measure and the cry of religion in danger should never have appealed to us, when we were doing the right thing, a just thing and a reasonable thing. It related only to the personal laws of the Hindus with regard to marriage and divorce. Even that Bill was referred specifically for eliciting public opinion and two or three months' time was given to the public for expressing their opinion on it. There was no harm in having allowed that time and I do not think that any great harm will be done by referring this Bill also for public opinion. It may be said that this Bill had been published long ago and that it has been before the public for quite a long time. But nobody knew and even Members of the Congress Party were not aware when it would be taken up for consideration, whether it would be dropped or whether it would be postponed till the new Constitution came into being. We did not know any of these things. It was only the other day that it was seriously taken up by the Congress Legislature Party and only 60 members were present and 44 voted for its introduction while 16 voted against it. The same fate overtook the Zamindari Abolition Bill when voted upon by the Congress Legislature Party, with the same numbers voting for and against—44 against 16. Now it is for the first time that it is seriously before the public of this Province. When once you do something with regard to the Hindu Religious and Charitable Endowments, you have every right to do the same thing, to extend the same authority, and to exercise the same jurisdiction over the charitable and religious institutions belonging to the other communities also, such as the Muslim mosques and wakfs as well as the Christian churches and Christian endowments, and so the whole public of this Province are concerned with regard to this Bill, as was pointed out by my hon. Friend, Dr. D. S. Ramachandra Rao. Therefore both the majority and the minority communities are equally interested in this Bill. Now, Madam, what is the nature of this Bill? Now that it has come before this House, every hon. Member is free to express

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his opinion on it and naturally my hon. Friend Mr. Vaidyanatha Ayyar has suggested that it may be referred to the public, so that they may be in a position to offer their clear and specific opinion on it. Many other hon. Members have expressed their views in favour of circulating it for public opinion, while certain other members have opposed it and supported the motion of the Hon. Mover of this Bill that it be referred to a Select Committee. Let us see what exactly the majority of the public feel in a matter like this.

“Madam, I would have supported this Bill, but for the fact that the State directly through its officials interferes with the religious customs, ceremonies and functions of these institutions, and taking power to use their extra funds in a cypres manner. This is the first time that the State seeks directly to interfere with the detailed administration and management of the religious institutions, temples, mutts and charitable endowments. To-day the Government are interfering with the Hindu religious institutions; to-morrow they may take up the mosques and the day after the churches. Is it safe, is it right? That is the question. We have proclaimed before the world and the constitution of this country has laid it down that ours is a secular State. We do not want to interfere with religious beliefs and with religious propaganda. We do not want to tax for purposes of religion. We do not want to collect funds for the upkeep of any religious institution. But what do we find in this Bill? There are provisions made for all these things. Since we are a secular State, is it proper for us to interfere with religion? I submit, Madam, that it is a dangerous innovation. Mere management of certain religious institutions is a different matter. We have already got a secular law in operation and that is the Civil Procedure Code. There are sections 92 and 39 and also rule 8 of Order I which regulate such things. They come into operation if any of the endowments or trusts are mismanaged. Those who are interested in the endowments or those who worship in temples might put in a petition before the court and after examining the whole position, the court might sanction a scheme for the carrying out of the duties of the temples. Under such new schemes, new trustees come into being and they manage these institutions. I have no objection to adopting a procedure like that. But to say that the Government should take the place of the courts, and attend to the management of the temples and administer the trust properties, etc., is a thing which passes beyond my comprehension. But this does not stop there. Clause 6 of the Bill states:

(1) *Subject to the provisions of this Act, the general superintendence of all religious institutions and endowments shall vest in the Provincial Government.*

(2) *Such superintendence shall include the power to pass and orders which may be deemed necessary for the proper maintenance or administration of any religious institution or endowment.*

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Clause 7 says:

(1) *The Provincial Government may call for and examine the record of the Commissioner or any Deputy or Assistant Commissioner in respect of any proceeding, not being a proceeding in respect of which a suit or an appeal to a Court is provided by this Act, to satisfy themselves as to the regularity of such proceeding or the correctness, legality or propriety of any decision or orders passed therein; and if in case it appears to the Provincial Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, they may pass orders accordingly:*

Provided that the Provincial Government shall not pass any order prejudicial to any party unless he has had a reasonable opportunity of making his representations.

(2) *The Provincial Government may stay the execution of any such decision or order, pending the exercise of their power under sub-section (1) in respect thereof.*

“Thus hon. Members may see that the Government are taking vast powers into their hands. They appoint their own officers directly, namely, the Commissioner, the Deputy Commissioner, the Assistant Commissioner and so on. These officers are given very vast powers. They can appoint new trustees or remove them as they please. The trustees themselves are given vast powers. They can appoint or remove any of the servants or office-holders of the temple as they please, whether they are hereditary appointments or non-hereditary appointments. All these employees in the temples are at the mercy of the trustees. No notice need be given to remove them from service, no enquiries need be made and no appeal is provided against the orders of the trustees to the higher authorities, or to the Government. Whatever irregularities are committed in the temples, or however bad the internal administration of the temples may be, all these will have to go up to Fort St. George. In that way, the whole Bill has been framed. The Bill, I say, vests too much power in the hands of the Government, and enables them to interfere with anything that they please.”

SRI V. RAGHAVAYYA:—“They can interfere with God too!”

SRI A. KALESWARA RAO:—“I presume, if that could be done, they could have taken such powers. But let us see how such interference is sought. As I said, the Commissioner and the Deputy Commissioner who are officers of the Government are given vast powers. Clause 43 of the Bill states:

Subject to the rights of appeal hereinafter provided, the Deputy Commissioner shall have power to decide the following disputes and matters:—

(a) *whether an institution is a religious institution;*

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- (b) *whether a trustee holds or held office as a hereditary trustee;*
- (c) *whether any property or money is a religious endowment or a specific endowment;*
- (d) *whether any person is entitled, by custom or otherwise, to any right, honour, emolument or perquisite in any religious institution; and what the established usage of a religious institution is in regard to any other matter;*
- (e) *whether any institution or endowment is wholly or partly of a religious or secular character; and whether any property or money has been given wholly or partly for religious or secular use;*

"Madam, so we see that the religious customs and usage in the temples are sought to be interfered with and they are left entirely to the discretion and decision of the Deputy Commissioner. Therefore what is the position of the temples under this Bill? They are reduced to mere departments of the Department and the Government officials are the masters in the temples and can decide what religious customs and usages are to be followed in the temples, whether a man in the temple should wear Namam or Veebuti, etc. What else is there for the State to interfere within these religious institutions. Every detailed item of administration of the temples is in their hands. That is why I say that the Government are taking unduly vast powers under this Bill.

"Then, Madam, clause 45 states that the excess funds of the temples may be utilized by the Deputy Commissioner according to his pleasure for certain other purposes. It may be a good purpose. But that is not the point here. Have the Government any right to change the purposes for which endowments are made by the donors? We have now attained Swaraj. Hitherto we were under a foreign Government. They never said that they were a secular State. Now it is the first time that we have a Constitution which is secular and now shall we take up the direct management of religious institutions? That is the question which is debatable and doubtful. That can be challenged in courts and the Bill may become *ultra vires*. Therefore I submit that before we plunge into the matter further and refer the Bill to a Select Committee, it is better to have public opinion before us completely and fully. So far as any telegrams or petitions that have come I learn that they are all against proceeding with the Bill. It looks like that. That is the Hindu public opinion. Therefore we should not go too much in this line. Therefore, Madam, Deputy Speaker, I support the amendment that it should be circulated for public opinion."

SRI S. NAGAPPA:—"Madam, Deputy Speaker, I generally agree with the principles of the Bill, but unfortunately I cannot subscribe to all the clauses of the Bill, for the simple reason that

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this Bill covers only the Hindu Religious Endowments. My point is that in a secular State there cannot be any distinction between the Hindu Religious Endowments or the Muslim Religious Endowments and the Christian Religious Endowments. I would have agreed if the Bill had mentioned this Bill as merely 'Religious Endowments Bill'. As our friends are aware, especially after the passing of Article 9 by the Constituent Assembly, every religion has the right to preach and propagate. We must also know that we are here existing in a secular State and the Madras Government are existing in order to govern not only a particular section of the people but to govern all the sections, whether Muslims, Hindus, Christians, Jains or Sikhs. I would request the Government to be a little radical and bring in such a legislation as will cover each and every religious section in the Province. No doubt in sub-clause (2) of clause 1 they say that they would bring in Jain temples also when it strikes them. Why should they wait until that strikes into their mind? Why not today itself? Many of my friends have been saying, Madam, how the mutts have been managed. I am sorry that neither have I been a matadhipathi nor have I known of the mutts. But I know trustees. No doubt now we are having a Bill in order to safeguard the Hindu Religious Endowments. But I say we are here not only to safeguard the Hindu Religious Endowments but also others. That is my impeachment against the Government. Why should not they include every other religion. Mr. Seethi Sahib has brought in the Muslim Wakfs Bill . . ."

SRI M. S. PATTABHIRAMIAH:—"Can the hon. Member impeach the Government, Madam?"

SRI S. NAGAPPA:—"My point is that we are here, Madam, in order to push the Government in the right direction. That is what I mean by my impeachment. If my hon. Friend cannot understand that I cannot help it. (Laughter.)

"So in the name of the people, in the name of the province, if we are governing here, we must govern every section of the province and safeguard all. Why should this Government be particular about the Hindus alone? That shows their selfishness. Are they not expected to be above all this and be impartial?"

"Coming to another point, Madam, there is a clause here which says that only people above the age of 35 and below the age of 70 should hold some of the posts in order to supervise the mutts and trusts. I ask, how the people who are below 35 disqualified. You talk of age. What is age? Was not Dhruva, who was supposed to have achieved moksha, within his teens? What about Markandeya who is supposed to be alive even today? You talk of age. What is there in age? My dear friend, you may not want me, but I am going . . ."

DEPUTY SPEAKER:—"Whom did the hon. Member call just now as my dear friend?"

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SRI S. NAGAPPA :—" I addressed the Member who interrupted me, Madam. "

DEPUTY SPEAKER :—" That is not the way to do it. "

SRI S. NAGAPPA :—" I addressed him only through you, Madam. "

DEPUTY SPEAKER :—" That is not the way. "

SRI S. NAGAPPA :—" We have been attempting to nationalize almost all the wealth of the country. The people of the country are the owners of the whole of the wealth of the country, whether they are political, religious, or economical or spiritual. So I would request the Government to bring in such legislation to include all the temples and mutts, trusts and endowments of every one that has an interest in the country. Today you can enter a mosque or church and nobody can prevent you. Whether you follow that religion or not you have the right to enter. But, Madam, the Hindu religion which has been boasting to be the purest religion, I am sorry to say, is the most impure religion. Because of its impurity 70 per cent or a good number of my people, the Harijans, have to seek shelter under other religions. Today I am ashamed to say but for the atrocities of the Hindu religion 60 to 70 per cent of the Muslim population would have been my people. And 99 per cent of the Christians today are my people. So the Hindu religion was responsible in driving out my brethren to other fields. But, Madam, I must say that I am not against the religion itself but the practice. It has been practised according to their own whims and fancies. This is the land where rishis, maharishis, rajarishis and brahmarishis have achieved moksha. In such a country atrocities have been committed in the name of God on the humanity the creation of God Himself. Now we are free citizens in a secular State and what rights the Hindu has the Muslim also has and what right the Muslim has the Hindu has. I think it is the duty and the responsibility of the Government to see that every one is safeguarded. There is one mutt called the Ahobilam mutt. You must know how it is administered. The Great Great Matadhipathi is in Srirangam and Ahobilam is in my place. I am a resident citizen of the district and I have no right to enter the temple there. I find no words, Madam, to express how atrocities have been committed in the name of religion. Nobody prevents those people from going to the Himalayas and doing penance there and attain moksha. What have they done here in the name of religion? They did not take the trouble of even preaching the gospel of the Bhagavat Gita. And more over if any Harijan is eager to learn, I am told, the veda says that lead should be poured into his ears. I cannot understand what that religion is. In the name of such a religion we have been doing all such atrocities. Those atrocities should not be continued any longer. I congratulate the Ministry, Madam for bringing the Bill, but I feel sorry that they have left the other religious institutions. If they had the courage they should have included

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other religious institutions also, the jains, the sikh gurudwaras if they happen to be in our province, etc. Instead of that why do they want to wait until the idea strikes them. That shows the weakness of the Government.

" Madam, I am glad the Government are taking power into their hands in order to see that they appoint the right person to supervise the mutts and administer the trusts. But in appointing them, they should not appoint worse people than the existing ones. I am afraid even that may happen because the Government are here only to favour X, Y or Z. If they are going to do that the result will not be good. There must be a college in order to train the pujari, the matathipathi and the acharyas and to tell them what their duties are and how they should administer. (Sri T. Viswanatham: You want to be a student in the college?) I am not eager to be a matathipathi or any such thing. Don't worry about that. Their subject must be philosophy. They must know our country's philosophy and interest themselves in religion and develop our country spiritually. Not all people should be appointed in the name of religion in the mutts and allow them to exploit the funds that are put at their disposal. Some matathipathis are very good people. But some people being sishyas inherit the property and everything. The sishya may not be as good as the guru. He may be worse. Yet he has the right to succeed to the whole trust. Are we to entrust the wealth of the country into the hands of people who would mismanage the funds? The country's wealth belongs to the whole population of the country and all sections of the people. (Interruption.) My hon. Friend, Mr. Raghavayya, wants my support. I do not know what sort of support he wants. If he wants my support in the name of the Brahmin religion, I am extremely sorry I cannot accede. I am prepared to help my friend if he is capable of helping himself. I think this Bill is going before the Select Committee. I hope the Select Committee will take all the views expressed by the various Members of the House and see that the Bill is redrafted in such a way that it will serve the purpose of the Government and also at the same time the needs of the people. There are so many mosques in my own district. They are having hundreds and hundreds of acres of land. Some Mullas have inherited these lands. They are dealing with these lands as they like. Somehow or other they are making use of this property. We do not know the intentions of the donors, and whether the object of the trust is being fulfilled.

" Once again I request hon. Members who will be nominated to the Select Committee to consider all aspects of this Bill, and see that the Bill is drafted in such a way that it is useful to the people of this Province and country at large. With these words, I support the Bill."

* SRI S. CHIDAMBARA AYYAR :—" Madam, Deputy Speaker, I rise to support the amendment moved by my hon. Friend, Mr. Vaidyanatha Ayyar, for referring the Bill to public

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opinion. In the first place let me clear the misapprehension in the minds of some hon. Friends that those who support the amendment of Mr. Vaidyanatha Ayyar are not for rectifying or bettering the condition of the administration of the religious endowments and charities. We are not for allowing maladministration to continue. On the other hand we are as much for removing the maladministration and for bettering the condition of the endowments as any other Member of this House.

"What I wish to point out is this. This Bill has not been constructively criticised by the public. It was no doubt published in September 1947. But for various reasons, it was dropped out of consideration by the party. Only for the first time steps have been taken now, and on the 14th January 1949, it was placed before the Party meeting. Now only the public are becoming aware that such a Bill is being introduced in this House. I submit that most of the villagers are not aware of all the implications and consequences of this Bill. They do not know how the implications of this Bill are going to affect the administration of temples. I do not deny, Madam, that some temples and mutts are not managed properly. But unless specific instances are brought to the notice of Government, I do not think it is proper or justifiable to denounce all temples and mutts as mismanaged. If there are any instances of mismanagement, there are enough provisions in law to suitably deal with the institutions. If a man has misappropriated moneys belonging to a trust, there is the criminal law or proceed against him. There are enough provisions in the Endowments Act to proceed against persons guilty of mismanagement of institutions. Under the Trust Act, breaches of trust are punishable in an ordinary court of law. Instead of attempting to more effectively enforce the provisions in the Endowments Act and Trust Act, to bring in this Bill at this stage especially when our fundamental rights are being forged on the anvil of the Constituent Assembly, is not correct. I submit that this Bill need not be rushed through now. It can wait for some time. In the meanwhile, public opinion may be canvassed on the provisions of the Bill. On the constitutional and legal position of the Bill, my hon. Friends Vaidyanatha Ayyar, Viswanatham and Bhashyam have already spoken. Therefore, I do not propose to deal with that aspect now. I only want to state that so long as this is a secular State, it is not safe to interfere in religious matters. We have made up our minds and have committed ourselves to a policy of non-interference in religious matters relating to Islam and Christianity. But, in the case of Hindu religion, simply because we are in a majority, it is not necessary that we should interfere in our own religion especially when the fundamental rights which are on the anvil of the Constituent Assembly now are likely to grant to institutions and individuals freedom of right in religious matters. Therefore it is, I say, that this Bill should be circulated for public opinion. I like to say that people in the mofussil do not know such a Bill is being introduced in this House. The Bill has not been communicated

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their views on this Bill. If they have, I can understand that public opinion has been ascertained. Some hon. Members opined that this Bill should go straight to the Select Committee. Madam, we are not opposed to any reform in the administration of temples and mutts. We only want that the Bill be circulated for public opinion. In the meantime, the Constitution will be ready, and then we can discuss the whole thing. We will then know what is our position in the matter, and then pass such measures as are necessary for the good administration of temples and mutts.

"One thing more. It is very difficult in these days to manage a large number of temples. It would mean a very large establishment. We are already not able to manage the various departments under our control. To add to that a new hierarchy of officers and try to manage temples, is a very difficult task.

"Now, I want to say something about mutts. I specially plead that mutts should be excluded from the purview of this Bill. That is my main point. Mutts stand on a different footing from temples. Mutts are not to be treated in the same way as temples. In the Statement of Objects and Reasons, it is stated that the Government undertook the responsibility of controlling the Trusts under the Regulation of 1817. Mutts were not included in that regulation. In the 1863 Act also, mutts were not included. For the first time in Act II of 1927 mutts were included. They were included because some representations were made to Government that certain mutts were mismanaged, and that there have been misapplication of the funds of mutts. Even there, they drew a distinction between temples and mutts. The Select Committee in paragraph 6 of their report on the Madras Hindu Religious Endowments Bill (No. 12 of 1922) say—

'We recognize at the same time that the powers of the head of the math property, especially the income therefrom, are wider than those of an ordinary trustee, and that the Mata-thipathi, by virtue of the spiritual veneration in which he is held by his disciples, occupies a position which entitles him to privileged treatment. We have, therefore, provided that local committees shall have nothing to do with maths, that ordinarily the head of a math need send only a budget and an annual account and that he should maintain proper accounts and get them audited. It is only in cases where mismanagement is proved or where a number of disciples desire such a course that arrangements for greater control may be devised.'

This will show that separate treatment was accorded to mutts in the Act of 1927. In the present Bill, all distinctions are completely removed and mutts and temples are placed on the same footing. There is a difference between temples and mutts. In the temple there is the idol installed. But in the case of the mutt, the head of the mutt is a learned man. He is a highly spiritual man. He is the person to administer the affairs of the mutt. The mere fact

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that this man is learned, pious and spiritual is itself sufficient guarantee that he is not likely to mismanage or misuse the funds of the math. Further, large sums of money are given to the spiritual head of the math by way of personal gifts. Those gifts are the absolute property of the head of the math. Though they are all given for religious and charitable purposes, there is absolute discretion for the head of the math to spend the money because, the gifts are given by the disciples to that venerable head of the math. Therefore, there should be a distinction between mutts and temples. In case mutts are not completely exonerated from the provisions of this Bill, the funds given to the heads of maths as personal gifts should be excluded from the provisions of this Bill.

"In this Bill, the head of the mutt is made to occupy a position of inferiority. He is being humiliated. It may be that the Bill does not intend to humiliate him. But the effect of all the various provisions in the Bill will go to show that the head of a math is a subordinate of the executive commissioner. There is mention of impositions of fines and surcharges on the heads of institutions. I do not know how Matathipathis can be surcharged. The head of the math is a Sanyasi. He has no property. My submission is that the case of Matathipathis should not be brought under the provisions of this Bill. Even if included, they should be given a different treatment from trustees of temples. If the amendment to circulate the Bill for public opinion is not carried, I hope these aspects of the Bill will be carefully gone into by the Select Committee, and they will accord better treatment to the mutts and Matathipathis than to the trustees of temples.

"I am obliged to my hon. friend, Mr. Vedaratnam Pillai. He said that in Tanjore district there are two good mutts, one is Sri Sankaracharya Mutt and the other is the Dharmapuram Mutt. I know about Sri Sankaracharya Mutt personally, but not about the Dharmapuram Mutt. I am glad that the testimony comes from my hon. friend, Mr. Vedaratnam Pillai, who knows the ins and outs of these mutts. He said that these mutts are doing very good service in the Tanjore district. He said that there are some mutts which are managed properly and there are some which are not. Why should Government bring all the mutts—both properly managed and not properly managed—under this Bill is unintelligible to me. My submission is, in respect of those Matathipathis who are mismanaging their properties, take severe action. But in respect of other mutts, please leave them alone.

"With these words, I support the amendment of Mr. Vaidyanatha Ayyar to circulate the Bill for public opinion."

SRI N. M. R. SUBBARAMAN:—"கனம் சபாநாயகி அவர்களே. ஹிந்துமத தர்ம மான்ய மசோதாவை சர்க்கார் கொண்டுவந்திருக்கிறார்கள். இதுவரைக்கும் ஹிந்துமத ஸ்தாபன பரிபாலனத்திற்காக ஒரு சட்டம் இயற்றி அதன் மூலமாகத்தான் பரிபாலனம் செய்து கவனித்து வருகிறார்கள். அதற்காகவே ஒரு போர்டையும் வைத்திருக்கிறார்கள். ஆனால் அந்த போர்டின் மூலமாக அந்த நிர்வாகத்தை சரிவர மேற்பார்க்க முடிய

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வில்லை என்று நினைத்து இப்பொழுது நம் முன்னால் இருக்கக்கூடிய இந்த மசோதாவைக் கொண்டு வந்திருக்கிறார்கள். இந்த மசோதாவில் இதுவரைக்கும் இருந்துவந்த கோவில்களோடு மடங்களையும் தர்மஸ்தாபனங்களையும் சேர்க்கவேண்டுமென்று யோசனைக் கூறப்படுகிறது. அத்துடன் இப்பொழுதுள்ள சட்டத்தில் எவ்வளவு அதிகாரம் இருக்கிறதோ அந்த அதிகாரத்துடன் கூட இன்னும் கொஞ்சம் அதிகாரம் வேண்டுமென்று கேட்கப்படுகிறது. ஆனால் இப்பொழுது கொண்டுவருகிற மசோதாவைக்கொண்டு வருவதற்கு அதிகாரம் இல்லை என்று சொல்லப்படுகிறது. இந்த மாதிரி சட்டம் கொண்டு வருவது சட்டத்திற்கு புரம்பானது என்றும் கூறப்படுகிறது. அதற்கு ஆதாரமாக இந்திய சட்டசபையில் அமைக்கப்பட்ட விதிகளின் 20-ஆவது பிரிவைக் காண்பிக்கப்படுகிறது. அந்த 20-ஆவது பிரிவுடன் நாம் 19-ஆவது பிரிவையும் சேர்த்துப்படிக்க வேண்டுமென்று கேட்டுக் கொள்ளுகிறேன். 19-ஆவது பிரிவின் இரண்டாவது உட்பிரிவை நாம் பார்த்தால் இப்பொழுது கொண்டுவரப்படுகிற மசோதாவைக்கொண்டு வருவதற்கு அதிகாரம் இருக்கிறது என்பதைத் தெரிவித்துக்கொள்ளுகிறேன். அகில இந்திய சட்டம் சட்டமானபோது இதைப்பற்றி அங்கத்தினர்கள் யோசித்து இவ்விதம் தீர்மானம் செய்யப்பட்டிருக்கிறது. அந்த 19-ஆவது பிரிவு வரும்போது அத்துடன் வேண்டுமென்றே இந்த இரண்டாவது உட்பிரிவையும் சேர்த்திருக்கிறார்கள். சட்ட நிரூபண சபையிலுள்ள நம் பிரதிநிதிகள் இந்த இரண்டாவது உட்பிரிவை தெளிவாகப் போடவேண்டுமென்று வற்புறுத்தியிருக்கிறார்கள். இவ்விதம் போடவேண்டியதின் அவசியத்தை உணர்ந்துதான் அவர்கள் இதைச் செய்திருக்கிறார்கள். ஏற்கனவே நம்முடைய மாகாணத்தில் இருந்து வரும் ஹிந்துமத பரிபாலன சட்டம் பாதிக்கக்கூடாது என்பதைத் தெளிவாகச் சொல்லி இந்த உட்பிரிவை சேர்த்திருக்கிறார்கள். ஆகையால் இந்த மசோதா சட்டத்திற்கு விரோதம் இல்லை என்றே நான் நினைக்கிறேன். நான் சட்டத்தில் தேர்ந்தவன் அல்ல. சட்டத்தைப்பற்றி எனக்கு அதிகம் தெரியாது எனினும் அங்கே இந்த உட்பிரிவை சேர்த்ததின் காரணத்தைக்கொண்டு தான் இங்கும் சட்டம் செய்வதற்கு அதிகாரம் இருக்கிறது என்பதைத் தெரிவித்துக் கொள்ளுகிறேன்.

"இதுவரைக்கும் ஹிந்துமத பரிபாலன சட்டத்தின் மூலமாகத்தான் காரியங்கள் நடந்துவருகின்றது. ஆனால் அதன் மூலமாக நிர்வாகம் சரியாக நடக்காததினால் மேற்கொண்டு கொஞ்சம் அதிகாரம் இருந்தால்தான் இந்த தர்மஸ்தாபனங்களை சீராக நடத்த முடியும் என்று நினைத்திருக்கிறார்கள். பல் வருஷங்களாக நினைத்து அவைகளை அனுபவித்துதான் இப்பொழுது இந்த மசோதாவைக்கொண்டுவரப்பட்டிருக்கிறது. இந்த மசோதாவைக்கொண்டுவந்து சட்டமாக்கினால் நம்முடைய மதத்திற்கும், தர்மஸ்தாபனங்களுக்கும் பெரிய ஹானி ஏற்படலாம் என்ற சந்தேகம் அநேகம் பேர்களுக்கு ஏற்படுகிறது. இந்த மசோதாவின் உட்கருத்தை தெரிந்துகொண்டால் அவ்விதம் சந்தேகப்படுவதற்கு இடமில்லை. மதத்தில் பிரவேசிக்கவேண்டுமென்று சர்க்கார் ஒருக்காலும் நினைக்கவே இல்லை. ஆனால் மத அபிவிருத்திக்காக ஏற்பட்டிருக்கிற ஸ்தாபனங்கள் சரிவர நடத்தவேண்டும் என்ற அந்த ஒரு தத்துவத்திற்காகத்தான் இந்த சட்டம் கொண்டு வரப்படுகிறது. மதஸ்தாபனங்களுக்கும் தர்மஸ்தாபனங்களுக்கும் பக்தர்களும், சிஷ்யர்களும், மதத்தில் நம்பிக்கையுள்ளவர்களும் ஆலயம் வழிபடுகிறவர்களும் ஏராளமான காணிக்கை கொடுத்திருக்கிறார்கள். மான்ய மனித்திருக்கிறார்கள் எவ்வளவோ தர்மம் செய்திருக்கிறார்கள். இந்தக் காரியங்களெல்லாம் சரிவர நடக்கவேண்டுமென்றும் தர்மத்தை ஆரம்பித்துவைத்தவர்களுடைய நோக்கம் எவ்வளவு காலமானாலும் கெடாதுபோகாமல் தொடர்ந்து நடைபெறவேண்டுமென்ற நோக்கத்துடனும் தான் சர்க்கார் இந்த மசோதாவைக்கொண்டுவந்திருக்கிறார்கள். ஆனால் மதக்காரியங்களில் பிரவேசிக்கவேண்டாம் என்று யாராவது நினைத்தால் அது சரியில்லை என்பதை நான் கூற விரும்புகிறேன். ஒருக்காலும் சர்க்கார் மத விஷயங்களில் பிரவேசிக்கவே மாட்டார்கள் அவ்விதம் பிரவேசிக்காதுபோல் அவர்களுக்கு காரியங்களைச் செய்ய முடியாமல் வெகு சீக்கிரத்தில் அவர்கள் செல்வத்தை இழந்து மிகவும் கேவலமான நிலைக்கு வந்து

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விடுவார்கள். இப்பொழுது அரசாங்கத்திற்கு தர்மஸ்தாபனங்களும் கோவில்களும் மடங்களும் சீராக நடக்கவேண்டுமென்ற ஒரே ஒரு கருத்துதான் இருக்கிறது. அத்துடன் முக்கியமாக மடங்களை சேர்ப்பதின் காரணம் இப்பொழுது மடங்களில் பெரும்பாலானவைகள் சரியாக நிர்வாகம் நடப்பது இல்லை என்பதுதான். அங்கிருக்கும் ஊழல்களை வேறு எங்கும் காண முடியாத அவைகளை மற்றவர்கள் திருத்தி ஒழுங்குப்படுத்த முடியாத நிலைமையிலிருக்கின்றன. பல தர்மஸ்தாபனங்கள் எந்த நோக்கத்துடன் ஏற்பட்டதோ அது நடைபெறாமல் அதிலுள்ளவர்கள் தங்களுடைய சொந்த நன்மைக்காக உபயோகித்துக்கொண்டு வருவதை உத்தேசித்து இந்த மடங்களையும் தர்மஸ்தாபனங்களையும் இதில் சேர்த்திருக்கிறார்கள். இவ்விதம் சேர்ப்பது எவ்விதமான குற்றமும் இல்லை என்றே நான் நினைக்கிறேன். தங்களுடைய வீட்டு குடும்பத்தை ஒருவர் சரியாக நடத்தாவிட்டால் உடனே சர்க்கார் அதில் பிரவேசித்து அதை ஒழுங்குப்படுத்திவா யோசிப்பதா என்று கேட்கப்படுகிறது. தனிக் குடும்பத்திற்கும் பொது ஸ்தாபனங்களுக்கும் மிகுந்த வித்யாசம் இருக்கிறது. தனிக்குடும்பத்தை அந்த குடும்பத்திலேயே அல்லது அதைச் சேர்ந்த வாரிசு எடுத்து நடத்தலாம். அதில் வரும் குற்றம் குறைகளை யெல்லாம் அவர்களே அனுபவிப்பார்கள். ஆனால் பொது ஸ்தாபனம் அவ்வாறு அல்ல.

“இந்த பொதுஸ்தாபனங்களெல்லாம் சிறிது காலத்திற்குள் ஏற்பட்டவைகளல்ல. நூறு வருஷத்திற்கு முன்னாலேயே ஏற்பட்டிருக்கிறது ஏற்படுத்தியவர்கள் உயர்ந்த நோக்கத்துடன் நல்ல முறையில் நடக்கவேண்டுமென்று ஏற்படுத்தினார்கள் அவைகள் சரியாக நடக்காவிட்டால் யார் அதை ஒழுங்குப்படுத்துவது, சர்க்கார்தான் அக்கரை எடுத்துக்கொள்ள வேண்டும். தனிப்பட்டவர்கள் எடுத்து நடத்தினால் அது சரிப்பட்டு வருவதில்லை எவ்வளவோ ஸ்தாபனங்கள் கருத்துக்கு விரோதமாக நடப்பதை தனி நபர்கள் அக்கரை எடுத்துக்கொண்டு அவைகளை திருத்தியமைத்ததாகத் தெரியவில்லை அதன் காரணமாகத்தான் சர்க்கார் அதில் பிரவேசித்து நடத்தவேண்டிய நிலைமை ஏற்பட்டிருக்கிறது நல்ல நோக்கத்தோடு ஏற்பட்ட ஸ்தாபனங்கள் அழிந்து போகாமல் நடத்துவதற்கு சர்க்கார் அதில் தலையிட இந்த மசோதாவைக்கொண்டு வந்திருக்கிறார்கள். ஆனால் மதத்திற்கு ஆபத்து வரும் என்று சில பேர்கள் தவறுதலாக நினைக்கிறார்கள் அப்படி இல்லவே இல்லை. சில வருஷங்களுக்கு முன்னால் ஹரி ஜனங்களுக்கு ஆலயப்பிரவேசம் கொடுக்கவேண்டுமென்று ஒரு சட்டம் கொண்டுவரப்பட்டது. பல தார விவாகத்தை தடை செய்வதற்கு ஒரு சட்டம் கொண்டுவரப்பட்டது. பால்ய விவாகம் செய்யக்கூடாது என்று ஒரு சட்டம் கொண்டுவரப்பட்டது. இந்த சட்டங்களையெல்லாம் கொண்டு வந்தபோது அநேகம் பேர்கள் ஆட்சேபித்தார்கள். அது மத சம்பந்தமானவைகள் என்றும் இவ்விதமான சட்டங்களைக்கொண்டு வந்தால் மதமே போய்விடும் என்றும் சொன்னார்கள். ஆனால் உண்மையில் இது வரையில் இயற்றிய சட்டங்கள் மதத்திற்கு நேர் விரோதமானவைகளல்ல. மதத்தை புருத்தப்படவே இந்த சட்டங்களைக்கொண்டுவரப்பட்டன. அதேமாதிரி இந்த மசோதாவிற்கும் விரோதமாக நினைத்தால் அது தவறு என்பதை சொல்லிக்கொள்ள விரும்புகிறேன் மதஸ்தாபனங்கள் சரிவர நடக்கும் பொருட்டே இந்த சட்டங்கொண்டுவரப்பட்டது எவ்வளவோ மடங்களும், ஸ்தாபனங்களும் இருக்கின்றன, அவ்வளவும் மோசமாக நடக்கிறதா என்று கேட்கலாம் அப்படி இல்லவே இல்லை. எவ்வளவோ மடங்களும், தர்மஸ்தாபனங்களும் நல்ல முறையில் நடக்கின்றன. கொஞ்சம்கூட குற்றமில்லாமல் நோக்கத்தை பூர்த்தி செய்யக்கூடிய நிலையில் நடந்தால் அதைப்பற்றி ஒன்றும் கவலை இல்லை. அப்படி நடக்காதவைகளுக்குதான் இந்த சட்டங்கொண்டுவரப்பட்டிருக்கிறது இந்த சட்டத்தில் தனிப்பட்ட மூலங்களுக்குமே வகுப்பிற்கும் சேர்ந்த சொத்துக்களையும் இதில் கொண்டு வரப்படலாம். அதனால் நம்முடைய மகானம் எங்கும் பெரிய கெஜிதி விளக்கலாம் என்று அஞ்சப்படுகிறது தனி வருப்பைச் சேர்ந்ததாக இருந்தாலும் சரி தனி ஜாதியைச் சேர்ந்ததாக இருந்தாலும் சரி, அவைகளையெல்லாம் சேர்க்க உடன்படலாம். அப்படி அவைகளைச் சரியாக நடக்கவிட்டால் அவைகளையும் ஒழுங்குப்படுத்த சர்க்கார் அதிகாரம் எடுத்துக்

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கொள்வதானது எவ்வளவோ நல்லது என்று நான் நினைக்கிறேன். அதனால் எல்லா மடங்களிலும் கோவில்களிலும், ஸ்தாபனங்களிலும் சர்க்கார் பிரவேசிப்பார்கள் என்று நினைக்க காரணம் இல்லை. எங்கெங்கே தவறு தல்கள் நடக்கிறதோ அங்கெல்லாம் தான் எடுத்துக்கொள்வார்கள். நிர்வாகத்தை ஒழுங்குப்படுத்த சர்க்கார் அதிகாரம் எடுத்துக்கொண்டால் நம்முடைய மடம், கோவில், ஸ்தாபனங்கள் முதலியவைகளுக்கும் அவைகளில் மிச்சப்படுத்தும் பொருள்களுக்கும் அங்கே இருக்கக்கூடிய ஒரு கௌரவமும் மரியாதையும் போய்விடும் என்று சொல்லப்படுகிறது. ஆனால் சர்க்கார் அதில் சிரத்தை எடுத்துக்கொண்டு நடத்தினால் எவ்விதமான பயமும் கிடையாது என்று நான் நிச்சயமாக நம்புகிறேன். இவ்விதம் அரசாங்கம் மடங்களையும் ஸ்தாபனங்களையும் கோவில்களையும் எடுத்துக்கொண்டால் இப்பொழுது இருக்கும் மான்யங்கள் போவதோடுவரும் மான்யங்களும் வராது என்று கூறப்படுகிறது. எந்த நோக்கத்திற்காக ஸ்தாபனங்கள் ஏற்பட்டதோ அந்த நோக்கத்தை பூர்த்தி செய்து நிறைவேற்றினால் நிச்சயமாக பொதுமக்கள் மான்யங்களைக் கொடுத்து ஆதரிப்பார்கள். நோக்கத்தை பூர்த்தி செய்யாமலிருந்தால்தான் கொடுக்கும் மான்யங்களைக்கூட பொதுமக்கள் கொடுக்கமாட்டார்கள். சர்க்கார் எடுத்து நன்றாக பரிபாலனம் செய்தால் மான்யங்கள் வளர்ந்து கொண்டேதான் போகும்.

“இப்பொழுதிருக்கும் சட்டத்தை பூராவும் நீக்கிவிட்டு இவ்வளவு அதிகாரம் பொருந்திய சட்டத்தைக்கொண்டு வந்திருக்கிறார்கள் என்று பலர் ஆட்சேபித்திருக்கிறார்கள். வேண்டுமென்றால் இப்பொழுதுள்ள சட்டத்தில் இன்னும் கொஞ்சம்கூட அதிகாரம் வாங்கிக்கொள்ளலாம். நிறைய அதிகாரம் சர்க்காருக்கு இருக்கும்படி வைத்துக்கொள்வது தவறு என்று சொல்லப்பட்டது. அதில் ஓரளவு உண்மையிருக்கிறது. சர்க்கார் குறைந்த பட்சம் எவ்வளவு அதிகாரம் வைத்துக்கொள்ளவேண்டுமோ அவ்வளவு தான் எடுத்துக்கொள்ளவேண்டும். ஆனால் மதத்தில் பிரவேசிக்க விரும்பவில்லை. மடம் முதலியவைகள் ஒழுங்கான முறையில் நடப்பதற்கு வேண்டிய அதிகாரம் எடுத்துக்கொள்ள விரும்புகிறார்களாகையால் குறைந்த பட்சம் எவ்வளவு அதிகாரம் வேண்டுமோ அவைகளைத்தான் வைத்துக் கொள்ளவேண்டும். நாம் இப்பொழுது இருப்பது மக்களிடம் அதிகாரத்தைப் பெற்றுவந்துள்ள சர்க்கார் எனினும் நம்முடைய சகல காரியங்களையும் நாம் நினைத்தவாறு நடத்துவதற்கில்லை. எவ்வளவோ இலாக்காசுளில் எவ்வளவோ சீர்திருத்தம் செய்யவேண்டுமென்று விரும்புகிறார்கள் ஆனால் விரும்புவதெல்லாம் நடைபெறுவது இல்லை. இன்னும் பல ஊழல்களும் குறைகளும் இருக்கத்தான் இருக்கின்றன. அவைகள் அப்படி இருக்கும் போது இன்னும் அதிகாரம் எடுத்துக்கொண்டால் அவைகளை எவ்விதம் சரிவர நடத்தமுடியும் என்று நம்முடியவில்லை நிச்சயமாக பூராவும் மக்களுக்கு திருப்தி ஏற்படும் முறையில் நிர்வாகம் நடக்கும் என்று நான் நினைக்கவே இல்லை. ஆகையால் குறைந்தபட்சம் சர்க்காருக்கு எவ்வளவு அதிகாரம் வேண்டுமோ அவ்வளவுதான் எடுத்துக்கொள்ளவேண்டும். இந்த சட்டத்தில் பல அதிகாரங்களை சர்க்கார் வேண்டுமென்று கேட்கிறார்கள். அந்த அதிகாரங்களையெல்லாம் எவ்வளவு அதிகமாக குறைக்க முடியுமோ அவ்வளவையும் குறைக்கவேண்டுமென்று கேட்டுக்கொள்ளுகிறேன்.

“அதோடுகூட சர்க்காரே அதிகாரம் வைத்துக்கொண்டு எந்தெந்த தகராறுகள் ஏற்பட்டாலும் கோர்ட்டுக்குப் போகாமல் தடுக்கப்படுகிறது என்ற ஒருவாதம் சொல்லப்படுகிறது. அதிலும் உண்மை இருக்கிறது தகராறுகள் ஏற்பட்டால் கோர்ட்டின் மூலம் நன்மையடையும்படியான முறையில் திருத்தங்கள் அவசியம் செய்யப்படவேண்டும். இந்த மசோதாவைக் கொண்டு வந்திருப்பவர்கள் உயர்ந்த நோக்கத்துடன் கொண்டு வந்திருக்கிறார்கள் என்பதை யாரும் ஆட்சேபிக்க முடியாது. அதேமாதிரி இந்த மசோதாவை இப்பொழுது எடுத்துக்கொள்ளாமல் பொதுஜன அபிப்பிராயத்திற்கு விடவேண்டுமென்று சொல்லக்கூடிய நபர்களும் நான் என்னத்தான் என்பது அப்படி சொல்லுகிறார்கள் என்று நான் நினைக்கிறேன். ஆனால் இடையில் சில பேர்கள் இந்த மசோதாவைக்கொண்டு வருவதெல்லாம் சிலருக்கு உத்தியோகங்கள் கொடுக்கவேண்டுமென்ற எண்ணம்

[Sri N. M. R. Subbaraman] [8th February 1949]

துடனும் தங்களுடைய கட்சியை வலுத்துக்கொள்ளவேண்டுமென்ற நோக்கத்துடனும் கொண்டுவந்திருப்பதாகச் சொன்னார்கள். அவ்விதமான புகார் சொல்வது மிகவும் தவறு. இவ்விதமாக புகார்களுக்கு இடம் இல்லாத முறையில் உத்தியோகஸ்தர்களை நியமிக்கவேண்டியது மிகவும் அவசியம்.”

MR. SPEAKER :—“ Your time is up. ”

SRI N. M. R. SUBBARAMAN :—“ நான் 4-22 க்குதான் ஆரம்பித்தேன். ”

MR. SPEAKER :—“ நீங்கள் 4-12-க்கு ஆரம்பித்ததாக செக்ரடரி சொல்லுகிறார். ”

SRI N. M. R. SUBBARAMAN :—“ சில குறிப்பிட்ட காரியங்களுக்கு நன்றாக தேர்ந்தவர்களை நாம் நியமித்துவருகிறோம். வைத்ய இலாகா விற்கு அதில் தேர்ந்தவர்களை நியமிக்கிறோம். இஞ்சினீர் வேண்டுமென்றால் அதில் தேர்ச்சிபெற்றவர்களை நியமிக்கிறோம். அதேமாதிரி இந்த ஸ்தாபனங்கள் நன்றாக நடத்த அவைகளுக்கு தேர்ச்சியடைந்தவர்களையும் மதத்தைப்பற்றி தெரிந்தவர்களையும் தான் போடவேண்டும். இப்பொழுது நமக்கு மதத்தில் தேர்ச்சியடைந்தவர்கள் கிடைப்பது ரொம்பவும் அபூர்வமாக இருக்கிறது. ஆகையால் நல்ல முறையில் தேர்ச்சி அளிக்கக் கூடிய பெரிய கல்லூரி இருக்கவேண்டியது அவசியம். அதில் மதத்தைப் பற்றியும் அத்துடன் நிர்வாகத்தைப்பற்றியும் அவர்களுக்கு பயிற்சி கொடுத்து அதில் யார் தேர்ந்துவருகிறார்களோ அவர்களுக்கு அப்படிப்பட்ட ஸ்தாபனங்களில் உத்தியோகம் கொடுக்கவேண்டும். இப்பொழுது எண்ண உத்தியோகஸ்தர்களையும் Public Service Commission மூலமாக நியமித்து வருகிறார்கள். அதே மாதிரி இந்த மாதிரி உத்தியோகஸ்தர்களையும் இந்த Public Service Commission மூலமாகவோ அல்லது அப்படிப்பட்ட ஸ்தாபனத்தின் மூலமாகவோ நியமித்தால் தான் எந்தவிதமான புகாரும் இல்லாத முறையில் நாம் செய்ய முடியும். நம்முடைய கோவில்களும், மடங்களும், எவ்வளவோ காரியங்களில் சீர்திருத்தமடைந்து முன்னேற்றம்மடைய வேண்டியிருக்கிறது. இப்பொழுதுள்ள அதிகாரிகள் எவ்வளவோ காரியங்களைச் செய்திருக்கவேண்டும். நாம் எதிர்பார்த்தபிரகாரம் அவர்களால் காரியங்கள் செய்யப்படவில்லை. இவ்விதமான நிலைமையில் எடுத்துக்கொண்ட பின்பும் இருந்தால் அவைகளை எடுத்துக்கொண்டதின் பயன் இல்லை. எந்த நோக்கத்துடன் எடுத்துக்கொள்ளுகிறோமோ அந்த நோக்கத்தை நிறைவேற்றவேண்டும். அதிகமான சிரத்தை எடுத்துக்கொண்டு சர்க்கார் காரியங்களைச் செய்யவேண்டும். கோவில்களிலுள்ள சுத்தம் சுகாதாரம் இவைகளைப் பார்த்தால் மிகவும் அவமானமும் வருத்தமும் அடையவேண்டியதாக இருக்கிறது. எவ்வளவோ பணமிருக்கிறது. சொத்து இருக்கிறது. படிப்பாளி இருக்கிறார்கள். எல்லோருமிருந்து பார்த்தாலும் அவைகள் மிகவும் கேவலமான நிலைமையிலிருக்கின்றன. ஆனால் வேறு மதஸ்தாபனங்களைப் பாருங்கள் செல்வம் எவ்வளவு குறைவாக இருக்கின்றன. படித்தவர்கள் மிகவும் குறைவு. இருந்தாலும் அவைகள் எவ்வளவோ சுத்தமாக இருக்கின்றன. அவைகள் நல்ல முறையில் நடந்து மக்களுக்கு பூர்ண பயனை அளிக்கும் முறையில் நடக்கின்றன. ஆகையால் சர்க்கார் அதிகாரத்தை எடுத்துக்கொண்டு நடத்தினால் பயன் உண்டு மத உணர்ச்சி, சமூக உணர்ச்சி, இவைகளை அதிகப்படுத்தவேண்டும் அவ்விதம் நடந்தால் சமூகம் பூராவும் நன்மையடையும். ஆகையால் சர்க்கார் இதில் அதிகம் உலகம் செலுத்தவேண்டும் என்று கேட்டுக்கொள்ளுகிறேன். ”

“ இந்த மசோதாவில் பல குறைகளிருக்கின்றன. அவைகளை எடுத்துக் காண்பித்து பொதுமக்களுக்கு மறுபடியும் அனுப்பி அவர்களுடைய அபிப்பிராயத்தைத் தெரிந்து கொண்ட பிற்பாடு மறுபடியும் கொண்டு வரவேண்டுமென்று அபிப்பிராயம்கொண்டு வந்தார்கள். நான் அதை ஒத்துக்கொள்ளுகிறேன். பல விதமான குறைகளிருக்கின்றன என்றாலும் அவைகளை கணம் இராஜன் நியமிக்கும் Select Committee-வை எடுத்துக் கொண்டு விஸ்தாரமாக விவாதம் செய்து அவசியம் மிகுந்தால் பல

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வர்களுக்குப் போய் சாட்சியம் எடுத்து வேண்டிய திருத்தங்களைச் செய்வார்களென்று நினைக்கிறேன். ஆகையால் இதை பொதுஜன அபிப்பிராயத்திற்கு விடவேண்டுமென்று சொல்வது அவசியமில்லை. ஆகையால் இதை பொறுக்குக் கமிட்டிக்கு அனுப்பி, பொறுக்குக் கமிட்டி விஸ்தாரமாக விசாரணை செய்து வேண்டிய திருத்தங்களைச் செய்ய முன் வருவார்கள் என்று நம்பி நான் இத்துடன் முடித்துக் கொள்ளுகிறேன். ”

MR. SPEAKER :—“ Five more Members want to take part in the debate. Therefore, I think we can sit till 6 o'clock. (Some members rose up in their seats and raised some objections.) We may sit till 5-30. On Thursday, the Hon. Mr. Madhava Menon, the Hon. the Premier and the Hon. Dr. Rajan will speak. Then, the hon. Mr. Vaidyanatha Ayyar who has got a right of reply will speak, if he wants to do so. ”

SRI T. VISWANATHAM :—“ May I submit, Sir, that we may rise up at 5 o'clock because we are tired of sitting here? At least, the Hon. Speaker is engaged in watching the speakers but we have absolutely no work. ”

THE HON. SRI B. GOPALA REDDI :—“ We are not meeting to-morrow and therefore, the hon. Member may have some little rest to-morrow. ”

MR. SPEAKER :—“ That is why, I have suggested a *via media* that we can sit till 5-30 p.m. to-day. ”

SRI V. RAGHAVAYYA :—“ Mr. Speaker, Sir, at least this religious subject, I thought, would require some sort of patience. The kind of way in which some of our hon. Friends have disposed of the subject took my breath away. The Hon. Dr. Rajan assured us that he is a very pious man. No doubt, he was born in Sri-rangam and he is very pious indeed, and of course he has been brought up there. But the question to-day is not that. It looks as if some members have taken to oppose this Bill on the ground that Government want to take complete control over all the mutts and all the trusts. It is not the idea. The people welcome some interference; but the question is what that interference ought to be, whether it should be a wholesale management as in the case of the Food Department of the Government of Madras or the Cloth Department of the Government of Madras or whether it should be something wherein Government will have a paternal look and a supervising authority and will interfere only where interference is absolutely necessary. ”

“ Sir, I wish to remind the Hon. Minister—despite his age, he is lively and active—that religion is like a glass tumbler which must be handled with care. Or to put it more correctly, it is like a village virgin, who is not accustomed to too much coquetry. If you begin to hug too much, she is likely to. (Interruption.) I am not saying anything indecent, Sir. ”

THE HON. SRI B. GOPALA REDDI :—“ Let me hear the hon. Member. ”

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SRI V. RAGHAVAYYA:—"Sir, I said, religion is like a village virgin who is not accustomed to too much coquetry. Therefore, Sir, you ought not to interfere with religion. You must leave it to the people who are concerned. But of course, some interference is necessary, but that should be administered very gently and not with an indifference. I think the Hon. Minister for Food is put into a wrong box and asked to deal with questions of religion. He has not quite appreciated the temper of important sections of people in the case of these religious matters. The point is how far does this Government want to interfere with religion. I do not know why some people decry all mutts and monasteries. This Bill deals with temples also. Several people have spoken as if this concerns Brahmans. Because several speakers happen to be Brahmans, they have got the idea that all that is connected with these people should be decried. Some even went to the length of calling names and using very strong language. It is absolutely unwarranted. Some speakers have rightly pointed out that the Government are introducing the thin end of the wedge for destroying the entire religion. Now this Government want to take control of the temples, but another Government later on may outlaw religion altogether. The Government should adopt the middle-of-the-road policy in this matter.

"Sir, the Dutch Government in this country some time back passed a curious order and said that all those who did not believe in Christianity should be arrested and put in fetters. Do you want such a Government to rule here? Don't you allow some independence in this matter? Do you want to have your finger in every pie? If you let Government interfere with religion, then it becomes a red-tape business. Suppose some utsavam has to take place. A petition will have to be sent to the Government and the Premier might have to be approached. It is difficult to approach the Premier sometimes and by the time the red-tapism is over, it will be too late for the utsavam and the religious ceremonies. Innumerable difficulties are likely to crop up and we will be placed in a farcical position. I shall here quote the order passed by the Dutch Government from Mr. Ganapathi Ayyar's book, 'The law relating to Hindu and Muslim Endowments'—

'Of course the Dutch Government adopted altogether a different policy in their dominion. They prohibited worship in temples, etc. The following order of the Dutch Governor of Ceylon will show the policy adopted by the Dutch:—

"If either the inhabitants of this country within the limits of the Government or those who are detained for some days or permanently, or Christians, shall practice any worship of gods or ceremonies of devils, such ceremonies of whatever kind in whatever place, and honour to any idol by such ceremonies, or any Hindu ceremonies and if discovered they shall without mercy and regard to persons be put in fetters."

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This is an extreme case. This is what is happening in Russia. Churches have been demolished, priests have been arrested. The places have been used as schools, libraries, dance halls and so on. Here the warning comes not from the other side, but from your own friends. Do not clutch at religion too much. Do not treat it like a hot house plant. I suppose even the Food Minister will not say that the Government departments are like Caesar's wife entirely above suspicion. They are human and liable to err. The Minister has been referring to mismanagement of temples and maths. Several times it has happened. The Hindu kings, the Muslim kings and the Christian kings interfered but they interfered only to the extent of visitorial interference. The means adopted were always through the Court of law, not through the Treasury Benches and the Secretariat Chambers, not through red-tape. If the Minister wants to apply this Bill to Hindu temples, why not he have the courage to apply the same law to Muslim mosques and Christian churches? Is it because the Muslims and Christians have been kicking? Hinduism has been suffering from a curse and the curse is its own followers. They have ruined the religion all along. The Britishers molested the Hindus because they are a mild and unoffending people, they do not make much noise and do not kick back. All legislation and persecution were against the Hindu and nobody had the courage to touch a mosque and pass a legislation against the interests of the Muslims.

"The Hon. Minister has been telling us about the virtues of Government administration and provincialization. He seems to think that this is something like provincialization of motor transport. If the virtues of provincialization are so great, I ask, why do you except the mosques and the churches? What is good for the grander must be good for the goose also. Why do you want to make any invidious distinction? Incidentally I notice that the Jains also are proposed to be brought in along with the poor, unoffending, tolerant and mild Hindus. You have been claiming to be a secular state; then it stands to reason and it is but equitable that any law you make should apply to all religions equally.

"I tell the Government: do not step unnecessarily on too many peoples' toes. You have offended the labourers. You have offended the Harijans by not spending even one-hundredth part of the one crore of rupees set apart for them. You have offended the capitalists, the traders and merchants. Why do you want to offend another class of people who have been tolerant to you and minding their own business without going to you on bended knees for this or that favour? No temple has asked for a Government grant. Somebody gives them donations and they have been building gopurams and conducting pujas. Why do you want to do this when the Government is divesting itself of all patronage for a particular religion? The British Government was supporting the Anglican Church in

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Nellore. The Bishop was paid Rs. 800 a month by the Government of India. The missionaries themselves found that any help given by the Government was acting detrimentally to their interests and gave up the Government help. The touch of the Government brings with it red-tape and several odious things. It is the case with any Government, not merely this Government. Therefore leave religion alone, like a country lass, pure in her natural surroundings. Don't bring her into the vortex of politics unnecessarily, thereby spoiling her and spoiling yourself. Even the Hindu kings never thought it necessary to interfere with the administration of temples. Narada has made several rules in regard to the administration of temples. If you want to give property to the temples, you must obtain the consent of the ruler. The ruler must know what property is released from the obligation of taxation. The Hindu king should see that the property is protected, and for that purpose, the ruler's consent has to be obtained before property is made over to the temple. I commend the suggestion made by the hon. Member Swami Sahajananda to have a committee composed of persons administering these institutions. The Premier himself is a devotee of Ramana Maharishi. Then there is Sankaracharya another great man. These are people who have renounced all earthly pleasures long long ago. They are the fittest people to legislate for these matters. I do not say we are all inferior, but we are inferior to them in this respect. Invite them, have a board and take their advice and then legislate. Do not arrogate to yourself the right to legislate for all things and for all time. Somebody has been saying that he represents thirty crores of people. Everybody has been saying that. If you take the public opinion as expressed in the newspapers, it has condemned the Bill. The *Hindu*, the *Indian Express*, the *Mail* and the *Indian Republic* have all condemned the Bill. (Interruption.) There is no use of questioning it. Public opinion as mirrored in the press is against the Bill. The Government has not gone to the country with this Bill, nor have I gone to the country to find out what the opinion is. As regards the Members here, several Members have spoken this way and several that way. How are the Government to know which is public opinion? All that Mr. Vaidyanatha Ayyar asks for is to circulate the Bill for public opinion. Why should the Government be coy like a maiden and fight shy of eliciting public opinion? The Government is also fighting shy of courts of law. In any legislation that is brought forward by the Government it is provided that no court shall question the legality or the absurdity of anything that is done in the name of law. While the Government want to legislate for the country, why are they anxious that their action should not be questioned in a court of law? Then they have also got another section saying that if any difficulty arises in giving effect to the provisions of the Act, the Provincial Government may do anything which appears to them necessary for the purpose of removing the difficulty. I submit, Sir, this is

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not the way any civilized Government should function. In every country, for instance in England, owing to various differences of opinion and troubles, the Government have always been very very careful not to interfere too much with religion. After all, if you interfere with every walk of life, in what sphere can the Hindu breathe freely? Why do you want to throttle him and say that you should not be questioned in a court of law? What right have you to legislate in regard to the daily worship in the temples?

"Sir, there is another clause which is equally obnoxious and offensive from the legal point of view. The pity of it is there are lawyers on the Treasury Bench who are highly educated, but why should they shudder at the very mention of law courts and why should they, like the Touch-me-not, not like to be questioned by the courts of law and entrench themselves behind all these safeguarding devices.

"Here is another section, section No. 85, which says:

'Save as otherwise expressly provided in this Act, no notification issued, order passed, decision made, proceedings or action taken, scheme settled, or other thing done under the provisions of this Act by the Provincial Government, or the Commissioner or a Deputy or Assistant Commissioner, shall be liable to be questioned in any Court of Law.'

I think this looks as if the Government want to exist for a long time to come and they do not want . . . (The Hon. Dr. T. S. S. Rajan: 'No, no.') I do not want to be disturbed."

MR. SPEAKER:—"Order, order."

SRI V. RAGHAVAYYA:—"What I wish to say, Sir, is, no Government which has a long programme before it and which has already to do many things should enter upon such safeguarding devices. It is there because they are afraid of courts, for the prince and the beggar will be held up equally before the judge and they know the consequences. Now, the other section which takes away the power of the court is section 83 which says:

'No suit or legal proceeding in respect of the administration of a religious institution, or in respect of any other matter or dispute for determining or deciding which provisions is made in this Act, shall be instituted in any court of law, except under and in conformity with, the provisions of this Act.'

Another section says whatever might be done by any servant of the department it shall not be questioned in any court of law but that it shall be deemed to have been done *bona fide*, but all these things clearly indicate that legislation is defective and being conscious of the defectiveness of legislation they want to take all these outside aids and so do not want the courts of law to interfere. Probably they seem to think that it reduces the

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prestige of the Government and will bring them into endless troubles. But that is not the way of meeting the wishes of the people.

"Finally, Sir, I would suggest that even so far as religion is concerned, all that Mr. Vaidyanatha Ayyar wants is that public opinion should be ascertained, and the Government may wait for some more time and not rush through the Bill. After all you have got the Indian Parliament's decision regarding the fundamental rights of citizens which will come into effect some time hence and there is no harm in waiting for another six months and then you may bring in this legislation once for all. Why not the Government tolerate the views of people, particularly when they have been telling time after time that they are democratic, they are tolerant, they do not offend people and that they do not want to do this or that? In this connexion, I may point out that even the British Government had some toleration for our religion. I do not know why the Indian Government should not act likewise. I am not of course going to refer to the Queen's Proclamation or canvass for that because it is too well-known. So, it has been said that as regards the nature of the right exercised by the Government the Judicial Committee in *Raja Mulla Ramalinga Setupathi v Periyannayagam Pillai* already referred to opined like this:

'It is evident that before that Regulation the British Government by virtue of its sovereign power asserted as the former ruler of the country had done, the right to visit endowments of this kind and to prevent and redress abuses in their management.'

It is a dictatorial power on the part of the Government. Even the Bombay Government gave to the Collector powers enabling him to enforce an honest and proper administration of religious endowments, but not to grab power and get sanction for interfering with everything that is going on there. On the other hand, the best way of administering these things will be to appoint, as is being done in every other connexion to-day, committees; let them nominate the members of the committees and through those committees have the administration of the endowments carried out. Instead of that, the action of Government in stepping in and forcing people will result in discontent and bring the fair name of the Congress into the mire which I, as a member of the Congress Legislature Party, will not allow to be perpetrated."

*SRI S. A. DEVANAYAGA IYAH:—"தலைவர் அவர்களே, இந்த சட்டத்தைப்பற்றி பேசுகிறபோது என் முன்னால் பேசிய சட்ட நிபுணர்கள் போலவோ அல்லது மதக் கருத்துக்களை யுணர்ந்து பேசியவர்கள் அதை எடுத்து பேசியதைப் போலவோ என்னால் பேசமுடியாது என்றாலும் நான் உலகத்தில் இன்றைய தினம் நம் முன்னால் பார்த்து வரும் காட்சியைக்கொண்டுதான் நானும் என்னைப்போன்றவர்களும் பேச முடியும். நாம் இப்பொழுதுள்ள நிலைமையை புரிந்து கொள்ளாமல் பழைய காலத்தியவைகளை வைத்துக்கொண்டு நடக்கவேண்டுமென்று நினைப்பது தவறாகும் என்பதை தெரிவித்துக் கொள்ளுகிறேன்.

[8th February 1949] [Sri S. A. Devanayaga Iyah]

"இவ்வித நிலைமையில் இன்றைய தினம் பழைய மாதிரியாக நடக்காமல் இப்பொழுது அவை எந்த நிலைமையிலிருக்கிறது என்பதை மனதில் வைத்துக்கொண்டு அவைகளை சீர்தூக்கிப் பார்க்கவேண்டும். இன்றைய தினம் மடங்கள் இருக்கும் நிலைமையை நன்றாக எடுத்துப் பார்த்தால் அவைகள் எவ்வளவு சீர்கேடான நிலைமையில் இருக்கிறது என்பது தெரியும். அதனால் கனம் நண்பர் காமேஸ்வர ராவ் சொல்லிய பிரகாரம் அவைகளை அழித்துவிடலாம் என்றுகூட ஒரு உணர்ச்சி தோன்றுகிறது என்பதை உங்களுடைய ஞாபகத்திற்குக் கொண்டு வரும்புகிறேன். இருந்தாலும் இன்றைய தினம் நாம் இருக்கிற நிலைமையில் அவைகளை அழிப்பதற்கு சாத்யமுமில்லை அவசியமுமில்லை என்பதை நான் ஒப்புக் கொள்ளுகிறேன். என்றாலும் அவைகளை சீர்திருத்தம் செய்வதற்கு நமக்கு உரிமை உண்டு என்பதை நாம் மறுக்கமுடியாது. அதை ஒரு வரும் ஆட்சேபிக்கவும் முடியாது. மதத்திற்காக இன்றைய தினம் மடங்கள் அனைத்தும் என்ன வேலை செய்துவருகிறது என்று கேட்கிறேன். அவர்கள் மதத்திற்காக என்ன செய்தார்கள்? எங்கேபோய் பிரசாரம் செய்தார்கள்? மதத்தைக் காப்பாற்றுவதற்கு என்னென்ன வேலை செய்திருக்கிறார்கள். இரண்டொரு மடங்கள் இரண்டொரு பாடசாலைகளையும் இரண்டொரு பள்ளிக்கூடங்களையும் வைத்துவிட்டால் எல்லா மடங்களும் நன்றாக நடந்து வருகின்றன என்று சொல்வதற்கில்லை. அப்படி ஏதோ இரண்டொரு மடங்கள் வைத்திருப்பதாக கனம் வேதரத்னம் பிள்ளை சொன்னார். அவர்களும் என்ன பெரிய வேலை செய்துவிட்டார்கள் என்று கேட்கிறேன். வெறும் பாடசாலைகளையும் பள்ளிக்கூடங்களையும் வைத்து விட்டால் மடங்கள் நன்றாக நடக்கின்றன என்று சொல்வது வெறும் ஏமாற்றமே தவிர வேறு ஒன்றுமில்லை. இப்பொழுது இருக்கும் மடாதிபதிகள் தங்களுடைய சுய காரியத்திற்காக ஏராளமாக சிலவுகள்செய்து கொண்டு பிறரை ஏமாற்றப் பார்க்கிறார்கள். அவர்கள்மேல் குற்றம் சொல்வதற்கில்லை. நம்முடைய கடமையை நாம் சரிவரச் செய்யவில்லை. இன்றையதினம் கவனித்தால் மடங்களில் எவ்வளவோ ஊழல்கள் இருந்து வருகிறது. பழைய காலங்களில் சந்நியாசிகள் காடுகளில் வசித்து வந்தார்கள். அவர்கள் எவ்விதமான வாழ்க்கை நடத்திவந்தார்கள் என்பது நமக்குத் தெரியும். ஆனால் இப்பொழுது அவர்கள் பெரிய மாட மாளிகைகளும் கூடகோபுரங்களையும் கட்டிக்கொண்டு அவற்றில் பல ஆட்களை தங்களுடைய பந்தோபஸ்திற்காக வைத்துக்கொண்டு, லட்சக்கணக்கான ரூபாய்கள் மதிப்பிடக்கூடிய நகைகளை அணிந்துகொண்டு பல சுகானுபவங்களை அனுபவித்துக்கொண்டு வருகிறார்கள். இவர்கள் செலவழிக்கும் பணமெல்லாம் மடத்தைச் சேர்த்தவைதான். இவ்விதம் நடக்கும் இன்றைய மடங்களின் நிலைமையை நாம் கவனித்துப் பார்க்கவேண்டும். இவைகளை பற்றியெல்லாம் நாம் சொன்னால் அழிந்து போவார்கள் என்று சொல்லுகிறார்கள். அதற்கு நான் பதில் சொல்லுகிறேன். மடங்களில் அக்கிரமங்களைச் செய்வதை மூடிவைத்தால் அவர்கள் அழிந்துபோக மாட்டார்களா என்று கேட்கிறேன். ஆகையால் மடங்கள் அழிப்பதற்கு நாம்தான் காரணம். இன்றையதினம் மடங்களில் தவறுதலான காரியங்கள் நடக்கிறது என்பதை யாரும் மறுக்கமுடியாது.

"இன்றைய தினம் மடாதிபதிகளுடைய நியமனங்களில் தகராறு ஏற்பட்டால் அவர்களுக்குள் எவ்வளவோ கொலைகள் நடந்துவிடுகின்றன. அப்படி இருக்கும்போது அவைகளில் அரசாங்கம் ஏன் தலையிடக்கூடாது. இன்றைய தினம் கட்டளை தம்பிரான் பட்டத்திற்கு வருவதற்கு எவ்வளவு குழ்ச்சிகள் நடக்கிறது என்று பார்க்கலாம்; கொலைகள்கூட நடந்து வருகின்றன. இவைகளைப் பார்த்துக்கொண்டிருக்க முடியுமா? அங்கே இருக்கும் சொத்து நகைகள் ஆடையாபரணங்கள் இவைகளின்மேல் ஆசை கொண்டு இளைஞர்களைக்கூட மடாதிபதிகளாக நியமித்து வருகிறார்கள். பழைய காலங்களில் சந்நியாசிகள் காலி வஸ்திரம் அணிந்து வீட்டிற்கு வீடு சென்று பிட்சை எடுத்து வாழ்ந்தார்கள். அவ்விதம் ஊர் ஊராகத் திரிந்து மதங்களையும் வேதசாஸ்திரங்களையும் பரப்பிவந்தார்கள். ஆனால் இன்றைய தினம் வீலை உயர்ந்த ஆடையாபரணங்களை அணிந்துகொண்டு மடமாணிகளில் இருந்துகொண்டு நேர்மாருன காரியங்களைச் செய்கிறார்கள்.

[Sri S. A. Devanayaga Iyah] [8th February 1949]

கொண்டிருக்கிறார்கள். இவ்வளவு பெரும் தவறுகள் செய்து கொண்டு இருப்பதில் அரசாங்கம் தலையிடாமல் பார்த்துக்கொண்டிருப்பதா என்று கேட்கிறேன். இன்றைய தினம் அதன் நிலைமை அவ்வளவு சீர்கேடாக இருக்கின்றன.

“நண்பர் வேதரத்தனம் பிள்ளை சொன்னதுபோல் தஞ்சாவூர் ஜில்லாவில் அநேகம் மடங்களிருக்கின்றன, அவைகளுக்கு ஏராளமான ஏக்கர் நிலங்க ளிருக்கின்றன, அவைகள் எல்லாம் இப்பொழுது சரிவர நிர்வகிக்கப்படுவ தில்லை, அந்த நிலங்களில் வரும் வரும்படிக்கான துர்விநியோகம்செய்து வருகிறார்கள், மடாதிபதிகள் தங்களுடைய சொந்த சிலவிற்காகவே வைத் துக்கொள்ளுகிறார்கள் என்பதைச் சொல்ல விரும்புகிறேன். சென்ற 30-ம் தேதி ஒரு மடாதிபதி சிதம்பரத்திற்கு வந்தது எல்லோருக்கும் தெரிந் திருக்கும் என்று நினைக்கிறேன். அதற்காக ரூ. 25,000 சிலவழிக்கப் பட்டது. அவருக்கு தனி ஊர்வலம், வாண வேடிக்கை முதலிய ஆடம் பரங்கள். இவ்விதமாக பணத்தை வீணாகச் சிலவழித்து வருகிறார்கள். நடராஜருக்கு ரூ. 5,000 சிலவில் சர்க்கரைப் பாவாடையாம். எந்த வழியில் பணம் சிலவழிக்கப்படுகிறது என்பதை தெரிந்து கொள்ளலாம். இவைக ளெல்லாம் யாருடைய பணம்; யாருக்குப்போய் செலுகிறது என்பதைக் கேட்க விரும்புகிறேன். இந்த மடாதிபதிகள் எதற்காக இந்த உயர்ந்த வாழ்க்கை நடத்துகிறார்கள். இந்தமாதிரி செலவு செய்வதற்கு என்ன பாதியதை இருக்கிறது. இவர்கள் மதத்தைக் காப்பாற்றாமல் தவறான வழியில் நடந்தால் அவர்களுடைய காதைப் பிடித்துத்திருக்க நமக்கு உரிமை இருக்கிறது என்பதை உங்களுக்கு ஞாபகமுட்ட ஆசைப்படுகிறேன்.

“இன்னும் கவனித்தால் மடங்களுக்கு படித்தவர்கள்தான் பட்டத் திற்கு வரவேண்டுமென்றிருக்கிறது. அதற்குவேண்டி அவர்களுக்கு ஐந்து வருஷ training வேண்டுமென்று வைத்திருக்கிறார்கள். ஆனால் அவ் விதம் இப்பொழுது நடப்பது இல்லை. திருக்கோயிலூர் மடத்தில் சொத் திற்கு ஆசைப்பட்டு ஒரு சிறு பிள்ளையை மடாதிபதியாக நியமித்து வைத் திருக்கிறார்கள். ஆகையால் சொத்து வருவதற்காக நியமனமா அல்லது படித்தவர்களுக்கு நியமனமா என்று யோசித்துப் பார்க்கவேண்டும். சிறு குழந்தைகளை பட்டத்தில் வைத்துவிட்டால் மடம் எப்படி நன்றாக நடக்கும் என்று கேட்க ஆசைப்படுகிறேன்.

“இன்றைய தினம் தஞ்சை ஜில்லாவில் இரண்டொரு மடங்கள் நன் றாக நடைபெற்று வருகின்றன என்று சொல்லப்படுகிறது. ஏதோ சில மடங்கள் தவறுதலாக நடப்பதால் எல்லா மடங்களையும் அதேமாதிரி நினைத்து அவைகளில் தலையிடுவதா என்று கேட்கப்படுகிறது. அந்த இரண்டொரு மடங்கள் இன்றைய தினம் நன்றாக நடந்து வரலாம். அதற்காக இப்பொழுது மற்றவைகளிலும் கை வைக்கக் கூடாது என்று சொல்லமுடியாது. நாளைய தினம் அவைகள் எந்த நிலைமைக்கு வரும் என்று சொல்லமுடியாது. அதனால் பொதுவாக மடங்களை சீர்திருத்தம் செய்யவேண்டுமென்று கொண்டு வந்தால் அது எல்லாவற்றிற்குமாகத் தான் இருக்கவேண்டும். இப்பொழுது இரண்டொன்று நன்றாக நடக் கின்றன என்பதாக சட்டமியற்றாது விட்டுவிட்டு பிறகு சட்டம் கொண்டு வருவது என்பது முடியாத காரியம். மடாதிபதிகளின் விஷயங்களில் அரசாங்கம் தலையிடக்கூடாது என்று சொல்லுகிறார்கள். மடாதிபதிகள் நியமனங்களில் எவ்வளவு குழப்பமும் எவ்வளவு கொலைகளும் நடக் கின்றன என்பதை தெரிவிக்க விரும்புகிறேன். இன்னும் எவ்வளவோ ஆடம்பர சிலவுகள் நடைபெறுகிறது. அவ்விதம் தவறான சிலவுகள் செய் தால் ஏன் அரசாங்கம் தலையிடக்கூடாது. தலையிட்டால் என்ன முறையி் போய் விடுகிறது. எந்தவிதமாக வாதம் செய்தாலும் அதற்கு அர்த்தமே இல்லை. நமக்கு தலையிட சகல உரிமைகளுமிருக்கின்றன.

“நமக்கு இந்த சட்டம் கொண்டுவருவதற்கு என்ன உரிமை இருக் கிறது என்று கேட்கப்படுகிறது. அரசியல் நிர்ணய சபை சட்டத்திற்கு முன்னாக இப்பொழுது சட்டம் கொண்டுவரக் கூடாது என்றும் சொல்லப் படுகிறது. அதற்காக அதிலுள்ள 19, 20-வது பிரிவுகளை எடுத்துக்

[8th February 1949] [Sri S. A. Devanayaga Iyah]

காண்பிக்கப்படுகிறது. நான் சொல்வதென்ன வென்றால் அந்த சட்டத் தின் 19-வது பிரிவுப்படி நம் அரசாங்கம் தலையிடுவதற்கு உரிமை இருக்கிறது. நாம் இப்பொழுது புதிதாக ஒரு சட்டமும் கொண்டுவர வில்லை. இன்றைய தினம் நம் பிரதமரால் கொண்டுவரப்பட்டிருக்கிற சட்டமானது ஏற்கனவே இருந்த சட்டத்தின் திருத்தமே தவிர புதிதாக வருவது இல்லை. புதிதாகக் கொண்டுவருவதாக அர்த்தம் வைத்துக்கொண்டு பேசுவது முறையல்ல. தவிர அது சரியான காரியமு மல்ல. மதப்பற்றற்ற அரசாங்கம் என்பதனால் மதஸ்தாபனங்களில் தலை யிடக்கூடாது என்று கூறுவது தவறு. மதப்பற்றற்ற என்பதன் பொருள் தன் மதத்தின் மேலுள்ள பற்றுதலால் பிற மதங்களை அழிக்கக்கூடா தென உறுதி கூறுவதாகவே கருதவேண்டும்.

“இன்னொரு விஷயம். இன்றைய தினம் 16-வது பிரிவு (1)-வது உப்பிரிவின்படி கமிஷனர், டிபுடி கமிஷனர், சிப்பந்திகள் இவர்களெல் லாம் கர்ப்கரகத்திற்கும் மூலஸ்தானத்திற்கும் செல்வது தவறு என்று சொல்லப்படுகிறது. அப்படி செல்வதில் என்ன தவறு இருக்கிறது. ஆசார மாக போகவேண்டுமென்று சொன்னால் அதை ஆட்சேபிக்கமுடியாது பொதுவாகப் போகக்கூடாது என்று சொல்வது தப்பு. அங்கே போகக் கூடாது என்று வைத்திருப்பதால்தான் ஊழல்களும் தவறுதலான காரி யங்களும் அங்கு நடக்கின்றன அவைகளை கவனிக்க முடியாமலிருக்கிறது. ஆகையால் இதைப்பற்றி ஏதாவது ஆட்சேபணை இருந்தால் அவைகளை யோசித்து இவைகளை பொறுக்குக் கமிட்டியில் பரிசீலனை செய்து அதற்கு வேண்டிய திருத்தத்தைக் கொண்டுவந்து நிறைவேற்றுவதில் எந்த வித மான ஆட்சேபணையும் இருக்கமுடியாது.

“இன்றைய தினம் அரசாங்க அதிகாரிகளிடத்தில் லஞ்ச ஊழல்கள் இருக் கின்றன, அவைகளைக் குறைப்பதற்கு இன்னும் நடவடிக்கைகள் எடுத்துக் கொள்ளப்படாமலிருக்கும் பொழுது இன்னும் அதிகாரிகளை அதிகமாக நிய மிக்கவேண்டுமென்று சொல்வது தவறு என்றும் அதற்காக அதிகாரங்களை எடுத்துக்கொள்ளவேண்டிய தவசியமில்லை என்றும் சொல்லப்படுகிறது. நான் ஒன்று சொல்லுகிறேன். இந்த லஞ்சம் அதிகாரிகளிடத்தில் மட்டுமல்ல, மடாதிபதிகளிடத்திலும் மடங்களை நிர்வாகம் செய்கிறவர்களிடத்திலும்கூட இருக்கின்றன. இப்பொழுது தஞ்சை ஜில்லாவில் மடங்களுக்கு ஏராள மான ஏக்கர் நிலம் இருப்பதாகச் சொல்லப்படுகிறது. அங்கே அவைகளை மடாதிபதிகள் குறைந்த மதிப்புக்கு குத்தகைக்கு விடுகிறார்கள். குத்தகைக்கு வாங்குகிறவர் மறுபடியும் அதை விவசாயிக்கு தான் எடுத்த தை விட அதிக குத்தகைக்கு விடுகிறார். அப்படி குத்தகைக்கு விடுவதால் தான் எடுத்த குத்தகை மதிப்பை மடத்திற்குக் கொடுத்துவிட்டு மீத் துள்ளதை தன்னுடைய சொந்த உபயோகத்திற்கு வைத்துக் கொள்ளு கிறார்கள். இப்படிச் செய்கிறவர்கள் முழுவதும் மடாதிபதிகளின் கையாட் களேதவிர வேறு ஒருவரும் இல்லை. இப்படி செய்வதை யாரும் மறுக்க முடியாது. இது லஞ்சம் இல்லையா என்று கேட்கிறேன். இப்படி மற்ற முகமாக அவர்கள் லஞ்சம் வாங்கி வருகிறார்கள். ஆகையால் லஞ் சத்தை ஒழிக்கவேண்டுமென்கிறவர்களுக்கு மடாதிபதிகளிடத்தில்கூட லஞ் சம் இருக்கிறது என்பதை ஞாபகப்படுத்த விரும்புகிறேன்.

“இன்னும் கடவுளைப் பார்க்கப்போனால் ப்யூனுக்கு நாலு அணுக்கள் கொடுக்கவேண்டியதாக இருக்கிறது என்று சொல்லுகிறார்கள். அப்படி தெரியாமல் பேசுகிறவர்களுக்கு நான் ஒன்று ஞாபகப்படுத்த விரும்புகி ரேன். இப்பொழுது சிதம்பரம் நடராஜர் தெரிசனத்திற்கு ஒரு ரூபாய் கொடுக்கவேண்டுமென்று வைத்திருக்கிறார்கள். கொடுத்தால்தான் ஸ்ராயி யை பார்க்கமுடியும் அங்கே ரகசியம் இருக்கிறது என்று சொல்லுகிறார்கள். அப்படிக் கொடுத்தால் அந்த ரகசியத்தைப் பார்க்கலாம் என்று சொல்லப் படுகிறது. இது லஞ்சம் இல்லையா என்று கேட்கிறேன். கடவுள் பெயரால் பணம் வாங்கினால் அது லஞ்சம் வாங்குவது இல்லையா என்று கேட்க விரும்புகிறேன். அதை இதுவரையில் மாற்றுவதற்கு யாரும் முற்பட வில்லை.

[Sri S. A. Devanayaga Iyah] [8th February 1949]

“இன்றைய தினம் கருஞ்சட்டை இயக்கம் அரசாங்கப் போக்கால் வளருகிறது என்று சொல்லப்படுகிறது. இதுவரையில் மதத்தின் பேரால் தீய பழக்கங்களிலிருந்து விலகிவரவில்லை என்று கேட்கிறேன். அதற்காக விடுதலை, கிளர்ச்சி, புரட்சி முதலிய பத்திரிகைகளின்மீது ஏன் நடவடிக்கைகள் எடுத்துக்கொள்ளப்படவில்லை என்று கேட்கப்படுகிறது. இந்தப் பத்திரிகைகள்தான் இந்த சட்டத்திற்கு ஆதரவு கொடுக்கிறது என்றும் ஹிந்து, மெயில், மித்திரன், தார்மிக ஹிந்துபோன்ற பத்திரிகைகள் இந்த சட்டத்தை ஆதரிக்கவில்லை என்றும் சொல்லப்படுகிறது. இவைகளெல்லாம் அவரவர்களுடைய அபிப்பிராயம்தான். ஹிந்து, மெயில் முதலிய பத்திரிகைகள் ஆதரிக்கவில்லை என்றால் அது அவர்களுடைய துர் அதிர்ஷ்டம்தான். ஆனால் அந்தப் பத்திரிகைகளில் இந்த சட்டத்தை எத்தனை பேர்கள் ஆதரித்து பேசுகிறார்கள், எத்தனை பேர்கள் ஆதரிக்கவில்லை என்பதெல்லாம் சரியாக வெளிவருவதில்லை. ஆதரித்துப் பேசுகிற பேச்சு களெல்லாம் அவைகளில் வருவது கிடையாது. ஆனால் ரிப்போர்ட்டர்களை தப்பு சொல்வதற்கில்லை. அவர்கள் எழுதினான் அனுப்புகிறார்கள். ஆனால் அங்கேயுள்ளவர்கள்தான் அவைகளை பிரசுரிப்பது இல்லை. ஆகவே பத்திரிகை சொந்தக்காரர்கள் எந்த விதமாக அபிப்பிராயம் வைத்திருக்கிறார்களோ அவ்விதம் தான் அவர்களுடைய பத்திரிகைகளில் செய்திவெளி வருகிறது. புரட்சி, கிளர்ச்சி, விடுதலை பத்திரிகைகள் ஆதரிக்கிறது என்றால் அது அர்த்தமற்ற வாதமாகும். தினசரி பத்திரிகை ஆதரிக்கவில்லையா என்று கேட்கிறேன். ஹிந்து, மெயில், சந்தேசமித்திரன் பத்திரிகைகள்தான் உண்மை பத்திரிகைகள் என்று சொல்ல முடியுமா? அவைகளும் இனிமேல் ஆதரிக்கும்படியான நிலைமை ஏற்படலாம் என்று எதிர்பார்க்கிறேன். இன்னும் தார்மிகஹிந்து என்னும் பத்திரிகையைப் பற்றி கொஞ்சம் சொல்லவேண்டியதாக இருக்கிறது. அவர்கள் எழுதும் விஷயங்களைப் பார்த்தால் அது பத்திரிகை என்றே சொல்வதற்கு இல்லை. அது எழுதுவதெல்லாம் தார்மிகமில்லாமல் அதார்மிகமாகவே இருக்கிறது என்று தெரிவித்துக் கொள்ளுகிறேன். பத்திரிகை என்றால் தனிப்பட்டவர்களைப்பற்றி எழுதவே கூடாது. அந்த பத்திரிகை ஒரு தனிப்பட்ட நபரை குற்றம் சொல்லி எழுதுவதே நோக்கமாகக் கொண்டிருக்கிறது. அப்படியார் எழுதுகிறதே தெரியவில்லை. இது நம்முடைய மந்திரிகளுடைய பார்வைக்கு வந்திருக்கிறதோ என்னவோ அதுவும் தெரியவில்லை. வேண்டுமானால் இந்த சட்டத்தை எதிர்த்து பேசும் நண்பர்கள் அதை பார்க்கட்டும். தார்மிக ஹிந்து 30-ம் தேதி பத்திரிகையை பார்க்கட்டும். அதன் தலையங்கம் எவ்வளவு ஆபாசமாக எழுதப்பட்டிருக்கிறது என்று பார்க்கட்டும். இப்படியெல்லாம் ஒரு பத்திரிகை எழுதுமா என்று யோசிக்க வேண்டும். அதை இப்பொழுது வாசிப்பதற்கு நேரமில்லை. இந்த மாதிரி யான பத்திரிகைகள் சட்டத்தை ஆதரிக்கவில்லை, ஆதலால் சட்டம் கொண்டு வரக்கூடாது என்றால் அதில் அர்த்தமில்லை. உண்மையான கருத்துடன் இருந்தால்தான் வாதங்களை ஒப்புக்கொள்ள முடியும்.

“இந்த மாதிரியான சட்டம் கொண்டுவருவதானது கடவுளை அரசாங்கத்தினுடைய தயவை எதிர்பார்க்க வேண்டிய நிலைமைக்குக் கொண்டு போகிறது என்று சொன்னார்கள். கடவுளின் தன்மையை உணர்ந்தவர்கள் அவ்விதம் சொல்லத்தக்காது. கடவுள் தயவை அரசாங்கம் எதிர்பார்த்து வரும்போது அரசாங்கத்தினுடைய தயவை கடவுள் எதிர்பார்ப்பதாகச் சொல்வது அர்த்தமற்ற வாதமாகும்.

“கடவுள் மந்திரிகளின் செய்கைகளை கவனித்து வருகிறார், அவரால் அவர்கள் தண்டனையடைவார்களென்று சொல்லப்படுகிறது, இவ்விதம் சொல்லி பயமுறுத்திவருகிறார்கள். மந்திரிகளை மாத்திரமல்ல, கடவுள் குற்றம் செய்கிறவர்களெல்லோரையும் பார்த்துக்கொண்டுதானிருக்கிறார் என்று நான் சொல்ல ஆசைப்படுகிறேன். கடவுள் பூஜை செய்கிறவர்களையும் தப்பு தவறுகள் செய்கிறவர்களையும் கவனித்துக்கொண்டுதானிருக்கிறார் என்பதை ஞாபகப்படுத்த விரும்புகிறேன். அதுமாத்திரமல்ல இம் மாதிரி சட்டம் செய்தால் கண்கள் அழிந்து போய்விடும் என்றும் பேசப்படுகிறது. காங்கிரஸ் யாரும் அழிக்க முடியாது. நானும் அழிக்க முடியாது.

[Sri S. A. Devanayaga Iyah] [8th February 1949]

யாது. ஒருவராலும் அழிக்க முடியாது. இன்றைய தினம் அதை யாராவது அழிக்கவேண்டுமென்று நினைத்தால் அவருக்குதான் அழிவு ஏற்படும். ஆகையால் காங்கிரஸ் அழிக்கக்கூடியது உலகில் ஒன்றுமில்லை. யாராலும் அழிக்கமுடியாது என்பதை ஞாபகப்படுத்த விரும்புகிறேன். யாராவது காங்கிரஸ் அழிக்கவேண்டுமென்று நினைத்தால் காங்கிரசிற்கு வலுவுதான் அதிகமாகும்.

“இன்றைய தினம் மதத்தின் தலைவர்கள் என்ன செய்திருக்கிறார்கள். சிறைச்சாலையில் ஒரு ஹிந்து பிரேதம் விழுந்தால் அதை எடுத்து அடக்கம் செய்வது இல்லை. ஆனால் கிருஸ்தவ மதத்தினர் எடுத்துக்கொண்டுபோய் அடக்கம் செய்கிறார்கள். இப்படி கிருஸ்தவமத தலைவர்கள் எடுத்து அடக்கம் செய்வதை நம் ஹிந்துக்கள் பார்க்கும்போது அவர்களுக்கு நம் மதத்தில் இவ்விதமில்லையே என்று உணர்ச்சி ஏற்படுகிறது. நம் மதத்தைச் சேர்ந்தவர்கள் இவைகளை கவனிப்பதே கிடையாது. ஆகவே மதத்தை விட்டு மாறுவதற்கு உணர்ச்சி ஏற்படுகிறது. நம் மதத்தைப் காப்பாற்றுவதற்கு எவ்வளவோ வேலைகள் செய்யவேண்டி இருக்கின்றன. ஆனால் அவைகளைச் செய்யாமல் காலம் கடத்திக் கொண்டேயிருக்கிறார்கள் என்பதை நாம் ஞாபகத்தில் வைத்துக்கொள்ளவேண்டும்.

“மடாதிபதிகளுக்கு சொத்தே கிடையாது என்று சொல்லப்படுகிறது. மடாதிபதிகளினமேல் சொந்த சொத்தில்லை என்பதுண்மை. ஆனால் சொத்துக்களை மடாதிபதிகள் தங்களுடைய சொந்தக்காரர்களின் பேரில் வாங்கி வைத்திருக்கிறார்கள். இன்றைய தினம் நாம் இதை கவனித்தோமானால் அந்த மாதிரி வாங்கிவைத்த சொத்துக்களை பரிமுதல் செய்யும்படியான நிலைமை ஏற்படும் என்பதை ஞாபகப்படுத்த விரும்புகிறேன். நாம் அவைகளைப்பற்றி கேட்டால் சந்நியாசிக் கு சொத்துக் கிடையாது என்றுதான் சொல்வார்கள். இவ்விதமெல்லாம் மடங்கள் கெட்ட நிலைமையிலிருக்கின்றன.

“எவ்வளவோ நல்ல மடங்களிருக்கின்றன என்று சுவாமி சகஜா நந்தா சொன்னார். அப்படியுள்ள மடங்கள் எவைகள் என்று சொல்ல வேண்டுமென்று கேட்டுக்கொள்ளுகிறேன். ஆகவே பலகாரணங்களை யோசிக்கும்போதும் இந்த சட்டமானது மிகவும் அவசியம். எல்லோரும் இதை ஒப்புக்கொண்டு இந்த சட்டத்தை நிறைவேற்ற துணை புரியவேண்டும் என்று கேட்டுக்கொண்டு கனம் மந்திரியவர்கள் கொண்டு வந்த தீர்மானத்தை நான் மனப்பூர்வமாக ஆதரிக்கிறேன்.”

The House then adjourned to meet again on Thursday, the 10th instant, at 2 p.m.

THE MADRAS LEGISLATIVE ASSEMBLY.

Thursday, the 10th February 1949.

The House met in the Assembly Chamber, Fort St. George, at two of the clock, Mr. Speaker (THE HON. SRI J. SIVASHANMUKHAM PILLAI) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BILL, 1949—cont.

* THE HON. SRI K. MADHAVA MENON:—“ Mr. Speaker, Sir, apart from the various criticisms that we had in the Press about this Bill, there have also been differences of opinion in this House not merely about the amendment moved by Mr. Vaidyanatha Ayyar, but also about the fundamental principles of the Bill. Statements have also been made that those who work for this Bill will suffer the curses of God; such implications were uttered by Mr. Annamalai Pillai who said: ‘ Beware, if you are going to play like this with Hindu religion, you will suffer.’ Very good suggestions have been made by persons like Dr. Ramachandra Rao, whose speech was almost like a sermon, coming as it does, from his wide experience. My only appeal to this House is that let us not question the bona fides of each other in these matters. I entirely believe that those who have spoken for the postponement of the Bill or against the provisions of this Bill, were speaking with absolute sincerity and good feelings; hence it is, we have to be little more cautious and careful; I would only plead some charity towards us also, without any motives being attributed to us, if we feel that this Bill should be proceeded with.

“ I know, Sir, the dice is very heavily loaded against us. Some of the very prominent newspapers of this City and also journals have opposed this Bill. Leading lawyers, jurists, and law-makers as well as constitution-makers, eminent judges, retired judges of the High Court have expressed opinions against the legislation being undertaken now. I respect their opinions, Sir. But I have not been able to appreciate a good portion of

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their opinions. Some estimable gentlemen, have been, if I may say so, a little bit uncharitable. Mr. T. R. Venkatarama Sastri is one among them. For him, I have always had the highest regard, and I used to look to him with admiration while I was a lawyer practising in the mufassal; my admiration for him after close association with him in the courts, has only increased my respect and regard for him. I have admired his forensic talents; and closer acquaintance with him only revealed to me his lovable nature, and how he is ready to help any good cause. When such a person as Mr. Sastri makes a criticism against this Bill, and in the course of it, attributes motives to the Government, it really pained me. He said that the object of the Bill seems to be to create appointments and exercise patronage and distribute favours. When Mr. Bhashyam, who has been saying such things, had said that it did not pain me. Mr. Vaidyanatha Ayyar also said that there will be a plethora of appointments soon after the passing of the Bill. That was not very uncharitable. Will it be right, Sir, if I say that the opposition to this Bill is because those who enjoyed the patronage so far, fear that they will lose it? If I were to make such an allegation as that, it would be as false as the allegations made by some that the object of the Bill is to create appointments, and exercise patronage. I would only plead, Sir, that let there be a little more charity in these matters. A very important and prominent person who could make or mar Governments, and has got facilities to mould public opinion, asked me this question: 'My dear fellow, does your Premier expect Sankaracharya or Ramana Maharishi to come and render accounts to him?' I replied: 'The Premier knows sufficiently well that Sankaracharya and Ramana Maharishi are sanyasins, *sarva sangaparithyagis*; they do not care for the material or mundane aspect of things. I am sure the Premier does not require anybody to tell him that they are sanyasins that do not care for the worldly aspect of things. Do you think that he wants them to render accounts to him? Such an assumption is only making a ridicule of serious things. The Premier does not want the Swamis to come and account to him, or waste their energies or mundane and material matters; he wants them to work for our spiritual good, and for the good of the whole of the country.

"Sir, it is not Sri Sankaracharya or Sri Ramana Maharishi who are administering these estates, but they are administered by people who are employed by them for the purpose. Perhaps, these sanyasins do not even know how the estates are being managed, how their accounts are being kept and for what purpose their funds are spent. And therefore what the Hon'ble Premier wants by bringing in a measure like this is to see that these estates endowed to these mutts by our ancestors and kings and by very devoted persons are looked after properly, that proper accounts are kept of their income and expenditure and that the funds are spent for the good of these institutions and for good purposes and to prevent them from being misadministered. Our Hon'ble Premier is not so proud a man as to ask Sri Sankaracharya to attend

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to these material things himself and to render accounts, but the considered reason why he has brought in this Bill is really to relieve the Acharyas and Sanyasins of their worries in attending to these material things. But in spite of it, some people think that there is something very bad in this Bill.

"Sir, I want that we should keep out of our minds such considerations which are not germane to the Bill, but should confine ourselves to the provisions of the Bill and see how far the objections raised are relevant and how far this Bill goes against the fundamental rights envisaged in the Constitution that is being framed by the Constituent Assembly. The amendment of my hon. Friend Mr. Vaidyanatha Ayyar is that it may be sent out for eliciting public opinion, but I know that the objection is not meant simply for eliciting public opinion. As my hon. Friend Mr. Chidambaram Ayyar made it clear in his speech, if this Bill is circulated for public opinion, it would take some months to get public opinion and in the meanwhile the Constituent Assembly would have passed the Constitution Act, when, it is hoped this legislation would become out of order. Otherwise, I cannot understand the reason why this dilatory motion is moved. I ask those friends who supported this amendment what would be the result, if the Constitution Act is passed and a referendum is taken from among the Hindus, whether this Bill should be proceeded with or not? I am sure, Sir, that 90 per cent of the Hindus will be in favour of it. Suppose there is some constitutional objection to this Bill, will they agree to waive the constitutional objection in the face of such public support, after the referendum is taken? I really want the House to examine this Bill, assuming that the Constitution Act has been passed, and see where it offends that Act. I am sure in my mind, Sir, that this Bill, even if it is examined from that point of view, will not be *ultra vires*.

"My hon. Friend Mr. Bhashyam said that when first this Bill was published sixteen months ago, people did not look at it seriously, and that it was only when the Congress Party decided to bring it before this House, that public attention was drawn towards it, and people began to consider its implications seriously. I am afraid, Sir, that I have a better opinion of the public and their reactions to this Bill than Mr. Bhashyam and I can say that those who have sent us here are really watching what we are doing and they have certainly seen the Bill published sixteen months ago and have given their support, and therefore it is wrong to say that nobody has taken this Bill seriously till now.

"Now, Sir, I want the House to remember one thing. It was argued that certain clauses in this Bill offended against the fundamental rights envisaged in the Constitution Act. As I have already said, so far as I have examined this Bill, I see nothing of the sort, but if any improvements are required in this Bill, or if any of the clauses require re-drafting in the light of the provisions contained in the Constitution Act, I hope that hon. Members

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who know these things very well would help us in the Select Committee to rectify these mistakes and not try to postpone this Bill by asking it to be circulated for public opinion.

"Now, Sir, let me take the fundamental objection that has been raised here. Under the New Constitutions that is in the making, certain fundamental rights have been accepted. Those fundamental rights gave absolute freedom in the matter of professing religion, freedom of conscience, freedom to practice and propagate religion, freedom to manage religious affairs and to own, acquire and administer properties for religious and charitable purposes. Therefore it was contended that this Legislature has no right or jurisdiction to bring in legislation to regulate these religious institutions and so some friends advised us to wait till the Constitution Act becomes the law of the land. My hon. Friend Mr. Vaidyanatha Ayyar's argument was also on the above lines. With all due deference to him and with all due deference to the opinion of other constitutional lawyers, let me put this question, whether this Legislature has or has not a right to legislate in these matters and to pass a Bill like the one that is before this House. May I invite the attention of hon. Members to the preamble to this Bill, which runs as follows: 'Whereas it is expedient to amend and consolidate the law relating to "the administration and governance" of Hindu Religious and Charitable Institutions and Endowments in the Province of Madras; it is hereby enacted as follows:' I emphasize the words 'administration and governance of Hindu Religious and Charitable Institutions and Endowments.'

"Sir, in the Government of India Act, 1935, under which we are now functioning, in the Provincial Legislative List, the subjects that a Provincial Legislature can legislate upon, have been mentioned and section 100 (3) of the Government of India Act says that, 'Subject to the two preceding sub-sections, the Provincial Legislature has, and the Dominion Legislature has not, the power to make laws for a Province or any part of a Province thereof, with respect to any of the matters enumerated in List II, in the same schedule (hereinafter called the Provincial Legislative List).' And item 34 of the Provincial List (List II) under the Seventh Schedule says, 'Charities, and Charitable Institutions; Charitable and Religious Endowments.' It has been argued that mutts are not endowments, nor are they religious institutions. What else are they? Are they monasteries or monastic heads? I think, Sir, that the framers of the New Constitution that is now in the making in the Constituent Assembly perhaps wanted to include mutts also in the State List and I would invite the attention of hon. Members to item 43 in List II—the State List—under the Seventh Schedule in the Draft Constitution which states as follows: 'Charities and Charitable Institutions, Charitable and Religious Endowments and Religious Institutions.' Therefore, the new item 'religious institutions' has also been added in the State List in the new Draft Constitution.

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"Sir, what I wish to submit before this House is this. When any new law is made, or when there is any addition to the existing law, every lawyer knows that the Legislature must have meant something and therefore when the present Drafting Committee which has prepared the new Draft Constitution has specifically added the item 'religious institutions' to the State List, which is corresponding to the Provincial Legislative List in the Government of India Act, and since section 100 (3) of the New Constitution states that the Provincial Government or the State Government has power to make laws for the administration and governance of the Hindu Charities and Charitable Institutions, Charitable and Religious Institutions and Religious Endowments, I cannot understand how it can be contended that the Provincial Legislature has no jurisdiction over these mutts, etc., according to the New Constitution Act. So, I do not think that it can be seriously argued by anybody that even under the New Constitution that is being enacted by the Constituent Assembly at Delhi, the State Legislature or the Legislature of a Province cannot legislate on religious endowments and religious institutions. Therefore the whole question resolves itself into this. We have got powers to legislate on these subjects. But that power should be in consonance with the fundamental rights enunciated under Article 20 of the New Constitution. If it opposes or goes against the spirit of the fundamental rights, then even the mention of it in the Schedule does not give us jurisdiction. Now let us see what are those fundamental rights. The fundamental rights should not be confused with the management of these institutions. I have a fundamental right guaranteed under the New Constitution to profess and practice Hindu religion. I have a fundamental right to propagate my religion. I can preach and propagate my religion in order to make my hon. Friend Mr. Moideen Kutti to embrace the Hindu fold. (Mr. P. K. Moideen Kutti: 'And vice versa,'). That is a fundamental right that is given to me by the New Constitution under Article 19 and no legislation passed in this Legislature can prevent myself or my friend from doing such a thing. My hon. Friend Mr. Vaidyanatha Ayyar refers to Article 20 and not Article 19, although I submit, Sir, that Articles 19 to 22 come under one Chapter entitled 'Rights relating to religion.' So all those Articles should be read together. Article 19 says, 'Subject to public order, morality and health and to the other provisions of this part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.' If anybody says that I cannot practice my religion or that I cannot propagate my religion, that would be *ultra vires*. But it does not take away our right, as a Legislature, to pass legislation to take over the management of temple properties or properties that are handed over to religious and charitable institutions, and to put down the malpractices found therein. As I said, Sir, this Bill only contemplates the consolidation of laws relating to the administration and governance of Hindu Religious and Charitable Institutions and Endowments. It does not refer to the practice or profession or propagation of one's religion.

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"Sir, it has been argued by eminent persons and even by the Swamiji who is fasting there, that because we are a Secular State we cannot undertake any legislation on religion. But I say, Sir, that we should not make a fetish of things or we should not attempt to make things ridiculous by stretching things too far. It is a Secular State and it guarantees certain rights to the people but that does not mean that the management or mismanagement or the appropriation or misappropriation of the funds of a trust is religious and not secular. There must be a distinction and there must be a line drawn in certain matters as to where religion ends and where the management or secular or material aspect of a thing begins. If we look things like that then there will be no difficulty about a Secular State. Religious endowments have to be governed also under a Secular State and the State has a paramount duty to guard this fundamental right to see that the religious and charitable institutions are managed properly. That is also a fundamental right which everybody should demand and guard. The Crown in England has always been regarded as the protector of charities and charity includes religion.

"Sir, I was referring to Article 19 which guarantees the fundamental right to practice and profess and propagate religion and certain exceptions are made there. It is also said that nothing in that Article shall affect the operation of any existing law or prevent the State from making any law regulating or restricting any economic, financial—I want the House to remember this—regulating or restricting any economic, financial, political or secular activities which may be associated with religious practice. I am one following the religious practices of the Hindus, Sir. And I know there are certain secular aspects of that, that is, the management of funds of the endowments. This is not religious practice. The management of the property of some temple is like the management of any other man's private property for which the Transfer of Property Act would apply. We cannot say that the property placed under a Hindu temple or a mutt shall not be subject to the Transfer of Property Act because religious freedom has been guaranteed, or that the Contract Act shall not apply. If I say so I will be ridiculed. It is also provided in Article 19 that for social welfare and reform all Hindu Religious Institutions of a public character shall be open to all classes and sections of the Hindus. That also is protected. When the Temple Entry Bill was being discussed in the House when my illustrious Friend Mr. Vaidyanatha Ayyar out of his conviction entered the Mathurai temple along with Harijans . . ."

SRI A. VAIDYANATHA AYYAR:—"On a point of personal explanation, Sir. At that time it was done like that because it was open to the Legislature to pass Acts like this and there were no fundamental rights. Therefore it was, we argued and all the courts upheld the contention, that the Legislature had the right. Now our contention is that it is not open to us in view of the fundamental right."

THE HON. SRI K. MADHAVA MENON:—"If my friend had wanted for me to complete the sentence, Sir, there would not have

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been necessity for this. I entirely agree with him that there was no fundamental rights then and it has been specifically provided now. Article 8 of the Constitution says, Sir, and those who sponsored the amendment know that also, that all laws in force immediately before the commencement of this Constitution in the territory of India in so far as they are inconsistent with the provisions of this Part, shall to the extent of such inconsistency be void. Therefore they say that under the fundamental rights you cannot pass a legislation like this and if you do so the legislation will be void. They ask: 'Why do you want to waste the time and energy of this House? You can pass it now because there is nothing to prevent you under the existing law but under Article 8 of the Constitution Act that is coming it will be void'. That is the argument of some people. I certainly agree, Sir, that if it will be void we shall not pass it. My submission is that it may be rejected on its merits. But let us not try to bring in dilatory motions for putting the Bill away for the Constitution to come. So let us argue on the footing that the Constitution Act has come into force. At the time the Temple Entry Act was passed, and when Mr. Vaidyanatha Ayyar went into the Mathurai temple, did not the whole Hindu community or a good portion of the Hindu community which now opposes the Bill, including great Sanyasins and even Sankaracharyas and matathipathis, think that religion was in danger and that Hinduism was lost. Of course they said that out of honest conviction, I certainly concede that. The argument of those people who supported Temple Entry was that untouchability was no part of Hinduism. So I say that the administration of a temple of the Hindu religion is no religion. My submission to Mr. Vaidyanatha Ayyar through you, Sir, is that this is also exempted under Article 20 of the Constitution.

"What I was saying was, Sir, that Article 19 has protected certain things done by this Legislature, the regulating or restricting the economic, financial and political and other secular activities that may be associated with religion. Mr. Vaidyanatha Ayyar was relying upon Article 20. Let us analyse and see Article 20. Article 20 says: Subject to public order, morality and health, every religious denomination or any section thereof shall have the right (1) to establish and maintain institutions for religious and charitable purposes. Under that I have a fundamental right to dedicate my property for religious and charitable endowments. You cannot by legislation prevent it. The Muhammadan Law prevents all your property being willed away. But under the Constitution that we are now to have the fundamental right has given every person the right to give his property to and establish and maintain religious institutions. Nobody can prevent it. He has the right to manage his own affairs in matters of religion. What is the fundamental right that has been granted under Article 20 (b); not to manage property, but to manage his own affairs in matters of religion. If rent is to be collected from a land belonging to a temple, it is not a matter of religion. The management of a trust property for the purpose for which the trustees

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meant it and the prevention of its mismanagement or misappropriation is not a matter of religion. I lay special emphasis on sub-Article (b), Sir. Mr. Vaidyanatha Ayyar insisted upon that, that to manage its own affairs in matters of religion, meant that the management of the institution should be done by him . . ."

SRI A. VAIDYANATHA AYYAR:—"On a point of personal explanation."

MR. SPEAKER:—"The Hon. Minister is not yielding."

THE HON. SRI K. MADHAVA MENON:—"My hon. Friend will have not only one . . ."

MR. SPEAKER:—"Two Members are standing simultaneously."

THE HON. SRI K. MADHAVA MENON:—"I am sorry, Sir. My hon. Friend will have a number of opportunities to offer his personal explanations. Let him not do it now, Sir, so that it may not prevent my trend of thought. I may not be quoting his words exactly, Sir, and with the same force as he did. I am only giving the substance of what he said. I was only saying that the fundamental right gave the guarantee only to manage its own affairs in matters of religion. Every religious denomination or section, Sir, is also given the fundamental right to own and acquire movable and immovable property. Nobody can prevent this. It also gives the right to administer such property 'in accordance with law.' What is the meaning of the words 'in accordance with law.' Sir? The property can be acquired, no body can prevent it. But when once it has been acquired the administration can only be in accordance with law. What is the law? That is what we have placed before you and with which we would like the properties to be administered. The Preamble of the Bill only says that it is for administering and governing of the properties of religious and charitable endowments. It would rather require a very big strength of the imagination to say, Sir, that the Bill before you offends anyone of the Articles 18, 19 or 20. I shall take certain examples. As I said, Sir, the mismanagement, maladministration or misappropriation of the funds of temples and charitable institutions and endowments are not religion. If they say that these are religion certainly nobody will believe them. If they are not religion then under Article 19 the interference by Government is warranted and that is what we are doing. Is it not necessary to regulate the management and administration of temples and mutts, Sir? Are we to allow others to mismanage them, Sir? It may be that my management may not be good in all cases. It is quite possible. Even if my management is wrong, it does not mean that it is not my duty to correct them.

"I wish to bring to the notice of the House one fact, Sir. We could not have come forward with a legislation like this, Sir, but for certain contingencies that have arisen. On the passing of the Temple Entry Act in Malabar at the instance of some trustees

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certain priests said that the Act was against religion and refused to perform puja and they went away. The trustees also who were of the same opinion refused to appoint other pujaris who were willing to conduct the puja. They simply allowed the temple to be closed. I know there are instances where the trustees felt that the Temple Entry Act was an encroachment upon religion. The priests went away and no pujari was appointed and there was no puja. What is the remedy, Sir, under such circumstances for any worshipper or devotee, not to speak of the Government, to see that the temple is opened for puja? Objection has been taken here that Government want to conduct and regulate the rituals. It is not the Government that is going to prescribe the mantras or things like that. If the priest or the trustee refuses to conduct the puja properly, what is the authority to ask him to go and open the temple? There must be somebody to say that. It is not that rituals are going to be prescribed by the Government or the Prime Minister is going to prescribe the mantras. Sir, you may remember that when both of us went to Tiruchirappalli for addressing a meeting before the temple, what the fate of the God that day was, because knowing that you and I were going to visit the temple, the trustee and the pujaris closed the temple and went away and nobody was available. Then you were not willing to come away without worshipping the God and so you waited the next day and even then the temple was not opened. The trustee and the poojaris were not present there. Then you persisted and waited till the night and the next morning you insisted on worshipping the God and the trustee had to yield because of your persistence . . ."

MR. SPEAKER:—"I do not want to intervene in the debate. I do not know whether the Hon. Minister knows what the result of my entry into the temple was. I received a letter from a responsible person later from that place that the mirasidars fined the Harijans who entered the temple along with me."

THE HON. SRI K. MADHAVA MENON:—"That only makes my position stronger. I appeal to my hon. Friend, Mr. Vaidyanatha Ayyar, and others to help us in such cases. What are we to do when things like that happen and if there is no power to ask the trustee to obey the orders of Government? Objection has been taken that this legislation gives powers to the Government to ask the trustee to do certain things and that the trustee shall obey the orders of Government. "After all what are those powers? They are only lawful orders. Objection is taken to lawful orders of Government being enforced on trustees. It is said that the section offends Article 20. But, what shall we do if a trustee refuses to obey the orders of Government? So, we have to pass legislation like this and we are entitled to pass such a legislation to prevent such things. Otherwise, it is difficult for us to manage them and we will be perpetrating mismanagement of the temples.

"Sir, I will not be misquoting, but put in my own language, what some Members spoke about the question of the Constitution. Mr. Vaidyanatha Ayyar said that Article 8 (1) of the Draft Constitution already passed and Article 8 (2) provide that the State shall

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not make any law which offends the fundamental rights. He has stated that Acts which have already been passed, if they are in any way inconsistent with these fundamental rights, to that extent will be void. This is Article 8 (1) of the Fundamental Rights Chapter. The next Article 8 (2) states that the State shall not make any law which takes away or prejudice the rights conferred by this Part and any law made in contravention of this clause, shall, to the extent of the contravention be void. Mr. Vaidyanatha Ayyar may not have been exhaustive. Some instances were given by Mr. Vaidyanatha Ayyar which according to him offend the provisions of the Act. May I request the House to examine those sections. The words used in Article 20 are 'to administer such property in accordance with law.' It does not mean that any law can be passed taking away the administration itself. If I have understood Mr. Vaidyanatha Ayyar, I think that was his argument. Of course, I was not present when Mr. Vaidyanatha Ayyar spoke but read his speech from the official report and I am referring only to that. He said that according to clause (b) of Article 20 that is, administering properties according to law, no legislation can be passed taking away the administration itself. Sir, administration is an act, an act of a body and so legislation must be passed in respect of administration of properties. I wish to say that every section that has been framed here is only in respect of administration and I do not think any other interpretation is possible or to say that it is not for administration, but if there should be interference with religious practices we must certainly guard against it. If on the other hand, there is any provision in the bill which says we are encroaching upon religious practices of any particular community of Hindus, it must be corrected and I want hon. Members to help us in doing so. Law which is expected to be good is one which can regulate management and not take away management and that is the fundamental right which has been recognized by the Constitution. I do not at all say that the right of management cannot be taken away by legislation of this Legislature. Because, if there is mismanagement, the State should be given power to legislate for the proper management of religious institutions and charitable endowments. Otherwise, what is the remedy if a trustee refuses to manage an endowment? The only remedy is to take up the management on ourselves and manage it in the way in which the original donor wanted it to be managed. What other legislation you want to pass fails my comprehension.

"Then, Mr. Vaidyanatha Ayyar says that the Bill offends article 20 in clauses 15, 16, 18, 32, 38, 41, 43, 45 and 53. I must here crave the pardon of the House if I take them through those sections. I shall refer to them cursorily. Clause 6 is one of those sections which Mr. Vaidyanatha Ayyar says, offends section 20 of the Constitution. On the other hand, clause 6 says 'Subject to the provisions of this Act, the general superintendence of all religious institutions and endowments shall vest in the Provincial Government.' As I have said, we are supposed to legislate in respect of

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religious institutions. Then it goes on to say 'Such superintendence shall include the power to pass orders which may be deemed necessary for the proper maintenance or administration of any religious institution or endowment.' It says only 'maintenance or administration of any religious institution or endowment' and not to conduct religious practices. Again, Sir, the objection seems to be to the words 'vest in the Provincial Government'. I do not exactly see how the right is being taken away by the Provincial Government and that the management shall vest in the Government. Certain provisions are there that if a trustee mismanages or a trustee does anything else, to take over the management. It is probable that under certain circumstances, for instance, if a trustee will not manage an institution, in such cases, subject to the provisions of the Act, the superintendence and management of such religious institutions shall vest in the Government. The word or expression 'vest' is objected to be wrong. What is its meaning? The meaning which the framers of the draft Bill have is, in such cases where it is absolutely necessary that the management or administration of an institution is to be regulated, the Government shall have power to regulate it. That is only what is meant by it and that will not be against the Constitution. If my hon. Friends think that is not the proper expression, I want my hon. Friends who are jurists to help up in putting any other suitable word that will not make the Act void, Sir.

"The next section referred to by Mr. Vaidyanatha Ayyar relates to section 15, which says: 'Subject to the control of the Provincial Government and the provisions of this Act, the general superintendence of all religious institutions and endowments shall vest in the Commissioner; it shall be the duty of the Commissioner to see to the proper management of the secular affairs of religious institutions'—it should be noted that the words used here are 'secular affairs' and not any other affairs—and to the due performance of rituals, ceremonies and other religious observances therein or in connexion therewith.' Then it goes on 'The Commissioner may do all things which are reasonable and necessary to ensure that religious institutions and endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded or exist.' Now, Sir, objection is taken as to whether a Secular Government can undertake to see to the due performance of rituals, ceremonies and other religious observances. It is a very big stretch of the language to say that this section gives power to the Government to prescribe rituals and to prescribe the methods for the performance or observance of rituals and so on. It is not so. With reference to proper management of the secular affairs and the due performance of rituals, etc. I should say they only mean what has been performed and what is to be performed are according to the Agamas and Shastras, but not that we should prescribe these. To say that we are to prescribe the rituals is to say something which is not intended by the language of the section.

"Then Mr. Vaidyanatha Ayyar said that section 18 offends against Article 20 of the Constitution. The section says: 'The

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trustee of a religious institution shall be bound to obey all orders issued under the provisions of this Act by the Provincial Government, the Commissioner or the Deputy or Assistant Commissioners.' Here the expression 'any order' means all orders. The objection to this is that tomorrow the Government may ask the trustee to stand on his head and so it is stated that any order should be obeyed and so it goes fundamentally against Fundamental rights. "All orders" only mean all lawful orders and we will not want to pass any ridiculous or unlawful orders. What is meant is only all lawful, legitimate and right orders for the proper management of the institutions. The Bill contemplates that all orders issued for the proper maintenance of the institutions should be obeyed and it does not mean all or sundry orders within the conception of the human mind. So, I do not think that this section offends article 20.

"Coming to sections 32 to 38, here there is a little difference between religious institutions and maths. Section 30 of the Bill says 'The provisions of sections 31 to 38 shall not apply to maths or specific endowments attached to maths.' It is because maths or specific endowments are supposed to be different from other religious and charitable endowments. Then, section 32 says: 'The Commissioner or the Assistant Commissioner, as the case may be, may suspend, remove or dismiss the trustee, whether hereditary or non-hereditary of a religious institutions.' When Article 20 gives a person the fundamental right to establish and maintain an institution and manage his own affairs in matters of religion, how can you take the power to dismiss a trustee, because it goes definitely against Article 20? That is the argument that has been advanced against the section. The Commissioner or the Assistant Commissioner can suspend, remove or dismiss a trustee, whether hereditary or non-hereditary, of a religious institution, not for any reason. For instance, it may be for a persistent default in the submission of the Budget. Suppose, for instance, a trustee who is a Hindu, suddenly converts himself tomorrow into a Christian or a Muslim? Because he is a hereditary trustee, do you expect such a person to manage the institution? And should we not have power to remove him and put some other person in his place. I ask? Will the Hindus tolerate it? In cases like that, what is the remedy? A man must be appointed. The other man must be removed. Only certain contingencies are provided for. Clause 32 says—

(1) *The Commissioner or the Assistant Commissioner, as the case may be, may suspend, remove or dismiss the trustee, whether hereditary or non-hereditary, of a religious institution—*

(a) *for persistent default in the submission of budgets, accounts, reports or returns, or*

(b) *for wilful disobedience of any order issued under the provisions of this Act by the Provincial Government or the Commissioner, Deputy Commissioner or Assistant Commissioner, or*

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(c) *for any malfeasance, misfeasance, breach of trust or neglect of duty in respect of the trust, or*

(d) *for any misappropriation of, or improper dealing with, the properties of the institution of which he is trustee, or*

(e) *for unsoundness of mind or other mental or physical defect or infirmity which unfits him for discharging the functions of a trustee.'*

It is only in cases like those mentioned in (a) to (e), power has been reserved to Government to change the trustee. Even there we do not change the religious practices. The Bill does not contemplate that any religious practice or rituals should be changed. Only the management of the secular affairs of the institution is taken away from the person who does not and cannot conduct them properly. So, Sir, I submit that there is nothing offending in clause 32.

"Then, Sir, objection is taken to Clause 38. It says—

38. (1) *The trustee of a religious institution may, from time to time, submit to the Assistant Commissioner proposals for fixing the dittam or scale of expenditure in the institution, and the amounts which should be allotted to the various objects or ceremonies connected with such institution or the proportions in which the income or other property of the institution may be applied to such objects or ceremonies.'*

(5) *The dittam or scale of expenditure for the time being in force in an institution shall not be altered by the trustee except in accordance with the procedure laid down in this section.'*

Objection is taken to fixing the *dittam* or scale of expenditure. The objection is, why should you take the power to dictate to the trustee when he can establish and manage the religious affairs of the institution? Sir, the trustee is asked to send the budget, and he is required to confine the expenditure provided for in the budget. The *dittam* cannot be on a haphazard scale. Sub-clause (5) says that the *dittam* shall not be altered by the trustee except in accordance with the procedure laid down in this section. The trustee is asked to prepare a budget for all the objects of the temple or institution. How does this offend the management of the religious affairs of the institution, I cannot understand. Mr. Bhashyam's argument rather took me by surprise. He said that 'there may be some small pilfering; why do you ask for dittam'. I am sorry my hon. friend is not here. He asked 'why do you ask for dittam.' He said 'some trustee may pilfer some; but trustees have got their prestige; at the time of festivals they spend thousands and lakhs of rupees'. Sir, I cannot understand this. We do not want that lakhs and lakhs of rupees should be spent, and we do not also like to see any pilfering, even if it is small. The trustee has to prepare and send a budget for the

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income and expenditure of the temple. There is no interference in religious practice. Suppose, the Commissioner says 'You shall have only this *Deeparadhana* and not the other one', then it may be called interference with the religious performance. You should spend only for ordinary expenditure. That is the object of preparing the budget. That cannot in any way be called interference in religious performance or rituals.

"Then, Sir, with regard to Clause 41. Here also the trustee of every math is required to submit to the Commissioner proposals for fixing the *dittam* or scale of expenditure. It is said that this goes against the fundamental rights, because under the fundamental rights any person is entitled to make endowments, establish and maintain institutions for charitable purposes. Maintenance does not mean that we should allow expenditure on a scale more than what is required. It does not mean that in the matter of income and expenditure you can do anything you like. It is a case of stretching things too far.

"Then, Sir, objection was taken to clause 43. Clause 43 says—

'Subject to the rights of appeal hereinafter provided, the Deputy Commissioner shall have power to decide the following disputes and matters—

(a) 'whether an institution is a religious institution.'

I cannot understand the objection to this clause. Somebody has to decide whether an institution is a religious institution or not. If the Deputy Commissioner is considered not competent for this purpose, we can think of the Commissioner or somebody else. Practical considerations are there. Somebody has to decide whether an institution is a religious institution or not. What has the legislature interfered with? If interference in the secular matters of religious institutions is not possible, the Wakfs Bill introduced in the other House will become void. Sir, how many people are there who have not tried to evade the provisions of law and tried to appropriate trust properties to themselves? How many people are there who have converted the trust properties as their own private property? Should not somebody decide which is a trust property and which is not? Should not somebody see whether trust properties have been converted into private properties? Therefore, Sir, I say that this does not offend any fundamental rights, unless fundamental rights mean the right to mismanage and misappropriate trust funds.

"Now, Sir, with regard to clause 53. It says—

'The Executive Officer shall hold office for such period as may be fixed by the Commissioner and he shall exercise such powers and perform such duties as may be assigned to him by the Commissioner.'

Sir, the appointment of the Executive Officer is by the Commissioner. The Commissioner delegates to the Executive Officer the powers of management of the properties. The Executive Officer

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must have those powers to ensure proper administration. Sir, even though this Bill has been drafted before the fundamental rights have been finally decided in the Constituent Assembly, the draughtsmen have been careful in drafting this clause. They say 'in the case of a mutt, only such powers and duties as appertain to the administration of its endowments shall be assigned to the Executive Officer'. What is the harm, I cannot understand. We legislate only for administering the math and not for the religious practice or rituals.

"Another objection has been raised by Mr. Vaidyanatha Ayyar, which I think may have a semblance of justification. He said that clause 62 of the Bill offends Article 21 of the Constitution. Article 21 of the Constitution says—

'No person may be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.'

Clause 62 of the Bill says—

- (1) In respect of the services rendered by the Provincial Government and their officers, every religious institution shall, from the income derived by it, pay to the Provincial Government annually such contribution not exceeding five per centum of its income as may be prescribed.*
- (2) Every religious institution, the annual income of which, for the fasli year immediately preceding as calculated for the purposes of the levy of contribution under sub-section (1), is not less than one thousand rupees, shall pay to the Provincial Government annually, for meeting the cost of auditing its accounts, such further sum not exceeding one and a half per centum of its income as the Commissioner may determine.'*

The argument against this clause is that Government are collecting money from the institutions, and that it is a tax on religious institutions which is prevented by Article 21. Apparently, it is so, but what the Premier wants is that for the management of the temples or institutions, some contribution has to be collected. It will be used only for the purpose of managing the institution and not for any other purpose of the State. Mr. Vaidyanatha Ayyar might argue as he has hinted that the money collected would form part of the general revenues, and that it might be spent on some other purpose. Sir, we cannot conceive of that; and it is not what is intended. Money is collected only for the purpose of meeting the cost of management of temples and mutts. If the words put in the clause lend themselves easily to the interpretation that the collection will amount to a tax, we shall certainly look into this and set it right."

Mr. SPEAKER:—"The time asked for by the Hon. Minister is over."

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THE HON. SRI K. MADHAVA MENON:—"Sir, I shall finish in a few minutes. What I say is that it is not intended to be a tax. If the wording is capable of that interpretation, we shall certainly change it.

"Sir, it is said by hon. Members that clauses 83 and 85 offend Article 25 of the Constitution, because Article 25 gives the right to every person to appeal to the Supreme Court in any case where he has been wronged by any other person. Clauses 83 and 85 make an exception in the case of certain actions of the Executive Officer. Certain actions of the Executive Officer have necessarily to be protected, because if every action of the Executive Officer is to be taken before a court of law, he cannot do anything at all. So, he has to be protected. We will examine this exception in detail in the Select Committee. That is all that I can say with regard to these two clauses.

"Then, Sir, with regard to Article 35 of the Constitution. Mr. Nagappa also made the same argument that there must be a uniform civil code. I also fervently pray that there should be a uniform civil court. That does not mean that we should wait till other religious faiths move in the matter. It may be that there is not as much mismanagement in other religions as in the Hindu religion. So, are we to allow mismanagement in the Hindu religion? We know as a matter of fact that there is mismanagement in trusts and institutions. Mr. Nagappa said that he entirely agreed with the Bill, but that it should apply to all religions, namely, Hinduism, Christianity and Islam. That also Mr. Vaidyanatha Ayyar had, perhaps, in his mind when he said about uniform civil code. It is all too much of exaggeration, if I may say so, to say that the Bill is very harsh, and that it reduces matathipathis to the position of servants of Commissioners and Deputy Commissioners, and that we are asking Sankaracharya to be a servant of the Commissioner. It is not all that.

"Sir, on reading Articles 19 and 21 together, it will be seen that this Bill cannot become void, if one or two sections are repugnant. Before the Fundamental Rights were drafted by the Constituent Assembly this Bill had been drafted. If one or two sections offend the Draft Constitution, can the whole legislation become invalid? Even if by any stretch of law, it can be interpreted so, we must try our best to improve it in the Select Committee. I would request Mr. Vaidyanatha Ayyar to serve on the Select Committee to rectify the mistakes, and not say that we should postpone this Bill, because the object of the Bill is to see that religious institutions, charities, and endowments are properly administered."

MR. SPEAKER:—"Mr. L. N. Gopalaswami has sent me a chit asking for information whether the Advocate-General is going to take part in the debate, as the Hon. Dr. Rajan said previously. I have enquired of the Advocate-General, and he has told me that he is not going to take part in the debate.

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"The House will sit till we finish this Bill. If necessary, we shall have a short break at 4-30 or 5 for coffee or tea."

THE HON. SRI O. P. RAMASWAMY REDDIAR:—"Mr. Speaker, Sir, the House has been discussing this Bill for some time now and I daresay there has been a fairly full dress debate. Outside too, the press and the platform is fully seized of it. You, Sir, have been generous with time. No one, who wanted to speak, was denied an opportunity and no one is more happy about it than I. In fact, Sir, one hon. Member who with great fervour spoke in support of the amendment complained that we have been discussing it so long that his seat has begun to burn. I suppose, Sir, that settles the matter so far as free and full expression of views on the bill is concerned.

"Sir, my Hon'ble and trusted colleague Dr. Rajan, has already presented the case ably before the House. After that, one would naturally feel that there is very little to say on behalf of the Government. I attach particular importance to Dr. Rajan's presentation of the case, not merely because he represents the ancient and modern, the old and the new, but also because he, as a member in charge of the Hindu Religious Endowment portfolio in the Congress Cabinet of 1937, was largely responsible for shaping this Bill; but for the historic events that had led to the resignation of the Congress Ministry soon after, this Bill perhaps would have long ago been placed on the Statute Book by him and the credit or blame would have gone to another Premier namely our beloved Rajaji; but that was not to be. Since it is now my responsibility, Sir, both as the Minister in charge of the Portfolio and as Premier for bringing in this measure, I will be failing in my duty if I do not make a statement on it, however brief it be.

"It is a tragic irony of this country that whenever a measure intended to ameliorate the social, economic or political conditions of the masses at large is brought the cry of religion in danger is invariably raised. If a socio-economic programme like Prohibition the implementation of which is the salvation of the poor is launched, the cry is 'Individual freedom is in danger'. When we want to abolish bigamous marriages and root out the consequent social and economic evils which hold women in subjection, then again the cry is 'Religion in danger'. Sir, in the name of religion opposition was engineered to such measures like the Age of Consent Bill, the Devadasis Bill, the Bill for the entry of Harijans into temples, and a host of salutary measures without which we would be a people, steeped in rank superstition; and yet, Sir, we have survived all these crises. The world is moving forward and with it we too have to. Those who in the name of religion, try to halt the pace of our progress are doing a disservice to the very religion which they profess. I am not prepared to believe, Sir, as some hon. Members have here made out that what opposition there is to this measure is purely the work of vested interests. A

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considerable part is no doubt likely to be. The Bill does affect a large group of men in society, who in the name of God and religion, misuse the trust that is placed in their hands and find in the proposed measure an end to their scope for exploitation. I am not concerned about them. On the other hand, Sir, their very opposition is an eloquent testimony to the sound and wholesome principles of the Bill. The louder their agitation the greater is the reason for the Bill. But, Sir, it is not for those who directly or indirectly stand to lose materially by a reformist measure such as is now before the House and they are the vast majority comprising the opposing ranks; but to those few who rightly or wrongly believe that the proposed measure is a negation of religious rights—it is to them I seek to appeal. No doubt they know not what they are saying.

“What, Sir, is religion? And what, the concept of State in relation to religion? These are issues, fundamental and much germane to the present discussion. Sir, I ask you, does religion mean exploitation? Does religion mean the misuse of trust placed in your hands? Does religion mean that, in the name of God you must perpetuate the mismanagement of charities and trusts that have been so generously endowed by our forefathers? Does it mean that archanas, abishekams and pujas should be neglected and that no one should raise his little finger to stop it? Does it mean, Sir, that the temple properties should be leased out to intermediaries at nominal rates, resulting in the exploitation of the ryots on the one hand, and sharing in of the loot by a handful and not one pie going to the temple coffers? Does it mean, in the name of God you should let palm trees be tapped, get the poor drunk and bedrag them to eternal misery? This is what happened, Sir. The Thiruvannamalai Devasthanam has a large property of coconut gardens in Madras City. In 1937, when Rajaji Ministry was in power and when this same Dr. Rajan was in-charge of the Hindu Religious Endowment, I approached the Ministry and suggested that consistent with our ideals, God should not be propitiated with tainted money and that the tapping of the trees in the gardens belonging to the temple should be put an end to. Government fell in with my idea, took the matter up with the Hindu Religious Endowment Board, who in turn addressed the trustees. But, Sir, nothing came out of it. The trustees simply refused to free God of the tainted lucre. The Board could do nothing about it, neither the Government. The trees continued to be tapped and the people continued to get drunk, and all for God's glory. Sir, the matter did not rest there. After I became Premier, and after my assuming responsibility for the Administration of the Temple portfolio, I used all the persuasive powers at my command to stop this outrageous act committed in the name of religion. I confess, Sir, I too could do nothing about it. We had to wait for the Prohibition Act. I can cite instance after instance to show how gross the abuses are, how numerous they are and how helpless the present machinery is to correct them. Recently, the Government have

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appointed a Special Officer to take an inventory of the temple jewellery and treasures. The trustees are sabotaging his work and the officer could not make much headway. Many are the cases where the temple lands have not paid either the land revenue, or the contribution to the Board—all with the object of getting temple land auctioned and appropriated to themselves. I will not weary you with details. I have before me a long list^a of 65 cases extending Vizagapatnam to Tirunelveli where misappropriation or misapplication of trust funds have taken place ranging from a few hundreds of rupees to several lakhs; I invite all those who oppose the measure to have a look at that statement. That will be an eye-opener. The Vedaranyeeswarar Temple at Tanjore district possess 16,000 acres of lands in 45 villages; yet the annual income is shown only as Rs. 75,000. A mutt in South Kanara is indebted under pro-notes to about Rs. 1 lakh and all without the Board's sanction. In North Arcot all endowments of a certain temple have been converted to the Estate of a Jagirdar. In West Godavari lands have been alienated and funds amounting to Rs. 30,000 had been misappropriated. In the Swargapuram math in Tanjore, extensive misappropriation and alienation of properties worth about Rs. 15,000 cash and 26 acres of lands have taken place. The loss of jewellery in Thiruchengode and Vedaranyam are matters well known to everyone. Unauthorised pledging of Mutt jewels by agents occurred in the Pejavara mutt, Udipi. While these abuses are going on under our very nose, is Government to sit with folded hands and be a silent party? No civilized Government, no Government returned by popular will, no Government that has the material and spiritual welfare of its people at heart can abdicate that way.

“And yet there has been quite a volume of discussion on the powers of the State to regulate in matters of religion. At one time the slogan was ‘Religious Neutrality’ of the State. That was the slogan on which opposition to urgent reforms like the Sarada Bill and the Devadasi's Bill was organised. Remember, we had then an alien Government, hardly attentive in an active manner to our religious, social and cultural progress; but even then, Sir, we felt that this Religious Neutrality of the State was a dangerous doctrine. We realized and rightly, Sir, that it would put the clock back for ever. We realised that it was much too recent a doctrine to have any validity for our social environment and needs. At no time, in our history had we ever subscribed to it. Without taking you as far back as the Sanskrit Agamas and the Tamil Tirumantiram, which had laid elaborate rules, enjoining the secular arm of society to regulate its religious counterpart, I may say our Hindu Kings did know of no dichotomy as religion and Government. Religion was an end as well as a means to an end—the end being the social good. The temples functioned not merely as places of worship, but also as schools, orphanages, abodes of justice, centres of culture and pivot of socio-economic life. That was the spirit in

^a Printed as Appendix III on pages 1002-1014 infra.

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which our Chera, Chola, Pandya, and Pallava Kings endowed large properties. That was the object with which they entrusted the religious heads with the management of those properties. The Vijayanagar Kings, the Nayak Kings and the Maharatta Kings who followed in their wake had not thought and acted differently. Even the Moslem Kings respected this time-honoured principle of integration. How else, Sir, can we account for Tipu Sultan endowing Hindu Temples and the Sringeri mutt with large benefactions? And last of all, the Britisher when he came, anxious to maintain the law and traditions of this land, realised that active interference in the affairs of the management and conduct of temples and religious institutions was his bounden duty. The whole period of the East India Company's rule from 1795 to 1848 was replete with this benevolent interference. It was in 1795 that Lionel Place, the Collector of Jagir (Chingleput) finding the administration of Kancheepuram temple woefully mismanaged straightaway proceeded to put the house in order, never taking a thought that he was a foreigner, that he was a Christian and that his Government was alien. Lionel Place wrote:—

'Inasmuch as essential interest in promoting the happiness of its subjects and as the natives of this country know none superior to the good conduct and regularity of their religious ceremonies which are liable to neglect without the interposition of efficient authority, such control and interference became indispensable.'

Other Collectors followed. The Regulation of 1817 was passed. Between 1795 and 1848 not less than 8,222 temples spread over the then 21 districts came under Government's active supervision. Corrupt trustees were dismissed; temples that had remained closed were opened for worship; pujas and festivals were regularly conducted; temple lands were looked after and the ryots welfare was attended to. Permit me to give an other quotation from the Company's records, this time from the Collector of Tirunelveli; 'The present control and interference of the district Government and authorities extends over everything connected with the temple; from the collection of its revenues and the management of its lands to the regulating of its daily usual expenses, its periodical festivals and repairs.' Such thorough-going was the control. Lionel Place had jewels made to the shrine at Kancheepuram which were exhibited by the people with pride. Peter Rous, the Collector of Mathurai, presented a pair of golden stirrups to the Minakshi temple. And the people welcomed it all.

'Unfortunately, the Christian missionaries sensed a danger in all this. They accused the company's Collectors of running after false Gods; and then came the Mutiny, and the end of the Company's rule. Under the Crown, Government became a bare Police power; the positive role of the State disappeared. Queen Victoria's famous Proclamation gave the Royal Seal to this negative concept. But people's wishes for an active regulation of temple

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affairs had to be met and as a concession the Act of 1863 was passed with a show of arrangement for control; but it was naturally ineffective. Temples relapsed into gloom. Mismanagement again became rampant. Corruption reared its head. Abuses abounded; religious apathy set in; Hinduism lost its grip over the people and large numbers deserted it physically or spiritually. And all this we owe to the doctrine of religious neutrality!

'This continued till the twenties of the present century; and although a draft Bill to amend the utterly inadequate legislation of 1863 was prepared by the Hon'ble Sri Rama Ayyangar as early as 1872, and revised by Sir Muthuswami Ayyar in 1894, and Sri Chensal Rao in 1889, it was not until a measure of self-Government was conceded that the situation could be tackled in earnest. The result was the passing of the Hindu Religious Endowments Act of 1927 thanks to the doughty championship of farseeing Hindu leaders like Sir T. Sadasiva Ayyar and the Raja of Panagal. With the passing of the Act passed away the doctrine of religious neutrality.

'Prejudices die hard. Interested parties find new slogans. 'Secular State' is the present cry. We are asked to refer to the clauses and sections of the Draft Constitution and I too have consulted legal pandits in the matter. I can confidently tell you, Sir, that I am on firm legal ground. It is not for the perpetuation of abuses of public property that the Secular State stands. Secular State stands for freedom of worship, freedom of conscience and freedom of religious propagation. It certainly does not stand for freedom to abuse temple properties and mismanage public charities. And in this we in the South have special responsibility. Our Province is peculiar. Nowhere else in the whole of India do we have so many so ancient, so extensive temples, mutts, religious and charitable institutions.

'Sir, it is then neither on the ground of religious neutrality, nor on the ground of 'Secular State' principle that this measure could be opposed. For the one is as dead as Queen Victoria who promulgated it and the other has a meaning and content far different from what interested parties would like to import into. Nor has any one denied that there are abuses in temple management or that the present machinery is adequate to tackle them. Even Gandhiji, than whom can there be no more devout Hindu, had to remark that our temples are dens of vices.

'Progressive States like Travancore, Cochin and Mysore have effected this reform long ago. To say that those are Hindu States while the Province is not is sheer casuistry. All are Secular States under the Draft Constitution. The temple and charitable endowments there are as much a trust as any in this Province. And certainly cannot it be said that the Bill has no popular sanction. The party with an overwhelming majority and with an overwhelming proportion of Hindus has given me the mandate.

'Even a section of the press, I find, has since shifted grounds. The criticism is no longer on principles. It is on the machinery.

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They ask, has the Government adequate personnel; why not start a college to train administrators for the purpose? That is a helpful suggestion. I hope the Select Committee will give due attention to it. Some others ask, why not a Protector of Charities, instead of a Government department? We have tried that and that is the Board. We have found its limitations. It has bred litigation and delay. Lacking as it does the necessary power, it commands scant respect. It is a plaything of the lower courts. Chronic litigants drag on the Board from one court to another, all at the expense of charitable funds. The Board has got the power to call for budgets, but not the power to scrutinize it. It asks for accounts, but does not get them. It finds abuses, but has no power to reform them. It suggests reforms, but cannot enforce them. In short it is anomalous, powerless and hardly adequate. It cannot bear mending. It has to be replaced and that by a proper governmental machinery. And that, Sir, is the simple object of this Bill and a reference to the salient features of the Bill will amply bear this out.

"The present Act has been in operation for over 21 years now and yet no marked improvement has been effected, on the spiritual side of religious institution. If anything, things have gone worse. Courts occasionally take the view that the Act as it stands at present is powerless to regulate proper performance of ceremonies or enforce religious observances. Clause 15 (2) of the Bill before the House seeks to remedy this. By far greater time of the Board's attention has been taken up in the collection of contributions for its own maintenance and the Board is scarcely able to devote adequate attention to the religious side. The effect of Provincialisation will be to free the temple officers from the distraction involved in this process. Endless litigation is another source of distraction and expenditure to the Board. The Board constituted in Madras is called upon to defend its orders in almost all the district courts in the Province. The present Bill seeks to take away the power of the mufassal courts in most matters—taking care, however, to see, under clause 48, that the High Court retains the power to scrutinize the orders passed by the Commissioner. There is considerable delay in dispensation of justice in the present arrangement. Aggrieved parties have to travel hundreds of miles to Madras to obtain the Board's orders; and law delayed is law denied. The Bill under discussion seeks to remedy this. There is no protection to the pilgrim public, nor any scope for provision of amenities to them. Clause 25 of the Bill seeks to empower the trustees to incur reasonable expenditure on amenities to pilgrims. There is no provision at present to regulate the custody of jewellery. This grave defect which has resulted in considerable loss to the nation and to the institutions is being sought to be remedied by clause 37 of the Bill. No longer can ignorant, illiterate Archakas sell or purchase the claim to perform pujas. Clause 35 (3) provides for appointment of competent archakas when there is vacancy in the office of hereditary service. Effective control over

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the expenditure of religious institutions is sought to be made under clause 56. The purpose for which revenues of a temple could be spent is to be statutorily fixed. Adequate provision is made for the repair and renovation of the institutions. An attempt is being made to free the Madathipathis from their pre-occupation with mundane matters. They will have ample scope in future for single minded devotion to the spiritual side which alone can raise their position and prestige as heads of religious institutions.

"In bringing forward this Bill, Sir, let me make it clear that I have the highest interests of our faith at heart. It is my spirit's consolation and life's inspiration. It is dear unto me as breath itself. Hinduism is likened into the Ocean into which flowed the perennial rivers of the North and the South, the Vedas, the Upanishads, the Agamas, the Prabhandas and Thevaras. A long lineage of Seers, Savants, Rishis, Siddhas, Alwars and Nayanmars have assiduously fostered it. Out of it have sprung a great many religions like Buddhism and Jainism and in our own days the Arya Samaj and the Brahma Samaj. And yet the original faith ever remains virgin, tolerant and Catholic.

"Our temples were great cultural centres; they were not mere places of worship. Around the temple revolved the entire life of the community—social, political, civic, economic and ethical. As long as the temples pulsated with life, so long did the Hindu community continue to flourish; so long did it function with vigour and vitality. The regulation of the Hindu temples and mutts is the regulation of the community's life and conduct; the revival of our temples is the revival of our people. The temple is the invaluable link between Man and God, between society and religion, between public morality and private morality. The strength of the chain is its weakest link. If we do not make our temples a positive force, radiating a healthy, progressive, social and cultural outlook, we will be playing into the hands of the surging Godless crowd. This, Sir, is the true significance of this Bill. This is the basic principle and objective underlying it. Our Faith, Sir, is our greatest heritage. And may God give us the wisdom to cherish it as a living force now and for ever.

"Sir, a great work lies ahead. If the poojas and festivals in temples have to be conducted in the spirit of the scriptures, our Archakas have to be made familiar with the basic principles of the Agamas and the Thanthric sastras. The fast vanishing race of silpies should be saved from extinction and the ancient art of temple architecture be revived. The feeding of the poor so sadly neglected by charitable trusts has to be enforced. The propagation of a truly tolerant faith in a world rapidly plunging into materialism requires considerable planning and organization. No less formidable is the magnitude of the problem involved. There are 184 major maths and 12,232 major temples. The minor maths number 114 and the minor temples another 15,357. There are in addition what are known as, the specific endowments, 622 major and

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109 minor. In all, there are 13,040 major institutions and 15,580 minor institutions. Nearly 8 lakhs of acres of landed property are involved and over Rs. 3.5 crores by way of annual income—property and income which are more than the resources of some of the States in this country. A problem of this size can be tackled only by an organized machinery entrusted with adequate power and responsibility, and that is what this Bill seeks to do. Many constructive suggestions have been made on the floor of this House and outside by way of improvement to certain features of the Bill; and perhaps more are still to be made. I welcome all these and I have every hope that the Select Committee will give their careful thought to every one of these suggestions, and that all reasonable demands consistent with the primary objects of the Bill will be willingly met. With these words, Sir, I appeal to the House to support the motion to refer the Bill to the Select Committee."

MR. SPEAKER:—"I hope the House would remember that we agreed to have fifteen minutes interval for tea. Instead of having it at 5 o'clock, I suggest we may have it now. The House will now adjourn and meet at 5 minutes to 5."

THE HON. SRI B. GOPALA REDDI:—"We may meet at 5 o'clock."

MR. SPEAKER:—"The Hon. Minister wants 20 minutes' interval. We will now adjourn and meet again at 5 p.m."

The House then adjourned for tea.

(The House re-assembled after tea.)

* THE HON. DR. T. S. S. RAJAN:—"Mr. Speaker, Sir, I am very thankful to you for the time given to the hon. Members for giving their considered opinions on this very important Bill. I know, Sir, this is a Bill which affects sentiments and long-cherished observances which have gone on through centuries and have gained rooted impression in the minds of the public on this question. We would be sorry, Sir, calling ourselves as representatives of a democratic Government to ride rough-shod over the views and sentiments of the people on whose franchise we were returned and to whom we owe our existence. Therefore, Sir, when we took up the responsibility of getting this Bill and presenting it before this House, we were not, as it were, in a triumphant mood. If anything, it is with a grave heart that we have made up our minds in the cabinet to push through this Bill for what it is worth during the time at our disposal. Therefore, Sir, it is some satisfaction to us that various parts of the House had the opportunity and were given the indulgence by you, Sir, to go into this very important question and to express themselves in the way in which they have done. As many as 26 members have taken part in this debate, each according to his light and according to his experience. In a measure of this sort which is discussed by lawyers, by politicians, by party members and by various groups of interests represented in this House, criticism directed against it cannot be expected to

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be uniform. It has been as varied as the members here and as varied as their convictions and their religious propensities. Sir, it is some satisfaction to me to see that important interests have been represented and various suggestions offered to enable the Government to proceed with the Bill. Discussion on this important question has been going on for a long time, for four days, I am also grateful for the wide publicity given to this measure in the various columns of newspapers of all sorts. I must here and now express our grateful thanks for the publicity which the Press unstintingly gave to this question. They have enabled us to read the public mind in a way through their columns and through their criticisms and more so, through these long discussions in this House. Sir, even after listening to the criticisms, both in the Press and in this House, we are still of the opinion that this Bill cannot be postponed or delayed any longer. Therefore, we are thankful to you, Sir, for allowing us to plead our case before this House and to enable us to proceed with this measure.

"Sir, in going through this legislation, we are not in a flippant mood. The Hon. the Premier has given full vent to his feelings in the matter in the beautiful speech that he delivered a little while ago. I have, in my own crude way, expressed my sentiments according to my own feelings in the matter. Well, Sir, we are thankful to those many members of this House who spoke on the provisions of the Bill. It is true that various provisions contained in this Bill could not be debated, nor gone into in detail at this stage. It is certainly left over, and rightly too, to the members of the Select Committee who could go into the question in greater detail and who could take into consideration the constructive suggestions, that were made. Sir, criticisms have been levelled against the Government for the inordinate delay which occurred before the introduction of this Bill. I have sufficiently explained reasons for the delay in my opening speech. I also then stated the need for having circumspection and for taking such precautions as may be necessary, so that it may not be stated by our critics that we proceeded with this measure in a light-hearted manner. Sir, we have listened to the criticisms from learned Friends who could speak with authority in this House. We have, for our own part, consulted such legal opinion as is available to us, while preparing this Bill. Sir, we also received many deputations which came to meet us in order to put forward particular difficulties with regard to the provisions of this Bill. Sir, we have had deputations from influential and great men, from reputed lawyers and constitutionalists and we have given ample opportunity and time to have their say in this matter. I am glad that the Hon. the Premier was himself present right through these interviews and has taken an active part in the consideration of this subject. So, it is not as if that people with certain ideas alone were received to offer their opinions. Therefore, Sir, it is our considered opinion that we cannot withhold the measure any longer but must go on with it. Sir, it is unnecessary for me to go into the details of the various

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deputations and interviews that were granted. Some of these deputations were from influential interests and we are thankful to those deputationists who have given us their considered views on this question.

" Sir, some gentlemen said that they were not so much concerned about our interference with temples but the right to manage mutts and charitable institutions should be left to them. That was the direction of argument of certain persons in regard to the proposal to control the mutts and charitable institutions thereof and they stated that the mutts stand on a different category altogether and that they are managed by certain individuals and therefore the mutts should not come within the purview of this Bill. Sir, the law as administered and conceived with reference to these religious institutions and mutts has been considered and also the law in regard to matters pertaining to their administration. During the interviews, we also heard, Sir, that these heads of mutts, at least some of the influential men among them, are such that they are not interested in the administration of those mutts and therefore, if Government took control over the administration of those mutts, it would be easy for them to shift their responsibility altogether and to take to their own pursuit or calling in life. Sir, these were the arguments that we have listened. I know, Sir, that whatever the Select Committee that may be formed, they will be interested in preserving the rights of those mutts and religious institutions and they will put forward such constructive suggestions and opinions according to their sentiments and views in the matter and will press their views sufficiently well in the Select Committee. Sir, after all is said and done, it is no mean Select Committee that this House proposes. There will be twenty members of this House comprising of good many of those who have criticized us and they will find a place in that Select Committee. So also, there will be representatives from the other House. I may even go to the extent of assuring that, if necessary information, very useful information, if found necessary, would be gathered and would be made available to the Select Committee either by calling for evidences or calling witnesses or advisers, if need be. While going through the clauses of the Bill, I am sure the Select Committee will have full information on the subject and also provide sufficient facilities for those people who come to record their evidences for what they are worth. The Select Committee will consider all this valuable evidence. It is because of that I still contend that circulation is superfluous. Circulation will not land us in any better place than we are in so far. It has been conceded by a responsible set of people that the Bill has long been before the public in various forms for the last 10 or 12 years. People concerned with religious charities had no manner of doubt that the Government were going to legislate in this matter and that more than once they have attempted to do so. If such a legislation could not be pushed through it was because the Government's hands were busy with heavy legislative and constitutional work. We will bring to bear as much as possible

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the considered public opinion on this question of vital importance. Having said that, we have made up our minds to proceed with the Bill with such support as may be available to us after giving full expression to the views of the Government in this very important matter.

" Sir, the question was raised whether the Advocate-General was going to speak on the Bill. He would speak on the Bill if the Government want him to, but we thought we need not involve him into a controversy of law in this matter beyond that of giving his advice to the Government. He is the law-keeper of the Government and he has put down in writing what he has got to say on this very important question. This House must be in full possession of the authority of law which the Government have in their possession. The Advocate-General has marked the opinion as ' confidential ', but we have taken it upon ourselves and taken his permission also to announce it to the House for the benefit of hon. Members. The opinion of the Advocate-General runs as follows:—

' Entry No. 43 in List II (State List) empowers the State Legislature to enact laws in respect of Charities and Charitable Institutions, Charitable and Religious Endowments and Religious Institutions. It will be observed that in fact Entry No. 43 in contrast with Entry No. 34 of List II of the Existing Government of India Act is wider in that it includes religious institutions as well. It is therefore impossible to contend even under the new constitution that the State Legislature has no power to enact laws relating to religious endowments or religious institutions on the ground that the State is a secular State and that Freedom of Religion is a fundamental right. The State has a paramount duty to see that Religious and Charitable institutions are being properly managed and not mismanaged; and that religious endowments are being properly applied for the purposes for which they were intended. The Crown in England has always been regarded as the protector of charity and charity includes religion.

The position then will be that the State can enact laws subject to the fundamental rights which are declared in Articles 19 and 20. There are two ways of looking at the fundamental rights which are declared, both in favour of individuals as well as in favour of religious denominations. One view can be that the very object of defining these fundamental rights is to secure freedom in respect of the right to propagate any religion in a secular State. Without such a provision, it may be open to somebody to contend that as the State is secular, nobody has any right to preach or propagate any particular religion in the exercise of a right as such; and from that point of view, one of the objects of a declaration of fundamental rights may be to ensure that every individual as well as every religious community has a right to preach, practise and propagate whatever religion he or it pleases, without interference by any other person or any other community; and approached from that point of view, the duty of the State would be to see that the various religious communities are assured of

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protection in that respect and that no law is passed which would entitle or enable one individual or one community to interfere with any other individual or community in matters of religion.

Another way of looking at fundamental rights is that it secures to individuals and religious denominations the rights to see that even the State does not pass any law which interferes with the practice by an individual or community of his or its religion according to his or its own liking. It will however be noticed that neither Article 19 nor Article 20 contains an absolute declaration. A sharp distinction is made between what is a pure matter of religion and what might be regarded as secular matters connected with religion. Article 19 (2) (a) contains a saving clause to the effect that the State can make any law regulating or restricting any economic or financial, political or other secular activity which may be associated with religious practice; and (b) contains a further saving clause in connexion with any law relating to social reform and welfare even in connexion with religious matters. Article 20 (d) expressly enacts that the administration of the properties will be according to law.

Further I can see nothing to prevent the members of any religious denomination from appealing to the State to pass laws for protecting its religion and religious endowments; and the State Legislature can well enact laws calculated and designed to promote and protect those religious interests.

It is therefore impossible to say that the Bill as such would offend the provisions of the draft constitutions relating to fundamental rights. The Bill deals with temples, mutts and charities. It goes without saying that charities and charitable institutions are clearly unaffected by Articles 19 and 20. As to temples, it is clear that they are public religious institutions and according to juristic conceptions, the idol is the owner. The same legal conception however does not hold good in the case of mutts which are monastic institutions in which particular religious cults are preached and propagated. But mutts are also religious institutions and matadhipathis are trustees. Both in the case of temples, as well as in the case of mutts, the distinction between matters of pure religion and religious ritual, and matters relating to the administration of properties and other secular matters will have to be kept in mind; and while the Constitution safeguards the fundamental rights in respect of the former without any restriction, the latter are subject to such laws as the legislature might enact.

A law which takes away or abridges a fundamental right is declared to be void, but a law, the object of which is to secure or establish or protect that fundamental right, will be a good law. The State cannot dictate how a man shall worship his God, but it can say how he should administer God's property.

I am therefore of opinion that the Bill cannot be rejected or condemned entire and wholesale, even after the declaration of

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fundamental rights. It is quite likely that some of the sections will have to be scrutinized at the Select Committee stage with a view to ascertain what sections fall outside the line and where necessary, and other suitable amendments or modifications will have to be devised within the limits of the new Constitution.'

"This, Sir, is the advice of the Advocate-General apart from other advice which we have received from lawyers competent to speak on the subject. We feel the responsibility of the Government with regard to the trusts and endowments. The Hon. the Premier has in his speech clearly shown how the Endowments Board has utterly failed in its purpose after a working of 21 years. I am not a lawyer, but even at the time I was in charge of the portfolio of religious endowments, I felt the need for some action with regard to these trust properties and in consultation with lawyers at that time, I drafted a Bill which has more or less been incorporated in this Bill with some modifications. After all these years, nobody can say that we are hurrying through this Bill. There is no hurry, in fact there has been delay and if I may say so, an unpardonable delay. Let me adduce another evidence. The Hon. the Premier who has been in charge of religious endowments for the last two years and more has found the same difficulty which I found some years ago. He has also come to the same conclusion like myself. He did not take the initiative in preparing the Bill; in fact the Bill was there in the archives of the Secretariat. It was simply taken hold of by the Premier and necessary alterations made in it. He agreed with the fundamental principles of the Bill, namely, the taking of responsibility by the Government for the proper carrying out of the trusts and endowments. He has also come to the same conclusion like myself. When two responsible Ministers of the Government have come to the same conclusion, it is the duty of the House to arm the Government with such powers as will justify the assumption of these portfolios and enable them to carry out the responsibilities involved in having charge of these portfolios. Sir, it is our justification for this Bill. I shall not waste the time of the House with giving further details about the mismanagement of these trusts and endowments and how it has become imperative on us, so imperative that we cannot do anything else than have a legislation like this and take charge of the situation which is becoming rotten day by day.

"Sir, the Premier has told us in so many words the figures and details of which will be in the hands of the hon. Members to-morrow the number of mutts which have been mismanaged for so many years, the properties that are in the hands of temples and those mismanaged and how after years of experience and effort nothing could be done to rectify the mismanagement. But what is worse, the properties belonging to these trusts have been dwindling and thinning day by day. When those who are in charge of these trusts came to know that the Government are going to act, they made feverish attempts to misuse and swindle these trust properties almost amounting to misappropriation and

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now you will realize why we are in a hurry to pass this Bill. I hope you will get the list to-morrow, giving you a correct picture of the whole thing and you will be in a position then to know the various amounts misappropriated. The Hon. Premier here says, it represents only a portion of it.

"The Endowment Board has not been able to have all the facts they require and it had almost become defunct by non-discharge of its duties and responsibilities. So we have got to rectify these things and see what can be done in that direction. It is said that we are getting interested in everything and that we abuse our powers. It was also said that the Government when they were not able to manage other Departments well, why they should be in a special hurry to set right things in temples and mutts. Is this an argument, I ask? It is no argument at all, because where grave injustices have been perpetrated and funds have been misappropriated, it is the duty incumbent upon the Government to go into the matter and take up the whole responsibility upon ourselves. In doing so, we will take the elected members of this House as well as the other House into confidence by explaining to them the reasons why we propose to take over these institutions. We are not doing it by passing immediate orders. This legislation has had to go through various processes. The press has also played its part and I look forward to the same agency for continuing the same help and I hope it will give publicity to the views that will be placed before the Select Committee, views favourable to the Government, hostile and indifferent. Of course, we have to adopt certain methods to overcome those difficulties experienced by us in working out these institutions, and you must give us full credit.

"Sir, two scares have been raised. The first scare is the interference of the State with religion which is not at all true. I can affirm, because actually we are not interfering with it. The other scare is that this Legislature has no power to enact this Bill because of the declaration that we are a secular State. But I say, we have taken this step knowing full well of this declaration. A threat has also been held out at two points. First of all, it is said that we cannot proceed with the Bill on the ground that the electorate has not been approached before with a declaration that the Government will take charge of religious and charitable institutions. I accept that it is not part of the Election Manifesto. The second point is that we are taking powers to do it. There again it is open to the public to come forward and say, 'you have mismanaged these trust properties and you do not deserve our confidence and therefore get out.' Till such time people come forward with such a declaration, we are perfectly within our rights to proceed with this Bill and we, as elected members, have to discharge our duties which the public expect of us and in doing so, we have to see whether we conform to the constitution and to the laws prevailing in the country and frame laws in such a way as will enable us to set right institutions which

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have not been managed properly for the last so many years. The people who are interested in these institutions have been callous about the abuse that has been going on there. When these people say that we are interfering with religion, I must say that it is too late for them to make that charge against us. If we want to serve God and the country, we have got to take the step the Government are now taking. It is no use for me to relate the many things that happened in the past. But I will give you one case, where the State had to interfere for the proper conduct of a mutt. I am the disciple of a mutt to which my father, grandfather and great grandfather in a way were interested as disciples. I know the very Acharya who did that purification ceremony for me, a Vaishnavite, and put Sangu and Chakram on my arms and *mantrams* were dinned into my ears. The very head of that mutt had committed a very, very grave offence. He had the courage to melt the gold palanquin called '*doli*' and sent it to Pondicherry to be sold by one of his agents. This matter came to the Court and very able lawyers were engaged to defend the Swamiji, including one Mr. Norton. The Hindu Judge who delivered the judgment found him guilty of criminal misappropriation and he was sentenced to undergo two years' imprisonment. And Mr. Norton had to give his personal bail. Well, what happened the next day. Swamiji, under protection of the bail, travelled without food and without water, hundreds of miles from Salem. But on the way he died. The law of the land could not get hold of him and he solved the problem in his own way. What does that mean? How it would have reacted in the minds of the public. The matter had to go to the High Court who had to fix the successor for the mutt as the Swamiji did not nominate a successor. For six months there was no Swamiji for the mutt. The High Court constituted an electorate and within six months an election was held and as a result of that Swamiji who had secured the maximum number of votes was appointed. Finally the Government had taken over the mutt. I have that information before me.

"Again, I say that we have got to take the responsibility for the better and efficient administration of these institutions and it may be that what we want to do may not be quite suitable. But we do contend that in the past grave irregularities were found in these institutions and these are bound to happen as long as human prejudice and selfishness are there. Just as theft, murder, stealing, misappropriation and so many other things constitute a positive danger to the society, these irregularities and mismanagement also constitute a danger to the society. Therefore, I maintain that this Bill is an inescapable responsibility of this Government and in doing so, we will consider all the objections and complaints put forward by those people who are affected by this Bill and we promise them fair consideration. With that presentation of the case, I feel impelled to ask the House to support us in this measure.

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"I have before me a huge file of documents secured from various sources which give a history of the various institutions and also a list of various acts of mismanagement and misappropriation."

"It will be in your hands to-morrow morning and when placed in your hands you will see in chapter I, mismanagement and swindling of properties and the other chapters give you details of cases where trustees have treated trust properties as their own. We have also given you an idea of the amount which was God's having lapsed into their hands. The other lists gives you instances of misappropriation of temple funds by trustees and the amount runs to lakhs and crores. The Premier mentioned only one instance; all the other instances here are arranged serially to enable the legislators to read and study and vote thereon if necessary. I wish I could engage the House some little time long upon the gruesome details but the statement I have given would impress hon. Members of the House with the imperative necessity for a Bill and they owe a duty to the country and to the religion to vote for this Bill and thus show that it is a right thing that we have been impelled to do. It is not as if there is anything like callousness in our minds. We want to serve God as any religious man would like to claim and a moral stand and true facts have a bearing upon this question. Let us judge the Swamis, the trustees and archakas by the same standard of human values which are necessary for the upkeep and honest maintenance of any institution as these alone will form the bulwark for any society to live and thrive on and I feel that it will be necessary and I want you to give me, strength enough to do it according to law. I know that people may have conscientious objections; I do not deny that. But I appeal to them. We as a Government have got to explain our position though it is open to them to say that we are all rogues. We are proceeding upon the facts and upon truth which will be presented to you in greater detail. I do not wish to tread upon religion or religious sentiment; far be it from us. The quantum of religion which I possess does not matter; I am what I am, a low brutal man who understands nothing; but I can understand truth and honesty and righteousness and the need for bringing them to bear in the administration of religious institutions. Another friend, Swami Sahajananda, in his vehement speech and with the fund of the knowledge of literature which he displayed, suggested that we are bringing in a most sacrilegious act. I do not think so. He eventually pleaded for sparing the small maths and he wanted his particular math to be spared. I am prepared to spare not only his math but any other's. But I only want ordinary commonsense, honesty and truth with regard to their maintenance; they will be judged by ordinary human standards of truth and honesty and not on the basis of some unascertainable evaluation of virtue which perhaps may be written in text-books or round-about the personality of the persons in charge of the trusts. You must remember that religious institutions cannot survive upon falsehood and false

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faith and if it has to live it has to live on real things and those that are sincerely carrying it out. I know it will mean any amount of difficulty but I would be a coward if I run away because the path of duty is difficult. I have been warned that it is too big and vast and that I may not be able to control them. I take the warning and I shall be forearmed, because I have been forewarned. This Bill, I am sure, will save the country from the deluge that is overcoming the country, I mean the increasing number of people who want to demolish God and religion and everything that goes with religion and God and I have faith in democracy and it will come to my rescue and save the temples and religious institutions. I am sure I will be able to command the services of people who will be able to save religion from the threatening onslaught of this unbridled tendencies among the people. I expect to give a background which is properly directed and utilized will restore the institutions to their pristine glory and will become a source of strength to the nation and to people and to the religion also. It is in that hope that I am bringing this Bill and I request hon. Members to help me. I am very thankful to you for the kind consideration you have shown and I am grateful for the very many valuable information they have given to the House, by those who are religiously inclined and those who are not who presented their point of view in their own way. The Government will consider both of them very carefully in working the details of the scheme, which contains great possibilities for good, and if I may say so, even of evil. If you give us help and unreserved help, we, as the trustees of the people will discharge our duty most faithfully and in the spirit of the man who in the name of our country and the nation has given us freedom and the strength to shape society and the spirit to carry it out. I hope, Sir, the House will carry this motion and allow me to go to the other House and seek their indulgence and come back again after their acceptance to this House and then constitute the Select Committee."

SRI A. S. SAHAJANANDAM :—"தலைவர் அவர்களே, கனம் மந்திரியவர்கள் ஆங்கிலத்தில் பேசினார்கள். எனக்கு ஒன்றும் விளங்கவில்லை. ஒரே ஒரு சந்தேகம். இந்த 'பில்' படி மடங்களுக்கு முஸ்லீம்களையும், கிருஸ்தவர்களையும் கமிஷனராகவும், டிபுடி கமிஷனராகவும் போடுவார்களா, போடமாட்டார்களா என்று கேட்கிறேன். போடமாட்டார்கள் என்று சொன்னால் இது Secular Government ஆகுமா? போடுவார்களென்றால் என் கிருஸ்தவர்களையும் முஸ்லீம்களையும் எடுத்துக்கொள்ளக்கூடாது என்று கேட்கிறேன்."

THE HON. DR. T. S. S. RAJAN :—"If the hon. Member had perused the Bill, I am sure he would have no doubts about the question he has raised."

MR. SPEAKER :—"The Hon. Minister might reply in Tamil for the enlightenment of the hon. Member."

THE HON. DR. T. S. S. RAJAN :—"இப்பொழுது சுவாமிஜிக்கு என்ன சொல்லவேண்டுமென்றால் இப்பொழுது பிற மதஸ்தர்களை

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போடுவதாக எவ்வித அபிப்பிராயமும் கிடையாது என்று 'பில்'லில் விளக்கமாக இருக்கிறது. அப்படியே சட்டத்திலும் காணிக்கப்பட்டிருக்கிறது. சுவாமிஜிக்கு அதைப்பற்றி கொஞ்சம்கூட பயமே வேண்டியதில்லை."

SRI A. VAIDYANATHA AYYAR:—"Mr. Speaker, I wish in the first place to state that a wrong turn has been given to the spirit in which the motion for circulation was made. Not merely the members supporting the Bill but also on behalf of the Government some of the Ministers, including the Hon. the Premier, spoke in such a way as to make out that those who wanted the Bill to be circulated wanted that there should be permanent mismanagement of the temples, and misappropriation of temple funds and all the persons in charge of the temple should not be moral men. That is the very bad impression which is likely to be created in the minds of the public at large. That is a wrong thing, however much it may help the Government in setting right the affairs of the Hindu Religious Endowments in this country. The first point was whether, after the fundamental rights had been declared by the Constituent Assembly, the Government can take up the management and administration of religious institutions. Nobody, as a matter of fact, denied the right of the Government to act under the provisions of the general law for the purpose of seeing misappropriation is prevented as in the case of any other misappropriation. Nobody suggested that it is not in the power of the Government to see that these things are safeguarded. In fact in my opening speech, I pointed out to you, Sir, that the general law afforded remedy. Section 92 of the Civil Procedure Code provides the civil remedy, for framing the scheme and for removal of trustees. There are acts previously enacted like the Act of 1890 which contains drastic provisions to this end. The only point at issue is whether the Bill which the Government has brought forward is in consonance with the fundamental rights. About the doubt whether it was proper for a State to try to introduce this kind of legislation, even the exponents of the Bill on the Government benches actually admitted that some of the sections were of doubtful nature and would require to be modified. Since the articles on fundamental rights have been passed by the Constituent Assembly, is it not a proper thing for the Government to wait till August 1949 by which time the Constitution Act would have been completed and then take up this Bill? That was the second point I urged. The third point was about the feasibility and the propriety of the Government taking over the administration of the religious institutions and endowments. We have declared ourselves a secular Government. Even in that part of the Constitution Act that has been passed so far, several articles have been introduced which prevent the Government from taking charge of the administrations of these institutions. These were the three points that I urged to make the Government pause and consider whether the Bill could not be introduced a little later.

"Some doubt was expressed whether the Constitution Act was binding on us since several articles had yet to be passed. This point was made out by the Hon. Dr. Rajan, the author, the main-tainer and the pilot of this Bill in this Assembly with the moral

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strength of the Hon. Premier behind him. The Government of India Act, 1935, as adapted is still in force and under it we have got the power and therefore we can pass this Bill. After the new Constitution Act emerges in its full form, there will be time enough to consider which sections should be scrapped as being repugnant to the Constitution Act and which should be retained. According to the information given by the Hon. Premier, there are about 22,000 temples and 300 maths. All these and innumerable charitable endowments are sought to be netted in. Is it proper to proceed with the Bill as if somebody is pursuing you from behind and as if you are racing against time? You want to pass this Bill in any form at present and leave it to the lawyers to contest it subsequently in the Supreme Court. Is that the responsible attitude of a State which promises to save the religion of our country?

"I was surprised when my friend the Hon. Dr. Rajan made it appear that all Hindus were immoral, indifferent and without virtue. I do not know whether he or the Hon. Premier or the hon. Members of this House do not come under that description. Both in his opening speech and the speech he delivered to-day, he created the impression that all the people were indifferent and careless. This is casting an unmerited slur. Even before he became the Minister for Religious Endowments, the Hon. Dr. Rajan may be aware that at a time when the endowments vested in the particular denominations to which they related, private persons, displaced persons and persons interested in the institutions spent thousands and lakhs of rupees and carried matters up to the Privy Council for rectification of defects, and for deciding issues relating to temple rights. For example, the Tirumalai-Tirupati Devasthanam went up to the Privy Council. I thought the complaint was that the people were too much interested and quarrelling too much about temple rights. While I thought the shoe was on the other foot, the Hon. Dr. Rajan says that the people are indifferent. I leave the charge of indifference at that.

"A misapprehension is prevailing about the constitutional position. Do the articles of the constitution so far passed become binding when the entire Constitution Act is yet to be framed? Yes, they are binding. That is the correct view."

THE HON. SRI K. MADHAVA MENON:—"I accepted that."

SRI A. VAIDYANATHA AYYAR:—"I am glad the Hon. Sri Madhava Menon has accepted my view. If that is so, many of the arguments that have been put forward need not have been put forward. The Constituent Assembly is a sovereign assembly. Its Acts do not require the assent of the Governor-General or the Crown. Each article passed by such an assembly becomes a part of the constitution of the country. I am glad the Hon. Mr. Madhava Menon has very rightly conceded that. When that is the position, why not take note of it? We know how carefully the Constituent Assembly thought over the fundamental rights

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First the subject went up before the Fundamental Rights Committee, then it came to the Constituent Assembly, and after making some amendments the Constituent Assembly referred it to a drafting committee. That committee has sent it back to the Constituent Assembly for giving a final shape, and the Assembly has practically approved the draft except for some minor verbal alterations. There is absolutely no doubt that it is binding on us. A new situation has developed. Therefore why not wait for some more time?

"The Hon. Minister in charge of the Bill said that the John Company, even though it was a Christian company, took charge of, and saved, the endowments. I wish he had seen the other side of the picture. When John Company's Directors stole away the Alagar's idol and the Kallars pursued to recover it, they were massacred. John Company did several things which ought not to have been done. But John Company is no illustration for us. Then it was said that during the time of Diarchy also, the Government took action. In the interim period, the British Government thought: 'We should not meddle with other people's affairs. We are a Christian nation. Though we are the rulers, we should not take charge of either Hindu or Muslim endowments.' Look at the way how they respected the rights in the 1863 Act. I am saying this because this is the law which has now been upheld by the fundamental rights. The Hindus might have built a temple in a village. If there was any need to hand over the administration of that temple, it should be handed over only to that community which was responsible for raising that temple. The members of that community had to appoint a trustee and for that purpose they met in an assembly. They made provision for temple committees to which members were returned by election. The Government of the day, British albeit it might be, provided for handing over the administration of temples and endowments only to those communities which were entitled to administer them. Instead of following that policy, this Bill empowers a Government sitting in Fort St. George to issue ukases and ex-parte orders in respect of 50,000 and odd institutions. The local people know whether a person is doing things properly or not and how to manage an institution in consonance with the object of the founder. In 1926 they thought of setting up a board. I am not quarrelling with them, because I am not sitting in judgment over them now. The 1926 Act made provision for committees for administering the temples. That was the way in which they handed over the administration. They only saw whether the people were doing their duties properly or not. They did not take over the actual administration. In cases where the committee took over the management from the trustee, it was held to be an interference with the powers of the trustee and the committee was made to pay for the interference.

"Once you create a machinery, particularly a machinery sponsored by the Government, it grows like a Frankenstein. What

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begins as control for a village gradually becomes control for the district and finally it extends to the whole Province. So it grows. Gradually the powers of the Hindu Religious Endowments have been widened, the temple committees abolished and there are sections which say that in the committee's place, the Board shall exercise its powers. That was what the previous Government did. Even they kept up a show of respect for rights.

"Before August 1947, before our country became a Secular State, before the Fundamental Rights were passed by the Constituent Assembly, this Legislature was supreme and had powers to pass any Act provided there was no interference from the Central Government on subjects relating to them. The Hon. Dr. Rajan said that his Bill was prepared at a time when the Government had the power to take up the entire administration of temples and endowments into their own hands. After the country became a Secular State and after the passing of the Fundamental Rights, a different situation has arisen. In the light of this, we have to see whether we can actually take charge of the administration of these institutions. In moving for the circulation of the Bill, I drew attention to the background on which Article 20 of the Constitution had been based. I also drew attention to Article 19 which guarantees freedom to an individual to practise his religion in his own way, and provides that the State can control only any economic, financial, political or other secular activity which may be associated with religious practice. What I wanted to point out was that no religion could grow through individual efforts and this has been found in practice all over the world. Groups can do more for the advancement of religion than what any single individual could possibly do. Therefore it became necessary to form groups or denominations. No person, however wise, however honest and however pious, even if he be as pious as our Hon. Premier or as devout a Vaishnavite as the Hon. Dr. Rajan, can ever arrogate to himself the right to take away from a denomination the power to administer and develop its religion in its own way. This is a right which even law courts have recognized. Let us leave those people to do their jobs and let us not do it ourselves. The Hon. Dr. Rajan said that religion should grow and morality should grow.

"I think Sir, that the proper method for the Government is simply to lay down certain general laws and principles, making certain things as an offence punishable by law, but not to take over the management and control of these institutions into the hands of the Government themselves. That is not the proper way to legislate in these matters. Religion is so wide and so all-embracing a matter that the Government's interference in the very detailed administration of these temples and other religious institutions is never contemplated or called for. 'Let the mother take care of her own child'. That is the maxim on which Article 20 of the new Constitution has been drafted in laying down those fundamental rights. I was quite unable to follow the arguments of my

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hon. Friend Mr. Madhava Menon in his speech. In my original speech on my amendment as well as now, I have drawn a clear distinction between passing a legislation in regard to religious matters and the Government taking powers by means of legislation to try to take over the duties appertaining to religious rights and ceremonies in temples by appointing Commissioners and a host of other officers and making them responsible for each and every detailed item of administration therein. I have also explained how such interference would affect the sanctity and sacredness attached to such religious institutions. As I have already pointed out, immense difficulties would crop up when the Government take over the administration of sectional denominational institutions, whether they are religious or charitable. It is not known whether they will be maintained by the Government themselves or whether they will be placed in charge of the sectional denominations themselves, or whether some third party other than the particular sectional denomination would be asked to manage them.

"The next point I referred to was with regard to the properties appertaining to such institutions and I urged that such sectional denominations alone should have a right to manage such properties. That is what the article dealing with the fundamental rights says. Let me once again read Article 20 of the Draft Constitution dealing with the fundamental rights relating to the freedom to manage religious affairs, and to own, acquire and administer properties for religious or charitable purposes.

'Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

- (a) to establish and maintain institutions for religious and charitable purposes;*
- (b) to manage its own affairs in matters of religion;*
- (c) to own and acquire movable and immovable property; and*
- (d) to administer such property in accordance with law.'*

"Sir, when I heard the Hon. Minister, dealing with these fundamental rights, it seemed that he was arguing that the Government has a right to administer these things. If the management and maintenance of these institutions vests with the Government, according to his argument, then the learned Advocate-General who knows very well the meaning of the term 'vests' in this context, could very well see whether it is a thing that does not go against the very spirit of Article 20 (b) which says: 'to manage its own affairs in matters of religion'. Is the Government competent to manage the affairs in matters of religion? No Sir. This Article 20 (b) is another string to my bow. What does clause (d) of this article says: 'To administer such properties in accordance with law'. The very purpose of this legislation is not only to interfere with the administration and governance of the Hindu religious

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and charitable institutions and endowments and religious ceremonies, but also with regard to the administration of their properties. As I have just now pointed out, there is a right vested in that particular denomination under the fundamental rights which shall not be taken away by any laws made by the Provincial Government. I also referred to Article 8 (2) of the draft constitution dealing with the general fundamental rights which states, 'that the State shall not make any law which takes away or abridges the right conferred by this part and any law made in contravention of this clause shall, to the extent of the contravention, be void.' Now you are really cutting away the right. You cannot call the powers taken under this Bill as an extension of the spirit of the fundamental rights envisaged in the Constitution. It is the intention of the framers of the Constitution that these denominations or any section thereof shall have a right to manage their own affairs. Are not the powers given to the Commissioner, the Deputy Commissioner and the Assistant Commissioner under this Bill, intended to take away or abridge such rights?

"Sir, the Hon. Mr. Madhava Menon, while defending this Bill at one stage, pleaded that if there are any provisions in it which go against the fundamental rights, they can be remedied in the Select Committee. But the Hon. Dr. T. S. S. Rajan did not make any secret of it. He argued that the Government have full rights to take over the administration of these religious institutions. He used the words 'We have committed ourselves to take up their administration into our hands.' I do not know, Sir, who committed into the hands of this Government the administration of these institutions, or how the Government are committed in this matter. Therefore there was no attempt on the part of the Government to hide or screen the fact that they, of their own accord, wanted to take up these religious institutions into their hands and so they wanted to create a body for the purpose. I shall be troubling you, Sir, and the House, if at this late hour, I am to draw attention to the various clauses in the Bill in which the Government are taking powers purposely to interfere in each and every detailed item of administration of these institutions. They are, as it were, a mill stone round our necks. No public or private body or other religious or charitable institutions or any section of the public would approve of these provisions. That is why I moved my amendment that this Bill might be circulated for eliciting public opinion.

"Sir, it was said by the Hon. Minister that this Bill was first published in 1947 and so there was enough time for public opinion to express itself on this Bill. But I must state, Sir, that although it was published long ago, public attention was not specifically drawn to it until a few weeks before. It was consigned to a corner for a number of months and only about 12 days ago, when it was brought in another place for obtaining the sanction of the Congress Legislature Party that I came to know of this Bill

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and the urgency with which it was sought to be introduced. I then pointed out many of the defects in this Bill. I met the Advocate-General and had a number of conferences with him and I pointed out that there are defects not only in the wordings here and there, but that the fundamental basis on which the Bill was conceived was not correct. The Bill, as I have already pointed out, proposes to take over the entire administration of the religious institutions which, as a matter of fact, undermines the very fundamental rights enunciated under the Constitution. Even as a matter of policy this Bill should be circulated for public opinion. Now for nearly a year or so, we have not heard anything about this Bill and it is not fair to argue that the public could take note of this Bill, because it was before them for such a long time. It is a well-known fact that even hon. Members of the House study many of the Bills for the first time only after they have come to the Assembly Chambers. Unless the Bill is discussed threadbare, as it is being discussed now, we will not be in a position to know how many loopholes are there in the Bill and what defects there are in its various provisions. After a lapse of so many months, on the fine morning of the Pongal day, the *Hindu* published an article dealing with certain aspects of this Bill. Till then, I did not even get a copy of this Bill from the Government. There was some slight difference between the original Bill published in 1947 and this Bill. Therefore I borrowed a copy of it and rushed up here. There was not much difficulty in piloting this Bill through in this House. We are told that the sanction of the Congress Legislature Party has been obtained for introducing this Bill. When it was before the Party meeting, we were told that we had better discuss only the legal aspects and after three days' discussion, we did not proceed beyond the argument whether this Bill did not conflict with the fundamental rights embodied in the new Constitution. What happened afterwards? The Bill was put up in the agenda and it was sought to be introduced in this session. But then it was published in one of the papers that the Hon. the Leader of the House had stated that the Bill would come up for discussion only in the next session of this House. Many of the members who had gone back to their constituencies had to come up again when it was announced that this Bill would be taken up in this session itself. We have not sufficient time to go through this Bill in detail and in the present altered circumstances after Article 20 of the Constitution Act was passed by the Constituent Assembly, it goes against those fundamental principles. But then it was said that sufficient time and opportunity would be allowed to the members of the House to have a threadbare discussion on this Bill. May I point out, Mr. Speaker, in this connexion—perhaps it may not be quite relevant to mention it here—that when I sought to move an amendment to the original motion that it be circulated for public opinion, I got a bit of paper from the party whip asking me not to move the amendment at all. With bended knees, I approached the Leader of the Party and after a desperate fight

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with the party and after elaborate arguments with them that even the privilege of the members of the House from moving amendments had been sought to be taken away by party mandate, I got the permission to move my amendment and permission was also given to the members of the Congress Party to speak in support of my amendment if they so desired. Sir, this is what the Hon. Minister for Law referred to as the freedom given to members to speak on this Bill and the 90 per cent support which they have obtained for this Bill from the public. If the Government have so much faith in public support, if they could claim that they have got the full support of the members of this House for this measure, then why so much reluctance to permit me to move my amendment and to permit the members to support my amendment, if they so desired? Sir, I may submit that it is one thing to permit members to speak in support of my amendment, but it is another thing to issue directions to them to vote in a particular manner. I ask, what is the use of permitting members to support my amendment, but at the same time directing them not to vote for it, when it came to a question of voting? I must submit, Sir, that in this manner, legislation has been reduced to mockery and a farce, because what is given by one hand is taken away by the other, by means of party whip. Sir, it is the elementary right and privilege of the Members of the House to move whatever amendment they like for any measures introduced here, and there is nothing improper in my moving my amendment to circulate the Bill for public opinion. I would not have referred to this, but for the fact that the Hon. Dr. T. S. S. Rajan had made a great point in stating that we have had a full and exhaustive discussion over this Bill and that we made our speeches on it. It is rather unfortunate, Sir, that every Bill that is brought forward in this House by the Government, should, on principle, be regarded as a matter of confidence in the Government and that opposition to it is deemed as expressing want of confidence in the Government. I submit, Sir, that it should not be so in matters relating to social reforms and religion. Full freedom should be given to the members to speak and vote as they like on such measures. I submit, Sir, that unless a specific motion is moved expressing want of confidence in the Government, members should be given full liberty to move whatever amendments they like and vote in whatever manner they like. Otherwise, legislation, as I said, would become a mockery."

MR. SPEAKER:—"I think the hon. Member referred to some party whip. I have nothing to do with party whips in this House. For instance, the Hon. the Leader of the Independent Group might issue some whip to his party and so also the leaders of other parties. As far as the Chair is concerned, it cannot take notice of these things."

SRI A. VAIDYANATHA AYYAR:—"I was only pointing out, Sir, how things have happened and I would not have

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referred to it, but for the fact that the Hon. Minister has challenged that 90 per cent of the public are in favour of this Bill and that the majority of the members of this House had given their wholehearted support to it. If that was the case, what is the necessity for issuing an urgent party whip at this moment? We call this a Secular State. That itself places the Government in a peculiar position. The Hon. Dr. Rajan says that the Government have powers to enact laws even in regard to secular matters. He said, 'Here is a big Matadhipati who has stolen a diamond from the diadem of an idol in a big temple and he was brought before a law court and convicted'. Whatever that is, Sir, does it not show that our criminal law is long enough, and strong enough to grasp any malefactors, however great they may be? It is said that there were a number of misappropriations. Have we not got the same thing among Government servants? Of course the poor peons only are dismissed, but the big officers who are the actual offenders go scotfree. That is the case in every department of life. If some officers of the department are corrupt, you do say that the whole Ministry should go or that the whole Government should be placed under section 93. Are there not thefts going on in a number of places and misappropriations taking place in companies and other private institutions and blackmarketing going on among the business community? On that score does the Hon. Dr. Rajan suggest that all companies should be taken charge of by the Government, or that the businesses of the merchants should be taken over by the Government or that the Police department should be run by somebody else? The Hon. Dr. Rajan mentioned that there were some fundamental duties of the State. Yes. What are those fundamental duties? I agree it is to prevent misappropriation. There is a law against breach of trust and misappropriation. And if they want to prevent misapplication of funds, they have got other sections, i.e., section 92 and others. They have got several other Acts there, if they want to make for better management. In fact there have been several improvements from time to time. The real line of distinction is the thing. I cannot see how such eminent men who rule five crores of people are not able to pursue the small distinction that I want to make. You can make a law saying: 'Thou shall keep accounts.' If there is any misappropriation or mistake, anybody can make a complaint. Or the State shall launch a complaint. You may even dispense with section 92. Or as has been done in the past, the Advocate-General can file a suit. You may put in any kind of machinery with regard to the trust. That is, you can make laws with regard to the way in which the administration should be properly carried. It is one thing to make a law with regard to the proper administration of a thing and it is quite another thing to take the administration itself. That will amount to the story, Mr. Speaker, of the two cats quarrelling and the monkey taking the whole bread with a view to better administration. That should not be the law and that has been recognized not

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to be the law. That is the only thing about which we now complain. Let me say from the housetop—I am almost on the housetop here, or the Assembly top, I shall say—that we have no objection and we are all one with you in seeing that misappropriation is prevented and bad administration is prevented. But the Government shall not be entitled to take it and say what we should do. The law provides not for you or I or any person not interested in this connexion but for a denomination or any section of the denomination as the best judge of that. We cannot think of a better remedy for bringing up a child than the mother herself. We cannot think of a section or denomination not bettering at the cost of seeing that some other person taking charge. Let good administration prevail. But it is one thing to bring in a law for regulating that administration and it is quite another thing for the authorities saying that the entire administration of all the Hindu Religious Endowments shall vest in the Provincial Government, and subject to the Provincial Government in the Commissioner. That I say is against the very spirit of the fundamental right.

"I will immediately pass over, Mr. Speaker, to some of the things that were said which really curdled my blood. In one portion it was almost beautiful. It was said: 'We are not changing the usages and customs. All these things shall prevail.' I am reading from the excerpt of a speech of the Hon. Dr. Rajan. He said, it is well-known there are for instance, the Lingayath endowments, mutts, the Brahman mutts etc. Brahman mutts are very small and I do not even think there is anything like a Brahman mutt at all. There are any number of Saivite mutts and there are other mutts and institutions. When we come to these institutions, I do not know how the Government are at all going to tackle them. When the attention of the Hon. Dr. Rajan was drawn to the leader in the Hindu 'Sauce for the Gander and Sauce for the Goose', and how it was that the Wakf Bill was being circulated while this Bill was pressed for a Select Committee, it was said by him, 'As soon as this is done, we will later on come to take it ourselves'. That is what we find in the Press Note. Taking up all the Hindu Religious Endowments would mean that you would have to do all the duties. You will have to propagate Dwaitam, Visishtadwaitam, Adwaitam, the Vallabhacharya cults, etc. All that will have to be done by the Government and for that purpose they should make a law as to how it should issue rules with regard to Visishtadwaitam theory, with reference to one mutt, then the Vadakalai theory and the Thenkalai theory; and then will those who believe and those who do not believe in the idols. All this will be done under section 86, because it says that the Government shall make rules for the purpose of seeing how these things are done. For the purpose of doing these, vast sums will have to be put into their hands. Some one may say that idolatry is bad and sinful and that all the idols can go. The Hon. Dr. Rajan said in one part of his speech that 'the Hindu religion is very wide with many denominations and that has any number of countenances.

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Quite right. Suppose I can keep any number of countenances and I do not keep my countenance in a particular way—I do not get shaved to-day—does it mean that the Government can take hold of the countenance and say how the countenance should be kept? We cannot take charge of them, because we are a secular Government and it was in that position that the fundamental rights were enunciated and we would be running directly across. I was referring to the Government taking charge of all the endowments in one gulp. It is just like that individual Gundodara in our place who was the only man who was able to swallow all the mountains of food and drink even the Vaigai water. The Government beats that Gundodara. Not merely they want to swallow all the endowment and they want to take the selling power to the State. Then they assure us: 'We will not unnecessarily interfere.' But let me read the passage from his published speech. He says: 'We propose to administer the Hindu Religious Endowments not for any particular group of people but for all the people.' That means: 'Oh! Saivites or Smartas or Visishtadwaitins. I take charge of it in my abounding pity for the poor toiling millions.' Yesterday also I saw the Hon. Dr. Rajan pouring tears. Mr. Speaker, it has become the ordinary passion of the day to get support by saying that he is shedding tears for the suffering poor, and what are the suffering poor to do if they are not permitted into a temple? What has it got to do with the question of the administration of the several sections of the endowments? The same thing was repeated to-day. It was said: 'We are going to be very charitable.' You take one particular section and then go on being very charitable. Is it right? I was very much pained to hear some of the hon. Members who supported the Government and said that 'all these properties and villages are for the people, all these mutts shall be for the people, all these endowments shall be for the people.' If that is the spirit in which it is supported and if that is the spirit in which the Bill was brought, where is the hope that these sectional endowments could find their own place and justice? Let me hope that the Government in its desire to do justice will not be biased by things. One other argument was mentioned, Sir, and that was about the Tirupati Devasthanam. The poor Devasthanam used to derive some income from the zamin. Now the zamindar's tight grip is over. Who destroyed the tight grip? Who published those Bills which made all zamindars to become pieless? It was because of the Act which we previously passed that the Devasthanam was not able to get anything from its own lands. Therefore what is the use of blaming the poor Devasthanam about it?

"Another thing which exercises my mind is that this is the wrong time for bringing this Bill. Under the Zamindari and Inams Acquisition Bill, the Government have directed the acquisition of all inam properties belonging to these religious and charitable endowments. Of course, ultimately some officer is going to arbitrate with regard to the amount of compensation. In the case

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of the inams the Government are the losers. It stands to make good all the balance of the amount by means of this Bill. When as a matter of fact the question of acquisition comes in who can say that such and such should be the compensation? Who has the power? It will be the Government who will be entitled to compensation for the properties of these sectional endowments. If the Srirangam Mutt or the Kumbakonam Mutt or the Dharmapuram Mutt were in charge of its own inam, the authorities there can say, cash down, or this is not proper compensation, the Government should pay more. And they would be entitled to appeal as far as the Act permits them to do. By the time the acquisition will take effect, the Government would have taken over direct control over the endowments. The seller is taken up by the buyer. The seller shall have only what the buyer can give. On that day a general ukase will go saying that the Government cannot afford to pay more than that, so let not all the Commissioners and Assistant Commissioners and all the other Executive Officers put forward any demand which is more than what is paid by the Government. Therefore, Sir, would it not be a very unwise thing to take control over the very persons from whom we are compulsorily taking away property? I want the Hon. the Premier who time and again has been referred on the floor of this House and the Hon. Dr. Rajan whom the Hon. the Premier has been complimenting to look at the other aspect of the matter. They have taken on their heads a burden of nearly Rs. 75 lakhs on account of reduction of rent in the various religious and charitable endowments. Supposing a contingency arises under which the income may not be sufficient, will there not be a tendency on the part of the Government, as it is in other departments, to say that a certain thing cannot be done now and so, it can go under the 1952 arrangement and so on? Just like that, if the Government take over the endowments there would be a tendency to say: 'Why should there be six *kala puja* in the Mathurai temple? Why should there be *nivaidyam*? Why should they use *ghee*? Why should there be milk-pouring and honey-pouring when all of us are suffering and starving?' That, Sir, would be the direct consequence if the Government take over direct control of these endowments.

"Sir, one other point which I was making has not been sufficiently met. In fact a number of things have been conceded even by those who supported the Bill. They agreed that the functioning of the Government has not been as satisfactory as some of us feel it should be. Therefore there may be a kind of maladministration if the Government took over. When the Hon. Dr. Rajan moved his Bill he said: 'We may not be good enough to administer, but we shall try to get proper persons.'

"We know, Sir, that food is a more important thing than even getting into the temple so far as the poor are concerned. Yet is it not a fact that we have not been able to get enough grains in spite of the fact that we have very good supply officers? The Hon. the Premier will corroborate me when I say that even in the Government ranks it is admitted that they are not able to get good men.

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Is it not a fact that with regard to cement control and hardware control there have been any amount of exploitation? Is not the sulphate which is dealt with by a European firm going underground? The Hon. Dr. Rajan must be well-read and I would just relate what comes to my mind when I say all this. It is said that a man came to Socrates and wanted to rule the whole of Greece. He was asked whether he was managing his own family. He said in reply that his brother would not allow him to rule the family and there were difficulties. Then he was told: 'When you are not able to rule your own family and your brother, how can you rule and administer the whole of Athens?' The position of the Government is just like that. Even in a material article like food they feel diffident. Of course, the religious needs of the people are matters which cannot be touched and they cannot be easily handled. When we cannot have food for every single individual in this land, why should we risk taking charge of all the religious institutions? I do agree with Dr. Rajan's hope and wish that we may come to a millennium by virtue of propaganda that everybody shall be honest and nobody need be characterized on the floor of the House as being dishonest or not being moral or not having sufficient interest in matters relating to religion. There may come a time. Wait till that time. That is my modest request. We are only saying 'wait for four months and then let us consider the whole thing in its light then'."

MR. SPEAKER:—"The hon. Member wanted forty-five minutes, and the time is over."

SRI A. VAIDYANATHA AYYAR:—"I will finish in a few minutes. There are two cries raised in this Assembly, time and again. One is the Communist bogey. None of the Communists are here. They are all gone. They have been packed into jails. The cry is 'the Communists may come and take away all these things; therefore please hand over them to us'. I am saying 'look at Nalgonda; look at the two districts of Hyderabad; have we been able to control the Communists?' Sir, I find my hon. Friend Mr. Kaleswara Rao mentioning to this House that about 25,000 persons have been killed in those places. We have not been able to control the Communists. Then, what is the use of saying that Communists will come and take away. I am pointing out that the proper course will be to leave things alone. Many invaders have come with iron, blood, and torches for the destruction of religion all over the land. These very communities who were in charge of these institutions have saved the institutions from destruction. Sir, if we call our forefathers as fools, our sons will certainly call us fools in their time. In the previous day, it was asked courageously on the floor of this House, what have these Matsadhipatis done and what have the temples done. My answer is they have preserved our religion. At a time when institutions were being exterminated, these people, small in number, with no political power, with no weapon, and without any violence, have been able to save our religion from destruction. We have to be eternally thankful to them. During every

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invasion, they have maintained our religion. I ask the hon. Government members whether it is not these people who saved religion. Look at Ramanuja who got his idol back from Delhi Datcha (r) and re-installed it at Srirangam. Look at the Bahar people who fought with a regiment and brought back Kaliaznagar. Look at the Mathurai Bhattars, who, when the whole country was attacked by Muslims, had the temple closed and kept on the *pūja* for a whole year inside the temple. Ultimately when the temple was opened one day, the king saw that *pūjas* were going on there. He said 'all right; let them have it; let us go away.' Is that not the way of preserving religion. If there are lapses, in certain institutions, why should we take up the whole administration of all the institutions? The other argument placed before us is that we should also take account of the modern conditions. Do we follow what our fathers and forefathers said. Do we follow all their injunctions? Do we not follow the other fold and say 'there is no God; and there is no idol'. Do we act according to what our forefathers have laid down? If not, how can we blame the heads of these institutions. We are now coming to a time when we are changing politically. The heads of mutts on coming to know that we are legislating for the management of religious institutions and mutts have been trying to see that things are in order. Government can say 'you can do this and not that; do not commit any misapplication of the funds'. That would have been the proper method. Instead of that, we are throwing the blame upon them.

"One argument that is frequently advanced in this House is that 5 per cent of the people are oppressing the other 95 per cent. I do not know how the 3 per cent became 5 per cent. I do not think we should take any serious notice of this. It does not deserve any serious consideration.

"It has now become too much of a fashion to-day to say that we are all sinners. Sir, we are purchasing rice at one and a half measures per rupee. Last year we were purchasing at two and a half measures. We have to supplement our rice. According to the statistics taken in the Swadeshi Exhibition, 48 per cent of the people are trying to fill up the deficit by purchasing rice at black-market prices, i.e., at 14 annas or Re. 1-2-0 a measure. Sir, are we all sinners? When we are all bad people, what is the use of saying there will be a deluge if we do not interfere in these religious institutions? On reading the papers, I am unable to understand what this deluge is. The question is there is no water. (Laughter). The other day, I found in a hospital the nurse saying that there is no water in the hospital, and that on the next day no operation would be done. Still we talk of deluge in these days. I wish there were a deluge even on account of sin. We shall be thankful to it for, at least for two or three years there will be plenty of water in the Red Hills. So, Sir, that kind of argument is not correct.

"Lastly, Sir, I would say that nobody questioned the *bona fides* of the Government. We never said that you do it for the

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purpose of making numerous appointments. We pointed out that this will result in a plethora of appointments, and that this will end in maladministration. Why take the cap and put it on your head when it is not wanted? At the same time, you also say 'I am a pious man; Hon. Dr. Rajan is a pious man; therefore let this Bill be passed'. Is that the proper argument? I do not question the motives, the morality and the propriety of the Government Members. We accept them. Otherwise, they would not be on the Government benches. Therefore, that kind of argument is not proper.

"Sir, to discuss this Bill a little more in detail at this stage will be futile. All I say is it is a matter of conscience. In fact, in the fundamental Rights, Article 19 provides for it. This matter affects numerous people. With regard to charitable endowments I have a bit of law. Sectional charitable endowments come under Article 20. It says any section or any religious denomination may have its own charitable endowments. How wrong it would be to place all the charitable endowments in the hands of Government? It is asked what is a religious endowment? Fortunately there is no figure given of these endowments. But what we say is that it would be very unwise to bring all charitable endowments under the provisions of the Bill. We find there is a provision in this Bill which says that the endowments be diverted for purposes of schools or colleges. Suppose, for example; there is the *Visishtadwaita* school of thought. Would it be consistent with this denomination to take away moneys from this school because there is no *Dwaitam* at all there. Therefore, Sir, this taking over of moneys is not proper. We do not want to postpone this Bill. We only say that it be circulated for public opinion, and let all people have their say in the matter.

"Mr. Speaker, Sir, I am specially very thankful to you for the time given to me. Otherwise, there would be a feeling that all those people whom I represent could not make themselves heard in this House. In fact the contention was that there was no organized protest. Now we find people becoming aware of this Bill. They did not know until now how things were going.

"Mr. Speaker, I am thankful to you for allowing me to speak at length, and I move that the Bill be circulated for public opinion."

THE HON. DR. T. S. S. RAJAN:—"Sir, I have said all I had to say, and I do not propose to say anything now. I want the House to give its verdict on this debate."

MR. SPEAKER:—"I wish to know from the hon. Mr. Vaidyanatha Ayyar whether he is withdrawing his amendment."

SRI A. VAIDYANATHA AYYAR:—"Sir, it is a matter of conscience with me, and I cannot withdraw."

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MR. SPEAKER:—"The question is—

That the Madras Hindu Religious and Charitable Endowments Bill, 1949, be circulated for eliciting public opinion.'"

The motion was lost.

MR. SPEAKER:—"The question is—

'That under rule 111 of the Madras Assembly Rules, the concurrence of the Legislative Council be obtained in setting up a Joint Select Committee of both the Houses consisting of thirty members to consider the Madras Hindu Religious and Charitable Endowments Bill, 1949 (twenty members from the Assembly and ten from the Council).'"

The motion was carried.

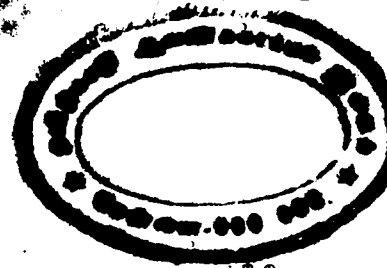
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APPENDIX III.

[Vide Item III at page 969 supra.]

Serial number and district.	Name of the Institution.	Misappropriation or misapplication of trust funds.	Amount involved.	Action taken.	Remarks.
(1)	(2)	(3)	(4)	(5)	(6)
Instances of misappropriation or misapplication of trust funds.					
			RS. A. P.		
1 Vizagapatnam.	Sri Venkateswaraswami temple, Byragipet, Chittoor.	Funds ..	1,600 0 0	Scheme settled. Trustees removed.	
2 Do.	Sri Lakshminarasimhaswami math, Saripalli, Sompeta taluk.	Do. ..	5,000 0 0	Scheme settled.	
3 Do.	Sri Umamaheswaraswami temple, Benkali, Sompeta.	Do. ..	250 0 0	Scheme settled and Executive Officer appointed.	
4 Do.	Sri Kondandaraswami temple, Chittoor town and taluk.	Do. ..	500 0 0	Notified.	
5 Do.	Sri Suryanaraswami temple, Arasavilli, Chittoor.	Do. ..	750 0 0	Do.	
6 Do.	Sri Raghunadhaswami temple, Sompeta taluk, Besi Ramachandrapur.	Do. ..	1,000 0 0	Do.	
7 Do.	Sri Redhakanteswami math, Jalantrapeta, Sompeta.	Do. ..	1,000 0 0	Do.	
8 Do.	Sri Venugopalaswami temple, Panasalavalasa Palakonda taluk.	Do. ..	1,100 0 0	Do.	
9 Do.	Sri Gokarasa math, Palakonda ..	Do. ..	3,500 0 0	Do.	
10 Do.	Sri Subrahmanyanaraswami temple, Subrahmanyapuram, Chittoor taluk.	Do. ..	3,500 0 0	Do.	
11 Do.	Sri Jagannadhaswami temple, Palakonda.	Do. ..	3,000 0 0	Do.	
			6,500 0 0	Do.	

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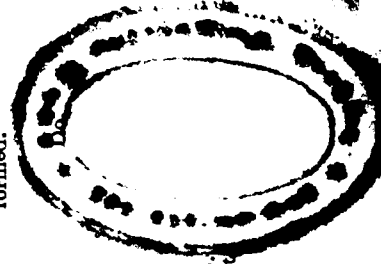


Governments have called for report regarding extent of misappropriation.

12 Do.	Sri Vardarajaswami temple, Rajayyapet, Palakonda, Sompeta taluk.	Do. ..	4,500 0 0	Scheme settled.	
13 Do.	Sri Chaitanya Nityanandaswami math, Purnasenan, Sompeta taluk.	Do. ..	1,500 0 0	Do.	
14 East Godavari.	Sri Veeravenkata Sathanaraswami temple, Annaram, Peddapur taluk.	Do. ..	10,000 0 0	Special audit conducted. Trustee removed. Dues recovered and scheme settled.	
15 Do.	Sri Lakshminarasimhaswami temple, Antervedi, Razole taluk.	Do. ..	30,000 0 0	Notified.	
16 West Godavari.	Sri Kesavaswami and Mahalakshmi temples, Tanuku town and taluk.	Lands alienated. About 3,000 0 0	Trustee removed. Suit filed in Court by trustee.		
17 Krishna	Sri Venkanna Perantalu temple, Gudur, Bandar taluk.	Funds ..	1,600 0 0	Notified.	
18 Do.	Sri Lakshminarasimhaswami temple, Singarayapalem.	Do. ..	4,116 10 6	Criminal action taken. Money recovered.	
19 Guntur	Sri Venugopalaswami temple, Nallapadu, Guntur taluk.	Do. ..	2,150 0 0	Criminal action taken. Money recovered.	
20 Chittoor	Sri Hathiramaji math, Tirupathi ..	Do. ..	1,79,249 3 6	Action taken—Exemption cancelled.	Reported to Government.
21 Bellary	Sri Chintananiwami math, Gowripuram, Hospet taluk.	Do. ..	About 6,030 0 0	Interim trustee responsible, removed and another appointed and security taken.	
22 Do.	Sri Virakathi math, Brucopeta.	Do. ..	4,800 0 0	Scheme settled.	
23 Anantapur	Sri Ramaswami and Narasimhaswami temples, Gooty.	Do. ..	239 0 0	Trustee removed.	

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Name of the Institution.	Misappropriation or misapplication of trust funds.	Amount involved.		Action taken.	Remarks.
		(3)	(4)		
			Rs. A. P.	(5)	(6)
Sri Bugga Rameswaraaswami temple, Kalwa, Kurnool taluk.	Funds	..	About 5,410 0 0	Scheme settled by Board.	Reported to Government.
Sri Desantri Kattalai attached to Pataladri Narasimhaswami temple, Singaperumal Koil.	Do.	..	3,000 0 0	Scheme settled.	
Sri Brahmothaswam Kattalai attached to Sri Ekambareswar temple, Kancheepuram.	Do.	..	1,200 0 0	Do.	
Sri Varadarajaperumal temple, Chunnampet.	Do.	..	12,714 0 0	Action taken, money recovered.	
Sri Parthasarathyswami temple, Triplicane.	Do.	..	575 12 0	Directions issued for recovery.	
Sri Tirumoolanathaswami temple, Karmangudy, Vriddhachalam taluk.	Do.	..	About 3,500 0 0	Trustees removed, directions given.	Government in- formed.
Sri Varadarajaperumal temple, Karmangudy, Vriddhachalam taluk.	Do.	..	About 3,200 0 0	Do.	
Sri Procha Kattalai, attached to Margasahaswami temple, Moovalar, Mayuram taluk.	Do.	..	600 0 0	Scheme settled.	
Sri Swargapuram math	Misappropriation and alienation of properties.	..	About 15,000 0 0	Suit pending in O.S. No. 19 of 1948, District Court, Nagapattinam.	
Sri Subramanyaswami temple, Engan.	Funds	..	About 3,200 0 0	Scheme settled.	



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Name of the Institution.	Misappropriation or misapplication of trust funds.	Amount involved.		Action taken.	Remarks.
		(3)	(4)		
			Rs. A. P.	(5)	(6)
.. Sri Tiruvaduthurai math, Tiruvaduthurai, Mayuram.	Do.	..	About 1,00,000 0 0	Exemption cancelled.	Reported to Government.
.. Sri Dharmapuram math, Dharmapuram, Mayuram taluk.	Do.	..	About 15,000 0 0	Do.	Do.
.. Sri Ratnagiriswarar temple, Tirumarugal, Nannilam taluk.	Do.	..	About 20,000 0 0	Suit filed.	
.. Sri Bakareswaraaswami temple, Paruthiapperkoil, Tanjore taluk.	Do.	..	11-0-0 and 4 kalamas of paddy.	Trustees removed.	
.. Sri Kailasanathaswami temple, Semiamahadevi, Nagapattinam taluk.	Do.	..	About 1,000 0 0	Scheme settled and directions given.	
.. Sri Navaneetheswarar temple, Sikkil, Nagapattinam taluk.	Do.	..	About 20,000 0 0	Scheme settled. Property and funds recovered partly, Rs. 14,000 in cash.	Criminal prosecution pending.
.. Sri Anaraviperumal temple, Terazhandur, Mayuram taluk.	Do.	..	3,000 0 0	Amount recovered.	Charges against trustee pending.
.. Sri Pasupatheeswarar temple, Pandanallur, Shiyali taluk.	Do.	..	About 9,000 0 0	Notification proceedings pending.	
.. Sri Moongilani K. makthiamman temple, Devadanapatti, Periyakulam taluk.	Do.	..	10,575 0 0	Proceedings for modifying court scheme started.	
.. Sri Madyasthanathaswami temple, Darakapuram, Sankarankoil taluk.	Do.	..	3,000 0 0	Trustee removed. Scheme proceedings started.	
.. Sri Kailasanathar temple, Pasuvanthanai, Kolpatti taluk.	Do.	..	900 0 0	Enquiry pending.	Government in- formed.
.. Kattalai attached to Sri Manonmanaswarar temple, Vijayanarayana, Nagapattinam taluk.	Do.	..	400 0 0	Trustee removed. Scheme settled.	

Serial number and district.	Name of the Institution.	Misappropriation or misapplication of trust funds.	Amount involved.	Action taken.	Remarks.
(1)	(2)	(3)	(4)	(5)	(6)
46 Coimbatore ..	Sri Gurnathaswami temple, Pudukalayam, Bhavani.	Funds ..	RS. A. P. About 4,000 0 0	Trustee removed. Scheme settled.	
47 North Arcot ..	Temples under control of Jagirdar of Arni.	Do. ..	All endowments converted to estate of Jagirdar and paditharams reduced and temples not well maintained. The extent of loss is pending enquiry.	Scheme proceedings started.	
48 Tanjore district.	Suryanarkoil math.	Do. ..	About 2,000 0 0	Scheme settled.	
49 Do.	Sri Varahur temples, Tanjore taluk.	Do. ..	6,000 0 0	Proceedings for removal of trustees pending.	
50 Madurai district.	Sri Gopinathaswami temple, Kamakshipuram, Dindigul taluk.	Do. ..	5,000 0 0	Scheme settled.	
51 Do.	Puttu festival katalai attached to Sri Mathurai, etc., Devasthanams.	Do. ..	5,000 0 0	Do.	
52 Tirunelveli ..	Tirupari katalai attached to Sri Subramaniyaswami temple, Valliyoor, Nanguneri taluk.	..	About Rs. 5,000 and 205 acres of land alienated.	Trustee removed. Scheme proceedings started.	
53 Do.	Sri Kalugachaspathy temple, Kalugumalai, Kolipatti taluk.	Cattle fair income underestimated; temple and estate funds mixed; matter under enquiry.		Scheme proceedings started. Government formed.	

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54 Coimbatore ..	Sri Mariamman temple, Kavayur, Avanashi taluk.	Funds ..	A out Rs. 5,500 or year.	Trustee removed.	
55 Malabar ..	Sri Katakankurichi temple, Palghat taluk.	Unauthorized appropriation of renewal fees by trustees three-tenths of renewal fees appropriated roughly amounting to Rs. 1,000 a year on average.	..	Scheme settled. Suit filed in District Court by trustees.	
56 Do.	Sri Krishna temple, Guruvayur ..	Unauthorized expenditure and wasteful litigation; matter under enquiry, ..	..	Notification proceedings pending.	Government formed.
57 Do.	Twenty-eight temples under Zamorin Raja of Kozhikode.	..	About Rs. 6,000.	Scheme settled. Suit filed in Court by trustee.	
58 Do.	Tirumannankonnu temple, Angadipuram.	Out of Rupees 26,000 received as land acquisition compensation, Rs. 13,000 was appropriated for alleged dues of trustee.	..	Notified	

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59 South Kanara.	Pejavar math, Udipi, South Kanara district.	Unauthorized pledging of math jewels by agent.	..	Criminal action taken. Convicted in Lower Court. Appeal pending in High Court.	
60 Do.	Sri Sirocr math ..	Indebted under pro-notes to about Rs. 100,000 without Board's sanction.	..	Directions issued under section 61-A.	
61 Do.	Sri Puthige math ..	Indebted under pro-notes to about Rs. 13,000 without Board's sanction.	..	Do.	
62 Do.	Sri Krishnapur math ..	Indebted under pro-notes to about Rs. 50,000 without Board's sanction.	..	Scheme settled. Suit filed by trustee dismissed. Appeal pending in High Court.	
63 Do.	Sri Palimar math ..	Bogus debts about Rs. 20,000 ..	..	Directions issued.	

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Serial number and district.	Name of the institution.	Misappropriation or misapplication of trust funds.	Amount involved.	Action taken.	Remarks.
(1)	(2)	(3)	(4)	(5)	(6)
64 South Kanara...	Sri Gurpur Jangam math	.. Alienation of properties—properties mortgaged long ago for Rs. 20,000 or so accumulated to Rs. 90,000 and odd. Another property sold for Rs. 21,000 or so in 1945 during the pendency of proceedings before Board. Records all filed in court.	Rs. A. P.	Scheme settled. Suit filed by trustee pending in court.	
65 Tanjore	.. Vedaranyeswarar	.. Possesses about 13,000 acres of land in 45 villages; about Rs. 75,000 only shown as annual income. Correct income not brought to account, and proper records not kept for verification. Collections made directly by trustee and not brought to account—subordinates misappropriated 750 kalamas from Kunnalur village.		Decided to notify.	

Name of the temple, math or endowment, etc.	Name of trustee or trustees.	Acts of misappropriation or misapplication of trust funds or properties.	Remarks.
(1)	(2)	(3)	(4)
Sri Navaneetheswaraswami temple, Sikkil, Nagapattinam taluk, Tanjore district.	Non-hereditary trustee.	Infringement of misappropriation of temple funds by trustees. Audit reports brought to light very grave defects in the administration. The President inspected the temple and ordered a special investigation. As it was found that the trustee had misappropriated temple funds, charges were framed, he was suspended and subsequently dismissed. The Executive Officer of the temple was directed to take steps for the recovery of the various amounts due by the ex-trustee and a suit was filed for recovering Rs. 11,000 nearly but on the trustee agreeing to pay a consolidated amount of Rs. 10,000 in full quit, the Board, taking legal advice, agreed to the compromise.	

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Leasing of temple property for low rental and causing loss to the temple.

Serial number and name of the temple, math or endowment, etc.	Name of trustee or trustees.	Acts of misappropriation or misapplication of trust funds or properties.	Amount of loss sustained by the trust as a result approximately.	Remarks.
(1)	(2)	(3)	(4)	(5)
1 Sri Keaswaswami temple, Tallarevu, Kakinada taluk, East Godavari district.	Hereditary trustee.	Temple governed by a scheme settled by the Board with a manager working under the hereditary trustee. When proceedings were started for modifying the scheme vesting more powers in the manager including power to lease lands, and the proceedings were pending, the hereditary trustee gave secretly and collusively a lease of a large block of temple land of about 100 acres for a period of five years even though the existing lease was to run for nearly two years. The existing lease was for a rental of about Rs. 2,500 which itself was very low and the fresh lease given in advance was for about Rs. 3,000 which was also very low, just to make a show of having given the lease for a higher rental. The hereditary trustee later relinquished his trusteeship. The Board directed the new trustees appointed and the manager to repudiate the subsequent lease as collusive and to lease out the land in public auction. As there was obstruction from the old lessee in possession and the new lessee under the collusive lease, the lands were given to the old lessee for one year who offered Rs. 5,000 and odd which was collected. In the next year, the lease was auctioned for about Rs. 7,000.	The action of the trustee in giving the collusive lease deprived the temple of an income of Rs. 4,000 a year.	
1 Sri Vaidyanathaswami temple, Vaitheeswarankoil, Sirkali taluk, Tanjore district.	Madathipathi of Dharmapuram math, Tanjore district (hereditary trustee).	The temple owns 135 acres and odd in Adamangalam village, Sirkali taluk, Tanjore district. As there was no bid at the auction held to lease out the lands for lots 135A, 135B and 1360, tenders were called for and the tender for 3,000 kalamas of paddy was accepted by the trustee. As the procedure adopted was irregular, the order of the trustee was set aside, and a fresh auction ordered as per the scheme, with 3,000 kalamas as upset bid. In the re-auction, the same lands were leased out for 4,900 kalamas of paddy and 400 bundles of straw.	If the lease is granted by the trustee had been approved, the temple would have sustained a loss of 1900 kalamas of paddy and 400 bundles of straw.	The order of the Board approving the second lease was sought to be set aside by a writ in the High Court in C.M.P. No. 3892 of 1948. This was dismissed.

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Serial number and name of the temple, math or endowment, etc.	Name of trustee or trustees.	Acts of misappropriation or misbandling of trust funds or properties.	Amount of loss sustained by the trust as a result approximately.	Remarks.
(1)	(2)	(3)	(4)	(5)
2 Sri Madyanthakunta Perumal temple, Darukapuram, Sankarankoil taluk, Tirumelveli district.	Hereditary trustee.	The trustee leased out 57 kottas of nanja lands for Rs. 7,000 per year while they are reported to fetch Rs. 15,000 per year. No public auction was conducted.	Rs. 8,000 per year	The trustee was removed by the Board.
3 Sri Parimalaranga-nathaswami temple, Tiruvilandur, Mayuran taluk, Tanjore district.	Trustee -	The trustee leased out temple site extending to 7,328 sq. ft., belonging to the temple for 9 years from 1932 for Rs. 4 per year, while the reasonable rent is estimated at about Rs. 10 per year. No registered lease deed was obtained nor the transaction approved by the defunct temple committee.	Rs. 594	Paid trustee directed to take legal opinion and take action for recovery of possession of the site and recovery of arrears of rent.

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4 Sri Pasupathiswarar temple, Pandanallur, Kumbakonam taluk, Tanjore district.

677.24 acres of wet and 237.76 acres of dry not leased out in public auction. Trustees have divided the lands among themselves and cultivated them as if they were their own on the plea that no bidder comes forward. They pay 8,000 kalamas of paddy and Rs. 575 every year, whereas the lands, if leased out in public auction, will fetch 10,000 kalamas of paddy and Rs. 3,000.

The temple is put to a loss of 2,000 kalamas and Rs. 2,425 per annum.

The temple is governed by a court scheme and it authorizes the trustees to cultivate the lands if the lands could not be leased out. Attempts made by the Board to lease out the lands in public auction failed due to the local influence of the trustees. Proceedings to remove the trustees from office (a suit under section 73 and to notify the temple under section 65-A, are pending. Matter reported to Government in letter No. 144791/48-1, Adm., dated 4th January 1949.

[10th February 1949]

Serial number and name of the temple, math or endowment, etc.	Name of trustee or trustees.	Acts of misappropriation or misbandling of trust funds or properties.	Amount of loss sustained by the trust as a result approximately.	Remarks.
(1)	(2)	(3)	(4)	(5)
5 Pappammal charities attached to Sri Bhuminathaswami temple, Manchanalur, Lalgudi taluk, Tiruchirappalli district.	The madathipathi of Thiruvadu-thurai math, Tanjore district.	137.65 acres of wet and 53.95 acres of dry lands belonging to charities leased out for five faslis from 1367 at the rate of Rs. 11,000 in cash and 250 kalamas of paddy per fasli nine months before the expiry of the subsisting lease in collusion with the lessees and the auction held at place far away from the place where the lands are situated.	Lands of similar quality and fertility adjoining these lands are found to be leased out for higher rentals causing a loss of Rs. 5,000 per fasli (vide Government Memorandum No. 55035, F.D.V/47-6, dated 11th September 1948).	The matter has been reported to Government ending with L. No. 76370/46-27, Adm., dated 12th November 1948. The Board was not able to take action in the matter and set aside the lease as the charities were on the date of the lease exempt from the operation of sections 18 and 77 of the Act.
6 Sri Karpuranathaswami temple, Uthamagalapuram, Salem taluk, Salem district.	Trustees	The temple owns a market. It is annually leased out. It was leased out recently by the trustees for three years for an annual rental of Rs. 3,005. It was released by the lessee for Rs. 1,20,005.	Rs. 9,000 per year	Scheme proceedings have been started. An interim Executive Officer has been appointed.
7 Sri Krutakritiya Ramaswaraswami temple, Gudimoola Ramaswaram, East Godavari district.	Do.	The temple possesses nearly 2,000 acres of valuable lands capable of yielding more than Rs. 50,000 a year. The lands were long ago unauthorizedly leased out by the archakas for low rentals to rich and powerful ryots who later began to claim occupancy rights. Trustees appointed by the Board failed to take action to recover the lands for the temple. The temple was decided by the Government notified the temple in the year 1940. The Executive Officer who proceeded to take action was confronted with a series of petition R.S. No. 57/41, etc., on the file of the Revenue Divisional Officer, Amalapuram, by the tenants for grant of patta under the Madras Estates Land Act. The petitions were after nearly five years decreed by the Revenue Court granting patta fixing a very low rent of Re. 1 per acre. The appeal filed by the Executive Officer to the District Court in A.S. No. 647 was dismissed and a further appeal in the High Court by the Executive Officer is pending.	As a result of unauthorized and collusive leases by archakas and the inaction or collusion of the trustees, the temple has been deprived of an income of over Rs. 30,000 a year and the temple with practically no income has been led to protracted litigation to obtain possession of its lands.	

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Serial number and name of the temple, math or endowment, etc.	Name of trustee or trustees.	Acts of misapplication or misappropriation or misbanding of trust funds or properties.	Amount of loss sustained by the trust as a result approximately.	Remarks.
(1)	(2)	(3)	(4)	(5)

Trustees treating trust property as their own.

1 Sri Gavi math, Uravakonda, Gooty taluk, Anantapur district.	Madathipathi hereditary trustee.	The Trustee sold away without the sanction of the board, a valuable site belonging to the math for constructing a cinema theatre treating the same as if it was his own causing serious loss to the math.	A scheme has been settled for the Math and the trustee is not giving effect to the provisions of the scheme. The Revenue authorities have been addressed not to transfer the patta in the name of the alienee.	
2 Sri Nachadithavirthu Arulaswami, etc., temples, Seithur Zamin, Srivilliputhur taluk, Ramnad district.	The Zamindar of Seithur, hereditary trustee.	The Zamindar trustee has been mixing up the temple funds along with his estate funds and not at all investing them in any Bank and treating the temple funds as if they were his own. Recently he has leased out 93 acres and 10 cents of temple lands and 3 acres and 56 cents of his own lands clubbed together for the period from 1st October 1948 to 30th September 1951 and has received a sum of Rs. 25,000 as advance before the lease has been concluded.		Board's directions issued to the trustee to keep the accounts and funds separate to invest the temple funds in a Bank and to lease out the temple lands in public auction have had no effect. Exemption granted to the temples has since been cancelled and proceedings have been started for the settlement of a scheme for the better administration of the temples and their properties.

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District.	Taluk.	Village.	Name of the Math or Endowment.	Acts of misapplication or misappropriation or misbanding of trust funds or properties.	Remarks.
Instances of the Madathipathi pledging the credit of the Math and recklessly borrowing on promissory notes.					
1 Mathurai ..	Mathurai ..	..	Sri Tiruganasambanda Swamikal Math.	Mortgaged malwaram rights in a village and large extents of math's lands and borrowed Rs. 2,000.	Proceedings for settlement of the scheme pending before the Board.
2 Cuddapah ..	Cuddapah ..	..	Sri Pushpagiri Math.	Rs. 26,253-3-4 due to be paid to sundry creditors on loans or promotes.	Do.
3 South Kanara ..	Udipi ..	..	Sri Shiroor Math.	Indebted under pro-notes to about Rs. 1 lakh without Board's sanction.	Directions issued under section 61-A of the Act.
4 Do. ..	Do. ..	..	Sri Krishnapur Math.	Indebted under pro-notes to about Rs. 50,000.	Scheme settled. Suit filed by trustee dismissed. Appeal pending in High Court.

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Name of the temple, math or endowment, etc.	Name of trustee or trustees.	Acts of misapplication or misappropriation or misbanding of trust funds or properties.	Remarks.
Pledging or selling away the temple jewels by trustees.			
1 Sri Subramanyaswamy temple, Tiruvidakazhi, Mayuram taluk, Tanjore district.	Hereditary trustees ..	The trustee has pledged temple jewels for a sum of Rs. 550 without the knowledge and sanction of the Board.	Charges have been framed against the trustee and proceedings for his removal from office are pending.
2 Sri Gnansaprakas Desikar math, Big Kancheepuram, Kancheepuram taluk, Chingleput district.	Madathipathi hereditary trustee.	The trustee has pledged the math jewels for Rs. 300 without the knowledge or sanction of the Board.	A scheme was settled for better administration of the math and the trustee has left the math relinquishing his right and an interim trustee has been appointed.
3 Sri Pejavar Math, South Kanara, Udipi.	Trustee's agent ..	Unauthorized pledging of math jewels by agent.	Criminal action taken. Convicted in Lower Court. Appeal pending in High Court.

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Name of the district.	Name of the taluk.	Name of the village	Name of the temple or math or endowment.	Remarks.
Instances of landed properties belonging to religious Institutions sold away by the revenue authorities.				
1 Malabar	Ernad	Erangananna	Sri Erangananna temple	Sold for the recovery of contribution due to the Board.
2 Do.	Kurumbanad	Natteri	Sri Natteri temple	Do.
3 Tanjore	nnilam	Swargapuram	Sri Swargapuram Math	Do.
4 Malabar	nnani	Pukkattiyur	Sri Pukkattiyur temple	Sold for recovery of kist due to the Government.
5 Tanjore	Nannilam	Swargapuram	Sri Swargapuram Math.	Do.

THE MADRAS LEGISLATIVE ASSEMBLY.

Saturday, the 26th February 1949.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVASHANMUKHAM PILLAI) in the Chair.

GOVERNMENT BILL.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BILL, 1949 (L.A. BILL NO. 10 OF 1949).

THE HON. DR. T. S. S. RAJAN:—"Mr. Speaker, Sir, I move—

that the following twenty members of this House be nominated to the Joint Select Committee appointed to consider the Madras Hindu Religious and Charitable Endowments Bill, 1949 (L.A. Bill No. 10 of 1949):—

- (1) Sri A. Devanayaga Iyah,
- (2) Sri A. Vaidyanatha Ayyar,
- (3) Sri K. Brahmanandam Reddi,
- (4) Sri K. R. Karanth,
- (5) Sri R. V. Swaminathan,
- (6) Raja Sir Muthiah Chettiyar of Chettinad,
- (7) Sri Alluri Satyanarayana Raju,
- (8) Sri K. A. Nachiappa Gounder,
- (9) Sri M. Doraikannu,
- (10) Sri M. Pallam Raju,
- (11) Sri K. Bhashyam,
- (12) Sri T. K. T. N. R. Tatachari,
- (13) Sri V. I. Munuswami Pillay,
- (14) Sri R. Ramamurthi,
- (15) Sri B. Ananthachari,
- (16) Dr. P. Subbarayan,
- (17) Sri K. T. Kosalram,
- (18) Srimathi K. Lakshmi Bharati Ammal,
- (19) Sri M. Bapineedu,
- (20) Sri N. Sanjeevi Reddi."

MR. SPEAKER:—"The question is—

that the following twenty members of this House be nominated to the Joint Select Committee appointed to consider the Madras Hindu Religious and Charitable Endowments Bill, 1949 (L.A. Bill No. 10 of 1949):—

- (1) Sri A. Devanayaga Iyah,
- (2) Sri A. Vaidyanatha Ayyar,
- (3) Sri K. Brahmanandam Reddi,
- (4) Sri K. R. Karanth,
- (5) Sri R. V. Swaminathan,

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- (6) Raja Sir Muthiah Chettiyar of Chettinad,
- (7) Sri Alluri Satyanarayana Raju,
- (8) Sri K. A. Nachiappa Gounder,
- (9) Sri M. Doraiannu,
- (10) Sri M. Pallam Raju,
- (11) Sri K. Bhashyam,
- (12) Sri T. K. T. N. R. Tatachari,
- (13) Sri V. I. Munuswami Pillay,
- (14) Sri R. Ramamurthi,
- (15) Sri B. Ananthachari,
- (16) Dr. P. Subbarayan,
- (17) Sri K. T. Kosalram,
- (18) Srimathi K. Lakshmi Bharati Ammal,
- (19) Sri M. Bapineedu,
- (20) Sri N. Sanjeevi Reddi."

The motion was carried.

The House then adjourned to meet again at 11 a.m. on Monday, the 28th February 1949.

MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS BILL, 1949 (L.A. BILL No 10 of 1949)

THE MADRAS LEGISLATIVE ASSEMBLY.

Monday, the 11th September 1950.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVASHANMUGAM PILLAI) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BILL, 1949 (L.A. BILL NO. 10 OF 1949).

THE HON. DR. T. S. S. RAJAN :—Mr. Speaker, Sir, I beg to present the report of the Joint Select Committee on the Madras Hindu Religious and Charitable Endowments Bill, 1949 (L.A. Bill No. 10 of 1949) and move—

That the Bill as amended by the Joint Select Committee be taken into consideration.

“The Bill has been before the public for quite a very long time and the Joint Select Committee had been at it also for a sufficiently long time. The Government have allowed sufficient time to enable the voters at large to express their opinion on the Bill. And the result of such examination has been the Bill which is now placed before the House. In placing it before the House, it is my desire to bring to the notice of hon. Members certain salient points contained in the Bill which require careful consideration by the House. It is also my desire to place the recommendations of the Joint Select Committee in a concise form to help a detailed study by hon. Members.

“Let me, express my grateful appreciation of the manner in which the Members of this House and those of the Upper House, who constituted the Joint Select Committee carried out the task entrusted to them. Voluminous written memoranda covering about 550 pages of printed matter were presented to the Committee, by various associations and individuals interested in religious institutions. In addition, a number of persons representing many schools of thought and important religious institutions including Maths gave oral evidence before the Joint Select Committee. The material thus gathered was then arranged and sifted, and further subjected to a detailed examination by the Committee. Some 50 issues were framed and the Committee discussed these issues at some considerable length and settled the principles on which the Bill should be amended. In the light of the decisions of the Committee on the several issues framed for its consideration, the Bill was re-drafted. The Committee then took up a detailed examination of the Bill clause by clause, as a result of which they suggested various amendments. These amendments were again duly incorporated in the Bill, and a second revised

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draft was printed and put up to the Committee for its consideration. For a second time the Joint Select Committee scrutinized the provisions of the Bill clause by clause and then suggested a few alterations which have been finally incorporated into the Bill as republished in the present form in February 1950. The House will thus see that the Joint Select Committee took great pains to examine every one of the clauses in the Bill with reference to the criticisms and suggestions for amendments made in the oral and documentary evidence before it. As a result of their labours the Bill has been amended and improved in various respects, which I shall refer to, later.

“Before I deal with the main features of the Bill and the important changes incorporated in it by the Joint Select Committee, I crave the permission of this House, briefly to review in retrospect what had already been done in the direction of improving the administration and conserving the resources of the religious institutions in this State. I do not propose Sir, to go into the past history of the legislation on the subject and trace the several infructuous attempts made since 1863. I will begin with Act II of 1927 by which the present Hindu Religious Endowments Board, which has now been functioning for a quarter of a century, came into being. After the Montford Reforms, when the dyarchic Government was introduced in this State and the subject of Religious Endowments came under the control of popular Ministers, the Government felt that legislation on this subject was necessary. The then Chief Minister, the Rajah of Panagal, conceived the idea of establishing a Board on the lines of the Board of Charity Commissioners in England, as best calculated to achieve the end. A Bill was accordingly drafted with the English Act as its model and it became law in 1925. The Government of the day were fortunate in inducing the late Sir T. Sadasiva Ayyar of honoured memory, to accept the office of the President of the Board, at its inception. Four Commissioners were appointed along with him and the system of supervision and control over temples and Maths came into being substantially as it continues till to-day.

“A number of defects were soon discovered in the working of the Act. In fact, the Rajah of Panagal himself in sponsoring the Bill did not claim either completeness, or perfection, for his Bill, and openly admitted on the floor of the Legislative Council that he was fully aware of its defects. Having regard to the political atmosphere of that time, he had to pilot that legislation very cautiously and to consolidate the varving and vested interests both inside the party and outside it, and to secure the greatest measure of agreement among the various conflicting interests. It is unnecessary, therefore, for me to dilate on these defects in the Act and the Board's short-comings and mistakes, during these 25 years. No one is more conscious of the Board's errors than I am, with my knowledge of its work as the Minister in charge of Religious Endowments both during the first Congress Ministry

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more than a decade ago as well as now. But we must not forget the fact that the Hindu Religious Endowments Act (Madras Act II of 1927) is the first piece of legislation of its kind in India; and I am proud, indeed, that in this as in various other matters, Madras has been the pioneer whose model has been copied years later by other States in India. Only a few months back, Bombay has enacted the Bombay Public Trusts Act, 1950, for dealing with religious and charitable endowments in that State. The Bihar Government has also published a Hindu Religious Endowments Bill. In the State of Travancore—Cochin, both a Travancore Devaswom Bill and Cochin Devaswom Bill have been enacted.

"In order to remedy the defects discovered in the working of the Act, several amending Acts, have been enacted since 1927. I will not weary the House with any detailed account of them, but will only refer cursorily to some of the more important ones. For some years at the commencement, it was felt that the greater part of the Board's attention had been devoted to the collection of contributions for its own maintenance, which prevented it from devoting sufficient time and attention to its more important and legitimate duties. The first President, Sri T. Sadasiva Ayyar, drew the pointed attention of Government to this defect. The procedure for the collection of the revenues of the Board was made simpler and more effective by Act XI of 1931 and ever since, the financial side of the Board's activities has ceased to be a source of anxiety to the Board and the Government as well. Next, it was found that certain schemes framed for the administration of individual temples by Courts in whom the sole jurisdiction for the purpose was then vested, were absolutely unworkable and were leading to deadlocks. The procedure for getting these schemes amended by applications to Courts entailed great delay and led to enormous wastage of public funds. Chapter VI-A, relating to notifications, was therefore added by Act XII of 1935. Under the new provisions of this Chapter, after a full notice to the general public as well as to all individuals concerned, a Court's scheme could be abrogated altogether and the temple could be notified by the Government on the recommendation of the Board. There has been considerable public criticism of the exercise of this power in individual cases. But I have no doubt that on the whole, these new provisions served a very useful and salutary purpose in reforming the administration of several important temples and placing them on a satisfactory basis.

"As the House is aware, a great and momentous change in the constitutional set-up of the country was brought about by the Government of India Act of 1935, and the Indian National Congress came, for the first time, into power in the states, where a large measure of self-government was introduced by that Act. As the Minister in charge of Hindu Religious Endowments in the first Congress Ministry, I took up the question of improving the machinery for supervision and control of religious institutions created by Act II of 1927 in a comprehensive manner. After

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consulting a number of legal pundits including the Advocate-General and the High Court, I drafted a Bill. It was circulated to the Cabinet and had their approval. But before it could be put on the Statute Book, we resigned for political considerations and therefore the Bill lapsed. I may perhaps state here in passing, that the present Bill is modelled substantially on the same lines as my Bill of 1939.

"The Advisers' Government established under section 93 of the Government of India Act of 1935, on the breakdown of the normal constitutional machinery, came to the conclusion, after due deliberation, that only a Government consisting of elected representatives of the people should proceed with a measure of this kind and decided to drop the Bill. A few months later, it was, however, pressed upon their attention that certain glaring defects in the Hindu Religious Endowments Act had to be rectified without any loss of time, in the public interest. But, as was only to be expected, they wanted to proceed very cautiously, and so they appointed a Committee presided over by Sri P. Venkataramana Rao, a retired Judge of the Madras High Court, to consider and report on the changes which they may take up without being accused of interfering with the religious institutions of the land. On some of the recommendations of that Committee, the Advisers' Government felt that immediate action was needed and Act V of 1944 was the result. By it the Temple Committees were abolished and the work was assigned to full-time subordinate officers of the Board appointed by Government called Assistant Commissioners. The other recommendations of that Committee were passed into law in 1946 before the Congress Government began to regard.

"Thus it is only by such piece-meal legislations that attempts have been made so far to improve the Hindu Religious Endowments Act. The time has now come not only to consolidate the several amending Acts and enact a self-contained Act, but also to make a thorough overhaul of the entire administrative machinery in order to secure more effective and efficient supervision over the administration of religious institutions. In fact, the idea of continuing where we left in 1939, was ever present in our minds, since the Congress Government took office in 1946.

"As the House is aware, the first draft of the Bill was published in September 1947 and all the Members of the Legislature had a copy of that Bill. But as the Government were then very busy with legislations of various kinds, particularly the Zamindari Abolition Bill, it could not be introduced in the House for a second time. Act X of 1946 was probably the most comprehensive piece of legislation on the subject, since Act II of 1927 was passed. By this Act, the City Temples were brought for the first time, under the jurisdiction of the Board. The powers of the Board over hereditary trustees were very much enlarged and the notification chapter was clarified so as to prevent the courts from interfering with the orders of the Government in this

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at that time. Very soon after the passing of the Zamindari Abolition Act, the Government republished the draft Bill and I introduced it in this House on 14th February 1949. After a full dress debate in both the Houses, the Bill was referred to the Joint Select Committee to whose arduous labours, I have already referred. Though the Bill, as amended by the Joint Select Committee, was ready by the beginning of February itself, it could not be placed before the House earlier, owing to the exigencies of other legislative business. The Bill has thus been before the public, in its main outlines, for about three years by now, and for over a year and a half, it has been constantly in our thoughts. Whatever criticisms may be levelled against its provisions and we welcome constructive suggestions even now it cannot be said that the public have not had ample opportunities of understanding and appreciating its main features. Opportunity was given to every school of thought, not only to submit written memoranda, but also to explain their case in person before the Joint Select Committee. Various shades of opinion were represented in the Joint Select Committee itself, and the Government have gone very far indeed to satisfy legitimate criticisms and reconcile opposing points of view, as much as possible, consistently with the public interest.

"I shall now proceed to describe the main features of the Bill and how we consider it to be an improvement upon the existing Act.

"The main and perhaps the most fundamental change is that the power of general superintendence will not remain with the Board as at present but will be vested in the State Government, which will be exercised through a Commissioner, Deputy Commissioners and Assistant Commissioners. It should not be misunderstood, as is done in some quarters, that the Government will take over the management of these religious institutions. There is absolutely no intention on the part of Government to manage any religious institution either directly or indirectly. All that they wish to do is to supervise the administration of religious institutions through a Commissioner and other officers who will constitute the Devasthanam Department of the Government.

"The present method of administration by a Statutory Board has been found to be defective in several respects. Owing to causes, which it is unnecessary to go into now, no Statutory Board in this country has commanded, or can command, the prestige of Department of the Government. Moreover, the Commissioners of the Board are appointed under the present Act, only for a definite period of five years; and though there is provision for reappointment, only a few have been fortunate enough to be so re-appointed for a second term. Quite a number of Commissioners have been discharged after their first term of office for five years. Such frequent changes in the personnel of the Commissioners, cannot certainly ensure a continuity of policy, and even tell on the efficiency of the administration. Hence, both in the interests of continuity of policy, and efficiency of the administration, it has

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long been felt that the subject of endowments should be made a Department of Government, and placed in charge of permanent Government officers. When once the tenure of officers entrusted with the work of supervision of the religious endowments and the staff working under them, becomes permanent and pensionable, there can be no doubt that the efficiency of the administration will be greatly enhanced. They will then have that sense of security created in them, which will, doubtless, make for greater efficiency.

"The administration by four Commissioners vested with fairly equal powers led to widely differing orders being passed on exactly similar matters by different Commissioners, and this resulted in grave doubt and uncertainty in the minds of the public as to what action would be taken by the Board in any particular matter. It has, therefore, been thought necessary to replace the present Board by a single Commissioner assisted by Deputy Commissioners. The advantages to be gained by this vital change are obvious. Firstly, the trustees and other members of the public from the mufassal now seeking redress at the hands of the Board, will find this change to be very convenient to them and to reduce their costs considerably. At present the Board has to function as a corporate body. Disputes such as, whether an institution is a religious one, whether any property or money, is a religious endowment, whether a trustee is a hereditary trustee or otherwise, whether a person is entitled to any honours or emoluments, etc., have to be settled by a committee of the Board. Similarly, questions connected with the framing of schemes for temples and the utilization of surplus funds, etc., have to be decided by a committee of the Board. The aggrieved parties have, therefore, to come all the way from the mufassal to the Board at Madras. But under the Bill, provision has been made for a Deputy Commissioner to inquire into and pass orders in all these cases. As the Deputy Commissioners will function at convenient centres in the mufassal and hold enquiries in the locality, it will no longer be necessary for trustees and other aggrieved parties to run up to Madras, to obtain redress in each and every matter. There is no doubt that by this arrangement, the costs of the parties will be considerably reduced and that they will therefore welcome it. Secondly, this decentralization by which the Deputy Commissioners are invested with the powers now exercised by the Board, will result in a speedy disposal of work and the elimination of delays. One real difficulty felt in the working of the Act of 1927, was the absence of a suitable local machinery to inquire into and grant relief in urgent cases. The Bill removes this difficulty. The Deputy Commissioner will hereafter hold immediate inquiries in the locality and pass orders on the spot expeditiously.

"But, if all the powers now vested in the Board are to be conferred on a single Commissioner, functioning with his deputies and subordinates, there is the possible danger of errors not being detected in time and corrected. Hence, the Government propose to take over the power of calling for records and revising the orders of the Commissioner.

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"In order to allay the apprehension of individuals vitally interested in these institutions like our Matadhipathis, I may at once declare that it is not our intention to probe into every detail of administration normally carried on by the Commissioner or his subordinates, still less to interfere with the work of the trustees. The system of administration in a modern State proceeds on the basis of the errors of one public authority being corrected by at least one higher authority, and our object is only to correct errors and give guidance and instructions where needed, and not to usurp to ourselves the ordinary functions of the departmental authorities.

"The second outstanding feature of the Bill, as the addition of the word "Charitable" to its title itself is meant to signify, is that while the existing Act applies only to religious institutions, an express provision is made in the Bill for its extension to charitable endowments as well. This has been a crying need all along. Mal-administration and misapplication of public funds have been as rampant in the case of charitable endowments in this State as in respect of temples and maths. The present law relating to charitable endowments is not sufficient to prevent mismanagement. Under Regulation VII of 1817, the control of charities is vested in the Board of Revenue. Owing to the multifarious duties which the Board of Revenue has to perform and owing to the very large number of charitable endowments scattered all over the State, the Board has not been able to exercise any effective supervision over the administration of charitable endowments. No doubt, there is a remedy open to the public in cases of misappropriation or misapplication of trust funds relating to charitable endowments by filing suits under Section 92 of the Civil Procedure Code, with the Advocate-General's consent. But the filing of a suit generally means great expense and trouble and so in practice, this provision has been rarely availed of by the general public. Charitable endowments are public trusts just in the same way as religious endowments are, and there is no reason why adequate arrangements should not be made for their supervision with a view to prevent misappropriation of funds. In England, the jurisdiction of the Charity Commissioners extends to secular as well as religious charities.

"When the Hindu Religious Endowments Bill was first sponsored by the Raja of Panagal, it was apparently considered that it would be enough at that time, to reform the administration of temples, because of the great veneration in which the temples and maths in this State are held by all Hindus. It might have been also partly due to the idea of restricting the sphere of action to a narrow field as they were venturing on a new scheme, the first of its kind in India. Whatever justification there might have been in 1922 for restricting the scope of the Act to the religious institutions alone and for excluding the charitable trusts, there is hardly any to-day for allowing them to be mismanaged. Now that we have gained a fair knowledge of the ground and have surmounted most of the initial difficulties in the way, the Government

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have thought fit to make an express provision for the extension of the provisions of this Act to charitable endowments. Though here also, we intend to proceed cautiously and certainly do not propose to bring in all charities, big and small, within the powers of the Commissioner at once, the Government expect to make a beginning in this direction fairly early. I am sure enlightened public opinion will be with me on this matter.

"The third salient improvement in the present Bill is the restriction of the scope for litigation and the consequent wastage of the funds of religious institutions. One of the unfortunate results of Act II of 1927 was the abundant crop of litigation that sprang up in regard to every conceivable matter dealt with by the Board. While the Board of Commissioners were vested with original jurisdiction in respect of all matters pertaining to religious institutions, the Act allowed parties fancying themselves to be aggrieved by its orders to appeal to law courts and to question the correctness of the Board's orders in almost every matter. The trustees of temples taking advantage of the fact that they are in possession of temple funds, indulged in endless litigation. Some of them revelled in it. I need not take up the time of the House now with a catalogue of the numerous instances in which this right of appeal to law Courts or to file suits before them, has been abused. In my speech while introducing the Bill in this House on the 4th February, 1949, I have described in some detail the ridiculous straits to which litigation was reduced, particularly in matters of ritual, some of which do not, in my opinion, affect in the least the fundamentals of religion. I have no doubt this House will agree with me that as a result of such reckless and cantankerous litigation, there has been enormous wastage of public funds, and there was also great and unconscionable delay in several matters in giving effect to the decisions of the Board.

"In this Bill, we have decided to restrict the scope for litigation in Courts, only to such matters as involve the adjudication of rights to private properties. Accordingly, we have removed the right to go to Courts in the following matters, which are all allowed under the present Act:—

- (i) Appointment and removal of hereditary trustees;
- (ii) Fixing of dittams, or standard scales of expenditure in temples;
- (iii) Utilization of surplus funds of religious institutions;
- (iv) Alienation of immovable trust properties; and
- (v) Questions such as whether a person is entitled, by custom or otherwise, to any honour or emolument, or perquisite, in any religious institution and what the established usage of a religious institution is in regard to any other matter.

"These are not matters involving any rights to private properties, and so in the interest of preventing wastage of trust funds in litigation, the right of suit in a Court has been taken away

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under this Bill. Since there is an appeal against the Deputy Commissioner's orders in these matters to the Commissioner, and since the Government have also revisional powers, there need be no apprehension that there will be any miscarriage of justice.

"The next important improvement that I would specially bring to the notice of the House, is the stricter control proposed to be exercised over the maths, particularly on the financial side. When I refer to maths I know I am treading on sensitive grounds. The question whether maths should be brought within the scope of the Hindu Religious Endowments Act raised a good deal of controversy in 1922, when the Hindu Religious Endowments Bill was introduced in the Legislative Council. The Select Committee, which went into the matter, came to the conclusion, after examining a number of witnesses, that it was but right that the affairs of maths should also be controlled. Yet the Act being the first of its kind, provided only for a limited control over maths. Since then we have had ample proof of criminal waste and extravagance and mismanagement in maths which warrant greater control over the secular affairs of the maths. The Venkatramana Rao Committee held the view that a good deal of reform was necessary and desirable particularly in the matter of inspection of maths, submission of budgets and appointment of managers to look after the secular affairs of the maths. Some of these reforms have already been carried out by amendments to the Act, without affecting the spiritual headship of the matadhipati. In the present Bill also nothing is proposed to be done which will interfere with or undermine the spiritual headship or authority of the matadhipati. As in the present Act, trustees of maths will be suspended or removed only by Courts and not by the Commissioner. A specific provision is made that nothing shall authorize any interference with the religious or spiritual functions of the head of a math including those relating to the imparting of religious instruction or the rendering of spiritual service.

"The real changes are in respect of dittam and notifications. Though Section 61 of the present Act envisages the existence of a dittam in a math, there is no provision in the Act for altering or modifying the dittam of a math or of a specific endowment attached to a math. In the absence of a provision in the Act for settling a dittam, trustees of maths have been incurring expenditure indiscriminately. In order to put an end to this unsatisfactory state of things, the Bill has introduced a specific provision [Clause 59] that the trustee of a math, or a specific endowment attached thereto, should send proposals to the Commissioner for fixing the dittam of the institution. The intention is that if the dittam is at variance with established usage, or is not justified by the financial position of the institution, it should be altered or modified after calling for and considering the remarks of the matadhipati. In view, however, of the position of matadhipatis as spiritual heads, the Joint Select Committee did not agree to invest the Commissioner with this power. In accordance with the

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decision of the Joint Select Committee, this power is now reserved to the Government. The Commissioner can only call for the remarks of the Matadhipati, and if on considering them, he still feels that the dittam has to be altered, he has to submit the case for the orders of the Government.

"Agam under the present Act, there is no provision for notifying a math. Chapter VI-A of the present Act, relating to notifications, applies exclusively to temples. But as I have said above, there are many instances of extravagance, mismanagement and misconduct in maths. The properties of the maths in many cases are scattered all over the State and matadhipatis are unable to give the attention required to administer the properties properly. In many cases, leases are given for low rents; the rents are not collected properly, collections made are not brought to account and the expenditure is not controlled. The only remedy open, in such circumstances, is to entrust the care of the properties of such maths, to a responsible paid officer. The Bill seeks to achieve this by taking power to notify maths and appoint paid Executive Officers for dealing with secular affairs. Let me emphasize once again that nothing will be done to interfere with the spiritual authority of the matadhipati.

"As in the case of the maths, the Bill seeks to tighten up control over the temples and specific endowments and rectify a number of other defects revealed in the working of the existing Act during the last 25 years. I will now briefly refer to the more important of these changes. One of the gravest defects in the existing Act, which has caused not a little vexation to all officers connected with its administration, is the procedure relating to the recovery of the endowments of an institution by a new trustee, or Executive Officer. The Act does not vest any power in the Board to compel obedience to their orders and directions. This led to dishonest trustees removed for misconduct still merrily spending public moneys in wasteful litigation and for their private purposes for years before the properties of the institution could be taken possession of by the new trustees or the Executive Officers. The Venkatramana Rao Committee which went into this vexed problem of putting trustees and Executive Officers in possession of the properties of religious institutions, suggested some radical alterations to the effect that Courts should have no option but to put the new trustees and Executive Officers in charge of the properties of religious institutions. But even these amendments have not had the desired effect; and the outgoing trustees could still cling on to the properties by taking advantage of other loopholes in the law. Till now only the District Court was constituted as the sole judicial authority to be resorted to, for the enforcement of the provisions of the existing Act. As the District Court is also the Sessions Court for the area and as it is vested with jurisdiction of various kinds, there were enormous delays in the passing of orders, even on simple petitions. We have decided to change the pattern in this Bill and constitute another authority for dealing with these matters. While

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the Civil Courts have been still retained as the forum for the decision of disputed claims to properties, which need detailed examination, we have provided for the Magistracy being empowered to direct delivery of ordinary trust properties to the trustee or manager. I had contemplated this change even in 1938. I have absolutely no doubt that this is a step in the right direction and would help towards the speedy rectification of defects in the administration at much less cost to the institutions and claimants alike.

"I would next refer to the modification of the law in regard to the resumption of inams proposed in the Bill. The question of the quantum of the interest conveyed by an inam grant has been the subject-matter of great controversy among lawyers for some decades in this State and different views have been expressed by different Judges of the High Court. I understand that it is very difficult even for trained lawyers to reconcile all the dicta found in the decisions of the High Court. The result seems to be that the Revenue Officers to whom a trustee has to resort for claiming the resumption of an inam in cases of non-performance of service or of improper alienation, preceded by a sort of rule of thumb and acting on the presumption that the inam consists only of the land revenue, resumed and re-granted only the melwaram.

"This has resulted in great loss of income to various institutions and sometimes even the expenditure for the daily Pooja could not be derived from the melwaram grant so made. The trustee had to resort to costly litigation in Civil Courts to get the order of the Revenue officials, varied, and in some places the Board has found it very difficult to get trustees who would shoulder this onerous responsibility. We have, therefore, provided, in this Bill for an initial presumption that an inam granted to a religious institution for any particular service in a temple or math, comprises both the warams. By this provision, the interests of the religious institutions are sufficiently safeguarded, while we have kept open the remedy by way of resort to Civil Courts to any party aggrieved by any order of the revenue authorities acting on this presumption.

"I may now refer to a few other provisions which, though of minor importance, go a great way for the upkeep and well-being of religious institutions. With a view to bring more effective control over the expenditure of religious institutions, the bill specifies the various purposes for which the revenues of a religious institution could be spent. It statutorily fixes that a certain percentage of its income shall be set apart for the repair and renovation of the buildings connected with the institutions, and that a working balance should be maintained for each institution. It is a well-known fact that several religious institutions in the State need repairs and renovations. But such repairs, or renovations, could not be undertaken by the authorities of the institutions, because the revenues had been spent away recklessly. The

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new provisions in clause 75 (2) (c) for the setting apart of a fixed percentage of its current income for repairs and renovations, and in clause 75 (2) (d) for the maintenance of a working balance will enable religious institution hereafter to undertake the very necessary work of repairs and renovations whenever needed.

"Under the present Act, there is no provision which prohibits trustees from utilising funds of temples in proceedings incidental to, or arising out of, their removal from office. So they have been recklessly spending temple funds in such proceedings, though they are purely personal matters arising generally from their misconduct. It has, therefore, been specifically laid down now in clause 26 (3) that a trustee should not, in the absence of permission from the Court or the Commissioner or the Deputy Commissioner, reimburse himself from the trust funds the expenditure that he may incur in such proceedings.

"The new provision in clause 37 relating to the custody of jewels, is another valuable improvement. Office holders and servants of religious institutions often put forward claims to be in possession of jewels and they are of no mean value and other valuables on the ground of usage or on the strength of orders of Courts. The result in some cases had been loss to the institutions. Consequently, clause 37 of the Bill prohibits temple servants and others from being in custody of the jewellery, except under such safeguards as the Commissioner may direct, notwithstanding any custom or usage, or order or decree of a Court or a Scheme framed by it, to the contrary.

"Lastly, I must not omit to mention the fact that this Bill will apply to the Tirumalai-Tirupathi Devasthanam also, unlike the existing Act, which does not apply to that Devasthanam. As the House is aware, the Tirumalai-Tirupathi Devasthanam Act, was enacted in 1932, in order to provide for adequate supervision and control over that Devasthanam, which was till then in charge of the Mahant. There is now no need for a separate Act. Nor is there any difficulty in bringing the administration of the Tirumalai-Tirupathi Devasthanam within the purview of the new Act. Moreover, it has been felt that it would be desirable to have a stricter and unified control over all religious institutions in the State under a single authority. No doubt, there are a few special provisions in the Tirumalai-Tirupathi Devasthanams Act such as those designed to secure the health of the pilgrims by notification of the Tirumalai Hills area as a Panchayat, and placing it in charge of the Executive Officer, to be appointed for the Devasthanam, and to utilize the surplus funds for certain purposes and for maintenance of certain educational institutions. These special provisions have been incorporated in Chapter X of the Bill in order to meet the special needs of the Tirumalai-Tirupathi Devasthanam.

"I have now dealt with almost all the important changes and improvements in the Bill which we claim to have made as a result of our experience during 25 years of administration of the existing Act. All these have existed in the original Bill, even when I

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presented it to this House in February 1949, and have not only survived the minute and critical scrutiny made by the Joint Select Committee, but have also met with their hearty approval, except for one modification in regard to the dittams of maths, to the effect that they should not be altered or modified by the Commissioner, but should be submitted to Government for orders.

" I shall now pass on to the important changes which the Joint Select Committee introduced into the Bill as a result of their deliberations. They have added several new features and I do not think it necessary to bore the members of this House with an elaborate account of all of them. Hon. Members can easily distinguish the contributions made by the Joint Select Committee as they are printed in bold clarendon type in the copies of the Bill appended to the Joint Select Committee's report now circulated to them. I will content myself now with bringing to the notice of the House only the more important of their contributions.

" The first and foremost improvement effected by them, is the constitution of Area Committees for associating representatives of the people with the administration of temples. I have mentioned earlier that as a result of Act V of 1944, the Temple Committees provided for in Act II of 1927 have been abolished. These Committees have caused many a head-ache to every person who has been in charge of this department. It is true that if we get a sufficient number of individuals of the right type Government could relieve themselves of a lot of responsibility which can be certainly better shouldered by local committees. But the whole difficulty has been the paucity to enlightened and disinterested public men willing to accept service on such committees. In actual practice, it has been found very difficult to induce respectable men to serve on them. (Sri V. Raghavayya: May I know why?) The hon. Member may wait and hear. During my previous term as Minister in charge of Religious Endowments I had not without much heart searching and mental anguish, to abolish committee after committee. By the time the Advisers' regime legislated on this subject, there were very few committees in existence and bitter complaints existed even against them. The Venkatramana Rao Committee recommended their total abolition. In our original Bills as published in 1947 and 1949, no provision was made for their restoration, but during the course of the discussions of the Joint Select Committee it has been pressed on us that we, as a popular Government, should not divorce the people from the administration of the temples but should make one more sincere efforts to associate the representatives of the people with their management. Accordingly, we have provided for the constitution of Area Committees, which would be vested with large powers of supervision over all temples whose annual income does not exceed Rs. 20,000. These committees will have an effective voice in the administration of temples, as they are empowered to pass orders on dittams, sanction budgets, scrutinize audit reports, appoint trustees, call for records, etc. But, I may inform the

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members of the House that we have taken the precaution to safeguard against their being merely the vehicles of local factions and private interests by providing that the Assistant Commissioner should preside over the meetings of Area Committees. In this form these Area Committees are new institutions and I do sincerely hope that they would be worked properly and that the experiment would meet with the success it deserves.

" In respect of the larger temples deriving an income of over Rs. 20,000 per year, the Joint Select Committee however felt that it would be better to have a separate Board of Trustees for supervising the management of each one of them instead of entrusting them to the Area Committees which are to look after a very large number of temples. They considered that these important institutions, instead of having trustees to function under the supervision of a body like the Area Committee should be managed by a Board of Trustees consisting of representatives of the public, in addition to hereditary trustees, if any. We have accordingly provided that for each one of these big temples there should be a Board of Trustees. We have found by experience that one common feature in all schemes for bigger institutions whether framed by law courts or the Board, is the appointment of a salaried Executive Officer or Manager. The Joint Select Committee has, therefore, decided that this should be made statutorily applicable to all institutions getting an income of over Rs. 20,000, whether or not, the institution has been the subject-matter of any decision by the Board or by the law Courts. There should be a salaried Executive Officer in charge of the day-to-day administration of all such temples, and he should work under the superintendence and guidance of the Board of Trustees, who would merely lay down the policy and would not be burdened with the details of the daily routine. We are of opinion that thereby we have secured that happy combination of the best that can be got from a salaried as well as an honorary agency which has been so marked a feature of the best systems of modern municipal and local administration.

" Another important change introduced by the Joint Select Committee relates to notifications. According to the provision made in the Bill a notification issued by the Government declaring an institution to be subject to the special provisions of the notification chapter, shall be in force for an indefinite period unless cancelled or modified by Government. In this respect, the Bill followed the provision in the existing Act. The Joint Select Committee, however, considered that a notification issued in this regard should automatically cease to have force at the end of five years, unless it is cancelled or modified earlier by Government. It was felt that notification being a special remedy resorted to for special reasons, normal administration could be expected to be restored in five years, and, therefore, there was no need to continue the notification beyond five years. It has also been made

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clear that the scheme, which was applicable before the notification was made, shall not be revived, when the notification is cancelled or has ceased to be operative owing to efflux of five years' time.

"A good deal of the time of the Joint Select Committee was taken-up with the examination of the provisions relating to maths to which they paid special attention. I have already referred to the change made by the Joint Select Committee in respect of dittams. Another modification made by it relates to the framing of schemes. In the Bill the power to frame schemes, both for temples and maths, was originally assigned to the Deputy Commissioner. But the Joint Select Committee felt that the Deputy Commissioner's powers should normally be restricted to temples and that he should not ordinarily be allowed to frame schemes in respect of maths. We have accordingly provided [clause 63 (8)] that the Commissioner alone should settle schemes for maths and specific endowments attached thereto and that if a Deputy Commissioner is to do this, the power should be specially delegated to him by the Commissioner. This is because of the importance of the maths.

"The Joint Select Committee has also made a new provision that the trustee of a math shall be entitled to spend at his discretion for purposes connected with the math, any pathakanika, that is any gift of property or money made as a personal gift to him as the head of a math, but that he should keep regular accounts of receipts and expenditure for production before the Commissioner or any other person authorized by him.

"The Joint Select Committee has also enlarged the jurisdiction of Civil Courts by providing for the right to file suits in respect of matters decided by the Deputy Commissioner in the first instance and by the Commissioner on appeal. In the Bill only an appeal against the orders of the Commissioner to the High Court was originally provided. The Joint Select Committee, however, decided that it would be better to provide a right to file a suit in the first instance instead of an appeal straightaway to the High Court. Consequently, a provision has been made that against the decision of a Commissioner in certain cases a suit may be filed in the Court of Original Civil Jurisdiction in the mufassal and in the City Civil Court in the Presidency town, and that against the decree of the said courts appeals may be filed in the High Court. Though a suit has been provided for from the orders of the Commissioner, the powers of the court have been restricted, so as not to stay the Commissioner's orders pending the disposal of the suit.

"Yet another improvement made by the Joint Select Committee relates to the alienation of inam lands. Clause 36 of the Bill makes null and void any exchange, gift, sale, mortgage, or any lease for a term exceeding five years of any inam granted for the support or maintenance of a religious institution or for the performance of a charity or service connected therewith or any other

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religious charity. This provision follows the existing one in section 44-B of the present Act. The Joint Select Committee, however, considered that cases might arise where it might be found that even in the case of an inam land such sale, gift, exchange, mortgage or lease for a term of over five years is necessary and beneficial, to the institution and that in such cases, there should not be an absolute bar, as now exists. In order to provide for such a contingency, power is taken by Government to sanction a sale, exchange, mortgage or long lease of an inam, if the Government were to consider it necessary or beneficial in the interests of the institution. These, Sir, are the most salient features of the Bill which were considered and decided upon by the Joint Select Committee and they are now before the House for discussion."

MR. SPEAKER:—"Motion moved—

'That the report of the Joint Select Committee on the Madras Hindu Religious and Charitable Endowments Bill, 1949 (L.A. Bill No. 10 of 1949), be taken into consideration.'

"I wish to tell the House that the hon. Member Sri Bhashyam has given notice of an amendment to the effect that the Bill be recommitted to the same Joint Select Committee. As far as the rules of this House are concerned, they are silent about the procedure to be followed here. There are two alternative methods by which this can be discussed. I understand from the Leader of the House that the Government is opposing the amendment. In such circumstance, this is the procedure followed in the House of Commons:

'If the motion to recommit the Bill is opposed the Speaker is directed by S.O. to permit a brief explanatory statement of the reasons for recommitment from the Member who moves and from a Member who opposes the motion, after which he must put the question without further debate.'

Shall we follow this procedure? In the alternative if it is the desire of hon. Members to take part in the debate, the motion might be made and both the main motion and the amendment will be before the House for discussion and in the end, I will put both of them—one by one—to the vote of the House. But in the procedure obtaining in the House of Commons, only two speeches are allowed, one by the member making the motion and another by way of reply."

THE HON. SRI B. GOPALA REDDI:—"We may have the House of Commons procedure; I think that will save time and later on hon. Members will have an opportunity of speaking on the merits of the provisions of the Bill; it is better we dispose of the amendment."

SRI K. BHASHYAM:—"I shall prefer that."

MR. SPEAKER:—"If such a procedure is adopted, the hon. Member will make a brief statement and the Hon. Minister will reply and I will put the amendment to the vote of the House."

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RAJA MUTHIAH CHETTIYAR OF CHETTINAD :—“ On the motion of the hon. Gentleman Mr. Bhashyam, it may be, Sir, that many Members may like to support him.”

MR. SPEAKER :—“ But they can support him by voting with him without expressing their views.”

RAJA MUTHIAH CHETTIYAR OF CHETTINAD :—“ Perhaps more votes may be canvassed by speeches which may be made by hon. Members in support of the motion.”

MR. SPEAKER :—“ But the thing is we must follow a certain procedure.”

JANAB ABDUL HAMEED KHAN :—“ May I submit, Sir, that the Hon. the Speaker wanted to know the opinion of the House. But, after hearing the Hon. the Leader of the House, the Chair is going to give its decision.”

MR. SPEAKER :—“ As soon as he finished, the hon. Member should have spoken; he has given his opinion and now, let me also hear hon. Mr. Hameed Khan.”

JANAB ABDUL HAMEED KHAN :—“ I would submit, Mr. Speaker, that there is a part of the House this side also and they should be heard.”

MR. SPEAKER :—“ I know it and the hon. Member need not remind me about it.”

JANAB ABDUL HAMEED KHAN :—“ If the opinion of the House is to be ascertained not by votes but by consultation, we may also have it by expressing our views and that is why I suggested to you that we are here also.”

MR. SPEAKER :—“ The hon. Member need not repeat it again. As soon as the Leader of the House had concluded, I allowed the leader of his party to speak and I have not taken a decision so far.”

JANAB ABDUL HAMEED KHAN :—“ I thank you, Sir, for the assurance. You were pleased to give us two alternative suggestions, one was following the procedure of the House of Commons. By that means, Sir, you prevent the Mover of the amendment from giving reasons fully why exactly he wants the Bill to go once again before the Joint Select Committee. A mere statement will not do. The Hon. Minister in charge of the Bill has made a lengthy speech presenting the report of the Joint Select Committee and the House, after that, is entitled to know why the hon. Mr. Bhashyam wants the Bill to be re-committed to the same Joint Select Committee. If the Hon. Speaker knows that there is no purpose served because you know what the nature of voting will be . . .”

MR. SPEAKER :—“ It is immaterial for me what the voting will be.”

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JANAB ABDUL HAMEED KHAN :—“ We must talk of realities and, therefore, I am suggesting that we need not take the suggestion of the Hon. the Leader of the House as the *ipse dixit* of the whole thing.”

MR. SPEAKER :—“ The hon. Member Sri Bhashyam also wanted the same thing to be done.”

JANAB ABDUL HAMEED KHAN :—“ Evidently the hon. Gentleman Sri Bhashyam will revise his views just now.”
(Laughter.)

SRI K. BHASHYAM :—“ I will give another alternative to the House.”

JANAB ABDUL HAMEED KHAN :—“ I am glad to hear that he is prepared to modify his view, particularly in view of the fact that not only he but we, in this House, have a right to know why the hon. Member Sri Bhashyam wants a re-committal of the Bill and as a matter of fact, he may not be so keen on it as we are. (An hon. Member: ‘Despite your being a Muslim.’) Muslim or Hindu, that is our right and I will request you not to accept the suggestion of the Hon. the Leader of the House but to give us as ample an opportunity as possible to come to a decision on this question.”

MR. SPEAKER :—“ The position is this: The first proposal is that the hon. the Mover of the amendment will be allowed time to move the amendment at first without others being allowed to speak upon it and then the Leader of the House or the Minister who moved the motion will answer and then I will put the motion to the vote of the House. The second alternative is that Mr. Bhashyam will move his amendment and then both his motion and the main motion will be before the House and I will put the amendment and the main motion to the vote of the House. I have no objection to follow either.”

SRI K. BHASHYAM :—“ But there is a third alternative and that is this: I move the motion for re-committal and it may be replied to or not as the Government chooses and then this motion will be debated upon and then you can put the whole thing to vote. We are not concerned with the merits or demerits of the Bill, because with some of them we may agree. Let us not confuse the matter by referring to the whole provisions of the Bill but let us keep this question of re-committal to be decided by the House after a full debate.”

RAJA MUTHIAH CHETTIYAR OF CHETTINAD :—“ Mr. Speaker, Sir, on several occasions in the past, it has been the practice to have a fairly good discussion on such motions and many participate in the motion for re-committal of a Bill to the same Select Committee. The suggestion contained in the third alternative of the hon. Gentleman has been followed in the past.”

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MR. SPEAKER:—" But this is the first occasion so far as I am concerned."

RAJA MUTHIAH CHETTIYAR OF CHETTINAD:—" If you give me time, Sir, I shall quote to you the proceedings of the Madras Legislative Assembly. For the twenty years I have been here, I have had ten occasions where such Bills had been under discussion for re-committal to the same Select Committee."

MR. SPEAKER:—" As I informed the House, I have no objection to adopt any procedure the House wants. But I have to point out that the suggestion made by the hon. Member (Mr. Bhashyam) will involve time as both on that occasion and in connexion with the general discussion of the Bill, the same observations might be made. Therefore, the better suggestion seems to be to have both the main motion and the amendment discussed in the House."

SRI K. BHASHYAM:—" That will be difficult, Sir. When speaking on the amendment, I have to speak on the provisions of the Bill and I do not want to do it. I do not want the attention of the House to be diverted to issues irrelevant to the re-committal."

MR. SPEAKER:—" In that case, I will give the hon. Member time and then I shall ask the Hon. Leader of the House or the Minister in charge of the Bill to reply and then I will put it to vote. Then of course we shall take up the main motion."

RAJA MUTHIAH CHETTIYAR OF CHETTINAD:—" According to this, Mr. Speaker, the mover of the amendment and the Government have an opportunity to speak. You cannot deny us reasonable opportunity to speak upon it. Only hon. Mr. Bhashyam, of course, will have it and we must not be denied the opportunity to speak on it."

THE HON. SRI B. GOPALA REDDI:—" Our preference is certainly for the House of Commons convention according to which the mover and the Minister will have an opportunity to speak on the motion and the amendment is thus disposed of. But we have no objection for the second alternative."

MR. SPEAKER:—" The Leader of the House has no objection and the Leader of the Opposition wants that both the main motion and the amendment might be considered by the House. So, I suggest that the motion of hon. Mr. Bhashyam might be moved and seconded formally and then both the main motion and the amendment will be for the discussion of the House and I will take a vote on both of them."

SRI K. BHASHYAM:—" I should like to have a little clarification, Sir. Supposing I move this motion for re-committal, shall I have the opportunity to speak about the provisions of the Bill later on because I am not quite prepared for it now, Sir?"

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MR. SPEAKER:—" It means repetition. When he makes the motion, he may speak on the main motion also."

" As far as I am concerned, we have not had any occasions when the House discussed a motion for re-committal of a Bill to the same Select Committee though there might have been such occasions during the fifteen years the hon. Member Raja of Chettinad had been in this House. That is why I wanted to suggest the adoption of the procedure of the House of Commons. Since the other procedure is adopted the hon. Member will speak both upon the amendment as well as upon the main motion."

SRI K. BHASHYAM:—" Mr. Speaker, there is no other go than to obey your directions. It does not suit me at all but I have to make the best of it. Sir, I move—

'That the Bill be recommitted to the same Joint Select Committee.'

If I make this motion for the recommitment of the Bill to the same Joint Select Committee, it is not from frivolity or for want of reason and it need not be taken as a motion for the purpose of delaying the passage of the Bill. It has been before the public for some years but there are circumstances which have occurred now which make it necessary that the Bill should be re-considered. I am not going into the provisions of the Bill nor do I want to go into past history of the legislation enacted for the first time by Raja of Panagal of blessed memory . . ."

RAJA MUTHIAH CHETTIYAR OF CHETTINAD:—" Mr. Speaker, Sir, I take objection to the words 'blessed memory'; it is unparliamentary, undignified and unworthy of a friend of the status . . ."

SRI K. BHASHYAM:—" I thought there is nothing wrong and I thought I was really giving him a compliment . . ."

RAJA MUTHIAH CHETTIYAR OF CHETTINAD:—" 'Of revered memory' is usual but not so 'of blessed memory'."

SRI K. BHASHYAM:—" If it pleases him, I will use the word 'of revered memory'."

SRI V. RAGHAVAYYA:—" Mr. Speaker, Sir, I want your ruling whether the use of the word 'Raja of Panagal of blessed memory' is wrong; the Leader of the Opposition said that it was unparliamentary . . ."

MR. SPEAKER:—" He meant that he might be a little bit polite and suggested the use of the words 'of revered memory'. Let the hon. Member continue his speech."

SRI K. BHASHYAM:—" To cut short the whole controversy, I withdraw and use the words suggested by him. I thought it was a good word and I had no idea that it was objectionable. I wanted to use the same terms in connection with Sir Sadasiva Ayyar and therefore, there need not be any mis-apprehension on the part of any person in this House that I do not give that

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reverence which is due to a person of such eminence as the Raja of Panagal of revered memory. I do not want to go into past history from 1925 to this date. The reform in the matter of management of the various temples and charitable institutions has been entrusted to the Board all these twenty-five years but still we are far away from perfection. When the experiment that was tried all these years, the management being in the hands of the Board and it did no good, I am very sceptical if things are going to be better because we are putting them into the hands of Commissioners and others with the Government on the top, which may not look into the matter at all.

“ But what I want to point out is, that in the framing of this Bill, there are certain facts which have not been borne in mind. Sir, the Constitution Act has been passed recognizing certain fundamental rights. Some of these provisions have been overlooked in this Bill. Sir, it is true I was a member of the Joint Select Committee. I do not want to reveal what has happened there. But I will say this, that in the discussions that took place there, not sufficient attention was paid to the constitutional aspect of the question, with reference to Articles 25 and 26 of the Indian Constitution Act. No doubt this point was raised there; there was some discussion about it; and I think the Hon. Law Member made it clear that he could go on with the Bill further, in spite of Articles 25 and 26 of the Indian Constitution Act. Sir, may I point out to him, here, that since his decision to go on with the Bill, in spite of Article 25 of the Indian Constitution Act, there has been some decision by the Supreme Court bearing on this point, though not directly, but indirectly, declaring what the words, ‘according to law’ and ‘process of law’ and ‘by virtue of law’ really connote. Therefore some new light has been thrown as to how to interpret these phrases in the Indian Constitution Act. In view of those circumstances, I would like the Hon. Law Minister, as also his legal advisers, to look into this matter again, and see, if necessary, whether this Bill offends the Constitution Act.

“ Then, Sir, it may be asked, ‘why should this Bill be referred back to the Select Committee; how is it in a better position to decide matters than this House, here and now?’ Sir, I admit it is a legitimate question. But, I submit, the House cannot as such take a decision in a full dressed debate. What will happen in the Joint Select Committee is quite different from what will happen here, in this House. In the Joint Select Committee, it may so happen, that it may call upon the Advocate-General to give advice. It is quite possible that, there, members of the committee would put questions to the Advocate-General across the table and get necessary advice from him, and then shape their opinion according to his advice. Therefore, I say, the Joint Select Committee would be in a better position to revise this Bill than this House. Then, I have said, the same Joint Select Committee should be referred to. For that, I have a reason also. Because they have gone through the provisions of this Bill once; so, they

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know the effect of the clauses; they know the implication of the provisions; and they know what complications would arise if certain provisions are passed without a change. And so, when the law officers explain the Constitutional position of the Bill, they will be in a better position to understand and appreciate whether this Bill falls within the Constitution Act or not. So, Sir, this is a matter on which more attention should be bestowed by the law officers of Government.

“ Then, Sir, there are two other matters which have been overlooked, in the previous discussion, in this House as well as in the Joint Select Committee. It is the question, that this Bill does not aim at all religious institutions or applies merely to Hindu temples and mutts. If it is so, does not the Bill offend Articles 14 and 15 of the Constitution Act? Article 14 says that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. Article 15 (1) says that the State shall not discriminate against any citizen on grounds only of religion, etc. Now, Sir, I ask, why should the temples of Hindus alone be dealt with, while other religious institutions are not touched at all? Why should Hindu trustees be subjected to so many restrictions and their conduct regulated, while other trustees should go scotfree? It cannot be said that there is now such a lot of mismanagement only in Hindu temples and not in other religious institutions as to necessitate reform. So, I submit, this is really discriminatory legislation. For, when the Government single out Hindu temples and mutts for enactment, what they do is sort of discriminatory legislation. Sir, with regard to Articles 14 and 15 of the Indian Constitution Act, some light has been thrown on them, by the recent decision of the Bombay High Court. It has said, that, where a legislation excludes a certain section of people only, it is discriminatory legislation. If that is so, this Bill, then, discriminates against Hindus. And in so far as it does not relate to other trustees, that is, trustees of other religious institutions, this Bill is discriminatory of the worst kind possible, against Hindus. Therefore, this is also a question which has to be examined by the law officers, and for that reason also I suggest the Bill be recommitted to the same Joint Select Committee.

“ Then, Sir, there is a third point which I would like to bring to the notice of the House, and that is with reference to Article 31 (1) of the Constitution. It provides that no one shall be deprived of his property save by authority of law. The provisions contained in this Bill would be hit by this Article of the Constitution. Therefore, this Bill raises a number of vital issues which have to be examined further with great care.

“ It is true that there may be cases where the trustees of the mutt has no other property by himself. Legally he is the owner of the trust property; he is a hereditary trustee. It is proposed to send him out and some other person is proposed to be set up in his place as trustee. Now, I wish to ask what is the harm in continuing the hereditary trustee in office? The Joint Select

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Committee did not have much time to devote themselves to the case of mutts. I know many of the members of Joint Select Committee may not have gone into the temples at any time. They may not know the various ceremonies that are performed there. They may not know the various rituals performed there. Besides, I know a great number of them have never stepped into the mutts at all. I wish they had stepped into some of them just to see how they are being managed. So, when the question of mutts being taken up, came up for consideration before the Joint Select Committee, I brought home to the members this fact, but the Chairman was unwilling to defer the consideration of the case of mutts; and so, I had to keep quiet. I know there are a large number of mutts which are managed well. I know the majority of mutts are managed well. I know there are good and bad mutts; I know there are mutts which are managed well; I know there are mutts which are not properly managed. I submit if some members of the Joint Select Committee had been allowed an opportunity to go into some of these mutts, surely, they would have changed their opinion about them. That opportunity had been denied to them. Moreover my submission is that this question as regards mutts has not been before the public, sufficiently long, in the form in which it is to-day. The question of mutts was there in a restricted form all along, but not in the form in which it is now to-day. The whole question including the various drastic provisions of the Bill was never before the public long, except perhaps from the end of February 1950. Representative of mutts were not invited to give them an opportunity to have their say. So, I submit there is a good case for the recommitment of the Bill to the Joint Select Committee. I therefore say there must be a further consideration of the Bill in respect of its various provisions, and to see whether they offend Articles 14, 15, 25, 26 and 31 of the Constitution. (At this stage the Deputy Speaker occupied the Chair.)

“ Now, Madam, so far as the provisions of this Bill are concerned, for, Madam, the Speaker has said that I can speak now on the merits of the Bill also, my main objection to this Bill is that the Government have taken upon itself more than what it can manage. They try their best to improve matters. The present Board has been there for the last 25 years; and all along the Board has been in control of these Hindu temples. Have they discharged their functions satisfactorily? Is it contended that the temples are managed properly now? From my experience I can only say, there is still lack of control over them. True, the executive officer has his office; there are the leather-bound account books neatly bundled; there is the liveried peon with the *dawali* (laughter) to receive the officer. Important visitors are taken round the temple by the peon and the executive officer, and no pains are spared to give them all temple honours. (Laughter.) The same treatment is given to the inspecting officers. But who looks into the accounts? No doubt articles are purchased in the name of temples, there is an entry of purchase of articles in the accounts book

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and there are vouchers for purchases. But does anybody take the pains to see that the articles purchased enter the temple? (Laughter.) They disappear as soon as they are purchased without coming into the temple! It is to these officers the management of temples is to be left. I ask, why should they be preferred to hereditary trustees? Why not give more powers to hereditary trustees and ask them to manage these institutions? They would look after them much better than these present-day trustees. Because they have the sense of prestige, dignity and good name of their grandfather or probably great-grandfather who endowed these trusts to maintain. True, here and there, they may show some favour to their son-in-law or uncle-in-law (laughter), when it comes to a matter of money. But that does not matter; for, all told, it may not exceed one hundred rupees. When it comes to a matter of maintaining the prestige of the family, bound up with the temple, they are ready to spend fifty or a hundred or even two hundred rupees from their own pocket. If there is no money in temple for Brahmotsavam festival they would not stint to spend the necessary money from their pocket. I think it is the greatest mistake that Government have done in displacing hereditary trustees. The same is the case with mutts. This Bill has not been prepared after consulting the heads of these mutts. Even the nomenclature of ‘madathipathi’ has been omitted in this Bill. He is called only a trustee. He occupies in society a position much superior to that of an ordinary temple trustee. He is looked upon with great reverence by people. He is looked upon as a spiritual Guru by his disciples. I submit this is not the way of dealing with madathipathis, as is done in this Bill. It may be in some cases, there has been mismanagement. It does not matter, if it is so. That is no reason to remove him without consulting the whole community. The proper remedy lies in rectifying the defect, and not abolishing the whole class of madathipathis. It is from madathipathis that people expect spiritual benefit. It is not from ordinary trustees they expect spiritual benefit. Therefore, so far as mutts are concerned, I respectfully submit, that the provisions of the Bill should be revised on the lines of the amendment I have given notice of. I have taken care to give a chapter to it. They are provisions which have been drafted not by me but by Mr. Surya Rao, assisted by some others. They have been taken from an earlier Bill prepared for controlling mutts and providing for the purpose of their better inspection, better budgeting and better maintenance of accounts. I submit the proposed provision in the Bill dismissing madathipathis from their post and putting the mutts in charge of others and giving them wide powers in respect of the maintenance of mutts is bad. I have devoted a long chapter for the purpose of dealing with mutts generously. In this I have followed the lines of the Bill relating to wakfs sponsored by Janab Abdul Latif Farookhi. He has put the community practically in charge of wakfs and given scope for very little Government interference. Muslims are really clever and they do not want even the limited interference by Government. They say that the Government ought not to

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put their profane hands, if I may say so without causing any offence, on their religious institutions. When that feeling of the Muhammadan community was respected, I do not see any reason why a similar feeling of the Hindu community should not be respected. There is heavy discrimination which is against the Constitution.

"So far as maths are concerned, the Venkataramana Rao Committee are for some Government control. But they said that they could not agree to the Government control over everything. They wanted Government control only over three matters--inspection, account and budget. There was a recommendation by them that the manager of a math must be appointed by the madathipathi of that math and that the Government should not thrust a manager of their own choice. I respectfully submit that the provisions relating to maths are very drastic and go against the sentiment of the community affected by this Bill.

"The Hon. Minister, the Mover of the Bill, said that the Bill had been before the public, that everybody had accepted it and that the great Non-Brahman community had accepted it."

THE HON. DR. T. S. S. RAJAN :—"I did not say so. The hon. Member cannot draw upon my speech as he likes."

SRI K. BHASHYAM :—"That is the way I understand it. That is my inference."

DEPUTY SPEAKER :—"The hon. Member must accept his explanation of what he meant."

SRI K. BHASHYAM :—"I accept the explanation with the reservation I have made.

"He said that a vast majority of Hindus had accepted the Bill. The evidence of the witnesses who appeared before the Joint Select Committee, except one or two, was just the other way about. We in the Select Committee went against the evidence for the purpose of supporting the Bill in the Joint Select Committee. It is not correct to say that a vast majority of the witnesses were in favour. Most of the witnesses who took the trouble of giving evidence were against the Bill or at any rate very many provisions of it. It may be that they have not come in large numbers leading a deputation or delegation, shouting slogans and making a demonstration in front of the Secretariat buildings. That is not the basis on which the Government should judge the strength of public feeling.

"Under the Constitution, a religious denomination is entitled to manage the affairs of a religious institution of that denomination and the management cannot be left in the hands of the Government. No doubt committees composed of persons belonging to the same denomination as the religious institutions are proposed. But the members of those committees will be appointed by the Government or their hierarchy of officers—the Commissioner, Deputy Commissioner and a host of Assistant Commissioners.

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There is no doubt that the members of these committees will be appointed by the Government. Who are the officers? They are Government servants belonging to the provincial service. They depend upon the Government for salary, allowances and promotion. They are not appointed by madathipathis and they do not depend upon madathipathis. The Government say that they are taking over only the general superintendence. But from the provisions of the Bill it is clear that they are taking over the entire control.

"The taking over of the administration of property is something more than taking over mere general superintendence. It is practically taking over the whole management. I submit the taking over of the administration of property is against the Constitution. The people of a religious denomination have the right to manage the affairs of a religious institution belonging to the same denomination according to law. I do not propose to deal with all the points raised on the floor of the House. I have given notice of a number of amendments and I shall speak on the points when the respective clauses are taken up. I say that the provisions of the Bill are really obnoxious and against the Constitution and the sentiment of the community affected.

"After the publication of the Bill with the provision for Temple Committees and all that, a respectable body of persons known as Saiva Siddhanta Nal Padippu Kazhagam met at a public meeting in Tirunelveli and passed a number of resolutions opposing the Bill. The members of such bodies are the persons who are really interested in the proper administration of temples and maths and the carrying on of worship, and not persons who do not go to the temples, who do not believe in God, and who are not disciples of any math. The body I referred to is distinctly against several provisions of the Bill. If the Hon. Minister has received a copy of the resolutions, he may look into them. After the publication of the Bill only, people are beginning to realize how it will affect daily worship and so on. If the Hon. Minister thinks it wise and necessary, some more time may be given.

"There is one more point and with this I will close. This question of improvement of religious endowments has been before the Government for a very long time. It may be that people do want some sort of improvement but certainly not to the extent of putting the whole management into the hands of the Government. By taking away the entire management, the Government are taking away the local initiative and local help that are necessary for running the institutions. The Government are taking away the capital of the institutions. Many charitable institutions have been established by Hindus, mostly Non-Brahmans. The Government are going to appoint an officer to administer each one of them. Will that be in consonance with the spirit of the founders of the various charities? I think the result of the Government appointing an officer who may not be connected with the founder's family and who may not be of the same religious persuasion as that to which the charity belongs will be that nobody will found a

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charity or give any money for charitable purposes hereafter. I think the Bill requires reconsideration on a considerable scale. Therefore, I request the House to accept my proposition."

SRI V. RAGHAVAYYA :—" Madam, Deputy Speaker, I second the amendment. For the weighty reasons put forward by our learned Friend, hon. Sri Bhashyam, this Bill may wait for a few days more until a Select Committee will have another chance of discussing the new provisions that have been inserted and seeing how far it is stepping on the toes of the citizens of this country whose elementary right it is to follow a particular mode and manner of worship. It is impossible for us at this stage to distinguish between worship and the manner of worship. It may be that those with a modern bent of mind may say that God is not in the temple only, God is everywhere, and ask: 'Why then should we worry about temples?' To ninety per cent of the people of this country, the manner of worship is more important than the matter. Perhaps several people do not know what worship is and they may not care to go into the intricacies of Vedanta. But that does not mean that other people should not pursue the time-honoured traditional system that has been vouchsafed to them by the unwritten law of this country. I think that it is necessary, in the interests of the Fundamental Rights vouchsafed to us by our Constitution, that we should wait a bit before we rush through an important Bill like this which has far-reaching effects upon posterity.

"Coming to the Bill proper, I should like to impress upon this House that in matters religious, it is no good of the Government adopting a money point of view. The financial wizards of this State or other States should not see how much more money they can get from the temples. I believe the various clauses of the Bill have failed to take note of those essential aspects from which the people would like the Government to view them, that religious institutions are not expected to be mercantile and that to them the people resort to take shelter from persecution and to derive solace from the daily trouble and turmoil that affect human beings. There is nothing else which can offer that amount of solace which is absolutely necessary for every human being at some stage of life. If one rushes through the various provisions of the Bill, Madam, he finds that they seem to proceed on one assumption. They take it for granted that the temples and maths are at present mismanaged. No doubt there are several cases of gross mismanagement. They also take it for granted that the best way of putting an end to this mismanagement is by the Government taking over of the administration. If the Government put forward a very laudable claim to too much efficiency in management and to their fool-proofness of mismanagement, I demur and tell them that the House as it is to-day is not in perfect order. As hon. Sri Bhashyam put it very correctly, we cannot take more than what we can chew. Are the Government managing efficiently what they have already undertaken? It is

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common knowledge—I am not making a tirade against any particular department—that many departments of Government are not functioning as ably as they ought to. I am not going to say that all things all right and add a feather to my cap. If any Member of the Government is under the impression that things are all right, he is sadly mistaken. I submit that many departments of Government are not functioning so ably and cautiously as they ought to. Much of the revenue to which they are entitled is being thrown to the winds. I went to a high official recently and told him 'Here is a case where a sum of thirty thousand rupees has not been shown on the account side, though it is given in the details. Why don't you look into it and collect what is due to the Government?'. The ledger has been shown to the Income-Tax Department and the Sales Tax Department several times. The officer nonchalantly asked me 'Why don't you give a complaint about that?'. Having lost a considerable sum, the Government expect another gentleman to make a complaint about it. I do not think that a Government which do not take care of their revenue can be called an efficient Government.

"But there are similar cases like that wherein the Government are losing huge sums, while they are going in after pies and levying tax on even chillies and the like. If they had made their administration of the Sales Tax Act more fool-proof and more efficient, they would have got more revenues. That is the sort of go-easy policy which they are following in that department, and if it is so in that department, we cannot expect that the Government officials would be so very keen and so very careful about the incomes of various temples scattered throughout the State, after this Bill is enacted into law. Are the Government going to allow the various trustees to squander the temple funds as they please? My own feeling is that the ordinary Penal Code must be able to deal with cases of mal-administration and misappropriations as effectively as this Act. But, the Government have taken upon themselves the entire responsibility of carrying out all the functions of the temples themselves, and of closely supervising the management and also scrutinizing the expenditure, etc., and I am afraid they are only inviting further trouble because they are taking upon themselves more responsibilities than they could possibly shoulder. It has been tried, not once, nor twice but a number of times and at all times they were not able to discharge their duties properly and they have failed on all previous occasions. As my hon. Friend Mr. Bhashyam has put it, it is more than they could chew. The Government officials who will be put in charge of these temples and other religious institutions will have no interest in the conduct of the religious rites and rituals in the temples and I am afraid that the incomes and revenues of the temples would go down. As some friends put it, this taking over of the administration of these religious endowments, is like asking somebody to decide a matter in which neither of the parties are interested. If I am asked to choose the best agency which would be able to look after the administration

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of the temples and other religious endowments. I would unhesitatingly say that a great Guru like the Sankaracharya whose Peetam is not controlled by the Government, should be placed at the helm of the administrative machinery, because it is he who commands the confidence, the respect and the reverence of the millions of the devotees and religious-minded people. If these devotees and these people donate or endow so much to these temples and religious institutions, it is because of the greatness of the Matadhipathis and Gurus. I would even suggest that the Government might invite great people like the Ramana Maharishi when he was alive or Sri Aravinda Gosh to advise them on this matter. If they cannot come, the Government might go to them, sit at their feet and discuss with them as to how best they could manage these institutions. That is the proper way and the right way to proceed in regard to this matter. There are enough religious men in this State who would be able to give a proper lead in this matter. My hon. Friend the Minister for Law Mr. Madhava Menon and the Hon. Minister for the Hindu Religious Endowments might think that they pass this Bill into law after discussing it in this House and by making their intellectual contribution to this debate. But that will not do. This measure must have the support of people who are religious and who are devotees and the opinions of great men like Sri Aravinda Gosh should be canvassed in support and they should be consulted and their advice sought to make this measure a success. I would therefore suggest that the Government would do well to discuss the Bill with such eminently religious people as to what is the ideal form of controlling these institutions, and act according to their advice and suggestion.

“Madam, my hon. Friend Mr. Bhashyam has no doubt been very keen in safeguarding the known and unknown rights of the hereditary trustees. There are several hereditary trustees who I know, are dishonest and who are blackguards. They simply hanker after these places in order to feather their nest. They think that the religious endowment is their property. They think that they must have a right to civic receptions in the villages under their control. In fact, they take it for granted that the property of the Trust is their own and enjoy them at the expense of the institution for which it is endowed. In England and other western countries, though the conception of what is called the ‘Divine right of Kings’ still exists, even the son of a King cannot claim to succeed the throne as a matter of right and that is why, that divine right of kings has of late been thrown to the winds. That being the case even in advanced countries like England, why should we still cling to the wonderful system of hereditary trusteeship and want that the son of a trustee should succeed to the trust. I think, Madam, it is a sheer waste to perpetuate the system of hereditary trusteeship and to preserve it for posterity.

“Then, Madam, many of these temples derive a lot of money from pilgrims and devotees by way of padakanikas, and in particular the Tirupati Devasthanam gets the most of its incomes from such sources. One of our Assembly Members is an Acharya Purusha of

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that great temple and he comes of a family of Acharya Purushas of the temple for more than a century and he knows what is the income that the temple gets from devotees and pilgrims and how it is spent and how the affairs of the temple are administered by the devasthanam. No doubt, Madam, this is a temple which draws thousands of pilgrims and devotees from all over India. Even people from Benares and other places in North India come to this temple and give their offerings, in money, in jewels and in several other ways. Are the Government going to take over the control of these institutions and utilize their incomes in the manner laid down in this Bill without consulting the authorities of the devasthanam and the devotees and worshippers? I do not know whether we are justified in not consulting the devasthanams, the worshippers and the donors who are thousands in number and make our own proposals and enforce our own will and spend the temple funds according as we please. What I wish to submit, Madam, in all earnestness is that these are religious matters and the temple funds should be spent essentially for religious purposes because it is with that object that devotees and donors have given their money. I would therefore suggest that priority should be given to the encouragement of religion and religious instruction, so far as the utilization of the surplus temples are concerned. The Government have their own notions and their own ideas about religion and religious education, and they have not as much regard for it as people would like them to have, and that is why they have stopped religious instruction in all schools and colleges as a matter of Government policy and so we cannot expect them to do much in this direction, even out of the funds of these religious endowments, although the present redoubtable Minister for Education is still clinging to Sanskrit being taught as an optional language in the schools because his zeal for Sanskrit is unparalleled. But several people do not think of Sanskrit now-a-days and nobody comes forward to encourage Sanskrit education and Sanskrit scholars who want to expound the rites, the rituals and the religious teachings enshrined in the various Sanskrit literature, Vedas and Upanishads. Why should not the Government make these temples and religious institutions the seats of Sanskrit culture and language which opens the doors to our great scriptures and teachings of our ancient seers and sages? Why should not some of our great Sanskrit Pandits be asked to translate these scriptures and religious works in the mother-tongue for the benefit of the common people who do not know anything about them? I therefore submit, Madam, that religious instruction not only from the academic point of view, but also from the point of view of our rites and rituals should be encouraged, and temple funds, which are essentially intended for the purpose should be utilized. We know that in most of these temples, poojas and worship according to our strict sastras and rituals are not performed and most of the people in charge of temples and worship do not know anything about them at all. Therefore the encouragement of Sanskrit both for academical purposes and also for studying the sastras and rituals should be the primary concern of these temples and this should be the first charge on the surplus temple funds. It is only then the Government might think of utilizing the funds for the various other purposes mentioned in the

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Bill, as for instance, the establishment of hospitals and encouragement of architecture. Perhaps somebody might suggest the inclusion of poultry-keeping or horse-breeding for the enlightenment of race-goers and the like, but, I submit, Madam, that the temple funds should not be diverted for such purposes. I do not say that those objects provided for in this Bill are in any way an illegal diversion of temple funds, but it is better that they are primarily spent for religious purposes. Madam, it might so happen that a person from Mangalore might be posted as a Commissioner of the Tirumalai-Tirupati Devasthanam and he might come there with his hat and boots and think that it is all a waste to spend temple funds for offerings to God and for religious purposes and he might squander them for his own purposes. Then how could these pilgrims and devotees who come to the temple from distant places be willing to give their offerings and moneys to the temple? Perhaps a Commissioner of a temple might think that the putting up of a cement road from Nellore to Madras would be better and suggest that temple funds could be used for such purposes. I submit, Madam, that although the objects mentioned in clause 64 are good in themselves, the object with which the donors and pilgrims have given their moneys should be kept in mind and the surplus should be utilized for those purposes alone. The medical and educational and other needs are no doubt important and good in themselves, but they should take only the next order of precedence, on the temple funds.

"Madam, let me just say one word about art and architecture which has been mentioned in the Bill. Temples are no doubt the greatest works of art and architecture. If you go to Muthra and see the temple there, you will be simply astonished at the finest pieces of art and the greatest architectural skill with which that temple had been built, although it is now more than a century old. In South India too, there are many such temples whose art and architecture would excite the admiration of the lovers of art. They speak of the greatness of our ancient civilization and the encouragement that people gave to men of art who built these great temples. I was told that a big temple in South India still retains a family of temple builders from generations past, because it is the members of that family who had built such beautiful temples in the South. I want that such things should continue and such people to be encouraged out of these temple funds.

"Madam, I have got only one word more to say and I shall finish my speech. To-day the sort of officials we are going to appoint under this measure are not persons who will improve the conditions in the temples or enhance their sanctity and prestige, nor will they enhance the prestige of the Government by their administration of the affairs of these temples. Madam, please excuse me for my blunt statement. They are bound to prick the hornets nest. It is not a welcome thing. If a private temple-trustee misbehaves with temple funds, he could be punished and dismissed. But if a Government servant so misbehaves or misappropriates any of the temple property, a great deal of odium will be directed by the public on the Government administration and that would have very bad repercussions in the country." I would therefore suggest that before the Government

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appoint their officials for these temples, they should choose only such men who are religious-minded and who are pious and god-loving and who are interested in the improvement of the affairs of the temple and who have enough experience of men and things and who would not wound the religious susceptibilities of the people in the country and of the pilgrims and devotees in particular. With these words, Madam, I commend the Bill, but at the same time, I support the amendment of my hon. Friend Mr. Bhashyam that it may be recommitted to the same Joint Select Committee for a fuller and a more thorough study of the various points raised by him."

The House rose to meet again at 2-30 p.m.

(After lunch—2-30 p.m.)

SRI P. KANDASWAMI PILLAI :—"Madam Deputy Speaker, I am here to oppose the amendment of hon. Mr. Bhashyam, and I wish that this Bill passes through this Assembly and becomes law as early as possible. My hon. Friend Mr. Bhashyam, advanced some arguments in support of his contention. He took shelter under the provisions of Constitution of India. He said that this Bill was opposed to several articles in the Constitution. Nowadays, Madam, it has become a fashion with everybody to take shelter under the provisions of the Constitution for anything and everything done in this part of the country. Madam, the Constitution is intended for the people, and people are not intended for the Constitution. ('Hear, hear'.) That attitude must govern our policy when we take into account the provisions of the Constitution. My hon. Friend Mr. Bhashyam was in the Joint Select Committee. He might have put forth all his arguments there to convince the other Members. I am sure he could not convince them, and that in spite of his opinion, the Bill has emerged from the Joint Select Committee in the manner and form in which it is now presented before us. No further argument is required after hearing the very thoughtful and learned speech of the Hon. the Minister. He has explained categorically all the defects of the Act which was brought into existence by the efforts of the late Raja of Panagal. Of course, at that time every one of us, who was doing Congress work, very strongly opposed that Act. Because we thought that interference by the State when the country was under foreign yoke, was not in the interest of the country. It was thought wrong to entrust our religious institutions in the hands of the Government. Afterwards when our leaders like Sri C. Rajagopalachariar and our Minister in charge of this Bill came to power, they adopted the Act, as it was, thinking that it would help to mend matters in our religious institutions. Time and again, Madam, on the floor of this House, we have pointed out the wrongs which are being done by the heads of mutts and trustees of temples. I can quote a number of instances in this regard. People, who were entrusted with public properties, have simply squandered them. Several acres of land were disposed of in favour of their friends and accountants to enable them to construct buildings on them. I am told that several temple *poojaris* have misappropriated the temple funds, and have also made use of the temple jewels to their own advantage. In ancient days, our great Rishis inculcated the idea of religion in the minds of Indians only to mould

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their character. Religion is not far away from the character of man. His mind and body should be well trained for the peaceful life of the country. That is the object with which our religion is founded. Now, religion and religious institutions became a simple formal affair. They just satisfy the letter but not the spirit of it. Whoever interferes with the work of the trustee when he does a wrong, is at once found fault with. The trustees rush to the Court. They seek shelter under the law. Under the provisions of the old Act, the Government cannot effectively interfere. That is the reason given by the Hon. the Minister for the present Bill. The present management of temples is not at all satisfactory. There is no doubt about it. Regarding the argument of my hon. Friend Mr. Bhashyam, we are not bothered. It is entirely left to the lawyers. He spoke much about the hereditary trustees. As has been stated by the supporter of the amendment, hon. Mr. Raghavayya, hereditary trustees think that temples are their own properties, and that they can utilize the temple funds as they like, not for the protection or the improvement of the trust property, but for their own purposes. When anybody adopts this attitude, surely the State must interfere. Of course, as the hon. Mover of the amendment stated, the trustees are wealthy and influential people. They can do things by spending their own money. That is very rare indeed. Rarely do people spend their own money for charity. This Bill says that only when a trustee does wrong, the Commissioner will step in, and the law will be set in motion, and not when trustees are discharging their duties properly to the satisfaction of the authorities. If the monetary side of the temple affairs is properly conducted the State will not step in. The Government are there only to give all support to all right-minded people and to all who do things in the right manner. It was stated in this House that most of the trustees were Non-Brahmans. I ask what is the wrong if they are Non-Brahmans. Brahman or Non-Brahman is not the criterion. The criterion is 'whether he does the right thing or the wrong thing, whether he does it in the interest of the people or whether he does it in the interests of the country.' The trustee may be a Jain, he may be a Brahman, or he may be a Non-Brahman. Even Jain temples are included in the Bill. When the trustee commits mistakes, the Government will step in.

"Madam, the properties that have been endowed to the maths have been ear-marked for a particular purpose. Mr. Raghavayya said that they were intended not for breeding leghorns. I do not know how he selected leghorns. Perhaps he has got some mania about them. Anyway that is not the object of the contributions. The object of the Bill is to prevent anyone from doing anything against the intention and spirit of the institutions.

"It is appropriately stated that there will be a Commissioner, an Assistant Commissioner and other authorities who will be appointed by the Government. That means the Government will take up the whole thing. Then only well-trained people can be put in and Matadhipathis can be prevented from spending money as they like.

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"Regarding 'padhakanika', it is said that it may be used as the Matadhipathis like, but they are bound to maintain accounts, with regard to this. All the devotees and all the people who have got faith in God come and pour the money thinking that it will be utilized for the betterment of the people and moulding of the minds and character of the people for the use of the society. Therefore, although the money is received as 'padhakanika', when it is used for very unreasonable and wrong purposes, it must be prevented. For this purpose, it is provided that they are bound to render accounts in this respect. If the Government are satisfied through the accounts that the money is being utilized in the right way, then there will be no interference. But if the money is used to spoil society and to purchase liquor, etc., surely the State must step in. Therefore, considering every aspect of this Bill, this legislation is very essential.

"The religious institutions entertain a fear about their inam rights. This is not a Communist State to forfeit anybody's property as it likes. This is a secular State where every one must be interested in the welfare of the society. So, there need be no fear that the daily rituals of the temples will be spoilt. There is a general provision in this Bill that all the employees under this Bill must be Hindus. In this connexion, I wish to point out that there are Hindus who have no faith at all in the temples and engender hatred towards these institutions but call themselves Hindus for the sake of inheritance. There are black-shirts also who call themselves 'Hindus'. Such people should not be employed under any circumstances. We can make any good enactment but the success of it depends upon the person who administers it. The best of laws will prove bad in the hands of a useless man. Therefore, in the selection of officials to administer this Bill, the Government must be very careful to select the right-minded man who has a religious inclination.

"Madam, regarding the performance of rituals, I want to say one thing. There are Siva's temples. Suppose a Vadagalai Ayyangar is put in charge of such a temple, I do not think he will discharge his duties efficiently because his ideas and inclinations will be quite different. Similar is the position of a Saivite in a Vaishnavite temple. All these things should be considered before the Bill is passed into law.

"Again now-a-days religious institutions have become merely places of interest to be visited. Our people are forgetting the real object of religion. Black-shirts are preaching day and night against all religious activities. They think religion is no more useful to them. This should not be the view of nasthikas. Of course, I do not want to oppose their views. But religion is intended for the betterment of the people. I have already said that the object of religion is to mould the character of society. A religious man will not utter falsehood, will not rob others' property and will not hurt or wound anybody's feelings. Mahatma Gandhi was a pure religious man. Some people decried him because he preached the removal of untouchability. When he preached the entry of Harijans into temples, these people thought he was not a religious-minded man.

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They said that he had killed our religion, but now they are convinced that he was a first-rate religious man. He did everything in the interests of our people. Therefore, I suggest that when people are selected for these posts, they must be religious-minded people and men of character.

"Preventing the enactment of a legislation is not good. I am told that some of the matathipathis are making arrangements to go to Delhi to file a suit in the Supreme Court and get some injunction against this Government. I assure them these are all vain attempts against a very big wave that is flowing. The people of the State feel that such a Bill must be passed into law as early as possible. Therefore, if any rich man or matathipathi or self-interested person wants to take any steps against this enactment, I am sure he cannot succeed in his attempt. All his money will be wasted in that direction. They must set right matters in religious institutions where there are wrongs. They must try to mend their ways. All the matathipathis must become real matathipathis to inculcate the religious spirit in the minds of the people. The matathipathi should set an example to others by his character. Example is better than precept. It is easier to preach than to practise. There is a saying of Valluvar 'சொல்லுதல் யாதிக்குமெனிய அரியவாடு சொல்லிய வண்ணாடு செயல்'.

So, when a man expects others to do a certain thing, he must set an example himself. Our religious heads must rise to the occasion. They must become real Gurus of our people. They must mould the character of the people. Then the national character will be raised. Blackmarketing will be put down."

DEPUTY SPEAKER:—"The hon. Member may confine himself to the provisions of the Bill."

SRI P. KANDASWAMI PILLAI:—"Madam, the object of the Bill is to prevent mismanagement of our religious institutions. The Government are not anxious to have control over them for their own purposes. These trustees who are in charge of these endowments are not doing their duties properly. Hence the necessity for the Bill. It has been brought before this House and I wish it is passed as early as possible. With these words, I oppose the amendment of Mr. Bhashyam and I support this Bill entirely."

SRI L. N. GOPALASWAMI:—"Madam, Deputy Speaker, I rise to support the amendment of my learned Friend Mr. Bhashyam. After having given my enthusiastic attention to the long written speech of the Hon. Minister, I find that there has been no convincing argument as to how the Government have been able to get over the legal difficulties experienced by my hon. Friend Mr. Vaidyanatha Ayyar when the Bill was originally introduced in this House. The difficulties have been pointed out to them. The Advocate-General was brought into this House. But he kept his mouth shut. Some opinion was expressed in writing. It was circulated to the Members. In my honest opinion, I am not able to make out what definite view he has committed himself to in that legal document that was placed in our hands. I am only reminded

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of the story where when there was a trouble as to whether a horse belonged to a Mussalman or to a Brahmin, the witness said the front side looks like the horse of the Mussalman and the back side to that of the Ayyar. (Mr. Raza Khan: 'Why?') (Laughter.) It is in that way that we are quibbling over the provisions of the Constitution. I see a definite intention on the part of this Government to overlook the provisions of the Constitution, leaving the matter to be decided as and when it comes by the Judges of the High Court, as if we here are not legislators and are not to discuss the pros and cons of the provisions. I am not able to understand this policy of the Government. Definite propositions have been laid, definite objections have been taken by hon. Mr. Vaidyanatha Ayyar to different points and definite notice of this Government has been drawn to the various provisions of the Constitution. I thought the Select Committee or the Hon. Minister, after having had the benefit of the evidence in the Select Committee, would be able to give us a clarification. A week back I saw in the papers that the Hon. Minister was in correspondence with the Central Government. I thought he was discussing the legal consequences with the Central Government. But suddenly another report appeared that this Bill was to be introduced into this House. That secret he has not let in. I do not know why he corresponded with the Central Government, what reply they gave and whether the provisions of this Bill transcend the provisions of the Constitution or not.

"Under these circumstances, I ask whether it is not necessary that this Bill should be recommitted to the Select Committee to go into the constitutional merits of this question. It may be as my hon. Friend Mr. Bhashyam expressed that the Select Committee itself may not be able to know the exact position, I mean the legal position in the matter. But, just as the Select Committee has been able to get evidence as to the dittams and various other rituals that are being observed in these mutts and temples, they could easily have obtained the legal opinion. For instance, they could have called the Advocate-General and even cross-examined him and found out whether the provisions of the Constitution have been infringed or not. I feel that the matter could have easily been referred to the Advocate-General of India also whose opinion might also have been of great assistance and use to this House in this problem. Last time, when this Bill was sought to be introduced, we were afraid that the Bill would become law in two or three months or even within that period. Now much water has flown under the bridge. It was then thought that the Bill could not wait even for a few months till the Constitution Act was passed. Anyway, it has not been brought before this House. Now the Constitution has been passed, and the Bill has been brought forward. But I must say that we are in the same position. Here again, I wish to say that it is much better for us to thrash out the constitutional matter beforehand prior to getting into dangerous grounds which may after all be not in our jurisdiction. It is very clear in the Constitution. Though I have not much to do with law, I can easily say that the secular Government cannot do anything which affects the Hindu temples as such. Does this Government feel that all the other religious institutions except the Hindu ones are well-managed, o

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has this Government no courage to take over the other institutions as well so that there may be a common legislation for the whole State instead of the present one affecting the members of a particular religion only. Even in the case of Jains, it is said that if the Government so feels they can make this enactment applicable to Jains institutions also. Do the Government believe that every other temple and institution than the Hindu temples and institutions are all right? Have the Government courage to bring forward legislation to cover all institutions belonging to all religions? I only wish to point out the hurry with which we have been going and the hurry with which are going to pass this legislation. The Hon. Minister said that the whole matter was discussed in the Select Committee. No doubt, they received witnesses, examined them, got the reports of the matathipathis and others interested in the matter. But, how far it has served our purpose is the question. We will have to see how far it has gone to meet the requirements. In this enactment, I am not able to see any change which is very useful. The only change that I find is the one relating to the maths and matathipathis. In my opinion, the whole thing has been a fundamental repetition of the Hindu Religious Endowments Act with greater powers by which everything is sought to be vested in the Government. They probably think that for all the ills, the only remedy is to entrust everything with the Government and they will look after all the affairs. To a limited extent they have taken over the management of all religious institutions by the Religious Endowments Act sponsored by the regime of Mr. Panagal. I would like to ask how far these executive officers whom the Government have appointed been able to make the necessary improvements in the temples taken over by the Government. Even to-day, persons who have no faith in Hindu religion and no interest in the institutions are being appointed as executive officers. I can quote one instance. It was suggested that matathipathis have misappropriated the math funds and all that. I can without fear of contradiction say that in many cases, the executive officers whom the Government appoint and many other officers of the Endowments Department have absolutely no faith whatsoever in the Hindu religion. They ask, why should so much of food be offered to God, why should the temples be electrified and so on. They go inside the temple and take their bath in the very well, the water of which is intended for the deity of the temple. Is this the way in which you enlarge the scope of the Hindu religion? Is this the way in which you seek to purify the many impurities that you say are noticed in the Hindu religion? Is this the way in which your executive officers should behave? The Government appoint these executive officers to take control of these institutions from the private bodies. Here, I would like to observe that the mere taking over of these institutions by the Government and entrusting the work to such executive officers and others who have no faith in the religion would never solve the problem that you want to solve. For instance, I may be permitted to mention the case of food. This problem has been taken over by the Government and they have introduced rationing everywhere in the State. What is the result? We are now hearing complaints and cries from every nook and

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corner that the rationing system has not been working properly and there are many people who are left without anything to eat. So it cannot be presumed that simply because the Government take over certain things under their control everything would be managed better. Hon. Dr. Rajan said that many people are not forthcoming to take up this kind of management of temples. I would like to ask him whether he had gone into the question more thoroughly. As a matter of fact, the non-official trustees are not given discretion in the management of the affairs of temples and other institutions. You never give them power and always interfere with their normal working and never allow them to use their discretion. If this state of affairs is to continue, I am afraid it would not be possible for you to get any self-respecting gentlemen to take up the post of honorary trustee, especially when you want to restrict his powers and duties. If you give him more powers, more scope and allow him to use his discretion, then certainly there will come respectable gentlemen to take up this post. Already party politics is playing its role in the matter of appointments in this department. Only such persons who are likely to be amenable to the party is appointed to the various posts and others are tabooed. If you adopt this method, then you cannot find or hope to find any charitably-disposed and religious-minded gentlemen to take up posts in the department. When you are not able to find the right type of men for taking up the various posts from among the public, how do you expect to get them from among the restricted number of Government servants? Attenders, clerks or head clerks of the Revenue department or some other department will have to be promoted to such posts. Nothing else could be done. Don't you think that religious minded and charitably-disposed people can look after the affairs of these institutions much better than those people who have to be promoted from various posts which they may have been holding under the Government. That is why the Constitution has provided that they will have only to supervise and not manage or administer. The Hon. Minister while introducing this Bill said that nowhere have the Government made any provision for the management of these temples and they only wanted to supervise. The first duty that enjoins upon the Commissioner is given under Chapter IV under Clause 22, which says:

'Subject to the control of the Government and the provisions of this Act, it shall be the duty of Commissioner to see to the proper management of the affairs of religious institutions and he may do all things which are reasonable and necessary to ensure that religious institutions and endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded or exist'.

In the Explanation under this section, it is said:

'The Commissioner shall have power to pass such interim orders as he deems necessary for the proper maintenance of a religious institution or the proper administration of a religious endowment'. Under this section the Commissioner can even close a temple if he should think it necessary. Your control should only be by way of supervision and nothing more. Supervision in one thing, control is another and management is a third thing. As was pointed out by hon Mr. Vaidyanatha Iyer when he opposed this Bill last time, if the Government feel that a particular institution is not properly working and a particular thing is not properly done, it has got powers to supervise the work of such institutions and can check such institutions whenever they go wrong; but

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has this Government no courage to take over the other institutions as well so that there may be a common legislation for the whole State instead of the present one affecting the members of a particular religion only. Even in the case of Jains, it is said that if the Government so feels they can make this enactment applicable to Jain institutions also. Do the Government believe that every other temple and institution than the Hindu temples and institutions are all right? Have the Government courage to bring forward legislation to cover all institutions belonging to all religions? I only wish to point out the hurry with which we have been going and the hurry with which are going to pass this legislation. The Hon. Minister said that the whole matter was discussed in the Select Committee. No doubt, they received witnesses, examined them, got the reports of the matathipathis and others interested in the matter. But, how far it has served our purpose is the question. We will have to see how far it has gone to meet the requirements. In this enactment, I am not able to see any change which is very useful. The only change that I find is the one relating to the maths and matathipathis. In my opinion, the whole thing has been a fundamental repetition of the Hindu Religious Endowments Act with greater powers by which everything is sought to be vested in the Government. They probably think that for all the ills, the only remedy is to entrust everything with the Government and they will look after all the affairs. To a limited extent they have taken over the management of all religious institutions by the Religious Endowments Act sponsored by the regime of Mr. Panagal. I would like to ask how far these executive officers whom the Government have appointed been able to make the necessary improvements in the temples taken over by the Government. Even to-day, persons who have no faith in Hindu religion and no interest in the institutions are being appointed as executive officers. I can quote one instance. It was suggested that matathipathis have misappropriated the math funds and all that. I can without fear of contradiction say that in many cases, the executive officers whom the Government appoint and many other officers of the Endowments Department have absolutely no faith whatsoever in the Hindu religion. They ask, why should so much of food be offered to God, why should the temples be electrified and so on. They go inside the temple and take their bath in the very well, the water of which is intended for the deity of the temple. Is this the way in which you enlarge the scope of the Hindu religion? Is this the way in which you seek to purify the many impurities that you say are noticed in the Hindu religion? Is this the way in which your executive officers should behave? The Government appoint these executive officers to take control of these institutions from the private bodies. Here, I would like to observe that the mere taking over of these institutions by the Government and entrusting the work to such executive officers and others who have no faith in the religion would never solve the problem that you want to solve. For instance, I may be permitted to mention the case of food. This problem has been taken over by the Government and they have introduced rationing everywhere in the State. What is the result? We are now hearing complaints and cries from every nook and

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corner that the rationing system has not been working properly and there are many people who are left without anything to eat. So it cannot be presumed that simply because the Government take over certain things under their control everything would be managed better. Hon. Dr. Rajan said that many people are not forthcoming to take up this kind of management of temples. I would like to ask him whether he had gone into the question more thoroughly. As a matter of fact, the non-official trustees are not given discretion in the management of the affairs of temples and other institutions. You never give them power and always interfere with their normal working and never allow them to use their discretion. If this state of affairs is to continue, I am afraid it would not be possible for you to get any self-respecting gentlemen to take up the post of honorary trustee, especially when you want to restrict his powers and duties. If you give him more powers, more scope and allow him to use his discretion, then certainly there will come respectable gentlemen to take up this post. Already party politics is playing its role in the matter of appointments in this department. Only such persons who are likely to be amenable to the party is appointed to the various posts and others are tabooed. If you adopt this method, then you cannot find or hope to find any charitably-disposed and religious-minded gentlemen to take up posts in the department. When you are not able to find the right type of men for taking up the various posts from among the public, how do you expect to get them from among the restricted number of Government servants? Attenders, clerks or head clerks of the Revenue department or some other department will have to be promoted to such posts. Nothing else could be done. Don't you think that religious minded and charitably-disposed people can look after the affairs of these institutions much better than those people who have to be promoted from various posts which they may have been holding under the Government. That is why the Constitution has provided that they will have only to supervise and not manage or administer. The Hon. Minister while introducing this Bill said that nowhere have the Government made any provision for the management of these temples and they only wanted to supervise. The first duty that enjoins upon the Commissioner is given under Chapter IV under Clause 22, which says:

'Subject to the control of the Government and the provisions of this Act, it shall be the duty of Commissioner to see to the proper management of the affairs of religious institutions and he may do all things which are reasonable and necessary to ensure that religious institutions and endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded or exist'.

In the Explanation under this section, it is said:

'The Commissioner shall have power to pass such interim orders as he deems necessary for the proper maintenance of a religious institution or the proper administration of a religious endowment'. Under this section the Commissioner can even close a temple if he should think it necessary. Your control should only be by way of supervision and nothing more. Supervision in one thing, control is another and management is a third thing. As was pointed out by hon Mr. Vaidyanatha Iyer when he opposed this Bill last time, if the Government feel that a particular institution is not properly working and a particular thing is not properly done, it has got powers to supervise the work of such institutions and can check such institutions whenever they go wrong; but

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surely, the Government cannot say, "Well you have not done this, you have not done that; so we will take over the management of your institution as you people cannot manage the affairs as we do".

So it is not correct to say that the Government do not propose to take the management of these institutions. By this enactment, they want to take the very management of these institutions upon themselves. I would like to ask the Government rather seriously whether they hope to manage the affairs of the lakhs of religious institutions in this State with the help of the staff that they have on hand. The Government want to appoint persons to the various posts in this department on Rs. 30 or Rs. 40. Do you think that such persons who are willing to take up posts for this amount will have the instinct and capacity to manage the institutions? Such officers who may be appointed for this purpose have to deal with various topics of religious functions in these temples and institutions. If an ordinary school-final man who has nothing to do with religious affairs and who might have worked in some of the offices under the Government is promoted to such posts, he will not be in a position to understand the A, B, C of the duties that he may have to discharge. He would just go into the temple and on seeing a tank which is supposed to be a sacred one, might say, 'Well, this is a nasty tank, it should not be here and should be closed and there should be a garden over it'. Again when he goes round the old prakarams of the temple, he will remark, 'Oh, there is no proper ventilation: so the whole structure should be remodelled'. Like this he will go on giving suggestions which would be quite out of place. The whole point is he cannot understand the various implications of his suggestions with respect to religious matters, unless he has faith in the religion and ancient customs. One clause is, however, provided that only Hindu gentlemen can be appointed to such posts. I would like to ask how many of these have real faith in the tenets of the Hindu religion. My point is that people who have no faith whatsoever in Hindu religion have taken up these posts. I have come across many instances. If you are not able to get from among the public the right type of persons who are very enthusiastic to run these temples and institutions, how are you going to get them from among the Government servants to take up this responsibility. When you are not able to get men from a larger field, how are you going to get them from a very restricted field? I, therefore, submit that in the interests of the provisions of the Constitution being saved and in the interests of saving a lot of discussion, money and worry, in the interests of the poor people who are managing these Trusts and saving them from rushing to the High Court and other Courts and in the interests of avoiding endless and unnecessary litigation in this matter, I would suggest that the Bill be referred back to the Select Committee especially with a view to find out, preferably after getting expert opinion in the matter as to whether this Bill does not infringe the provisions of the Constitution.

"Now, coming to the Bill itself, Madam, I would like to say that the Bill has far-reaching consequences. By taking over the management of these temples and other religious institutions,

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you are going to spoil even the small spark of religious faith in these places. Everything will be commercialized and you will begin to look at these as economical concerns. Under the name of economy, your officers will begin to do so many things. The reason for this is not far to seek. Even now, the executive officers have closed the festivals in the village temples. No cars are being driven in the streets. These cars of the temples remain where they have been that is in their own places and there is nobody offering to take them round. The executive officer does not take any interest in the matter. If, however, the local management had these temples under their control, will they ever allow such a state of affairs to continue? I understand that the big temple of Tiruvalur, which is one of the best temples in the south and which has got a large amount of money for its fund is not able to take the car once a year round the temple. This has not happened for centuries till now. I ask, is it because of the executive officers appointed by you?

"Again, the powers that you have entrusted with the Commissioner are excessive. To-day, everywhere there is a cry for the separation of the judiciary from the executive even in the case of the ordinary law. But here we find that both the judiciary and executive functions have been vested with this Commissioner. He is all in all in matters relating to these institutions. He himself will decide questions affecting these institutions and it is only in exceptional cases, appeals will be taken to the Government. We should not invest this Commissioner, who is an executive officer, with judicial powers. I should think as that these executive officers do not know anything about the judicial aspect of such matters and it is only right and proper that judicial aspects relating to such matters should go before a competent court or Tribunal which should be constituted for this purpose. Otherwise, we will not be achieving any purpose by entrusting all these endowments into the hands of those who are not competent to decide on the judicial matters.

"Then, we have got a provision by which it is said that the persons who will be entrusted with this work should be of 35 years of age. I do not know how wisdom dawns on a person only after 35 years. I know there are many young men who are perhaps more competent to run the administration of these institutions than persons between 35 and 70 years. I hope this age-limit may be all right in the case of appointments for the post of Judges and others. These executive officers would have to run about from place to place in connexion with the affairs of the institutions under their charge. For doing such jobs, it would be much better to have young people rather than having old people. I don't know why 35 years age-limit is fixed. I have got some amendments to be moved with regard to this and also other sections and I shall do so when we come to the discussion of clauses. When we deal with this matter of taking over the administration of such religious institutions, you should be rather careful. These endowments have been instituted by certain philanthropic Hindu gentlemen for a certain specific purpose and as such the persons whom you appoint to positions in this department should not only profess Hindu religion but should

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have sufficient faith and experience in the precepts of the Hindu religion. Otherwise there will be difficulty and trouble. I should think that there should be adequate provisions in the Bill itself for the removal of the executive officers as well as the Commissioner immediately it is brought to the notice of the Government and proved that they do not profess the Hindu religion or ceased to have faith in that religion. Otherwise there will be no meaning in it and we will not be achieving our object.

“Then, there is another clause which says that any surplus money of these mutts and endowments can be diverted to other purposes. In the clause relating to the Tirumalai-Tirupati Devasthanam, there is provision for the training of archakas from out of the Devasthanam's funds. This provision is not made in respect of other temples. I do not know why. If we look into clause 61 we will find that grants can be made for the establishment and maintenance of a university or college or other institutions in which special provision is made for the study of Hindu religion, etc. The university may provide for it but really there may not be any persons who would like to join. In that case also, this provision will entitle the university to get a grant and any Deputy Commissioner may be ‘pleased’ to make the grant. Provision exists also for the establishment of asylums, orphanages and many other things. I cannot by any stretch of imagination concede that this is just. Just like the funds of the Harijan Welfare Fund which are diverted to other channels—to help the Christians and others and not the Harijans alone—these funds will also fall into the hands of persons with no scruples who will use them—these sacred funds belonging to God—in such a way as to fill their coffers, i.e., by undertaking to run hospitals, asylums, etc.

“There are other arbitrary provisions also which entitle the Commissioner to have access to any portion of the temple. In one clause it is said that he can go right to the place of worship. I do not know whether custom will allow it. If the executive officer happens to be a person who is not entitled to the right to offer puja, if he happens to be a Commissioner who is not entitled to access to the *sanctum sanctorum* of the temple in normal times, this Bill will enable him to go there and see whether the archaka or the poojari performs his duty properly and whether he has placed the flowers properly on the deities. I hope the Government will go into this matter thoroughly and bring forward suitable amendments so as not to offend our ancient customs. All these matters like *dittam*, etc., should be left to the local people to be looked into. They know what is to be done, what is necessary and what is not. We cannot arrogate to ourselves the right to appropriate the funds of an endowment for other purposes than for which they were intended nor go against the sentiment of the people, simply because we think that a particular religious endowment is unnecessary and out of date. To quote an instance, in my village there is a temple where we have a sixth kalam (time) pooja. Five kalam had already been in vogue and a sixth is added. A certain fixed quantity of rice has to be cooked, offered to the deity and then distributed. Now if an Assistant Commissioner is appointed, he would

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say, ‘the God is already eating five times and why eat another ten or twenty measures of rice by way of a sixth kalam; this is unnecessary and, therefore, divert the funds to some other purpose.’ Unless the officer belongs to the locality, unless he is able to understand the provisions made already for the pooja, he will not appreciate the sentiments of the people of the area. Probably the Government will put an officer from Cape Comorin in charge of a temple in Visakhapatnam and an officer from Visakhapatnam near Cape Comorin and he will not be able to understand the A, B, C of the customs of the local people nor the way in which the affairs of the temple is to be conducted. The Government must see that they take steps to improve the state of affairs in temples and not do anything that will make the remedy worse than the disease. If the Government really want to set right matters, this is not the wise way. If extraneous and foreign elements are brought in they will be able to do justice neither to themselves nor to the religious institutions. Madam, these are the points that I wanted to place before the House for its consideration and I hope that the Government, in spite of the fact that they have not been used to that habit, will give some consideration to the opinions expressed and bring in necessary amendments to meet some at least of the points raised by the Members.”

SRI T. S. PATTABHIRAMAN :—“Madam, Deputy Speaker, it is with very great pleasure that I rise to support the Government Motion for introducing the Bill as reported upon by the Joint Select Committee. In doing so, I must say that I was rather surprised and amused when I heard the speeches of my hon. Friends, Mr. Gopalaswami and Mr. Bhashyam attacking the fundamentals of the Bill. I hope the country has now become conscious of the cobwebs that have peeped into our Hindu religion and shrouded its glory that had been the pride of our past. The object of the Bill, as every one knows, is not to strike at the roots of the Hindu religion but to remove the cobwebs and make it healthy and new and worthy of the great sages whom this nation could boast of. Madam, it was surprising that a great lawyer like hon. Mr. Bhashyam and a person like hon. Mr. Gopalaswami, who has been instrumental for eradicating the evil of untouchability which has been the greatest drawback of the Hindu religion, should express fears about this measure. We believe that public opinion has already moulded itself very strongly and very favourably towards the Bill and we have also seen violent and exuberant expressions of the same in the streets, in the Press and on the platform. If further proof is needed I would ask my hon. Friends to go and address public meetings attacking this Bill and they will see the results. They will see the consequences of such attacks. Let me deal with the fundamentals of the Bill referred to by my hon. Friends. Strangely enough, Madam, it has been our privilege in recent times to see the people of our State rushing to the court for all sorts of frivolous things. To-day we heard a warning from hon. Mr. Bhashyam, a great lawyer as he is, that this Bill will be declared *ultra vires* of the Constitution if

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passed into law, that it was illegal and unconstitutional to proceed with it and so on. It is more surprising that hon. Mr. Gopalaswami also would say that this Bill is *ultra vires* of the Constitution, and, therefore, will be declared void by the High Court. Madam, the Bill was published for the first time more than three years ago and for a full three years it has been before the public. Various objections had been received during this period and suitable changes in the original Bill were made as a result. With such improvements made, the Bill was before the Select Committee for a full one year from February 1949 to February 1950. Granting, for the sake of argument, that the Bill had not succeeded in moulding public opinion during this period, did they care to put forward their objections for the consideration of the Government in time? If they had not cared to do so, it is not the fault of the Government but of those who having deliberately kept quiet then seek the present opportunity of ventilating their personal and political animosities under the guise of legal and moral issues. Members have now, after the inauguration of our independence on the 26th January, come forward with objections saying that 'Religious institutions' is a concurrent subject and that this State has no power to legislate on it. May I submit, Madam, that the Select Committee on this Bill, which went into it thoroughly and exhaustively, met for the last time on the 4th and 5th of February, i.e., after the inauguration of our independence, and would have given considerable attention to the legal aspect of the provisions of the Bill? I am sure the Legal Department would have also considered these points in the interval between the inauguration of our independence and the last meeting of the Select Committee. I am sure the Department would have given their minute attention to these factors and only on their advice this Bill has come up before the House again. If hon. Mr. Bhashyam had not cared to bring the defects he has pointed out to-day, to the notice of the Select Committee at its last meeting then it means that he has some other reasons to oppose this measure and not the ones he has expressed.

"Madam, it has become the fashion of the day to raise the Fundamental Rights clause in the Constitution for everything, in season and out of season, inside the Legislature and outside of it. It is a pity that that clause is being used as an instrument to retard the progress of our nation, the progress of legislation and the progress of the community. To-day we saw hon. Mr. Bhashyam quoting Articles 14 and 15 of the Constitution. He said with reference to those articles that the present Bill makes a discrimination. What is that discrimination? What is the discrimination that is sought to be made by the Bill? What is the discrimination that is alleged? Hon. Mr. Bhashyam is a clever lawyer but unfortunately his arguments are not so convincing here as they used to be in courts. He pointed to maladministration and mismanagement of non-Hindu trusts and endowments and said that those that are responsible for it are let scot-free. If this is the discrimination he alleges and if this is considered a discrimination, then I am sure no legislation can ever be passed affecting Hindu

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life. For example, the Hindu Code Bill cannot be pushed through. It is a Bill which deals with our rights, privileges, customs, etc., including the question of inheritance. That Bill prohibits a Hindu marrying more than one wife, whereas the Muslim can have four wives. Can we call this a discrimination? These are all frivolous objections and if they are entertained, there can be no limit to 'discrimination'. Unfortunately our legal pandits use their talents, use their brains and their capacity, to retard the progress of the nation and I am afraid the present objection is one of the methods for delaying the legislation. If our Legal Department is to be trusted, I can say that the Bill does not violate any of the Fundamental Rights adumbrated in the Constitution and is quite in order. And it is really strange, Madam, that hon. Mr. Bhashyam should make a motion for recommitting the Bill to the same Select Committee for further examination. It is enough if we have public opinion behind us and this public opinion we have had in abundant measure. Even the Dravida Kazhagam which is anti-Congress in every way has supported the measure. It has not only supported the measure but has gone to the extent of praising the Minister who has piloted it. ('Hear, hear'.) If in spite of these, persons like hon. Mr. Bhashyam and hon. Mr. Gopalaswami, refuse to read the writing on the wall, it is only their misfortune and not of any other individual or the Government. Hon. Mr. Gopalaswami asked 'what have the executive officers done to improve the condition of our temples and mutts'. I wonder if he has gone into a temple after these executive officers have been appointed. If he had gone into a temple after the appointment of these officers he would have found what work they have done. Let me remind him that the temples and mutts have been places of public robbery. Persons who go there are robbed in a constitutional way, and the persons who rob them are let scot-free. If you go to Srirangam temple, you will be fleeced to the skin and robbed of all the money in the name of God and religion. If you go to Tirupanandal or Tiruvaduthurai, you will have to give to the matadhipathi not paper money, but sovereigns. And where do these go, to charity, to the improvement of Hindu religion? No. Certainly not. We have done all our best to improve our religion through these matadhipathis but we have failed in our attempt.

"Madam, I do not want to make public accusations about the matadhipathis. They have brought enough disgrace for Hinduism by committing atrocities in the name of religion. The sooner they are wiped out the better for our religion and our country.

"This Bill is only trying to purify the Hindu religion. Power is vested in the Board only to see that things are done in a proper manner and in a proper spirit. It will not allow the matadhipathis to take money and enjoy personal pleasures. It will make them real symbols of Hinduism, which they have now ceased to be. When the Bill becomes law, it will be a landmark in the improvement of Hinduism and in the glorification and revival of Hindu religion which has now lost all its glory on account of the un-controlled action of the matadhipathis.

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"Madam, we must be sparing in our criticism and we must not be unfair to our political opponents. The Justice party with all its faults and its omissions must be congratulated for the one measure which they passed for taking over the control of the religious institutions and temples. But for that, Madam, Deputy Speaker, the facilities that you are now getting at Palni, Srirangam, Tiruchendur and other places, where an individual can go and have darshan freely without the annoyance of the archakas and the other parasites of the temples, you could not have had. To-day Hinduism is better than what it was in the past and if we remove all the cobwebs around it now, it will be still better. Therefore I am confident that every well-wisher of the Hindu religion will be able to support this Bill.

"But Madam, it is rather strange to see learned persons arguing that religious interference is bad. Unfortunately these people have not studied other constitutions. To-day we look to the House of Commons in England as a supreme example of what democracy stands for. In the United Kingdom, the Crown is not only the secular king of the people, but he is also the head of the Church. There is a combination of the Church and the State. What is wrong with that? Is it not right on our part to see that the religious institutions keep within certain limits and help the people rather than hinder them in the name of religion? This Bill is certainly not interference with religion in any way. It is only interference with maladministration, swindling, cheating and humbug going on in the name of religion. It is what is being done by a number of sanyasis, matadhipathis and temple priests. They are doing all sorts of objectionable things. They are making the temples into gambling houses and pleasure houses. These things are to be washed away by this Bill. Does it mean that it is interference with Hindu religion? I am sorry to speak all these things rather bluntly but unfortunately some of my hon. Friends in their anxiety to save the matadhipathis and the feudal lords from annihilation are trying to plead for them and glorify them. I was rather amused when hon. Mr. Bhashyam said that we must not speak in disrespectful language about these people and that we must worship them. But what are these people? Have they not gone out of their way and brought down Hinduism? May I ask whether these great institutions have built one hospital for the Hindu patients? Have they built one college for Hindu students? Have they built one orphanage for the Hindu children? They have not done anything. They have been swindling away the money, committing robbery and doing all sorts of things to satisfy their own whims and fancies. They have failed in their duty.

"Madam, hon. Mr. Bhashyam asked, 'What is the fun of taking away the administration of the maths from the hands of the matadhipathis? What is the fun of allowing them to attend to only religious duties?' Certainly, Madam, if my hon. Friend wishes that the matadhipathi should be a religious head, he must welcome this feature of the Bill. It is not the duty of the matadhipathi to look after the secular and mundane affairs of the math,

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He need not concern himself with the rupees, annas, pies, lands, money and jewels. It is for him to cater to the spiritual needs of the people. It is his duty to help the people to attain spiritual good. For that purpose he must have full time at his disposal. If the Bill becomes an Act, it will relieve the matadhipathi of all mundane, secular and worldly duties concerned with the administration of the math and he will be in a position to spend his full time—all the 24 hours of the day—for religious purposes and for doing religious propaganda, and for purifying Hindu religion. On that account at least, I hope hon. Members will be able to welcome the Bill with enthusiasm.

"Madam, finally, although I have differed from hon. Mr. Gopalaswami in many things, I think there is one thing on which I have to agree with him. In clause 24 (b) it is said that no person can be appointed to the office of the trustee of a religious institution unless he is not less than thirty-five and not more than seventy years of age. I hope I am not mistaken when I say that senility is usually associated with old age. Certainly youth is necessary for carrying out reforms. The youth are the best persons for this kind of work. At 35 years of age, man becomes burdened with so many things. People of that age will not have so much interest or zeal or fervour. It is only persons between the ages of 21 and 35 who will have the necessary zeal for this kind of reform. I would urge the Hon. Minister to reconsider this provision; otherwise it will amount to an insult to the youth of the country who are the pride of the country and on whom the future of the country depends. It will therefore be a tragedy if only old men should be selected for these places. The work requires energy, drive, enthusiasm and crusading spirit."

DEPUTY SPEAKER:—"Does the hon. Member consider people of 35 years to be old?"

SRI T. S. PATTABHIRAMAN:—"Sufficiently old, in my opinion, Madam."

JANAB M. S. ABDUL MAJID:—"What about the Hon. Minister himself?"

SRI T. S. PATTABHIRAMAN:—"At least let the Hon. Minister reconsider this age-limit. He must be able to justify the position that people above 35 years alone will be suitable. The Hon. Minister may say that people who have attained the age of 35 will have much experience. In fact, it is the young people who have got as much experience as people of 35 years, for there are a number of propaganda machines now working—newspapers, magazines and broadcasting. The people also have got social contact and even at 25 years, people get a lot of experience. Therefore the argument of lack of experience will not hold good to justify this provision. I request the Hon. Minister to reconsider this. Otherwise it will be an insult to the youth of the country. You must have confidence in them. When the Bill becomes law, all that we want to be achieved can be achieved.

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only by the crusading spirit of the youngsters. With these words, I strongly support the motion which has been moved by the Hon. Minister.

“Madam, we are already late in passing this Bill. People are already complaining that we are trying to stop this Bill and to sabotage it. There are already rumours afloat and a propaganda machine has been set working against us saying that we are not sincere about this Bill and that the capitalists and the matadhipathis have gained an upper hand through some source. Let us show that they are mistaken. The Bill will do good to the great Hindu community and the Hindu religion. Let us therefore march on. As the late lamented Mr. Satyamurthi said, let the ravens croak in Mount Road and Coom—and may I add also at Tanjore and at Tirupanandal,—let this Bill march on until it is passed into law.”

SRI K. T. KOSALRAM :—“Madam Deputy Speaker, இந்த ஹிந்து மதப்பிரபலன மசோதாவானது இரண்டு வகுப்புகளாக இந்த சட்ட சபையின் முன்னதாக இருந்துகொண்டிருக்கிறது. அன்னைபிரந்தும் நமது நண்பர் கனம் பாஷ்யம் அய்யங்கார் அவர்கள் இந்த ‘பில்’ லே மீண்டும் பொறுத்துக் கமிட்டியின் அறிவுரைகளை மென்றும் பொறுத்துக் கொண்டு வருவதற்குக் கமிட்டியின் விவாதத்தின்மீதுள்ள தீர்மானத்தைக் கண்டு வருந்தாமலிருக்க முடியவில்லை. அதை நான் ஹிந்துய புரவமமாக எதிர்க்கிறேன். தவிர கனம் பாஷ்யம் அய்யங்கார் அவர்கள் இதைக் கொண்டு வரும்பொழுது constitution அதாவது அரசியல் சட்டத்திற்கு இது முரணாக இருக்கிறது என்றும் அவர் வாதம் செய்கிறார். அரசியல் சட்டம் நடைமுறையில் வருவதற்கு முன்னதாகவே இந்த சட்டமானது இந்த சட்டசபைக்குக் கொண்டுவரப்பட்டது என்பதை அவர் மறந்துவிட்டார். அதுமட்டுமல்ல, அதைத் தவிர மற்றொன்றையும் சொல்லி வாதமிடுகிறார். இந்த ‘பில்’ லே Advocate-General-க்கு இன்னும் மொரு முறை அனுப்பி அவர் பார்க்கவேண்டுமென்றும் வாதமிடுகிறார். இந்த ‘பில்’ சம்பந்தமாக அவருடைய அபிப்பிராயத்தை, மறுபடியும் தெரிந்துகொள்ள வேண்டுமென்றும் சொல்லுகிறார். ஆனால் அட்வோ கேட் ஜெனரல் அவர்களும் பொறுத்துக் கமிட்டியின் விவாதத்தின்கீழ் பிரச்சனையை இருந்தார் என்பதையும் அவர் மறந்துவிட்டார். ஒவ்வொரு clause-யும் விவாதிக்கும் பொழுதும் அவர் பிரச்சனையாகி இருந்தார். ஒவ்வொரு clause-க்கும் அட்வோகேட் ஜெனரல் தன்னுடைய அபிப்பிராயத்தை அரசாங்கத்திற்கு தெரிவித்திருக்கிறார். ஸ்ரீ இராஜாவய்யர் அவர்கள் ஒவ்வொரு நாளும் கனம் பாஷ்யம் அய்யங்கார் பொறுத்துக் கமிட்டியில் கொண்டுவந்த திருத்தங்களையும் பதில் சொல்லியிருக்கிறார். அவ்விதம் அட்வோகேட் ஜெனரல் தன்னுடைய அபிப்பிராயத்தையும், legal department தன்னுடைய அபிப்பிராயத்தையும் அந்தந்த காலங்களில் பொறுத்துக் கமிட்டியின் விவாதத்தின்கீழ் தெரிவித்திருக்கிறார்கள். அவ்விதம் ஒவ்வொரு சமயமும் விவாதம் நடந்தபொழுது கனம் பாஷ்யம் அய்யங்காரும் பிரச்சனையாயிருந்தார் என்பதை நான் தெரிவித்துக் கொள்ளுகிறேன். அவரும் இங்கு என்னென்ன அபிப்பிராயங்களை தெரிவித்தாரோ அவைகளை எல்லாம் அவர் அங்கும் தெரிவித்து வாதமிடுவதற்கு. அவர் ஒரு நல்ல வழக்கு அறிஞர். தன்னுடைய கட்சி சார்பில் வாதாடுவதில் ரொம்பவும் சமர்த்தர். அவர் மடாதிபதிகளின் சார்பாகவும், அரசாங்கத்தைய சார்பாகவும் வெகு அழகாகவும் சமர்த்திய மாகவும் வாதாடினார். அவ்விதம் வாதாடியும் அவர் தோற்றுப்போனார் என்பதை நான் ஞாபக மூட்ட விரும்புகிறேன். அதன் பிறகு இந்த ‘பில்’ பல மாறுதல்களுடன் இங்கு வந்திருக்கிறது. வெகு நாட்களாக இந்த ‘பில்’ இங்கு வராததிலிருந்து அதை குளிர்ந்த தண்ணீரில் போட்டுவிட்டார்கள் என்று கூட தோன்றின. ஒருக்கால் இதை sabotage செய்துவிட்டார்கள் என்று தோன்றிற்று. இந்த ‘பில்’ லேக் கொண்டு வரக் கூடாது என்று சிலர் டில்லிக்குக் காவடி எடுத்தார்கள். டில்லிக்குச்

11th September 1950] [Sri K. T. Kosalram]

சென்று பல அட்வோகேட்களை வைத்து வாதாடினார்கள். மடாதிபதிகளும், மற்றும் பல பிரமுகர்களும் டில்லிக்கு காவடி எடுத்தார்கள். பிறகு டில்லியில் எதேதோ செய்தார்கள். அங்கு ஒரு பெரிய பார்லமெண்ட் மெம்பர் அதாவது ஒரு தமிழ் நாட்டு பிரதிநிதி ஒருவர் இதற்கு முடிவுகூட்ட டில்லிக்கு சென்று இந்த சட்டத்தைக் கொண்டுவர விடாமல் செய்வதற்கு ஏற்பாடுகள் செய்தும் வந்தார். அதற்காக தாம் ஒரு concurrent bill என்று ஒன்றைக் கொண்டு வரப்போவதாகவும் அதற்காகவே ஒரு பில்லை தயாரித்து அதில் கையெழுத்திட்டு கொடுத்திருப்பதாகவும் ஸ்ரீ நாடிமுத்து பிள்ளை அவர்கள் மிகவும் ஆரவாரம் செய்தார். அவ்விதமே ஒரு பில்லில் கையெழுத்திட்டு கொடுத்திருப்பதாகவும் தெரியவருகிறது. நான் ஒன்று இப்பொழுது சொல்லுகிறேன். நீங்களும் மக்கள் மத்தியில் வாருங்கள் நாங்களும் வருகிறோம். இந்த பில்லைப்பற்றி மக்கள் மத்தியில் பேசுவோம். திறை மறைவிலிருந்துகொண்டு பேசாமல் மக்களின் மத்தியில் வாருங்கள். எந்த ஊரில் வேண்டுமானாலும் பேசலாம். நீங்களும் இராஜீநாமா செய்யுங்கள், நானும் இராஜீநாமா செய்கிறேன். கனம் பாஷ்யம் அய்யங்காரும் இராஜீநாமா செய்யட்டும். இன்னும் இந்த பில் லே வேண்டாம் என்று சொல்லும் கனம் எஸ். என். கோபாலசாமி அவர்களும் வேண்டுமானாலும் இராஜீநாமா செய்யட்டும். எந்த இடத்தில் வேண்டுமானாலும் இந்த பில்லை எடுத்து தேர்தல் நடத்துவோம். பிறகு மக்களின் மத்தியில் யார் ஜெயிக்கிறார்கள் என்பதைப்பார்ப்போம். பொது மக்கள் இப்பொழுது என்ன சொல்லுகின்றார்கள் என்று பார்க்கவேண்டும். பொது மக்கள் இங்கு என்ன தீர்ப்பு கூறுகின்றார்கள் என்று பார்க்க வேண்டும். சட்டசபை அங்கத்தினர்கள் இங்கே திரைமறைவிலிருந்துக் கொண்டு பேசுவதில் பிரயோசனமில்லை. மூன்றுக்குப் பின் முரணாகப் பேசி வாதம் செய்யவேண்டாம். இவைகளை யெல்லாம் மக்கள் கவனித்துக் கொண்டதானிருக்கின்றார்கள். யார் யார் என்னென்ன செய்கின்றார்கள் என்பதையும் பொதுமக்கள் கவனித்துக்கொண்டிருக்கின்றார்கள். இவைகளை யெல்லாம் கவனித்துக்கொண்டிருக்கும் மக்கள் பின்னுடி சும்மா விடமாட்டார்கள் என்பதைமீட்டும் அவருக்கு எச்சரிக்கை செய்ய விரும்புகிறேன். (Sri S. Nagappa : ‘அடிப்பார்களா?’) அடிப்பார்களா வென்று கனம் எஸ். நாகப்பா கேட்கிறார். பொது மக்களைக் கேட்டால் தெரியும்.

“இந்த ‘பில்’ சம்பந்தமாக திருநெல்வேலியில் கூட்டம் போட்டார்கள். அங்கு கனம் பாஷ்யம் அய்யங்காரும் வந்து இந்த பில்லை எதிர்த்து, இந்த பில் கூடாது என்று ஒரு தீர்மானம் போட்டிருப்பதாகச் சொன்னார்கள். அப்பொழுது விரைவில் எண்ணக்கூடிய 18 அல்லது 20 பேர்கள் தான் அந்த தீர்மானத்தில் கூட்டத்திலிருந்து கையெழுத் திட்டிருந்தார்கள். ஆனால் திருநெல்வேலி நகர பொதுக்கூட்டத்தில் சுமார் 5,000-க்கு மேல் 10,000 பேர்கள் வந்திருந்தார்கள். அவர்களுடைய அபிப்பிராயம் என்னவென்பதை நண்பர் கனம் நாகப்பா அவர்களே தெரிந்து கொள்ளட்டும்.

“இந்த ‘பில்’ கூடவே கூடாது என்று மடாதிபதிகள் பணத்தைக் கட்டிக்கொண்டு அங்கங்கே சென்று சுற்றி வருகிறார்கள். சட்டசபை அங்கத்தினர்களைக்கூட விரயத்திற்கு வாங்கிவிட்டார்களோவிரக்கிறது என்று கூட துணுபிரசாரம் வெளியிட்டிருந்தார்கள் என்பதை இந்த சந்தர்ப்பத்தில் வருத்தத்துடன் சொல்லாமலிருக்க முடியவில்லை. இந்த நிலையில் தான் அவர் இந்த சட்டசபையில் வாதாடிக் கொண்டிருக்கிறார். அவர் ஒரு வழக்கு அறிஞர், தன்னுடைய கட்சிக்காரருக்கு வாதாடுவதில் ரொம்பவும் சமர்த்தர்தான். மற்றும் டில்லிக்கு சென்றவர்களுக்கு மடாதிபதிகளால் ஒரு வேளைக்கு ரூ. 15 மதிப்பில் சாப்பாடுகூட பரிமாறப்படுகிறது என்றுகூட தெரியவருகிறது. இதிலெல்லாம் பார்விலெண்ணப் பிடிக்காதவர்கள் எல்லாம் பொது மக்கள் பார்த்துக்கொண்டதானிருக்கின்றார்கள். அதற்கு மக்கள் என்ன தீர்ப்பு கூறப் போகிறார்கள் என்பதையும் நாம் தெரிந்து கொள்ளவேண்டும்.

[Sri K. T. Kosalram] [11th September 1950]

“இன்னும் இந்த ‘பில்’-ை இன்னும் நான் கடத்திக் கொண்டே போனால் என்ன வரும் என்பதைமட்டும் நான் சொல்லப் பிரியப்படுகிறேன். இப்பொழுது H.R.E. போர்டு இருக்கிறது. இந்த ‘பில்’ வந்துவிட்டால் என்ன நடக்கும், என்ன நடக்கப் போகிறது என்பதும் அவர்களுக்குத் தெரியும். அதற்காக அவர்கள் ஒவ்வொரு நாளும் ஸ்கீம்களை போட்டுக் கொண்டிருக்கிறார்கள். ஆகவே இந்த ‘பில்’-ை வெகு விரைவில் நிறைவேற்றவேண்டும். மற்றொன்றையும் சொல்ல விரும்புகிறேன். H.R.E. போர்டு மடாதிபதிகளை என்னென்ன நகைகளிருக்கின்றன வென்றுகேட்டால் கூட அவர்களுக்கு நகைகளின் கணக்கைக்கூட கொடுக்க முடியவில்லை, கொடுப்பதுமில்லை. கணக்குக் கொடுக்கவேண்டுமென்று மடாதிபதிகளைக் கேட்பதற்குக்கூட போர்டுக்கு அதிகாரம் இல்லை. என்னென்ன நகைகளிருக்கின்றன வென்று கணக்குக் கேட்டு அவர்கள் பதில் சொல்லாவிட்டால் அவர்களேமேல் நடவடிக்கை எடுத்துக் கொள்வதற்கு H.R.E. போர்டுக்கு அதிகாரம் இல்லை. ஏனென்றால் கணக்குக் கேட்கக் கூடிய அதிகாரத்தை அரசாங்கம் அவர்களுக்குக் கொடுக்கவில்லை. ஆகவே போர்டைச் சொல்வதில் பயனில்லை. இன்னும் நாட்களை கடத்திக் கொண்டேபோனால் கனம் நண்பர் பட்டாபிராமன் சொன்னமாதிரி மடங்களெல்லாம் **brothel houses** ஆகத்தான் விருக்க முடியும். அது உண்மைதான். வேறு ஒன்றையும் நாம் பார்க்க முடியாது. கோவில்களின் பணத்தையோ, சொத்துக்களையோ வேறு எந்தவிதமான அசை பொருள்களையோ பார்க்கவே முடியாது. அவைகளை ‘யெல்லாம்’ அப்புறப்படுத்திவிடலாம். கடைசியில் பார்த்தால் **brothel house** ஆகத்தானிருக்க முடியுமே யொழிய வேறு ஒன்றும்ருக்க முடியாது என்பது தான் என்னுடைய திடமான நம்பிக்கை என்பதை இந்த சந்தர்ப்பத்தில் சொல்லிக்கொள்ள பிரியப்படுகிறேன்.

“இன்னும் கனம் பாஷ்யம் அய்யங்கார் மடாதிபதிகளிடம் வக்காலத்து வாங்கிப் பேசுகிறார். அவருக்கு ஒன்று சொல்லப் பிரியப்படுகிறேன். எங்களுக்கு மடாதிபதிகளின் மேல் கோபம் இல்லை. பரிசு இல்லை. அவர்களைக் கட்டுப்படுத்த வேண்டுமென்று சொல்லவில்லை. மடாதிபதிகளைக் கட்டுப்படுத்துவதற்கு நாம் யார் என்று அவர் வாதாடுகிறார். ஆனால் ஒன்றை மட்டும் நான் அவருக்குச் சொல்ல விரும்புகிறேன். ஒரு இடத்தில் கொள்ளை களவு நடக்கிறது என்று வைத்துக் கொள்ளுவோம். யார் வீட்டிலோ, யாரோ களவிடுகிறார்கள், கொள்ளை யடித்துவிட்டுப் போகிறான், நமக்கு என்ன அக்கரை என்று பிரதம மந்திரி கேட்டால் எப்படியோ அவ்விதம் தான் இருக்கிறது. அவர் சொல்வது. இப்பொழுது கோவில்களில் கொள்ளை யிரதலும், அக்கிரமங்களும் நடக்கின்றன. மதத்தின் பெயராலும், கடவுளின் பெயராலும், பல தெய்வத்தின் பெயராலும் நாட்டில் அக்கிரமங்கள் நடக்கின்றன. அந்தக் கொள்ளைகளை யெல்லாம் இனிமேல் அரசாங்கம் பார்த்துக் கொண்டிருக்க முடியாது. மக்களின் பிரதிநிதிகளாக வந்திருக்கும் சட்டசபை அங்கத்தினர்களும் இவைகளைப் பார்த்துக் கொண்டிருக்க முடியாது.

“இன்னும் இந்த சட்டத்தில் ஒரு குறை இருக்கிறது. மடங்களை **manage** பண்ணுவதற்கு **manager**களை நியமிக்க அந்தந்த மடாதிபதிகளுக்கு அதிகாரம் கொடுக்கப்பட்டிருக்கிறது. அரசாங்கம் அதை **control** செய்ய வேண்டும். அவ்விதம் மடாதிபதிகள் **manager**களை நியமிக்கவேண்டுமென்றிருப்பது தவறு. அதன்படி **select committee** எப்படியோ நிறைவேற்றிவிட்டார்கள். நான் ஒன்றை நிச்சயமாகச் சொல்லுகிறேன், **manager**களை நியமிக்கும் அதிகாரத்தை மடாதிபதிகளுக்குக் கொடுத்துவிட்டால் பழையபடியே அவர்கள் தங்களுடைய திருவிளையாடல்களைச் செய்ய ஆரம்பித்துவிடுவார்கள். இந்த அளவில் வருவதற்குதான் கனம் பாஷ்யம் அய்யங்கார் **select committee**-ல் தங்களுடைய காரியங்களை சாதித்துக் கொள்ளும் அளவில் வாதாடியிருக்கிறார்கள் என்பதைக்கூட நான் சொல்லப் பிரியப்படுகிறேன். அவர் வாதாவதில் மிகவும் திறமையானவர் நல்ல வழக்கு அறிஞர். தன்னுடைய திறமையான வாதத்தினால் இந்த ‘பில்’-லின் **language**-ஐக்கூட **select committee**-ல் மாற்றியமைத்து விட்டார். ஒவ்வொரு வார்த்தையும் அவருடைய திறமையான வாதத்தினால் மாறுதலடைந்திருக்கிறது. பிறகு இந்த சட்டசபைக்கு மாறுதலடைந்த

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நிலைமைக்கு வந்திருக்கிறது. இப்பொழுது அதை மீண்டும் **select committee** க்குக் கொண்டுவர வேண்டுமென்று கனம் பாஷ்யம் அய்யங்கார் எதற்காக சொல்லுகிறார் என்பது நன்கு தெரியும். இன்னும் பல மாறுதல்களைவை தற்குதான் அவர் மீண்டும் **select committee**-க்கு அனுப்ப வேண்டுமென்று சொல்லுகிறார். இந்த மாதிரி அவர் நான்கு பக்கங்களிலும் போலீஸ்காரர்களை வைத்துக்கொண்டு திறைமறைவில் இந்த சட்டசபையில் தான் இந்தமாதிரி பேச முடியும். இந்தமாதிரியான பேச்சை பொது மக்களிடத்தில் பேசிப் பார்க்கலாம். மக்கள் என்ன பதில் சொல்லுகிறார்கள் என்பதையும் அவர் பார்க்க வேண்டுமென்று அவருக்குச் சொல்ல விரும்புகிறேன்.

“ஆகவே உடனடியாக இந்த சட்டம் நிறைவேற்றப்பட வேண்டும். **Select committee**-யில் கனம் பாஷ்யம் அய்யங்கார் திருத்தங்கள் கொடுத்து நிறைவேற்றியவைகளைக்கூட இங்கு மாற்றியமைத்து இந்த சட்டசபையில் இந்த சட்டத்தை உடனடியாக நிறைவேற்றவேண்டும். இவ்விதம் செய்ய கனம் டாக்டர் T. S. S. இராஜன் அவர்கள் முன்வரவேண்டும். என்னென்ன பேசுகிறார்கள் என்பதும், டில்லியில் என்னென்ன நடந்தன வென்பதும் அவருக்கு நன்றாகத் தெரியும். இந்த சட்டத்தை நிறைவேற்ற விடாமலிருக்க டில்லியில் பல தமிழ் நாட்டு உத்தமர்கள் இருப்பதும் அவருக்குத் தெரியும். அவர்கள் அங்கே பணத்தை எவ்வாறு சில்லிடுகின்றார்கள் என்பதும் கனம் இராஜனுக்கு நன்றாகத் தெரியும். மற்றும் பல நண்பர்கள் டில்லிக்கு சென்று இந்த ‘பில்’-ை **President** அவர்களுடைய **assent** க்குக்கூட விடாமலிருக்கும்படி ஏற்பாடு செய்கிறார்கள் என்பதும் அவருக்குத் தெரியும். இதை நிறைவேற்ற விடாமலிருக்கும் படியாக ஒரு **concurrent bill** கொண்டுவர வேண்டுமென்று தயாராக இருப்பதால் கனம் டாக்டர் இராஜன் அவர்கள் இதை நிறைவேற்றுவதில் ரொம்பவும் சர்வ ஜாக்கருதையாக இருக்கவேண்டும். கனம் டாக்டர் இராஜன் அவர்கள் இதை உடனடியாக அமுலுக்குக் கொண்டுவந்து இந்த நாட்டில் மதத்தின் பெயராலும் ஆண்டவன் பெயராலும் அட்டமீயங்கள் நடந்து வருவதை உடனடியாக நிறுத்தவேண்டுமென்று கேட்டுக் கொண்டு இந்த ‘பில்’-ை முழுமனதுடன் ஆதரித்து இத்துடன் முடித்துக் கொள்ளுகிறேன்.”

SRI K. VARADACHARI:—“Madam Deputy Speaker, I am very glad to support the Bill as reported by the Select Committee. It is a happy augury that a gentleman of great experience and of his age, Hon. Dr. Rajan, is piloting this legislation; and belonging to a very orthodox family of Vaishnavites as he does, he knows where the shoe pinches and where it is that he as a surgeon should apply his knife for reforming our institutions, religious and charitable. He has been a really expert surgeon in his line, and he now uses his skill and experience in this matter also. The Select Committee has adjusted some of the conflicting claims of different sections of people with regard to these endowments; religious and charitable, and while it has on the one hand introduced a democratic principle in the administration and the management of these institutions by the establishment of area committees and boards of trustees, it has also established a check in the bureaucratic way over these institutions, so that the two views may work in a balanced way and there may not be much of a complaint or grievance from the public with regard to the administration of these institutions. All the criticism that is directed against the Government that they are taking too much into their own hands and they will not be able to do what they are trying to do, etc., will be really not called for in this case, in view of the amendments made by the Select Committee, and such a

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charge is not sustainable. Of course we have got the threatened legislation by the Government of India and they are seeking to take away some of our very important shrines which are said to be of all-India importance under their own management and are making separate provision for their administration. I am really very sorry that the Government of India should take it into their mind that these temples should be directly managed through a separate legislation of their own; I do not know what sort of provisions they will be making and how far they will be divergent from the principles and objects of the legislation we are now seeking to pass in this House to-day. When that legislation comes, I do not know how far our legislation will have to be brought into line with the objects and principles underlying that legislation; but so far as this Bill goes, I am really emboldened to say that the measure is one about which there cannot be much complaint, at any rate so far as the benefits that are sought to be conferred on the management of these institutions, both religious and charitable, are concerned. In the first place, Sir, the establishment of area committees and boards of trustees is really a happy idea which the Select Committee has put into this measure and people will certainly be satisfied to express their opinions about the administration through these representative bodies. No doubt here and there perhaps these bodies may be nominated, but certainly they will be local people who will be interested in the institutions which they are called upon to supervise, and the bureaucracy cannot do much in the way of impairing the administration of these institutions in the face of the existence of such boards and committees. Of course, over-democratisation or management of religious institutions directly may lead to secularisation also, a thing which we ought to prevent; but I do not think that so far as this Bill is concerned, the democratisation is too much or that any danger of over-secularisation would result by this legislation.

"Sir, one aspect of this Bill which struck me as rather curious was to place the trustee under three authorities, firstly, the area committee or the board of trustees, secondly the Assistant Commissioner or the Deputy Commissioner and thirdly the Commissioner. These trustees are called upon to submit themselves to the jurisdiction of three authorities, and I do not know how the trustees will be able to survive the authority and supervision of these three authorities. In a way perhaps it cannot be helped and there is no other way of providing for a better administration; probably one way out will be that first of all you must make the trustee amenable to the supervision of the local committee itself, and then if the local committee also does not do its duty properly, to subject the whole thing to the supervision of the bureaucracy. Anyway, in the working of this legislation I am sure sufficient experience will be gained and certainly any popular Government will be ready in the future to amend this legislation if need be, to see that the trustees are not victimised by too much of supervision and control over them by various authorities.

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"Another thing that struck me as curious is that the Select Committee has taken some sort of lenient view to improve the working of these maths. It wanted them to secure as much of income as possible without any control from any authority and has reserved the pathakanikas to the maths. This is a very important source of revenue to the math, and so far as my experience goes, the major part of the fluid resources of any math comes from the pathakanikas. If these pathakanikas are to be simply left unaccounted for in any manner, it will be really not doing the real thing for the improvement of the administration of these maths. While on the one hand this Bill seeks to impose the responsibility of preparing budgets of income and expenditure and submitting them to the concerned authority by these maths, we find the Bill also gives unfettered discretion to them of disposal over income which is coming in in this manner. There are maths where pathakanikas are utilized properly and there are also maths where these pathakanikas are frittered away and misspent. This income is really a very lucrative income in every math, and if it is not to be accounted for, I cannot understand the reason why. Anyhow, the Joint Select Committee has accepted this legislation of controlling maths, as a beginning for the first time in this State, and therefore I think it is better to go slow rather than be drastic even now in an attempt to control them. I take it that it must be in that view only that the Joint Select Committee should have taken this line and introduced control in some respects, leaving off these pathakanikas completely.

"Now, Madam, one thing this Government and this Legislature have always to look to is the preservation of the sanctity of our religious and charitable institutions, both temples and maths and other institutions. If any legislation is trying to cut at the root of sanctity, it will not be worth having at all. Especially the Hindu community is a very pious and religious community and if this community loses faith in our religious institutions to-morrow by provisions which are over-secularising in their effect on a par with our secular State, then very soon our temples also will become secular institutions. This has to be prevented. But, so far as this Bill goes, it does not verge on that danger and, therefore, I heartily support this measure."

SRI S. NAGAPPA :—"Madam, Deputy Speaker, it gives me very great pleasure to support this Bill that has been so ably moved by my Hon. Friend, Dr. Rajan. A section of the State has successfully tried to sabotage this move and as they could not do it, they wanted to defer this Bill, somehow or other. However, we have to appreciate the courage with which the Hon. Dr. Rajan has been able to come forward with this measure in spite of the fact some members of this House were eager to see that the Bill was deferred. I need not say what were the conditions that were existing in all these maths and temples and these have been adumbrated by the Hon. Minister in his opening speech. Madam, as a Harijan, no doubt, I have not seen many temples and maths and yet I have heard about their vagaries and

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mismanagements and how the funds collected in the name of God and religion from innocent people have been misused. Leave alone the question of funds. What about the lands? Vast acres of lands have been endowed to these temples by some people in good faith that those lands should be cultivated and their proceeds utilized for the maintenance of temples and for giving religious instruction to people who are not aware of the greatness of the Hindu religion. But, I am sorry to say that nothing has been done in these directions. On the other hand, we see to-day Muslim Moulvis are going about here and there preaching their religion and also Christian preachers go from village to village, slum to slum and preach about the greatness of their religion. But, I ask, what has Hinduism been doing in regard to this matter? They have been looting people in the name of religion and have not done anything in the case of people who have left the Hindu fold and expressed a desire to come back to Hinduism again. (Interruption by Sri Raghavayya.) I am not asking the Government to do it, nor am I asking Mr. Raghavayya to do it. I am only pointing out the defects in the Hindu religion. It is true, if you are a true Hindu you must check yourself and check your religion. Madam, it would have been better if this piece of legislation had been introduced earlier than this. Now, I think, after the 26th January when we have adopted the Constitution and stated in unequivocal terms that ours is a Secular State, I would like to know whether this House is competent to pass this legislation which covers only a particular section of this State, namely, the Hindus. I would prefer the Government coming forward boldly and enacting an Act by which they would be able to bring in other religious institutions also, be they Muslim institutions or Christian institutions or other institutions. Especially when we have declared ourselves as a Secular State, I do not think, we are competent to pass a legislation affecting only one section of the people of the State, that is Hindus. That is why, I would prefer that the word 'Hindu' should be omitted from the Preamble and the wording changed as follows: 'The Madras Religious and Charitable Endowments Act' instead of 'The Madras Hindu Religious and Charitable Endowments Act.'

"Now, Madam, coming to the motion of my hon. Friend, Mr. Bhashyam, to refer the Bill again to the same Joint Select Committee, which sat over it for months together, went through each syllable and each section of this Bill thoroughly, I should say, it is merely an attempt to gain further time. It is one of the tactics for gaining time that they have been following for three long years. Now they want to take some more time, so that the term of the House may be over and the Bill may not see the light of day. It is a wonderful and a clever move. Whatever it is, I am extremely sorry."

JANAB ABDUL HAMEED KHAN:—"The hon. Gentleman has used the word 'tactics'. So far as I know, I think, it is unparliamentary."

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DEPUTY SPEAKER:—"I think it does not sound unparliamentary. Anyhow, I shall verify it."

SRI S. NAGAPPA:—"My hon. Friend may ask the Hon. Law Minister if he wants. He says one can indulge in tactics, but I cannot say what tactics are. I cannot help it. Anyhow, the fact is there. My hon. Friend, Mr. Bhashyam, by moving his motion, wanted to gain some more time so that the Bill may not be passed by this Legislature. I say, it would have been better for him and for the House, if he had stated in unequivocal terms, please defer this Bill because the country is not prepared for it. I think, such a thing would have been better instead of taking a roundabout course by asking this House to refer the Bill to the same Joint Select Committee, which as I have already said, sat for months together, thought over it and in the end presented their report. Now, it is for the House either to accept it or reject it. If the House feels that the Bill can be amended, it can do so, but there is no use referring it again to the same Select Committee."

"Madam, as I have already said, it would have been better if this Bill had been called the Religious and Charitable Endowments Act. I hope the Hon. Minister would consider this point and try to amend the Bill. Coming to the Bill proper, what does it say. The Bill does not come in the way of religion or in the performance of acts either by archakas or the matadhipatis or by the maths themselves, but it wants only to control and see how the funds that are collected are utilized for the purposes for which they were collected, whether the budget is prepared and accounts are kept properly and audited. The Commissioner or the Area Committee or the Deputy Commissioner or the Executive Officer will not go there and stand in the way of the archaka from performing his duties, but on the other hand, if there is an agency appointed by the Government, that agency will be there in order to see to the comforts of pilgrims and to the orderly behaviour of the people and that the funds collected are utilized for the purposes for which they were collected. So, Madam, when the Government have come forward with a measure of this nature, it is for the members of this House to wholeheartedly support it. Instead of doing so, I do not know for what reason certain sections of this House are trying to oppose it. I think, all those who oppose this Bill, are trying to qualify themselves to become matadhipatis . . ."

DEPUTY SPEAKER:—"Will the hon. Member repeat what he said."

SRI S. NAGAPPA:—"I myself have forgotten what I have said."

DEPUTY SPEAKER:—"Then the hon. Member is not sure of his own arguments."

SRI S. NAGAPPA:—"I am sure of my arguments, but I cannot repeat the same sentence, Madam."

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DEPUTY SPEAKER :—" At least the sense of what he said? "

SRI S. NAGAPPA :—" I do not know what makes you, Madam, to ask me to repeat what I said. It is generally in cinemas or dramas, people are asked to repeat once more."

DEPUTY SPEAKER :—" Does the hon. Member consider himself as being on the same level as that? "

SRI S. NAGAPPA :—" I do not consider myself on that level, nor do I consider you, Madam, as a member of that audience."

DEPUTY SPEAKER :—" I did not catch the sense of what the hon. Member has said. I want it for my information and the hon. Member should simply repeat it and not remark upon it."

SRI S. NAGAPPA :—" What I said was this. Some of my hon. Friends who oppose this Bill, I do not know, whether they wanted to qualify themselves as matadhipatis."

DEPUTY SPEAKER :—" It is not right to impute motives to Members of this House."

SRI S. NAGAPPA :—" If that is so, Madam, I have no hesitation in withdrawing those words."

" Now, coming to the regular Bill itself, the Government are going to appoint a good number of Assistant Commissioners, Area Committees and trustees. I hope the country and the State have realized that the Harijans are also Hindus. It is stated that for every one of these appointments, only Hindus should be appointed. As I said, here also, it would have been better if the word 'Hindu' were omitted. Why should the Government think that only Hindus are interested in Hindu religion. On the other hand, there are people belonging to other religions who have very great respect, regard and reverence to Hindu religion and there are also people with modern ideas of these temples and their administration. My point is, most of the Hindus are losing their faith in Hinduism. We know that by the influence of Communism, how many people have faith in God or religion. So, now that we are going to appoint people to manage these temples, I think they need not be Hindus alone, but whoever is interested in these things may be appointed."

" There is also another thing, Madam. The Bill refers to hereditary trustees. We have seen how even members of the royal family who had a right to inherit their parents' gadi have been prevented from their inheritance. Such being the case, why should a trustee's son be again made a trustee? Why not he go to other walks of life, instead of being a trustee of a temple or math? Why the Government try to tie him down to that post? I, therefore, think that this hereditary system should go."

" Madam, I have said already that the State has recognized Harijans as Hindus. I think, that if all these temples and maths are entrusted to Harijans, they will be better managed."

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" They are the people that have had full faith in the Hindu religion in spite of the tyrannies and harassment that had been practised upon them. These people will, I am sure, be able to maintain the idea of this legislation. What is the use of giving powers to people who have lost faith in the Hindu religion? There is no use of entrusting powers to them. I would plead that every section of the people, be it Muslims"

DEPUTY SPEAKER :—" They may not have lost faith in the Hindu religion; you mean to say they are not good Hindus."

SRI S. NAGAPPA :—" As you please, Madam."

DEPUTY SPEAKER :—" That is perhaps what you meant."

SRI S. NAGAPPA :—" I said what I meant but if you have taken it in that spirit, I do not object."

DEPUTY SPEAKER :—" The hon. Member must finish his speech in five minutes."

SRI S. NAGAPPA :—" Why has the time-limit come in my case alone, Madam? "

DEPUTY SPEAKER :—" There was no time-limit with reference to others because perhaps they knew but you do not know when you should stop and that is why I am obliged to have the time-limit."

SRI S. NAGAPPA :—" Please give me 25 minutes. I have much to say, Madam."

DEPUTY SPEAKER :—" Let not the hon. Member lose something out of his five minutes in arguing for more time."

SRI S. NAGAPPA :—" Madam, I would plead that when this legislation is passed, the Hon. Minister will see that temples are managed not only by Hindus but by all sections of the people. Let them be managed by Harijans; that would be much better and the proper thing. They have much faith in the Hindu religion otherwise they would not have been sticking to the Hindu religion in spite of the many hardships and tyrannies to which they had been subjected to."

" Coming to the powers of the Commissioner, I find that he is given very wide powers; he can even supersede the orders passed by the Assistant Commissioner or the Committee and the trustees. Instead of vesting so much powers in the Commissioner, I suggest that the Government should reserve some powers in their own hands for themselves."

" As my hon. Friend Mr. Pattabhiraman pointed out, he will also be appointing trustees and there is the question of the age-limit and for the trustees, the age-limit is thirty-five years. It is too high. When the average life of the Indian is 22 to 24 (an hon. Member : '28') or even twenty-eight as my sister says, why

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should the age-limit of thirty-five years be fixed? I say, Madam, that is too high. Then the upper limit is seventy years. A man of seventy is an old man; he cannot move about, or think and his brain will refuse to work. What is the good of continuing such people in service, while denying opportunities of service to young men? At fifty-five, you are asking Government servants to retire from service, however capable or hard-working or intelligent they may be. When that is the case, what is the use of continuing persons of seventy for managing these institutions? I would suggest that the maximum limit may be sixty and the minimum may be 21.

"Coming to the auditing, accounting and budgeting of these institutions, nobody knows at present how much income is derived from the people in the name of temples. If we take only the Tirupathi Devasthanam, I think that temple would be getting more than the annual income of the Madras State and nobody knows how it is being spent. They are performing marriages to the Gods as though God is a bachelor every time. Instead of doing such things and wasting funds

DEPUTY SPEAKER:—"The time is up. Mr. D. V. Ramaswami will now speak."

SRI D. V. RAMASWAMI:—"Madam, Deputy Speaker, ఈ బిల్లు చాలా చక్కగాను, జాగ్రత్తగాను తయారు చేయబడినది. ఈ బిల్లును ప్రతిపాదించుటలో ప్రభుత్వంవారి సమర్థతను సందేహించకగిన కారణము లేనియింట్లే. బిల్లు లోని కొన్ని భాగాలు, నెక్సన్లు కూడ చాల జాగ్రత్తగా వ్రాయబడినవి. ఈ కారణములచేత బిల్లును అతి సులభంగా విమర్శించవలసిన అవసరము ఎంతమాత్రములేదు. కొంతమంది గౌరవ సభ్యులు ఈ బిల్లును విమర్శించే సందర్భంలో కొన్ని విమర్శ ఆధిపత్యాలను తెలియచియున్నారు. వారి ఆధిపత్యాల ప్రకారము ఈ బిల్లు కనుక శాసనసభకు యితే సనాతన హిందవ ధర్మాలు మంటగలిసి పోతాయని ప్రభయంతమువంటి విమర్శలకు ఇది అవకాశమునుండని అన్నారు. మరికొంతమంది ప్రభుత్వంవారి ప్రతిపాదనను బలపరచుచూ మతాధిపతులు, ధర్మకర్తలు, దేవాలయాలను, ధర్మదాయాలను మర్చివేయగలగదా అనియు, ఇటువంటి మతాధిపతుల వర్గవల్ల హిందవ మతము కలుపితమవుతుందని, ఎంత శీఘ్రంగా ప్రభుత్వంవారు ఈ దేవాలయాలను, మతాలను తమ పరిపాలనక్రింద తెచ్చుకొంటారో అనాది హిందవ మతము సాంప్రదాయము ఉద్ధరించబడటానికి అవకాశముండుందని చెప్పియున్నారు. ఈ రెండు విరుద్ధ భావాలు కూడ వాస్తవముకాదేమోనని చాలవరకు exaggerate చేయబడినదేమోనని నేను అనుకొంటున్నాను. నేటి ధర్మకర్తలలో, మతాధిపతులలో అక్రమముగా భవమును పాటించియున్నారని నాకును తెలియును. ప్రస్తుతము ఉన్న Hindu Religious Endowments Board లో కూడ లోపములు లేకపోలేదు. సాధ్యమైనంతవరకు ప్రభుత్వంవారు ఈ లోపాలను సరిదిద్దటానికి ప్రయత్నం చేస్తారని అనుకొంటాను. అయితే ఈ బిల్లును గురించి ప్రభుత్వంవారు కూడ మరికొంత శ్రద్ధావంతి ఉత్తరీతర ఇది శాసనసభ తమనాత రాజ్యాంగ కట్టినందుకుని కోర్కెలవారు అనకుండా ఉండేటట్లు చూడవలసి మున్నది. అందుకుగాను భావ్యంగాను చెప్పిన ఆధిపత్యములను కూడ గమనించవలసిందని కోరుతున్నాను. రాజ్యాంగ కట్టినవారము మనది Secular State. అటువంటి సందర్భంలో ఏ రాష్ట్ర ప్రభుత్వమైన ఆ రాష్ట్రములోని ఏ

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మతమువారికి ప్రత్యేకంగా శాసనాలు చేయడం సమర్థమే అనే విషయాన్ని ప్రభుత్వంవారు ప్రసక్తిపరిచిన చేయవలెను.

"ఈ బిల్లులో రెండు ముఖ్య భాగాలున్నాయి. అందులో ఒక భాగము ఈ హిందూ దేవాలయాల ధర్మదాయాలను సంబంధించిన భవమును సాగా వ్యయం చేసే విషయానికి సంబంధించినది. ఇది secular భాగము ఈ భాగము గురించి Dr. Rajan గారు వారి ఉపన్యాసములో దేవాలయాల, ధర్మదాయాలను చెందిన భవమును సక్రమంగా ఉపయోగపరచడం తద్వారా హిందూ మతాన్ని దానికి చెందిన మతాలను, దేవాలయాలను అభివృద్ధిపరచడం ప్రభుత్వంవారి ఉద్దేశమని, అందుకుగానే ఈ హిందూమత సంస్థల పరిపాలన నిమిత్తమే ఒక ప్రత్యేక సంస్థను ఏర్పాటుచేయుచున్నామని ఇకముందునుంచి మతాలు, దేవాలయాలు, Hindu Religious Endowments Board, ప్రభుత్వశాఖలలో ఒక భాగంగా ఉంటుంది అని అన్నారు. వారి ఈ ఆధిపత్యం ప్రస్తుత రాజ్యాంగ కట్టిన సూత్రాలకు అనుగుణంగా ఉన్నదా అనే విషయం సందేహస్పదమైయుంటుంది. ఇదివరలో మన దేశము అంగ్లేయ చేతులలో ఉన్నప్పుడు నా చిన్ననాటి రోజులలో Ecclesiastical Department అని ఒక ప్రత్యేక ప్రభుత్వశాఖ ఉంటూఉండేది. ఇదేమిటి ఒక్క క్రైస్తవ మతానికి ప్రత్యేక శాఖ ఉండడమేమిటి, దేశంలోని ఏ ఇతర మతాలకు ఏ విధమైన శాఖలు లేకపోవడమేమిటి అని ఎవరైనా ప్రశ్నిస్తే అనాటి ప్రభుత్వంవారు క్రైస్తవ మతము Religion of the state అని అందువలననే ఒక ప్రత్యేక ప్రభుత్వ శాఖ ఇవ్వకూర్చి క్రైస్తవులు చేయబడిందని వేస్తే వారు. అటువంటి ప్రత్యేక మతశాఖల ప్రభుత్వంవారి ఆధీనంలో ఉండడం హిందూ దేశవంటి Secular State లో సాధ్యమే అనే విషయం ప్రభుత్వంవారు గమనించాలి. ప్రత్యేక మతశాఖలను ఏర్పాటుచేయడం పాకిస్తాన్ మొదలైనవివలన, మతమే ప్రాతిపదికగా తీసుకొనిబడి స్థాపించబడిన, దేశాల్లో శాస్త్రీయమేమోమోగాని మత విశిష్టత చూపున మన భారత దేశంలో న్యాయవిద్వంసని తెలిసిన న్యాయవాదులు చెబుతున్నప్పుడు ప్రభుత్వంవారు పెడచెవిని బెట్టరాదు. ఈ సందర్భంలో నేను చిన్నప్పుడు వదల్చుకొనిన Sir Walter Scott రచించిన నవలలోని అంశాలు జ్ఞాపకము వస్తున్నాయి. ఎలిజబెత్ సుజానాకి సస్పెన్స్, సెన్సేటివిటీ అనే ఇద్దరు స్నేహితులుండేవారు. ఆ విషయం ఎప్పుడైనా కోపము వస్తే దగ్గర ఉన్న స్నేహితుడు సస్పెక్టు అయితే 'I entreat' అని సెన్సేటివిటీ అయితే 'I command' అని అంటూ ఉండేది. దీని భావమేమిటంటే ఎలిజబెత్ రాణి సస్పెన్స్, సెన్సేటివిటీ పట్ల కొంత విశిష్టత చూపేది అని.

"ఇప్పుడు మన ప్రభుత్వంవారు కూడ రాష్ట్రములో ఉన్న ఒక్క హిందూ మతం వారికి ప్రత్యేక శాఖను ఏర్పాటుచేసి తదితర మతసంస్థలను సమ హయాములోనికి తెచ్చుకొని పోయినట్లైతే మతరీత్యా విశిష్టత చూపుతున్నారనే ఆధిపత్యం ప్రజలలో కలగవచ్చు. కాబట్టి ప్రభుత్వంవారు సూతన రాజ్యాంగ కట్టినట్లైతే ఏర్పడిన సూతన పరిస్థితులకు అనుగుణంగా సవరిస్తారని ఆశిస్తున్నాను.

"దేవాలయాల ధర్మదాయాలను సక్రమంగా నిర్వహించేందుకు కమిషనర్లను, అని స్టేటు కమిషనర్లను తదితర నిబ్బందిని ఏర్పాటుచేయడంవలన. ఈ నిబ్బందిని ఎన్నుకొనే సందర్భంలో హిందవమతంపట్ల, పాదీని సాంప్రదాయాలపట్ల భృద్ధివిశ్వాసము కలిగియుండవలసిన ఎన్నుకోవడం వుంచుంది. లేనియడల మన మతం, మన సంస్కృతి బెద్దరినై అవకాశాలు కలుగవచ్చు. ఈ విషయంలో ప్రభుత్వంవారు తగిన శ్రద్ధవహించవలసిందని కోరుతున్నాను.

[Sri D. V. Ramaswami] [11th September 1950]

“ముఖ్యంగా ఈ బిల్లు యొక్క ఉద్దేశాలు ఎంత మంచివైనప్పటికీ వెంటనే అదరగొట్టాలి. పెట్టడము అవసరమా అనే విషయమై ఆలోచించవలసివచ్చినా దేశంలో ఈ నాడు అనేక అత్యవసర సమస్యలు వికారిత పరిస్థితులు ఏర్పడినవి. కేంద్ర ప్రభుత్వం వారు Foreign policy (వైదేశిక విధానము) పాకిస్థాన్ వివాదాలు, కాందిశీ పునరావాసము (rehabilitation of refugees) మొదలైన సమస్యలను ఎదుర్కొన సత్మతమై పోతున్నారు. ఇటు యుద్ధరాజ్యంలో అహంకారం ఏర్పడి ప్రజలు కిటు కటించుతున్నారు. ఇటువంటి పరిస్థితులలో ఈ బిల్లు వెంటనే శాసనము అవ్వడము అంత అవసరము కాదు. పరిస్థితులు అనుకూలించిన తరువాత సకాలంలో సక్రమమైన మార్గాలలో ఒక చక్కని బిల్లు ప్రవేశ పెట్టవచ్చు. ప్రభుత్వంవారి ఉద్దేశ్యము చాలా మంచిది అనడంలో ఎంతమాత్రం సందేహంలేదు. కాని ప్రస్తుత పరిస్థితులు ఇటు వంటి మత తవడర్తనానికీ అనుకూలమైనవా అనే విషయము ఆలోచించవలసివచ్చింది. కాబట్టి ఈ విషయాల నన్నిటిని తిరిగి పరిశీలన చేయవలసిన కోరుకూ ఇంతటితో విరమించుకున్నాను.”

SRI P. KAKKAN :—“கனம் உதவி : சபாநாயகி அவர்களே கனம் சுகாதார மந்திரி அவர்களால் கொண்டு வரப்பட்ட இந்த ஹிந்து மதத் தர்ம பரிபாலன சட்டத்தின் செலக் கமிட்டி ரிபோர்ட்டை நான் மனப்பூர்வமாக ஆதரிக்கின்றேன். கனம் மந்திரி ஸ்ரீராஜன் அவர்கள் செய்துள்ள சேவையை இன்றுள்ள ஹிந்து சமூகம் மட்டுமல்ல; வருங்கால ஹிந்து சமூகம் மறக்காது. அந்த சமூகம் என்றென்றைக்கும் அவருக்கு நன்றி செய்யக் கடமைப்பட்டிருக்கிறது என்று சொல்ல விரும்புகிறேன். மற்ற மத மெல்லாம் அவர்களுடைய கடவுளின் பெயரால் பல நல்ல காரியங்களைச் செய்கின்றன. ஆனால் ஹிந்து மதத்தில் அம்மாதிரியான காரியங்கள் ஒன்றும் செய்யாதினால், ஹிந்து மத மடாதிபதிகளும், தர்ம சொத்துக்களையும், விரியும் செய்வதில்லை அதைப் பாதுகாப்பதற்கு இன்றிருக்கும் அரசாங்கம் நல்ல காரியத்தைச் செய்திருப்பதை நான் வரவேற்கிறேன்.”

“இந்த சட்டத்தில் செலக்ட் கமிட்டியார் செய்துள்ள ஏற்பாட்டை நான் வரவேற்கிறேன். குறிப்பாக அவர்கள் பல நல்ல ஓரத்துக்களை இந்தச் சட்டத்தில் சேர்த்திருக்கிறார்கள் என்பதைச் சொல்லுகிறேன்.

“காலஞ்சென்ற தமிழ்நாட்டுத் தனிப்பெருந்தலைவர் புதுக்கோட்டை ஸ்ரீமான் சத்தியமூர்த்தி அவர்கள், ‘காங்கிரஸ் மந்திரி சபை வரட்டும், இன்று விரயமாகிவரும் ஹிந்துமத தர்ம சொத்துக்களை எல்லாம் எடுத்து மக்களுக்கு பல நன்மைகளைச் செய்ய்வாம்,’ என்று செய்த பிரசங்கக் களின் ஒலி என் காதுத் ஒலிக்கின்றது. அவர்கள் செய்யப்போகிறோமென்று சொல்லிவந்த காரியத்தை கணம் சுகாதார மந்திரி அவர்கள் நிறைவேற்றப்போவதைக் கண்டு நான் மிகவும் சந்தோஷமடைகிறேன்.

“குறிப்பாக உங்கள் யாவருக்கும் சொல்லுகிறேன் எங்கு பார்த்தாலும் கிருஷ்ண மிஷனரிகள் பள்ளிக்கூடங்களை வைத்து நடத்துகிறார்கள். அதில் வரும் வருவாயைக்கொண்டும் மாணவர்கள் கட்டும் சம்பளத்தைக்கொண்டும் பல நல்ல காரியங்களைச் செய்கிறார்கள். உண்மையில் இந்த மடாதிபதிகளெல்லாம், அதிக வருமானமுள்ள கோவில்களைத் தவள்களெல்லாம் நூற்றுக்கணக்கான பெரிய பெரிய ஆஸ்பத்திரிகளை ஏற்படுத்தியிருக்கலாம். ஹிந்து தர்மத்தையே காப்பற்றக்கூடிய பெரிய கல்லூரிகளையெல்லாம் ஏற்படுத்தி மாணவர்களுக்கு நல்ல அறிவைப் புகட்டி அயல்நாட்டிற்கு அனுப்பி நம் நாட்டின் பெருமையையெல்லாம் எடுத்துப் பரப்பியிருக்கலாம். இந்த மடாதிபதிகளும், ஹிந்து மதத்தை நங்கள் தான் காப்பாற்றுகிறோமென்று சொல்லுகிறவர்களும் இதை நெல்லாம் செய்யத் தவற விட்டதினால், இந்த அரசாங்கம் அதைத் தன் கடமையாக எடுத்துக்கொண்டு இதைச் செய்ய முன் வந்ததற்காக நாம் அவர்களைப் பாராட்டவேண்டும்.

“நமது ஹிந்து மத பரிபாலன போர்டார் அவர்கள் ஒரு நல்ல காரியத்தைச் செய்திருக்கிறார்கள். அதாவது சட்டக் கல்லூரி மாணவர்களுக்கு”

11th September 1950] [Sri P. Kakkan]

செரு ஹாஸ்ட்டல் கூட்டி, நல்ல முறையிலே உணவு அளித்து மாணவர்களுக்கு உதவி செய்வதைக் கண்டு நான் சந்தோஷப்படுகிறேன். அதிலும் இந்த மசோதா சட்டமன்றில் இதைப்போன்று பல நல்ல காரியங்களைச் செய்ய முடியுமென்பதற்கு இது ஒரு நல்ல அறிதிறியென்றே எண்ணுகிறேன்.

“அடுத்தபடியாக எத்தனைமீட்டர் அனுகைகள், புருஷனூல் கைவிடப்பட்ட பெண்கள், பங்குத்திலேயே புருஷனை இழந்த விதனைப் பெண்கள் விரிந்து மகத்தியம் என்னாம் இருக்கின்றார்கள். பல கிருஸ்துவ மிஷனரிகள் தற்போது அங்கங்கே சுரப்பட்டு பொதுத்துறையில் சேவை செய்கிறார்கள். ஆனால் தமிழ் நாட்டிலேயுள்ள

DEPUTY SPEAKER :—“ தமிழ் நாமெட்டுமல்ல இந்த மசோதா.”

SRI P. KAKKAN :—“ நல்லது, சென்னை மாநகரத்திலுள்ள மடாதிபதிகள், தேவஸ்தானாதிபதிகள் யாவரும் இம்மாதிரியான ஒரு காரியத்தைக்கூட செய்யவில்லை. இந்த அறநிலைய மசோதா சட்டமானால் அங்கையெல்லாம் நாம் செய்யலாம். இன்னும் ஹிந்து மதத்திலுள்ள வியாதியஸ்தர்கள், குஷ்டரோகிபோன்றவர்கள், குடும்ப, முடவர்கள் இவர்களுக்குல்லாம் உதவி செய்யலாம். அது வரவேற்கத்தக்கது. அம்மாதிரியெல்லாம் செய்தால் உண்மையான ஹிந்து மதம் தழைத்தோங்க வழி செய்தவர்களாவோம்.”

“அடுத்தபடியாக, வருஷ வருமானம் ரூ. 20,000-க்கு மேற்பட்ட கோயில்களையெல்லாம் **Board of Trustees**களின் மேற்பார்வையிலும், ரூ. 20,000-க்கு கீழ்ப்பட்ட வருமானமுள்ள ஆலயங்களின் மேற்பார்வையை **Area Committees** நிர்வகிப்பதென்றும் செலக்ட் கமிட்டியார் திருத்தி அமைத்திருப்பதை நான் வரவேற்கின்றேன். உண்மையாக அந்த எரியா கமிட்டிகளில் அந்தந்த பிரதேசிய பிரதிநிதிகளையே பொறுக்கிப் போட்டால் அந்தந்த இடங்களின் கோயில்களில் வருமானம், செலவு என்ன என்பதை அறிந்த அவர்கள் திறமையாக நிர்வாகம் செய்ய முடியும். மேலும் அந்தக் கமிட்டிக்குப் போதிய **Power**-ம் கொடுக்கவேண்டும். அம்மாதிரி கமிட்டியில் நானும்கூட ஒரு மெம்பராக இருக்கிறேன். அந்த, கமிட்டி நல்ல வேலை செய்கிறது. இந்தக் கமிட்டி வெறும் அட்வைசர்களாக இல்லாமல், இந்தக் கமிட்டிக்கும் சில அதிகாரத்தைக்கொடுத்து அவர்கள் பரிபூரண பங்கு எடுத்து வேலை செய்யுமாறு திருத்தி அமைக்கவேண்டுமென்று கேட்டுக்கொள்ளுகிறேன். இந்த ஆறிலைய பாதுகாப்பு மசோதாவானது உடனடியாக சட்டமாவதற்கு வேண்டிய முயற்சியை எடுத்துக்கொள்ளவேண்டுமென்று கனம் டாக்டர் ராஜினியும் கேட்டுக்கொள்ளுகிறேன்.”

SRI T. K. T. N. R. TATACHARI :—“ Madam, Deputy Speaker, there are several *poochies* shown to an infant Government, whenever a legislation is presented to this House. One of them is the Indian Constitution Act, the principles of which are interpreted according to each man's light, and precedents have yet to come, whatever be the letter of the law we have to accord to the spirit behind it. If we analyse the speeches made to-day on the floor of this House by various Members, they fall under three categories. One is that this Bill interferes with religious institutions which interference is not sanctioned by the Constitution. The second is, that it will not be quite proper for the Government to take over the administration of religious institutions; that is what Mr. Bhashyam and hon. Mr. Raghavayya have pointed out. They say, that the Government, though it has got broad shoulders, has already got on itself more than what it can hold! Sir, I am one of those who believe that in other respects, Government has taken

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on hand more than what it could mouth that it has mouthed more than it could munch and that it has munched more than it could swallow and it has swallowed more than it could digest, with the result that there is a sort of torture at one end and diarrhoea at the other. (Laughter.) In a way this Bill may seek to disturb age-long institutions, because it goes to the root of a society, wherefrom most of the institutions have grown up from very ancient times for various reasons. Now, when those reasons have disappeared, the mere formalities have remained. They impede the path of reorientation of society and regimentation of the individual view. For instance, most of the maths are relics of old theocratic states, when religion was almost the basis of political rule. If only one looks into the history of these maths, he will find that they were formed for the propagation of Hinduism, but have since become nothing but abode of so-called Sanyasins. May be those Sanyasins may be very learned people. I do not disrespect them, for there are really very learned people among them; but they are living out of time, and they have no place in society, because any institution which is not useful to the body politic has no right to exist in its pristine or rather primitive form. For instance, the gentleman who is performing your functions in the Indian Parliament, Mr. Anantasayanam Ayyangar got a letter while in Amroati prison, from an old relation informing him that His Holiness of the Ahobilam mutt had ordered him to arrange for his 'Bikshai' costing Rs. 300 daily to be offered to him during his transit through his district when he went to worship Shri Venkateswara at Tirumalai. Now, what is the purpose and effect of all this pompous theocratic marches? What are the fundamental principles underlying them? That, the heads of the religious institutions should realize. But, so long as they are there managing monies, it is difficult to persuade them, and also, it is difficult to persuade those in charge of these Holiness, because they profit by these practices involving huge waste of money. Such a demand did make poor Anantasayanam lie flat on his back. These institutions, as I said earlier, were started for the spread of Hindu religion for which this pompous upkeep was thought necessary; but, such are still thought in some quarters to be part of religion. So, the argument in favour of maths will not hold good. Anything which does not confer the necessary religious instructions to society has no place to-day under law. Otherwise people will lose respect for religious institutions and the faith they propagate. There had been great mal-practices consequent on the accumulation of money in these maths. Large funds were misappropriated and misapplied for purposes which were not authorized by the trust or foundation. There have been very glaring examples of them nearer my home. I need not cite them. They are still before the Court. They are nearer to us and yet far away from heaven. So it is very necessary to get at these funds, and hence to say, that the State should not control them, is something which appears to be fallacious and also very fantastic. Because the State must see that there is no fraud in whatever field, whether it is in secular or religious institutions or in business concerns. We have to set right these things, so that they may serve the public well. Mahatma Gandhi once said,

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there may be a time when people will refuse to recognize God unless He appears in the shape of bread. So it is very necessary that the trusts should function very strictly for the purpose for which they were founded. But when a trust has failed, law has enjoined, under the rule of Cypres, that it may be used to some other beneficial purpose.

"Now it is a very redeeming a feature, that this rule has been applied in the case of the Tirupathi Devasthanam. Government and the Hon. Dr. Rajan have made use of that principle of law for making power to bring into being several useful institutions. But it is doubted by some friends, whether State control of these institutions may give that incentive to the officers, whom they select, to devote that attention and have the faith to keep up the traditions of those maths. It is not a very difficult matter for the Government to find such persons. For, nobody can say that hereditary trustees alone can manage them efficiently? I am myself a hereditary acharya purusha but never a trustee! (Laughter.) I still claim to be a hereditary acharya purusha. But hereditary trusteeship is no insurance against freedom from fraud. Fraud, wherever it exists, should be done away with. So it is proper for Government to get in certain other persons and ask them to carry on the secular side of trusts. I am not a trustee, but I do own certain functions, which I must say, I am not doing for many reasons, both economic as well as political. But still, we must see there is somebody who performs it under some organized system. To administer them, it is not very difficult for Government to choose proper officers. Hon. Members of this House have spoken that the existing trustees are not functioning properly. To replace them by officers of the Government would lead to a type of worse corruption. Madam, corruption was born with God. Even God is corrupted daily, so that we may escape from being caught in our unlawful acts. I am telling you out of experience. So, even Gods are not above corruption. But let nobody mistake me and think I do not believe in God. I am a believer in God. All I say is, nobody can root out corruption. Only we can keep it at its lowest. So all the argument about the possible loose administration by any set of officials that Government may choose is only in the stage of suspicion. Let them not think that Government intend by this Bill to set up bad and faithless people to be in charge of temples and religious institutions. Let all understand and believe that Government is intending to do its best for the better management of these institutions. It would be a redeeming feature even if the administration, as proposed under this enactment, is run by ordinary men, by men of mediocre capacity. In fact, it does not need men of extraordinary capacity to run them. Even a cow or hippopotamus with a sufficient amount of virtue and diligence, I submit, can manage these religious institutions. (Laughter.) So, it will not be difficult to find so many ordinary men to run them. It may be, after some time, when that is found in practice, those who are now opposing Government would give their full support to Government, if need be, for further reform.

"A feature of this Bill, in respect of which, it falls short, is,

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that according to me, there is a very primitive form of worship, which is an insult to our civilization and that still exists in some of these Hindu religious institutions. I am referring to the fee levied in temples with regard to worship. A fee for worshipping God! It is a premium on worship. Does this not detract the liberty of the individual to worship God as he likes? Does it not offend the provisions in the Constitution, quoted by some hon. Members? If a man has to pay Rs. 13 for God's darshan during a particular ritual, is this not an infringement of the right of an individual to worship. I cannot say this levy of Rs. 13 is religion. It is only exploitation. None of the devotees are going to cheat God without paying Rs. 13; because this thirteen rupees will be put into the hundi in some form or other by the devotees in the course of their worship. The genesis for this fee is not far to seek. Originally these temples were able to maintain themselves from the offerings of the worshippers. But at the time when the iconoclasts came down to rule, the system of that type of levy was invented to persuade the rulers to spare these temples in consideration of the large returns to their Exchequer. So this device of a fee or a premium was devised, and they still exist in our temples to-day. Therefore I say, this premium is a primitive practice, which has to be stopped. I request the Hon. Dr. Rajan to make suitable provisions if not in the present Bill at least under the rules for this. It is all sheer usage; it has no religious basis, and so, it has to be put an end to, being opposed to public policy. With these words, Madam, I commend this legislation, and congratulate the Hon. Dr. Rajan for having spared no pains and utilized all his mature experience and zest in the matter of bringing about this legislation, which will certainly, I do hope, meet the needs of society."

SRI K. SHANMUGAM :—“ అధ్యక్షురాలగు ఆప్ట, నెలవ్వు కమిటీవారి సవరించిన టువంటి ఈ Hindu Religious and Charitable Endowment Bill ను ప్రవేశ పెట్టినందుకు ప్రభుత్వంవారికి నా ధన్యవాదాలు. ఈ బిల్లుపై నేను కొన్ని సో జోలుచూత్రం ఇస్తున్నాను. దేవస్థానాలిగత ఉన్న టువంటి కంటలాది ఎకరాల ఖామూలను హరిజనులకు వ్యవసాయమునకు ఇచ్చినట్లే వారి ఆర్థిక స్థితి కొంత బాగు పడుతుంది. ఈ ఖామూలను చుక్కాకు ఇచ్చేటప్పుడు నెహ్రూరిజా దబ్బు ముందుగా కట్టుకొనవలె నియంజన ఉన్నది. కాని వీదలగు హరిజనులకు ఆ నెహ్రూరిజా దబ్బు కట్టుకుంటే తేరుకుంటుంటే, వెలముగా ఖామూలు వారికి దక్కకుండా, దబ్బు కట్టుకొనిన బాగ్యవంతులకు పోతున్నాయి. అట్లుగాక, నెహ్రూరిజా తేరుకుండా హరిజనులకు చుక్కాకు ఇవ్వకపోవడని మనవి చేస్తున్నాను.

“దేవాదాయాల విశేషంగా వచ్చేసేట ఆదాయంతో వీడలకు స్వకామాలం (పూర్వకామాలం) నిర్మించి, కుటి, గుడ్డి మొదలగు వికలాంగులకు ఆశ్రయమిచ్చి పోషించవలెను.

“మరియును దేవాలయ ప్రవేశములకు ఇంకా కన్న ఇప్పుయేలు తొలగవలె నంటే, అర్చకల మరలనుల దేవస్థానము కనిపెట్టగా, మేగేటంగు బ్రహ్మలునా, బ్రహ్మింగు ఇచ్చి అర్చకులుగానూజ నయమింకవలెనని మనవి చేస్తున్నాము.

11th September 1950] [Sri K. Shanmugam]

“ఇంకా ఆముద్ర ప్రాచీన గ్రంథాలను ప్రోటికరించి శాస్త్రములు వ్రాయించ వలెను. యీస్తున్నట్లువంటి శిల్పకళానైపుణ్యానికి దోహద మివ్వవలెను. ఈ సలహా లతో ఈ విజ్ఞుడు నేను బలవరనూ, విరమిస్తున్నాను.”

SRI R. KUPPUSWAMI:—“கனம் உதவி சபாநாயகி அவர்களே, கனம் சுகாதார மந்திரி அவர்களால் கொண்டுவரப்பட்ட அறநிலைய பாதுகாப்பு மசோதாவை நான் முழு மனதுடன் ஆதரிக்கிறேன். அவ்வாறு ஆதரிக்கிற முறையில் முக்கியமாக இரண்டொரு விஷயங்களைக் குறிப்பிட விரும்புகிறேன். அவ்விதம் குறிப்பிடும்பொழுது இந்த ஹிந்து மத ஸ்தாபனங்கள் மூலமாக வரும் வரும்படிக்களையெல்லாம் இந்த தேசத்தினுடைய நன்மைக்காகவே உபயோகப்படுக்கூடிய முறையில், அதற்கு அடிப்படையான கல்வி அபிவிருத்தி என்பது போன்ற முயற்சியை அம்சங்களிலும் அதயார் வசியமான வகைகளிலும் சிலை செய்க்கூடிய முறையில் இம்மசோதா இருக்கவேண்டியது என்பது பொது ஜனங்கள் மிகவும் போற்றக்கூடிய விஷயமாகும். அப்படிப்பட்ட ஒரு செய்கையையும் பொது ஜனங்கள் மிகவும் வரவேற்பார்கள். இந்த மசோதாவை சட்டபூர்வமாகக் கொண்டுவருவது ரொம்பவும் எளிதாக இருந்தாலும்கூட அதை அனுபவரீதியாக பொது மக்களுக்கு உபயோகப்படுமபடியான முறையில் அமுலுக்குக் கொண்டுவர வேண்டும். அதற்காக அதிகாரிகளை நியமிக்கும் விஷயத்தில் சர்க்கார் கொஞ்சம் கவனம் செலுத்திப்பார்க்கவேண்டும். இந்த மசோதாவின் அடிப்படையான நோக்கங்களில் அமைக்கப்படும் கமிஷனர், டிபுடி கமிஷனர், அசிஸ்டெண்டு கமிஷனர் இவர்களை நியமிக்கும்பொழுது அவர்கள் இந்த மசோதாவின் கொள்கைகளை நன்றாகத் தெரிந்துகொண்டு அதில் அக் காரையுடன் கவனம் செலுத்திவரும்படியாகவும், பொது மக்களுக்கு உபயோகப்படுக்கூடிய முறையிலும் அவர்களை நியமித்தால்தான் இந்த மசோதா வெற்றிகரமாக நடைக்கும் முறையில் இருக்கும். அம்மாதிரி அதிகாரிகளைப்போடவேண்டுமென்கிற அளவில் சாதாரணமாக இந்த மசோதாவின் கொள்கையில் நம்பிக்கையிலில்லாதவர்களை நியமித்தால் அவர்களுடைய ஒரு தன்மை பொது மக்களுக்குள் ஒரு மாற்றிதத்தை ஏற்படுத்திவிடும். பொது மக்கள் இம்மசோதாவின் கொள்கைகளை அனுபவிக்கமுடியாமலும் போய்விடும். ஆதலால் அதிகாரிகளை நியமிக்கும் விஷயத்தில் சர்க்கார் கவனம் செலுத்தவேண்டியதவசியம்.

“அந்த முறையிலே பார்க்கும்பொழுது இந்த மசோதாவின் மூலம் வரக் கூடிய வரும்படியை வைத்துக்கொண்டு பள்ளிக்கூடம், இன்னும் ஹாஸ்டல் களையோன்ற பல வசதிகளுக்கு உபயோகப்படும்படியாக ஏற்பாடு செய்யப்பட வேண்டும். குறிப்பாக இந்த மசோதாவில் 82-வது பக்கம் 88-வது குறிப்பில் ‘**Purposes for which Devasthanam funds may be used.**’ என்ற கலத்தில் கருமமாக கவனிக்கவேண்டியது ஒரு அம்சமிருக்கிறது. அதையும் இம்மசோதாவில் விட்டிருக்கிறார்கள். அதாவது இதில் வரக்கூடிய பணத்தையெல்லாம் முக்கியமாக கோவில்களுக்கு முன்பு பார்த்தால் எராளமான பிச்சைக்காரர்கள் இருக்கிறார்கள், இந்த பிச்சைக்காரர்களுடைய முன்னேற்றத்திற்கு சிலவிடப்படவேண்டும். சர்க்காரில் ஒருவரை நியமித்து அவர்கள் இந்த மாதிரியான பிச்சைக்காரர்களை அப்புறப் படுத்துமாபடி நியமிக்கவேண்டும். இந்த மாதிரியான பிச்சைக்காரர்கள் கோவில்களுக்கு முன்பாக இல்லாமலிருக்கும்படி செய்யவேண்டும். அவ்விதம் செய்வதற்கு அவர்களுக்கென்று ஒரு வைத்தியசாலையோ அல்லது கைத்தொழில்சாலையோ அமைப்பதென்று அம்மசோதாவில் குறிப்பிடப் பட்டிலை. ஆகவே இந்த பணத்தினால் பிச்சைக்காரர்களுக்கும், வயோதிகர்களுக்கும் உபயோகப்படும்படியாக கல்வி ஸ்தாபனங்கள் நிறுவி அவர்கள் தேசத்தில் தொழில் செய்யக்கூடிய நிலைமையில் அவர்களுக்கு வசதி செய்துகொடுக்க இந்த மசோதாவை அமைக்கவேண்டும். இம்மாதிரி இருந்தால்தான் இம்மசோதாவிற்கு ஒரு உபயோகம் ஏற்படும். பொது ஜனங்கள் செல்லும் கோயில்களுக்கு முன்னால் பிச்சைக்காரர்களின் தொந்தரவுகளும் இல்லாமலிருக்கும் என்பதாக நான் தெரிவித்துக் கொள்ளுகிறேன்.

[Sri R. Kuppuswami] [11th September 1950]

“மற்றும் இந்த மசோதாவிலுல் வரக்கூடிய சொத்துக்கள் குறிப்பாக தேவஸ்தானங்கள் சம்மந்தமாக ஏராளமான நிலங்களுக்கின்றன. அந்த நிலங்களில் இப்பொழுது சரியான முறையில் கவனம் செலுத்தப்படவில்லை. அதில் வரக்கூடிய வரும்படியை அநேகமாக உதாசினம் செய்யப்பட்டு வருகிறது. அதில் சர்க்கார் கவனம் செலுத்தி அதிலிருந்து வரக்கூடிய வரும்படியை நன்கு பயன்படுத்திக்கொள்ளும்படியாக இந்த மசோதாவை அமைக்கவேண்டும். அதற்காக அங்கங்கே பிரதேசவாரியாக கமிட்டிகளை நியமித்து வருவதாக ஒரு திட்டம் இருப்பது எல்லோரும் அறவேறாத தக்க விஷயம். அவ்வாறு கமிட்டிகளை அமைக்கும்பொழுது அவர்களுக்கு இன்னும் அதிகப்படியான சில அதிகாரங்களைக் கொடுக்கவேண்டும். இப்பொழுது இந்த கமிட்டிகளுக்கு அதிகாரம் இருப்பதாகவே தெரியவில்லை. ஆலோசனை சொல்வதுபோன்ற முறையில் தான் அமைக்கப்பட்டிருக்கிறதே யொழிய அதிகாரத்தைக்கொடுத்து அங்கங்கே உள்ள குறைபாடுகளை அறிந்து அவைகளை நீக்குவதற்கு வேண்டிய அதிகாரங்களைக் கொடுத்து ஒரு நல்ல முறையில் பயன்படுத்தவேண்டுமென்று நான் கனம் மந்திரி அவர்களுக்கு தெரிவித்துக்கொள்ளுகிறேன்.

“அதோடு இன்னும் இதில் 51-வது பக்கத்தில் 24-வது clause-ல் பாம்பரை Trustee-களை அமைக்கும்பொழுது 35 வயதிற்கு குறைந்தவர்களும் 70 வயதிற்கு அதிகமில்லாமலும் இருப்பவர்களைத்தான் நியமிக்க வேண்டுமென்று குறிப்பிடப்பட்டிருக்கிறது. அவ்விதமில்லாமல் வயது 35 என்று இருப்பதை குறைத்து 30 வயது என்று மாற்றி அமைத்தும் வயது 70 என்றிருப்பதை குறைத்து 60 என்றும் குறைத்தால் ரொம்பவும் நன்றாக இருக்கும் என்பதை கனம் மந்திரி அவர்களுக்கு தெரிவித்துக் கொள்ளுகிறேன். ஏனென்றால் 70 வயதிற்குமேல் வேலை செய்வதாக இருந்தால் மிகவும் ஷ்டமாக இருக்கும். ஆகவே அவர்களுக்கு அதிக தொந்தரவு கொடுக்காமல் வயது 70 என்பதை 60 ஆக குறைத்தும் 35 என்பதை 30 ஆகவும் குறைத்தால் ரொம்பவும் நன்றாக இருக்கும் என்பதை தெரிவித்துக்கொள்ளுகிறேன்.

“இந்த மசோதாவைப் பொறுத்தவரையுக்கும் இதில் அறவேறாததக்க அம்சங்கள் பல இருக்கின்றன என்பதை மட்டும் தெரிவித்துக்கொள்ளுகிறேன். இந்த ஒன்றிரண்டு விஷயங்களில் கனம் மந்திரி அவர்கள் கவனம் செலுத்தி அவைகளை மாற்றியமைக்கவேண்டுமென்று கேட்டுக் கொண்டு என்னுடைய வார்த்தையை முடித்துக்கொள்ளுகிறேன்.”

Sri K. S. NATARAJA GOUNDAR :—“கனம் உப சபாநாயகி அவர்களே! கனம் சுகாதார மந்திரி அவர்களால் கொண்டுசெல்லப்பட்ட அரசு நிலய பாதுகாப்பு மசோதாவை நான் முழுமனதுடன் ஆதரிக்கின்றேன். கனம் நண்பர் பாஷ்யம் அவர்களால் கொண்டுவரப்பட்ட திருத்தப்பிரேரணையை நான் முழு மூச்சாக எதிர்க்கின்றேன். இன்றே பல ஆலையங்கனெல்லாம் அழிந்து போய்க்கொண்டிருக்கின்றன. ஒரிந்து தரம் மடங்கனெல்லாம் ஊழல் மலிந்து நலிந்து வருகின்றன. இந்த நிலைமையில் நண்பர் பாஷ்யம் அவர்கள் சொல்வதுபோல் இந்த மசோதாவை மீண்டும் பரிசீலனைக்கு எடுத்துக்கொண்டேயிருப்போமானால், மீண்டும் மீண்டும் பொறுக்கு கமிட்டிக்கு அனுப்பி கால தாமதம் செய்துகொண்டேயிருப்போமானால் நிச்சயமாக அழிந்துபோய்க்கொண்டேயிருக்கும். பிறகு ஆலையங்களை யெல்லாம் பாதுகாக்க முடியாது. இன்று மடாதிபதிகளால் செய்யப்படும் அக்கிரமங்களைத் தடுத்தும், அவர்களால் அழிக்கப்படும் பெருவாரியான பணங்களையும் பாதுகாத்து மக்களுக்கு நல்ல முறையில் செலவிடவேண்டுமானால் இந்த மசோதாவை உடனடியாகக் கொண்டு வருவது அத்தியாவசியமானது. இன்று பல நண்பர்கள் இந்த மசோதாவை எதிர்க்கவே வேண்டுமென்ற நோக்கத்துடன் எதிர்க்கின்றார்களேயொழிய இந்த மசோதாவானது பெருவாரியான மக்களால் எதிர்க்கப்படுகின்றதா என்றால் இல்லை. மடாதிபதிகளுக்கு வகாலத்து வாங்கிக்கொண்ட வழக்கு அறிஞர்கள் வேண்டுமென்றே இந்த மசோதாவை எதிர்க்கிறார்களே தவிர மக்களால் இந்த மசோதா எதிர்க்கப்படுவதில்லை. எல்லா வகுப்பு மக்களாலும் இந்த மசோதா ஆதரிக்கப்படுகிறது என்று சொல்லிக்கொண்டு இந்த

11th September 1950] [Sri K. S. Nataraja Goundar]

மசோதாவைக்கொண்டு வந்த கனம் சுகாதார மந்திரி அவர்களுக்கு எனது மனப்பூர்வமான நன்றியைத் தெரிவித்துக்கொள்ளுகிறேன். கூட இந்த மசோதாவை உடனடியாகச் சட்டமாகக் கொண்டுவரவேண்டுமென்று கேட்டுக்கொண்டு இத்துடன் என்னுடைய சிறு வார்த்தையை முடித்துக் கொள்ளுகிறேன்.”

Sri A. VEDARATNAM PILLAI :—“கனம் உப அக்கிராசனாதிபதி அவர்களே! நமது ஹிந்து ஆலையங்களை சீர்திருத்தும் மசோதாவை இந்தச் சட்ட சபையில் கொண்டுவந்ததற்காக கனம் மந்திரி அவர்களை நான் பாராட்டுகின்றேன். ஆலையங்களை இன்று இருக்கக்கூடிய நிலைமையில் இப்படியே விட்டுவைப்பதென்பது சாத்தியமில்லாத விஷயம். அதைச் சீர்திருத்தவேண்டியது அவசியமென்ற விஷயத்தில் யாருக்கும் எந்த விதமான ஆகேஷ்டமும் இருக்க முடியாது. அந்த நிலைமையில் அரசாங்கம் இதை திருத்த முன் வருமுன் பல ஆண்டுகளுக்கு முன்னரே H.R.E. போர்டு நியமிக்கப்பட்டு அந்த வேலையை எடுத்துக்கொண்டார்கள். இன்னும் அதைத் திறமையாக நடத்தவேண்டுமென்ற காரணத்துக்காக இன்று தன் மேற்பார்வையில் கொண்டு வருவதற்கு அரசாங்கமே இந்த மசோதாவைக்கொண்டு வந்திருக்கிறது. இன்று அப்பொறுப்பை அரசாங்கம் ஏற்றுக்கொண்ட பின்னரும் அதில் குறைபாடுகள் இருக்குமேயானால் அந்தக் குற்றம் அரசாங்கத்தைச் சாரும். ஆகையால் அந்தக் குறைபாடுகளை அவர்கள் நிவர்த்தி செய்யக் கடமைப்பட்டிருக்கிறார்கள். இந்த முறையில் ஆலையங்களை திறமையான முறையில் இயங்கும்படி சீர்திருத்தம் செய்யவேண்டியது அத்தியாவசியம். கனம் மந்திரி அவர்கள் எடுத்துக்கொண்டிருக்கின்ற முயற்சி பூர்ண வெற்றி அடையவேண்டுமானால் இங்கே எழுப்பப்படுகின்ற ஒவ்வொரு ஆகேஷ்டமையையும் கனம் மந்திரி அவர்கள் கூர்ந்து கவனிக்கவேண்டுமென்று நான் கேட்டுக்கொள்ளுகிறேன். இப்போது எதற்கெடுத்தாலும் இந்த அரசாங்கம் செய்கின்ற தீர்மானம் அனைத்தையும் ஹைகோர்ட்டில் அப்பீல் செய்யப்பட்டு அவர்களால் நிராகரிக்கப்படுகின்ற ஒரு நிலை ஏற்பட்டிருக்கின்ற காரணத்தால் நாம் இப்போது இங்கே நிறைவேற்றப்படுகின்ற இந்தச் சட்டத்திற்கும் அதே கதி ஏற்பட்டுவிடாமல் பார்த்துக்கொள்ளவேண்டியது அத்தியாவசியம். அம்மாதிரி ஹைகோர்ட்டால் அரசாங்கம் செய்கின்ற ஒவ்வொரு சட்டமும் நிராகரிக்கப்படுமேயானால் அது நம்முடைய அரசாங்கத்தின் கௌரவத்தைப் பாதிக்கக்கூடிய விஷயமாகும். ஆகையால் இவ்விஷயத்தில் சர்வ ஜாக்கிரதையாக இருக்கவேண்டுமென்று முன்னெச்சரிக்கையாக நான் இதைச் சொல்லுகிறேன். நிச்சயமாக இந்த பிஸ்ஸை நாம் சட்டமாக்கினால் இது ஹைகோர்ட்டு அப்பீலுக்குப் போகத்தான் போகிறது என்ற விஷயத்தை நாம் எதிர்பார்த்தே இருக்கவேண்டுமென்று கனம் மந்திரி அவர்களுக்குச் சொல்லிக்கொள்ளுகிறேன். இப்பவே அதற்கான யோசனையுடன் தகுந்தபடி இந்த மசோதாவை திருத்தி, ஹைகோர்ட்டாரால் நிராகரிக்கப்படாத வகையில் சட்டமாகத் தக்க ஏற்பாடுகள் அனைத்தையும் எடுத்துக்கொள்ளவேண்டுமென்பது என் வேண்டுகோள்.

“தலைவர் அவர்களே! நிச்சயமாக எனக்குத் தெரிந்தவரை எங்கள் ஊரில் ஒரு பெரிய ஆலையிருக்கிறது. ஏராளமான சொத்தும் அதற்கு இருக்கிறது. அவைகள் மடாதிபதிகளிடமிருந்து இப்போது எண்டோமெண்டு போர்டுக்கு வந்த பிறகு எவ்வளவோ சீர்திருத்தம் அடைந்திருக்கிறது என்ற விஷயத்தை நான் நிதர்சனமாக நேரில் பார்க்கின்ற தினால்தான் நான் கூறுகின்றேன். இப்போது நன்றாகத் திறமையாக அதன் நிர்வாகம் நடந்து வருகிறது. மற்றொன்று தற்போது எல் திலும் ஆலையங்களின் நிர்வாகம் மேலாகவும், ஊழலாகவும் தென்று கூறுவதற்கில்லை.”

THE MADRAS LEGISLATIVE ASSEMBLY.

Tuesday, the 12th September 1950.

The House met in the Assembly Chamber, Fort St. George,
at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVA-
SHANMUGAM PILLAI) in the Chair.

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[12th September 1950]

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
BILL, 1949 (L.A. BILL NO. 10 OF 1949)—cont.

MR. SPEAKER:—"The hon. Sri A. Vedaratnam Pillai will now continue his speech."

SRI A. VEDARATNAM PILLAI:—"அவர் அவர்கள்! இந்த சென்னை மாநகரத்தில் இருக்கின்ற இதர ஜில்லாக்களிலுள்ள ஆலயங்களையெல்லாம் ஒன்று சேர்த்தால் எவ்வளவு இருக்குமோ அதைக்காட்டிலும் அதிகமாக தஞ்சை ஜில்லா ஒன்றில் மட்டிலும் இருப்பதாலும், அந்த தஞ்சை ஜில்லாவின் நாலில் ஒரு பாக நிலம் அந்த ஜில்லா ஆலயங்களின் தர்மஸ்தாபன சொத்துக்கள் சேர்ந்திருப்பதினாலும், இந்தச் சட்டம் கொண்டுவந்த காலத்தில் இதை ஆலோசனைக்கு எடுத்துக்கொண்ட செலக்ட் கமிட்டியிலும்கூட மேல் சபையிலிருந்தே இந்தச் சபையிலிருந்தோ ஒரு பிரதிநிதிகூட இல்லாத காரணத்தால் இந்தச் சந்தர்ப்பத்திலாவது அந்த ஜில்லாவாசிகள் சொல்லவேண்டிய சிலவற்றைச் சொல்வதற்காக நேரம் சம்பந்தப்பட்டவை கொஞ்சம் எனக்குச் சலுகை காட்டுமாறு கனம் தலைவர் அவர்களைக் கேட்டுக்கொள்கிறேன்."

MR. SPEAKER:—"As there are a large number of Members who want to take part in this debate, I fix 15 minutes as the time-limit for each hon. Member."

SRI A. VEDARATNAM PILLAI:—"Except me, Sir?"

MR. SPEAKER:—"Including the hon. Member."

SRI A. VEDARATNAM PILLAI:—"நேற்று இந்தச் சபை அதை ஆதரித்து நான் பேசிய பிரகாரம் இதில் முக்கியமாக தர்மஸ்தாபனங்கள் எல்லாம் கோர்ட்டுக்குப்போய் பணத்தை விரயம் செய்து இந்தச் சட்டத்தை செல்லுபடியாகாதபடி செய்ய பெருமுயற்சி எடுத்துக்கொண்டிருக்கின்ற காரணத்தால், அரசாங்கத்தார் அம்மாதிரி தர்மஸ்தாபனங்களின் சொத்து விரயமாகாதபடி பார்த்துக்கொள்ளவேண்டுமென்ற விஷயத்தை நான் குறிப்பிட விரும்புகின்றேன்."

"மடாதிபதிகள் சம்பந்தப்பட்டவரையில் அவர்களுக்குள்ள மதசம்பந்தமான விஷயங்கள் எதிலும் இந்தச் சட்டம் தலையிடுவதாக இல்லை. ஆனால் அவர்களிடத்திலிருந்து இந்த தர்மஸ்தாபனங்கள் சம்பந்தமான சொத்துகளைப் பராமரிக்கின்ற பொறுப்பைதான் அரசாங்கம் இந்தச் சட்டத்தின்மூலமாக எடுத்துக்கொண்டிருக்கிறதென்றி அவர்கள் இதுவரை மதச் சம்பந்தமான உரிமைகள் என்னென்ன அனுபவித்து வந்திருக்கிறார்களோ அதையெல்லாம் இந்தச் சட்டம் இன்னமும் அனுபவிக்கிறது என்பதை நாம் உணரலாம். ஆகையால் அவர்கள் இதில் குறைகூறுவதற்கு இடம் இருப்பதாகத் தெரியவில்லை. மடாதிபதிகள் அவைவரும் பெரும்பாலும் சன்யாசிகள். இந்தச் சட்டத்தினால் அவர்களிடமிருந்த ஒரு பெரிய பொறுப்பு நீங்கப்படுகிறதென்ற சந்தோஷம்தான் அவர்களுக்கு இருக்கலாம். அவர்கள் தங்களுடைய மதசம்பந்தமான காரியத்தில் இன்னும் அதிக நேரம் செலவிட வாய்ப்பு விவரங்களை நான் திறமையாக நடத்திவைக்க இந்தச் சட்டத்தினால் வசதி வற்புறுத்து. இந்தப் பிரயாசையை அரசாங்கம் எடுத்துக்கொண்டு அது சம்பந்தமான நிர்வாகப்பொறுப்பை அரசாங்கம் ஏற்றுக்கொள்ள முன்வந்திருக்கின்ற காரணத்திற்காக நாம் குறைகூறுவதற்கில்லை."

"இந்த சந்தர்ப்பத்தில் நான் ஒரு வார்த்தை குறிப்பிட விரும்புகின்றேன். மடாதிபதிகள் என்று சொன்னால் அவர்கள் எல்லோரும்

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நகுதி அற்றவர்கள்; ரொம்ப மோசமானவர்கள் என்ற கருத்துப்பட சில நண்பர்கள் நேற்று குறிப்பிட்டார்கள். அம்மாதிரி அவர்கள் சொல்வது நியாயமில்லாத விஷயம். முக்கியமான பொறுப்பு வாய்ந்த ஸ்தானத்தை வகிக்கின்ற அவர்கள் எல்லோரையும் ஒரேமுகமாகக் கண்டிக்க முன்வந்தது முறையல்ல என்று குறிப்பிட விரும்புகின்றேன். சங்கராச்சாரியார் மடத்தையும் அவைகள் போன்று ஒழுக்கத்திலும், இதர விஷயங்களிலும் குறைகூறுவதற்கே இடம் இல்லாதவாறு இருக்கின்ற எல்லா மடங்களையும் கூட அவர்கள் தாக்கீப்பேசியது நியாயம் அல்லவென்று நான் குறிப்பிடவிரும்புகின்றேன். உணர்ந்தோ, உணராமலோ எல்லாவற்றையும் ஒன்றாகச் சேர்த்து குறிப்பிட்டார்கள். உதாரணமாக திருப்பணந்தான் மடத்தைப் பற்றியும் சில அங்கத்தினர்கள் குறிப்பிட்டார்கள். இன்று இருக்கின்ற மடங்களில் ஒழுக்க விஷயத்திலும், இதர விஷயங்களிலும் சிறந்து விளங்குகின்றது திருப்பணந்தான் மடம். இதுபோன்ற மடங்கள் ஒழுங்கான முறையிலே நடந்து வருவதைக்கண்டு, பொறுப்பு வாய்ந்த தலைவர்களும், மற்றவர்களும், அதற்குரிய பாராட்டுரையை கூறவேண்டியதிருக்க அதை அவர்கள் எதிர்த்துப் பேசுவது கொஞ்சநஞ்சம் மதப்பற்றுள்ளவர்களுக்கும் கூட தப்பான அபிப்பிராயம் எழுகிறது. ஊழலாக நடக்கின்ற மட ஸ்தாபனங்களைக் கண்டிப்பதை நான் ஆகேஷிக்கவில்லை. ஆனால் அவர்களோடு சேர்த்து நேர்மையாக நடக்கின்றவர்களையும் கூட கண்டிப்பது என்று சொன்னால் அது தகராறு என்று குறிப்பிட விரும்புகின்றேன். ஆலயங்கள் நிர்வாக விஷயம் சம்பந்தப்பட்டவரை தர்மபுரம் மடத்தார் நிர்வகிக்கின்ற முறையானது, இப்போது அரசாங்கம் எடுத்து தன் மேற்பார்வையில் நடத்துகின்ற ஆலயங்களின் நிர்வாகத்தையெல்லாம் விட சிறந்த முறையிலே நடக்கின்றது என்பதை குறிப்பிட விரும்புகின்றேன்."

"நேற்று நான், அரசாங்கம் தன் மேற்பார்வையில் எடுத்து நடத்துகின்ற ஆலயங்களெல்லாம் முன்னிருந்ததைக்காட்டிலும், இப்பொழுது சிறப்பாக நல்ல முறையில் நடக்கின்றது என்ற விஷயத்தைக் குறிப்பிட்டேன். அதற்கு உதாரணமாக எங்கள் ஊரில் ஒரு கோவிலைப்பற்றி ரொன்னேன். அது சிறிய ஊராக இருந்தாலும் அங்குள்ள கோவிலுக்கு 20 ஆயிரம் ஏக்கர் நிலமிருக்கிறது. இதுவரையிலும் கடனில் மூழ்கியிருந்த அந்தக் கோவிலை சர்க்காரின் மேற்பார்வையில் வந்தவுடன் நல்ல முறையிலே வேலைகள் நடந்துவருகின்றது என்று நேற்றே குறிப்பிட்டேன். மீண்டும் அதைக் குறிப்பிடுகின்றேன். இம்மாதிரி அவர்கள் செம்மையாக நடத்திவருகிறார்கள் என்பதற்காக அதில் குறையே கூறுவதற்கு ஒன்றுமேயில்லையென்று கூறுவதற்கில்லை. குறைபாடுகளும் சில இருக்கின்றன. அவற்றையும் நான் எடுத்துக் கூறவிடில் நான் என் கடமையைச் செய்யத்தவறியவனாகேன். ஆகையால் நான் கண்ட குறைபாடுகளைக் கூறவிரும்புகின்றேன்."

"ஆலயம், கோயில்களை பாதுகாக்க வருகின்ற அதிகாரிகள் இந்த ஆலயங்களிலும், கடவுள் வழிபாட்டிலும் நம்பிக்கையுள்ளவர்களாக இருந்தால்தான் அந்த இடத்தில் உரிய மரியாதையோடு காரியங்களை நடத்துவார்கள். அப்படியின்றி கடவுள் ஆராதனையில் நம்பிக்கையற்றவர்களை அவர்கள் நிர்வாகத்தில் திறமையுள்ளவர்கள் என்பதற்காக மாத்திரம் நியமிக்கக்கூடாது. எதற்காகச் சொல்லுகிறேன் என்றால் எங்கள் ஊரில் அந்த அதிகாரிகள் நிர்வாகத்தை ஏற்றுக்கொண்டு பின் அந்த ஆலயத்திலுள்ள செப்பு விகிரகங்கள் எல்லாம் கலம்பேறி, எண்ணை அழுக்கு படிந்து இருந்ததை சுத்தம் செய்வதற்கு அவர்கள் எடுத்துக்கொண்ட முறையை மாத்திரம் நான் சுட்டிக்காட்ட விரும்புகிறேன். இந்தச் சிலைகளை யெல்லாம் சுத்தம் செய்வதற்கு ஒரு பெரிய அண்டாவை எடுத்து அதில் புளியைப்போட்டு கரைத்து கொதிக்க வைத்து இந்த விகிரகங்களை யெல்லாம் சாம்பார் பண்ணிவிட்டார்கள். இம்மாதிரியான செய்கையினால் விகிரக ஆராதனையில் நம்பிக்கையுள்ள பலரின் உள்ளங்கள் வேதனையால் கஷ்டப்பட்டது என்ற விஷயத்தை நான் குறிப்பிட விரும்புகின்றேன். அதனாலேயே விகிரக ஆராதனையில் நம்பிக்கையற்றவர்களை அதிகாரிகளாக நியமிக்கக்கூடாது. ஆகையால் கடவுள் ஆராதனையில் சிரத்தை

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people that it was in the interests of the Hindu community that the temples were sought to be controlled by the Government with reference to their revenue and expenditure. It was with great foresight and thought that the first set of Commissioners were appointed, after having been selected by a specially constituted committee. It must be said to the credit of those Commissioners and the various Presidents that followed them that the religious endowments, etc., entrusted to their charge have been efficiently administered although the Hon. Gentleman the Minister for Health and Hindu Religious Endowments Board said there were certain defects in the administration. I can say, on the whole the Hindu Religious Endowments Board has done its best to administer the endowments committed to its charge properly in spite of individual grievances, that may exist. Madam, it is a very complicated portfolio for any Minister and it has remained so for the last thirty years. In its complications, it is only next, or even equal, to Local Administration. Influential people, as trustees connected with temples used to be ranged on either side, one side favouring Governmental control and the other against. Thus it has not been an enviable task for any of the Ministers. From my own experience as Minister in charge of Hindu Religious Endowments Board, I can say it is not an easy job to hold the portfolio. Notwithstanding these handicaps, the present Minister for Hindu Religious Endowments Board has successfully held this portfolio for a second term and he deserves our congratulations on having steered this department clear of all controversies that have arisen from time to time. Madam, we are now concerned mainly with further improvements to the Board. I am one of those who have given the wholehearted support to all measures connected with the improvement of the Board. I may point out here that I was asked during the Advisers' regime to be the Chairman of the Committee that was then constituted to go into the working of the Board on the lines proposed by the Hon. Dr. Rajan when he was the Minister for Hindu Religious Endowments for the first time. As I do not possess that legal acumen that is required for presiding over the deliberations of such committees, though I knew the problems connected with the administration of temples, I implored the Government to seek the assistance of a distinguished Judge of the Madras High Court, Sri Venkataramana Rao, who subsequently agreed to serve as Chairman of the Board. It was largely due to his untiring efforts stretched over a period of nearly eight months that a very fine report was drawn up. Very many distinguished citizens helped us in this job. We proposed an alternative Bill also in the report and we also accepted most of the recommendations proposed in the Bill drafted by Dr. Rajan in 1938. I am glad that some of our recommendations were implemented by the Advisers and the rest have been incorporated in the present Bill. While I am in general agreement with the provisions of the Bill, I have certain observations to make by way of helpful criticism.

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"Madam, one of my observations would relate to the motion to recommit the Bill to the Joint Select Committee for further examination. I am in entire agreement with the view expressed by certain hon. Members that it should be recommitted to the Joint Select Committee. When I say this I want to make one thing clear. I am not at all for any delay in passing this legislation. But I know pretty well that this Bill is not going to be taken up clause by clause in the present sitting. The Bill may come up again before the House only when we sit next, some time next month, and meanwhile it will be certainly possible for the Select Committee to consider the aspects on which doubts have been expressed by the hon. Gentleman, Mr. Bhashyam, who had devoted great attention to the various provisions of the Bill. I would support the motion for recommitting to the Select Committee with the reservation that it should not end in delay. If it is possible to consider the Bill clause by clause in this sitting itself, I will not be in a position to support the recommitment proposition of hon. Mr. Bhashyam. I would ask hon. Mr. Bhashyam himself to help us with his views though we may not have the advantage of the opinion of the Advocate-General and other legal opinion.

"Madam Deputy Speaker, with regard to these trustees, I may not be accused of any partiality towards them. I am not sparing any trustees. I agree that the actions of the hereditary trustees should be controlled and checked, but ordinarily a hereditary trustee should be given a better place than other trustees. The one main question is, 'Do you want to retain the temples or not?' If you do not want to retain the temples it is a different matter. Once we decide that the temples should be retained, we should consider how the administration of these temples should be controlled, and whether it is not in the interests of the temple themselves to leave the administration of certain temples in the hands of the members of the old families who have been responsible for the establishment of these temples. These people have deep piety and a sentimental and psychological feeling towards these temples. Their feeling is such, that if any child or anybody in the family falls ill, they imagine that as trustees they have done something wrong. That is the kind of sentiment that is attached to these temples. We are still living in the land of sentiment and psychology. Therefore, it is worth while giving more power and more duties to the hereditary trustees. At the same time, the very chapter should contain complete provisions for the control of the actions of these trustees if they do wrong. Where it is a question of the recognition of the hereditary trustees, I would suggest that they should be given full recognition. It should not be easily possible to dislodge their claims for succession as hereditary trustees. With regard to appeals, the Hon. Minister said that there are appeals from the Deputy Commissioner to the Commissioner and from the Commissioner to the Government. I may respectfully submit that with regard to points of law, though I may be a Minister with

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some knowledge of law, my knowledge of law may be imperfect, and if I have to decide the question of the succession of hereditary trustees, I should certainly provide for the decision of the Government to be appealable to one court, say the High Court. This is only with regard to the rights of hereditary trustees for the office of trusteeship and not for anything else. I do not want to provide for any appeal with regard to the other actions of the hereditary trustee, such as submission of false accounts, improper management of temples and so on. These matters, let the Deputy Commissioner and the Commissioner decide. But, if it is a question of the removal of a trustee, of recognizing the successor of a hereditary trustee, in such cases, the person aggrieved by a decision of the Government should have a right of appeal to a court. That will be a safeguard for him. I would implore the Hon. Minister to look into this suggestion. If there is already a provision in the Bill, I shall only be too happy.

Madam Deputy Speaker, I want to say a few words on the inclusion of charitable endowments in the scope of the Bill. If charitable endowments are of a big nature, they may call for control from the Government. But there are many charitable endowments which are not big enough to be controlled by the Government. If such small endowments are controlled now, what will be the net result? The net result will be that there will be no charity forthcoming. Already charity has dried up and it will dry up still more. If there is a small charity which is not administered properly, there are ever so many persons who are likely to set it right by taking the matter to court. They are not public places of worship with which the people are concerned. Suppose a family has set apart Rs. 10,000 or the income from a village for a kattalai—a puja at a particular time—what does it matter if the Government do not control it? It is only the affair of one family as compared with the entire population. I therefore suggest that the Government should reconsider the inclusion of all charitable endowments. If the charitable endowments are of a big nature, if the public have the advantage of it, then I think there may be some justification for controlling them. Otherwise, the control of these small charitable endowments would dry up charity. Besides there are many other persons besides the Government who will take steps to rectify the irregularities if any. And lastly it is not necessary for the Government to worry about all the items of public activity. I would request the Government to seriously consider the omission of the portion relating to the control of charitable endowments. If it is not possible to omit that portion, I would request the Government to amend that portion as far as possible to see that private charity is encouraged and not discouraged. In these days religious institutions require private charity and private bounty. I therefore implore the Government to omit such small endowments which will be controlled by the members of the families concerned.

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“Madam, Deputy Speaker, now I come to a very important point. I have always held a middle view with regard to the control of maths all these 25 years. I know about the Saiva Siddantha maths in this State—the Tiruvaduthurai math, the Dharmapuram math and the Tirupanandal math. I have no personal knowledge about the maths in the Udipi area and about the maths in Tirunelveli. The maths are institutions representing the various subsets of the Hindu community. As far as possible, they should be left alone. I am not now going into the vagaries of the matadhipathis. The life and actions of the matadhipathis have not been free from vagaries. I have always been pleading for the retention of the maths. My fear is that if the Government begin to control these maths, they may lose their significance and importance with reference to the various religious sects and their sentiments. But in the year 1950 I have begun to wonder whether I am right in the indulgence shown to them and in the trust reposed in them. In the Bill which was considered by the Venkataramana Rao Committee, my friend Mr. T. A. Ramalingam Chettiyar suggested that there should be a committee of fifteen persons—five persons representing the matadhipathis and ten persons nominated by the Government—with headquarters at Madras. I said that it would savour of exercising too much control if there were ten members nominated by the Government. I then thought that the institutions would prosper and cater to the needs of the sects for which they were intended. But I am sorry to say, Madam Deputy Speaker, that those hopes have been falsified. The information that we have so far is that most of the matadhipathis have very little to do with religious activities. If they appear on the show-days, it is only by virtue of necessity. On other days they are just looking after the property of the maths just like the Tanjore mirasdars. I have heard it said: ‘தஞ்சாவூர் மிராச்தார் வரவு செலவு கணக்கு பாப்பது போல் இந்த மடாதிபதிகளும் பார்த்துக் கொண்டிருக்கிறார்கள்’.

“They are looking after the mundane affairs—giving out leases and administering the property just like the mirasdars. The Hon. Dr. Rajan in his introductory speech said that the leases given on behalf of the maths have been for lower amounts. That statement must have been based on the information that he has received through the Hindu Religious Endowments Board. I would like to know what action the Hindu Religious Endowments Board as a representative of the Government has taken against matadhipathis for such alleged low leases. The public have a right to demand that the Government should take proper action. It is widely known that the large incomes that have come from the lands as a result of the high prices of paddy prevailing during the last ten years in Tanjore district and other parts of South India have not gone into the coffers of the temples concerned. The matadhipathis are not in touch with the movements in the country in favour of their own maths and religious sects, e.g., Saiva Siddantha which some maths represent. They do not keep abreast of the times. They confine themselves to their dens and they are

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always surrounded by their own satellites. I am not for the abolition of the maths. I am not for the abolition of the matadhipathis. Mr. Vedaratnam Pillai with his intimate knowledge of Tanjore matadhipathis has said that proper persons should be chosen for matadhipathis. I would ask him whether it is not a fact that uneducated persons wearing *kavi*, persons always living near the matadhipathi, are chosen as successors. Very few of these persons wearing *kavi* are educated. There is of course a school there, but none of the persons wearing *kavi* reads there. They are not at all educated, much less cultured. It is a matter of great regret for some of us to point out that these maths have not at all gone up. I now feel that my support of these maths during the last few years has been a mistake, for the information that I have had during the last few years and months is so disparaging to these maths; and I am compelled to withdraw my support to them. But while I withdraw my support to them, I do not want their abolition. I want their incomes to be secured properly. Executive officers approved by the Hindu Religious Endowments Board or the Government should be compulsorily appointed for these maths. It should not be left to the matadhipathi to choose the executive officer; it should be left to the Government entirely. Incomes of lakhs of rupees are involved. If the hon. Mr. K. Ram had put forward his proposition in the manner in which I have suggested, it would have been accepted even in the earlier stages of the Bill. As there is provision for the control of temples with incomes exceeding Rs. 20,000, Rs. 60,000 and so on, I want similar provisions here also. I want the power not merely to be mentioned but to be operative also. Every math with an income above a certain amount should have an executive officer appointed. After all the matadhipathi cannot object to the appointment of an executive officer if he claims to be a real religious head. The duty of a Saiva Siddhanta Matadhipathi is to propagate Saiva Siddhanta. He need not pay his attention to income from lands, the administration of the lands, their lease and so on. A retired Collector or a Deputy Collector can do the work and we can even pay Rs. 1,000 a month. Some maths can afford to pay so much. They are big enough. The pay should be more attractive than the pay of a Deputy Commissioner. Except the Tiruppanandal math, I do not think any other Saiva Siddhanta math has justified its existence in the last few years. I would, therefore, entreat the Hon. Minister to seriously consider the question of compulsorily appointing executive officers of decent status for all maths. Let us first of all ensure the income of these maths and then let the matadhipathis draw up the scheme and fix the dittams and so on. With regard to the spending of the excess income, the income that is left after meeting the expenditure on the pujas and so on, I held the view in that Committee itself, that that money should be spent for religious propaganda, for Saiva Siddhanta propaganda so far as Saivite maths are concerned. I am totally against these excess moneys being spent for medical relief, for leprosy relief and so on. That

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is not the duty and that is not the purpose of the people who endowed these properties and that is not the object of the worshippers who are likely to come up in future. Of course, medical relief and leprosy relief are very laudable objects, but they may be left to other private charities. That is one of the several duties of the Government and we need not put it on the shoulders of the temple authorities. Even with regard to the Tirumalai-Tirupati Devasthanam which is now included in this Bill, I would entreat the Hon. Minister to see that its funds are not spent on colleges and institutions in which English education is imparted. I now understand that the Tiruvaduthurai math is coming a little too much in the eye of the public, and public agitation is going on against the math. It is said that the head of math was taken to Tanjore and given a municipal address there. Why should there be a municipal address given to a matadhipathi, I want to know? He is simply going out of the way; he has been befooled and blackmailed, I may openly say; he was taken to Tanjore and a municipal address was given to him and he was requested to start a college or a school up to the S.S.L.C. standard which may later on grow into a regular college. I submit it is not his duty to start schools and colleges; that may be the duty of the Government or it may be left to private people to start such institutions. I can understand if the matadhipathi is going to start a college for the propagation of Saiva Siddhanta, but it having been started, I would now ask the Government to order the matadhipathi to close down the school. If the Government do not do it, the contagion will spread. I have no objection, for instance, if in bringing up the list of dittams, etc., the executive officer takes the directions and the suggestions of the matadhipathi, then draws up the budget and sends it up to the Commissioner or the Government and consults him also in the various stages adumbrated in the Bill, and if the Government find any items of money spent on institutions which are not connected with the objects of the math, they should not approve of such expenditure. I do hope that the Government will reconsider the clauses of this Bill which refer to the funds of the math being spent on non-religious institutions and purposes. What the Government are anxious to see is that the matadhipathi himself does not spend or fritter away the moneys on such objects, that is the idea; but on that account there is no case at all for spending the money on items unconnected with these temples and maths. My earnest appeal and request to the Government, therefore, is that they should seriously consider the feelings of the people in this respect. The public will not give any more money, and they will not make any endowments to these institutions if they come to know that later on, the income from the endowments would be diverted to purposes other than those for which the endowments were meant to be utilised. On that ground, Madam, I would plead with the Government for making the necessary change in the concerned clauses of the Bill.

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"Madam, Deputy Speaker, while I make these suggestions—and I do so fervently—I would like to assure the Government that I make them in the full hope that they are necessary improvements to the Bill. I am now giving my full support to this Bill and I will always be supporting any good measure intended for the proper maintenance and control of all religious institutions. If I have pleaded for the exemption of charitable endowments, it is only with a view to see that more and more charities come up. If I have pleaded for the better treatment and rights of hereditary trustees, it is also with a view to ensure that more and more people come forward with offers of charities to the various temples. And if I have again pleaded that the maths should be better controlled so far as their income is concerned and that the matadhipathis should not be allowed to follow their own vagaries, it is also with a view to improve the objects and methods of expenditure. Therefore, Sir, all the criticisms that I have levelled with regard to this Bill are only in the best interests of these institutions, and I may be allowed to repeat, particularly in view of the fact that the Hindu Religious Endowments Board as such, as a quasi-Government body, is going out officially.

"I would now like to pay my tribute to the work of the Board during the last 27 years, and to the work of the various Presidents and Commissioners who have adorned the Board in the past. It must be said to their credit that but for their tactful administration, co-operation and management, it would not have been possible for this measure to have been on the Statute Book all these years. All these 27 years there has been a demand for the entire abolition of this body, but at the same time there has been a counter-demand always made, that the body should be made permanent. I am indeed happy to-day that permanency is given; instead of merely making permanent some of the officers' posts. I am glad that the whole department is now being provincialized. I am really happy to note that the public are taken into confidence through their representatives in the Legislature, in the administration of this department by the Government. I have no doubt, Madam, that the public will give their full support to this measure and also that the House will give its unstinted support to the Bill when it is being considered clause by clause."

DEPUTY SPEAKER:—"I have been asked by the Hon. Speaker to announce to the House that the half-an-hour food debate will be taken up at 5 p.m. and not at 1 p.m."

JANAB MAHIN SCHAMNAD:—"Madam, Deputy Speaker, I have given notice of my intention to move certain amendments to this Bill which are necessary in view of the provisions in Articles 13 (1) and (2), 16 (5) and 28 of the Indian Constitution. All laws passed in any State inconsistent with the fundamental rights of a group of persons or community are void under the Constitution; no such law can be passed in any State after 26th January 1950 which takes away or affects the fundamental rights of a group of persons or community. The amendments of which

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I have given notice are necessary in order to prevent particular clauses of this Bill being declared by the High Court as *ultra vires* of the Madras Legislature. The rights which are guaranteed under Article 26 are now sought to be abridged and removed by the proposed Bill. The Joint Select Committee has practically accepted the substance of most of the amendments I am going to move. There are many communal temples in the South Kanara district, in Mangalore, Manjeshwar, Karkal and other places. The Government may supervise, audit the accounts and control the administration generally, but they should not take away the management of the institutions from the community. The Hindu Religious Endowments Board in their Order No. 291 of 1949 has recognized the Karkal temple as a communal temple falling under a different category from those coming under the Endowments Act. Therefore, the Government should consider well before taking over charge of these communal temples, whether their action can be justified from the public view-point."

SRI A. S. SAHAJANANDAM:—"கனம் தலைவி அவர்களே, இந்த ஹிந்து மத அற நிலைய பாதுகாப்பு மசோதாவை அவ்விதம் அழைக்காமல் இந்திய அற நிலைய பாதுகாப்பு மசோதா என்று அழைக்கலாம். இந்தியாவில் மற்ற இஸ்லாமிய, கிருஸ்தவ, பௌத்த மதங்களும் இருக்கின்றன. அவைகளையும் இந்த சட்டத்தின் கீழ் கட்டுப்படுத்தும் விதமாக இந்த மசோதாவை அழைக்கலாம். ஆகையால் இந்த மசோதாவை அவ்விதம் மாற்றியமைத்து அதன் கீழ் கிருஸ்தவ, இஸ்லாமிய, புத்த மத முதலான மதஸ்தாபனங்களையும், அற நிலையங்களையும் இதன் கீழ் கட்டுப்படுத்தும்படியாகக் கேட்டுக்கொள்ளுகிறேன். உதாரணமாக சிதம்பரம் தாலுகாவில் நாளொன்றுக்கு ஒரு காணி மகரூல் செலவழிக்கவேண்டுமென்று ஒரு வருட முழுவதற்கும் 365 காணிகள் கொடுக்கப்பட்டிருக்கிறது. அப்படி கொடுக்கப்பட்டிருந்தும் அந்த தர்மங்கள் சரிவர நடைபெறவில்லை. அதே மாதிரி ஏராளமான பொருள்கள் தர்ம ஸ்தாபனங்களுக்கு விடப்பட்டிருக்கின்றன. ஆதலால் இஸ்லாமிய ஸ்தாபனங்களையும் கட்டுப்படுத்தவேண்டும். வேளாங்கண்ணி, நாகூர் போன்ற இடங்களில் கிருஸ்தவ பாத்திரிமார்க்கு மதத்தின் பெயரால் ஏழை மக்களை உறிஞ்சிக்கொண்டிருக்கிறார்களே யொழிய உதவி ஒன்றும் செய்வதில்லை. வேளாங்கண்ணியில் இவ்விதம் ஏராளமான பணம் சிலவழிக்கப்படுகிறது. அவற்றையும் கட்டுப்படுத்த வேண்டும்."

"Select Committee-ல் செய்த மாறுதல்களில் கோவில்களில் வரும் உபரி வருமானங்களை வைத்துக்கொண்டு மதக் கல்வி ஸ்தாபனங்களுக்கும், குஷ்டரோக விடுதிகளுக்கும், அனாதாஸ்திரமங்களுக்கும், ஆஸ்பத்திரிகளுக்கும் உதவி செய்து அவைகளை ஏற்படுத்தலாம் என்று சொல்லி இருக்கின்றார்கள். அப்படி செய்வதைவிட மதக் கல்வி பிரசாரம் செய்வதோடு அந்தப் பணத்தை எடுத்து ஏழை கோவில்களுக்கு பங்கிட்டுக் கொடுக்கலாம். மட்டிலிருந்து வரும் உபரி வருமானத்தை ஏழை மடங்களுக்குக் கொடுக்கலாம். முக்யமாக ஏழை மடாதிபதிகளுக்குக் கொடுக்கவேண்டும். அந்தக் காலத்தில் அரசர்களும், பெரிய மனிதர்களும் எந்த நோக்கத்துடன் எந்தக் காரியங்களைச் செய்து நிறைவேற்றவேண்டுமென்று இந்த தர்மங்களை ஏற்படுத்தினார்களோ அதைச் செய்யவேண்டுமே தவிர அதற்கு மாறுகவுள்ள காரியங்களைச் செய்து அதில் சிலவிடவே கூடாது. குஷ்டரோக விடுதிகளை ஏற்படுத்துவதும், ஆஸ்பத்திரிகள் வைப்பதும், அனாதாஸ்திரமங்கள் அமைப்பதும் அரசாங்கத்தினுடைய கடமை. அவைகளை அரசாங்கம்தான் செய்ய வேண்டும் தவிர தர்ம ஸ்தாபனத்திலுள்ள பணத்தை எடுத்து இவ்விதங்களில் சிலை செய்யக்கூடாது. ஆனால் திருப்பதி தேவஸ்தானத்திலிருந்து வரும் வருமானத்தைக்கொண்டு பள்ளிக்கூடங்களும் ஆஸ்பத்திரி

[Sri A. S. Sahajanandam] [12th September 1950]

கனம் நடத்துகிறார்களே என்று கேட்கலாம். அந்த தேவஸ்தானம் ஒரு அரசாங்கமாகவே நடந்து வருவதால் அவ்விதம் செய்வதில் தவறு ஒன்று மில்லை. அங்கு வரும் யாத்திரிகர்களுடைய செலவுகளைத் திறக்கவேதான் அவைகள் நடைபெற்று வருகின்றன. அவர்களே இவைகளையும் இன்னும் இதர நகர பரிசலனங்களையும் மற்றும் எல்லா விஷயங்களையும் செய்ய வேண்டியதாக இருக்கிறது. சாதாரணமாக கோவில் சொத்துக்களை எடுத்து குஷ்டரோக விடுதிகளை நடத்துவதிலும், ஆஸ்பத்திரிகளை வைத்து நடத்துவதிலும் செலவழிப்பதில் அர்த்தமில்லை. அதை ஒப்புக்கொள்ளவே முடியாது. இதை நிரூபிக்க பெரிய புராணத்தில் ஒன்றிருக்கிறது. அதில் பொற்போலி நாயனார் என்பவர் கோவில் நிலத்தில் விளைந்த அரிசியை விட்டில் கொண்டுபோந்து வைத்திருந்தபொழுது அதை எடுத்து தன்னுடைய சகோதரரும், தன் மனைவியும், தாயாரும், பிள்ளையும் சாப்பிட்டதால் அவர்கள் அபசாரம் செய்துவிட்டதாக எண்ணி, அதாவது கோவில் சொத்தை எடுத்து உபயோகித்துவிட்டார்கள் என்பதற்காக அவர்களை கொலை செய்ய துணிந்ததாக பெரிய புராணத்தில் சொல்லப்பட்டிருக்கிறது. மதவெறிகொண்டு அவர் அவ்விதம் செய்தார் என்பதில்லை. கோவில் சொத்தாகிய தர்ம சொத்தை தன்னுடைய பந்துக்கள் எடுத்து உபயோகித்துவிட்டார்கள் என்பதுதான் அதிலுள்ள தத்துவம். ஆகவே தர்ம சொத்துக்களை எடுத்து மற்ற காரியங்களுக்கு சிலவிடுவது என்பது கூடாது. அவைகளை எடுத்து ஏழை மடங்களுக்கும் ஏழை கோவில்களுக்கும் தான் பங்கிட்டுக் கொடுக்க வேண்டும். அப்படிக் கொடுப்பதுதான் மிகவும் நல்லது. யார்யாரோ கொடுத்துவந்த சொத்துக்களை வைத்துக்கொண்டு அங்கங்கே தமிழ் பிரசாரம் செய்துவருகின்றார்கள். பெரிய மடங்களில் மதக் கல்வி படித்து விட்டு இருப்பவர்கள் அந்தவிதமான சொத்துக்களை காப்பாற்றிக்கொண்டு வருகின்றார்கள். அப்படிப்பட்ட சொத்துக்களை அலகுகளை ஏற்படுத்திய தன் சம்மந்தமாகத்தான் சிலவிடலாம்.

“மேலும் 20 ஆயிரம் ரூபாய்க்கு கீழ் வரும்படி வரக்கூடிய கோவில்களை போர்டின் கீழ் சேர்க்காமல் தனிக் கமிட்டிகள் நியமித்து அவர்களால் நிர்வாகம் செய்யலாம் என்று சொல்லப்படுகிறது. அப்படி இருந்தும் இரண்டு வருஷம், மூன்று வருஷத்திற்கு ஒரு தடவை ஒழுங்காக நடைபெறுகின்றனவாவென்று பார்த்துக்கொள்வதற்காக அவைகளை பெரிய மடங்களுடன் சேர்த்துக்கொள்ளவேண்டும். அப்பொழுதுதான் மத சம்பந்தமான பிரசாரங்கள் நடைபெற்றுவரும். ஆகவே பிரசாரம் செய்ய முடியாமல் சிறு மடங்களுக்கு அதிகமான பாதகம் உண்டாகும்படி அவைகளைக் கட்டுப்படுத்தவேண்டாம் என்று கேட்டுக்கொள்ளுகிறேன். வருஷத்திற்கு ஐந்தாயிரம் ரூபாய் வரும்படி வரக்கூடிய மடங்களுக்கு கமிட்டி கூட இல்லாமல் நிர்வகிக்க இடம் தரவேண்டுமென்று கேட்டுக்கொள்ளுகிறேன்.

“மேலும் நமது செட்டிநாட்டு ராஜா, அவர்கள் சொன்னமாதிரி மடங்களைக் கட்டுப்படுத்தவேண்டியதுதான். வாஸ்தவத்தில் செட்டிநாட்டின் பெரிய மடங்களிருக்கின்றன. கோயிலார் மடம் இருக்கிறது. அதற்கு ஏராளமான சொத்துக்கள் இருக்கின்றன. சிதம்பரம் பொன்னம்பலசாமி மடம் இருக்கிறது. திருவண்ணாமலை ஈசான்ய மடம் இருக்கிறது. திருக்கோவிலூரில் மடம் இருக்கிறது. சிக்கல்மடம் இருக்கிறது. காளியார்கோவில் மடம் இருக்கிறது. இவைகளுக்கெல்லாம் ஏராளமான சொத்துக்கள் இருக்கின்றன. ஆனால் மடாதிபதிகள் கிடையாது. அந்தச் சொத்துக்களெல்லாம் கோயிலார் மடங்களுக்குப் போகின்றன. அவற்றை எடுத்து அவைகள் எந்த நோக்கத்திற்கென்று ஏற்பட்டனவோ அவைகளைச் செய்யவேண்டும். அநேக மடங்களில் மடாதிபதிகள் இல்லாததால் அங்கங்கே ஏஜெண்டுகளை நியமித்து பணத்தை வசூலித்து அனுப்பும்படியாக வைத்துக்கொண்டிருக்கிறார்கள். அவர்கள் செட்டியார்களாக இருப்பதனால் பணத்தைக் கணக்குப் பார்த்துக் கொண்டிருக்கிறார்கள். அம்மாதிரியான மடங்களை சர்க்காருடைய மேற்பார்வையில் எடுத்துக்கொள்ள வேண்டும். அங்கங்கே மத சம்மந்தமான கல்வியை போதிக்க பள்ளித் கூடங்களை ஏற்படுத்தி நிர்வாகம் செய்யலாம். சிதம்பரம் மடத்திலும்,

[12th September 1950] [Sri A. S. Sahajanandam]

திருவண்ணாமலை மடத்திலும், சிக்கல் மடத்திலும் அவ்விதம் செய்யலாம். அவைகளுக்கு ஏராளமான சொத்துக்கள்ருந்தும் கேட்பார் அற்று அங்கங்கேயுள்ள ஏஜெண்டுகள் எல்லாவற்றையும் சாப்பிட்டு வருகிறார்கள். மேலே இருக்கிறவருக்கு கொஞ்சம் பணத்தை அனுப்புவருகிறார்கள். சிதம்பரம் தாலாகா, நெடுஞ்சேரிப்புத்தூரில் ஒரு சமாதக்கு 400 காணிகளிருக்கின்றன. அவற்றைக் கொண்டு கிரமப்படி மத சம்மந்தமான ஸ்லோரிலைய வைத்து நடத்தலாம். திருக்கோவிலூரிலுள்ள ஏஜெண்டு ஒரு நள்ளி நிடென்று காவி வஸ்திரம் அணிந்த மடாதிபதியாகவிட்டார். அவர் அங்குள்ள எல்லா பணத்தையும் எடுத்து வைத்துக்கொண்டு எண்ணிப் பார்த்துக்கொண்டிருக்கிறார். திருப்பனத்தான் மடம், செட்டிநாட்டு ராஜாவும் கலாம் வேதரத்தன் பிள்ளை அவர்களும் சொன்ன மாதிரி வெகு நன்றாக நடந்து வருகிறது. தர்மபுரம் முதலிய மடங்களும் ஒழுங்காக நிர்வாகம் நடைபெற்று வருகின்றன. திருவாடுதறை மடம் அவ்விதம் நடைபெறவில்லை என்று தெரியவருகிறது. இதை சர்க்கார் நிர்வகிக்கவேண்டியதுதான். ஒழுங்காக நடைபெற்று வருவதில் துலையிடுவது அவ்வளவு நல்லது இல்லை. உண்மையாக நிர்வாகம் நடைபெறுகிற இடங்களிலும் பற்ற இடங்களிலும் அவர்களும் இன்னும் ஊக்கம் வரும்படியாக மத சம்மந்தம், பள்ளிக்கூடங்களை வைத்து தேவாரம், திருவாசகம் முதலியவைகளை நடத்தி மதப்பிரசாரம் செய்யும்படி தூண்டுதல் செய்ய வேண்டியது மிகவும் அவசியமாக இருக்கிறது.

“மேலும் கோவில்களுக்கு ஏராளமான நிலங்கள் இருக்கின்றன. அந்த நிலங்களை எல்லாம் ஹரிஜனங்கள் பயிரிட்டுவருகிறார்கள். அந்த நிலங்களை கோவில்களின் ஏஜெண்டுகள் பிடுங்கிக்கொண்டுவிடுகிறார்கள். ஹரிஜனங்களுக்கு 2, 3 ஏக்கர் நிலங்களைக் கொடுத்தவிட்டு அதில் வரும் வரும்படியை, அதாவது ரூ. 200 வரும்படி வந்தால் 50 ரூபாயை கோவிலுக்குக் கொடுத்துவிட்டு பாக்கி ரூபாய் 150-ஐ ஏஜெண்டுகள் எடுத்துக்கொள்ளுகிறார்கள். ஹரிஜனங்களுக்கு கொஞ்சம் கொடுத்துவிட்டு பாக்கியை மத்தியவருப் பவர்கள் அடித்துக்கொண்டு போய்விடுகிறார்கள். கோவில் சொத்துக்கள் தர்ம சொத்தாக இருப்பதால் அவ்விதம் சாப்பிட்டுக்கொண்டிருக்கிறார்கள். ஆகையால் அந்த சொத்துக்களை எடுத்து ஹரிஜனங்களுக்கு தலைக்கு 2, 3 ஏக்கர்களாகக் கொடுத்து வழங்கும்படியாக இருக்கவேண்டும். இப்பொழுது திருவெண்காடு திருபுகோட்டம் என்னும் ஊரில் சமீபத்தில் ஹரிஜனங்கள் பயிரிட்டு வந்த நிலங்களை பிடுங்கி எடுத்துக்கொண்டு அடித்து மூர்த்திவிட்டார்கள். பிறகு ஹரிஜனங்களுக்கு பிழைப்பிற்கு வழியில்லாமல் திரும்பவும் கேட்டதற்கு அவர்களில் 40 பேர்களை arrest செய்து ஜெயிலில் போட்டுவிட்டார்கள். கோவில் நிலங்களை பரிபாலிக்க கோவில் trustee களும் Executive ஆபீசர்களும் வருகிறார்கள். நிலங்களை யார் யார் பயிர் செய்து வருகிறார்களோ அவர்களுக்குத்தான் நிலங்களைக் கொடுக்கவேண்டும். ஏஜெண்டுகளுக்குக் கொடுக்கக்கூடாது. அவ்விதம் செய்தால்தான் அரசாங்கம் இவர்களை பாதுகாப்பதாகும். இன்று பாதி தர்ம சொத்துக்கள் பெரிய மனிதர்களிடையே கையிலிருக்கின்றன. அவர்கள் இப்பொழுது குட்டி ஐயீந்தார்களாகவிட்டார்கள். அதற்கு வேண்டிய பட்டா வாங்கி வைத்துக்கொண்டிருக்கிறார்கள். பெரிய சொத்துக்களை அவர்கள் வைத்திருப்பதால் அவர்களைக் கேட்கப்போவதில்லை. இப்பொழுது உணவு பொருள் கொள்முதல் செய்வதில் பெரிய மனிதர்களைக் கேட்காமலிருப்பதுபோல் இந்த பெரிய மனிதர்களையும் இந்த கமிஷனர்கள் கேட்கப் போவதில்லை. அவர்களிடத்திலும் இந்த கமிஷனர்கள் போகமாட்டார்கள். சிதம்பரம் நடராஜா கோவிலுக்கு நிறைய சொத்துக்களிருக்கின்றன. அவைகள் பெரிய மனிதர்கள் கையிலிருக்கின்றன. அவரிடத்தில் யாரும் போகப்போவதில்லை. எங்கங்கே தர்ம சொத்துக்கள் இருக்கின்றனவோ அவைகளை எத்தனை ஆண்டுகள் அனுபவித்துவந்தாலும் அவைகளை பிடுங்கிக்கொள்ள சர்க்காருக்கு அதிகாரம் இருக்கும்படி உடனே ஒரு சட்டம் போடவேண்டும். தர்ம சொத்துக்களை சர்க்கார் தங்களிடம் வைத்துக்கொள்ளவேண்டும். ஆயிரக்கணக்கான சொத்துக்கள் இப்பொழுது ஐயீந்தார்களிடத்திலும் பெரிய மனிதர்களிடத்திலும் அகப்பட்டுக்கொண்டு தவித்துக்கொண்டிருக்கின்றன. அவைகளை சர்க்கார் விசாரித்துத் தெரிந்துகொள்ளவேண்டும்.

[Sri N. S. Varadachari] [12th September 1950]

in most cases, as to what constitutes the best management and the best method of control of religious institutions and temples to which they are attached. I am not, Madam, pleading for exemption because it is by a healthy cultural co-operation, and cultural co-operation is a very difficult thing, that we can demonstrate to these very people who may now be opposed to control and superintendence of religious institutions and win them over ultimately and make them see the good in such control as we seek to exercise, it being mostly in regard to secular matters. I admit that religious persons are not necessarily assiduous accountants or even correct accountants; they do not know the modern world but they are quite aware of the changing circumstances and they are prepared to adjust and suit themselves to the rapidly changing conditions where people urge large amount of control over their institutions. I know several instances of *matadhipathis* who have far in advance of this legislation instituted committees of respectable persons, at any rate I know one instance, the *Mysore Math* which has a number of Mysore civilians on its committee and all the accounts, and all the details of the secular management of the math are never looked into by the head of the *math* but by that committee which is invested with full authority by him. If maths here are willing to do the same, why should we not commend this course to the Government? If amongst the disciples of the math, there are people who to the satisfaction of the Government can discharge their duties, efficiently and in a responsible manner, why not the wishes of the head of the math be fulfilled by making that the real committee of management? I submit, Madam, there is much to be said for such a course. I would ask the Government: 'Is it not right to take all these men into confidence and put before them such ideas as to make them feel that while there is no damage to sentiment or to their own dignity, there would be secured to them all the advantages of modern management?'. If I were in their position, I would gladly agree provided the Government does not wait for the offer to come from them but the Government make the offer and takes their acceptance from them. I remember, Madam, the beautiful principle that Mahatma Gandhi laid down for the administration of the All-India Spinners' Association. Once while I had the honour of proposing to Government a bounty scheme on behalf of the association which is now declared by the Privy Council judgment to be a charitable endowment, it was pointed out to me by him that the Government should themselves come to the Spinners' Association with proposals for a bounty and that we should never go to them and ask for the bounty and request that this and that favour should be given to us; they should be able to recognize the services which we have rendered to the country and come to us with offer of assistance in order that the goal which is common to us may be fulfilled. That, Madam, is the attitude which I recommend to the future Commissioner or to the Deputy Commissioner in regard to *matadhipathis*.

[12th September 1950] [Sri N. S. Varadachari]

"Madam, I wish to say a word with regard to inams. As a result of various legislations of the past, you have already taken away whole inam villages from the archakas or from the worshippers; you have taken them away from them without knowing the consequence. But where it is not a whole inam village it is still open to him to have the inam and why don't you, when he has no other landed estate or other income, offer to him to enfranchise the inam from service and make it his sole property? That is a matter on which I would like some thought to be applied and the Government should come to a decision before the various clauses are taken up.

"I have a word to say about the Tirupathi Devasthanam in particular. I find that there is a long section in the Bill dealing with it. Of course it is going to be administered like other temples; there will be Deputy Commissioners and such other safeguards as would be provided for the proper maintenance of the whole of the Devasthanams. May I point out that not only in respect of the Tirupathi Devasthanam but in respect of all Devasthanams, the first charge on the funds of the religious institutions should be in this order. The first item should be the renovation of the temple and the maintenance of temple property. Then only can you get all the other income which you are now getting in the temples. There is a beautiful practice, of which you may not be aware, Madam. If you present an elephant to the temple, they do not receive it except when you pay the cost of maintenance of the elephant, if you want the Devasthanam to make use of the elephant. Similarly also if you present a cow and even if it is a piece of cloth which you may like that God should be dressed in. It is a very salutary and wholesome rule made years and years ago with great thought and care in order that the Devasthanam may not get crowded with valueless gifts, onerous gifts which would become a charge on the income of the Devasthanams. So, the renovation of the temple and the maintenance of temple properties must first find a first place in the list of expenditure; then you may apply the doctrine of *Cy pres* and go to the rest in the order, the object being that demonstrably the first order should be the one which would attract pilgrims in hundreds and thousands to visit the temples. There is only one more thing, Madam."

SRI N. ANNAMALAI PILLAI :—"சனம் தலைலி அடார்களை ! இன்றைய தினம் இந்தச் சபையில் கொண்டுவரப்பட்டிருக்கும் மசோதாவை ஆதரித்து நான் சில வார்த்தைகள் சொல்ல விரும்புகின்றேன்.

"ஹிந்துமத பரிபாலனத்தைப்பற்றிக்கான் சர்க்கார் அடிக்கடி கூனம் செலுத்துகிறது. ஹிந்துமத பாதுகாப்பிற்காகவென்று பல காரியங்களைச் செய்து வருகிறார்கள். துர்பாக்சியவசமாக இல்லாம் மதச்சிற்சம். சிவன் தவ மதத்திற்கும் சர்க்கார் ஏன் தலையிட்டு பாதுகாப்பு கொடுக்காமலிருக்கின்றது என்பதை நினைக்க ரொம்ப விசைக்கத்தக்கதாக இருக்கிறது. ஏனெனில் தர்மபரிபாலனம் என்பது எல்லோருக்கும் பொதுமானது. இந்தப் பொதுவான ஒரு விவகாரத்தில் நடுநின்று அரசாங்கமானது எல்லா மதத்திற்கும் சம பாத்தியதையைக் கொடுக்கவேண்டும். பொது சனம் கனால் கொடுக்கப்படுகின்ற பணத்தை சரியானபடி எல்லா மதஸ்தர்களுக்கும்

[Sri N. Annamalai Pillai] [12th September 1950]

செலவினிகளுக்காக என்று பங்கிட்டுக்கொள்ளும். அதிபர் ஹிந்து மதத்தில் மாத திரம் ஊழல் மலிந்திருப்பதாகவும் அதை சீர்திருத்தப்படுத்தவேண்டுமென்று இம்மாதிரியான சட்டங்களைக் கொண்டுவருவது ஹிந்து மதத்தை மகா வேலப் படுத்துவதாகவே நான் கருதுகிறேன். இது எனக்கு மிக வேதனை யாக இருக்கின்றது.

“ஹிந்து மதம் மிகப் புனிதமானது என்று ஹிந்து மதஸ்தர்கள் சொல் லுகிறார்கள். இஸ்லாமியமும் அப்படியே; கிருத்துவமும் அப்படியே புனிதமானது என்று அவர்கள் சொல்லுகிறார்கள். புனைத்தர்களைப் பற்றி சொல்லவேண்டியதில்லை. இப்படி எல்லோரும் தங்கள் மதம் உயர்த்து என்று சொல்லிக்கொள்ளுகிறார்கள். ஆனால் அந்தந்த மத கர்ம ஸ்தாபனங்களுக்கு நுழைந்து வாவு செலவு களைக்குப் பார்த்தால் நிறைவு ஊழல் மலிந்து விடக்கூடியன. அங்கங்கே சண்டைகள்; அதே மாதிரித்தான் ஹிந்து மதத்திலும் ஓரண்டு மடங்கள் வேறுபாடு நடக்கின்ற தது. இன்றைக்கு காங்கிரஸ் சர்க்கார் நடக்கின்றது. அதைத்தான் எடுத்த துக் கொள்ளுகிறேன். எவ்வளவோ திறமையாக சர்க்கார் நடந்தாலும் அங்கங்கே எவ்வளவு ஊழல் இருக்கிறதென்பது நம் எல்லோருக்கும் தெரி பும். சர்க்காரின் கீழுள்ள அதிகாரிகளும், மற்றவர்களும் எவ்வளவு மோச மாச நடந்துகொள்ளுகிறார்களென்று நம் எல்லோருக்கும் தெரியும். உதா ரணமாக பல அதிகாரிகள் குற்றம் செய்யப்பட்டு தண்டிக்கப்பட்டிருக்கி றார்கள். பல பேர்கள் பிளாக் மாரக் கொட்டிலே செய்துவரும் குற்றங்களைக் கண்டுபிடித்து அவர்களை இன்னமும் தண்டிக்க முடிய வில்லை. அதேமாதிரி பல நிர்வாகம் அப்படியே ஆலயம் என்று ஒன்று இருக்கு மேலானால், தேவஸ்தானமென்று இருக்குமேயானால் அதில் அங்கங்கே சில குற்றபாடுகள் இருக்கத்தான் செய்யும். அதை நாம் பாரக்காவி லில்லை. ஆகவே இந்த மசோதாவில் கண்டபடி சரியான முறையில் எல்லா இடத்திலும் உபயோகப்படுத்தி அதனால் பொது ஜனங்களுக்கு நன்மை ஏற்படும்படி செய்வேண்டியது அவசியம்தான். இந்த மசோதாவை கொண்டுவரப்பட்ட நோக்கத்தைப்பற்றி நேற்று கனம் மந்திரி அவர்கள் தன் துடைய பிசங்கத்தில் பேசும்போது பல மடங்கள் அநியாயமாக, அக் கிரமமாக பணத்தை வியாபம் செய்து வருவதாலேயே இதைக் கொண்டு வருவதாக குறிப்பிட்டார். நான் சொல்லுகின்றேன் மடாதிபதிகள் அங்கு மிகவும் ஓடுவர், இருவர் தவறு செய்திருக்கலாம். அதற்காக ஹிந்து மதக் தலைவர்கள் எல்லோரையும் ஒன்று சேர்த்து கேலாப்படுத்து பேசுவது ஹிந்து மதத்திற்கே ஹானியை உண்டாக்கிவிடுவதாகும். இந்த அரசாங்கத் தில் பல மதஸ்தர்கள் இங்கே கூடியிருக்கும்போது ஹிந்து மதத்தின் தலை வர்களைத் தாக்கிப் பேசுவது ரொம்ப வருந்தக்கூடியது. ஹிந்து மதத்தின் தலைவர்களாக இருப்பவர்களிடம் நாம் மரியாதை செலுத்தக் கடமை யிருக்கிறோம். ஹிந்து மதத் தலைவர்கள் யாராவது தவறு செய்திருக்க லும், அந்தத் தவறை அவர்களிடத்தில் தனியே சொல்லி அதற்குப் பி ளாபம் செய்யவேண்டும். அல்லது அந்தந்தக் கசுதியினர் அவர்கள் தங்கள் கசுதிக்கூடத்தில் அதைப் பிரேரித்து பரிகாரம் தேடிக்கொள்ளவேண்டுமே தவிர அது இஸ்லாமில் அரசாங்கச் சட்ட சபையில் தாக்கிப் பேசுவது ரொம்ப விசனிக்கேட்கக்கூது. நான் ஹிந்து மதத்திலுள்ள நண்பர்களைக் கேட்டுக்கொள்ளுகிறேன். இந்த மசோதாவின் விவாதத்தின்போது பல மதஸ்தர்களும் உள்ள இவ்விடத்தில் நம் ஹிந்து மதத் தலைவர்களை அவ மரியாதையாகப் பேசாதீர்கள் என்று; அது எங்கள் மனதைப் புண்படுத்து கின்றது. உங்கள் வார்த்தைகளுக்கு எதிர்வாதம் ஆடவேண்டுமென்று தூண்டுகிறது. அந்த உணர்ச்சி என் மனதில் உண்டாகாவிட்டாலும் ஹிந்து மதப் பற்றுள்ளவர்கள் மனம் அதனால் சொல்லொனது துன்ப மடைகின்றது. அதனால் ஒரு சில மடாதிபதிகள் ஒழுங்காக நடந்து கொள்ளவில்லை என்றதற்குப் பொதுப்படையாக எல்லோரையும் தாக்கா தீர்மானம் எடுத்துக் கேட்டுக்கொள்ளுகிறேன். காஞ்சி காமகோடி பீடாதி பதினின் மடம் நன்றாக நடந்துவருவதற்காக அவர்களைப் பாராட்டவேண் டும். இன்னும் நன்றாக கனம் வேதாத்தினம் பிள்ளையவர்கள் திருப்பணந் தான் மதத்தைப்பற்றி பேசினார்கள். இம்மடங்களெல்லாம் தமிழகத்திலும் தமிழ் வளர்ச்சிக்காகவும் பல அரிய தொண்டுகள் செய்துகொண்டு நேர்மை

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யாகவும், ஒழுங்காகவும் நடந்துவருகின்றன. ஆங்காங்கு, எங்கெயாவது ஒரு மடத்தில் தவறு இல்லாமல் இருக்காது. இருந்தாலும் அதைப் பெரிதாக சிந்திக்கவேண்டியதில்லை.

“அடுத்தபடியாக தற்போது மடங்களை அரசாங்கத்தில் எடுத்துக்கொண்டு அதில் வரும் பணத்தை பாடசாலை, கல்விஸ்தாடனங்கள், ஆஸ்பத்திரிகள், முதலியவைகளுக்காகச் செலவிடுவது பெரிய தவறு என்பதாகச் சிலர் சொல்லுகிறார்கள். முன்பிருந்த அரசாங்கம் வெள்ளைக்கார அரசாங்கம். அந்த அரசாங்கத்திலே கிருஷ்ணா மதத்தை நம் நாட்டில் பரப்பிவிட வேண்டுமென்பதற்காகப் பெரு முயற்சி செய்து வந்தார்கள். அவர்கள் அவ்வாறு செய்வதைக் கண்டு அரசாங்கம் மதவிஷயங்களில் தலையிடக் கூடாது என்று நம் தலைவர்கள் வாதாடினார்கள்.”

DEPUTY SPEAKER:—“The House will now rise and meet again at 2-30 p.m.”

(After lunch—2-30 p.m.)

(With Deputy Speaker in the Chair.)

SRI N. ANNAMALAI PILLAI:—“கனம் தலைவர் அவர்களே! ஹிந்து மதஸ்தர்களை பிற மதஸ்தர்கள் மதமாற்றம் செய்து கொண்டிருந்த காரணத்தாலும், அன்னியர் ஆதிக்கியம் இந்நாட்டில் இருக்கின்ற காரணத்தாலும் ஹிந்து மதத்திற்கு ஹானி ஏற்பட்டுவிட்டது என்ற பயத்தால் அரசாங்கம் மத விஷயங்களில் தலையிடக்கூடாது என்று ஒப்பந்தம் ஏற்பட்டிருந்தது. ஆனால் அந்த நிலமை இப்போது மாறிப்போய்விட்டது. அன்னியர் ஆகித் தொலைந்துபோய்விட்டது. இந்தியர்கள் ஆகி இப் போது ஏற்பட்டு குடியரசு ஸ்தாபனம் செய்துவிட்டோம். நம் குடியரசு ஆகியின் அரசாங்கம் இதில் தலையிடுவது என்பது பொறுத்தமாகாது என எங்களுக்குத் தென்றனில்லை. புராண காலங்களிலேயே தேவாலயங்களையும், தேவஸ்தானங்களையும், ஆசிரமங்களையும் பெரிய பெரிய அரசாங்கமும், அந்த ராஜாங்கத்தாரும் தான் அதற்கு வேண்டிய ஆதரவு அளித்து அவைகளை நிர்வகித்து வந்திருக்கிறார்கள். ஆகையால் அதேமாதிரி குடியரசு ஏற்பட்டு ஜனங்களாலேயே ஆகிச் செய்யப்படுகின்ற இக்காலத்தில் சர்க்கார் அந்த ஸ்தாபனங்களை தங்கள் மேற்பார்வையில் வைத்துக்கொள் வது உசிதமானது. அது அனுசரிதமென்று சொல்வது தகாத காரியம். சர்க்கார் இவைகளை எடுத்துக் கொண்டால் பல அரிய காரியங்களைச் செய்ய முடியுமென்று நினைக்கிறேன். இன்று மடாதிபதிகளால் என்ன காரியங் கள் செய்யப்பட்டு வருகிறதோ அந்தக் காரியங்களை யெல்லாம் இன்னமும் அவர்கள் செய்துவரலாம். வாவு செலவு நிர்வாகத்தைத்தான் தற்போது அவர்களிடமிருந்து அரசாங்கத்தார் தங்கள் மேற்பார்வைக்குக் கொண்டு வருகிறார்கள். அவ்வாறு கொண்டு வரும்போது அந்தப் பணத்தை ஆஸ்பத்திரிகளுக்கும், பள்ளிக்கூடங்களுக்கும் உபயோகப்படுத்தக்கூடாது என்று சிலர் சொன்னார்கள். அதை நான் விரும்பவில்லை. மடாதிபதி கள் இந்த தேசத்தின் தலைவர்கள். அவர்கள் சர்வ பரித்தியாகம் செய் தவர்கள். ஜனங்களின் வாழ்க்கைக்காக தங்கள் வாழ்வை அர்ப்பணம் செய்துவிட்டு, பிறம்மாசாரியாகவே இருந்து ஹிந்து மதத்திற்கு அரும் பெரும் தியாகம் செய்துவந்த உத்தமர்கள். இன்னமும் அப்படியே செய்துவருகிறார்கள். ஒன்றிரண்டு இடங்களில் தவறு நிகழ்ந்து போ யிருந்தால் அதைப்பற்றி நாம் சிந்திக்க வேண்டியதில்லை. ஹிந்து மதம் புராண பெருமை மிக்கதாகும். அரசாங்கத்தார் இதில் தலை யிட்டு முன்பிருந்த அந்த மடங்களின் நிர்வாகம் இன்னும் திறம்பட வேலை செய்யும்வகையில், ஹிந்து மதம் தழைத்தோங்க அவைகள் சீர்படும் முறையில் இருத்தி அமைக்கவே கனம் மந்திரி ராஜன் அவர்கள் இந்தச் சட்டத்தைக் கொண்டு வந்திருப்பாரென்று நான் நினைக்கிறேன். இப்போது திருப்பதி, திருமலை போன்ற இடங்களில் தேவஸ்தான டணத்தை வைத்துக்கொண்டு ஹை ஸ்கூல்களும், பள்ளிக்கூடங்களும், ஆஸ்பத்திரி

[Sri N. Annamalai Pillai] [12th September 1950]

தனம் நடத்துகிறார்கள். அதை ஆதிவசியிலும் பார்த்துக்கொண்டிருந்து விட்டு, இன்னொருபுறம் அம்மாதிரி தேவஸ்தானங்களிலே பணத்தை எடுத்து ஆஸ்பத்திரி, பள்ளிக்கூடம் போன்றவகையில் செலவிடக்கூடாது என்பது முன்முயற்சி பின் முறையை ஒத்திருக்கிறது. உதாரணமாக திருப்பணந் தான் மட்டும் தகுதியும் ஆதிமை, சன்மை மட்டும் இவைகளைவிடவும் தமிழ் வளர்ச்சிக்காக அல்லாத பண்பாட்டின்கீழ் செலவிடக்கூடாது என்று ரூபாய் களை மரிக்க வைத்து வருஷம் வருஷம் தமிழ் மொழியின் வெற்றி பெற்ற வர்களுக்கும் பண்பாடு கொடுத்து உற்சாகம் அளித்து வருகிறார்கள். இப் போது அவர்கள் சொன்னால் வேலையோ, அந்த கொத்துக்களின் நிர்வாகப் பொறுப்பை அவர்கள் ஏற்றுக் கொள்ளும்போது தமிழ் வளர்ச்சிக்காகவும் தமிழ், ஆனால் பாடசாலைகளுக்காகவும், செலவிடவதை என் எதிர்க்க வேண்டுமென எண்ணத் தெரியவில்லை.

“கனம் உறுப்பி சஜனாந்தர அவர்கள் சிறப்பாற்றின் ஒரு பங்கிக் கூடம் வைத்து நுழைகிறார். அங்கே சுமார் 600, 700, பிள்ளைகள் வாழித்து வருகிறார்கள். அதைப் போலவே தர்மபூரம், திருப்பணத்தான் மட்டத்தான் பிள்ளைகளுக்கு உபகாரச் சம்பளம் கொடுத்து பல பிள்ளைகள் படிக்கவைக்கப்படுகிறார்கள். தமிழ் படிப்பதற்கு திருப்பணத்தானில் ஒரு கல்லூரியை ஏற்படுத்தப் போவதாகச் சொல்லுகிறார்கள். ஆகையால் இந்த நிலைமையில் அந்தப்பணத்தைக் கொண்டு பங்கிக்கூட, ஆஸ்பத்திரிகளுக்கு செலவிடக்கூடாது என்று சொல்வதற்கு ஆதாரமில்லாமல் போகிறது. இப் போது இந்நகரத்தையுள் பஞ்ச நிலைமையில் இருக்கக்கூடிய மக்கள் பரிதாபித் துக்கமடைபவர்களும் நிலைமையில் மடாதிபதிகளும் தர்மஸ்தாபனங்களில், இந்நகரங்களும், தேவஸ்தானங்களில் இருப்பவர்களும் எவ்வளவோ அரிய காரியங்களைச் செய்திருக்கிறார்கள். அம்மாதிரி தர்மஸ்தாபனங்களை அரசாங்கம் தன் மேற் பார்வையில் எடுத்துக்கொண்டாலும் அவைகளைத் தொடர்ந்து நடத்தி வரவேண்டுமென வேண்டிக்கொள்ளுகிறேன். ஏனென்றால் அந்நேரத் தாய்மர்கள் இந்தப் பஞ்சகாலத்தில் தங்கள் குழந்தைகளை விற்று வருகிறார்கள் என்ற புனர் பல இடங்களிலிருந்து வந்துகொண்டிருக்கிறது. அது பொய்யல்ல. என் வீட்டில் கூட ஒருவர் 11 வயதுப் பெண் குழந்தை யொன்றைக் கொண்டு வந்து விட்டு வெளியே போய்விட்டார்கள். அதை நான் காப்பாற்றி வருகிறேன். இதை யாரும் இல்லை யென்று சொல்லி விட முடியாது. ஏதோ வெறும் கலிக்கத்தக்கவோ, பொய் பிரசார மாகவோ எண்ணிக்கொள்ள வேண்டாம். உண்மை நிலைமையைச் சீர்த் கொட்டு விட்டது. இந்த நிலைமையில் மடாதிபதிகளும், மதாசாரியர்களும் ஆங்காங்கே வேண்டிய உதவிகள் செய்து அவர்களை காப்பாற்றி வருகிறார்கள். அது அவர்கள் கடமை. அதைப் போலவே அரசாங்கமும் அதைத் தன் பொறுப்பாக எடுத்துச் செய்யவேண்டும். சில இடங்களில் இந்த தர்ம ஸ்தாபனங்கள் அம்மாதிரி செய்யத் தவறியதினாலேயே பலபேர்கள் மத மாற்றப்பட்டு விட்டார்கள். இந்த சமயத்தில் நான் அதைச் சொல்வதை குற்றமாக யாரும் நினைத்துக்கொள்ள மாட்டார்கள் என்று நினைக்கின் றேன். பிற மதஸ்தர்கள் இந்தப் பஞ்ச நிலைமையைப் பயன்படுத்திக் கொண்டு ஹிந்து மதத்தவர்களை மதமாற்றம் செய்கிறார்கள். ஆகையால் அரசாங்கத்தார் இதில் தலையிட்டு இந்தச் சட்டத்தைக் கொண்டுவந்து சரியான வழியில் சட்டத்தைத் திருத்தி இம்மாதிரி ஹிந்து மதம் சீர்குலைவாத வாறு பார்த்துக் கொள்ளவேண்டும். ஆகையால் ஆலையங்களை சர்க்காரின் மேற்பார்வைக்கு வருஷகாலத்தில் அந்தந்தக் கோயில்களில் நடந்துவந்து உத்சவாதிகளை இந்தப் பஞ்ச நிலைமையில் நிறுத்த வேண்டாமென்று கேட்டுக்கொள்ளுகிறேன்.

“நான் இம்மாதிரி பேசுவதற்காக யாரும் வருத்தம் அடையவேண்டாம். இந்தச் சட்டசபையில் பேசுவதற்கு எல்லோருக்கும் உரிமை யிருக்கிறது. வெளியிலிருக்கிறவர்கள் பேசுவதற்கும் உரிமையிருக்கிறது. ஆகையால் இந்த பில்லுக்கு எதிராக யார் எண்ணினாலும் அதை வெளியிலேயே தற்கு எல்லோருக்கும் உரிமையிருக்கிறது. அதில் தவறு ஒன்றுமில்லை. அவர் கள் மனதில் தோன்றியதைச் செய்ய அவர்கள் கடமைப்பட்டிருக்கிறார்கள்.

[12th September 1950] [Sri N. Annamalai Pillai]

“கனம் கோசல்ராம் அவர்கள் என் நண்பர் ஸ்ரீமான் நாடிமுத்து பிள்ளையைப் பற்றி நேற்றையதினம் தப்பாகச் சூறிப்பட்டார்கள். அதை நான் மறுக்க வேண்டியதாக இருக்கிறது. ஸ்ரீமான் நாடிமுத்து பிள்ளை அவர்கள் தன் மனதில் என்ன தோன்றியதோ அதைச் செய்ய முயற்சிப்ப தில் தவறு ஒன்றுமில்லை. அவ்வாறு அவர் செய்யக்கூடாது என்று நிர்பந்தப்பதும் கூடாது. அப்படி நிர்பந்திப்போமானால் அது ஜனநாயகம் ஆகாது.

“மற்றும் பல மெம்பர்கள், இந்த பில்லை பெரும்பாலான மக்கள் ஆதரிக்கின்றார்கள். இந்த பில்லை யாராவது எதிர்த்தால் அவர்கள் பொது மக்களிடையே போய் பேசுவதன் தெரியும் என்று சிலர் ‘சாலஜி’ செய்வதை நான் கேட்டேன். அவர்கள் அம்மாதிரி சவால் விடுவது சரியல்ல. இந்தச் சபையில் இரண்டு கஷ்டக்காரர்களும் பேசுவதற்கு உரிமை யுண்டு. ஜனங்களால் எல்லாரும் ஓட்டுப் போடப்பட்டு தோந்தெடுக்கப்பட்டு வந்திருக்கிறார்கள். அவரவர்கள் அப்பிராயத்தைச் சொல்வது குற்ற மாகாது. இங்கே யுள்ள ஜனநாயகப் பிரதிநிதிகள் சொல்லும் வசியம் யாவையும் சர்க்கார் கூர்ந்து கவனமாக வேண்டுமென்று கேட்டுக்கொள்ளு கிறேன்.”

DEPUTY SPEAKER:—“There are still 17 more hon. Members to take part. I am fixing a time-limit of ten minutes for each speaker, hereafter.”

SRI R. RAGHAVA MENON:—“Madam, Deputy Speaker, this Bill on religious and charitable institutions, as it has come to this Assembly after the deliberations in the Select Committee is certainly much better than what it was when it was introduced. But at the same time I feel obliged to place a few ideas before this House. I support to a certain extent my hon. Friend Mr. Bhashyam's amendment to send back the Bill to the same Select Committee, as the Bill offends the Constitution Act. But if, on the other hand, it has already been examined by the law officers and the Advocate-General, and if they had declared that it does not offend the provisions of the Constitution Act, I have nothing to say on that point.

“But, on the merits of the Bill, I have got very grave misgivings about its success, unless the Government is particularly careful in the administration of this Act. The measure, as it is now, is taking over religious institutions which have come into existence, not as a result of public revenues collected and expended on them. They are institutions endowed by rich families and rich persons; and their idea was that temples must be established, spiritual institutions must be established in our country, which will promote the religious and spiritual welfare of the people. It was with this intention that these institutions were endowed. Now, this Government is laying its hands at the very root of these institutions; true, perhaps as a result of these institutions being not properly managed by the present persons who are in charge of them, being hereditary trustees or being successors of the persons who endowed them. Still, the fact is there, that these religious institutions which are not to be controlled by the Government are not thought to be controlled by them. Madam, it is said that ours is a secular Government. It does not mean by that that such a Government will not advance religious ideas and principles. It

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means that that Government will do things without caring for the several religions which constitute the religion of the citizens of that Government. So, why should such a Government take over the complete management of these Hindu religious institutions? Would it not be better for the Government to appoint a committee of retired high officials, who, by their pious nature, by their learning and by their knowledge will be the proper persons to manage these religious institutions? For instance, a committee of five members, consisting of two or three retired High Court Judges and one or two high officials, who are noted for their capacity of administration, for their religious tendencies, for their high culture and for their cleverness in managing things, may be appointed. If they are given unfettered freedom with a nominal control of the Government over them, that would be much better than this rigorous administration as proposed in the present measure, with the Government at the top, assisted by a Commissioner, Deputy Commissioner, a body of Government officials and an area committee nominated by the Government. Under this system no temple will have, in its management, the whole-hearted co-operation of the villagers. For, whom do you think the Government officials nominate to committees of this nature. They generally nominate only those who come into close contact with them and they generally happen to be unpopular with the villagers. Already we have experience of that in our food committees. Can anyone say that the food committees have worked well? What is there now not to presume that this same thing will be repeated in the case of area committees? If the Government could not satisfactorily administer food, which is most important for our very existence on earth, which is a material more important than spirituality, and which is all-absorbing—if that could not be properly administered, are they going to administer religious institutions successfully by adopting the same method? Madam, I say, the method is not correct. This method will not give us the right sort of officials. They are mostly young people fresh from college; they are mere infants in administrative field, and their ideas will certainly collide with the ideas and sentiments of the villagers; and so, the necessary co-operation from the villagers will not be forthcoming. There is also this fact: that whatever such officers do will have to be supported by the higher officials by way of prestige; and so, whatever they do will be approved—however much we, here, in this Assembly, may cry hoarse declaring that we are the representatives of the people, that this is a popular Government, and so what we say should carry weight. Thus, you will find in effect, the administration will not be conducive to the benefit of these religious institutions. So, I suggest the method of selection to area committees should be changed. There should be a salutary change in the method of selection. We have already had experience in seeing Tahsildars and Deputy Collectors selecting only men who are unpopular in their villages. That will certainly happen here also, in the case of these area committees, with the result that these area committees will be

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condemned by all people. When such sort of people are thrust on these religious institutions to manage them, do Government seriously think that things will go on smoothly. You may take it from me, Madam, it will not improve matters. I request the Hon. Minister to bear this in mind. Suppose, you may say, 'I will throw the area committee open for election.' But, still there will be trouble, though it may be to a less degree.

"Then, Madam, there is provision for appointment of Assistant Commissioners. Who will be those officers except the Tahsildars, Deputy Tahsildars and Deputy Collectors? What is their religious inclination to administer these religious institutions, I ask? Perhaps the Government may say, 'they are good as administrators.' To administer in the secular executive field is quite different from administering in the religious field. Both are entirely different. We are confusing the two here; and there is an element of totalitarianism present in this Bill. When I say this, I should not be misunderstood. I am not against having temples. I have got my own view of religion. I am only saying the machinery that is devised by the Government is not a salutary one for the proper administration of temples. I am also eager, like the Government, to set right the corrupt practices and inefficient administration that is going on among temple authorities and matathipathis. This sort of provincialization of religious institutions is not done anywhere else except in Western countries. There, we know what it is; they have got a separate department for it; that is not what we are doing here. Why should the officials in charge of these institutions be influenced by the Government of the day. So I would suggest to our Government to wait and see what the Central Government are going to do in this matter for the whole of India. Let us wait and see what will be the machinery they will devise for religious institutions.

"Then, Madam, I have another matter to mention. No amount should be taken from the funds of these institutions except for the promotion of religious and spiritual matters. Should there be no funds to manage them, the Government should not borrow funds, for, nobody would come forward to repay them. And then, the entire funds of maths and temples should be spent for religious purposes only; and, then, it is only the surfeit after that, which may be taken away. As my time is over I resume my seat."

SRI N. M. R. SUBBARAMAN :—"கனம் சபாநாயகி அவர்களே, கனம் மந்திரி அவர்கள் Select Committee-யார் கொடுத்த அறிக்கையை பிரேரேபித்தார். அந்த பிரேரேபணையை நான் பொதுவாக அகிரித்து. இவ்வார்த்தைகளைச் சொல்லவேண்டுமென்று விரும்புகிறேன். இந்திய அரசியல் சட்டத்தில் மத சம்மந்தமாக நம் சர்க்கார் பிரவேசிக்க ஒருவிதமான அனுமதியும் இல்லை என்று விவாதிக்கப்பட்டது. சென்ற தடவையில் விவாதம் நடந்தபொழுது கனம் மந்திரி அவர்கள் அதற்கு பதிலளித்த விட்டார். ஆனால், இப்பொழுது கொண்டு வந்தள்ள மசோதா மத சம்மந்தமாக பிரவேசிக்க வேண்டுமென்ற நோக்கத்துடன் கொண்டுவரப்பட்டது.

[Sri N. M. P. Subbaraman] [12th September 1950]

மத சம்மந்தமான தர்ம ஸ்தாபனங்களின் நிர்வாகத்தில் சர்க்கார் கவனம் செலுத்த வேண்டுமென்பதற்காகவும் அவைகள் சரியாக நடக்கின்றனவா என்று அவைகளை மேற்பார்வையிட வேண்டுமென்பதற்காகவும் இந்த சட்டம் கொண்டுவரப்பட்டிருக்கிறது. இந்த விதமான சட்டத்தை நாம் கொண்டுவருவதற்கு இந்தியா சட்டம் அனுமதிக்கிறது. ஆகையால் இந்த விதமான விவாதத்தை மறுபடியும் மறுபடியும் சிளப்பி ஆட்சேபிப்பதில் சிறிதும் நியாயம் இல்லை. அத்துடன் இன்னொன்றும் கூறப்படுகிறது. இப்பொழுது நடப்பது ஒரு லென்கை சர்க்கார் அதாவது லென்கை கமிட்டி மெண்டு. ஆகவே ஒரு பிரிவாகிய ஹிந்துக்கள் சம்பந்தமான ஸ்தாபனங்களை மட்டும் தான் இதன் கீழ் கொண்டுவரப்படுகிறது. எல்லா மத ஸ்தாபனங்களையும் ஒன்று சேர்த்து நாம் நிர்வகிக்க வேண்டுமென்று இந்த சட்டத்தை கொண்டுவரவில்லை என்று கூறப்படுகிறது. இவ்விதமாக பொது ஸ்தாபனங்களை சர்க்கார் எடுத்து நடத்தவேண்டுமென்ற எண்ணம் கிருஸ்தவர்களிடத்திலோ அல்லது இஸ்லாமியர்களிடத்திலோ அதிகமாக இல்லை. அவர்களுடைய ஸ்தாபனங்களை சர்க்கார் எடுத்து நிர்வகிக்க வேண்டும், பொது மேற்பார்வையில் இருக்கவேண்டுமென்ற அபிப்பிராயம் அவர்களிடத்தில் இல்லாதால் ஹிந்து மதம் சம்பந்தப்பட்டமடில்தான் கொண்டுவரப்பட்டது. தவிர இன்னொரு காரணம் கூட சொல்ல முடியும். கிருஸ்தவர்களோ முஸ்லிம்களோ அவர்கள் தங்களுடைய தர்ம ஸ்தாபனங்களை ஒருமாதிரியான நல்ல விதத்தில் நடத்துகிறார்கள் என்று சொல்ல வேண்டும். ஆனால் ஹிந்துக்கள் சம்பந்தப்பட்டவரையில் அவ்விதம் சொல்வதற்கில்லை. எல்லா ஸ்தாபனங்களும் நல்ல முறையில் நடக்கவில்லை என்று சொல்லவில்லை. ஒன்றிமைய ஸ்தாபனங்கள் சரியான முறையில் நடக்கின்றன, பெரும்பாலான ஸ்தாபனங்கள் நல்ல முறையில் நடக்கவில்லை என்று தான் தெரியவருகிறது. இவ்விதம் சர்க்கார் எடுத்து நடத்தாமல் வேறு யாருடைய கவனத்திலாவது வைத்து நடத்தலாம் என்று நினைப்பதற்கு ஒரு ஆதாரமும் இல்லை. ஆகவே சர்க்காரால்தான் இவைகளை எடுத்து நடத்தமுடியும் என்ற முடிவிற்கு வந்திருக்கிறது. இப்பொழுது ஹிந்து மத தர்ம ஸ்தாபனங்கள் சரியான முறையில் நடக்கின்றனவா என்பது பார்க்கவேண்டும். ஹிந்து சமூகம் தாங்களாகவே தங்களுடைய தர்ம ஸ்தாபனங்கள் ஒழுங்கான முறையில் நடக்கின்றன வென்று சொல்லியிருந்தால் நிச்சயமாக சர்க்கார் இந்தக் காரியத்தில் பிரவேசித்திருக்கமாட்டார்கள். பொது மக்களுடைய ஆதரவு இதை ஸ்தாபனங்களுக்கு இல்லாதிருந்தாலும் அவைகளுக்கு இப்பொழுதுள்ள நிலை ஏற்பட்டதாலும் சர்க்கார் இதில் பிரவேசிக்க முன் வந்தார்கள். ஆகவே இந்த சட்டத்தை பொதுவாகவே எல்லோரும் வரவேற்கிறார்கள்.

“எந்தென்கே தர்ம ஸ்தாபனங்கள் சரியாக நடக்கவில்லையோ அந்தத் ஸ்தாபனங்களைமட்டும் இந்த சட்டத்தின் கீழ் கொண்டுவரவேண்டுமென்று நான் சர்க்காரிடம் தெரிவித்துக்கொள்ளுகிறேன். உதாரணமாக இப்பொழுது இராமகிருஷ்ண மடம் இருக்கிறது. அதையும் ஒரு அழகான நடத்தை சிறந்த அப்பிடிப்பட்ட ஸ்தாபனங்களை நம் சர்க்கார் தங்களுடைய அதிகாரத்திற்குள் கொண்டுவர வேண்டுமென்று நினைக்கவே கூடாது. அந்த ஸ்தாபனத்தை பார்த்து மற்ற ஸ்தாபனங்களும் நடக்கும்படியாக சர்க்கார் செய்யும் பட்சத்தில் அது ஒரு பெரிய உதவியாக இருக்கும்.

“இந்த சட்டம் முக்யமாக இன்னும் ஒரு நோக்கத்துடன்தான் கொண்டுவரப்பட்டிருக்கிறது. இப்பொழுது ஹிந்து மத தர்ம பரிபாலன போர்டு இருக்கிறது. அந்த போர்டின் மேற்பார்வையில் இப்பொழுது ஸ்தாபனங்கள் நடந்துவருகின்றன. ஆனால் சட்டப்பிரகாரம் அதற்கு சரியான அதிகாரம் கொடுக்கப்படவில்லை. முக்யமாக இப்பொழுது மடங்கள் அநேகமாக தமது தலாக நடக்கின்றன. அந்த மடங்களைப்பற்றி விசாரித்து விஷயங்களைத் தெரிந்து கொள்ளவோ, அவைகளை ஒழுங்குப் படுத்தவோ முடியாத நிலைமையில் இப்பொழுது போர்டு இருக்கிறது. ஹிந்து மத போர்டு தர்ம ஸ்தாபனங்களை நல்ல முறையில் நடத்த முடியாமலிருப்பதால் அதை உத்தேசித்துதான் சர்க்கார் இந்த புது சட்டத்தை கொண்டுவருகிறார்கள். அதிகமான அதிகாரத்தையும் எடுத்துக் கொண்டிருக்கிறார்கள். இவ்விதம் செய்வதால் நிர்வாகத்தை ஒழுங்குப் படுத்துவதும், சரியாக

[12th September 1950] [Sri N. M. R. Subbaraman]

வதுமாகுமே யொழிய மத விஷயங்களில் பிரவேசிப்பது என்பது இல்லவே இல்லை. இந்த சட்டத்தினால் பொதுவாக எல்லா ஸ்தாபனங்களும் சீர்திருத்தமடைந்து ஒழுங்குபடும் என்று நம்பலாம். ஆனால் வெறும் சட்டத்தினால் மட்டும் எல்லா காரியங்களும் நடக்கும் என்று நான் நினைக்கவில்லை. எல்லா காரியங்களும் நல்ல முறையில் ஒழுங்காக நடக்கவேண்டுமென்றால் ஒழுக்கம், தகுதி, திறமை வாய்ந்த உத்தியோகஸ்தர்களை நியமித்தால்தான் நம்முடைய காரியங்களை சாதிக் முடியும். இன்றுள்ள நிலைமையில் தர்மகர்த்தாக்கள் பல இடங்களில் இருப்பதாக சொல்லப்படுகிறது. சர்க்கார் இலாக்காக்களை எடுத்துக்கொள்வோம். அங்கெல்லாம் ஊழலும் லஞ்சமும் இருப்பதாக புகார்கள் சொல்லப்படுகிறது. இந்த விஷயங்களில் நாம் கவனக் குறைவாக சட்டத்தை நிறைவேற்றினால் அதே போல் இன்னும் பல புகார்கள் வா இடமிருக்கும். தவிர நல்லகாரியங்கள் செய்யப்பாக பல கெடுதல்களும் விளையும். ஆகவே சர்க்கார் வெகு ஜாக்கிரதையாக நடந்து கொள்ளவேண்டுமென்று நான் சர்க்காரை கேட்டுக் கொள்ளுகிறேன்.

“மத ஸ்தாபனங்களைத் தவிர தர்ம சொத்துக்களையும் இதில் சேர்க்கப்படுகிறது. அது மிகவும் அவசியம் என்று நினைக்கிறேன். நம் முன்னோர்கள் நல்ல நோக்கத்துடன் பல தர்ம ஸ்தாபனங்களை ஏற்படுத்தினார்கள். ஆனால் அந்த ஸ்தாபனங்கள் எந்த நோக்கத்துடன் ஆரம்பிக்கப்பட்டதோ அவ்வாறு இப்பொழுது நடப்பது இல்லை. ஆகவே இவைகள் விஷயத்திலும் சர்க்கார் பிரவேசித்தது மிகவும் அவசியம். சர்க்கார் கவனம் இல்லாமல் அந்த தர்ம ஸ்தாபனங்கள் சரியாக நடந்துவருகின்றனவா என்று பார்த்தால் அது இல்லை. தர்ம ஸ்தாபனத்தின் நோக்கத்தை நிறைவேற்ற முடியாமலிருக்கும் நிலைமையில் அரசாங்கம் அவைகளை எடுத்துக் கொள்வது மிகவும் சரி என்று நான் நினைக்கிறேன். தர்ம ஸ்தாபனத்திற்கும் பெரிது ஜனங்களுக்குமுள்ள தொடர்பு நாளுக்கு நாள் வளர்ந்து கொண்டே வரவேண்டும். அதற்காகவே ஸ்தாபனங்களை நல்ல முறையில் நடத்த வேண்டும். தர்ம ஸ்தாபனங்களுக்கும் மடங்களுக்கும் பொது ஜனங்கள் வருகின்றார்கள். எவ்வளவோ பணம் கொடுக்கிறார்கள். சொத்தை அளிக்கிறார்கள். ஆனால் அந்தப் பணத்தையும் சொத்தையும் உபயோகிக்கும் முறையில் பொதுமக்களுக்கோ அல்லது தர்மம் செய்வதற்குக்கோ எந்த விதமான உரிமையும் இல்லை. பொது ஜனங்களுக்கு சொத்துகளை கொடுப்பதற்குதான் உரிமை இருக்கிறதேயொழிய அவைகள் நல்ல முறையில் சிலவழிக்கப்படுகின்றனவா என்று கேட்க உரிமையில்லை. ஸ்தாபனங்களை பொது ஜனங்கள் எடுத்து நடத்துவதற்கும் உரிமையில்லை. இந்த நிலைமையை அவசியம் மாற்றியமைக்கவேண்டியதாக இருக்கிறது. இப்பொழுது பெரும்பாலான தர்ம ஸ்தாபனங்கள் கெட்டுப்போய்விட்டன. ஆனால் கிருஸ்தவ ஸ்தாபனங்களை நாம் பார்த்தால் அங்கே அவர்களுடைய ஸ்தாபனங்களும் பொது ஜனங்களிடமிருந்து பணத்தை வாங்கி நடந்துவருகின்றன. அவ்விதம் நடத்தும்பொழுது பொது ஜன பிரதிநிதிகளால்தான் அவைகளின் நிர்வாகம் நடத்தப்படுகிறது. இவ்வாறுதான் நம்முடைய ஸ்தாபனங்களுக்கும் பணம் வருகிறது. அவ்வாறுகே நம்முடைய தர்ம ஸ்தாபனங்களையும் நடத்த வேண்டும்.

“நம் முன்னோர்கள் லட்சக்கணக்காகவும் கோடிக்கணக்காகவும் பணத்தையும் சொத்தையும் தர்ம ஸ்தாபனங்களுக்கு விட்டுப்போயிருக்கின்றார்கள். அவைகள் வைத்து எவ்வளவு நல்ல முறையில் நிர்வாகம் செய்ய வேண்டுமா அவ்விதம் செய்வதற்கு பொது ஜனங்களின் அபிப்பிராயத்தையோ, ஆலோசனையையோ ஒன்றும் கேட்பதில்லை. முன் காஸத்தில் எந்த நோக்கத்துடன் அவைகள் ஏற்படுத்தப்பட்டனவோ அந்த முறையில் இப்பொழுது நடத்த ஏற்பாடு செய்யப்படவேண்டும். அந்த நிலைமைக்குக் கொண்டுவரவேண்டுமென்றால் அவ்வப்பொழுது பொது ஜனங்களுடைய அபிப்பிராயத்தையும், ஆலோசனையையும் கேட்டு தெரிந்து கொள்ளவேண்டும். இவ்விதம் நன்றாக தெரிந்துகொண்டு தர்ம ஸ்தாபனங்களை நடத்தவேண்டும் என்று கேட்டுக்கொண்டு நேரம் அதிகவில்லாததால் இவ்விதம் முடித்துக்கொள்ளுகிறேன்.”

[12th September 1950]

SRI V. KURMAYYA:—"Madam Deputy Speaker, to-day the House is discussing the report of the Joint Select Committee on the Hindu Religious and Charitable Endowments Bill. This is a most important Bill which requires the attention of the whole of India. From the history of the temples and maths, we are not able to know for what purposes and by whom and when the maths were founded or the great temples of South India were constructed. The Government call themselves a secular Government and this State a secular State. Such a Government are sponsoring a legislation to take over the supervision of the ancient temples constructed long long ago by religious teachers with the help of the rich people, the zamindars and the Rajas. Every ancient temple in South India reveals the greatness of India's past. I personally think that by interfering with them by a legislation like this, we are only going to see that the temples do not exist for ever. Once a secular Government begin to set their hands on religious institutions, I do not think there will be any limit to it. Any Government other than a Congress Government, say a Communist Government, may come into power in future and pass an order to destroy all temples. We know that the Communists have no faith in religion. That is why I say that once we begin to interfere with religious institutions, there is no end to it. We have not been elected by the people on the definite issue of interference with religion and vesting the administration of the great and ancient temples in the Government. Our religious gurus like Ramanujacharya, Sankaracharya and Ramakrishna Paramahansa dedicated their lives for the spread of the great Hindu religion not only in this country but in other countries also. Swami Vivekananda, who was a disciple of Ramakrishna Paramahansa, went to America, spread the greatness of Hindu religion, built Hindu temples, and converted some Americans to Hinduism.

"Provision is made in the Bill for every religious institution to pay to the Government annually a sum not exceeding 5 per cent of its annual income. In view of this provision, I do not think that hereafter any temple-goer or worshipper will contribute anything for the construction of new temples or the renovation of old temples or for offering pujas in these holy temples. Before the Madras Temple Entry Act came into force, I had a vague idea about temples. But after that Act came into force, I have visited almost all the big temples in South India. These temples really serve the needs of the orthodox and the conservative people. We know that our country is not a materialist country; our country is a religious country. Religious people have constructed great temples and maths. It is not fair for a secular Government to lay their hands on them and take over their administration. I know that the funds of some temples and maths are misappropriated. What is the reason for the misappropriation? Before the Hindu Religious Endowments Act, 1928, came into force, the trustees were either hereditary trustees or people appointed with the consent of the matathipathis or religious people

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and people who contributed to temple funds. They were rich and respectable people. But after the Act came into force, the people nominated to be trustees by the Commissioner, Deputy Commissioner or Assistant Commissioners were irreligious people and people who did not deserve. I know that many of the trustees nominated by the Government or their officers are irreligious. Is it not the duty of the Government to see that such people are not nominated to be trustees of religious institutions? During my visit to several temples, many people have told me that people who have no faith in religion are appointed as trustees, and they arbitrarily reduce the amount that can be spent by the pujaris or archakas on the various offerings to God. It is not right on the part of the Government to interfere with religious institutions. The other day a member from the Muslim bloc said that the Government should not interfere with Muslim and Christian religious endowments. Then, what justification is there for this House to pass a legislation to interfere with Hindu religious institutions alone, when its members have been elected mainly for the purpose of wrecking the constitution under the 1935 Act and framing a new Constitution through a Constituent Assembly?

"The Hon. Dr. T. S. S. Rajan, the mover of the Bill, and my friend Sri T. S. Pattabhiraman said that this Bill had got the support of the public. I say that this Bill has not got public support. Did they ascertain the opinion of the temple-goers and people who have contributed to the funds of temples and maths? I say that a majority of the members of the Joint Select Committee which considered this Bill are irreligious. I know the Hon. Minister who moved this Bill has no faith in religion or caste. He is an atheist. All religions are the same to him."

THE HON. DR. T. S. S. RAJAN:—"I am here to contradict that statement."

DEPUTY SPEAKER:—"The hon. Member should not indulge in personal attack. He may criticize the Bill if he likes."

SRI V. KURMAYYA:—"What I want to say is that the Hon. Minister has no faith at all in any religion. He is above all religions."

"The officers that are going to be appointed by the Government like the Commissioner, Deputy Commissioners and Assistant Commissioners will not be imbued with a spirit of service to temples. They will be responsible to the Government only for the proper maintenance of accounts, and not for bringing forward measures to improve the temples. I request the Hon. Minister to see that only people well-versed in Sanskrit, people who have read the Vedas and who can recite the Vedic hymns and mantras well are appointed as Commissioner, Deputy Commissioners and Assistant Commissioners."

(Deputy Speaker sounded the gong.)

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SRI V. KURMAYYA:—“Madam Deputy Speaker, please allow me five more minutes.”

DEPUTY SPEAKER:—“The hon. Member must conclude now.”

SRI V. KURMAYYA:—“Madam Deputy Speaker, why I oppose this Bill is that the Government should have no control over religious institutions, so long as they claim to be a secular Government and our constitution has laid down that a secular State should not interfere with religious matters and religious institutions. Therefore this Bill is opposed to the principles laid down in the Constitution Act because it seeks to take control of the properties of mutts and temples and manage their affairs. I submit, Madam, though the Government boast themselves as a secular State, in practice and in reality, they are not a secular Government.”

SRIMATHI K. LAKSHMI AMMAL:—“கனம் உப தலைவர் அவர்களே, இந்த ஹிந்து மத அற நிலைய மசோதாவை நான் முழு மனதுடன் வரவேற்று சந்தோஷத்துடன் ஆதரித்து சில வார்த்தைகள் பேச விரும்புகின்றேன்.

“இந்த மசோதா மூன்று வருஷத்திற்கு முன்னாலேயே வந்திருக்க வேண்டியது. சில முக்கியமான சட்டங்கள் அந்த சமயத்தில் செய்ய வேண்டியிருந்ததினால் இவ்வளவு தாமதமாக இதைக் கொண்டுவரவேண்டியதாயிற்று. இன்னும் இதை தாமதப்படுத்தாத முறையில் ரொம்ப சீக்கிரத்தில் கொண்டுவரவேண்டியது நம் எல்லோருடைய கடமையாகும். இந்த மசோதாவை சிலர் எதிர்த்து வர்தாடி வருவதன் நோக்கம் அதை மீண்டும் தாமதப்படுத்தவேண்டுமென்ற எண்ணத்தினால்தான் என நினைக்கின்றேன். இன்னும் சிலர் இந்தச் சட்டமானது இந்திய அரசியல் சட்டத்திற்கு விரோதமானது என்று சொல்லுகிறார்கள். ஆனால் இதில் சமீபத்தில் நிறைவேற்றப்பட்ட அரசியல் சட்ட விதிகளுக்கு இந்த மசோதா விரோதமாக ஒன்றுமில்லையென்று நம்முடைய சர்க்கார் சட்ட நிபுணர்கள் சொல்லுகிறார்கள். இதை செலக்ட் கமிட்டிக்கு விட்டு அங்கு பரிசீலனை செய்யும்போது கூட சர்க்கார் வக்கீல் அட்வகேட்-ஜெனரல் அவர்களும் கூடவே யிருந்தார்கள். இங்கு பேசியபோது கனம் பாஷ்யம் ஐயங்கார் அவர்கள் இந்த பில்லை மறுபடியும் செலக்ட் கமிட்டிக்கு அனுப்பவேண்டுமென்றும் அதை மீண்டும் அட்வகேட்-ஜெனரல் அவர்கள் பரிசீலிக்கவேண்டுமென்றும் சொன்னார்கள். செலக்ட் கமிட்டியில் பாஷ்யம் ஐயங்கார் அவர்களும் இருந்தார்கள். அட்வகேட்-ஜெனரலும் இவ்வொரு நாளும் வந்து தகுந்த யோசனைகளைச் சொல்லியிருக்கிறார். ஆகையால் மறுபடியும் இதைக் கூட்டு செலக்ட் கமிட்டிக்கு அனுப்பவேண்டுமென்று சொல்வது வீணாக காலதாமதம் செய்வதற்குத்தான் என்று எண்ணுகிறேன். இந்த அற நிலைய மசோதாவும் அரசியல் சட்டத்திற்கு விரோதமானது என்று எங்குத் தோன்றவில்லை. என்னென்றல் பம்பாய் ராஜ்யத்திலும் இதற்கைய சட்டத்தை நிறைவேற்றியிருக்கிறார்கள். நம்முடைய ஜனாதிபதி ராஜேந்திரப்பிரகாஷ் அவர்களுடைய சொந்த மாகாணமாகிய பீகாரிலும் கூட இதுமாதிரி பில்லைக்கொண்டு வர ஏற்பாடு செய்திருக்கிறார்கள். இந்த மசோதா சட்ட விரோதமானதென்றால் அந்த மாகாணங்களிலெல்லாம் இந்த மாதிரியான பில்லைக் கொண்டுவருவார்களா வென்று நான் எல்லோரையும் கேட்கிறேன். இது ரொம்பவும் அவசியமான, அவசரமான, நியாயமான சட்டமென்று நம் எல்லோருக்கும் தெரியும். ஆகையால் இதை எல்லோரும் வரவேற்கவேண்டுமென்று நான் கேட்டு கொள்ளுகிறேன். ஹிந்து மதத்தில் நம்பிக்கையுள்ளவர்களும், ஹிந்து ஆய்வுகள் புனிதப்படுவேண்டுமென்ற எண்ணமுடையவர்களும், மடாதிபதி

[12th September 1950] [Srimathi K. Lakshmi Ammal]

களும், ஆதர்ப்புத் துறையில் செயலாற்றவேண்டுமென்று நினைக்கின்றவர்கள் எல்லோரும் இது நியாயமான சட்டம், அவசியமான சட்டம் என்று நினைப்பார்களென்றே நினைக்கின்றேன்.

“நாம் எல்லோருமே நன்றாக யோசித்து நமக்குள் ஒரு கேள்வியை கேட்டுக்கொள்ளவேண்டும், அதாவது இன்று ஆலயங்களும், மடங்களும் அவற்றின் சொத்துக்களும் சரியான முறையில் பரிபாலிக்கப்பட்டு வருகின்றதாவென்று கேட்டுக்கொள்வோமேயானால் நமக்குச் சிறிது வெட்கம் தான் வற்பும். இன்று ஒன்றிரண்டு இடங்களிலே நிர்வாகம் கொஞ்சம் ஒழுங்காக நடக்கிறதென்றால் அது 25 வருஷங்களுக்கு முன்னாலே ஏற்படுத்தப்பட்ட ஹிந்து மத பரிபாலன போர்டு சட்டத்தினாலேயாகும். அந்தச் சட்டத்திலுள்ள குறைபாடுகளை நீக்கி சரியான முறையில் நிர்வகிக்க வேண்டுமென்பதற்காகத்தான் இந்தச் சட்டத்தைக்கொண்டு வந்திருக்கிறோம்.

“இந்தச் சட்டத்தின் அடிப்படையான நோக்கம் தர்மஸ்தாபனங்களை யும், அவற்றின் சொத்துகளையும், சரியான முறையில் பரிபாலனம் செய்வதேயாகும். மேற்படி சொத்துக்களை சர்க்காரே நேரிடையாக எடுத்து தரங்களே மாணேஜ்மெண்டு செய்வது என்பதல்ல. அப்படி இந்தச் சட்டத்தில் கிடையாது. இதை கனம் டாக்டர் ராஜன் அவர்கள்கூட தனது உபநாயகியில் நன்றாக விளக்கிச் சொல்லியிருக்கிறார். இதற்கு உபமானமாக ஒன்று சொல்லவேண்டுமானால் மைனருக்கு கோர்ட்டு கார்டியன் போலச் சொல்லலாம். இதில் கமிஷனர் சரியான மாணேஜ்மெண்டு நடக்கின்றதா என்று தான் பார்த்துக்கொள்ளவேண்டும். ஆனால் நண்பர் கோபால் ஸ்வாமி அவர்கள் பேசியபோது கனம் டாக்டர் ராஜன் அவர்கள் சொல்லியது தவறு என்றும் 22-வது விதிப்பிரகாரம் கமிஷனர்களே மாணேஜ்மெண்டு செய்வதாகவும் படித்தார்கள். ஆனால் அந்த விதியில் கமிஷனர் தாங்களே மாணேஜ்மெண்டு செய்வதாகக் கூறப்படவில்லை. சரியான மாணேஜ்மெண்டு நடக்குமாறு பார்த்துக்கொள்ளவேண்டுமென்றுதான் கூறி இருக்கிறது. அதாவது to see to the proper management என்பதுதான் அங்குள்ள வார்த்தைகள் to manage என்று அங்கிலை.

“இந்தச் சட்டம் மத சம்பிரதாயங்களையோ, மடாதிபதிகளின் மத தலைமை ஸ்தானத்தையோ எவ்விதமும் பாதிப்பது கிடையாது. சொத்துக் களின் பரிபாலனத்தினால் வரும் பல சிரமங்களை நீக்கி பாரமத்திகத் துறையில் தங்கள் முழு கவனத்தையும், முழு நேரத்தையும் ஈடுபடுத்த தான் இடம் கொடுக்கும். இந்தச் சட்டத்தை மடாதிபதிகள் வரவேற்கவேண்டுமென்பதே என் கருத்து. ஆனால் இந்த மட, தர்மஸ்தாபனங்களை நிர்வகிக்கும் விஷயமாக ஒன்று சொல்ல விரும்புகின்றேன். அதாவது கடவுள் பக்தி உடையவர்களையும், ஆலய, விகிதக வழிபாட்டில் நம்பிக்கை யுடையவர்களையும் இதற்கு அதிகாரிகளாக நியமிக்கவேண்டுமென்பது என் நோக்கம். இம்மாதிரி நம்பிக்கையற்றவர்களை அதிகாரிகளாகப் போடுவதனால் ஏற்படும் தீங்கைப்பற்றி நண்பர் கோபால்ஸ்வாமி அவர்கள் சொன்னார்கள். அவ்வாறு கோவிலில் நாஸ்திக வாதுகள் அதிகாரிகளாக இருக்கிறார்களென்றால் அதை உடனே எச்.ஆர்.இ. போர்டு பிரிசி டெண்டுக்கு தெரியப்படுத்தினார்களா, இல்லையா என்று எனக்குத் தெரிய வில்லை. அவ்வாறு இதுவரை தெரியப்படுத்திராவிட்டாலும் இப்போதாவது தெரியப்படுத்தினால் பிரிசி டெண்டு அதற்குவேண்டிய நடவடிக்கைகளை உடனே எடுத்துக்கொள்ளுவார் எனத் தெரியப்படுத்துகிறேன்.

“செலக்ட் கமிட்டியில் சாஷியம் கூற வந்தவர்கள் எத்தனையோ யோசனைகளைச் சொன்னார்கள். அதில் நியாயமெனக் கருதப்பட்ட அவசியமான விஷயங்களெல்லாம் டாக்டர் ராஜன் அவர்களுடைய சம்மதத்தின் பேரில் சேர்க்கப்பட்டிருக்கிறது. இதில் ஸ்தல கோயில் கமிட்டிகளை ஏற்படுத்துவதென்பது ஒரு முக்கியமான அம்சம். இதற்கைய கமிட்டிகள் மூன்று ஒரு காலத்தில் ஏற்படுத்தப்பட்டிருந்தது. அவைகள் சரியான முறையில் ஒழுங்காக நடைபெறுவதினால் எடுக்கப்பட்டுவிட்டன. கோவில் நிர்வாகத்தில் ஸ்தலமக்களுக்குப் பங்கு இருக்கவேண்டுமென்பதற்காக வரியா கமிட்டிகளை ஏற்படுத்தவேண்டியது அவசியம் தான். ஜனநாயகம்

[Srimathi K. Lakshmi Ammal]

[12th September 1950]

என்பதன் பொருள் ஜனங்களால் பரிபாலிக்கப்படவேண்டியது என்பது தான். ஆனால் அது திறமையாக நடப்பதும் நடக்காததும் அப்பொறுப்பை ஏற்கின்ற மனிதர்களைப் பொறுத்தேதான் அமையும். மத விஷயங்களில் நம்பிக்கையுள்ளவர்கள்தான் அந்த ஏரியாக் கமிட்டியில் வரவேண்டுமென்று நான் நினைக்கிறேன். ஆனால் இப்போதுள்ள சூழ்நிலையில் அந்த ஏரியா கமிட்டி வெற்றிகரமாக நடக்குமா என்று எண்ணும்போது நான் சற்று பயமாக இருக்கிறது.

“இதில் முக்கியமாக ஒரு அம்சம் சேர்க்கப்பட்டிருக்கிறது. மடாதிபதிகள் அனுப்பும் திட்டங்களையெல்லாம் மாற்றுவதற்கு சர்க்காருக்குத்தான் அதிகாரம் உண்டு என்பதுதான்.

“அதிகாரிகளை நியமிப்பதில் ஒரு வார்த்தை சொல்ல விரும்புகின்றேன். அதை முன்னாலேயும் சொல்லியிருக்கிறேன். அந்நிகு மத்ததிலும், ஆலய வழிபாட்டிலும் நம்பிக்கையுள்ளவர்களையே நியமிக்கவேண்டுமென நான் கேட்டுக்கொள்ளுகிறேன்.

“எந்தச் சட்டமும் பொது ஜன ஆதரவுடன் செய்யப்படவேண்டுமென்பது வாஸ்தவம்தான். இந்தச் சட்டத்தை நாம் 1948-ல் இங்கு கூடி விவாதித்தபோதும் கூட அனேக பொதுக்கூட்டங்களிலும் வளைக்கப்பட்டிருக்கிறது. இதற்குப் பொது ஜனங்களுடைய ஆதரவு பெருவாரியாக இருக்கிறது என்பது எனக்குத் தெரியும். இதை எதிர்ப்பவர்கள் மிகச் சிறுபான்மையோர்தான். அதிக மெஜாரிட்டி மக்கள் இது எப்போது வரும் என்று எதிர்பார்த்துக்கொண்டோனிருக்கிறார்கள். இதை எதிர்ப்பவர்கள் நண்பர் கோசல்ராம் சொன்னதுபோல பொதுக்கூட்டத்தில் சென்று மக்களுக்கு எடுத்துக்கூறி பார்க்கட்டும். அப்போது மக்களுடைய கருத்து எப்படி இந்த மசோதாவிற்குச் சாதகமாக இருக்கிறது என்பதை அவர்கள் தெரிந்துகொள்ளமுடியும்.

“எனவே புனிதமான ஹிந்துமதம் சீரும், சிறப்புமுற்று வளர்ந்து வருவதற்குச் சாதகமான இந்த மசோதாவை நான் முழுமனதுடன் ஆதரிக்கின்றேன்.”

SRI S. CHIDAMBARA AYYAR:—“Madam, Deputy Speaker, so far as this Bill is concerned, it is said that there is some legal objection to it, in that some of its provisions offend the Constitution Act. My hon. Friend Mr. Bhashyam has put that point very clearly before the House. But opinion is divided on that point. The Government are of the opinion that this Bill is perfectly constitutional and that it does not offend any of the provisions of the Constitution Act. Able lawyers like hon. Mr. Bhashyam differ from this view and think that if this matter is taken before a court of law, it might set aside this legislation as *ultra vires* of the Constitution. As my hon. Friend Mr. A. Vedaratnam Pillai suggested, in order to make ourselves doubly sure on this point, it is better to thrash it out again by the Select Committee, instead of taking it before the High Court. Anyway, I also agree with him that it is better to examine that point again and I support the motion moved by my hon. Friend Mr. Bhashyam for remitting this Bill back to the Select Committee.

“Now, Madam, coming to the Bill proper, my humble submission is that there are a large number of temples which are not managed properly. Only a few temples are managed properly, but a very large number of them, and particularly village temples, are not properly managed at all. In several village temples, the drastic amount is generally made use of by the trustee for his private purposes and is not spent on the services of the temples.

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There are, as I said just now, several temples in which mal-administration and misappropriation of funds has been going on and any amount of Government control would be of no avail. The Select Committee has also introduced area committees and Board of Trustees in between the Commissioners and the trustees. No doubt the committees are in the nature of old local committees which existed some years back, but I should like to suggest that it would be much better if the elective principle had been introduced by the Select Committee both in the constitution of the Board of Trustees and also in the Area Committees, because they will be the real representatives of the people in those committees and as such they will act as a liaison between the Government officers on the one hand and the trustees on the other. They will also be in a position to appoint proper trustees to the various temples. Madam, one more thing that I find in the Bill, as it has emerged from the Select Committee, is that powers have been given to the Commissioner to appoint a number of non-hereditary trustees in order to give them a majority of one in the Board of Trustees. Clauses 41, 44 and 45 provide for the appointment of both hereditary and non-hereditary trustees but the Commissioner has been given the power to appoint to the Board a number of non-hereditary trustees exceeding the number of the hereditary trustees by one, so that the majority may be the non-hereditary trustees. That means the hereditary trustees will have no voice either in the Board of Trustees or in the Area Committees. I think that such a provision is not desirable. There are certain hereditary trustees who are really doing very good service in the temples and I submit that the Select Committee should not have treated the hereditary trustees in the way in which they have treated them in this Bill and they should not have placed them in any less or subordinate position as compared to the non-hereditary trustees because they would not be in a position to do all that they want to do for the benefit of the temple on account of their subordinate position in these committees. These hereditary trustees have been for a very long associated with the affairs of these temples and they have been carrying on the administration of the temples all along and so they would be in a much better position to understand the needs and conveniences of the devotees and worshippers in these temples and that being the case, they should not in any way be placed in a subordinate position. I submit, Madam, that the whole scheme bristles with nominations and appointments of trustees by the Commissioner who are to carry out the orders of Government. The Area Committee members and the members of the Board of Trustees are all nominated and even the hereditary trustees are not allowed to have their own way, because they occupy only a subordinate position in these committees. There is thus a world of nominations in this Bill and I submit that it is not a sound principle to do so. I would, therefore, suggest that the members of the Area Committees as also of the Board of trustees might be elected, so that they might represent public opinion in their locality.

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"Madam, in clause 62, the Deputy Commissioner has been entrusted with powers to inquire into and to decide whether a person is a hereditary trustee or not, whether he is entitled to any honour, emolument or perquisite in any religious institution, and what the established usage of a religious institution is in regard to any other matter. The Deputy Commissioner has to deal with a number of other matters which involve questions of law as also of facts. In fact, provision has also been made for suits and appeals against his orders. I suggest that the Deputy Commissioner should be a judicial officer who is well acquainted with the conduct of disputes and that he should be at least of the rank of a Subordinate Judge. Otherwise, there is no use of entrusting such powers to a person who is simply an executive officer not acquainted with legal matters. In fact, the Deputy Commissioner is initially to make inquiries as a judicial officer and, therefore, his office should be given the status of a judicial officer.

"Clauses 67 and 79 provide for suits and appeals against the orders of the Commissioner, but no power is given to the courts to stay such orders. I doubt if these provisions will be valid, especially in courts. When one goes to a court, the court is entrusted with the power to hear the case and give its decision and so it must have the power to stay the proceedings of the Commissioner. If a person is asked to file a suit or take an appeal to a civil court, it is only fair and proper that the courts should be given discretion to pass suitable orders in law. I really doubt, Madam, whether these clauses will be valid, especially in courts.

"Now, Madam, I come to the next subject, namely maths. I want that maths should be eschewed from this Bill altogether. If it is not possible, I would even suggest that a separate section may be introduced in the Bill granting exemption to maths and their administration. My hon. Friends Mr. Vedaratnam Pillai and Mr. Annamalai Pillai have said that there are very good maths in the Tanjore district which are doing very good work and which are very well-managed. They have testified to the efficient and useful way in which the Tirupanandal Math is being administered and how it has opened a Tamil College in the Tanjore district. Madam, in my own district of South Arcot in Mailam, there is a math and it has opened a Tamil College which has sent out Vidwans employed in several schools. At the same time, there are bad maths also and it is only just and proper that in respect of those, the Government should have full control over their affairs in order to see that they are conducted properly and their incomes are properly accounted for. If the Government proceed to take all the maths under their management, then I submit that the dignity of these maths and the matadhipathis will be lessened and even some of the excellent maths which are now doing very good work lose their enthusiasm and become indifferent. We should not, therefore, interfere with the affairs of very good maths. That is why I submit that a new clause may be introduced in the Bill where the Commissioner may be empowered to investigate into the existing maths and take over only

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such maths which are ill-managed and those which are doing excellent work may be exempted. The Select Committee has no doubt made some difference between temples and maths, and has placed maths on a higher level than temples. I submit, Madam, that the matathipathis should be given the respect due to them as some of them are the religious heads and are best suited to preach religion and they should be placed on a higher level than others. No doubt, clause 94 (b) states, 'Save as otherwise expressly provided in or under this Act, nothing herein contained shall authorize any interference with the religious and spiritual functions of the Head of a math, including those relating to the imparting of religious instruction or the rendering of spiritual service.' Therefore under this clause, even an officer appointed to control these maths should not interfere with the religious performances and duties of the heads of the maths. As my hon. Friend Mr. N. S. Varadachari pointed out, the margin between religious and secular powers is rather thin and it is difficult to define the scope and limit of their functions or to lay down as to how far the functions go in the religious sphere and how far in the secular sphere. My submission therefore is that well-managed maths which are doing very good service to the society should be exempted altogether from the purview of the Bill.

"Madam, clause 59 (1) provides that the trustee of every math or specific endowments attached to a math may, from time to time, submit to the Commissioner proposals for fixing the dittam or scale of expenditure in the institution, and the amounts which should be allotted to the various objects connected with the institution or the proportions in which the income or other property of the institution may be applied to such objects. I submit, Madam, that this provision is unnecessary in the case of maths although it may be necessary in the case of temples. There is already a manager appointed at the instance of the Matathipathis and he is responsible for the maintenance and submission of proper accounts to the Commissioner. I think that is enough safeguard to see that the funds of the maths are properly accounted for and their affairs properly administered. I also think that in the chapter on the notification of inclusion of maths is unnecessary and maths should be exempted altogether from the notification chapter.

"So far as the utilisation of the surplus funds of these temples are concerned, my submission is that so long as surplus funds are available they must be spent only on objects for which the trust or charity had been founded. But if after spending so much for such of the objects as are mentioned in the Trust, there still remains a surplus, perhaps it can be utilised for the other purposes mentioned in the Bill. But my own view is that so far as charitable endowments are concerned, we must administer them according to the original intention of the donors and that we must go slow in such matters, as otherwise it will dry up charity among people who are charitably disposed.

"With these words, Madam, I close."

[12th September 1950]

SRI K. K. SUBBANNA GOUNDER :—

“கனம் உபதலைவி அவர்களே, இப்பொழுது நம்முள்ள ஹிந்துமத அறநியை பாதுகாப்பு மசோதாவை ஆதரிக்கிறேன். பழைய காலத்திலிருந்து கோவில்களிலும், தர்மஸ்தாபனங்களிலும் சரிவர நிர்வாகம் செய்யப்படாமலிருந்து வந்தன. 1927-ம் வருஷத்திற்கு பிறகு அவற்றில் பல சீர்திருத்தங்களைச் செய்து அதன் பிறகு கோவில்களும் தர்ம ஸ்தாபனங்களும் முன் போலில்லாமல் கூடுமானவரையில் மாறுபாடு அடைந்து நிர்வாகம் சரிப்பட்டு கோவில்களில் சுகாதாரமும் ஏற்பட்டு நிர்வாகமும் ஒழுங்காக நடந்து வருகிறது. ஆனாலும் இன்னும் போதுமானபடி சரியானபடியான நிர்வாகம் நடைபெறவில்லை. சொத்து பராமரிப்பு விஷயத்தில் இன்னும் பூர்ணமான ஒழுங்கு ஏற்படவில்லை. ஆதலால் தான் இந்த மசோதாவானது வர வேண்டியதாக இருக்கிறது. பலகோவில்களிலும் தர்மஸ்தாபனங்களிலும் சொத்துக்களை பரிபாலனம் செய்வதைப்பார்த்தால் அது நமக்கு திருப்தி அளிக்கக்கூடியதாக இல்லை. அவைகள் மிகவும் கேவலமான நிலைமைக்கு வந்துவிட்டன. தர்மஸ்தாபனங்களின் நிலங்களை குத்தகைக்கு விடும்பொழுது அவைகளை சரியான முறையில் குத்தகைக்கு விடப்படுவதில்லை. அதிகமான குத்தகை தொகைக்கு நிலங்களை விட்டுவிட்டு குறைந்த தொகைக்கு விட்டதாக கணக்கு எழுதப்பட்டு வருகிறது. அதிலிருந்து வரும் வருவாயை வைத்து குறைந்த தொகைக்கு விட்டதாக கணக்கு எழுதி மேற்கொண்ட வரும்படியை தர்மகர்த்தாக்கள் எடுத்துக்கொள்வதாக இருக்கிறது. இந்த முறையை உடனே நீக்கவேண்டும். இவ்வித நிலைமை இருப்பதால் அந்த ஸ்தாபனங்களின் நிர்வாகம் அரசாங்கத்தின் மேற்பார்வையிலிருப்பதுதான் நியாயமாக இருக்கும். ஆகவே இந்தமாதிரியான மசோதாவைக் கொண்டுவந்து அந்த தர்மஸ்தாபனங்களின் நிர்வாகத்தை அரசாங்கத்தின் மேற்பார்வையில் கொண்டுவருவது ஒரு நியாயமான காரியம். ஆனால் ஒன்றை இதில் நான் சொல்ல விரும்புகிறேன். இந்த கோவில்களிலும் மதஸ்தாபனங்களிலும் தர்மகர்த்தாக்களையும் மற்ற நிர்வாக அதிகாரிகளையும் நியமிக்கும் விஷயத்தில் அவர்கள் ஹிந்துக்களாகவே மட்டுமிருந்தால் போதாது. அவர்கள் ஹிந்து மதத்தில் பெரிய நம்பிக்கையுள்ளவர்களாகவும், ஹிந்து சாஸ்திரங்களையும், அதன் விஷயங்களையும் அறிந்தவர்களாகவும் இருக்கவேண்டும். இப்பொழுது பார்க்கிறோம். சில ஆலயங்களில் எனக்குத் தெரியும், தர்மகர்த்தாக்கள் நன்றாக நிர்வாகத்தை நடத்திவருகின்றார்கள். அங்கெல்லாம் சுகாதார முறை நன்றாக இருக்கிறது. அவ்விதமான கோவில்களை போட்டு எடுத்து நடத்தவேண்டுமென்ற அவசியமில்லை. ஆனால் சில கோவில்களில் ஈனக்குத் தெரியும் மதப்பற்றில்லாத தர்மகர்த்தாக்களை நியமித்ததால் அவர்கள் கோவில்களை சுகாதார முறையில் வைத்திருந்தாலும் பூஜைவேளைகளில் ஏதாவதும் செய்யவேண்டுமென்றால் அது அவசியமில்லை இது அவசியமில்லை என்று பூஜாவிதிகளில் சிலவற்றை நிறுத்திவிடுகிறார்கள். அந்த மாதிரியில்லாமல் நிர்வாக அதிகாரிகளும், தர்மகர்த்தாக்களும் பூர்ணமாக உதப்பற்றுடையவர்களாகவும், மத சட்டம், சபங்கு சம்பந்தமான விஷயங்களை நன்றாக அறிந்தவர்களாகவுமிருக்கவேண்டும். அவ்விதமில்லாமல் பரனால் அவர்களால் நிர்வாகத்தை சரிவர நடத்த முடியாது.

“இதைத்தவிர கோவில் அர்ச்சகர்களும் பயிர்ச்சி அடைந்திருக்கவேண்டும். இப்பொழுது சில கோவில்களில் பார்த்தால் அர்ச்சகர்களுக்கு பூஜை செய்யக்கூடிய முறைகளை தெரியவில்லை. கடவுள் முன்னால் தீபாராதனை நன்றாக காட்டக்கூடியவர்களாகவும், மற்றப்படி தெய்வத்திற்கு செய்ய வேண்டிய அவஸ்காரம் முதலியவைகளை செய்யக்கூட தெரிந்தவர்களாகவும் இல்லை. இவ்விதம் இப்பொழுது இருந்துவருவதால் அவர்களுக்கு அதிகமாக பயிர்ச்சி இருக்கவேண்டியது அவசியம்.

“அது மாதிராமல்ல, இன்று நிர்வாக அதிகாரிகளையும், கமிஷனர்களையும், டிபுடி கமிஷனர்களையும், அசிஸ்டெண்ட் கமிஷனர்களையும் நியமிக்கும்பொழுது அவர்கள் ஹிந்து மதமாக இருந்தால் மட்டும் போதாது. வர்கள் ஹிந்து மதசம்பந்தமான விஷயங்களைத் தெரிந்தவர்களாக இருக்க வேண்டியது அவசியம்.

[12th September 1950] [Sri K. K. Subbanua Gounder]

“அதற்குப்பிறகு ஒவ்வொரு ஸ்தாபனத்திலும் அந்தந்த ஸ்தாபனத்தின் சிலவு செய்யப்பட்டுப் போக உபத்தொகை இருக்கும் விஷயத்தில் நாம் ரொம்பவும் கவனம் செலுத்தவேண்டியதாக இருக்கிறது. அவைகளை வைத்துக்கொண்டு வைத்தியசாலைகளுக்கோ அல்லது மற்ற கல்வி ஸ்தாபனங்களுக்கோ சிலவிடப்படும் என்பதாக இருக்கிறது. அவ்விதம் செய்வது நல்ல காரியங்களாக இருந்தபோதிலும் ஒரு தர்ம ஸ்தாபனத்தின் சொத்தை எடுத்து மற்ற கல்வி ஸ்தாபனத்திற்கோ அல்லது வைத்திய சாலைக்கோ சிலவு செய்வது என்பது அவ்வளவு நியாயமில்லை. அந்தந்த மட்டம், அல்லது கோவில், அல்லது தர்மஸ்தாபனத்தின் சொத்துக்களை எடுத்து மதப் பிரசாரம் சம்பந்தமாக சிலவு செய்தால்தான் நியாயமாக இருக்கும். இப்பொழுது நம் நாடு மதவிஷயத்தைத் தெரிந்து கொள்வாக்கூடிய நிலைமையில் இல்லை. கூடுமான வரையில் ஒவ்வொரு சாஸ்திரங்களையும் மத துல்லியமும் சாதாரண எளிய நடையில் எழுத ராதாரண மக்கள்கூட படித்துத் தொந்துகொள்ளும் முறையில் அமைத்து எழுதப்படவேண்டும். மத சம்பந்தமாக அங்கங்கே, மதக் கருத்துக்களை தெரிவிக்கும்படி பிரசாரம் செய்யப்படி ஏற்பாடு செய்யவேண்டும். நாட்டு மக்கள் உள்ளூர் புரிந்துகொள்ளும் படி பிரசாரங்களை செய்தும், பற்பல நூல்களை வெளியிடுவதிலும் தேவரீர், திருவாசக பாடசாலைகளை நடத்துவதற்கும் மற்ற மத சம்பந்தமான காரியங்களை செய்வதற்கும் இந்த உபபணத்தை வைத்துக்கொண்டு சிலவிடப்பட வேண்டும். வைத்தியசாலைகளுக்கோ அல்லது மற்ற கல்வி ஸ்தாபனத்திற்கோ அல்லது மற்ற காரியங்களுக்கோ எடுத்துக்கொள்வது என்பது கூடவேசுடாது. மத சம்பந்தமாக போதிக்க ஒரு பாடசாலையை ஏற்படுத்தவேண்டும். பொதுக் கல்விக்கு உபயோகப்படுத்தக்கூடாது. பொது ஜன நன்மைக்குக் கூட உபயோகப்படுத்தக்கூடாது. போலீஸ் நிர்வாகத்திற்கு எடுத்துக் கொண்டாலும் பொதுஜன நன்மைக்குத்தானே என்று கேட்கலாம். ஆனால் இவைகளுக்கு எடுத்துக்கொள்வது என்பது கூடாது. அந்த ஸ்தாபனத்திற்கு எழுதி வைத்தவர்களுடைய நோக்கம் அதுவில்லை. எதற்கு வேண்டுமென்றாலும் சிலவிடலாம் என்பது அவர்களுடைய நோக்கமில்லை. ஆகவே உபரி தொகையை மதசம்பந்தமான காரியங்களுக்கு மட்டும் தான் உதவவேண்டும். மற்ற காரியங்களுக்கு உபயோகப்படுத்தக் கூடாது என்பதை தெரிவித்துக்கொள்ளுகிறேன். இந்த மசோதாவை நான் முழு மனதுடன் ஆதரித்து இத்துடன் முடித்துக்கொள்கிறேன்.”

SRI M. A. EASWARAN :—“Madam, Deputy Speaker, I welcome the Madras Hindu Religious and Charitable Endowments Bill. This Bill is brought forward just for the proper management of the religious and charitable endowments relating to temples and maths and not for any other purpose. This Bill does not interfere with the endowments except in respect of the management of the endowment funds. The object of the Bill is to divert the surplus funds of the endowments for the improvement of hospitals, orphanages, and for imparting education. These three are its objects for diversion of the endowment's surplus funds. Some hon. Members including the hon. Raja of Chettinad opposed the spending of the surplus money of the endowments for education, improvement of hospitals, and orphanages. They said that the funds should be used exclusively for religious purposes. Swami Sahajananda, the champion of the oppressed community, opposed the spending of the endowment fund for education, hospital, and orphanages. I do not know what God means or what Religion means to the devotees of that Religion. Are they to be kept in ignorance? Are they to be

[Sri M. A. Easwaran] [12th September 1950]

kept like beggars? Are they to be kept just like lepers walking along the streets to the temple and sitting on both sides of the front portion of the temple and beg of the devotees? Does our Religion want our people to remain like that? Take the charity funds of the Christians and Muslims. The funds entrusted with Christians are well managed. The St. Joseph's College in Tiruchirappalli has produced thousands of scholars. The Loyola college in Madras has produced thousands of scholars, and they have raised the standard of the mission. They have done yeoman service to humanity at large. The same is the case with regard to Muslim endowment funds. They are well spent and well managed. The Roman Catholic Church and the Loyola College are managed well. Their funds are well spent. The object of God is to see that all the devotees are well kept and brought to a standard, and are made to lead a respectable life. In this manner money should be spent. Therefore, if the endowment money is spent for the uplift of the devotees, it is in no way wrong. It is right. The surplus fund is to be spent for education, hospital and orphanages. This will be the wish of God. If that is not the wish of God, I do not know by what name the Hindu religion is to be called. Swami Vivekananda went to America and preached our Hindu religion there. He was welcomed by all there. The hon. Member Mr. N. S. Varadachari said that a large number of religious institutions are in South India and that North Indians are visiting places in the South like Rameswaram. No doubt there are very many big temples in South India. Many North Indians go to the South to worship in the shrines. But there are very many evils in Hinduism in the south. For instance, in Malabar there is this evil of 'unseeability.' A Nayadi in Malabar should not walk in the street. He has to lead his life as a beggar. When Gandhiji came to Malabar, at about noon he heard the voice of a Nayadi in the field, and he enquired who that man was who was crying at noon time. Somebody told him that he was a Nayadi, and that he was an unseeable. Gandhiji came down and talked to that Nayadi. Gandhiji asked 'have you ever walked in the street.' He replied 'No'. Gandhiji asked again 'why don't you walk.' He said 'If I begin to walk, I will be beaten to death by the caste Hindus.' Gandhiji asked him what his profession was, in reply to which he said 'begging.' Would you come with me and stay in my ashram, Gandhiji asked. He said that he should consult his people in the matter. At the while that Nayadi did not know that he was talking to Mahatma Gandhi. Gandhiji that evening spoke about this evil in Hindu religion. 'This evil must be eradicated if Hinduism is to survive,' Gandhiji said. When Swami Vivekananda visited Malabar, he characterised the place as a 'lunatic asylum,' because this evil was prevalent. There are very many evils like this which have to be eradicated from Hinduism if it is to survive. I oppose the motion to refer the Bill back to the Select Committee. Swami Sahajananda said that the word 'Hindu' should be removed and in its place the

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word 'India' should be substituted. I oppose this also. The Christian endowments and Muslim endowments are well administered. Their funds are well spent. There is one London Mission Hospital in Erode. It is there for the past thirty years. It has done very good service, and has earned a very good name. Most of the ryots in Coimbatore district and the adjoining districts go there for treatment and for delivery. My hon. Friend Mr. Subbanna Gounder knows this. There is a big math in Nerinjipatti in Bhavani taluk. It has vast property the income of which is worth nearly one lakh of rupees. Its funds are badly spent. Even when the devotees asked the trustees about the spending of the money, they were discourteously treated and sent out. There is one temple by name Angalamman temple in Erode town, endowment for which has been made by the Mysore kings 150 years ago. Out of the income, the temple must be maintained. But the *pujari* began to sell small pieces of land. In 1916 he sold about two or three pieces of land and appropriated the money for his own purposes. In 1949-50, ten pieces of land were sold out either by the trustee or the *pujari*. The sale-proceeds were used for their own purposes. This Bill is intended for the proper management of the temple funds. I can say that the Ramakrishna Math has done very good service and is doing good service among all the Hindu maths. All other maths must follow their example.

"Madam, I welcome this Bill wholeheartedly."

SRI S. C. BALAKRISHNAN:—"கனம் சபாநாயகி அவர்களே! ஏற்கெனவே பெரிய ஸ்தலங்களான பழனி சுப்பிரமணியஸ்வாமி தேவாலயம், மதுரை மீனாட்சி, சுந்தரேசர் கோவில் முதலியவைகளிலெல்லாம் நல்ல முறையில் நிர்வாகம் நடந்துகொண்டிருக்கிறது என்பது நாம் எல்லோரும் அறிந்த விஷயம்.

"ஆயினும் கூட இந்தச் சட்டத்தை ஏன் கொண்டுவர வேண்டிய அவசியம் ஏற்பட்டதென்றால் பல பெரிய கோயில்களிலும், மடங்களிலும் நிர்வாக ஊழல் நிறைந்துவிட்டதாலும், H.R.E. போர்டின் நிர்வாகத்தில் இருக்கின்ற கோயில்களையும் அரசாங்கத்தின் நேர் பார்வைக்குக் கொண்டுவந்து அவைகளின் நிர்வாகத்தைச் சீர்படுத்த வேண்டியது கர்க்காரின் கடமையாக இருப்பதாலும் இந்தச் சட்டம் செய்யவேண்டியது மிகவும் அத்தியாவசியமாக இருக்கிறது. இருந்தாலும்கூட இந்தச் சட்டத்தை ஹிந்துக்களுக்கு மாத்திரம் ஏன் கொண்டுவரவேண்டும். இல்லாமல், கிருஸ்துவ மதஸ்தாபனங்களையும் ஏன் இந்த பில்லிற்குட்படுத்தக்கூடாது என்று கேட்கப்படுகிறது. ஆனால் ஹிந்துக்களாகிய நாம் நமது ஹிந்து மதத்திலுள்ள ஊழல்களை நிவர்த்திக்க வேண்டுமென்ற ஆர்வத்துடன் இம் மாதிரி ஒரு பில் வேண்டுமென்றோம். ஆகையால் இந்தச் சட்டத்தை ஹிந்து மடாலயங்களுக்காக நம் சர்க்கார் கொண்டுவந்தார்கள். கிருஸ்துவர்களும் முஸ்லிம்களும் இம்மாதிரியான சட்டத்தை தங்களது கொண்டுவருவதற்கு அவர்கள் விரும்பவில்லை. ஆகையால் ஹிந்துக்களாகிய நாம் அவர்களுடைய தர்ம ஸ்தாபனங்களையும் இந்த பில்லிற்குட்படுத்தக் கொண்டுவர விரும்பவில்லை.

"அப்படியிருப்பதால் இந்தச் சட்டப்படி இந்த H.R.E. போர்டின் நிர்வாகம் நடத்தக்கூடிய எல்லோரும் ஹிந்துக்களாக இருக்கவேண்டுமென்று சர்க்கார் சொல்லுகிறார்கள். ஆனால் H.R.E. போர்டின் நிர்வாகத்தை எடுத்து நடத்தின்ற கனம் மந்திரி அவர்களும் ஒரு ஹிந்துவாகத்தான் இருக்கவேண்டுமென்று அதிகாரப்படுத்தவில்லை. ஆனால்

[Sri S. C. Balakrishnan] [12th September 1950]

யால் ஹிந்துக்களின் தர்மஸ்தாபனங்களை எடுத்து நடத்த ஏற்படுத்தப்பட்ட இலாகாவின் நிர்வாகத்தை எடுத்து நடத்துகின்றவரும் ஒரு ஹிந்து மந்திரியாகவே இருக்கவேண்டுமென்று நான் விரும்புகின்றேன்.

“அடுத்தபடியாக இப்போது எதற்கெடுத்தாலும் ஒரு பூச்சாண்டி காட்டுகிறார்கள். அது என்னவென்றால் இப்போது எந்த சட்டத்தைக் கொண்டு வந்தாலும் அது அரசியல் நிர்ணய சபை சட்டத்திற்கு முரணானது என்ற கூச்சலைக் கிளப்புவதுதான். அரசியல் சட்டத்தில் பல நூற்றுக்கணக்கான கிளாஸ்கள் இருக்கின்றன. எந்த சட்டத்தை யெடுத்தாலும் அது அந்த கிளாசிற்கு முரணானது—இந்த கிளாசிற்கு விரோதமானது என்று சொல்லிக் கொண்டேயிருந்தால் இந்த மாகாண சர்க்கார் எவ்வித சட்டமோ, நிர்வாகத்திட்டமோ செய்ய முடியாது. ஆகையால் இந்தச் சட்டத்தைக் கொண்டுவரும்போது அது கோர்ட்டுக்குப் போகாத வழியில் செய்யவேண்டும்.

“இரண்டாவது இந்தச் சட்டப்படி அதிக வருமானமுள்ள கோயில்களுக்கு போர்டும், குறைந்த வருமானமுள்ள ஆலயங்களுக்குப் பிரதேச கமிட்டியும் நியமிக்கவேண்டுமென்று சொல்லப்பட்டிருக்கிறது. இந்தப் பிரதேசக் கமிட்டியை நியமிக்கும் விஷயத்தில் ஒரு சந்தேகம் எழுகின்றது. இந்தப் பிரதேசக் கமிட்டிகள் நல்ல முறையில் வேலை செய்கின்றதா என்பது எல்லோருக்கும் தெரிந்த விஷயம். இந்தக் கமிட்டிகள் அட்வைசர்களாக இருக்கவேண்டுமே தவிர டிரஸ்டிகளை நியமிக்கும் அதிகாரம் கூட இந்தக் கமிட்டிகளுக்கு இருக்கக்கூடாது. டிரஸ்டிகளை நியமிக்கும் அதிகாரம் சர்க்காரிடமே இருக்கவேண்டும்.”

“அடுத்தபடியாக பரம்பரை டிரஸ்டிகள் விஷயமாக ஒரு வார்த்தை சொல்ல விரும்புகின்றேன். இப்போது சில private charitable endowment களும், சில public charitable endowmentsகளும் இருக்கின்றன. எனக்கு அதிகமாக private charitable endowment-ஐப் பற்றி தெரியாவிட்டாலும், public charitable endowment-ஐப்பற்றி ஒன்று சொல்லப்படுகிறது. இராமேஸ்வரம் போன்ற சில ஸ்தலங்களிலும் பரம்பரை டிரஸ்டிகள் இருக்கிறார்கள். அம்மாதிரியான இடங்களில் மறுபடியும் டிரஸ்டிகள் வந்தால் அவர்களுடைய வாரிசுதாரர்களை வரவேண்டுமென்று இந்தச் சட்டம் கூறுகிறது. ஆனால் இது விஷயமாக சர்க்கார் நன்றாக கவனிக்கவேண்டும். இராமேஸ்வரம் ஸ்தலத்தை எடுத்துக்கொண்டால் அங்கேயுள்ள டிரஸ்டிகள் பெரிய மனிதர்களாகவும், படித்த ஞானவான்களாகவும் நல்ல மத அறிவு உடையவர்களாகவும் இருக்கிறார்கள். ஆனால் என்னுடைய ஊரில், அதாவது நான் பிறந்த ஊரில் ஒரு லக்ஷம் ரூபாய் சொத்துள்ள கோவில் ஒன்று இருக்கிறது. பரம்பரையாக ஒரு வம்சத்தார் அதை மேற்பார்த்து வருகிறார்கள். அதன் நிர்வாகத்தில் நிறைந்த ஊழலிருக்கிறது. அந்த வம்சத்தில் படித்தவர்களே ஒருவருமில்லை. இந்தமாதிரி சந்தர்ப்பங்களில் அவர்களுடைய வாரிசையே டிரஸ்டிகளாக நியமிக்கவேண்டுமென்றால் படிக்காத, மத அறிவே இல்லாத ஒருவனைத்தான் நியமிக்கவேண்டும். அது கோவில் நிர்வாகம் தற்போது நடப்பதற்கு முட்டுக்கட்டையாகும். அம்மாதிரி பொம்மை டிரஸ்டிகள் நியமிக்காமல் நல்ல அறிவாளிகளை நியமிப்பதற்கு அனுசூலமாக இந்தச் சட்டத்தை திருத்தவேண்டுமென்று நான் கேட்டுக்கொள்ளுகின்றேன்.

“அடுத்தபடியாக தற்போது மடாதிபதிகளும் பல கோவில் தேவஸ்தானங்களும் பல வியாஜ்யங்களை வைத்துக்கொண்டு கோர்ட்டில் ஏராளமான பணத்தை விரயம்செய்து வருகிறார்கள். இந்தச் சட்டத்திலும் அவர்கள் கோர்ட்டுகளில் வழக்குகள் தொடரவதற்கு ஏதோ சில கிளாஸ்கள் இடம் கொடுத்திருக்கிறதாக அறிகிறேன். வழக்கு என்று அவர்கள் விவகாரம் செய்து வழக்குகளில் ஏராளமான பணத்தைச் செலவிட்டுக்கொண்டிருக்கிறார்கள். அதைத் தடுப்பதற்கு இதில் அனுசூலமிருந்தாலும்கூட கமிஷனர், டிபுட்டி கமிஷனர் அனுமதியுடன் அப்பீல் செய்துகொள்ள உரிமை கொடுக்கப்பட்டிருக்கிறது. அப்படி அவர்கள் மறுபடியும் சில கோர்ட்டுகள் போய் வழக்காடி பணத்தை விரயமாக்கும்படி விடக்கூடாது என்பது என் அபிப்பிராயம்.

[12th September 1950] [Sri S. C. Balakrishnan]

“அடுத்தபடியாக மடாதிபதிகளைப்பற்றி நேற்று பல நண்பர்கள் பல அபிப்பிராயங்கள் கூறினார்கள். மடாதிபதிகள் அனேக இடங்களில் பல நல்ல காரியங்களைச் செய்கின்றார்கள். கனம் அண்ணாமலை பிள்ளை அவர்கள் சொன்னார்கள் திருப்பணந்தான், தருமபுரம் மடங்கள் நல்ல முறையிலே நடந்துவருகின்றன என்று. இருந்தாலும் கூட ஆங்காங்கு சில மடங்களில் ஊழல்களிருக்கின்றன. அதைப் பொருள்படுத்த முடியாது. இப்போது கிருஸ்துவ மிஷன்கள் இருக்கின்றன. அந்த கிருஸ்துவ மடபாதிரிமார்களுக்கு கிருஸ்துவர்கள் நல்ல மரியாதை கொடுக்கிறார்கள். அதேமாதிரி நம்முடைய மதத் தலைவர்களுக்கு உரிய கௌரவத்தைக் கொடுக்க நாம் கடமைப்பட்டிருக்கிறோம். ஆனால் அதே சமயத்தில் மதத்தின் பெயரால், கடவுளின் பெயரால் தர்மத்தின் பெயராலே வரக்கூடிய பணத்தை நல்ல முறையிலே மதப்படிப்பினைக்குரிய பாடசாலைகளுக்கும், ஆஸ்பத்திரிகளுக்கும் செலவிடவேண்டுமென்பதுதான் என் விருப்பம்.

“நான்கூட பழனி கோவிலிலே அட்வைசரி கமிட்டியிலே ஒரு தீர்மானம் அனுப்பினேன். அதாவது பழனி தேவஸ்தானத்தில் வருகின்ற பணத்தைக்கொண்டு ஒரு பெரிய கல்லூரியை ஏற்படுத்தி நடத்தவேண்டுமென்று அந்த தீர்மானத்தை நிறைவேற்றினோம். ஆனால் தலைவர்களுக்கு பிடித்த மில்லாத (அதாவது சட்டம் இடம் கொடுக்கவில்லை யென்ற காரணத்தால்) அந்த தீர்மானத்திற்கு என்னகதி வந்ததோ தெரியவில்லை. அதைத் திருத்தி அதிகுப் பணங்களை மக்கள் சமூகத்தின் நன்மைக்குச் செலவிடுவதென்பது நல்லதென்பது என்னுடைய அபிப்பிராயம். (At this stage Mr. Speaker resumed the chair.) கடைசியாக இந்த விஷயங்களை யெல்லாம் நன்றாக கவனிக்கும்படி கனம் மந்திரி அவர்களைக் கேட்டுக்கொண்டு சர்க்கார் கொண்டுவந்த இந்த மசோதாவை நான் ஆதரிக்கின்றேன்.”

“MR. S. PATTABHABANAH:—“Mr. Speaker, Sir, this is one of the outstanding Bills of this Congress Ministry which have been brought to this House. I am sure this Bill will be of benefit to the people of our State.

“I oppose the amendment moved by my hon. Friend Mr. Bhashyam because whatever might be the precedents of this House, it will be simply a waste of time to send back the Bill to the same Committee. That Committee could have taken into consideration those aspects also which were pointed out by hon. Mr. Bhashyam. I do not think that there was any technical difficulty in considering the controversial matters raised to-day by hon. Mr. Bhashyam. However, when we see that there is an urge for such a Bill all over the State, we must see that it is passed or amended suitably according to the ideas and views of the various sets of people composing our State. This Bill in the form in which it has emerged from the Select Committee contains a provision for the creation of Area Committees for temples with an annual income of below Rs. 20,000. The intention of the advocates of this particular provision is certainly quite good, but the constitution of the Area Committees as adumbrated in the Bill is, I think, not in the right way. The members of these Committees as provided in the Bill are simply nominees of the Government. They will be selected from the area in which the temples are situated. But no note has been taken of the particular kind of temple or the particular community worshipping in particular temples. Unfortunately it has been assumed by the Government that Hinduism is quite uniform and homogeneous and that the observances and usages and opinions and beliefs of

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the Hindus are the same everywhere in our State. It is not at all so. The temples in our State are not of the same variety; they are dedicated to different deities. The usages and observances in temples dedicated to the same deity in different places are quite different. There are also people who believe in certain doctrines or tenets of a certain sect. Most of these temples, whatever might have been their origin, are being maintained by particular sects and sectarians. Those people are spiritually attached to that particular temple. If the Government nominate persons to the Area Committees, will they take into consideration the particular community to which those persons belong and the particular usages and observances of the various temples over which the Committee will exercise control? I think Government must take note of this matter. A suitable amendment should be made and incorporated in the body of the Bill that the particular usages and observances now in vogue in the various temples should be kept up. Otherwise, there is a great danger of the main object with which the Bill has been brought forward being nullified. I quite agree that, in spite of the provision contained in Article 26 of the Constitution, we have a right to regulate the activities other than spiritual activities of the temples in our State. But we should not do anything against the spirit and fundamental object with which Article 26 has been incorporated in our Constitution. Accordingly, the management of these temples should, as far as possible, be left in the hands of the particular community or sect who have beliefs in the customs and usages of those temples.

"When we consider the maths, they are of different denominations in our State. There are Saivite, Vaishnavite, Advaitic and also dualistic maths. If these maths are brought under the control of people who have no faith in the particular doctrine, then they will destroy the spirituality of those maths. If the trustees or other authorities appointed by the Government to have supervisory control over the maths are of different persuasions, surely the disciples of the particular math will consider it a dishonour and it will affect the feelings of the followers of that math. Now-a-days people are very sensitive in this matter and we know that there is no homogeneity in Hindu religion. We cannot define Hindu religion in a sentence. We can only say negatively that Hindu religion as practised in India is non-Moslem and non-Christian. A wide latitude is given to the people of our land to have their beliefs as they please, but they should conform to certain moral laws which are essential for the welfare of the society in which they live; that is the fundamental principle of Hinduism. If they conform to those moral laws, they can have any idea of philosophy which their contemplation may lead them to. But our methods of contemplation and our methods of approach to God also differ. There are different schools of thought even in philosophy. The bhaktas approach God in different ways. Even in temples rituals vary from temple to temple.

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It is quite essential that we should take note of all these things. We should not ignore the existence of these differences in our religion.

"I then wish to point out that what is stated to be a salient improvement in the present Bill is not really an improvement. I refer to what is called the third salient improvement, that is, the restriction of the scope for litigation and the consequent wastage of the funds of religious institutions. In this connexion the Hon. Minister has stated in his speech as follows:—

"We have removed the right to go to Courts in the following matters, which are all allowed under the present Act:—

- (i) Appointment and removal of hereditary trustees;
- (ii) Fixing of dittams, or standard scales of expenditure in temples;
- (iii) Utilization of surplus funds of religious institutions;

"With regard to item (i) above, that is, appointment and removal of trustees, a point made by some of the speakers including the Leader of one of the Opposition Parties is worthy of being taken into consideration. We should be very careful in this matter and we cannot leave it in the hands of a Government servant.

"With regard to item (ii), that is, fixing of dittams, or standard scales of expenditure in temples, will the Commissioners be people who have studied the rituals of Panchathantra, etc., systems? Will the study of these texts be prescribed as qualification for a Commissioner? If this is done and if the Members of the Area Committees are tested in this respect, I have no objection to the present provision.

"Coming to the question of utilization of surplus funds of religious institutions, they may be utilized for purposes which are not diametrically opposed to the spirit and intention of the original donor. It is, of course, open to the Government to enact any legislation they like but it should be seen that those laws do not go against the moral laws prevalent in the land. Therefore, I consider this change is not at all an improvement in this Bill. I hope suitable amendments will be brought forward and the Bill will be made more acceptable to the people.

"With these words, I welcome the Bill as modified by the Select Committee, Sir."

SRI S. K. PALAIYA KUDUMBAR:—"கனம் சபாநாயகர் அவர்களே. இப்பொழுது விவாதத்திலிருக்கும் 'பில்' லே ஆதரித்து சில வார்த்தைகளை தெரிவித்துக் கொள்ள விரும்புகிறேன். இந்த 'பில்' சம்பந்தமாக பேசும்பொழுது சட்ட வியாக்யானம் செய்யக் கூடியவரும் அதில் பாண்டியத்தியம் பெற்றவனும் நான் அல்ல. சட்டத்தைப் பற்றி பேசுவதற்கு நான் தகுந்தவனல்ல. சட்டத்தைப்பற்றி அனேகம் பேர்கள் சொல்லியிருக்கிறார்கள். சட்டத்தைப் புரிந்துகொண்டு அதை ஏற்றுக்கொள்ளக்கூடிய சக்தியற்றவன் நான். இப்பொழுது பரம் பக்தியாக பலகாலமாக பலவிதத்திலும் இன்னல்களும் இடக்கூடாகும் துன்பங்களும் துயரங்களும் அடைந்து பலவிதத்திலும் தாழ்த்தப்பட்டு, அங்கு வாக்கூடாது இங்கு வாக்கூடாது என்று ஒதுக்கப்பட்டு இப்பொழுது முன்னுக்குவர வேண்டுமென்று எண்ணுகின்றோம் ஒரு ஓரிந்து என்ற நிலைமையில் இந்த சட்டத்தை ஆதரிக்கிறேன். ஒன்றாய் செய்தால்தான் ஒன்றாகும், பலபாய் செய்தால்தான் அன்பு வளம். அங்கிதமேதான்

[Sri S. K. Palaiya Kudumbar] [12th September 1950]

செய்யவேண்டும். இந்தச் சட்டத்தைப்பற்றி அறிவாளிகளும், பாண்டித்தியம் பெற்றவர்களும், படித்தவர்களும் சொல்லிவிட்டார்கள். ஆய்வு, இந்த 'பில்' லானது அவசரமாகக் கொண்டுவந்திருப்பதாக சிலர் குறைகூறுகிறார்கள். இது வெகு காலமாக எந்த வகுப்பினர்கள் சுகபோகத்துடன் அனுபவித்து வந்தார்களோ அந்த வகுப்பினரும் சிறந்த அறிவாளியும், வருங்கால வர்த்தமானங்களை அறிந்தவரும், பெரிய ஹிந்துவான் இராஜாஜி அவர்களால் 1939-ம் வருஷத்திலேயே எல்லா மந்திரிகளுடன் தீர்க்க ஆலோசனைசெய்து கனம் டாக்டர் இராஜன் அவர்களால் இம் மசோதா தயாரிக்கப்பட்டு இதுவரையிலும் வராமல் காலதாமதம் செய்யப்பட்டது. இதனால் என்னுடைய ஜில்லாவிலுள்ள பல தாழ்த்தப்பட்டவர்களில் ஆயிரக்கணக்கான குடும்பங்கள் மதம் மாறிவிட்டார்கள். ஆகையால் இதை இன்னும் காலதாமதம் செய்யாமல் உடனே அமுலுக்குக் கொண்டுவரவேண்டும். அன்று சுவாமி விவேகானந்தா வெளிநாடு சென்று ஹிந்து தர்மத்தைப்பற்றி பிரசாரம் செய்ததுபோன்று இன்று இந்தச் சட்டத்தைக்கொண்டு வந்திருக்கிறார். அதற்கு வேண்டியே இந்தச் சட்டத்தை தயாரித்தார்கள் என்று நான் சொல்லுவேன். இந்தச் சட்டத்தைப்பற்றி பலவிதமான வியாக்கியானங்கள் சொல்லப்படுகின்றன. இப்பொழுது போர்டு ஒன்றை ஏற்படுத்தி ஒவ்வொரு நிர்வாகஸ்தரையும் நியமிக்க வேண்டுமென்றிருக்கிறது. அவ்விதம் நியமிக்கப்படுகிறவர்களுடன் நிர்வாகம் செய்யவேண்டுமென்றிருக்கிறது. இப்பொழுது மடாதிபதி கும்பல்கள் இருக்கின்றன. ஆனால் யாரைத் தேர்ந்தெடுத்து அந்த பீடத்தில் வைப்பது என்பது ஒன்றுமே புலப்படவில்லை. அதைப் பற்றி சட்டத்திலிருக்கவேண்டும். யார் மடாதிபதிகள் என்றால் வேதம், வேதாந்தம், ஆகமம், ஞான வாசிஷ்டம், புராணம், இதிகாசம், சாமுத்திரிகா சாஸ்திரம், சிற்ப ஒலிய சாஸ்திரம், பெளதிகநூல், அரசியல்ஞானம், முதலிய இலக்கண இலக்கியம், நன்னூல், அருந்தாதி, அகராதி, புராண சாலியங்களின் டாண்டித்தியங்களும் வேதபாராயணங்களும், தேவாரம், திருவாசகம், பிரபந்தம் முதலியவைகள் தெரிந்தவர்களாகவும் ஒவ்வொரு கால பூஜைகளில் விதிகளைத் தெரிந்தவர்களாகவும் இருக்கவேண்டும். அதாவது ஆறு கால பூஜைகள் தெரிந்தவர்களாக இருக்கவேண்டும். இவ்வளவும் நிறைந்ததான் அறிவாளிகளைத் தேர்ந்தெடுத்து அமைக்கவேண்டுமே யொழிய பெரிய அரசர் சீனப்போல் குண்டலங்களைக் கொடுத்து நியமிப்பது என்பது கூடாது. ஆனால் இப்பொழுது இருப்பவர்கள் அவ்விதம் இல்லை. இப்பொழுதிருப்பவர்கள் மனிதர்களால் புறக்கணிக்கக்கூடியவர்கள். ஹிந்து மதத்திற்கு உகந்தவர்கள் இல்லை. ஹிந்து தர்மத்தை கொலைசெய்ய வந்து புகுந்து விட்டார்கள். இவர்கள் ஹிந்து மதத்திற்கே பெரிய துரோகிகள். ஏனென்றால் இவர்கள் ஒரு சமூகத்தினரை கோவில்களுக்குள் வரச் கூடாது என்றும் மடத்திற்குள் வரச் கூடாது என்றும் தள்ளிவைக்கின்றார்கள். குண்டலில் தண்ணீர் குடிக்கக்கூடாது என்றும் தெருவில் வடக்கூடாது என்றும் சொல்லி வருகிறார்கள் இந்தப் பண்டார சந்திகள். ஹிந்து மதத்தைச் சேர்ந்த ஒரு சமூகத்தை இவர்கள் தள்ளிவைத்துவிட்டார்கள். இடி இடித்து விழுவதை குண்டலில் தாங்கிவிடலாம் என்று நினைத்துக்கொண்டிருக்கிறார்கள் இவர்கள். என்ன சாமராஜ்யம் அடையப்படுகிறது என்று நினைக்கவில்லை. இவ்வித நிலைமையிலிருக்கும் அவர்கள் பூஜை காலங்களில் பூஜைக்குப் போகும்பொழுது வெளியே போய் கொண்டுவிடுகிறார்கள். இவர்களுக்கு ஆறு கால பூஜை என்றால் என்னவென்று சொல்லுவது? இவர்கள் செய்யும் அக்கிரமங்கள் சொல்ல முடியாது. தேவாதி தேவனை சாட்சாத் சுப்பிரமணியக் கடவுளுக்குப் பணிசெய்தல்; காமாந்திரக் கடலில் அமுந்தி எழுந்துபோகப்பட்ட இந்த துரோகிகளுக்குமா அய்யா தம்பிரான் பட்டமும் பூஜைகளும் இது ஹிந்து மதாசாரத்திற்கே ஒரு பெரிய இழக்கை உண்டாக்குகிறது.

அஞ்சு பொரித்திரன் ஆசையாகியே
நெஞ்சு பயத்தோடு கோபம் நீக்கியே,
எஞ்சு இதத் தொழில் யோகிகளேகான்
உஞ்சு பிதற்றிட யாவும் உதிர்த்தார்

என்று பெரியார்கள் சொல்லியிருக்கிறார்கள். மடாதிபதிகள் தன்னைத் தானே மடாதிபதிகளாகிக் கொள்ளக்கூடாது. திருவாரூரில் நன்றாக

[12th September, 1950] [Sri S. K. Palaiya Kudumbar]

நடத்தப்பட்டு வருகிறது என்று சொல்லப்படுகிறது. அனைத்துயிர் ஒன்றென்றுமே அதிரும், பசி எவர்க்கும் ஆற்றி, மனத்தினில் பேதா அபேதம், வஞ்சகம், களவும், பொய்யும், சினத்தையும் தவிழ்பாயாகில் செய்தவம் வேறே உண்டோ. உனக்கு நான் உபதேசித்த உண்மையும் அறிந்து கொள்வாய். இது ஆகமமுறை. மடாதிபதிகள் தன்னைத்தானே மடாதிபதிகளாக பல சூழ்ச்சிகளைக் கொண்டு நியமித்துக்கொள்ளும் பல அசம்பாவித மார்க்கங்களை அறவே ஒழித்து அதற்கு சகல சாஸ்திர பண்டிதராகவும், 50 வயதிற்கு மேற்பட்டவராகவும், இல்லறத்தையும், இதர ஆசைகளையும் அறவே ஒழித்து தெய்வபக்தி நிறைந்து ததும்பிய ஒருவரை, தேர்ந்தெடுக்கவேண்டும். சிருங்கேரி, இராமகிருஷ்ண பரமஹம்ச சங்கம் முதலிய இடங்களில் பயிற்சிபெற்றிருந்து அந்தந்தச் சங்கங்கள் மூலமாக அவ்விதம் பயிற்சி பெற்ற மடாதிபதிகளை சர்க்கார் தேர்ந்தெடுக்கவேண்டும். வெறும் பெரியவர்கள் என்று சொல்லிக்கொண்டும் தலையை மொட்டை அடித்துக்கொண்டும் குண்டலங்களையும் காலி வஸ்திரங்களையும் அணிந்து கொண்டிருப்பவர்களை தேர்ந்தெடுப்பதில் பிரயோசனமில்லை, அது நியாயமும் இல்லை என்று சொல்லுகிறேன். ஹிந்து தர்மத்தையும், ஹிந்து மதத்தையும் காப்பாற்ற வேண்டுமென்றால் மேற் சொன்னமாதிரி பயிற்சி பெற்றவர்களைத்தான் நியமிக்க வேண்டும். ஏனென்றால் 'எண்ணித்துணிவதே கருமம், துணிந்தபின் எண்ணுவோம் என்பது இழுக்கு' ஒரு காரியத்தை நாம் செய்யவேண்டுமென்றால் அதை ஆர அமர ஆலோசனைசெய்து, யோசித்துதான் செய்யவேண்டும். நினைத்தபடி செய்யக்கூடாது. அதை ஒத்துக்கொள்ளவும் முடியாது. ஆகவே மடாதிபதிகளை நியமிக்கும் விஷயத்தில் சர்க்கார் சர்வஜனரின் கையாடல் இருக்கவேண்டும். இப்பொழுது நாம் செய்யும் காரியத்தினால் பின்னால்தான் என்ன பலன் அடையும் என்பதை யோசித்து செய்யவேண்டும். அவ்விதம் செய்யாவிட்டால் ஜனநாயகத்திற்கு பங்கம் வரும். நல்ல முறையில் இதை நிறைவேற்றினால் யாரும் இதில் குற்றம் சொல்வதற்கில்லை. சட்டத்தில் ஏதாகிலும் ஊழல் இருந்தால் ஊசி நுழைமுகம் இடத்தில் உத்திரம்கூட நுழைந்துவிடும். இதை கனம் மந்திரி கவனித்து ஆலோசனை செய்து சட்டத்தை நிறைவேற்றி உடனடியாக அமுலுக்குக் கொண்டு வரவேண்டும். பிறகு ஹிந்து மதத்தை சீர்திருத்தம் செய்து முன்னுக்குக் கொண்டுவரவேண்டுமென்று கனம் மந்திரியவர்களை தாழ்மையுடன் கேட்டுக்கொள்ளுகிறேன். இந்தச் சட்டத்தை உடனடியாக நிறைவேற்ற வேண்டுமென்று கேட்டுக்கொண்டு இத்துடன் என்னுடைய உரையை முடித்துக்கொள்ளுகிறேன்."

SRI M. R. APPA RAO:—"Mr. Speaker, Sir, some of my hon. Friends here have raised some doubts as regards the Bill being *ultra vires* of the Constitution. I do not think it is so. In this connexion, I would like to read Article 25 (1) of the Constitution which says, 'Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion'. Sub-clause (2) of the same article says, 'Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice.' If we examine the Constitution and the provisions contained in the proposed Bill from a common sense point of view—I do not know much of the legal aspects—it will be seen that the proposed Bill is *intra vires* of the Constitution. When the main spirit of this legislation is to preserve the spiritual and religious aspects and for the purpose of encouraging those if the State is to interfere in such matters relating to religious institutions, then I think the Government

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are perfectly in order. With this idea, the Government have made a Bill 20 or 25 years ago and the present Bill, I should think, is an improvement with necessary amendments and changes that are found to be necessary at the present time, after gaining some experience. As has been said, the staff of the Religious Endowments Board are now temporary and it is now proposed to make them permanent. It is really very necessary that this Board should be made permanent so that it may have the same status as any other Department of the Government. I am glad that under the present Bill this is going to be done and I should think that it is a great improvement and it will make the service really more efficient. Instead of the Committee of the Board, the Commissioner has been made responsible for the administration. This will no doubt increase the efficiency of the Department and will raise its standard to that of the other Departments of the Government. In the matter of removing the trustees, I think the power should vest in the court and not the Commissioner alone. Because, the trustees are very responsible public men. As it has been made in the case of maths, even in the case of temples, the court should be made the final authority to remove the trustees. As regards the maths, certain remarks were made by some of the hon. Members. These maths are at present managed by religious heads who are very learned men. In my opinion, they should look after all the spiritual and religious functions relating to the maths. As regards financial and other matters, I think even at present the religious heads themselves do not look after these, but some secretary or some other person is in charge of such matters. According to the proposed legislation, I think wherever the Government thinks necessary they will appoint a Government officer to manage the properties and look after other financial matters relating to such institutions. Again, it is found that the trustees of maths are removable by courts, that is, of course, a necessary precautionary measure. These trustees are very important public men and every aspect relating to their affairs should be considered rather carefully, before they are removed.

“Regarding the resumption of inams, I know from my experience that when some of these inams were resumed the Revenue Divisional Officers were under the supposition that the inams rights include melwaram only. According to the present Bill, I find that both the warams are given to the temple at the time of resumption. I should think that this is a very good improvement on the previous Bill. In some cases we find that the trustees are spending the proceeds of the trust properties for their own personal ends. To combat this, it is very necessary that adequate provisions should be incorporated in the Bill and I am glad to find that there are such provisions in the proposed legislation according to which a trustee should not, in the absence of permission from the court or the Commissioner or the Deputy Commissioner, reimburse himself from the trust funds, the expenditure that he may incur. This is really a very good improvement.

“Regarding the constitution of Area Committees, many of the hon. Members have said more than once that the members of this

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Committee should be elected and not nominated by the Government. Because, if the members are merely nominated by the Government, then I am afraid such persons are not likely to command public respect or public esteem. Of course, I do not mean any reflection on such persons, but sometimes it so happens that these people are not at all popular with the public. So I think that some kind of popular election, say, by the temple-worshippers or some such thing will be much better and proper indeed. I think the trustees must also be elected. I am sure the Hon. Minister will consider this matter.

“In the matter of appointment of the executive officers and Commissioner, etc., I think there should be some special qualifications for their recruitment. The Government should prescribe that at least they should have interest, belief and faith in Hindu religion and God. So anybody and everybody from among the Government servants who do not have at least these qualifications should not be appointed. This is a very serious and important matter wherein the cultural heritage of our religion is involved. I request the Government to examine the possibilities to see whether it is possible to have some qualifications prescribed, say like the Government Servants Conduct Rules and some other rules, so that the right type of executive officers and Commissioner may be recruited to man these religious institutions.

“If a great matadhipathi or a religious teacher is there and some disciples of his present to him certain personal gifts, then it is provided in the Bill, that such gifts and presents can be disposed of at his own will and that accounts should be rendered. I think that this is a very good piece of legislation.

“Sometimes, it is necessary to dispose of the lands, as in the case of those in cities, if an acre is disposed of in the City an agricultural area of about 20 acres of land can be purchased in the mufassal. In such cases alienation of lands is necessary. By such transactions, the maths and other religious institutions can get thousands of rupees. In such cases, the Government should not take away the extra amount in the name of surplus money for any purpose other than a religious one. It is very important that the money gained by the temples should be utilized on these temples only. No amount of money can be surplus in the case of a religious institution. These temples have to spend a lot of money in renovation. Various construction works will have to be undertaken. For example, they may have to establish schools, colleges and patasalas. So there could be no limit to the activities of the temples for which they require enormous sums. The Government should not therefore take away any money that is given for religious purposes. I know the Government and the Minister in charge are very anxious to see that they do not interfere with the math funds. I hope they will not even unwittingly interfere with the religious matters of the maths and temples. I am sure the Government will consider all these matters and see that they do their

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best and confine their attention only to religious matters and also see that this Bill contributes to the development of spiritual and religious matters."

SRI M. KANNIAPPAN:—“கனம் தலைவர் அவர்களே! இன்றைய தினம் கனம் மந்திரி டாக்டர் டி. எஸ். எஸ். ராஜன் அவர்கள் கொண்டு வந்திருக்கக்கூடிய இந்த புரட்சிகரமான பில்லை நான் மனப்பூர்வமாக ஆதரிக்கின்றேன். நான் ஆதரிப்பது மாத்திரம் அல்ல. நம்முடைய மாகாணத்திலுள்ள எல்லா மக்களும் இதை ஆதரிக்கின்றார்கள். அவர்கள் ஏன் ஆதரிக்கின்றார்களென்றால் இன்றைய தினம் ஹிந்து மதம் மேலோங்கி இருக்க வேண்டியதற்கு பதிலாக பலவித காரணங்களால் ஹிந்து மதம் சிதைவுற ஆரம்பித்ததினாலும், பிற மதஸ்தர்கள் ஹிந்துகளை மதமாற்றம் செய்வதாலும், ஹிந்து மதத்தை காப்பாற்ற அவர்கள் இதை ஆதரிக்கிறார்களென்று நான் எடுத்துச் சொல்லாமலிருக்க முடியவில்லை. அதையொட்டி இந்த பில்லில் பல சீர்திருத்தங்கள் செய்யப்பட்டிருக்கின்றன. அந்தச் சீர்திருத்தங்களையெல்லாம் சரியான முறையில் பயன்படுத்திக்கொண்டு நிர்வாகத்தன்மையோடு நடத்தகின்ற நிலையில் முக்கியமாக நம் நாட்டிலுள்ள மக்களை ஹிந்து மதத்திற்கு சிறந்த சேவை செய்தவர்களாக்கிவிடுவோம்.

“பல மடாதிபதிகள் இப்போது நம்முடைய தமிழ் நாட்டிலிருக்கின்றார்கள். அவர்கள் இந்த பில்லை தலையெடுக்கவொட்டாமல் குலைத்து விடுவதற்காக பல சூழ்ச்சிகளைச் செய்துவருகிறார்கள். அந்தச் சூழ்ச்சிகளெல்லாம் நம்முடைய கனம் மந்திரி அவர்களின் முயற்சியால் பலிக்கவில்லை. இன்னும் பல சூழ்ச்சிகளைச் செய்வதற்கு அவர்கள் திட்டமிட்டிருக்கிறார்கள். ஏன் இதைச் சொல்லுகிறேன் என்றால் நாட்டில் பல பெரிய வக்கீல்கள் இருக்கிறார்கள். அந்த வக்கீல்களிடத்தில் சென்று, ‘இந்தச் சட்டத்தில் என்ன ஓட்டையிருக்கிறது அதைக் கண்டுபிடித்துச் சொல்லுங்கள். இது சட்டமானாலும் அது அமுலுக்குவா முடியாதபடி செய்துவிடவேண்டும். அதை நங்கள் கண்டுபிடித்து தருவதற்கு எங்களிடத்தில் லக்ஷக்கணக்கான பணங்கள் யாரோ, எந்தக் காலத்திலோ ஹிந்துமத வளர்ச்சிக்காக மடத்திற்கு எழுதிவைத்த சொத்துக்கள் இருக்கின்றதை தருகிறோம். எவ்வளவு செலவாலும் செலவழிக்கத் தயார்,’ என்று பல மடாதிபதிகளும் அரசியல்வாதிகளும், பல ஜில்லா போர்டுகளுக்குத் தலைமை வகிக்கின்றவர்களும் மாஜி மேயர்களும் கூட இதற்காக வேலை செய்வார்களாக எங்களுக்குத் தெரியவருகின்றது. வெளியிலே ஏதோ மக்கள் சொல்லிக்கொள்ளுகின்றார்கள். அந்த நிலைமையில் நாம் விட்டு விடவில்லை. ஆனாலும் தப்பித் தவறி கோர்ட்டுக்குவந்து நம்முடைய சட்டத்தை உடைத்தெறிய அவர்கள் எடுத்துக் கொள்ளும் தீவிர முயற்சியின் பயனாக கோர்ட்டுக்குப் போவதற்கு அவர்களுக்குச் சலுகை இல்லாமல் செய்யவேண்டுமென்று நான் கனம் மந்திரி அவர்களைக் கேட்டுக்கொண்டிருக்கிறேன்.

“அதுமாத்திரம் அல்ல. மடங்களிலுள்ள பல சொத்துக்கள் இன்றைய தினம் மறைக்கப்பட்டு வருகின்றன. அவ்வாறு மறைக்கப்பட்டிருக்கும் சொத்துக்கள் கொஞ்சநஞ்சமல்ல. லக்ஷக்கணக்கான பணங்கள், லக்ஷக்கணக்கான வேறுவகை சொத்துக்களும் வேறு வயிகளிலே கொடுத்து பலர் பெயரில் இன்றைய தினம் மாற்றப்படுகின்றன. குறிப்பாக மடங்களில் பணவிதமான சொத்துக்கள் இருக்கின்றன. அவைகள் இன்றைய தினம் இருக்கின்றதா என்று கேட்கிறேன். இல்லவேயில்லை. அவைகள் எங்கே, எப்படி மறைந்தது என்பதை கனம் மந்திரி அவர்கள் வலி. ஐ. டி. கள் மூலமாகவும், அந்தந்த கிராமங்களிலுள்ள மக்கள் மூலமாகவும் தெரிந்து கொண்டு அதை உடனடியாகக் கண்டுபிடித்து இந்த பில் பிரகாரம் அவைகளை நம்முடைய அரசாங்கத்தின் சொத்தாக மாற்றுவதற்கு வேண்டியதைச் செய்யவேண்டுமென்று கேட்டுக்கொண்டிருக்கிறேன்.

“மடங்களுக்குப் பல சொத்துக்கள் இருக்கின்றன. அதன் சொத்துக்களான நிலங்களிலே மக்கள் அதிகதரமாகக் குடியிருக்கிறார்கள். அவர்கள் இருக்கின்ற இடங்கள் அனைத்தும் மடத்திற்குச் சொந்தம். அவர்கள்

[2th September 1950] [Sri M. Kanniappan]

முது வேலைசெய்கின்ற நிலங்களும் கூட மடத்தைச் சேர்ந்ததாகும். மடத்திற்கு விரோதமாக இந்த ஜனங்கள் நடந்தால் உடனே அவர்களை அப்பறப்படுத்தி விடுகிறார்கள். ஒன்றும் காரணமேயில்லாமல் அவர்களைத் தன்புறுத்துகிறார்கள். இந்தக் கேவலமான நிலமை இன்றைய தினம் உட்பல மடங்களிலே நடந்து வருகிறது. அது சம்பந்தமாகப் பல கஜர்கள் வந்திருக்கின்றன. இன்னும் செர்ல்ஸ்ப் போனாலு பல மடங்களின் சொத்துக்கள் பல தாசில்களின் பெயரிலே மாற்றப்பட்டிருக்கின்றன. வேண்டுமானால் எனக்கு அதிகாரம் கொடுங்கள். அந்த கிராமத்தைச் சேர்ந்த வே. எலியன் என்ற ஒரு காங்கிரஸ் ஊழியன், அவன் செல்வாக்கு உடையவன், மடத்திற்கு எஜமனாக ஒரு சமயத்தில் இருந்தான். ‘அந்த மடத்தின் சொத்துக்கள் இன்று எங்கெங்கேயிருக்கின்றன என்று அவன் டீனரி விவரங்களோடு கூட கொடுக்கத் தயாராயிருக்கிறான். அந்த விஷயம் நம்முடைய மத்திய அரசாங்கத்தின் முதன் மந்திரி ஜவஹர்லால் நேரு அவர்களுக்கும் இன்னும் பல கவர்ன்மெண்டு அதிகாரிகளுக்கும் சரியான விதத்தில் தகவல் கொடுத்திருக்கிறார்கள். அந்தத் தாக்கீதின் பேரில் அதை விசாரிக்க வலி. ஐ. டி. கள்கூட அனுப்பப்பட்டதாக அறிவிக்கிறேன். அப்படி அனுப்பியும்கூட என்ன ஆயிற்று என்று தெரியவில்லை. எனக்கு அதிகாரம் கொடுத்தால் அந்த செய்திகள் அனைத்தையும் கண்டு பிடித்துக் கொடுப்பதற்கு நான் தயாராயிருக்கிறேன் என்று சொல்லுகிறேன்.

“அதைப்போலவே தர்மபுரம் மடமிருக்கிறது. அந்த மடத்திற்கு பல சொத்துக்கள் இருக்கின்றன. அங்கே பள்ளிக்கூடம் வைத்து நடத்துகிறார்கள். அந்தப் பள்ளிக்கூடத்தில் ஹரிஜனங்களைச் சேர்ப்பது கிடையாது. ஏன் சேர்ப்பதில்லையென்று கேட்டால் அங்கே அவர்கள் வரமாட்டார்களென்று சொல்லுகிறார்கள். இந்த விதமாக ஹிந்து மடத்திலே அந்த மடாதிபதிகள் செய்துகொண்டிருக்கிறார்கள். தலைவர் அவர்களே! ஸ்ரீ அண்ணாமலை பிள்ளை அவர்கள் மடாதிபதிகள் பற்றி பேசுவதைக்கண்டு வருந்துவதாகச் சொன்னார்கள். அந்த மாதிரி மனம் நொந்து பேசும்படியான நிலைமையை மடாதிபதிகள் பண்ணிவிட்டார்கள். அவர் பெரியவர். உங்கள் காலிலே விழுந்து நமஸ்காரம் பண்ணுகிறேன். மதகுருமார்களைப் பற்றி இழிவாகப் பேசவேண்டாமென்று கேட்டுக்கொண்டார். இம்மாதிரி யான் அக்கிரமங்களையெல்லாம் செய்து வருகின்ற அவர்களா மத குருமார்கள்! அவர்களா கடவுளின் பிரதிநிதிகள்? இல்லவே இல்லை. அவர்களிடம் நாம் விசுவாசம் காட்டுவதே பாவம். அதை நான் மிகவும் மனவருத்தத்தோடு தெரிவித்துக்கொள்ளுகிறேன். இன்று இருக்கக்கூடிய மடாதிபதிகள் உண்மையான மடாதிபதிகள் அல்ல என்பதை பல வருஷ காலமாக அந்த மடாதிபதிகளால் செய்யப்பட்டுவந்திருக்கின்ற காரியங்களைவிருந்து நன்று விளங்கியிருக்கின்றன. ஆனால் அவர்களிடத்தில் பணம் இருந்ததால் கோர்ட்டுக்குச் சென்று பல ஆபாசமான கேஸ்கள் அனைத்தையும் கூட ஒன்றுமில்லாதபடி செய்து கொண்டு வந்துவிட்டார்கள். அது நம் அனைவருக்கும் தெரியும். அதைப்போல இன்னும் பல அக்கிரமங்களை அவர்களைச் செய்யவிட்டுவிட்டு நாம் ஏன் அவைகளைப் பார்த்துக் கொண்டிருக்கவேண்டும்.

“இன்றைய தினம் எந்தக்காரியத்தைச் செய்யவேண்டுமென்று பார்த்தாலும் பணம் இல்லையென்று சொல்லுகிறார்கள். அப்படிச் சொல்லாமல் இந்த தர்மஸ்தாபனங்களின் சொத்துக்களையெடுத்து பல ஏழைகளுக்கு, பள்ளிக்கூடங்களையும், ஆஸ்பத்திரிகளையும் ஏற்படுத்தலாம். அந்த மடங்களில் வைத்திருக்கக்கூடிய பணத்தையெடுத்து நூல் நிலையங்கள் ஏற்படுத்தி மக்கள் படிப்பறிவுபெற வசதி செய்யலாம். இந்தவிதமான நிலை காரியங்களைச் செய்யவேண்டுமென்றால் இந்த பில் மிக அவசியமானது.

“மேலும் இந்தப் பணத்தைக்கொண்டு சீர்திருத்த கோவில்களை கோபுரங்களை எல்லாம் பழுது பார்க்கவேண்டுமென்றும் சொன்னார்கள். கோபுரங்கள் அமைக்கும் விஷயத்திலும்கூட தற்போது பார்த்தால் மிக கேவலமான முறையிலே அவைகள் அமைக்கின்றார்கள். ஆதிகாலத்தில் அமைக்கப்பட்ட கோபுரங்களைப்பற்றி நான் சொல்லவில்லை. இந்தக் காலத்தில் அவைகள்

[Sri M. Kanniappan] [12th September 1950]

கப்படும் கோபுரங்களைத்தான் சொல்லுகின்றேன். மிகக் கேவலமான, ஆபாசமான முறையிலே அவைகள் அமைக்கப்படுகின்றன; அங்குள்ள பொம்மைகளைப் பார்க்கும்போது எல்லோரும் வெட்கப்படும்படியான முறையிலே அமைக்கப்பட்டிருக்கின்றன. வேண்டுமானால் சென்னைக்கு அடுத்ததுள்ள திருவொற்றியூரில் சென்று பார்க்கலாம். அங்குள்ள கோபுரத்தைப் பார்த்தால் தெரியும். ஆண்களும், பெண்களும் வெட்கித்தான் தலை குனியவேண்டுமென்று சொல்லுகிறேன். அம்மாதிரியான பொம்மைகள் அமைப்பதை கண்டனம் செய்யவேண்டும். அப்பேர்ப்பட்ட பொம்மைகளை உடனடியாக அப்புறப்படுத்துவது மிக அவசியம். அவ்வாறு செய்தால் மிக நன்றாக இருக்குமென யோசனை கூறுகிறேன்.

“இந்த விதமான நிலைமையில் மக்கள் ஆண்டவனை எவ்வாறு நினைக்க முடியும்? ஏதோ வேறு கசுக்காரர்கள் கடவுள் இல்லைமென்று சொல்லும் காரணத்தால் நாம் உண்மையை மறைத்துவிடக்கூடாது. இன்றைய தினம் மடாதிபதிகளால் செய்யப்படுகின்ற அக்கிரமங்களைக்கண்டு தான், இந்த பில்லிற்கு பரிபூரண ஆதரவு கொடுக்கின்றோம் என்பது என்னுடைய துணிவான் எண்ணம். அந்த அக்கிரமங்களை ஒழிக்கவேண்டுமென்றால் உடனடியாக இந்த பில் சட்டமாக்கப்படவேண்டும்.

“ஒன்று சொல்லுகின்றேன். இந்த பில் எங்கே சட்டமாக்கப்பட்டு விடுமோ என்ற பயத்தில் மடங்களிலுள்ள சாமிகளெல்லாம் ஏதோ சூழ்ச்சி செய்கின்றன. இதை என் சொல்லுகிறேன் என்றால் ஒருவரை ஒருவர் பார்த்துக்கொள்ளாத இரண்டு சுவாமிகள் இரண்டு மாதங்களுக்கு முன்னாலே ஒருவரை ஒருவர் சந்தித்தார்கள். அதை ஒரு பெரிய திவ்ய தரிசன தினமென்று பத்திரிகையில் போட்டு பிரபலப்படுத்தினார்கள். இப்பேர்ப்பட்ட புணிய தினத்தைக் கொண்டாடுங்களென்று அறிக்கைகள் விட்டார்கள். இதைப் பார்க்கின்றபோது வேடிக்கையாகத் தோன்றுகிறது. ஆனால் நான் எண்ணுகிறேன் இந்த சுவாமிகளெல்லாம் ஒன்று சேர்ந்து கொண்டு பேசி இந்த பில்லிற்கு ஏதாவது ஹானியைத் தேடுகிறார்களோ வென்று அவர்கள் அப்படி ஏதாவது செய்தால் நான் சொல்லுகின்றேன் கனம் மந்திரி அவர்கள் கவலைப்படவேண்டாம். ஞாபியலுள்ள தெய்வாலாளி வர்க்கத்தவர், விவசாய வர்க்கத்தவர் ஆகிய அனைவருடைய ஒத்துழைப்பையும் நான் வாங்கித் தருகின்றேன் என்று சொல்லிக்கொண்டு இந்த பில்லை நான் மனப்பூர்வமாக ஆதரிக்கின்றேன்.”

SRIMATHI V. LAKSHMI AMMAL :—“கனம் அக்கிராசனாதிபதி அவர்களே, கனம் பாஷ்யம் அவர்கள் கொண்டு வந்த திருத்த பிரேரணையை ஆதரித்து இரண்டொரு வார்த்தைகளைப் பேசுகிறேன். ஆனால் இந்த சட்டத்தில் அடங்கி இருக்கும் கருத்துக்களை அநேகமாக நான் ஒப்புக்கொள்ளுகிறேன், என்றாலும் முதலில் ஒன்றை நான் நினைப்புகொள்ளவில்லை. அதாவது இந்த சட்டத்தினால் கவர்ன்மெண்டுக்கு பரிபூரண அதிகாரம் வந்துவிடுகிறது. கவர்ன்மெண்டின் மற்ற டிபார்ட்டு மெண்டைப் போலவே இனி இந்த ஹிந்து மத தர்ம பரிபாலன விஷயமும் கவர்ன்மெண்டின் டிபார்ட்டுமெண்டர்க் வந்துவிடப்போகிறது. இதைத் தவிர நாட்டில் அநேகம் பேர்கள் ஆதரிக்கவில்லை. ஆனால் இந்த தர்ம பரிபாலன முறையில் அநேக விதமான கெடுதல்கள் இருக்கின்றனவென்பதை நமது மந்திரி கனம் டாக்டர் இராஜன் அவர்கள் எடுத்துக்காட்டியிருக்கிறார். ஒவ்வொரு கனம் அங்கத்தினர்களும் அதையேதான் பேசி வந்திருக்கிறார்கள். அதில் ஒன்றும் தப்பிதமிழில்லை. அவைகளை யெல்லாம் சீர்திருத்தம் செய்யவேண்டியது மிகமிக அவசியம்தான். அந்தக் காலங்களில் எதற்காக அந்த தர்ம கொத்துக்கள் விடப்பட்டு இருக்கின்றனவோ அவைகளை சரியான முறையில் பரிபாலிக்கவேண்டும். ஆனால் அதற்காக பூரா அதிகாரத்தையும் ஜனநாயக கவர்ன்மெண்டு வைத்துக்கொண்டுவிட்டால் அதில் நிச்சயமாக பாதகம் ஏற்படும் என்பதில் சந்தேகமில்லை. இதை அநேகமாக தமிழ்நாட்டில் எல்லோரும் ஆதரிக்கவில்லை என்பதை நான் தெரிவித்துக் கொள்ளுகிறேன். இது எப்படி இருக்கிறது என்றால் இரண்டு சேகர்தார்கள் தங்களுடைய ஆஸ்தியைப் பொருத்து சண்டை போட்டுக் கொண்டிருக்கும்பொழுது அவர்களை சரியான முறையில் கொண்டுவர

[12th September 1950] [Srimathi V. Lakshmi Ammal]

வேண்டுமென்று பூர்ண அதிகாரத்தையும் நான் வைத்துக்கொள்ளுகிறேன். உங்களுக்கு என்ன செய்யலாம், செய்யக்கூடாது என்று சொல்லி நான் தான் அதிகாரம் பெற்றவன் நாங்கள் சொல்லுகிறபடி நீங்கள் நடக்க வேண்டும் என்று சொல்லுகிற மாதிரி இருக்கிறது. தர்ம ஸ்தாபனங்களில் இவ்விதம் தலையிட்டால் அந்த தர்ம ஸ்தாபனங்களுக்கு நாளுக்கு நாள் கெடுதி வரும் என்பது கனம் இராஜன் அவர்களுக்கு தெரிந்த விஷயம் தான். இதை இவ்வளவு அவசரமாகக் கொண்டு வரவேண்டியதே இல்லை. ‘எண்ணித் துணிவதே கரும்பம், துணிந்தபின் எண்ணுவது என்பது இழுக்கு’ என்பது எல்லோருக்கும் தெரிந்த விஷயம். கனம் டாக்டர் இராஜன் அவர்கள் டில்லியிலிருந்து வந்தவுடன் ரிபோர்ட்டர்களிடம் சொன்னதை பத்திரிகைகளில் படித்தபோது இந்த மசோதா இந்தக் கூட்டத்தில் வருமோ வராதோ அது சந்தேகம்தான் என்று தெரியப்படுத்தினார்கள். ஆனால் இதை வாசித்த மறுநாள் இந்த சட்டமானது இந்தக் கூட்டத்திலேயே கொண்டுவரப்படும் என்பதாக தெரியவந்தது. இவ்வளவு துரிதமாக இந்த சட்டத்தை இப்பொழுதே கொண்டுவர வேண்டியது அவசியமில்லை. அநேக சட்டங்களை நாம் ஆத்திரப்பட்டுக்கொண்டும் அவசரப்பட்டுக்கொண்டும், துரிதப்பட்டுக் கொண்டும் நிறைவேற்றி யிருப்பவைகளை யெல்லாம் அநேக சட்ட நிபுணர்கள் பார்த்து அவைகளில் இன்னும் தவறுதல்கள் இருக்கின்றன வென்று சொல்லுகிறார்கள். அநேக சட்டங்கள் **Federal Court** க்குக்கூட போக வேண்டுமோ என்பதாகவும் சந்தேகப்படுகிறார்கள். ஆனால் சந்தேகப்பட்டுக் கொண்டேயிருந்தால் அதற்கு முடிவு இல்லை என்பது வாஸ்தவம். அவைகளெல்லாம் எப்படி இருந்த போதிலும் ஒரு பெரிய சட்டத்தில் ஒரு பெரிய மாறுதலை செய்யவேண்டுமென்றால் ஆர அமர செய்தும், அநேகம் பேர்களை நாம் யோசனை கேட்கும் அவர்களுடைய கருத்தை கிறிதனவு ஏற்றுக்கொண்டும் சட்டத்தை செய்யவேண்டுமென யொழிய வெகு பரபரப்புடன் இதைச் செய்யவேண்டியதில்லை, செய்யவும் கூடாது. சில பேர்களுடைய யோசனையின் பிரகாரம் இதை நடத்தினால் நாட்டில் அநேகம் பேர்களுக்கு பிடித்தமிருக்காது. ஜனநாயகம் என்றால் அநேகமாக **majority** அதாவது ரொம்பப் பேர்களுடைய கருத்து அதில் அடங்கி யிருக்க வேண்டும். அநேகம் பேர்கள் பேசினார்கள் இதற்கு ரொம்பப் பேர்கள் சம்மதம் கொடுத்திருக்கிறார்கள் என்று. சம்மதம் கொடுத்த பேர்களைப் பற்றி இங்கே சர்ச்சைப்பண்ணிப் பேசுவது முடியாது. அங்கங்கே போய்ப் பார்த்தால் ஒவ்வொருவரும் ஒவ்வொரு ஆட்சேபணையை தெரிவிப்பது நன்கு தெரியும். தர்ம ஸ்தாபனங்களும், கோவில்களும் நடைபெற்றுவருவதில் இருக்கும் குறைகளை தீர்க்கவேண்டுமென்று ரொம்ப காலமாக நினைத்தது உண்டு. அவைகளை நல்ல முறையில் ஒரேமாதிரியாக நடத்துவதற்கு ஏதாவது ஒன்றை கவர்ன்மெண்டு செய்யவேண்டியதுதான். ஏதாவதும் தகராறுகள் ஏற்பட்டால் ஜனங்களுக்கு கோர்ட்டுக்குப் போக உரிமை இருக்க வேண்டியது அவசியம். அதிகாரத்தை கவர்ன்மெண்டிற்கு மாற்றுவது ஆல் மத ஸ்தாபனங்களில் ஏற்படும் கேஸ்கள் கோர்ட்டுக்கு போய்க் கொண்டிருப்பதைத் தடுத்துவிடலாம். அவ்விதம் கோர்ட்டுக்கு இப்பொழுது கேஸ்கள் போவதால் நிர்வாகத்தில் தாமதங்கள் ஏற்படுகிறது. கவர்ன்மெண்டு எடுத்துக்கொண்டால் அவ்விதம் கோர்ட்டுக்குப் போவதை நிறுத்திவிடலாம் என்று அவர்கள் சொல்லுகிறார்கள். ஆனால் கவர்ன்மெண்டின் டிபார்ட்டுமெண்டுகளில் எத்தனையோ தவறுதல்களெல்லாம் இருக்கின்றன. அதன் நிர்வாகிகளில் ஒருவர் இருவர் சரியான முறையிலிருந்தாலும் எத்தனையோ பேர்கள் சரியான முறையிலிருந்துகொண்டிருக்கவில்லை என்பது எல்லோருக்கும் தெரிந்த விஷயம். தாமதப் படுவதை நிறுத்திவிடலாம் என்பதிலும் அர்த்தமில்லை. கவர்ன்மெண்டிற்கு ஒரு பேர் போய் வருவதற்கு எத்தனையோ காலதாமதமாகிறது. சில சமயங்களில் ஆறு மாதம் ஒரு வருஷம்கூட ஆகிறது. **Red Tapism** என்று சொல்லக்கூடியது இன்னும் ஒழிந்தபோகவில்லை. இந்த முறையிலிருக்கும்பொழுது இந்த மத சம்பந்தமான அதிகாரத்தை எடுத்துக் கொண்டு துரிதமாக நடத்த முடியாது.

“அடுத்தபடியாக **Area Committee** என்று போடப்பட்டிருக்கிறது. அந்தக் கமிட்டிக்கு அசிஸ்டென்ட் கமிஷனர் தலைமை வகித்து சட்டத்தை நடத்தவேண்டுமென்பதாக இருக்கிறது. கவர்ன்மெண்டே மெம்பர்களை

[Srimathi V. Lakshmi Ammal] [12th September 1950]

தெரிந்தெடுக்கவேண்டுமென்றிருக்கிறது. அது சரிதான். ஆனால் அசிஸ்டென்ட் கமிஷனர் தலைமை வகிக்கவேண்டுமென்றிருக்கிறது. ஆனால் அவருக்கு வேட்புரிமை இல்லை என்பதாக கண்டிருக்கிறது. அதற்கு பதிலாக தேர்ந்தெடுத்த நபர் ஒருவர் தலைமை வகித்து நடத்தலாம். இன்னும் **Trustee**களை அக்கமிட்டி நியமிக்கலாம் என்று இருக்கிறது. அவர்களே அந்த நிர்வாகத்தை நடத்தினால் போதுமானது. ஆனால் **Trustee**களுக்குமேல் **Area Committee** அசிஸ்டென்ட் கமிஷனர் இருக்க வேண்டியதில்லை. இம்மாதிரி அந்த டிபார்ட்மெண்டு பெருக்கிக்கொண்டே போனால் 'ஆட்டிஸ் பாதி ஓனாய்க்கு' என்பது போலாகிவிடும். இந்த மாதிரி மத சம்பந்தமான ஸ்தாபனத்திலிருந்து வரும் வரும்படியிலிருந்து பாதிக்கு மேல் இப்பொழுதிருக்கிற உத்தியோகஸ்தர்களுக்கு கொடுக்கும்படியாகிவிடும். அவர்களுக்கு ரூ. 50 சம்பளம் போதாது என்று ரூ. 100 கொடுக்கும்படியும் வரும். அதுவும் போதாது என்று இன்னும் அதிகமாக கொடுக்கும்படியும் வரும். அதன் பிறகு **Dearness Allowance**, பென்ஷன் இந்த மாதிரி அந்த டிபார்ட்மெண்டை பெருக்கிக் கொண்டே போனால் அவைகளிலிருந்து வருகிற வரும்படி அந்த கோவில்களில் சிலவு செய்ய பணம் போதாதாகிவிடுகிறது. ஆனால் அந்தக்காலத்தில் இந்த மாதிரியான கோவில்களையும் ஸ்தாபனங்களையும் பரிபாலிக்க சம்பளமாகக் கொடுக்காமல் மான்யமாக நிலங்களை விட்டிருக்கிறார்கள். அவ்விதம் மான்யங்களை ஏற்படுத்தி ஸ்தாபனங்களை சிலவில்லாமல் பரிபாலிக்கக்கூடியவர்கள் கட்டிச் சொகு இருந்து கோவில் சொத்துக்களை நன்றாக கவனித்து பாதுகாக்கவேண்டுமென்ற எண்ணத்துடன் அவ்விதம் ஏற்படுத்தப்பட்டது. மத சம்பந்தமான கருத்துக்களை யுடையவர்களாகவும் கடவுள் பக்தியுள்ளவர்களாகவும் இருக்கவேண்டுமென்ற நோக்கத்துடன் தான் இம்மாதிரியான ஸ்தாபனங்களை ஏற்படுத்தப்பட்டது.

THE MADRAS LEGISLATIVE ASSEMBLY.

Wednesday, the 13th September 1950.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVASHANMUGAM PILLAI) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS BILL, 1949 (L.A. BILL NO. 10 OF 1949)—cont.

SRIMATHI V. LAKSHMI AMMAL :—“கனம் அக்கிராஸ்திபதி அவர்களே, நேற்று நான் முடிக்கும்பொழுது இந்த மத ஸ்தாபன டிபார்ட்மெண்டின் மாதச் சம்பளம் கொடுக்கவேண்டியது அதிகமாக ஏற்பட்டு அவைகள் விரிந்துகொண்டே போனால் இந்த மத ஸ்தாபன கோவில் மடங்களின் பணங்களிலிருந்துதான் செலவு செய்யவேண்டியதாக இருக்கும். அந்த மாதிரி பாதிப்பணம் இம்மாதிரியான மாதச் சம்பளத்திற்காகவே போய்விடும் என்பதாகச் சொன்னேன். அந்தக் காலங்களில் அந்தந்த ஊர்களிலுள்ள பெரிய மனிதர்களையும், யோக்கியமானவர்களையும் பார்த்துதான் அங்கங்குள்ள கோவில்களுக்கு தர்மகர்த்தாக்களாக நியமித்து வந்தார்கள். அந்த முறையில் அவர்கள் நியமிக்கப்பட்டு அவர்களுடைய நிர்வாகத்தின்கீழ் உத்சவா திகளும், காலாகாலங்களில் பூஜைகளும் நடந்து வந்தன. ஆனால், நாளடைவில் இவைகளெல்லாம் சீரழிந்து போயிருப்பதால் நாம் இப்பொழுது அதற்கு ஒரு வழி தேடுகிறோம். அதை நாம் வரவேற்கவேண்டியதுதான். இப்பொழுது ஒரு டிபார்ட்மெண்டாக இதைச் செய்து ஒவ்வொரு கோவில்களுக்கு **Paid Executive** ஆபீசர்களை போடவேண்டுமென்றிருக்கிறது. இது இப்போது இருப்பதைவிட இன்னும் அதிகமாகலாம். அதனால் செலவும் நாளுக்கு நாள் ஜாஸ்தியாகிக்கொண்டே போகலாம்.

“இவ்விதம் கோவில் நிர்வாகத்தை கவர்ன்மெண்டு எடுத்துக்கொண்டால் கோவில் கட்டளைகள் சரிவர நடக்காது. ஒரு கோவிலின் **Executive Officer**-ஐ எனக்கு நன்றாகத் தெரியும். கோவில் சூடம் கொடுத்தவேண்டுமென்றால் பணமில்லை என்றும், போர்டை கேட்டால் அவர்கள் அதற்கு **provision** இல்லை என்று சொல்லுகிறார்கள் என்றார். நெய்யில் திரியை முழுக்கி சூடம் காட்டவேண்டியதாக இருக்கிறது என்றார். ஆகவே, இவைகளெல்லாம் சரியான முறையில் நடத்தப் பணம் அனுமதிக்கப்படாதுபோய் விடுகிறது. மேல் ஆபீசர்கள் கடவுள் பக்தியும், தேச பக்தியுமுள்ளவர்களாக இருந்தால்தான் இவைகளெல்லாம் நன்றாக நடக்கும். ஆகவே, இந்த மாதிரியான டிபார்ட்மெண்டுகளுக்கெல்லாம் அதிகம் செலவு செய்யாமல் ஒரு **Honorary Committee**—அதாவது அந்தந்த ஊரிலுள்ளவர்களைக்கொண்டு **trustee**-களாக நியமித்தால்தான் நன்றாக இருக்கும். இப்பொழுது **Area Committee** நியமித்து அதிலிருந்து **trustee**-களை நியமிக்க வேண்டுமென்று **Select Committee Report**-ல் கண்டிப்புகிறது. ஆனால், ஒவ்வொரு கோவில்களுக்கும் ஒரு **Executive Officer**-ஐ நியமிப்பது அனாவசியம் என்பதாக நான் கருதுகிறேன். எங்கள் ஜில்லாவில் பாபநாசம் என்று ஒரு புண்ணிய கேஷத் திரம் இருக்கிறது. அங்கே ஒரு கோவில் இருக்கிறது. அந்தக் கோவிலுக்கு வருவாய் ரொம்பவும் குறைவு. இம்மாதிரி குறைந்த வருவாய் உள்ள அநேகம் கோவில்கள் நம்முடைய தமிழ் நாட்டிலிருக்கின்றன. வருஷத்திற்கு ரூ. 200-க்கு குறைவாகவுள்ள கோவில்கள் அநேகம் இருக்கின்றன. அவ்விதம் சுமார் 11,000 கோவில்களிருக்கின்றன. இன்னும் ரூ. 200-க்கு மேலும் ரூ. 300-க்கும் குறைவான வருவாய் உள்ள கோவில்கள் 11,000 இருக்கின்றன. ரூ. 60 ஆயிரம், 50 ஆயிரம் வருவாய் வரக்கூடிய கோவில்களெல்லாம் சுமார் 52 கோவில்கள்தானிருக்கும். அந்தந்த கிராமங்களிலுள்ள கோவில்களுக்கெல்லாம் முன்னோர்கள் ஒவ்வொரு உத்சவ காலங்களிலும் இன்னென்ன கட்டளைகள் அவரவர்கள் செய்யவேண்டுமென்று ஏற்பட்டிருக்கிறது. ஆனால், இப்பொழுது அநேகம் பேர்கள் அவர்களுடைய கட்டளைகளை எல்லாம் செய்யாமல் நிறுத்தி விட்டார்கள். இப்பொழுது

[Srimathi V. Lakshmi Ammal] [13th September 1950]

அந்தந்த கோவில்களுக்குள்ள உதாவங்களை நடத்தவேண்டுமென்றால் அதற்கு வரும் வருவாயிலிருந்து நடத்துவது என்பது முடியாமலிருக்கிறது. அதை சரிவர நடத்த ஏற்பாடு செய்யவேண்டும். Executive ஆபீசர்கள் போட்டிருக்கும் கோவில்களில் சிப்பந்தி செலவுகளைக்கூட செய்யமுடியாமல் இப்பொழுது அநேகம் கோவில்கள் இருக்கின்றன. இன்னும் அநேகம் கோவில்களை நல்ல முறையில் அமைத்து அவைகளை சீர்திருத்தம் செய்யவேண்டியதாக இருக்கிறது. அவைகளை அவசியம் செய்யவேண்டும். ஆனால், மாதச் சம்பளம் உள்ள ஆபீசர்களைப் போடுவதை நான் அடியோடு ஒப்புக்கொள்ளவில்லை. (At this stage the Deputy Speaker took the chair) அடுத்தபடியாக charitable institutions-களையும் இதில் சேர்த்துக்கொள்வதாக இருக்கிறது. நம்முடைய தமிழ் நாடு பூராவிலும் ஒவ்வொரு சின்னச் சின்ன கிராமங்களிலும்கூட அனேக பெரியோர்கள் தங்களுடைய குடும்பத்திலிருந்து சத்தியம் நடத்த வேண்டுமென்றே அல்லது கோடையில் தண்ணீர் பந்தக் கவத்து தண்ணீர் ஊத்த வேண்டுமென்றே அல்லது துவாதசி, அமாவாசை முதலிய தினங்களில் சாப்பாடு போட்டுமென்று கோவில்களுக்கு படித்தார்கள் வைத்து நடத்த வேண்டுமென்றே சொத்துக்களை வைத்திருக்கிறார்கள். அவைகளை அவர்களுடைய குடும்பத்தார்களே வைத்து நடத்தி பரிபாலிக்க வேண்டுமென்றும் அவ்விதம் செய்துவிட்டு மீதியை அவர்களே உபயோகித்து கொள்ளலாம் என்பதாக பெரியோர்கள் சொத்துக்களை எழுதி வைத்துவிட்டு போயிருக்கிறார்கள். அப்பேர்ப்பட்ட சிறு சிறு திரம் சத்திரங்களை யெல்லாம் இந்த மத ஸ்தாபனம் எடுத்துக்கொள்ளாமல் அவைகளை விட்டுவிட வேண்டுமென்பதாகக் கேட்டுக் கொள்ளுகிறேன்.”

DEPUTY SPEAKER:—“I wish to remind the House that each member will be allowed to speak only for ten minutes.”

SRI V. M. RAMASWAMI MUDALIYAR:—“Madam Deputy Speaker, to a Hindu, his faith in religion is more than his food. Since the East India Company divested itself of its responsibility towards religious institutions in the middle of the last century, enlightened Hindu thought concentrated upon effecting reforms even as early as 1862. After a chequered career, Act II of 1927 was placed on the Statute Book. Thanks to the late Raja of Panagal who, with great foresight, took the enlightened Hindu opinion into confidence and placed on the Statute Book this Act for the proper supervision and superintendence of the religious institutions of our State. The working of the Act has achieved some progress. Thanks to the ability and tact of the successive presidents and commissioners of the Hindu Religious Endowments Board who, in spite of the many handicaps inherent in the Act itself and the newness of the venture, set a very good record of work. I take this opportunity of placing on record my appreciation of the very valuable services rendered by them. The Government of this State are now taking upon themselves the new responsibility of direct supervision and superintendence through a system of Commissioner, Deputy and Assistant Commissioners and Area Committees. The Government have taken power to appoint the officers and to nominate members of the Area Committees. Speaking for myself, I would very much like that the superintendence over religious and charitable institutions is not taken over directly by the Government but left to an independent body which will be amenable to public opinion and not amenable to political influence of whatever nature. The Board as at present constituted satisfies that condition to a certain extent. On account of defects

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in the Act, supervision by the Board was not effective in many instances. There are far too many loopholes and lacunae in the Act with the result that there is wasteful and colossal litigation even in respect of petty rights.

“Wide powers are given to the Commissioner and Deputy and Assistant Commissioners under this Bill. But no qualification whatever is prescribed for them except that they should profess the Hindu religion. Under the existing Act (Act II of 1927) certain qualifications like legal training and a certain number of years of standing at the bar are prescribed. Since these are responsible officers who are called upon to discharge quasi-judicial functions and even functions of a judicial nature in many cases, minimum qualifications like proper judicial or legal training and a certain period of standing at the bar should be prescribed. People possessing the above qualifications and who have earned by their service the confidence of the public and the Government alone should be chosen for appointment to the posts. I would very much like the minimum qualifications to be embodied in the Bill itself. We are in power to-day and we do not know who will be in power some years hence and these posts should not be made the plaything of political patronage or nepotism.

“I find that there are certain other lacunae also in the Bill. There is no definition of the term ‘hereditary trustee’. In my professional capacity I have had occasion to appear before courts and even before the Board when the question of who a hereditary trustee was agitated. Suppose A is a trustee of a temple. After him, his son B becomes a trustee. Is C, the son of B, a hereditary trustee because his father and grandfather were trustees? This and similar questions have been agitated before. The term should be defined, especially as it is used in very many places in the Bill.

“Even with all the very good work done by the Hindu Religious Endowments Board through its officers and the executive officers appointed for several big temples, there is a feeling of dissatisfaction in the minds of the people which I am bound to express on this occasion. Though secular administration like the proper maintenances of properties, endowments and jewels is taken care of, there is not that personal interest and intensive supervision devoted to religious aspects like rituals and other functions connected with worship and this has to a certain extent affected the proper atmosphere for the conduct of worship in temples. Since the Government have taken the power of nominating trustees, I hope they will bear this aspect in mind and nominate persons who not only profess Hindu religion but also know the rituals and the conduct of worship in temples.

“Then there is the vexed question of maths. I am surprised that the Government should feel apologetic about bringing maths under proper and effective control even at this stage of the day. I think we are shutting our eyes to the realities. As a matter of fact, it is only the great many abuses and sacrileges perpetrated by several matadhipathis in our State that have highlighted and forced

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the Government to bring forward this Bill. I do not think the Government need be apologetic for including maths for more effective and closer supervision. A separate chapter is devoted to maths. A matadhipathi is expected to be a spiritual teacher, a centre of spiritual culture and a repository of all that is best in the tenets of various branches of Hinduism. If such a person abuses his position and becomes utterly unfit to hold that exalted place, there is no provision for his removal except through a decree of a court. The Board can remove a temple trustee, hereditary or otherwise, but it cannot remove a matadhipathi who abuses his position unless it goes to a court and gets its verdict. Six grounds are given on anyone of which a matadhipathi can be removed. But I do not find any provision made for his removal when he becomes unfit to hold the exalted position because of his profligacy and drink and gambling habits. I think that a clause on this line may be usefully added to the grounds mentioned in the Bill.

"Anticipating this Bill, I understand that various madathipathis are trying to fritter away the accumulated surpluses of maths by various devices like buying very valuable properties in the City of Madras. Where is the necessity for matadhipathis to buy properties in Madras? Is it for their own pleasure or for the purpose of spreading the culture of the school of thought over which they preside? Before such acquisition of property is allowed, the Government must interfere and find out whether it is for the benefit of the math or not.

"Clause 67 provides that any party aggrieved by an order of the Commissioner can file a suit in the Court. If he is dissatisfied with the decision of the Court, he is given the right of appeal to the High Court. This is a very cumbersome procedure. We have had experience of courts. Let the Government realize that very wasteful litigation is going on in the courts. I ask the Government to consider seriously the desirability of appointing an independent tribunal, on the lines of the Income-Tax Tribunal, consisting of three or four retired Judges or other judicial officers to enquire into the disputes. Its decision should be made final. I am sure there will be many among retired Judges or other judicial officers who will be willing to give their services for the Hindu cause. Thank you, Madam."

SRI P. VENKATARAMA AYYAR :—"கனம் சபாநாயகி அவர்களே, இந்த மசோதா சம்பந்தமாக நான் சில வார்த்தைகள் சொல்ல விரும்புகிறேன்.

"இது சம்பந்தமாக பல அங்கத்தினர்கள் இந்தச் சட்டத்தை இயற்றி நல்ல முறையில் அமுலுக்கு கொண்டு வந்தால் இப்போது சீர்குலைந்துவரும் கோவில்கள், தர்ம ஸ்தாபனங்களின் நிர்வாகத்தை பெல்லாம் சீர்படுத்தி விடலாமென்று பல அரிய யோசனைகளைச் சொன்னார்கள். ஆனால் இந்தச் சட்டம் செய்துவிட்டால் மட்டும் குறைகளைத் தீர்த்து விடமுடியாது. ஆலயங்களும், தர்ம ஸ்தாபனங்களும், மடங்களும் ஸ்தாபனமான பொழுது அவைகளெல்லாம் ரொம்பவும் நல்ல நோக்கத்துடனும், மக்களிடத்தில் தெய்வபக்தி, கடவுள் நம்பிக்கை, ஒழுக்கம், தர்ம எண்ணம் இவைகளை வளர்க்க வேண்டுமென்ற நல்ல உயரிய கருத்துக்களுடனும் தான் ஏற்படுத்தப்பட்டன. ஆனால் நாளடைவில் இந்த ஸ்தாபனங்கள் கழுதை தேய்ந்து கட்டெரும்பானது போல நிர்வாக காரணமாக சில ஊழல்களும், குறைகளும்

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ஏற்பட்டு சீர்குலைந்து விட்டன. ஆனாலும் ஸ்ரீ காசிமடம், ஸ்ரீ சங்கராச்சாரியார் மடம் போன்ற சில மடங்கள் திறமையாகவும், கொள்கைகளுக்கு ஏற்பவும் நிர்வாகம் நன்கு நடைபெற்று வருகிறது. ஏதோ சில மடங்கள் ஊழல்களாகவோ, தவறுதலாகவோ, நடக்கின்றன என்பதற்காக, சில அங்கத்தினர்கள் எல்லா மடங்களையும் மடாதிபதிகளையும் ஒன்றாகச் சேர்த்து மனம் புண்படும்படி பேசினார்கள். இது சரியல்ல.

"இது வரை ஆண்ட பிரிட்டிஷ்காரர்கள் மத விஷயங்களில் தலையிடவில்லை. இந்த காங்கிரஸ்காரர்கள் ஆட்சி ஆரம்பித்தவுடனேயே மத விஷயங்களிலும், தர்மங்களிலும், கோவில்களிலும் கைவைத்து விட்டார்கள். இன்னும் என்னென்ன அக்கிரமங்கள் எல்லாம் செய்யப் போகின்றார்களோ என்று ஒரு தினசரி மக்களெல்லோரும் பேசிக்கொண்டு வருகிறார்கள். ஆனால் என் நண்பர் ஸ்ரீமான் அண்ணாமலைப் பிள்ளை அவர்கள் சரியான சமாதானம் சொன்னார்கள். அப்போதிருந்த அரசாங்கம் வேறு, அவர்களுடைய கொள்கை, மதம், நம்பிக்கை, நோக்கம் எல்லாம் வேறு. இப்போது நம் நாடு குடியரசு ராஜ்யம் ஸ்தாபித்து விட்டது. ஆனால் அதிகாரங்கள் முழுவதும் ஜனங்கள் கையில் இருக்கிறது. பொறுப்பும் ஜனங்கள் கைக்கு வந்து விட்டது. ஆகையினால் ஜனங்கள் தங்களுடைய நன்மைக்கு உகந்ததான காரியங்களைச் செய்ய கடமைப்பட்டிருக்கின்றார்கள். ஆகையினால் இன்று நம்முடைய சொந்த சர்க்கார் அந்த தர்ம ஸ்தாபனங்களின் நிர்வாகம் திறம்பட வேலை நடக்கும்படி செய்யவும், பொறுப்பை ஜனங்களின் மேற் பார்வையிலேயே இயங்கும்படி செய்ய விரும்புவதாலும், கோவில்கள், தர்ம ஸ்தாபனங்கள், மடங்கள் இவைகளின் நிர்வாகம் சரியான முறையில் நடைபெற வில்லை யென்று ஒருமுதமான அபிப்பிராயம் தேச மக்களிடம் இருப்பதாலும் இம்மாதிரியான சட்டம் ஒன்று அவசிய மென்பதை எல்லோரும் உணருகின்றார்கள். இவைகளை நன்கு நிர்வகிக்க வேண்டுமென்று ஒரு சட்டத்தை கொண்டுவந்து தெய்வ பக்தி, மத பக்தியுடைய அதிகாரிகளையும் நியமித்து கோவில்கள், தர்மங்கள் இவைகளின் நிர்வாகம் திறம்பட நடக்கும்படி செய்வதினால் நாம் ஒரு பெரிய நல்ல காரியத்தை செய்தவர்களாவோம். அதனால் நமக்கும் நமது நாட்டிற்கும் ஒரு பெருமையாகக்கூட ஆகும்.

"ஆனால் இந்தச் சட்டத்தைக் கொண்டு வந்தால் மட்டும் போதாது நல்ல யோக்கியப் பொறுப்பு வாய்ந்த அதிகாரிகளையும், தெய்வ பக்தி உள்ளவர்களையும், மத பக்தி உள்ளவர்களையும், கோவில் ஆராதனையிலும், தர்மத்திலும் நம்பிக்கை உள்ளவர்களையுமே நியமிக்கவேண்டும். கோவில் நிர்வாகம் செம்மையாக நடைபெறவேண்டுமானால் அதற்குத் தகுந்த யோக்கியதையும், மன முன்னவர்களையும் பொருத்திப்போடவேண்டும். எப்படி இன்னியரிப்பட்டம் பெற்றவர்களையே இன்னியர் வேலைக்கு எடுத்துக்கொள்ளுகிறார்களோ, சட்டக் காலூரியில் படித்துப்பயின்றவர்களையே நீதிபதியாக்குகின்றார்களோ, மருத்துவக் கல்லூரியில் படித்துப் பிழைப்பவர்களையே டாக்டர்களாக நியமிக்கின்றார்களோ, அதே போல மதப்பற்று, கடவுள் பக்தி, தர்மசிந்தனை, நல்லொழுக்கம் படைத்தவர்களையும், வேதம், ஆகமம், சாஸ்திரம் இவைகளில் அண்டித்தியம் உள்ளவர்களையே இம்மாதிரி கோவில் நிர்வாகஸ்தர்களாக நியமிக்கவேண்டும்.

"இப்போது நாஸ்திக வாதிடும் நாட்டில் அதிகரித்து வருகிறது. கடவுள் இல்லை, ஸ்வாமியில்லை, மதமில்லையென்று சொல்லக்கூடிய ஓர் கூட்டம் நாட்டில் தோன்றி பெருகிவருகின்றது. திராவிடக் கழகத்தினரின் கிளர்ச்சியாலும், அன்னியப் படிப்பு, நாகரீகங்களாலும் கடவுள் பக்தி குறைந்து கொண்டு வருகிறது. இம்மாதிரியான சமயத்தில் கடவுள் இல்லை யென்று சொல்லக்கூடியவன் கோவில் அதிகாரியாக நியமிக்கப்பட்டால் அதனால் கோவில் நிர்வாகம் என்ன கதியாகுமென்பதை நினைக்கும்போது சற்று பயமாகத் தோன்றுகிறது.

"கோவில்கள் Hindu Religious Endowments போர்டின் நிர்வாகத்திற்கு வந்த பிறகு நன்றாக நடக்கின்றன என்பதாக எனது நண்பர் ஸ்ரீமான் வேதரெத்தினம் பிள்ளை அவர்கள் சொன்னார்கள். அந்நாளும் ஒப்புக்கொள்ளுகிறேன். ஆனால் விக்கிரஹ ஆராதனையில் பிக்கை யற்றவர்கள் நிர்வாக அதிகாரிகளாக வருவதினால் அவை

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விசிறுநீரால் சுத்தம் செய்வதற்கு கையாண்ட சில முறைகளைப் பற்றியும் சொன்னார்கள். அது மாதிரி பல அசம்பாவிதங்கள் பல விடங்களில் நடக்கிறது. இவைகளெல்லாம் ஆராதனையில் நம்பிக்கையும், கடவுள் பக்தியும் கொண்ட ஜனங்களின் மனம் புண்படும்படி செய்கிறது.

“நம் நாட்டில் ஆரிய-நிராவிட பிரச்சினை கிளம்பி, ‘ஆரியம் ஒழிக, ஆரியம் ஒழிக’ என்று ஒரு சாராரின் பிரசாரம் நடந்துவருகிறது. இதில் சேர்ந்தவர்களும் கோவில் நிர்வாக அதிகாரிகளாக வந்துவிடுகிறார்கள்.

“முன்பெல்லாம் ஸ்வாமி வீதிவலம் வந்தால் ஸ்வாமிக்குப் பின்னால் பிராமணர்கள் ஸாஸ்தி வாசனம் சொல்லிக் கொண்டும், வேத பாராயணம் செய்துகொண்டும் போவார்கள். அதற்காக தக்ஷிண கொடுத்தாலும் சரி கொடுக்கா விட்டாலும் சரி ஆத்மார்த்தமாக அவர்கள் அம்மாதிரி வேத பாராயணம் செய்துகொண்டு போவதுண்டு. அம்மாதிரி ஸாஸ்தி வாசனம் சொல்லப்படும் வழக்கம் அடியோடு நின்று கொண்டேவருகிறது. (தேர்தல்களும் நிர்வாக அதிகாரிகளே.

“Hindu Religious Endowments போர்டின் நிர்வாகத்தில் வந்த கோவில் கனிலெல்லாம் முடிசூட்டிகளாக நியமனம் பெருபவர்களோ, எக்ஸிசிடியூட் ஆபீஸர்களோ இந்த ஸாஸ்தி வாசனப் பிராமணர்களுக்கு சம்பிரதாயப்படி சமச்சாரம் சொல்லி னுப்படித்துக்கொள்ள வேண்டும். ஆத்மார்த்தமாக தங்கள் கடமைகளைச் செய்யவேண்டுமென்று அவர்களாக வேத பாராயணத்திற்கு வந்தால் அவர்களிடத்தில் நிர்வாக அதிகாரிகள் நடந்துகொள்ளும் தோரணையில் அவர்கள் தங்கள் மரியாதைகளை இழந்து கொண்டு மறுபடியும் வேத பாராயணத்திற்கு அங்கு வரமுடியாதவர்களாக ஆகிவிடுகிறார்கள். வேத பாராயணம், ஸாஸ்தி வாசனம் அநேகமாக எல்லாக் கோவில்களிலும் நின்றுவிட்டது. இது விரும்பத்தக்க விஷயமன்று. ஆகையினால் நிர்வாக அதிகாரிகளைப் பொருத்தே நிர்வாகம் எப்படியிருக்குமென்று சொல்ல முடியும்.

“Hindu Religious Endowments போர்டு நிர்வாகத்திற்கு வந்த பிறகு ஏதோ கோவில் கணக்குகள் அவ்வப்போது எழுதி முடிக்கப்படுகிறது. ஆனால் தேர் திருவிழாக்கள் நின்றுவிட்டன. மற்ற ஜில்லாக்களில் எப்படியோ, எங்கள் தஞ்சை ஜில்லாவில் பெரிய பெரிய தேவஸ்தானங்களிலெல்லாம் தேர் இழுப்பது அடியோடு நின்றுவிட்டது. தேர் இழுப்பதின் ஒரு நோக்கம் தேர் வீதியில் வரும்போது எங்கேயாவது ‘என்கோச் மெண்டு’ இருந்தால் அவைகளெல்லாம் உடனே காலி செய்யப்பட்டு வீதியின் அருகும் அமரும் பாதுகாக்கப்படும்.

“அன்றாட குடும்ப அதிக வேலைகளினால் வீடுமனைகளை துப்புறவாக வைத்துக்கொள்ள முடியாதவர்கள் நவராத்திரி, பொங்கல் இந்த விசேஷ காலங்களில் வீடு வாசல்களைப் பொக்கை போழைகளைச் சீர்செய்து சண்ணம்பு காலியடித்து துப்புறவு செய்து வைத்துக்கொள்வது மாதிரி திருவிழாக்காலங்களில் கோயில்களுக்கு பல ஜனங்களும் வருவார்களேயென்று பயந்துகொண்டாவது, ஆத்மார்த்தமாக இல்லாவிட்டாலும், கோவில்களை சுத்தமாகவும் அழகு படுத்தி வைத்துக்கொள்ளவும் ஒரு சந்தர்ப்பம் இருந்தது. இப்பொழுது கோவில் திருவிழாக்கள் நிற்குகொண்டே வருகிறது. ஏதாவது திருவிழாக்கள் நடந்தாலும் சம்பிரதாயப்படி நடப்பதில்லை. பஞ்சமூர்த்தி புறப்பாடு என்று இருந்தால் பஞ்சமூர்த்திகளையும் புறப்பாடு செய்துவிடுகிறார்கள். முதலில் பிள்ளையார், அடுத்தபடியாக சுப்பிரமணிய ஸ்வாமி, ஸ்வாமி, அம்மன், சண்டிகேஸ்வரர் இவர்களை அவரவர் வாகனங்களில் ஏற்றி அலங்கரித்து வரிசையாய் புறப்பாடு செய்வதென்பது சம்பிரதாயம். ஆனால் இப்போது கிராமங்களில் நூத்து மாலை இழுப்பதுபோல, எல்லா ஸ்வாமிகளையும் ஒன்றிலேயே போட்டு ஒரே இழுப்பாய் இழுத்துவிட்டு பஞ்சமூர்த்தி புறப்பாடு ஆனதாக கணக்கில் மட்டும் வைக்கப்படுகிறது. உதலவம் நடத்தும் தோரணை இம்மாதிரியிருக்கிறது. இம்மாதிரி உதலவம் நடந்தால், பின்னும் கொஞ்ச காலத்தில் எல்லாமே நின்றாவிடுமோ என்று கவலையாகவும், பயமாகவுமிருக்கிறது. இம்மாதிரி கவலைகளும், பயத்திற்கும் இடமில்லாதபடி சர்க்கார் நல்ல ஆசாமிகளை நியமித்து வேண்டுகிறேன்.

13th September 1950] [Sri P. Venkatarama Ayyar]

டிய ஏற்பாடுகளைச் செய்ய வேண்டும். கமிஷனர் ஸ்தானத்திற்கும், உதவி கமிஷனர் ஸ்தானத்திற்கும் வைக்கோட்டு ஜட்ஜ், ஜில்லா ஜட்ஜ் ஸ்தானங்களிலுள்ள தெய்வபக்தியும், மதப்பற்றும் உள்ள நல்ல சீவர்களைப் பொருக்கி எடுத்து நியமிக்கவேண்டும்.

“இப்போது இந்த கோவில் பணத்தையும், தர்ம ஸ்தாபனங்களின் பணத்தையும் அதன் செலவுகள் செய்து விட்டு மீதி பணத்தை ஆஸ்பத்திரி களுக்கும் பள்ளிக்கூடங்களுக்கும் செலவு செய்யலாமென்றிருக்கிறது. இது தவறு. இந்தப் பணங்கள் மதப்பிரசாரத்திற்கும், மத சம்பந்தமான காரியங்களுக்கு அன்றி வேறு வகையில் செலவிடுதல் கூடாது. பணம் படைத்த கோவில்கள் இருப்பதுபோல ஏழைக் கோவில்களும் இருக்கின்றன. ஜெயங்கொண்டசோழபுரம் போன்ற சரித்திரப் பிரசித்தி பெற்ற கோவில்கள் கேட்பாற்று பாழாகிக்கொண்டு வருகின்றன. சிற்பக் கலைகள் நிறைந்த தாராசுரம் கோவில் போன்ற பல்கோவில்களும் இருக்கின்றன. பணமில்லாமல் அவைகள் பராமரிக்கப்படாததால் இடிந்து பாழாகிக்கொண்டேவருகிறது. பணம் படைத்த கோவில்களின் நிர்வாகத்தை எடுத்துக் கொள்வதுபோல் பணமில்லாத கோவில்களையும் சர்க்கார் மேற்பார்வைக்கு எடுத்துக்கொள்ள வேண்டும். பணக்காரக் கோவில்களில் செலவு செய்து மீதியுள்ள பணத்தை ஏழைக் கோவில்களை பாழாக்காமல் பாதுகாப்பதோடு, புதுப் பித்துவைத்துக்கொள்ளுவதிலும் செலவுசெய்தல் வேண்டும். தாராசுரம் போன்ற கோவில்களில் அற்புதமான சிற்பங்களிருக்கின்றன. இவ்விதமான சிற்பங்களையும், கலைகளையும் காப்பதில் செலவுசெய்தல் வேண்டும். இதை யாரும் வீண் செலவு என்று சொல்லமாட்டார்கள். இம்மாதிரி இனங்களில் செலவு செய்வதுதான் உசிதம். அந்நாளில் உயரிய கலைகளை வளர்த்தார்கள். அவைகளை அழிய விடாமல் பராமரிப்பதில் உபரிப் பணங்களை செலவுசெய்தல் பொருத்தமாகும்.

“உலக சிருஷ்டியே ஏகதேசம் நல்லதாகவோ, ஏகதேசம் கெட்டதாகவோ சிருஷ்டிக்கப்படவில்லை. நல்லதும் கெட்டதும் கலந்துதான் சிருஷ்டிக்கப்பட்டிருக்கிறது. பகல்-இரவு, மேடு-பள்ளம், ஸ்தம்பம்-அஸ்தம்பம், தர்மம்-அதர்மம் இம்மாதிரியான எதிரிடையான சக்தியில்தான் உலகம் இயங்குகிறது. எதிரிடையான சக்திகள் ஒன்றோடொன்று மோதும் போது சப்தமும் உஷ்ணமும் உண்டாகிறது. தர்மம் குறைந்து, அதர்மம் மேலிட்டு, அதர்மத்தைப் போக்கி தர்மத்தை ஸ்தாபிக்கும்பொழுது இந்த மோதலினால் கலவரமும், குழப்பமும் இருக்கத்தான் செய்யும். இவைகளைக்கண்டு கலவரமடையாமல், நல்லதைக்கொண்டு, கெட்டதைத் தள்ளி காரியங்கள் செய்ய பின்பாங்கக்கூடாது. ஆகையினால் இந்தச் சட்டம் ஏகதேசம் நல்லதோ, ஏகதேசம் கெட்டதோ என்று சொல்ல முடியாது. நல்ல காரியத்தைச் செய்யவேண்டுமென்று திடமான சங்கல்பத்தோடு, பிடிவாதமாய் காரியத்தைச் செய்வோமானால், குலைந்துபோன தர்மங்கள், ஆலயங்கள், மடங்கள் இவைகள் சீர்படுமென்ற எண்ணத்தோடு இந்தச் சட்டத்தை நான் ஆதரிக்கின்றேன்.”

SRI G. KUMARASWAMI :—“Madam, Deputy Speaker, I wholeheartedly support the Bill that is brought before this House by the Hon. the Minister in charge of Religious Endowments. Provincialization of the administration of maths, temples and other religious institutions and charitable endowments was intended to be made in the past on several occasions, but the recommendations of the Government could not be given effect to for one reason or another. The present Bill seeks to provincialize the administration of temples, maths, etc. A separate Devasthanam Department of the Government is intended to be established to supervise the administration of the religious institutions, temples and maths. There is the Hindu Religious Endowments Board which is looking after these institutions, but as the very working of the existing Act was found defective, and as measures have to be introduced to

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rectify the defects, the present Bill is brought forward by the Government. There are some imaginary fears in the minds of the people that the whole management will be taken over by the State. It is far from the truth. It is only supervision and administration of the religious institutions that is taken over. It is for that purpose that the posts of four Commissioners will be abolished, and one Commissioner for the whole State will be appointed. There will be Deputy Commissioners throughout all the rural areas to supervise the work done by the religious institutions, maths and temples. The constitution of area committees and trust boards also is there. The constitution of these committees and boards is to assist the Commissioner and the Government to look after these institutions properly. It, of course, guarantees sound running of the administration and efficiency. There are fears that the whole question of administration and the conduct of the affairs of the religious institutions, temples and maths, will be taken over by the State. As I already pointed out, this is far from the truth. There are peculiar customs and manners observed in the religious institutions and temples. The religious sentiment of the institutions has to be respected, because sentiment plays a very important role in the life of a nation. For instance, there are various Saivaite temples where a particular methods of worship is followed. That practice should not be disturbed. Persons in charge of these temples may insist that certain lights should be put off at a particular time, and that certain other things should not be issued during particular religious ceremonies. The administration should not interfere in all these matters. The Saivaite and Vaishnavaites temples should have their own way of observing religious ceremonies and festivals. In this respect, the Hon. the Minister has already stated that the Bill only seeks to supervise the administration of the religious institutions, temples, and religious endowments. Some of the maths have already shown some signs of progress in the way of starting colleges and beggar homes. There are other institutions where Sanskrit is taught, and other educational courses are started. It is quite right that the Government should not interfere with such things.

"Regarding the fixing of dittams or standard scales of expenditure in temples, it is really proper that the financial aspect should be controlled by the Government. Mismanagement can be checked as far as possible.

"Regarding appointments, it is but necessary that certain conditions should be laid down. One need not be an M.A. or a member of the I.A.S., but the appointees should be persons who have visited the temples and who know the ways of worship prevalent in them. Only such people should be encouraged and appointed to the posts under this Bill, because the sentiments of the worshippers of these temples should be respected.

"Then, there is the question of Area Committees. Apart from these committees, there will be so many factions in the rural areas. It is to see that no such thing creeps in that the Government have suggested that the Commissioner should see to the appointment of

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proper trustees. The formation of Area Committees to appoint Boards of Trustees and to attend to certain other things is a welcome provision.

"There are also other provisions to restrict the scope of litigation. The Deputy Commissioners and other officers are spread throughout the whole State. So, the trustees need not go to Madras with their records in case of disputes, etc. They can simply approach the Deputy Commissioner in charge and when necessity arises, they can prefer an appeal to the Government themselves. All these provisions are intended to see that the administration of religious institutions is carried on on right lines.

"I wholeheartedly welcome this Bill once again."

SRI V. C. PALANISWAMI GOUNDER :—"Madam, Deputy Speaker, I rise to support wholeheartedly the Bill which has been brought forward by the Hon. Dr. Rajan and in doing so, I want to say a few words both as a public representative and as trustee of a temple. There seems to be a section of people who think that this Government should not interfere in matters of religion and charity. There are also other sections of equally strong opinion that the Government are the proper authorities to exercise control in matters of religion. There are also precedents with regard to the latter school of thought. In Tamil Nad the three Rajas who are called the 'Moovendars' have taken very great interest in the proper administration of our temples. Therefore, this Government who are the successors of our past Hindu Government have got every right to take proper care in the matter of religion and charity. This Bill has been very carefully framed so that the Government will not interfere with the religious sentiments and religious functions of the matadhipathis and the temple heads. The Government take the main responsibility of exercising control over financial matters and of seeing to the proper administration of the temples according to Hindu religion. I, therefore, welcome this Bill.

"Our ancestors have endowed lots of properties and extensive lands for charitable purposes. As has been said by our Tanjore friend, one-fourth of the Tanjore district has been assigned to matams. The Tanjore District Board has got a separate department called the 'Chatram department' for this purpose. Large areas of lands have been endowed for charitable purposes. Therefore, it is right that this Government should take care of those properties and vast areas of arable lands and see that their incomes are utilized in the proper manner. There is also a section of opinion that these lands and properties should not be used for any purpose other than the religious purpose and the purpose of the endowment. Taking a broad view of our Hindu religion, God is pleased only when humanity is served by His devotees. If the funds of the temple or of the math are spent for the uplift of poor humanity and for the relief of the sick, the God of Love, the God of Truth, will be all the more pleased. I, therefore, have no objection to the surplus funds of any math or temple being utilized for the purposes mentioned in clause 64 of the Bill, viz., spread of

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education, establishment and maintenance of orphanages for Hindu children and of asylums for Hindus suffering from leprosy, etc. I may mention that the starting of tuberculosis sanatoria may also be considered in this connexion.

“Madam, this Bill brings within its purview the charitable institutions also. These institutions may be big or small, but as has been pointed out by some of the previous speakers, there are innumerable small charitable funds mainly of families and certain societies. These funds are managed by those families and their heirs. These trusts have been legally registered. My request is that this Bill may not rope in those small charitable institutions also such as small chatrams, feeding houses, water pandals, etc. These institutions may be allowed to be managed by the families concerned who are likely to augment their funds if left to their management.

“Another point that I want to bring to the notice of the Government is about the appointment of Commissioner, Deputy Commissioners, Assistant Commissioners and trustees and the formation of Area Committees. The Government should take proper care and circumspection in appointing these officers. The success of the scheme and the fair name of the Government depend upon the proper selection of these bodies and individuals. They must prescribe certain qualifications for selection to these posts. Especially in the matter of selection of trustees, the Government or the authorities concerned should steer clear of local factions and political influences. The Government should be above all politics in this matter.

“Then, in the matter of management of temples, the trustees should be given the greatest respect and freedom usually given in the case of honorary and sacred work. Too much interference in the management of the trustees and too much pin-pricks should be avoided. Otherwise, good and pious trustees will not come forward to take up the responsibility of management. Nowadays there seems to be a scramble for appointment as trustees. I do not think this is a happy sign for real service and devotion. Even in respect of appointments of officers in matters of religion, people are hankering after power. Therefore, the Government should take special care to see that only pious and real devotees and men with a feeling of self-sacrifice are appointed. Then only the temples and maths will be well managed.

“With these few words, I wholeheartedly support the Bill.”

SRI G. VEERANNA PADAL :—“అధ్యక్షులారా అమ్మా, మన రాష్ట్రంలో ఎన్నో దేవాలయాలున్నాయి. ఈ దేవాలయాలను వాటి ఆదాయాలను ప్రభుత్వంవారు తమ ఆదీనములోకి తెచ్చుకొని ఈ దేవాలయములను స్వకమంగా నడిపుటకుగాను ఈ బిల్లును ప్రవేశపెట్టినారని నేను భావిస్తున్నాను.

“మా విశేషపట్నం, తూర్పు గోదావరి జిల్లాలోని పరిసర Agency కొండ ప్రాంతములలో ఎన్నో దేవాలయములు ఉన్నవి. సరిహద్దు ఆదరణచేత ఇవి నిధిలైపోయి ఉన్నవి. సడరు దేవాలయములకుకూడా ప్రభుత్వంవారు స్వకమమైనటువంటి విర్వాట్లు చేయించి, వాటికి పూజ పునస్కారాలను చేయించవలసిన ప్రభుత్వంవారికి

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మనవిచేస్తున్నాను. అంతేకాకుండా గూడెము Agency, గూడెం గ్రామములలో మరకు ఇప్పుడు ప్రభుత్వ చిహ్నమైనటువంటి ఆశోక చక్రము ఉన్నటువంటి 4 ఆడుగుల ఎత్తు గల స్తంభము ఉన్నది. అది ఎన్నివేల సంవత్సరాల క్రితము స్థాపించబడినదో ఎవరికీకూడా తెలియదు. ఈ ఆశోక చక్రమునుగూడా ప్రభుత్వంవారు పరిశీలిం, దీనికీకూడా తగినటువంటి విర్వాట్లు చేస్తారని నేను ఆశిస్తున్నాను. ఈ స్వల్ప సలహా ఇస్తూ, Agency ప్రాంతాలలోని దేవాలయములను, ఆశోక చక్రమునుగూడా అభివృద్ధికి తెస్తారని మనవిచేస్తూ ఇంతటితో విరమించుకొంటున్నాను.”

SRI G. RAJAMANNAR CHETTI :—“Madam, Deputy Speaker, I propose to talk only on certain relevant clauses which give an opportunity for the maths to be not controlled in the manner in which other religious institutions are proposed to be controlled. I do not know what the reasons are that have compelled the Government to exempt them from the operation of this Act. Although these maths have been brought into existence with very laudable motives and best of intentions, in practice they have been so criminally mismanaged that their very existence is abominable, though of course there may be a few exceptions. Madam, the finances of the maths are being frittered away and more so they are being accelerated on account of the coming Bill, which will be enacted shortly. I do not see why executive officers should not be appointed even in the case of maths. I would suggest that there must be executive officers in order to manage the properties and utilize the money so available in the interest of the people in general. It is well known that these estates are not properly managed and the percentage of revenues spent for general or educational purposes is very low. Therefore executive officers must be appointed with powers to control the finances of the maths, subject of course to the suggestions of the experienced matadhipatis, if necessary. The matadhipatis should only give suggestions and the executive officers must be asked to take complete control to collect and spend.

“Apart from this, by way of a warning if possible, the matadhipatis must be ordered not to spend their bank balances and other properties in order to divert the funds for other purposes in their own interest. I am told that some matadhipatis are purchasing properties in Madras which must be immediately prevented. These matadhipatis are sauntering away their lives in secluded palaces not knowing the realities of the situation and not knowing the changes of times. They are sauntering away their lives listening to buffoons and what not. Such a state of affairs ought to be prevented in the interests of the country.”

DR. D. S. RAMACHANDRA RAO :—“Madam, Deputy Speaker, it is held that a secular State should not interfere in religion, and if you must interfere, interfere as little as possible. That dictum would be a very safe policy for any State to follow up to a limit. But conditions might change and the object of particular charities might at times miss the mark and occasions might arise when the State will have to interfere. While the conception of a

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religion changes sometimes from decade to decade, it might have been so in olden times from century to century. There is therefore nothing very definite about a religion. But religion itself is very comprehensive, though a great many people would like to define it or explain it in terms which are not positive, but which is possible only in negative terms. Yesterday, an hon. Member was able to define Hindu religion as one which is not Muslim or Islam or Christian or one or two other religions which are not indigenous to the country. But hitherto, we have been looking at things from the negative point of view. Some of the difficulties that arise in any country might be by trying to look at the negative side and consequently by emphasis being placed upon the differences rather than the points of unification and commonness. But you cannot satisfactorily define things in a negative way. You must have a positive content if religion is to be understood in all its wider and higher implications. We are gradually coming to realize though perhaps slowly that one of the main principles of modern religion should be in a way to recognize the fatherhood of God and the brotherhood of man. So long as these principles are realized however feeble be the attempts made in charities, in culture and in spiritual development—and so long as our aims are not diametrically opposed to these great principles, I think the State has no right to interfere. But when these cardinal principles are, either implicitly or explicitly, directly or indirectly, defeated or not completely realized, the State may interfere positively putting its feet on it and say, 'Thou shall not do it', or negatively by discouraging it in every possible way so that the moment a brake is put upon it, it may make the devotees realize the defects and see the problem in its proper light. This Bill has now come before us for a second time bereft of many shortcomings with which it came some two years ago. Many things that would have created difficulties in the administration of the law have been removed and therefore my congratulations are to Hon. Dr. Rajan for having piloted it so far with commendable success. At the same time, there are new difficulties which are cropping up to-day. When once the great problem of fundamental rights of individuals and also the sacred rights of religious faith of individuals are being recognized by our Constitution, the points raised by hon. Mr. Bhashyam two days ago have got to be considered and should not be brushed aside. A Bill like this might be brought to be examined before a Tribunal and so it is very necessary to take into account the practical difficulties that would crop up in its application so that the force and influence that this Bill should have is not taken away. Therefore looking from an impartial point of view, everything that would go against the real spirit of this Bill should be considered and as far as possible we should try to get out of the clutches of the law.

"Secondly, Madam, there is an attempt made to bring it up to the level of direct interference. I do not know how far any direct interference would be a success. We have the human material to deal with. We have our regular officials who find it difficult to

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manage even secular affairs. There is a cry everywhere that corruption and incapacity are preventing our Government to achieve what they really want to achieve. Take for instance the food problem, the prohibition scheme and many other similar problems which the Government have taken up with the best of intentions, to realize great principles. But with the human material which is inexperienced and beset with so many limitations, we have not been able to do what we want to do. Here, we want to tackle a great spiritual problem. I want you to consider whether we can really succeed or whether we are only crying for the moon. No doubt, when things are going wrong, there ought to be control. You must prevent evils being done. But at the same time, we cannot supplant the original agencies which are working. In no country in the world, the State has been successful in attempting to take the place of the spiritual initiative of the people and of the ecclesiastical agencies who ultimately will have to shoulder the great responsibilities of the spiritual development of the country.

"At the same time, Madam, I am for the Bill but it must be proceeded with very cautiously and very carefully, so that even with the best of intentions we will not be driving the finest elements in the country against us. There is also a fear expressed in certain quarters that there is a political motive behind the introduction of this Bill. This fear was not expressed when the Bill was first introduced in the House. But somehow or other that feeling is growing stronger and stronger and it is up to the Government to see that this illusion or delusion is completely dispelled and that whatever we do our actions are above board. We cannot do things by mere legislation. (At this stage the Deputy Speaker sounded the gong.) I am finishing, Madam. We are finding it day by day how impossible it is to achieve things by legislation. We may by means of legislation prevent or banish one hundred and one flaws and mistakes but we can never secure a single spiritual beauty and I think we have come to a time when we have to recognize that so long as there is recognition of a broad principle for things to be done we should be rather slow in our pursuit. While we avoid force we should try to focus the spiritual forces in the country in such a way as to enable the people to do things which the State in its very nature cannot accomplish."

SRI S. RAJAGURUNATHAM CHETTIAR :—"கனம் உப தலைவர் அவர்களே, இப்பொழுது ஹிந்து மத அற நிலைய பாதுகாப்பு மசோதாவைக் கொண்டுவந்திருப்பதை நான் முழு மனதுடன் ஆதரித்து இரண்டொரு வார்த்தைகளைச் சொல்ல விரும்புகிறேன். ஆனால் இம் மசோதாவை மிகவும் காலதாமதம் செய்து கொண்டு வந்ததற்காக நான் மிகவும் வருத்தப்படுகிறேன். இதை ஒரு வருஷத்திற்கு முன்னதாகவே கொண்டு வந்து நிறைவேற்றப்பட்டிருக்கவேண்டும். ஏனென்றால் இம்மசோதா சட்டசபை விவாதத்திற்கு எடுத்துக்கொள்ளப்பட்டு, அது ஒருக்கால் நிறைவேற்றப்பட்டு விடுமோ என்று தெரிந்ததும் சில மடாதிபதிகளும், இன்னும் கோவில் களின் நிர்வாகத்தினுள்ளவர்களும் ஏதாவது செய்திருக்க முடியும் என்று நான் நினைக்கிறேன். ஏதோ காலம் கடத்திவிட்டபோதிலும் இப்பொழுதாவது இம் மசோதாவைக் கொண்டுவந்திருப்பதைப்பற்றி நான் மிகவும் சந்தோஷப்படுகிறேன்.

[Sri S. Rajagurunathan Chettiar] [13th September 1950]

“ முக்கியமாக இந்த மடங்கள் விஷயங்களில் நான் ஒன்றிரண்டு வார்த்தைகளைச் சொல்ல ஆசைப்படுகிறேன். மடங்களெல்லாம் சரியாக நடப்பதில்லை என்று பெரும்பான்மையோர்களுக்கு அபிப்பிராயமிருந்துகொண்டிருக்கிறது. ஏதாவது ஒன்றிரண்டு மடங்கள்தான் சரியாக நடக்கின்றனவென்று குறிப்பிட்டுச் சொல்ல முடியுமே தவிர எல்லா மடங்களும் சரியாக நடந்துவருகின்றனவென்று சொல்வதற்கு இல்லை. ஆனால் இம் மசோதாவில் மடங்களைப் பொறுத்தமட்டிலும் கொஞ்சம் சலுகை காண்பித்திருக்கிற மாதிரிதான் எனக்குத் தோன்றுகிறது. ஏனென்றால் மாணேஜர்களை நியமிக்கும் விஷயமாக மடாதிபதிகளின் விருப்பத்திற்கு விடப்பட்டிருக்கிறது. அம்மாதிரி இருப்பதால் மடாதிபதிகள் தங்களுக்கு வேண்டியவர்களையே நியமிப்பதற்கு ஒரு வழி செய்ய சௌகரியம் செய்து கொடுத்திருக்கிறார்கள். அம்மாதிரி இருக்கக்கூடாது என்பதாகத்தான் நான் அபிப்பிராயப்படுகிறேன். ஏனென்றால் அவர்களுடைய போக்கிர்ப்படியார் போகிறார்களோ அப்போர்ப்பட்டவர்களைத்தான் இம்மாதிரியான பதவிக்கு வரக்கூடும் என்று நான் நினைக்கிறேன். இம்மாதிரி இல்லாமல் சர்க்காருக்கே நேரடியாக மடங்களுக்கு executive officer-களையும் மாணேஜர்களையும் நியமிக்கும்படியான அதிகாரம் இருந்திருக்கவேண்டும். மேலும் இப்பொழுதிருந்தே மடங்களை எந்த விதமான செலவுகளையும் செய்யக்கூடாது என்று ஒரு சுற்றறிக்கை விட்டு அதன் மூலமாகவாவது நடவடிக்கைகள் எடுத்துக்கொள்ளவேண்டும். எனக்குத் தெரியும் சில மடாதிபதிகள் செய்து வருவது. எங்கள் சமூகத்திற்கென்று ஒரு பாடம் நெருஞ்சிப்பேட்டையிலிருக்கிறது. அங்கே ஒரு திட்டத்தை தயாரித்து அதன்படி Endowment Board-ல் அங்கீகாரம் வாங்கிக்கொண்டிருக்கிறார். ஆனால் அவ்விதம் அங்கீகாரம் வாங்கியிருப்பதற்கும் எங்கள் சமூகத்தில் நடந்துகொண்டிருக்கும் பழக்க வழக்கத்திற்கும் அது ரொம்பவும் வித்யாபமாக இருக்கிறது. தானாகவே ஒருவரை மடாதிபதியாக தனக்கு வாரிசாக வரும்படியாக அதில் கூறப்பட்டிருக்கிறது. அதற்கும் endowment board அங்கீகாரம் பெற்றிருக்கிறது. உண்மையில் அவ்விதம் நடப்பது இல்லை. நாங்களை தேர்ந்தெடுக்கக்கூடியவர்தான் மடாதிபதியாக இருக்க வேண்டுமென்றிருக்கிறது. இம்மாதிரி தனக்கு வேண்டிய ஒரு சௌகரியத்தை செய்து கொள்வதற்கு சந்தர்ப்பம் இருப்பதனால் அவ்விதம் நினைத்து அவர் அதைப் பயன்படுத்திக்கொண்டிருக்கிறார். இம்மாதிரியே மடாதிபதிகள் இப்பொழுதே நடவடிக்கைகள் எடுத்துக்கொள்ள முற்பட்டுவிட்டார்கள் என்பதை இந்த சமயத்தில் சொல்லிக்கொள்ள ஆசைப்படுகிறேன்.

“ மேலும் நான் குறிப்பிட்ட மடத்திற்கு ஒரு ஸ்டீம் ரூபாய்க்கு மேற் கொண்டு வருமானம் வருகிறது. ஆனால் அதைக் கணக்கில் காண்பிப்பதில்லை. கணக்கில் குறைவான தொகையை காண்பித்துவிட்டு அதற்குத் தகுந்தாற்போல் contribution-ஐ போர்டிற்கு செலுத்திக்கொண்டிருக்கிறார்கள். மடாதிபதிகள் மடத்தின் சொந்தமான நிலங்களை பகிரங்கமாக ஏலம் விட்டு குத்தகைக்கு விட்டால் இன்னும் அதிகமான வருமானம் வரும். ஆனால் அவர்கள் அவ்விதம் செய்வதில்லை. ஆகையால் இது விஷயங்களை யெல்லாம் கவனித்து அங்கங்கே சில மாறுதல்களைச் செய்துவந்தால் மிகவும் நன்மையாக இருக்கும் என்று நினைக்கிறேன். மடங்களைப் பொறுத்த வரைக்கும் நண்பர் கனம் கோசல்ராம் அவர்கள் ஒரு திருத்தத்தைக் கொண்டுவந்திருப்பதை பார்த்தேன். இந்த திருத்தத்தை கனம் மந்திரி அவர்கள் ஒப்புக்கொண்டால் நன்மையாக இருக்கும். அந்தத் திருத்தத்தின்படி மடாதிபதிகளையும் மடங்களின் மாணேஜர்களையும் நியமிக்கும் அதிகாரம் சர்க்காரிடம் வருவதற்கு சௌகரியமாக இருக்கும்.

“ மேலும் மடங்களில் உத்சவங்களுக்கும் இன்னும் இதர விஷயங்களிலும் மிகவும் அதிகமாக செலவு செய்து வருகிறார்கள். அவைகளுக்கு மடத்தின் வருவாயிலிருந்து செலவு செய்வதன்மூலம் இன்னும் மடத்திற்கு சம்மந்தப்பட்டவர்களிடமிருந்து பணத்தை வசூல் செய்து இம்மாதிரியான காரியங்களுக்கு செலவிடுகிறார்கள். இம்மாதிரி நடந்து வருவதைப் பார்க்கும்பொழுது அவர்கள் இதை ஒரு வயிற்றுப் பிழைப்புக்கென்றே செய்து வருகின்றார்கள் என்று தோன்றுகிறது. உண்மையான தத்துவத்தை உணராமல் இம்மாதிரியான காரியங்களுக்கு செலவு செய்வதற்கு

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முற்பட்டிருக்கிறார்கள். அதையெல்லாம் தீர்ப்பதற்கு இப்பொழுதிருந்தே ஒரு நடவடிக்கையை எடுத்துக்கொண்டால் நன்றாக இருக்கும் என்பதாக நான் அபிப்பிராயப்படுகிறேன்.

“ கோவில் விஷயங்களில் அநேகமாக திருப்திகரமாகத்தான் எல்லாவிதமான Clause-களும் இருப்பதாக நான் அபிப்பிராயப்படுகிறேன். சில கோவில்களுக்கு ஏராளமான வரும்படி வருகிறது. சில கோவில்களுக்கு மிகவும் குறைவாக வரும்படி வருகிறது. அம்மாதிரி வருவதை நிரவலாகச் செய்து அதிகம் வரும்படி வரக்கூடிய கோவில்களிலுள்ள வரும்படியை எடுத்து குறைவாக வரும்படி வரும் கோவில்களுக்கு செலவழிக்கவேண்டும். இல்லாவிட்டால் பெரிய கோவில்கள் எப்பொழுதுமே சிறப்பாக நடக்கும். சிறிய கோவில்கள் சாதாரண முறையிலேயே நடந்துகொண்டிருக்கும். பிறகு சோழிந்துபோய்விடுபடியான மார்க்கம் ஏற்பட்டுவிடும். அம்மாதிரியில் லாமல் surplus fund இருப்பதை வைத்ய சாலை, கல்வி முதலியவைகளுக்கு செலவிடப்போக மீதியை சிறிய கோவில்களை அபிவிருத்தி செய்வதற்கும் கோவில் சிறப்பங்களை செப்பணிடுவதற்கும் செலவழிக்கப்படவேண்டும்.

“ தவிர இந்த கமிஷனர்கள், area committee அங்கத்தினர்களை பொறுக்கி எடுப்பதிலும் சர்க்கார் மிகவும் கவனமாக நடந்துகொள்ள வேண்டுமென்று நான் அபிப்பிராயப்படுகிறேன். இது மிகவும் பொறுப்பான ஒரு ஸ்தாபனமாக இருக்கப்போகிறது. ஆகவே அதிக நியமிக்கப்படுகிறவர்கள் மிகவும் யோக்கியமானவர்களாகவும், மதத்தில் ஓரளவு நம்பிக்கையுள்ளவர்களாகவும் இருக்கவேண்டும். கூடுமானவரையிலும் பொறுப்பானவர்களையே நியமித்தால் நல்லது என்று தோன்றுகிறது. இது காலப் போக்கில் நடக்க வேண்டுமென்று கனம் மந்திரி அவர்கள் இதை சபையில் சமர்ப்பிக்கும்போது சொன்னார். அதற்குத்தற்போல் மீட்டியில் அங்கம் வசிப்பவர்கள் கொஞ்சம் வாலிப உணர்ச்சி உள்ளவர்களாக நியமிக்கும்படி கேட்டுக்கொள்ளுகிறேன். இத்துடன் என்னுடைய உரையை முடித்துக் கொள்கிறேன்.”

THE HON. SRI K. MADHAVA MENON :—“ Madam, Deputy Speaker, my hon. Friend Sri Bhashyam, in moving his amendment, referred to me and said—though he is not entitled to disclose what happened in the Joint Select Committee—that I told the Select Committee that the Constitution did not prevent us from proceeding with this Bill and so we have come forward with this Bill again. When he moved for the recommitment of the Bill to the Joint Select Committee he made three points and all of them were based on the provisions contained in our Constitution. The first point was that India is a secular State and as such matters relating to religion cannot be legislated upon. He said that on the definition and connotation of the term ‘according to law and due process of law’ there was considerable doubt still, that this point had not been properly gone into by the Government when they framed the Bill and as such it was not clear whether we could proceed with the Bill. Secondly, he said that this legislation was discriminatory. He cited Articles 15 and 16 of the Constitution and said that this being a legislation for the Hindus alone, it was repugnant to the provisions of these two Articles. He asked, ‘why should the trustees of Hindu temples alone be brought under control while there are other trustees like Christians and Muslims whose powers in respect of the Missions and Mosques committed to their charge are not sought to be restricted?’ The third point that he made was under Article 31 of the Constitution which prohibits forfeiture of one’s property. He felt that proper attention might not have

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(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice.'

This Article definitely provides that we can bring in legislation 'restricting or regulating any economic, financial, political or other secular activity associated with religious practice', of course 'subject to public order, morality and health'. Article 26 again says:

'Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

- (a) to establish and maintain institutions for religious and charitable purposes,
- (b) to manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and
- (d) to administer such property in accordance with law.'

In effect, therefore, this Article makes provision for the administration of the properties of such institutions according to law. If we go on stretching the language to such an extent, as to say that 'because fundamental rights are guaranteed under the Constitution therefore you should not make any legislation affecting those rights', then you will be making things ridiculous. Under Article 19 any person shall have the right to 'acquire, hold and dispose of property'. Does that mean that a person must have the right to pick another man's pocket or take away another's property and claim that it is a 'fundamental right'? It will be ridiculous if you say so; you cannot interpret a Constitution like that. As a matter of fact, when you see here that any person residing in India can 'acquire, hold and dispose of property', it means naturally that he can acquire property according to law, hold property according to law and dispose of property according to law. But if you say he can simply 'acquire, hold and dispose of property' and we cannot bring in any legislation to regulate the acquiring, holding or disposal of such property, you can realise how ridiculous such an argument will be. If we analyse hon. Sri Bhashyam's arguments, they refer only to three points, viz., that under Article 14 the State cannot 'deny equality before the law or the equal protection of the laws', but this Bill denies it because it relates only to Hindus; secondly that Articles 25 and 26 relate to religious practice and therefore the State has no right to legislate on that; and thirdly as Article 31 says that 'no person shall be deprived of his property save by authority by law' this Bill is out of order. I have read through hon. Sri Bhashyam's speech; he says that matadhipathis are practically owners or proprietors of the math properties and you cannot take away those properties without offending Article 31.

"In the first place, with my limited knowledge of things and perhaps of law, I cannot admit the contention that the matadhipathis are the owners or proprietors of the properties which they are administering. According to the Hindu Religious Endowments Act as it stands to-day, these matadhipathis are as much trustees of the properties as trustees of temples, perhaps with a little more of power to deal with or dispose of such properties, than in the case of trustees of temples. Some of our great ancients or kings endowed

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properties to the math for the particular purpose of advancing the study of religion and by certain conventions which were having the force of law—persons were succeeding to the trust, not necessarily by inheritance, but by whatever means that were being followed as a result of convention. Anyway, the matadhipathis, in the conception of law, are as much trustees of the math properties as the trustees of temples, with, as I said, a little more of power to use the property. It is admitted that we are not taking away by this legislation one iota or one grain of property belonging to any matadhipathis or math; we are simply saying that the expenditure of the math should be regulated in a particular way, that the matadhipathi cannot dispose of the property which is trust property, as he likes and he must deal with such property in a way which will advance the intentions of persons who donated the property or the purpose for which it was donated; any sort of misappropriation of the amounts or improper spending of it cannot be allowed in the name of religion. That is all that the Bill seeks to do, and the Government are not taking away property which belongs to somebody else; they want to see that if there is any mismanagement of the property, some manager is appointed; and even the power to appoint a manager is given to the matadhipathi. I can understand if you can point out one provision in the Bill where the property of any person is being deprived 'save by authority of law'. Any general statement to the effect that property is being deprived is no good at all. Throughout the discussion, I submit there has been only a general allegation that property is taken away. If, in the course of the consideration of the clauses of the Bill, my hon. Friend Sri Bhashyam, with all his reputation as a lawyer and his knowledge of law, can point out anything which amounts to taking away of anybody's property, we shall certainly consider whether it offends the Constitution.

"Madam, I do not want to go into the other details of the discussion except to say that most of the speeches have been generally in support of the Bill; about half a dozen hon. Members also said that we have been too liberal and we must go further. My only appeal to you now, Madam, is that the House need not have the oppressive feeling that because my hon. Friend Sri Bhashyam has said that the Bill is likely to offend the Constitution, therefore it should be sent back to the Select Committee. My hon. Friend Sri Bhashyam has been careful in his speech; he knows that the Select Committee's deliberations were held only after the Constitution was passed; he only mentioned that the question had not been discussed sufficiently well, that there have been some interpretations by the Supreme Court or other Courts of the Articles in the due process of law. I do not feel there is any necessity that this Bill should go back to the Select Committee for the particular purpose of considering whether certain clauses of the Bill offend the Articles of the Constitution or not. We will discuss the clauses of the Bill threadbare and try, if necessary, to take as much legal advice as we can, because it is not advantageous to anybody to pass a legislation which is going to be ineffective. As I said, it is simple

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jugglery to trot out the words 'discrimination', 'fundamental rights', 'expropriation' and things like that; it does not do any good to anybody to always refer to such words, in regard to anything and everything that is brought forward."

JANAB MOHAMED ABDUL SALAM:—"On a point of clarification, Madam. May I know from the Hon. Law Minister whether it is a fact that the Hon. Dr. Rajan, when he returned from Delhi, while saying something to the press reporters, expressed that the Central Government had told him that it is likely that this may be questioned in a Court of law; he was in doubt about it but he was not sure of his ground."

DEPUTY SPEAKER:—"If that is so, he would have known about it."

JANAB MOHAMED ABDUL SALAM:—"I would like to know from the Hon. Law Minister if it is a fact."

THE HON. SRI K. MADHAVA MENON:—"I would like to ask the hon. Gentleman what is the meaning of asking me a question about a thing which Hon. Dr. Rajan is alleged to have heard from Delhi and which he is alleged to have told newspaper men. If some correspondence had come to the Government directly, I can understand or if it is a point of law, I can understand."

JANAB MOHAMED ABDUL SALAM:—"The question is, Madam, whether the Hon. Mr. Madhava Menon . . ."

DEPUTY SPEAKER:—"But he does not know anything about it. The Minister in charge of the Bill will now reply."

THE HON. DR. T. S. S. RAJAN:—"Madam, Deputy Speaker, after two days and a half of general discussion of this very important measure and after the detailed examination of it by those who are interested in it, I do not think there is much for me to say. For one thing, I am not an authority on law nor have I developed the capacity to interpret the law even as an ordinary citizen. I have been a professional man, a very prosaic professional man and even so, I have not lost interest in religion which my forefathers professed, which my countrymen profess and which is practised by millions of my brothers and sisters. I have only to remind the House that we cannot escape our responsibility in the matter. It is a matter for us to take responsibility for—Is it possible for us to-day in the year of grace 1950, after the passing of the Constitution and after calling our country an independent republic, legislated and controlled by voters exercising their franchise under adult suffrage, to stand up here and say as did those who held sway over us and there were so many who for reasons of their own allowed us to wallow in our dirt and commit mistakes as much as possible so that they might say: I am not responsible for it and I never did it. (At this stage Mr. Speaker occupied the

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Chair.) I ask, Sir, whether we can honestly say so. I contend that no intelligent man can ever argue that he has no responsibility in matters of religion, particularly when religion is so much mixed up with things so real, on which every citizen has got to exercise his thought and his vote as enormous sums donated to the temples and maths and other charitable institutions by the public are involved. It is left for lawyers to interpret and for Courts to give a decision upon it but in so far as I was responsible for introducing this Bill two years ago, I have tried my level best to take the opinion of the Advocate-General of the day who has candidly and clearly said that it is within our rights to proceed with the measure, on the lines that we have thought out and that it is neither legally wrong nor impossible. The House knows the opinion of the Advocate-General which he gave here for the benefit of the House. I am just reminding hon. Members of the House that it is only on the assured authority of the accredited law advisers of the Government that we pursued the Bill further and further. A Joint Select Committee consisting of Members of both the Houses of Legislature took ample time for the consideration of this measure for months together even to the extent of being told that they slept over it and that they have not been energetic about it. We allowed the Select Committee to do whatever improvements they liked with regard to the Bill in the best interests of the country. They sat for days, not merely in one place, but in a number of places, at Ootacamund and in the City of Madras and in such other places where it was found necessary that they should hold their sittings. We afforded opportunity for every Hindu who has got any thought about it, to express his opinion before the Select Committee. We also invited heads of maths and of religious institutions to send their representatives; we gave them time and invited them and gave them full opportunity to send their written representations and about 500 written representations were received. We invited them again to give their evidence also in addition to their written representations. I am glad to say that quite a large number of them appeared before the Select Committee both at Ootacamund and at Madras. It is not as if this we have adopted any hole-and-corner method. Knowing very well that it affected a large number of people, it was our duty to see that they had their say and had that in an effective way in regard to this measure. I can claim on behalf of the Government that we have prevented any one of them from giving expression to his view in the best manner possible and we have taken all that into our consideration in framing the measure. In the sittings of the Select Committee, I know that gentlemen like my hon. friend Sri Bhashyam and others took a very, very keen interest on it and I do not know whether there was any clause of the Bill that was not debated upon by them and on which they had not given their opinion. I am mentioning this in the House not to divulge any of the proceedings of the Select Committee but to show that the Select Committee wanted to give all the attention that could possibly be given to a Bill of this nature.

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Whatever may be said, Sir, about my personal faith or conviction, I declare here that I still maintain that I am an orthodox Hindu; my family has been so for generations. My grandfather held the post of responsible officer of a math and even my own father was an executive servant of one of the biggest maths of the State. Claiming that as my heritage, it is not in me to attempt to blast up hoary religious institutions. Being so closely associated by contact and by heritage with very many of these institutions and after having lived and spent the best portion of my life in one of the biggest religious centres in South India, Srirangam, with its famous temple with enormous properties, it has been my chance in life to observe their working perhaps at very much closer range than would have been possible for many hon. Members of this House and to see the dire consequences which some of those good institutions have suffered on account of mismanagement. These have left a very painful impression upon me. It is against that background of history behind me that I have taken up this responsibility and continue to shoulder it in spite of what has been said by the orthodox section of the people against this Bill. I honestly wanted to go into the spirit of orthodoxy and understand it as best as I could but beyond the safeguards that we have been able to provide in this Bill, I was unable to see any justification for giving more than what has been provided for. Criticisms have been made on the floor of the House that we have been very soft where we ought to have been strict and energetic in the matter of the recommendations that we have made. I know it; if it comes to the point of considering it, I shall certainly consider it again when amendments are moved. The opportunity of moving amendments provides a long vista for discussion by Members who may feel aggrieved. We have not rushed through the Bill. We have heard and considered the representations made on behalf of the heads of maths themselves; we have heard their representatives in person and we have given full consideration to their representations. But on the question of law, I can only quote the Law Officers of the Government in my support and I fully believe that we have not gone into forbidden ground either in the moral sphere or in the religious sphere. First of all, we, the people of the State are entitled to see that the fabulous amounts donated to the maths and bequeathed to our care, are properly used and we, as citizens, must see whether we are discharging our trust in the manner we are expected to do and whether we justify ourselves before God and Man. I know the extreme views expressed by some hon. Members saying that we have been partial in the matter of certain recommendations we have made and I invite them all to bring forward their suggestions to improve the Bill by way of amendments if need be. But after we have spent so much time upon it and have heard all the people who are possibly affected by it either as citizens or as associated with religious organizations, to say that the Bill must go back to the same Joint Select Committee to consider a few points is something beyond my comprehension. True, I am not a lawyer. But I am sure in the light of what all has been said by the Legal

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officers of the Government and our Law Department and the Hon. Law Minister we are not treading upon forbidden ground. Therefore, I believe it is the duty of this State to deal with this question. Perhaps this State has got the largest number of religious institutions in India, institutions which have got a lot of trust and wealth at their disposal. Bearing all these things in mind, I feel, if there is any State in this country which should come first and foremost to deal with this question, it is this State; and so, I feel this State is eminently entitled to do so. Therefore, we have not been slow to move in this respect. Previous Governments, having quasi or partial administrative control over affairs, not entirely republican, as we are to-day, even to the limited extent where people's will did prevail then, in the previous Ministries in this State, they have lost no time to tackle this subject in the best possible way to carry out reforms in consonance with the public opinion of the time. So, then, a statutory board like the Endowments Board was created. It was vested with the power to interfere, wherever it was deemed necessary, with the administration of temples, and it was also given power to carry on judicial proceedings before it. That was how the Endowments Board came into existence. They have survived now twenty-five years of their life. But then, there was this trouble: the Endowments Board were only a smaller judicial body subordinate to the final appeal of the High Court of Judicature. That meant, their orders, in effect, could not be enforced, as their decision was liable to be reversed on appeal. So, during the last twenty-five years, even with the enormous amount of safeguards, we have found it impossible to carry out what in our opinion is bare justice—fair and honest justice—because there was a loophole in the Constitution of this Board for an appeal against their orders. We have seen how that provision has worked. Here, we found a temple unfit to manage its affairs. The Board interfered and passed orders; but could they enforce their order? No. Because the other litigant affected by the Board's order upset it on appeal to the High Court. So the whole difficulty was whether the decision of the Endowments Board could be prevailed upon. The administration of justice was so intricate that it was not possible for a right to prevail. That was our experience. So, while we know that the Endowments Board have done very good work all these years, it was the Constitution made for them that made it impossible for them to display better work than what has been done all along. I know, and it stands to reason also, that the Endowments Board did display a great amount of tact and talent in the management of all these very very troublesome institutions, which were absolutely litigious to the very core. For, every man who had anything to do with these institutions, who was affected by the Board stepping in, thought that he had nothing to do but take the matter to the court of law. So, for nearly quarter of a century, the Board could not be very effective. That we have noticed. So, now when we, have got power in our hands, we thought that we must assert the people's will in such a way that there will be no room left for any doubt in the matter. So this

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Bill is brought forward to secure that these things are in consonance absolutely with the people's will. Therefore, there is no justification to say 'you have not tackled other communities; you have not tackled other religions'. Sir, certainly this is not the way to argue. The question before us is, 'should the Hindu community as it is constituted to-day take note of the defects in the institutions and provide for necessary reforms, particularly of religion'. If you say, 'Yes', and if the majority of the State are Hindus, then, no Hindu can escape responsibility for the mismanagement of these trusts and maths. It is high time we take it up; we admit the matter has been delayed; we admit the object with which the Board has been constituted has been defeated. That is a matter which we have to tackle; that is a matter which the Hindu community has to tackle. There is no good saying that other communities may not follow us. They may or may not do it. If we, form the majority of the community and if we feel that we should acquire control over property of temples to look after them properly, and when we see by past experience and by knowledge of things in the past, that things are not piling well and that in the name of law, justice has been defeated, then it is time enough for us now to bring this legislation. It is that motive alone that prompted me, not during the last one or two years, but for the last fourteen years, to bring forward the present legislation. Because, in fact, the Congress Ministry, in their first regime, took up this matter, this Bill was then framed, but on account of the exigencies of politics, we had to resign and go out of office. Now, we have come back, and having come back, we thought it worth while to proceed with the legislation. We have gone into the Bill with the utmost care that we are capable of."

MR. SPEAKER:—"May I inform the Hon. Minister that he should face the Chair and address."

THE HON. DR. T. S. S. RAJAN:—"Sir, I am replying to the debate now, and so I thought I should address the House. Sir, I did not mean any insult to the Chair."

MR. SPEAKER:—"I never took it as an insult. The rule is hon. Members should face the Chair and speak. If need be, the Hon. Minister, if he wants, may come nearer, to this mike and speak from here."

THE HON. DR. T. S. S. RAJAN:—"I do not wish to keep the House long. But, in piloting a Bill of this sort and in replying to the various issues raised by several speakers, I thought at least as a matter of courtesy, I should devote myself to what all they have said."

SRI K. BHASHYAM:—"I am not able to hear the Hon. Minister well."

THE HON. DR. T. S. S. RAJAN:—"Here is an hon. Member who wants me to speak louder. I am doing my best to make myself heard. I do not know what else I can do. I have tried to speak loudly; and I shall still do it to the best of my ability."

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SRI K. BHASHYAM:—"I only said, I cannot hear the hon. Member; I never said anything more."

THE HON. DR. T. S. S. RAJAN:—"The hon. Member should know I cannot raise my voice because of my physical capacity, and like several other Members, I should be shown a certain amount of courtesy by hon. Members, as has been shown by the Hon. Speaker. I simply plead for justice and nothing more. And if my hon. Friend, Sri Bhashyam is just, as I am sure, he is just, he will certainly excuse me if I am not able to reach his ears."

"I have now taken pains to deal with the fundamental motive of the Government which prompted them to move this Bill, and from the sympathy and support I have had from this House, I feel convinced that we are not too early to go into this question. In fact, we are spending more time on it, because of the importance of the subject and because of our anxiety to give due consideration to such group of people, whose views have to be heeded and not ignored. For, I do not want to be told that we did not listen to or ignored any point of view. In fact, every item of criticism was considered at the Committee stage. After having done so far, after having had the hon. Mover of the amendment himself on the Committee—and I wish to inform the House that the hon. Member was very regular in attending the meetings of the Select Committee, and he took such keen interest in every detail of the Bill, it is a bit of surprise to me, that he should come here and move the amendment he moved for recommitment on account of certain considerations that came to light subsequently. That, I am unable to accept as an argument. I may say here that the Select Committee had been very considerate and had taken all the time necessary to consider the Bill in all its details. The mover of the amendment said that the Select Committee members were not taken to sacred places to be shown what was being done there. It cannot be stated that we the Hindus who constituted that Select Committee have not seen the temples and that we have not watched the worship going on there or the members of that committee were not educated enough in that field. They have the capacity enough to understand the spiritual meaning and the esoteric meaning of those various observances observed in the temples. So what is the use of going and seeing those things and be told what they were. Sir, the committee examined the Bill in the several sittings held in the very cool atmosphere of the Blue Hills (Ootacamund). All the coolness and freshness necessary for the members to devote themselves to their task were there. In spite of all that, there were still some subjects left, on which they had to examine witnesses, after coming over to Madras; and we had them examined also. Therefore it is not as if the whole Bill was rushed through without proper thought and without care. And as regards the evidence taken, many eminent lawyers like Mr. V. V. Srinivasa Ayyangar gave evidence. Orthodox men who could speak with authority were invited, and every one of them who came was given all the time he wanted to give evidence, so that it shall not be said later on that

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the Select Committee rushed through the Bill. We studied new issues, because the Select Committee raised fresh subjects, we framed fresh issues, had them circulated; and they were discussed very thoroughly, and the results of all those deliberations are incorporated in the Bill now presented to the House, and they have been shown in Clarendon type. After doing all this, to ask the Bill to be sent back to the Select Committee, is something which passes my comprehension; I cannot understand the logic of it—I am incapable of understanding the logic of it. I will simply say as far as this Government are concerned, we have acted fairly and justly to all interests concerned and to every thought of opinion, both hostile and sympathetic with regard to this Bill, by giving them full opportunity for discussion. So I really do not feel it at all just or fair to accept the proposal to refer this Bill back to the same Select Committee. I regret I cannot accept the amendment of my hon. Friend Sri Bhashyam.

“With regard to the other points raised in the debate, I shall not say here much. I can assure the hon. Members that we shall keep our ears open and our eyes open to the suitable amendments suggested by them. I would like them to put them in writing and move them, if necessary, as amendments, if they want those things to be incorporated in the Bill, so that it shall not be said afterwards that we did not pay heed to them. We shall certainly examine them. What was necessary we have already provided in the various clauses of the Bill. So I want them to consider that; and if need be, we are prepared to consider all such amendments which they may think is necessary.

“Now, I wish to mention one point more. And it is with regard to the age of trustees as it was mentioned by more than one hon. Member. Somebody suggested it must be twenty-five, somebody else said, ‘No, it must be thirty’. Various limits were mentioned. Fortunately, nobody said it must be over seventy! (Laughter). Whatever it is, I am prepared to take into consideration their suggestions. But let it be a discriminating age. The amount of discrimination that is necessary for trustee to face his problems, we have to consider, and so, if such a suitable age is suggested. I am prepared to consider.

“Finally, Sir, I may assure hon. Members that it is still open to them to suggest amendments wherever necessary so that posterity may not say that this Bill was rushed through because a fanatical fellow (Laughter) happened to be in charge, but it shall be the verdict of our people and the verdict of all good Hindus, who have now the honour and privilege of being citizens of this honoured republic, that this Bill was enacted after a very careful consideration.”

MR. SPEAKER:—“The House will now rise and reassemble at 2-30 p.m. Then, hon. Mr. Bhashyam will reply. His amendment would be then put to vote, and after that the motion of the Hon. Minister would be put to vote.”

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(After lunch—2-30 p.m.)

SRI K. BHASHYAM:—“Mr. Speaker, Sir, before I begin to reply to the main points, I should like to say a few words about the reference made to me both by the Hon. Minister for Law and the Hon. Minister in charge of the Bill. They were good enough to refer to me as a person who knew something about law and who could speak with some authority. If they sincerely thought so, then I should have expected them to accept my advice. But what they did however was to praise me and at the same time damn me by not accepting my advice. The Minister in charge of the Bill was good enough to say that I was very helpful to him. According to me, it means helpful in obstruction. Whenever a clause or amendment was discussed, I saw more objections to it than things in its favour and at the end of it all, the Government had their own way. While I render thanks to both the Ministers for giving me the praise they did, I certainly complain that they did not follow my advice or suggestion either on the floor of this House or in the Select Committee.

“The Hon. Minister for Law charged me with jugglery of words. He used the word ‘jugglery’ at least half a dozen times in the course of his speech. I think it is more correct to say that he juggled with the word ‘jugglery’ than to say that I juggled with that word. All that I did was to merely read Article 14 as it stands and I did not perform any jugglery at all. I did not import anything that was not there in the Article. Let us not think that the Judges are super-men. They are after all common people with some discrimination. They hear the arguments of both sides and decide in favour of whichever argument appeals to them as just. I request the hon. Members of the House to put themselves in the position of Judges and decide whether what I say is according to the spirit of the law or whether his interpretation of the law is correct. With your permission, I will read Article 14—

‘The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.’

Under this Bill the Government want to take the property of certain trusts into their own hands or make arrangements in respect of its administration. Am I getting the protection to the same extent as any other person is getting? Is everybody in the same position? That is the question that I ask the Government to consider seriously. If a trustee of a Muslim or Christian charity commits a breach of trust, he goes scotfree, whereas, because I am a trustee of a Hindu charity coming under the operation of this Act, my property is taken away from my management and put in charge of somebody else. Is that equal protection? My respectful submission is that the Mover of the Bill, in spite of his arguments and in spite of the Legal Department behind him, is not correct. If he wants to deal with breaches of trust, he must deal with all breaches of trust irrespective of whether they are committed by a Hindu, Muhammadan, Christian or Jew. It, is in that sense

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that I understand the Article. If I am wrong, the Government need not accept my advice. After all I am not able to decide the matter. It is only the High Court that can speak with authority and decide. What I say is not law but only argument. I only advise the Government to ask their Law Officers to view the Bill from the point of the view of the grounds that I have urged, not *apriori* grounds but grounds which appeal to common sense. The Bill has not been considered on these grounds in the Select Committee or in the earlier stage of the Bill. It may be asked why I did not urge this point before the Select Committee. Perhaps I am wiser now after reading the Bill with a little more care. That is one reason. The other reason is that this point suggested itself to me because of some recent decisions of the Supreme Court and the High Courts. Suppose the Legislature passes this Bill and the Bill becomes an Act. If a person files a suit in the High Court questioning the validity of the Act and if the High Court decides that the Act is *ultra vires*, then the Government will cut a sorry figure. The judgment will be published all over and the public will read it. That is why I ask why a little more care should not be exercised before the Government commit themselves to the Bill. I do not ask that the Government should accept my advice. I am not an Advocate-General and I cannot speak with the authority of an Advocate-General. The Advocate-General is the Government's law adviser and they follow him. But the people have the right to move the Court and the Advocate-General is heard there not so much because he is the Advocate-General but because he is an Advocate representing a party like any other Advocate.

"Article 15 of the Constitution says:

'The State shall not discriminate against any citizen on grounds only of religion'

Are not the Government discriminating on the ground of religion? This is another point which I am going to adopt as my argument. This ground was suggested to me by the judgment of the Bombay High Court, which I read in the newspapers, in which one section of the Bombay Prohibition Act which discriminated between one set of citizens and the other was held to be against the Constitution. I say here this whole Bill discriminates against the whole community and as such there is much more and heavy discrimination. On this ground also, I want the Government to look into the Bill carefully.

"According to Article 26, every religious denomination or any section thereof has the right to manage its own affairs in matters of religion, to own and acquire movable and immovable property and to administer such property in accordance with law. If legislation says: 'You shall not administer the property and the Government shall administer it for you.' Does it not offend the fundamental right to freedom to manage that has been guaranteed by the Constitution? It is against the Fundamental Right and therefore it cannot be supported.

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"Under Article 31 (1), no person shall be deprived of his property save by authority of law. A lawyer will understand that even trusteeship is property under the Limitation Act. If the Government deprive a person of his trusteeship, they are depriving him of his property also. It is unnecessary to argue the matter in this House, as it may appear too technical. In the light of Articles 14, 15, 26 and 31 (1), the Government cannot take over the entire administration of the property to themselves, but they can certainly regulate the administration. The whole scheme of the Bill is to vest the administration of property in the Government through a hierarchy of officers and Area Committees whose members will be appointed by the Government. Do the Government consult the wishes of the religious denomination concerned? I suggest to the Government that they must at least provide for election to the Area Committees by persons who resort to the institution and who take an interest in it. Are the Government allowing the trustees to administer the property according to law or are they taking it over? The Assistant Commissioner is to preside over the committees. Every petty item will be decided by the Assistant Commissioner and his superior officers. The right of appeal to court is taken away except for one or two matters. Why? They say that there is long delay and heavy litigation. I say that matters are pending for many years before the Board as they are before the court. I say this from experience. I do not know what it is going to be under the new dispensation. But I believe that even hereafter one officer will have to refer a question to his superior officer and that superior officer will have to refer to the still higher officer and this will take time. I do not think there will be expeditious disposal.

"The Hon. Mover of the Bill took pride in the fact that he has provided for the jurisdiction of the court in regard to the removal of a trustee of a math. Even the fixing of *dittams* and the scale of expenditure are not left to the trustees. If a trustee says that ten rupees is necessary for a puja, the Commissioner or Assistant Commissioner may say that five rupees will do. Is that not interference with the day to day administration of the temple? Cannot such matters be left to the trustee or the decision of civil courts? The whole scheme of the Bill is to vest the whole administration in the Government. To say that the Government are only taking over the superintendence is all a bunkum. A secular State is going to have an ecclesiastical department to manage the affairs of temples. It is a paradox to me. Is it not ridiculous? The position is worse in respect of maths. The trustees of maths have a beneficial interest. They are not like temple trustees; *matathipathis* are trustees in a very narrow and attenuated sense. As I said, the trustees of maths have got beneficial interest in the properties. Is it not proper for the *matadhipatis* to spend the money of the maths for purposes on which they have been spending so far. To say 'I am not taking over the whole administration, but I am taking control over the secular management alone' is not correct. When the Government say that '*dittam*' must be

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sent to them for approval, are they not interfering with the discretion of the matadhipati? If the matadhipati wants to present two shawls to two pandits, and if the Government say that one will do, is it not interference with the internal administration of the math? Merely to say that we are not interfering with the internal administration and that we are only supervising the secular affairs of the institutions is wholly wrong and misleading. It is really a pretension. The person who will supervise will be appointed by the Government. The Area Committees will be appointed by the Government. The person to deal with appeals will be appointed by the Government. These officers will be drawing their salaries and dearness allowances from the Government. Is it not a case of pretension to say 'Oh; we are not interfering with the temples and maths; we are leaving them to their own selves; we want to stand out and see that things are properly done'. No pretension can go further than this. I strongly hold that it is wrong to do so. The Hon. Minister said that he is an orthodox Hindu. So am I, perhaps more orthodox than he is. Perhaps some of the orthodox Hindus will not take me and less him as orthodox. If his grandfather served in temples, I may say that I am a Swayamacharya Purusha. As a matter of fact a person who calls himself a matadhipati may not have maths. I may call myself a matadhipati, if I care to, without a math, and I may not have disciples. If the Hon. the Minister feels so much in the matter and thinks that there should be control over the maths, I, more than he, do feel that control over maths should go. It is not good for the State. It is really a control for the purpose of diverting the temple funds for other purposes which the Government have in view. Can I not say this? It is no good merely to say 'I am orthodox'. Have the Government taken all the views placed before the Joint Select Committee? They never did. Many suggestions were given by the orthodox gentleman Mr. V. V. Srinivasa Ayyangar? Did the Government accept his view? He gave excellent suggestions. The Government complain that the existing provisions in the Civil Procedure Code are not enough to take up the cases of the trustees before a Court. He suggested the appointment of a Director of Charities who will be entitled to go into the accounts. There is nothing wrong in that suggestion. He can be appointed on the analogy of the Director of Public Prosecutions. It will also be in consonance with the decisions in English law. Charity Commissioners are there in England. They do not take upon the management themselves. They take the matter to the court for the purpose of framing a scheme in respect of any trust or charity badly managed. Here, as soon as an officer of this Government find a little mismanagement, the institution will be taken over by the Government. The Government say that they will frame a scheme. It is the Commissioner or the Deputy Commissioner that has to frame the scheme. Will the Government go to the court or an independent body, for the purpose of framing a scheme? I submit that it is too much to claim that temples are not interfered with in any manner and that supervision of the secular affairs alone is

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proposed to be taken. I think hon. Members will understand this Bill more fully only when it is considered clause by clause. They want provincialisation of the service. They want control over temples to be in their own hands. Am I not entitled to ask why it should be so? All the orthodox people believe that these temple funds are going to be interfered with and that they will be diverted for purposes other than those for which they were intended by the founders. The *Cypres* doctrine is there. The Commissioner is going to apply this *Cypres* doctrine. This is not correct. The municipalities are responsible for the maintenance of roads and the health of the people. Are municipalities, on that account, entitled to share the temple funds which are not intended for that purpose but are meant for the purpose of worship in temples and for the greater glory of God. To say that this point has been raised by Mr. Bhashyam and two others have merely echoed all that he said, and, therefore, it does not deserve any consideration, is wholly wrong. The hon. Member Mr. Vaidyanatha Ayyar made out a strong case against this Bill."

THE HON. SRI K. MADHAVA MENON :—"Sir, the hon. Member Mr. Vaidyanatha Ayyar was not at all here after the report of the Joint Select Committee was presented."

SRI K. BHASHYAM :—"Sir, I want to point out that hon. Mr. Vaidyanatha Ayyar did speak on this Bill before it was sent to the Joint Select Committee. He raised so many questions. What is the answer given by the Hon. the Minister? What steps did he take to answer those questions. He only treated them with contempt. Is it correct to adopt the attitude 'we do not want lawyers; they juggle with words; therefore lawyers are to be treated with contempt'. That is the attitude of the Government. Therefore, I submit that if Government find themselves later in trouble, I tell them here and now that they have been warned. It is open to the Government to examine the position afresh. It may be placed before the departmental officers and the new Advocate-General. If the Advocate-General says that the position is correct, they may act as he says."

"A reference was made to the Hindu Code Bill. There are still some persons who believe that this is also unconstitutional. I believe it is only a social reform, and it is not at all a question of religion. It deals with the question of the property of the Hindus, and does not touch religion at all. Therefore it is justified. Dr. Ambedkar said that he held strong views about the Hindu Code Bill. Sir, even after careful analysis of the provisions of the Constitution, detentions of persons proved futile before Courts of Law. Whatever care was taken, therefore, was not sufficient. Any person who really sees the words and understands them must know how to apply them to the present Bill. If on the merits of the Bill they can tell me that I am wrong, and if they are advised by the new Advocate-General that they are right they can as well proceed with

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this Bill. But I tell the Government that they take the risk upon themselves. That is what I want to say. I have not much to say on the merits of the Bill.

"One other matter I wish to point out, Sir, before I close. The Hon. the Minister in charge of the Bill was good enough to say at the end of his reply that any amendments which might be moved would receive his careful attention. He did not say that they would be approved, but that he would consider them. A number of amendments has been given notice of by hon. Members. There are some more amendments which we would like to move, but we had not given notice of them as we were under the impression that the Bill would not be reached, as it was kept as the last item on the agenda. We thought this Bill would not be considered clause by clause in this session at all. Therefore, I appeal to you, Mr. Speaker, to allow us to give notice of amendments . . ."

MR. SPEAKER :—" This Bill has been before the House for a very long time."

SRI K. BHASHYAM :—" I do not question your ruling, Sir. . . ."

MR. SPEAKER :—" I told the hon. Member that this Bill had been before this House for a very long time, and nobody prevented him from giving notice of amendments."

SRI K. BHASHYAM :—" Sir, you are stating one fact, and I am stating another fact. This Bill was on the agenda for a number of days, and many of us doubted whether it would be reached at all as a number of other Bills were put on top of it. And, therefore, it has not been possible for us to give notice of amendments. I respectfully point out that the question of privileges of hon. Members to give notice of amendments has been taken away by the procedure now adopted. May I say further, Sir (though it is an aside to this question), that some of the hon. Members thought and expected that the second reading of the Bill would not be taken up this session? I would beg of you and request you to give us some time to give notice of amendments."

MR. SPEAKER :—" Three days' notice is necessary to give amendments."

SRI K. BHASHYAM :—" There are two rules bearing on the subject, Sir. I wish to point out that rule 94 says :

' When a motion has been agreed to by the Assembly that a Bill be taken into consideration, any member may propose an amendment of such Bill.'

The motion that the Bill be taken into consideration must be agreed to in the first instance."

MR. SPEAKER :—" The amendment of the hon. Member has already been moved. The amendment which the hon. Member gave notice of is what is meant in this rule. I do not quite know whether he has understood me. What this rule 94 means (himself

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a clever lawyer he should know this) is that when a motion that the Bill be taken into consideration has been agreed to, any member may propose amendments."

SRI K. BHASHYAM :—" By calling me a clever lawyer, please do not put off my argument. The rule is ' When a motion has been agreed to by the Assembly that a Bill be taken into consideration). Then only I can move my amendment. But you a Bill '. That stage is not yet. Even my amendment will be wrong according to you. ' When a motion has been agreed to ' (means the House should agree to the motion that the Bill be taken into consideration. Then only I can move my amendment. But you have allowed to move it earlier. Now, Sir, I would like you to fix three days after the motion is put and carried to enable us to give notice of amendments. This we are entitled to under rules 94 and 95 of the Assembly Rules. The stage contemplated in rule 94 has yet to come. Rule 95 says :

' Notice of a proposed amendment shall be sent to the Secretary at least three clear days before the sitting of the Assembly at which the Bill is to be considered.'

" Taking the two rules together, I submit that we are entitled to three days' notice from the time the motion is put and carried. As a matter of fact, if the motion that the Bill be taken into consideration is passed by the House, three days' notice should be given to us to give notice of amendments. Even if this is not agreed to by you, I appeal to you to allow us three days' time to give amendments. The Hon. the Minister was very reasonable in his introductory speech, and we also wish to move some more amendments. Sir, I request you to give us three days' time to enable us to give notice of some more amendments."

THE HON. DR. T. S. S. RAJAN :—" Sir, I was carefully listening to the hon. Member to see what arguments he was going to advance in support of his motion. But to my regret I saw more of passion and anger displayed in his speech rather than any argument, as I could understand it. I can say that he simply lost the trend of the discussion. What is it that he wanted? He wanted the Bill to go before the very same Joint Select Committee once again. That was the amendment he moved. I told him the way in which the Joint Select Committee which was appointed by both the Houses went into the provisions of the Bill in great detail, in order to show him what amount of fairness and time has been devoted by that Committee in dealing with this question. I was expecting an answer to all my arguments. It is not a question of competition in orthodoxy between me and my hon. Friend. I am absolutely out of the picture in that respect. What I said was that I was a Hindu and was dealing with the Bill. When I mentioned it, I never had the hon. Member in my mind. Considering my status and position, I am not a very discreditable person of the Hindu society. I said that I was conversant with the feelings of the Hindu community and I felt that the Hindu community was strongly in favour of making some amendments to the existing Act.

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Since the time we came to power in the early days, this view has been put forth by the late revered Raja of Panagal, later by the late Sir Sadasiva Ayyar and again by the Raja of Chettinad who sought the help of Mr. Venkatramana Rao in this respect. The House will see that after every five years or so we found difficulties in working the Act and several amendments had to be made to it. Also no other religious community took the initiative. We were obliged to take up this legislation because we had repeated attention drawn to it by our people. Being in power and in view of the demand of the people, we took it up. In my arguments, I laid claim to make alterations as a Hindu, not because I was more, or less orthodox than any other Member of this House. Therefore, I do not want my orthodoxy to be cited as a point by any other Member. I only want the Members to see whether the alterations made are good or bad. When I move an alteration or amendment to an Act, I know very well what I am doing. So, there is no question of competition in orthodoxy between me and the hon. the Mover of the amendment.

"Now, my hon. Friend pleads for time to give notice of amendments. He has already given notice of some amendments. He now wants three days' time. This Bill is not going to be voted upon finally to-morrow. Discussion will continue for a number of days until the last clause in the amended Bill is taken up. There will be plenty of time for moving amendments and if you, Sir, approve of them and if the House gives permission, there will be no objection to their being taken up. Therefore, there is no question of whether immediately three days' time will be necessary or not.

"Sir, I may tell you that I give this privilege to my hon. Friend to move such amendments as he may consider necessary and important and which he might have forgotten to give notice of. Certainly I do not think the House will be uncharitable enough not to listen to him. They will certainly welcome such amendments as are consistent with the rules. If my hon. Friend wants three days' time to move as many amendments as he likes, I wish the matter is referred to the House itself. If the House is pleased to give him, not 3 days, but 30 days' time, I will not stand in the way. But as far as I am concerned, I am obliged to say that I have given enough time and even more time than is justifiable. I want to point out there is still some more time for him to move amendments. If he wants some more adjournment, let us leave the matter to the decision of the House. As far as I am concerned, I want to proceed with the Bill immediately."

SRI K. BHASHYAM :—"Sir, when I insisted upon the rule being observed, I did so not for me alone. After hearing the Hon. Minister, certain further amendments suggested themselves to me, but that is a different matter. There were also other Members who wanted to give notice of amendments. Therefore, I pleaded not only for myself but for others. The question is not one to be

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left to the vote of the House but it is one of privilege of each individual Member. You cannot put to the vote of the House a question whether a Member is entitled to time or not to give notice of amendments. It rests solely on the rules in the first instance, then on your interpretation and thirdly on the indulgence you are going to show to the Members.

"Sir, I do not want to delay the consideration of the Bill. Three days are not going to cause any great delay and no trustee or matadhipati is going to be affected by this. It should not be imagined that I am asking for time only to delay the Bill. I only want to make such amendments to the Bill as would make it a good Bill and would lead to public good. I do not think my hon. Friend Dr. Rajan thinks that I want to obstruct him. I am not a matadhipati or trustee anywhere. Therefore, he may not run away with the idea that I want to delay the Bill."

MR. SPEAKER :—"I believe the hon. Member is not pressing his amendment."

SRI K. BHASHYAM :—"The Hon. Minister has not made a request for the amendment to be withdrawn, Sir."

THE HON. DR. T. S. S. RAJAN :—"I would certainly request my hon. Friend to withdraw his amendment. I have been working at this Bill for so many years and am anxious to get it through as early as possible. Further, the charge which the House laid on me was that we had taken too much time and had delayed the Bill. Therefore, it will be just and fair if I ask the hon. Member not to ask for more time but to avail himself of opportunities as often as may be necessary to move amendments."

MR. SPEAKER :—"What the hon. Member wants is that I should give him some more time."

SRI K. BHASHYAM :—"Sir, in view of the appeal made by my revered Leader for whom I have the greatest respect and with whom I have worked very often, I beg leave of the House to withdraw my motion for recommitting the Bill to the Joint Select Committee. I have said something in the heat of the moment but my respect to him has not become less than what it was before. But I insist upon your ruling for giving three days' time."

The motion of Mr. Bhashyam was withdrawn, with the leave of the House.

MR. SPEAKER :—"The hon. Member Mr. Bhashyam wants three days' time for giving notice of amendments. It is merely a request. I want to know what the Hon. Minister wants to say on this."

THE HON. DR. T. S. S. RAJAN :—"Sir, I have already said that I do not want to delay the passing of the Bill unless I am legally prevented from proceeding with the Bill."

MR. SPEAKER :—"The Hon. Minister is not legally prevented from proceeding with the Bill."

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THE HON. DR. T. S. S. RAJAN :—" What I want is that the House may not charge me with delaying the Bill but may allow me to get it through as early as possible unless I am prevented from doing so by any legal difficulties. I was anxious that this Bill should be taken up first and passed as early as possible. Hence I wanted this Bill to be taken up in preference to others."

MR. SPEAKER :—" I will put the original motion to the vote of the House. The question is—

'That the Madras Hindu Religious and Charitable Endowments Bill, 1950, as amended by the Joint Select Committee, be taken into consideration.'

The motion was carried.

MR. SPEAKER :—" I will put clause by clause to the vote of the House. I will put the Preamble and clause 1 in the end."

SRI K. BHASHYAM :—" Sir, the Preamble may be put first. I do not want to be misunderstood when I say this. I have already been misunderstood that I am trying to delay the Bill. I do not want you also to misunderstand me. In the Preamble the word 'charitable' is used. It means the Bill will cover charitable institutions also. I want that charitable institutions should be taken out of the purview of this Bill. So, if this word is deleted, possibly some of my amendments will go."

MR. SPEAKER :—" The hon. Member must know that if he omits the word 'Hindu', the scope of the Bill will be extended."

SRI K. BHASHYAM :—" Sir, my amendment is to delete the word 'charitable'. Some other Member has given notice of an amendment for the deletion of the word 'Hindu'."

MR. SPEAKER :—" Any amendment should be such as to come within the scope of the Bill."

Clause 1.

MR. SPEAKER :—" The motion is—

'That clause 1 do stand part of the Bill.'

"Regarding the amendment for the deletion of the word 'Hindu', I want to point out that the statement of objects and reasons to the Bill says, 'The Government have carefully considered the question and have decided to provincialize the administration of Hindu religious endowments.' If the word 'Hindu' is deleted, it will mean that the Bill covers other religious institutions also. That will be outside the scope of the Bill.

"However, let the hon. Member formally move the amendment and let it be seconded."

SRI S. NAGAPPA :—" Sir, I beg to move—

'That in clause 1 the word "Hindu" may be deleted.'

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"The clause as at present reads, 'This Act may be called the Madras Hindu Religious and Charitable Endowments Act, 1950.' If my amendment is accepted, it will read, 'This Act may be called the Madras Religious and Charitable Endowments Act, 1950.'

"The scope of the Bill will be extended not only to Hindu religious institutions . . ."

MR. SPEAKER :—" If it is to extend the scope of the Bill, then the amendment is clearly out of order."

SRI S. NAGAPPA :—" Sir, my point is, we are aware that our State has already declared itself neither as a Hindu, Muslim or other religious State. So long as the Britisher was here, he did not interfere with any religion of this country. He was maintaining religious neutrality and at the same time, he allowed every religion to prosper on its own lines. We have reached a stage when we have definitely accepted the Constitution by which we have declared ourselves as a secular State. But, we find that here is a Bill to reform a particular religion only. Strictly speaking, we should legislate for the whole community of people in this country, whether they are Hindus, Muslims, Christians, Parsis or Jains."

JANAB M. S. ABDUL MAJID :—" Sir, on a point of order, may I know how the hon. Member can discuss on the general scope of the Bill while he is moving an amendment to particular clause?"

MR. SPEAKER :—" The hon. Member is moving his amendment and while so doing he can make a few observations. So let the hon. Member move his amendment, and let it be seconded. I will hear what hon. Mr. Bhashyam and the Hon. Law Minister have to say in the matter. Then I will give my ruling on the amendment."

SRI S. NAGAPPA :—" My amendment is very simple and if it is accepted, I think, it will go a long way to rectify not only one religion, viz., the Hindu religion, but also other religions and other religious institutions, where also there has been mismanagement. So I formally move the amendment and request that it may be accepted."

MR. SPEAKER :—" I have to inform the hon. Members that I need not everytime ask the mover of the amendment, who is seconding his amendment. It is the duty of those who want to second such amendments to get up spontaneously and say that they second the amendments."

SRI K. BHASHYAM :—" Our trouble is that you are seeing only on that side and not this side. That is our complaint. I have been standing in my seat, but the Chair did not see me."

THE HON. DR. T. S. S. RAJAN :—" The Hon. Speaker should have two faces one on either side, in that case."

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SRI K. BHASHYAM :—“ If it is possible for an eminent Surgeon like Hon. Dr. Rajan to create two faces, let him do that.

“ Sir, I second this amendment for this simple reason. I am not out to reform any religious institution, because I am convinced that the religious institutions can well take care of themselves and the Government should not have anything to do with such institutions. When I want to second the amendment and say a few words on it, it is only with the object of helping the Government in achieving their object. Because, as I argued before you, this question of discriminatory legislation will bring the Bill within the difficulties raised by the Constitution. Therefore, I must point out that in order to save the Bill from being attacked in Courts of Law, it would be better to accept this amendment, so that all institutions without any discrimination as to whether they are Hindu, Muslim or Christian, might be brought within the scope of this legislation. It is only in that spirit I am looking at the amendment and nothing else. Therefore, I would like the amendment to be accepted and I suggest this more in the interests of the Government than in the interests of anybody else.”

THE HON. SRI K. MADHAVA MENON :—“ Sir, in this particular case, the hon. Mr. Bhashyam has said that it is more in the interest of the Government, and as a friend of the Government he would suggest the acceptance of the amendment. I could only wish, ‘ Let us be saved from such advice and friends ’. In this connexion, I would like to draw the attention of the hon. Member to rule 64 of the Assembly Rules. Rule 64 (1) says, ‘ An amendment must be relevant to and within the scope of the subject-matter of the Bill or motion to which it relates.’ Rule 64 (2) says, ‘ An amendment may not be moved which has merely the effect of a negative vote’. If we read the various provisions of this Bill, it would be clearly seen that it relates to Hindu religious institutions, Hindu temples and Hindu maths. If you omit the word Hindu and enlarge the scope of the Bill to Muslims, Christians and others, it makes the whole thing ridiculous. If we are to accept the contention put forward by the mover and seconder of the amendment under question, I am afraid it would make the whole thing nugatory and so the amendment is out of order.”

THE HON. DR. T. S. S. RAJAN :—“ Sir, if the House is willing to withdraw the Bill altogether, it may be possible to accept the amendment and not otherwise. The Bill has been brought forward under the designation and title, ‘ Hindu Religious and Charitable Endowments Bill ’ and it has been considered by this House as such all these years. Just at the moment when we want to make this Bill into an Act, we find that an objection has been raised and a suggestion made that the Bill should include all the religions in the country. Such a suggestion at this stage could not be accepted by any legislator. Therefore I regret that the amendment cannot be accepted and I should also say that it is out of order.”

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THE HON. SRI K. MADHAVA MENON :—“ Sir, we are now in the second reading stage. The first reading is over and as such we are committed to the scope and principles of the Bill. So, when once the scope and principle of the Bill are accepted by the House, the present amendment which is sought to enlarge its scope is therefore hopelessly out of order.”

MR. SPEAKER :—“ Even before the Hon. Minister said that it is out of order, I have also pointed out this. In the ‘ Statement of Objects and Reasons ’, it is stated, ‘ The Government have carefully considered the question and have decided to provincialize the administration of Hindu religious endowments; and the main object of this Bill is to give effect to it.’ Again, the title of the Bill says, ‘ A Bill to provide for the better administration and governance of Hindu Religious and Charitable Institutions and Endowments in the State of Madras’. Further, if we read the Preamble, we find that it says, ‘ Whereas it is expedient to amend and consolidate the law relating to the administration and governance of Hindu Religious and Charitable Institutions and Endowments in the State of Madras . . .’. So, the amendment of the hon. Member seeks to enlarge the scope of the Bill and as such it is against the rules. In these circumstances, I rule the amendment of the hon. Member out of order.”

THE HON. DR. T. S. S. RAJAN :—“ Sir, I move, that—

For clause 1 (3), the following be substituted :—

“ 1 (3)—It shall come into force on such date as the Government may, by notification in the ‘ Fort St. George Gazette ’, appoint.”

This is really the way in which we proceed with in respect of any Act. We have to notify in the *Fort St. George Gazette* as to the date from which this Act will come into force, and that is why I have brought forward this amendment.”

MR. SPEAKER :—“ The motion is—

1 (3)—It shall come into force on such date as the Government may, by notification in the Fort St. George Gazette, appoint.”

SRI K. BHASHYAM :—“ Sir, I feel that the Government are placing themselves in inconsistent positions. For my modest request to wait for a few days, they said that heavens would fall down if the Bill was not passed at once. They must first of all see whether such a Bill could be brought into force at all either now or at a future date. But what they said just now is inconsistent with their previous statements and there is no justice or reason behind their present policy. I hope the Government will give better attention to the amendments that are moved.”

THE HON. DR. T. S. S. RAJAN :—“ Sir, I am surprised at the argument put forward by the hon. Member. What we want is that the consideration of the Bill should not be delayed in the

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discussion stage and at the enactment stage. That is what we were contending for. As regards the amendment, there must be an announcement in the *Fort St. George Gazette* as to the date from which the Act shall come into force and this procedure has been followed regularly in every enactment. So it is in the usual course of legal procedure, the present amendment has been brought forward. So there is nothing inconsistent with regard to what I have said regarding the urgency of introducing this Bill or the reasons that are given for my inability to accept certain amendments."

The amendment was put and carried.

Clause 1 as amended was put and carried.

Clause 2.

MR. SPEAKER :—" The motion is—

' That clause 2 do stand part of the Bill '."

SRI K. BHASHYAM :—" Sir, I move the following two amendments standing in my name :—

' Omit clause, 2 '.

In the alternative

' Substitute the words " three months " for the words " two months " in the proviso.'

The first amendment is for the deletion of clause 2 and the alternative amendment is for giving more time. Now I will speak on both the amendments as I want to save time so that the Government may be able to quicken the passing of the Bill.

" According to this clause, the Government want to take power for issuing a notification to bring all the Jain temples under the provisions of this Bill at a later date. So far as these Jain temples are concerned, they are scattered all over the State and their number is far less than that of the Hindu temples for which we are now legislating here. The question to be considered now is whether the various provisions of the Bill relating to the appointment of area committees, temple committees, executive officers, Assistant Commissioners, Commissioner, etc., which we propose to apply in the case of the Hindu temples should also be applied even in the case of the small number of Jain temples, or only some of these provisions would be made applicable in the case of Jain temples. This is a matter which requires very careful consideration. Therefore if you straightway say that the Government will have power to take over all these Jain temples at a later date and apply some of the provisions, it is likely to embarrass the Government. Secondly, there is always great difficulty when such a notification is to be issued. I mean the difficulties in using the proper words, phrases and construction. So we have to be rather careful in such a matter. The third point which I would like to mention is this. Why should this Government, when they are not themselves prepared to take over the Jain temples straightway, commit the future Government

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for the purpose of legislating in respect of these temples. On these three grounds I think that it is not desirable to have clause 2. This is not a small matter which can be decided without going into the details and without taking into consideration all the relevant facts. Therefore I request the Government to reconsider this matter and see if we should really notify that the provisions of this Bill will be applied to the Jain temples at a later date, especially when we are not legislating in respect of any other religious institutions. In case this clause 2 cannot be deleted, I request that my alternative amendment may be accepted. As will be found in the alternative amendment, I want that the period of two months given in the proviso to this clause should be raised to three months. The reason for my putting three months is this. I think only a few persons representing the Jain temples appeared before the Select Committee to give evidence. As such, the provisions of this Bill might not have been made widely known with the result that many may be in the darkness and may not know anything about the proposed legislation. In these circumstances, I think two months is too short a period and it should at least be raised to three months. These are all my submissions and I do not know what is going to be the fate of these amendments."

SRI L. N. GOPALASWAMI :—" Mr. Speaker, Sir, I second the amendment moved by my hon. Friend Sri Bhashyam for the simple reason that the Government have not yet made up their mind as to whether these temples of Jains should be taken over or not. They have left their policy to hang on the thread. Do the Government think that all the Jain temples are at present properly managed or not? If they think that these temples are properly managed, why should they think of including them even at a later date? If they think that there are impurities in the administration of these temples, why not try to purify them, as you contemplate doing in the case of Hindu temples, by straightway applying the provisions of the proposed Bill? The Government should decide either one way or the other. I do not think that the Government have any sufficient and sound reasons for exempting the Jain temples and institutions now. If the Government think that the Jains form part of the Hindu religion, then there is no necessity to bring in their name separately under clause 2. If you think that the Jains are different from Hindus, even then the introduction of clause 2 is quite wrong. Because when there are so many other religions other than Hindu religion, why should you particularize the Jain institutions alone for being taken over at a later date? You could have mentioned the names of all the other religions also for which you may want to legislate at a future date. You need not have mentioned the name of only the Jains. So I am not able to understand the inclusion of the Jain institutions under this clause looking from any point of view. I only say that the Government have not yet made up their mind as to whether they are going to take only the Hindu temples and institutions or whether they are going to take the cudgels against all other religious institutions. I want a satisfactory explanation from the Government to this point."

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THE HON. SRI K. MADHAVA MENON :—" Mr. Speaker, Sir, I really do not know whether my hon. Friend Sri Gopalaswami seconded both the amendments of hon. Sri Bhashyam or the first amendment alone, because the first amendment of hon. Sri Bhashyam is to delete the clause altogether. In the alternative amendment hon. Mr. Bhashyam wants to substitute the words 'three months' for the words 'two months' in the proviso. Hon. Member Mr. Gopalaswami does not want that anything should hang by the thread. Sir, it is also the Government's intention that nothing should hang by the thread. He wants that the Government should make up their mind as to whether this measure will be made applicable to all the Jain temples in this State; or not. Let me submit, Sir, that it is the very thing about which the Government do not want to make up their minds now. They only want that such of the Jain temples as circumstances warrant, should be brought under this Act. My hon. Friend evidently does not know that almost all the laws applied to the Hindus also apply to the Jains and that for all practical purposes, Jains are treated as Hindus, and that in the Hindu Law, the definition of Hindus covers also the Jains. Explanation II under Article 25 of the Constitution says :

'In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.'

Therefore even the Constitution says that any reference to Hindus should be construed as reference to Jains and Buddhists also. As a matter of fact, in the Madras State there are many Hindu temples which are being managed by Jains and there are many Jain temples under the management of Hindus. In both these temples, both the Hindus and Jains worship without any discrimination. I know for myself that there are certain Hindu temples, the proprietors or the Matadhipathis of which belong to the Jaina community and *vice versa*. They get money for their temples both from the Hindus and Jains. Therefore in this matter, the question whether a temple is a Jain temple or a Hindu temple has first got to be decided and until then, the matter has to hang by the thread, because we do not know whether a particular temple is a Hindu or a Jain temple. It is only when we are satisfied that a particular temple is such as to warrant its being brought under the provisions of this Act, that we take steps to ascertain whether it is a Hindu or a Jain temple, and if it is a Jain temple we publish a notice in the *Fort St. George Gazette* of our intention to notify it under Clause 2 of this Bill. Why have we made the provision for the notice? We do not want to take over the management of Sikh or Buddhist temples, because there are not many such temples in our State. We have to examine and discriminate and say whether this Act should apply to that particular temple, and that is why this clause is kept loosely worded, and not because that we want that the matter should hang by the thread or that we are unable to make up our minds or anything of that sort. So far as the first amendment relating to the deletion of this clause is concerned, the Government oppose it, because that clause is very necessary.

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" About the question of extending the period of notice to three months from two months in the proviso to Clause 2, all I have to say is this. The proviso says :

'Provided that before issuing such a notification, the Government shall publish in the *Fort St. George Gazette*, a notice of their intention to do so, fix a period which shall not be less than two months from the date of publication of notice, for the persons interested in the institutions and endowments concerned to show cause against the issue of the notification, and consider their objections, if any.'

" Therefore, what the proviso says is that a notice of the Government's intention to notify a particular temple will be published in the *Fort St. George Gazette* in order that persons interested in the temple might consult among themselves and raise their objections to the notification, if any. The period prescribed is 'not less than two months'. It may be three months or four months or more. It all depends upon the nature of the temple and the nature of the circumstances. Therefore, what is prescribed is the minimum time and that is, it should not be less than two months. I submit, Sir, that this period is ample enough. It is up to the Government to extend it if they like and if there are reasons for it. My hon. Friend Mr. Bhashyam's amendment to extend it to three months is already implicit in it, because if the Government think that circumstances warrant to extend it to three months, they would certainly do so, but the clause as it stands is quite all right and there is no need to amend it simply for the sake of amendment."

SRI K. BHASHYAM :—" Mr. Speaker, Sir, the explanation given by the Hon. Minister makes his case rather worse than it was before. We know that these Jain temples and Hindu temples are so mixed up that it is impossible sometimes to find out whether one is really a Hindu temple or a Jain temple. The Government must either include the Jain temples in the Bill or leave them out of consideration altogether. I respectfully submit, Sir, that this is a legislation by notification. If they want further investigations in respect of Jain temples, then let them by all means do so; let them take their own time and also let them give these people sufficient notice. But to say, 'I am going to include your temple by notification and I will give only two months for the purpose of hearing your objections, if any', is a thing which I am not able to understand. If there are no abuses in these Jain temples, and if they are administered well, then there is no urgency and there is no justification for bringing all these temples under the purview of this Act. But if there are some abuses in certain temples, you must notify them at once. There can be no intermediate position and therefore it is, I say, that this clause ought to be omitted altogether.

" Now Sir, as regards my alternative amendment, what I wish to say is this. The Government have prescribed a period of two months' notice for hearing objections, etc. The Government are, as we know, always hard-hearted. Perhaps the Hon. Sri Madhava Menon may be a good man and he may give three months' or four months' time, because the wording of the proviso is 'not less than two months'. But his successor may not give such a liberal interpretation and it is left to his sweet will and pleasure either to extend

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or not, the period of notice. I have suggested a period of not less than three months for the purpose of enabling the Jain temple authorities to call for a Conference, to have their confabulations and come to a decision whether they should oppose the Government notification or not, and if so, how they could place their case before them. I submit, Sir, that this two months' time is hardly sufficient. People from all over the State have to come and meet in a conference. This period, I think, is too short and perhaps three months is a little more reasonable. If the Government accept this suggestion and extend this period to three months then they would be doing a just act towards the Jain temples."

MR. SPEAKER :—" I will put the first amendment of hon. Sri Bhashyam. The question is—

'That clause 2 be omitted.'

The amendment was lost.

MR. SPEAKER :—" The alternative amendment is—

'Substitute the words "three months" for the words "two months" in the proviso.'

The amendment was lost.

SRI S. NAGAPPA :—" Mr. Speaker, Sir, I beg to move the amendment standing in my name, namely—

'In clause 2 for the word "Jain" substitute the word "any".'

MR. SPEAKER :—" I want to tell the hon. Member Mr. Nagappa that his amendment is outside the scope of the Bill. I have heard the speech of the Hon. Minister for Law and he has told us that the object with which the Government have put in the word 'Jain' is that there are certain Hindu temples managed by Jains and certain Jain temples managed by Hindus and the intention of the Government is also to bring in Jain temples under the provisions of the Bill, if they are badly managed. It is with that object that the word 'Jain' has been put in this clause. The amendment of hon. Sri Nagappa seeks to defeat the entire object of the Bill by bringing any temple under the Bill.

"Sometime in 1925 a Bill for the protection of bamboo paper was introduced in the Central Assembly. At that time Sir Hari Singh Gour moved a similar amendment as the hon. Sri Nagappa has now moved, namely, to substitute the word 'any paper' for the words 'bamboo paper'. The then President of the Assembly, Mr. V. J. Patel ruled it out of order, because that amendment sought to defeat the very purpose of that legislation. This is only for the information of hon. Sri Nagappa. This amendment, in my opinion, is out of order. If he wants, let him speak on his amendment and we shall hear what he has got to say, but his amendment should be seconded before it could be put to vote."

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SRI S. NAGAPPA :—" Sir, the object of my amendment is this. If the Government are only going to notify Jain temples, what about the Buddhist temples which are also Hindu temples? Are the Government going to exclude them from the purview of this Bill?"

MR. SPEAKER :—" The Hon. Law Minister has already given his reasons why he has used the word 'Jain' and why he had excluded Buddhist temples from the provisions of this Bill."

SRI S. NAGAPPA :—" That is why, Sir, I want to widen the scope of the Bill to bring in Buddhist and other temples under the purview of this Bill."

MR. SPEAKER :—" That is entirely outside the scope of the Bill and I rule it out of order."

Clause 2 was put and carried.

Clause 3.

MR. SPEAKER :—" The motion is—

'That clause 3 do stand part of the Bill?'

SRI K. BHASHYAM :—" Mr. Speaker, Sir, I move—

'That clause 3 be omitted.'

or in the alternative

'Substitute the words "six months" for the word "two months" in the proviso.'

"Sir, clause 3 relates to legislation by notification in respect of all charitable endowments all over the State."

THE HON. SRI K. MADHAVA MENON :—" Sir, this amendment is consequential to the previous amendment to clause 2, which has just been voted down. Clause 2 relates to Jain temples and clause 3 relates to charitable endowments. If clause 2 remains, then clause 3 also must remain. Therefore this amendment automatically goes, Sir."

SRI K. BHASHYAM :—" I submit, Sir, that the Hon. Minister is making a mistake here, although he is always a careful man. This clause says that the Government may, by notification, extend to any Hindu or Jain public charitable endowment all or any of the provisions of this Act and of any rules made thereunder and thereupon the provisions so extended shall apply to such charitable endowments as if it were a specific endowment. While Jain temples are provided for in clause 2, this clause relates to Hindu or Jain charitable endowments which are really different from temples. If the Bill relates to one single matter, then it should have been provided for in clause 2. But here by a separate clause the Government want to notify all Hindu and Jain charitable endowments. If you look at the definition of the term 'charitable endowments', you will find that it is so wide and so comprehensive that it would be impossible to say what is and what is not a charitable endowment. If it is the Government's desire to take up all charitable endowments in the

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State under their control and supervision, then I am afraid they are taking over a large responsibility on themselves for their number would run to several lakhs. If a private person makes a will leaving something for public charity, it will certainly come under charitable endowments. There have been wills and there are wills endowing some property or some money or other for charity by a number of persons during the last 100 years. Are the Government going to take them all and bring them under the provisions of this Act? It would be a colossal task indeed. Therefore I want that this question of charitable endowments must not be taken up by the Government under this Bill at all. They might bring in a separate Bill for them, if they want. As I said, they have taken upon themselves the management of Hindu temples which in itself is more than what they can do.

"I do feel it will be a total failure in the case of management of charitable endowments which run to lakhs in number. Therefore, I submit that so far as charitable endowments are concerned, it will be much better if they are left out at present. One point I wish to mention here is that where the endowments are managed by the families of the founders themselves, where the sons and daughters of the founders are trustees, it gives prestige and dignity to the families. And where difficulties or disputes arise as to the management of such endowments they are settled by the parties themselves. If such endowments are to be brought under Government control I am afraid thousands of officers—commissioners or executive officers—may have to be appointed which is a huge waste of public money. I, therefore, feel that the clause must be omitted. If, however, this cannot be agreed to I press my alternative amendment to the proviso under clause 3 that six months be allowed for the filing of objections. In the case of endowments scattered all over the State it would be very difficult to file objections within two months. This is too insufficient. I think six months will be fair and reasonable and I hope the Government will accept it."

SRI V. RAGHAVAYYA :—"Sir, I second the amendment."

THE HON. SRI K. MADHAVA MENON :—"Sir, I wish to invite the attention of the hon. Member to clause 5 which gives a list of Acts under which charitable endowments are being dealt with now, viz., the Charitable Endowments Act, 1890, and the Charitable and Religious Trusts Act, 1920. We are repealing these Acts along with several other Acts under this clause. If we omit clause 3 and if clause 5 remains then there will be no law for the administration of any kind of endowments. It is only with a view to the better administration of charitable endowments that the Preamble to the Bill itself has been amended as 'A Bill to provide for the better administration and governance of Hindu Religious and Charitable Institutions and Endowments.' Therefore, Sir, this clause must stand."

SRI K. BHASHYAM :—"Sir, I am perhaps repeating myself when I say that it is not fair to rope in all charitable endowments. But the point is this. The reference made by the Hon. the Minister

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for Law to clause 5 is premature. He said that if my amendment was accepted control over charitable endowments would go in view of the provision in clause 5. Of course my hon. Friend is assured of the following in the House and is sure of getting clause 5 passed. But the reference, however, is hardly fair in the present context. I feel that the Charitable Endowments Act of 1890 and the Charitable and Religious Trusts Act, 1920, are sufficient and they exercise sufficient control over charitable endowments. If need be let a separate provision be made for the repealing of the other Acts mentioned in clause 5 and let that clause as it is at present be omitted. Sir, I ask, 'how are the Government going to appoint committees to administer these endowments which number over 20,000.' It is not fair or reasonable to bring them within the purview of this Bill."

THE HON. SRI K. MADHAVA MENON :—"My hon. Friend, Mr. Bhashyam, has given notice of amendments to clause 3, clause 4 and clause 6 and not to clause 5. He wants clause 5 to remain and clause 3 to go!"

THE HON. DR. T. S. S. RAJAN :—"Sir, time is of great essence in dealing with charitable endowments. I have narrated already how charitable endowments come into being and are kept up. It is simply to ensure that the children of the person that founds the endowment enjoy the benefits accruing therefrom that they are made trustees, so that they may escape the clutches of law. So many lakhs of rupees have been used by the so-called trustees for their personal comfort. There is also another reason behind the creation of such endowments. That is, to cheat the creditors and those who have a claim to the properties. We are aware of ever so many cases like this and we want to prevent this sort of cancer from spreading into society. That is why we have included charitable endowments also in the Bill. If objections are raised at this rate, I feel that the whole Bill may as well be dropped."

MR. SPEAKER :—"The question is—
'That clause 3 be omitted'."

The amendment was lost.

MR. SPEAKER :—"The question is—
In the alternative—

'the words "six months" be substituted for the words "two months" in the proviso'."

The amendment was lost.

MR. SPEAKER :—"The motion is—
'That clause 3 do stand part of the Bill.'"

SRI N. M. R. SUBBARAMAN :—"Sir, இந்த மூன்றாவது பிரிவு பிரகாரம் ஓர்ந்து ஐந்து பொது தரம் சொத்துக்களையும் இந்த சட்டத்தின் கீழ் கொண்டு வரலாம் என்றிருக்கிறது. கொண்டு வரவேண்டுமென்று சொல்லவில்லை; கொண்டு வரலாம் என்றுதான் சொல்லியிருக்கிறது.

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ஏனென்றால் அங்கே எல்லா சொத்துக்களும் சரியாக நடக்கவில்லை என்று சொல்ல முடியாது. சில சொத்துக்களின் நிர்வாகம் தவறுதலாக நடந்தாலும் பல சொத்துக்கள் சிறப்பாக நடந்து வருகிறது. அந்த சொத்துக்களை இந்த சட்டத்தின் கீழ் கொண்டு வருவதாக இருந்தால் அவர்களுக்கு அறிக்கை விடுத்து அவர்களுடைய சமாதானத்தைக் கேட்டுத் தான் சட்டத்தின் கீழ் கொண்டு வருவதாக இருக்கிறது. இந்த விஷயத்தில் சர்க்கார் ஜாக்கிரதையாக இருக்கவேண்டும். சொத்துக்களில் பெரும்பான்மையானது தவறுதலாக நடந்த போதிலும் அதிகமான சொத்துக்கள் நல்ல முறையில் நடந்து வருகிறது. அப்படிப்பட்ட சொத்துக்களில் சர்க்கார் பிரவேசிக்காமலிருக்கும்படியாக கேட்டுக் கொள்ளுகிறேன். இந்த விஷயத்தை விளக்க மாக்கினால் அதில் ஒன்றுமில்லை. ஆகையால் அதற்குத் தக்க விதிகள் செய்யும்படி அவசியமிருந்தால் அதைச் செய்து அவைகளை எடுத்துக் கொள்ளாது முறையில் பார்த்துக்கொள்ள வேண்டுமென்று சர்க்காரை நான் கேட்டுக் கொள்கிறேன்."

THE HON. DR. T. S. S. RAJAN :—" We shall certainly take into consideration the points raised by the hon. Member. The provision regarding time-limit is intended only for enabling the Government to consider such claims as have been mentioned by him. We shall certainly see that those charitable endowments that are well managed are given adequate protection under the Act."

Clause 3 was put and carried.

Clause 4.

MR. SPEAKER :—" The motion is—

'That clause 4 do stand part of the Bill.'

SRI K. BHASHYAM :—" Sir, I move—

'That clause 4 be omitted.'

The first reason for making this motion is that the Government have not taken powers nor will they take powers to exempt even those charitable endowments which are doing good work from the operation of this Bill. In fact such an exemption was asked for especially in the case of maths. We know there are good maths and bad maths. I said, 'if a temple or a math is doing good work, do not interfere with it'. But the Government would not take my advice. That being the case, I see no justification in granting an exemption in the case of trusts committed to the charge of the Official Trustee and Administrator-General. Perhaps the Government think that because the person in charge is a Government servant everything must be allright with him. There is one member of that office present here to-day who, if you consult him, will tell you that even in the Official Trustee's office they make mistakes. If trusts in his charge are to be exempted, all other trusts and endowments must also be given similar exemption. Otherwise it is nothing but discrimination which is against the Constitution. If the Government really want to grant exemptions they should do so in all deserving cases and not just confine those things to some properties and not to others. It is in this spirit, Sir, that I have proposed the amendment."

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SRI V. RAGHAVAYYA :—" Mr. Speaker, Sir, I rise to second the amendment. The power to exempt certain temples or institutions sought under this clause is going to land the Government in many a mire. I feel that when the original Act to control temples and other religious institutions was passed in this State the Government of the day were guilty in exempting certain temples on the ground that they were excepted temples merely and solely for purposes of encouraging certain people. I know of a case in my own district. Everybody knows, every official knows, that there is a particular temple in Buchireddipalayam owning a vast expanse of land—yielding annually about a lakh of rupees—which is exempted and excepted. On what grounds this exemption or exceptions has been made, God only knows and perhaps the originators of the move. Simply to perpetuate the selfish and irreligious interests of some X or Y the Government have given their seal of approval to this exemption. If the Official Trustee is made to be in charge of certain properties it only means or it guarantees that he being a representative of the Government will see to the proper administration of the trusts as per the Acts in force. If a temple is in his charge it is because he will take proper care of it and put it in order. When such is the belief of the Government it is all the more necessary that they should exercise direct control over the endowments and trusts placed under him by making this Act apply to them also. Perhaps the Government have a few favourites of theirs in charge of such trusts and feel, 'we have our man there and so we need not touch that property'. If that is the intention of the Government, I am afraid, such loopholes, by-ways and blind alleys in the Bill will land us in ignominy."

SRI S. NAGAPPA :—" Sir, I rise to support the amendment moved by my hon. Friend, Sri Bhashyam. I feel there should be no exemptions at all for the simple reason that if we begin to exempt a certain category of trusts then it will lead to a perennial headache for us. So far as sales tax is concerned, for example, we have seen that the moment an exemption is granted in respect of a particular commodity dealers in other commodities whether they are essential or not begin to agitate for similar exemption in respect of those commodities. Therefore, it would save us a lot of trouble if we give up the provision relating to exemption."

THE HON. SRI K. MADHAVA MENON :—" Mr. Speaker, Sir, the Hon. Sri Bhashyam said that he was opposed to exemption being granted in the case of trusts under the Official Trustee and the Administrator-General because a suggestion that he put forth before the Joint Select Committee that well-managed estates and temples should be exempted from the provisions of the Bill was not accepted. This is not a convincing argument. Then my hon. Friend, Sri Raghavayya had something else—the case of a temple in Buchireddipalayam—working in his mind which has nothing to do with the amendment proposed by hon. Sri Bhashyam but which will be covered by the other provisions contained in the Bill. The Official Trustee or the Administrator-General has nothing to do with

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that temple. So far as this clause goes, there are certain endowments whose administration vests in the Official Trustee under the Official Trustees Act of 1913. Where such institutions come under the Official Trustee under the Official Trustees Act of 1913 or where for various reasons under the law, institutions come under the management of the Administrator-General, for obvious reasons there will be difficulty in applying the provisions of this Bill, because the Official Trustee is a statutory authority under the Official Trustees Act and he will be bound by the High Court so far as discipline and control go, and he is not bound to work under the Commissioner or any other authority. The very idea of this Bill is that the management must come into proper hands. Even under the present Hindu Religious Endowments Act, there are temples belonging to the Travancore Government and to the Cochin Government in the Madras State. The ownership of the temples belongs to the State of Travancore or the State of Cochin while the temples themselves are situated in this State. Since they are not being maintained by any private individual or private trustee but are maintained by the Travancore Government or the Cochin Government, this Government exempted those temples from the provisions of the Hindu Religious Endowments Act. The idea on the whole is that they should all be properly managed. These institutions referred to here are under the Official Trustee who is a Government servant appointed under Act II of 1913, and the Administrator-General is a Government servant working under the High Court. So, there is no purpose in bringing the temples under their management under this Bill. My hon. Friend Sri Nagappa was running riot when he said that a general power to give exemptions will give headache to this Government. There is no general exemption here at all; there are only exemptions in cases where the institutions are under the Official Trustee or the Administrator-General."

SRI V. RAGHAVAYYA :—" May I know, Sir, from the Hon. Minister what is the legal bar for the measure being applied either to the Administrator-General or the Official Trustee. Simply because they are now controlled by other Acts, cannot this measure be made applicable to them? "

THE HON. SRI K. MADHAVA MENON :—" The Official Trustee gets removed only by the Government, but any trustee under this Bill can be removed by the Commissioner or the other authorities. Again, the Official Trustee is the sole trustee under section 7 of the Official Trustees Act, and his accounts have to be audited by a Government auditor under the Official Trustees Act and it cannot be done under this measure. So, Sir, I request my hon. Friend Sri Bhashyam to withdraw his amendment."

SRI K. BHASHYAM :—" I shall explain my idea, Sir, before I withdraw my amendment. A point was made against me that because my suggestion to take power for exempting certain temples and mathe was not accepted in the Select Committee, I now move for the omission of the clause and that my present amendment is

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inconsistent with my views. True, I admit that. It was as a protest against the Government's action that I did that, and I said so at the very beginning. If you want to exempt, exempt everybody, but do not say 'I will confine the exemption to a few people whom I shall choose'. Stick to the logical principle that no exemption should be given to anybody; I am sure that is the principle which the Government want to go upon; and consistent with that principle, my amendment should be accepted. If my amendment is not to be accepted, I know it will be defeated, and in order to make a virtue of my defeat, I shall withdraw it."

The amendment was, by leave, withdrawn.

Clause 4 was put and carried.

Clause 5.

MR. SPEAKER :—" The motion is—

'That clause 5 do stand part of the Bill.' "

SRI L. N. GOPALASWAMI :—" Mr. Speaker, Sir, I move—

'That item (e) of sub-clause (3) of clause 5 be deleted.'

"The simple reason I want to advance is that the very basis of this Bill is that there is mismanagement of temples and of charities, and it should be checked. Now we want to make an enactment by which we preclude the civil courts from entertaining suits of this nature. Already under the common law, where a person feels that a particular temple property or trust has not been properly managed, he can under the Civil Procedure Code, bring in suits for framing schemes for the trust. But simply because the Government are taking possession of the trust and the Government appoint a Commissioner to look after its management and all that, do you mean to say that this right should be taken away? Is it that the Government servants can make no mistakes and that in whatever they do or decide, not even the highest courts in the land should interfere? I submit, Sir, it should not be so. It may be correct to say that this clause already exists in the previous Act; but it does not at all stand to reason that on the basis of the underlying principle of this Bill, viz., that we want to control these institutions more efficiently and properly, you should now try to get round sections 92 and 93 of the Civil Procedure Code which confer the right on any citizen in the country to go to a court of law in order to get matters remedied and set right mistakes made and see that these institutions are put under proper management. I cannot really understand why, if the Government's idea is to prevent maladministration, this provision should be omitted. I do not know if the Hon. Law Minister would allow me to quote authority; but it is certainly a matter for consideration whether Indian Acts can be repealed or particular sections of such Acts can be amended or modified by a provision made in this measure by the State Legislature and whether they can be over-ridden by the provisions of an enactment of this State Legislature—that is a thing which I am not able to understand. I hope, Sir, the Hon. Law Minister will be able to explain that position also."

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SRI K. BHASHYAM :—" Sir, I beg to second this amendment. One reason which the Government gave for the enacting of this measure is that sections 92 and 93 of the Civil Procedure Code were insufficient; under that Act, the beneficiaries under the endowment can go to a court of law, complain of breach of trust and ask for directions for the framing of a scheme of appointing new trustees, etc. If those provisions are inadequate because sufficiently public-spirited men do not come forward for the purpose of taking the matter to the courts either because of their fear of delay or because they are afraid of the lawyers' fees, whatever it may be, and if therefore you have put in here a more expeditious method in this Bill, it will be accepted on all hands—although I say it with some hesitation—that going before the civil courts is a better thing because you will have better hearing given to you and better justice also can be got at the hands of the court, instead of going before a person appointed by the State Government, who may not hold a public court but who will settle the matter sitting in his chambers, perhaps after hearing or not even hearing the parties at all. While for the purpose of argument, I am willing to grant that the remedy under sections 92 and 93 of the Civil Procedure Code may not be adequate, I do not see if there is any reason for abolishing them altogether. Those provisions may well co-exist with the remedy under the Act, that is to say, if a person chooses to take the matter to a court of law if he has the time and the money to do it, let him do so; but where persons are not able to adopt that method, let the Government interfere. I do believe that in matters of adjudication, a civil court is certainly much better and much more satisfactory than a Commissioner who is a servant of Government. Therefore, Sir, while the present provision may stand, sections 92 and 93 of the Civil Procedure Code also may stand, so that any person who wants to complain may have two remedies before him and he may choose either of them for getting the satisfaction which he wants."

SRI V. RAGHAVAYYA :—" Sir, from what I understood from the speech of the Hon. Minister, the object of this Bill is more the efficient conduct and management of the affairs of the temples and maths and to reduce litigation rather than to promote it. I was not a member of the Select Committee and so I cannot say what the object was in putting in this provision; but if the object is to expedite things and put them on a better basis than now, since the present state of affairs gives room for endless litigation, beginning with the lowest court and ending with the Supreme Court, what is wrong in trying to restrict the licence of individual parties who may be putting up a fight for having one namam here or not having it there? I am told, Sir, in Tirupathi, people waste much time and several thousands of rupees, I mean the Acharyapurushas—and if my hon. friend were here, I am sure he would give a lucid history of the case—Acharyapurusha No. 1 saying that he should get the thirtham first and No. 2 gentleman saying that he must get the thirtham first. If these small points are to be the bone of contention in many of the suits, where is it all to end? After all

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is said and done, we know one thing clearly: that all these gentlemen who come forward to manage these temples as trustees are not actuated always with the best of motives; there are several people who want to utilize the temples as pivotal posts for their own selfish advantage. By this legislation, for the first time, the Government want to take the administration of these institutions into their own hands, and if every authority goes wrong and if the Government also go wrong at every step, do you mean to say the courts are going to be in any way better. The Government are the source of all things in respect of every institution. My learned Friend Mr. Bhashyam seems to forget that several friends have been making a lot of fetish of this argument that in matters like this, a Hindu alone should have the right to judge. And if such cases are allowed to be taken to a court of law, how can they allow a European or a Muslim or a Christian District Judge who may be presiding over the Court to interfere and give his judgment on such matters; he will be naturally said to be more incompetent to judge on such things. I therefore, feel, Sir, taking into account the very object of this measure, the structure of it and the main intention underlying it, viz., to expedite things as much as possible and make them more efficient, going to the civil courts will be tantamount to setting up a parallel administration to what is being done by the Government under this Bill and may hinder any step to be taken by the Government in the interests of efficiency. I therefore oppose this amendment and support the main clause."

THE HON. SRI K. MADHAVA MENON :—" Sir, this amendment is a subtle sabotaging of the entire Bill before the House. I shall first answer hon. Sri Gopalaswami's second point, viz., whether the State Legislature has power to legislate on the Civil Procedure Code. The Civil Procedure Code is in the Concurrent List of the Constitution, in Schedule VII. So, we can make amendments to the Civil Procedure Code; only they will have to be reserved for the approval of the President, even as this Bill has to be reserved for his approval for various reasons. Hon. Mr. Raghavayya has already explained the position. Section 93 only relates to the application of powers under section 92. Section 92 is this:

In the case of any alleged breach of any express or constructive trust created for public purposes of a charitable or religious nature, or where the direction of the Court is deemed necessary for the administration of any such trust, the Advocate-General, or two or more persons having an interest in the trust and having obtained the consent in writing of the Advocate-General, may institute a suit, whether contentious or not, in the principal Civil Court of original jurisdiction or in any other Court empowered in that behalf by the local Government within the local limits of whose jurisdiction the whole or any part of the subject-matter of the trust is situate to obtain a decree—

- (a) removing any trustee;
- (b) appointing a new trustee;
- (c) vesting any property in a trustee;
- (d) directing accounts and inquiries;
- (e) declaring what proportion of the trust-property or of the interest therein shall be allocated to any particular object of the trust;
- (f) authorizing the whole or any part of the trust-property to be let, sold, mortgaged, or exchanged;

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have provided that all those that are provided under section 92 of the Civil Procedure Code shall hereafter be decided by the Commissioner, a person who, from the very nature of the case may not always be a lawyer who can go into the question properly and adjudicate upon it. Evidently the Government want that some rough and ready justice should be rendered in matters like this instead of putting people interested to the necessity of spending out of their own pocket and that is why several of the institutions escaped from the purview of the courts by reason of the fact that private persons however much they may be interested, will be discouraged from going to court to get justice done for the sake of the good management of an institution. It seems to be that for several reasons, it is necessary that people should have freer resort to any tribunal which can do justice in these matters. The natural thing that the Government can do in these matters is to see that the Commissioner who has not only to exercise powers on the lines of section 92 of the Code of Civil Procedure but also under the other provisions of the Bill requiring adjudication by him, should be a highly competent person, not only in respect of administrative matters but also in matters of dispensation of justice. He must be at once a good lawyer as well as a great administrator and I hope the Government will manage to do this because it is not as if we in this state have a dearth of such big men, great men and experienced men to discharge this sort of work. Of course, we can trust the Government doing its best in the matter of securing the services of a good officer for appointment as Commissioner but whether they would continue to do so for all time is a matter that must also be left to the discretion of the Government. The Government have thought it fit that they would get these functions discharged through a Commissioner appointed by them. But there is one danger that may be felt by the public and in several sections of the House and that is that the Commissioner may be swayed by political considerations or considerations of the party in power whoever it may be for it is not as if the Congress will remain for all time in power and a day may come when they will be displaced by other parties in this country. Therefore, it is not as if it is being done for the purpose of securing any party advantage. Another point is who are judges now; they are the people that owe their appointment ultimately to the Government; the District Munsif is selected by the Government through the Service Commission and whether they are competent to do so or not is another matter and I need not dilate upon it. If the party in power can influence the Commissioner, they can as well influence the judges also. If we get a man of great attainments, of independence of judgment and independent of Government control or influence, we should be satisfied and we need not distrust the Government in these matters. Therefore, we wholeheartedly support the clause as it stands."

SRI K. BHASHYAM:—"Mr. Speaker, Sir, I do not wish to say anything than to point out to you, Sir, that according to the provisions of the Bill even a scheme approved by the courts

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and trustee whose appointment has been upheld in the Privy Council, can be set aside by the Commissioner. From that, is it not clear, Sir, that we do not render to the courts the dignity that is due to them. Anyhow, it is not there and that is the scheme of the Act; and whether we accept it or not, it does not matter and it does not seem as if they realize that it is not a correct stand.

"The second point I wish to place before the Hon. Law Minister is what happens after the repeal of section 92 and before the date of notification. If anybody wants to file a suit under section 92 and circumstances warrant it, what is he to do? From to-day up to the date of the issue of the notification what remedy has a person who wants to file a suit with the intention of seeing that a particular trust, say a Jain temple, is properly administered. Therefore, Sir, unless the words 'sections 92 and 93 of the Code of Civil Procedure, 1908' are there, there will be an interregnum. Take a concrete case. As soon as this measure is passed, sections 92 and 93 of the Code of Civil Procedure will cease to apply to religious institutions. Suppose there is a Jain. He wants to see that certain Jain temples are made to function properly. Now, he cannot move in the matter under sections 92 and 93 of the Code of Civil Procedure. Nor can he approach the Commissioner in this Bill, as such temples have not been brought under the purview of this measure. So he is left without any remedy. Therefore I would like this hiatus to be filled by a suitable amendment."

THE HON. SRI K. MADHAVA MENON:—"Sir, my hon. Friend Sri Bhashyam expects that the enactment would come into force immediately and the notification would be issued subsequently, and thus there will be an interregnum between the two dates. May I point out to him that it is with this idea, that we have amended clause 1 (3) and said that 'it shall come into force on such date as the Government may, by notification in the *Fort St. George Gazette*, appoint.' If necessary we shall see that the Act comes to force and the notification is issued simultaneously, so that there may not be an interregnum. This will ensure that when the clause 5 comes to force there is no interregnum."

SRI K. BHASHYAM:—"Sir, this is a mere point of law. There will be a notification in the first instance in respect of Hindu temples and then only to the Jain endowments. During this interregnum period, that is to say, between the time when Hindu temples are taken over and the Jain endowments are brought under this measure, there is no remedy open to a Jain to set right the mismanagement of the endowments; for sections 92 and 93 cannot apply, as they are repealed from the date of the coming into force of this Act, and nor can he approach the Commissioner under this Act, as they have not yet been brought under this Act."

THE HON. SRI K. MADHAVA MENON:—"Sir, may I point out to hon. Sri Bhashyam that clause 2 begins to operate only from the date which the Government fix by notification in the

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(g) settling a scheme; or
(h) granting such further or other relief as the nature of the case may require.

"Whatever is mentioned in section 92 of the Code of Civil Procedure has been completely carried out in this Bill. If anybody wants to sabotage action under this section, he has only to take action under section 92 of the Civil Procedure Code. Apart from that, it is there in the original Act and identical provisions have been brought in here. Therefore, Sir, you cannot have both; only one of them must remain for the reasons I have explained."

SRI L. N. GOPALASWAMI:—"Mr. Speaker, Sir, I am not at all convinced by the arguments of the learned Law Minister though I will yield to him so far as legislation by the State Legislature with reference to the provisions of the Code of Civil Procedure is concerned. To say that we have ourselves usurped all those functions and we are the only masters and no court shall interfere and the interference by the courts will be interference with the Government is a thing which I am unable to understand. I shall take the question of the appointment of trustees; they may be appointed by anybody whatsoever, even by the Chief Minister of the State. But he has to perform certain functions and discharge certain duties and there are the worshippers in that particular religious institution who have a right to see that he does his duties properly and where they feel that he is not performing his duties properly, it is just that the civil courts should step in. I cannot understand the line of argument of the Hon. Minister which amounts to this. 'We have framed the constitution and everything has been done in respect of the good management of the State; the fundamental rights have been guaranteed to the people who have been assured of their rights.' Why then should the courts be brought in to interfere with them. That is arguing in a vicious circle. Section 92 of the Civil Procedure Code is a safeguard to ensure that the trustees do not get puffed up with their powers but they should feel that however powerful they may be they have got a duty to perform towards the worshippers and they cannot transgress the limits for which the trusts and endowments have been made."

"I have a word to say about the observations of my hon. Friend Sri Raghavayya wherein he referred to courts being presided over by persons belonging to other communities than Hindus. Does he for a moment think that this is a Hindu Government; if he says so, I have no objection to his remarks. If they can appoint trustees, remove them, frame schemes and modify them, why should we fight shy of having judges who have been appointed by the Government themselves for carrying on judicial functions matters? I beg to submit, Mr. Speaker, that I am not at all convinced by the arguments of the Hon. the Law Minister."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker. I am afraid I can only supply argument but I cannot supply convictions. I read to the House the provisions of section 92 of the Code of Civil Procedure . . ."

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SRI K. BHASHYAM:—"On a point of order, Mr. Speaker. The Hon. Minister is not in charge of the Bill and he is not replying on behalf of the Government. He replied and he is speaking again after my hon. Friend the mover of the amendment has spoken. I do not mind indulgence being shown to him but I hope, Sir, that the same indulgence will be shown to those who want to speak twice over."

MR. SPEAKER:—"Any Minister can speak and reply on behalf of any other member of the Government."

SRI K. BHASHYAM:—"You may interpret very liberally, Sir, in favour of the Government but I appeal to you, Sir, to do the same thing for non-Government members also."

THE HON. SRI K. MADHAVA MENON:—"I read out to the House, section 92 of the Code of Civil Procedure to show that identical provisions have been embodied in the Bill. There is also another clause in the Bill to the effect that the Commissioner notwithstanding any law or decree of the court, can remove any trustee. That can be done even if he is appointed by the court. Action can be taken under section 92, a trustee may be appointed and he is likely to be removed and what is the purpose gained by that?"

SRI V. RAGHAVAYYA:—"On a point of personal explanation. As a lawyer, Sir, I do not like to be misinterpreted. I did not want to suggest that the courts should not be presided over by any one other than Hindus; that is far from me. Some of the Members suggested that the matter should be left to Hindus only to manage. But my point was why, when we submit ourselves to courts which are presided not only by Hindus but also others and are ready to abide by their orders, we should say such a thing as that."

MR. SPEAKER:—"The question is—

'That item (e) of sub-clause (3) of clause 5 be deleted.'

The amendment was lost.

SRI K. VARADACHARI:—"Mr. Speaker, Sir, clause 5 is really one on which there must be a lot of differences of opinion as a very valuable right has been taken away which enabled people interested to resort to courts, when they find that a trustee is mismanaging the properties of the temple or religious institution, or the accounts are not being properly maintained. Circumstances have so changed that a regular scheme has to be framed for the guidance of the trustees in charge of the institutions. But it has to be borne in mind that section 92 of the Civil Procedure Code takes care to see that some questions which could be plausibly brought under that section are not permitted as is the case when a person wants to recover anything from the trustee; he cannot do so. There are certain valuable things left out of the purview of the section and only limited powers to grant relief under that section are available to the court under section 92 of the Civil Procedure Code. We

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have provided that all those that are provided under section 92 of the Civil Procedure Code shall hereafter be decided by the Commissioner, a person who, from the very nature of the case may not always be a lawyer who can go into the question properly and adjudicate upon it. Evidently the Government want that some rough and ready justice should be rendered in matters like this instead of putting people interested to the necessity of spending out of their own pocket and that is why several of the institutions escaped from the purview of the courts by reason of the fact that private persons however much they may be interested, will be discouraged from going to court to get justice done for the sake of the good management of an institution. It seems to be that for several reasons, it is necessary that people should have freer resort to any tribunal which can do justice in these matters. The natural thing that the Government can do in these matters is to see that the Commissioner who has not only to exercise powers on the lines of section 92 of the Code of Civil Procedure but also under the other provisions of the Bill requiring adjudication by him, should be a highly competent person, not only in respect of administrative matters but also in matters of dispensation of justice. He must be at once a good lawyer as well as a great administrator and I hope the Government will manage to do this because it is not as if we in this state have a dearth of such big men, great men and experienced men to discharge this sort of work. Of course, we can trust the Government doing its best in the matter of securing the services of a good officer for appointment as Commissioner but whether they would continue to do so for all time is a matter that must also be left to the discretion of the Government. The Government have thought it fit that they would get these functions discharged through a Commissioner appointed by them. But there is one danger that may be felt by the public and in several sections of the House and that is that the Commissioner may be swayed by political considerations or considerations of the party in power whoever it may be for it is not as if the Congress will remain for all time in power and a day may come when they will be displaced by other parties in this country. Therefore, it is not as if it is being done for the purpose of securing any party advantage. Another point is who are judges now; they are the people that owe their appointment ultimately to the Government; the District Munsif is selected by the Government through the Service Commission and whether they are competent to do so or not is another matter and I need not dilate upon it. If the party in power can influence the Commissioner, they can as well influence the judges also. If we get a man of great attainments, of independence of judgment and independent of Government control or influence, we should be satisfied and we need not distrust the Government in these matters. Therefore, I wholeheartedly support the clause as it stands."

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and trustee whose appointment has been upheld in the Privy Council, can be set aside by the Commissioner. From that, is it not clear, Sir, that we do not render to the courts the dignity that is due to them. Anyhow, it is not there and that is the scheme of the Act; and whether we accept it or not, it does not matter and it does not seem as if they realize that it is not a correct stand.

"The second point I wish to place before the Hon. Law Minister is what happens after the repeal of section 92 and before the date of notification. If anybody wants to file a suit under section 92 and circumstances warrant it, what is he to do? From to-day up to the date of the issue of the notification what remedy has a person who wants to file a suit with the intention of seeing that a particular trust, say a Jain temple, is properly administered. Therefore, Sir, unless the words 'sections 92 and 93 of the Code of Civil Procedure, 1908' are there, there will be an interregnum. Take a concrete case. As soon as this measure is passed, sections 92 and 93 of the Code of Civil Procedure will cease to apply to religious institutions. Suppose there is a Jain. He wants to see that certain Jain temples are made to function properly. Now, he cannot move in the matter under sections 92 and 93 of the Code of Civil Procedure. Nor can he approach the Commissioner in this Bill, as such temples have not been brought under the purview of this measure. So he is left without any remedy. Therefore I would like this hiatus to be filled by a suitable amendment."

THE HON. SRI K. MADHAVA MENON:—"Sir, my hon. Friend Sri Bhashyam expects that the enactment would come into force immediately and the notification would be issued subsequently, and thus there will be an interregnum between the two dates. May I point out to him that it is with this idea, that we have amended clause 1 (3) and said that 'it shall come into force on such date as the Government may, by notification in the *Fort St. George Gazette*, appoint.' If necessary we shall see that the Act comes to force and the notification is issued simultaneously, so that there may not be an interregnum. This will ensure that when the clause 5 comes to force there is no interregnum."

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THE HON. SRI K. MADHAVA MENON:—"Sir, may I point out to hon. Sri Bhashyam that clause 2 begins to operate only from the date which the Government fix by notification in the

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Fort St. George Gazette. So until then, these Jain endowments are not governed by this enactment; and so, sections 92 and 93 of the Code of Civil Procedure will continue to apply to them."

MR. SPEAKER :—" The question is—
' Clause 5 do stand part of the Bill.' "

The motion was carried.

Clause 6.

MR. SPEAKER :—" The motion is—
' That clause 6 do stand part of the Bill.' "

" Before the hon. Member Sri Bhashyam moves his amendment, I wish to point out to him that I have certain doubts regarding his first two amendments, namely, to omit the words ' or the Jain ' and ' or any section thereof ' in sub-clause (4). He can only move for the deletion of the words ' and includes the institution concerned '."

* SRI K. BHASHYAM :—" Yes, because I am defeated in my amendment to clause 2, so, my motion now to delete the words ' or the Jain ' and ' or any section thereof ' are out of order."

MR. SPEAKER :—" Yes, I rule them out of order and so, the hon. Member will move only his last amendment, namely, the omission of the words ' and includes the institution concerned '."

SRI K. BHASHYAM :—" Sir, I beg to move—

' That in sub-clause (4) omit the words " and includes the institution concerned '."

Sir, the profession of Government is that they are not going to deal with the internal management of religious and charitable institutions. They are going to exercise only supervisory control. All the clauses in the Bill proceed on the basis that the Government or the Commissioner to be appointed by the Government will have only control over these endowments. But the definition clause here, now under consideration, seeks to give not only control of the property of the endowment but also over the very institution in the sense that schools and colleges, rest houses, houses for feeding the poor, or any buildings like these, will be practically taken over by the Government under this Bill. This is interfering with the internal management of these institutions. If the idea of Government is to take over the whole control over them, let them say so; but their profession is not to interfere with the internal management. But this amendment seeks to give them power over the rites and ceremonies connected with the endowments. So unless my amendment is accepted it will lead to a lot of difficulties in the practical working of the enactment, which I mentioned in the earlier part of the discussion of this measure, namely, interfering with the provisions of the Constitution Act.

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" I shall illustrate my point with an example. Supposing there is a charity established by a private founder for the purpose of a Mantakapati. The Mantakapati is for taking a particular deity on an elephant, Yanavahanam, on a particular day. This Mantakapati is endowed with property. Now, when Government take over the management of that property, under this section, they may say that in conducting this Mantakapati, that only five persons shall be needed to take the *vahanam* in procession; they may also say that no *vanavedikai* is necessary. These are details of management. These may be left to the trustees to do as they like. After all it is money that is to be utilized, and so long as they are able to adjust the accounts, they may be left a free hand; the Government need not interfere with them. So what is sought to be given by the words now in question is power to interfere with the internal management. Therefore I move those words may be deleted."

SRI V. RAGHAVAYYA :—" Sir, in seconding the amendment of hon. Mr. Bhashyam, I wish to state that the object of his amendment may be achieved by having the words ' and includes the supervision of the institution concerned ' instead of the words ' and includes the institution concerned '. This will bring it in accord with the profession of Government as stated in the Preamble to this measure. But from the fact that they seek power to take over choultries, patasalas, housing for feeding the poor, it looks that the Government are trying to grab at these institutions and want to control everything. I do not know whether they are not offending the provisions of the Indian Trusts Act. I wish they do not go into the details of the administration of these religious institutions, but confine themselves to their supervision. For, with the limited machinery at their disposal it will be taking too much burden, it will be taking unnecessary burden and avoidable burden also. Therefore I suggest that the Government be content with the supervision of the institutions concerned."

THE HON. SRI K. MADHAVA MENON :—" Sir, I do not know exactly what purpose will be served by the word used by my hon. Friend, Sri Raghavayya, when he said that Government are grabbing at these institutions."

SRI V. RAGHAVAYYA :—" If you do not like that word, I shall say, ' embracing '." (Laughter.)

THE HON. SRI K. MADHAVA MENON :—" ' Grabbing ' or ' embracing ' there is no use served by words like that. The danger which hon. Mr. Bhashyam contemplates is that it might include maths. Let us not have in our mind anything about maths here. This sub-clause defines what a charitable endowment is, and it deals with it only. Suppose there is an endowment for the benefit of an institution. Should that not also come under the provisions of this Act. So, let us not be misguided that it will include the institution itself. Maths are given a separate chapter. Chapter V deals with

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them separately. So let the House be under no misapprehension that the words 'includes the institution concerned' will cover maths."

SRI K. BHASHYAM:—"Sir, the Hon. Law Minister is taking a very optimistic view in the interpretation of this clause. I will give an illustration. Suppose there is a patasala endowed for the purpose of imparting religious instruction. I do not say 'Veda patasala' because it may be said that Brahmans want it."

THE HON. SRI K. MADHAVA MENON:—"Why do you think that Veda patasalas are not necessary for Non-Brahmans?"

SRI K. BHASHYAM:—"When I say anything, you attribute some motive to me. I have heard such remarks from various members. That is why I want to guard myself from being misunderstood."

"The Government will take over the endowment. The Commissioner may say: 'There is only one student for a particular branch of study and it is not worth while continuing the section for the sake of one student. Let it be closed down' as was said in the case of some other institution. Or he may say for instance that Saiva Siddhanta or a particular portion of it need not be taught. While the Government can take over the secular administration, take over the endowments and get more income let them leave the actual management of the institution according to the founder's will to the people of the religious denomination to which the institution belongs."

THE HON. SRI K. MADHAVA MENON:—"Sir, hon. Sri Bhashyam cited the instance of patasalas. There are similar institutions for which properties have been endowed. Suppose the trustees are not utilizing the income from the endowment on the purposes of the endowment. Should not this Act apply to such cases? If we omit the words 'and includes the institution concerned' such difficulties will arise."

MR. SPEAKER:—"The question is—

'That in clause 6, sub-clause (4), omit the words "and includes the institution concerned".'

The amendment was lost.

SRI K. BHASHYAM:—"Sir, I move—

That in clause 6, sub-clause (6) (iii), for the words "the Court" substitute the words "the Subordinate Judge's Court" and at the end of the sub-clause, add the words "or if there is no such Court, the District Court having such jurisdiction".'

According to sub-clause (6), 'Court' means—

(i) in relation to a math or temple situated in the Presidency—the Madras City Civil Court;

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(ii) in relation to a math or temple situated elsewhere, the Subordinate Judge's Court having jurisdiction over the area in which the math or temple is situated, or if there is no such Court, the District Court having such jurisdiction;

(iii) in relation to a specific endowment attached to a math or temple, the Court which would have jurisdiction as aforesaid in relation to the math or temple.

"The Court which would have jurisdiction as aforesaid' does not bring out the meaning clearly. The substitution of the words 'the Subordinate Judge's Court' for the words 'the Court' brings out the meaning clearly. If this amendment is accepted, the other amendment is necessary. Where there is no Subordinate Judge's Court, the District Court should have jurisdiction. The amendment only clarifies the position and does nothing more."

SRI V. RAGHAVAYYA:—"I second this very just and very formal amendment."

THE HON. SRI K. MADHAVA MENON:—"Sir, there is no justice or formality in this matter."

"I am afraid the hon. Member Mr. Bhashyam has moved the amendment under a misapprehension. Sub-clause (6) (iii) reads:

'Court' means in relation to a specific endowment attached to a math or temple the Court which would have jurisdiction as aforesaid.

"As aforesaid' means as said in item (ii), that is to say, the Subordinate Judge's Court having jurisdiction over the area and if there is no such Court, the District Court having such jurisdiction. The clause as it is worded is quite clear."

SRI K. BHASHYAM:—"I said that my amendment was intended only for the purpose of clarification. It may be said that the subtlety of a lawyer is illimitable. The clause as worded gives room for arguing what 'as aforesaid' means. We can repeat the words of item (ii) in item (iii) and avoid all scope for doubt and argument. That is the object my amendment seeks to achieve."

MR. SPEAKER:—"The question is—

'That in clause 6, sub-clause (6) (iii), for the words "the Court" substitute the words "the Subordinate Judge's Court" and at the end of the sub-clause, add the words "or if there is no such Court, the District Court having such jurisdiction".'

The amendment was lost.

SRI K. BHASHYAM:—"Sir, I move—

'That in clause 6, sub-clause (9), omit the word "specifically".'

This is a very important amendment and I want to draw the attention of hon. Members to it. Let not the Members be carried away simply because the Government say that the clause as worded is quite correct. I will take the hon. Sri Kandaswami Pillai for

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the purpose of illustration. Suppose his great grandfather had left some property for carrying on a charity with some oral instructions but not reduced them to writing. If the charity is being carried on from generation to generation by his descendants, why should not Sri Kandaswami Pillai continue to be a hereditary trustee? Such charities might have been carried on for centuries. The inclusion of the word 'specifically' looks as if some deed or document is insisted upon. Such insistence will lead to difficulty and a lot of heart-burning. Therefore even endowments which have been in vogue by custom or tradition may also be recognized. My amendment only clarifies the position which perhaps the Government also have in view."

SRI V. RAGHAVAYYA :—" Sir, I second this amendment, particularly when all the doubts are cleared by the last clause 'so long as such scheme of succession is in force'. May I ask what the Hon. Minister for Law has in view in using the word 'specifically' at this part of the clause, whereas he has not used that word before in the same clause? The clause occurring at the end, which I quoted, is all-embracing and makes the meaning of all the clauses explicit. Therefore I see no necessity for the word 'specifically'."

THE HON. SRI K. MADHAVA MENON :—" The contingency referred to by hon. Sri Bhashyam and all other contingencies have been anticipated. The provision reads :

'hereditary trustee' means the trustee of a religious institution succession to whose office devolves by hereditary right.

If the succession goes by right from father to son, the son will be trustee. We have provided for that contingency.

"or is regulated by usage"

By usage, the trusteeship may devolve upon some elder member of the family. In certain Malabar families, by usage the succession falls upon the eldest female member. We have provided for that contingency also.

"If a person who has endowed specifies in a document that a particular person shall be the trustee of his endowment, why should we not provide for that contingency also?"

SRI K. BHASHYAM :—" I have nothing to say."

MR. SPEAKER :—" The question is—

'That in clause 6, sub-clause (9), omit the word "specifically".'

The amendment was lost.

SRI V. RAGHAVAYYA :—" Sir, I move—

'That in clause 6, sub-clause (10), line 3, for the word "duty" substitute the word "function".'

This is a very literary amendment. 'Duty' is what is imposed or enjoined by an Act. Imparting of religious instruction is not

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a 'duty' laid down either by-law or by any written code. Several institutions are headed by adipathis, matadhipatis or others. The clause refers to the functions exercised by them till now. The word 'function' is more readable and more sensible. Therefore I move the amendment."

SRI S. NAGAPPA :—" I second the amendment."

THE HON. SRI K. MADHAVA MENON :—" Sir, I wish the hon. Sri K. Bhashyam had seconded the amendment and given us the difference of meaning between 'function' and 'duty'. 'Function' is more wide if I understand it properly."

SRI K. BHASHYAM :—" Sir, since the amendment is not going to be accepted by the House, I did not think it worthwhile to speak on it. Duty means a compellable obligation. A person must be under an obligation to do so. If a 'sishya' goes to a person and says 'please instruct me, he cannot refuse that instruction'. But if it is a case of function, it is not of an obligatory nature. He may or may not do so. If a person refuses to give instruction, then it means it is not obligatory on him. There is difference between duty and function. Suppose, I want spiritual instruction, and I go to a certain person whose function it is to give me instruction. He is my Acharya no doubt. But it is not his duty to give me instruction. Therefore there is difference between function and duty."

THE HON. SRI K. MADHAVA MENON :—" Function is much wider, and it is not our intention to make the scope wider."

SRI V. RAGHAVAYYA :—" Sir, the very intelligent Law Minister should have grasped the importance of this word. Further, when we use this word to great people who are religious heads and saints, we should not employ the ordinary work-a-day language of the Secretariat. We must rise above this, and use more dignified language. That is why I suggested the word 'function'."

MR. SPEAKER :—" The question is—

'That in clause 6, sub-clause 10, line 3, for the word "duty" substitute the word "function".'

The amendment was lost.

MR. SPEAKER :—" The House will now rise and meet at 11 a.m. to-morrow."

The House then adjourned.

**THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS BILL, 1949—cont.**

THE MADRAS LEGISLATIVE ASSEMBLY.

Monday, the 13th November 1950.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVA-SHANMUGAM PILLAI) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BILL,
1949—cont.

THE HON. DR. T. S. S. RAJAN :—“ Sir, I wish to proceed with the Bill from where it was left at the end of the last session. Since some time had elapsed in the interval, I thought I could just draw the attention of the hon. Members to what has been done so far and incidentally explain the cause for the delay. I would like to remind hon. Members that this Bill was drafted long before the Constitution was framed and it has been so long on the anvil even before the Constitution was framed and came into effect. Therefore, it became necessary to reconsider many of the sections of the Bill in view of the great change that has come over the country and as one who has got to move the Bill, I have to consider points of law connected with the question. We were therefore very busy with the matter and took necessary advice in the matter both from the Government of India and our legal advisers with regard to the various matters concerned. Necessarily some alterations have got to be made. In fact, we have omitted two clauses and removed a chapter itself from the Bill and notices relating to these have already been given. These had to be made simply to legalise the procedure in regard to the constitutional difficulties that may be brought forward. We wanted to avoid such difficulties and get through the work without any legal obstacles. The consideration of these things took some time and that was really the cause of the delay in proceeding with the Bill. Having taken the time, it would be wrong on our part not to proceed with the Bill as early as possible. That is why the Bill has been given the first place in the agenda. There are smaller Bills on the agenda which may not take much time to be disposed of. Therefore, they may be passed first and the consideration of this Bill may be reserved to the last stage so that we may have the necessary time to go on with the Bill continuously. I may also inform the House that the Hon. Leader of the House has assured me to give the necessary time for the Bill to go through

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and pass this Bill during this session, so that I can take the Bill through its further stages either here or in the other House without causing any delay.”

MR. SPEAKER :—“ The hon. Member, Mr. Bhashyam, has given notice of a motion under Rule 67 of the Assembly Rules that the business of the House relating to the continuance of the discussion of the Hindu Religious Endowments Bill, be adjourned.”

* SRI K. BHASHYAM :—“ Sir, I move—

‘ That under Rule 67 of the Assembly Rules the business relating to the consideration of the Hindu Religious Endowments Bill be adjourned.’

“ I do so with a great responsibility and it is not with a view to obstruct the passage of the Bill or with a view to delay in the process of going through it, but I feel that some consideration should be given to Members. One reason is that the Government have taken a long time for putting in their own amendments, which are made necessary by the fact that the Constitution Act has been passed. I find there are nearly as many as 54 amendments which have been given notice of by the Government and all these amendments have been served upon us as late as Saturday night and as such only one day has been left to hon. Members either to suggest their amendments or to understand the implications of the amendments proposed by the Government. Therefore, Sir, since the time at our disposal is short and the matters raised in the various amendments are fairly important, I think it is necessary that some more time must be given to us for considering the matter. That is one thing which I would like to point out and it is not that I want to delay this Bill. I want also to understand what the Government want to do and what the Government mean by their proposed amendments. In fact, Sir, I may tell you that I spent nearly three to four hours studying the amendments and I am not yet quite clear as to what is the principle on which these amendments have been made. I am now moving my motion in the hope that the Government will be able to place before this House in reply to the motion the underlying principles in respect of the various amendments which they seek to put in. True, Sir, there is only one clause I think it is clause 94-A—which says that nothing in this Act shall be deemed to confer any power or impose any duty in contravention of the rights conferred on any religious denomination, etc., by Article 26 of the Constitution. Such a general provision is really without any necessity for it. After all, if it is contrary to Article 26 of the Constitution, it is contrary to it and it is not necessary to express it in so many words. Probably such a clause is put in to save the face of the Government in a court of law. That is a mere dream of the Government itself. Along with this, while going through the clauses of the Bill the Government have also suggested various amendments omitting, for instance clauses 43, 45, etc. What do these things lead to, I am not able to understand. I may point out that when the matter was before the Select Committee most of these points were raised by us, but the Government would not listen to

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us then. Perhaps wisdom has now dawned upon them. But I would like to state that it would have been better if the wisdom had dawned on them earlier.

"Therefore, Sir, in view of all these, I am not able to come to any definite conclusions—but only tentative conclusions—within the short time at my disposal. Then again, I think I have to give a number of amendments to the amendments proposed by the Government, but where is the chance for me to do so. Therefore, it is hardly fair to ask hon. Members to consider the Bill at such short notice. For instance, I would like to point out, that the Government want to amend clause 3, which has already been passed. I would like to ask the hon. Minister in charge of the Bill or somebody on behalf of the Government to give us an idea of what is it they have done and on what principle they want to amend the clause again, as also other clauses in the Bill. I would also like to have an opportunity to be given to us for the purpose of moving amendments. Now, there is no chance for us. As I told you, the amendments proposed by the Government come to about 54 covering 11 pages of matter concerning the various clauses of the Bill. For these reasons, Sir, I would like the Government to consider the interests of Members—of course many persons may or may not take interest and they may have perfect confidence in the wisdom of the Government and take what they have done is correct—we also have confidence in the Government, but would like to know where they are leading us to and that is what I am really interested in.

"Therefore, even though I have not made the motion earlier, I thought it necessary to move the motion. Of course, it might have been brought to your notice earlier, but yesterday being Sunday, I could not do it. That was the reason."

* SRI T. VISWANATHAM :—"Sir, in seconding the motion of my hon. Friend, Mr. Bhashyam, I wish to add a few remarks of my own. I hope most of the Members of the House will agree with me that we have had no time to go through the long list of amendments circulated to hon. Members, to some on Saturday, to some on Sunday, that is yesterday and to the rest, it appears the amendments were circulated only this morning. Of course, I am not finding fault with the office, but I am only submitting to you that there has been practically no time for Members to examine the amendments proposed by the Government. I need not say that these amendments are coming from the Government after the report of the Select Committee and after consideration actually of some of the clauses. In fact these objections to the constitution were raised at the discussion also and they were not prior to the framing of the Constitution, but they were raised after the promulgation of the new Constitution, but the Government took the risk of introducing the report of the Select Committee and going through some clauses even after the Constitution came into force. That is why several hon. Members raised several objections. It is good now that the Government are willing to abide by the Constitution. In fact, in one of the amendments proposed I find it is declared that the Government are not going to violate the Constitution, but what I submit is

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a declaration that any of the provisions of the Bill will not be deemed to confer powers in violation of the Constitution, is not enough. But, what we have to see is that the wording of the Bill or the amendment is actually in conformity with the Constitution or not. I wonder whether the Hon. Minister has gone through the existing clauses and the wording of the various amendments in the light of the declaration that they are not violating the Constitution.

"In spite of the declaration, there are several provisions of the Bill which are in my opinion against the Constitution. I submit, Sir, that it is only fair to the Members of the House to allow some time. In fact, if you interpret the rules a little more favourably, I would even suggest that the Bill may be republished with the amendments proposed by the Government. There is nothing wrong in it; if we are intent upon doing a good thing, let us do it in a good way. If that is so, Sir, I would even move if you permit me, a separate motion that the Bill may be republished incorporating all the amendments which the Government have proposed. The thing is the Government must make up their mind in regard to the Bill before us. After the Select Committee, they have come forward with 54 amendments, some of which are very long and I am afraid they have not yet made up their mind in regard to several matters and in my opinion the implications of several things have not been properly understood. I submit, therefore, Sir, that some time is wanted and the consideration of the Bill may be adjourned to another day which will be convenient."

THE HON. SRI K. MADHAVA MENON :—"Mr. Speaker, Sir, it may be said plausibly that there are a large number of amendments and the amendments themselves reached hon. Members yesterday or the day before yesterday and thus, therefore, there was very little time. True, Sir, the amendments have been given notice of after the first reading is over and after the Select Committee has reported upon the Bill. It was done not merely to bring certain clauses in consonance with the provisions of the Constitution but various suggestions were made during the first reading of the Bill that some of the clauses were unnecessary or some of the clauses should be amended in such a way that they should not offend against natural justice. For instance there were clauses under which in respect of religious institutions, charitable institutions or maths, the Commissioner can pass orders taking over their management without assigning any reasons. After hearing the discussions in this House, the Government have come forward with certain amendments saying that the Commissioner or the Deputy Commissioner can act only if there is mismanagement and even if they are satisfied about it they can do it only after giving notice to the parties concerned and hearing them. The summary powers that have been given to the Government under the original Bill we have changed in such a way as to give notice to the parties and in some cases appeal to the courts is also provided. These are the main amendments proposed. During the course of the discussion, doubts were raised that some of the provisions may also offend the Constitution; we examined the matter with our

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legal officers and have proposed amendments with a view to see that such objections may not be there for people to doubt but still should there be any such loophole, we have made an allround clause saying that the Act shall not affect rights under Article 26 of the Constitution. Most of the amendments were proposed in the Select Committee, some of which were accepted and some turned down. But after hearing the suggestions in the House during the first reading stage, it was thought that it is better to accept some more of the suggestions. These are not new amendments; they are practically the amendments which had been suggested by hon. Members and they in no way increase the power of the Government or of the Commissioner. It is only intended to limit the powers as much as possible in the interests of the institution and also so that we may not offend the Constitution. There is nothing strange that we have done and I do not see any particular reason why there should be an adjournment of the consideration of the Bill. My hon. Friend Mr. Viswanatham went to the extent of suggesting that the Bill may be republished incorporating the amendments which have been proposed. I am afraid there is no provision for adopting such a course under which the Bill could be republished and come again before the House. The Government will have to withdraw their first motion and the Bill will have to come afresh. There is no such procedure nor can we accept that position. I have consulted Hon. Dr. Rajan and he tells me that if the House so thinks and if you are so inclined, we can take up the Bill to-morrow and not to-day."

MR. SPEAKER:—"I think that that will satisfy hon. Mr. Bhashyam."

* SRI K. BHASHYAM:—"Mr. Speaker, Sir, I should be thankful for small mercies but really, Sir, I do not feel that a day is enough to study the implications of the amendments and propose amendments in respect of the amendments that have been proposed by the Government."

MR. SPEAKER:—"To-morrow before eleven o'clock, he can do it."

* SRI K. BHASHYAM:—"We are after all human beings, Sir. The Government with all the staff at their command have taken three months for bringing forward these amendments covering eleven pages of closely printed matter. We have to study the scope of the amendments and the time you have allowed is not enough, Sir. So, I would suggest to you, Sir, to give a week in order to enable us to make a thorough study and find out what the defects are that had been rectified and how the position could be improved. After all, Sir, I am not a trustee nor a matadhipathi and I am doing this in the general interests of good legislation. If the Government do not care for it, I do not know what to do. I would ask that this may be taken up next week."

THE HON. SRI B. GOPALA REDDI:—"We have no objection, Sir, for the Bill being taken up on Wednesday."

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MR. SPEAKER:—"Amendments to the amendments will be received till one o'clock to-morrow."

* SRI K. BHASHYAM:—"The Government have given us some indulgence and I would request you, Sir, to extend your indulgence also. We are busy people and we are not professional politicians. We should devote some time over it and therefore, I beg that we may be allowed some more time till next week."

MR. SPEAKER:—"The Government proposal is there and we can have the discussion on Wednesday; there seems to be no other alternative."

SRI K. BHASHYAM:—"The Government have given us some indulgence and I am suggesting that you also allow us a little more indulgence in giving amendments. There is indulgence from the Government side and I want a little further indulgence from you in that matter, Sir."

MR. SPEAKER:—"To-morrow till five o'clock hon. Members can send their amendments to the amendments. If they are verbal the hon. Member can raise them at any time."

SRI K. BHASHYAM:—"I shall do it without being asked and in fact, you yourself will do it yourself. If the amendments proposed by the Government occasion an amendment in the general clauses of the Act, in respect of them also, I must be given some time; I want also to suggest amendments to certain clauses of the Bill."

MR. SPEAKER:—"The hon. Member can do it."

SRI K. RAJARAM NAYUDU:—"You have ruled, Sir, that he can move amendments to the general clauses."

SRI K. BHASHYAM:—"I am sorry, Sir, I shall have to challenge the hon. Member if he can give out now and here the implications of the various amendments."

MR. SPEAKER:—"What the hon. Member says is in relation to consequential amendments in respect of the other clauses; the Government have already moved some amendments to other clauses also. The question is—

'That under Rule 67, of the Assembly Rules, the consideration of the Bill be adjourned.'

The motion was carried.

THE HON. SRI B. GOPALA REDDI:—"I now move, Sir, that the House be adjourned because the Hon. Minister in charge of the next Bill is not ready with the Bill. It will give hon. Members more time and it will satisfy Mr. Bhashyam better if we adjourn the House."

MR. SPEAKER:—"The House stands adjourned till eleven o'clock to-morrow."

THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS BILL, 1949 (L.A. BILL
No. 10 OF 1949)—*Discussion continued.*

THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS BILL, 1949 (L.A. BILL
No. 10 OF 1949)—*Discussion continued.*

THE MADRAS LEGISLATIVE ASSEMBLY.

Wednesday, the 15th November 1950.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVASHANMUGAM PILLAI) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BILL, 1949 (L.A. BILL NO. 10 OF 1949)—Discussion • continued.

MR. SPEAKER:—"The Government have given notice of an amendment to clause 3. Since the clause has already been passed in this House, the Hon. Minister will now move a motion that the clause be re-opened."

THE HON. DR. T. S. S. RAJAN:—"Sir, I move—
'That clause 3 be re-opened.'"

MR. SPEAKER:—"The motion is—
'That clause 3 be re-opened.'"

SRI K. BHASHYAM:—"Sir, I wish to move an amendment to the motion seeking to re-open not only clause 3 but all the clauses from clause 1 passed by this House up till now, because some of us did not have the opportunity to send in our amendments in time."

MR. SPEAKER:—"The hon. Member wanted time till yesterday evening and I allowed it."

SRI K. BHASHYAM:—"Please allow me to finish. On the last occasion when the matter was taken up, I complained that we had not enough time to give notice of amendments to the few clauses that had already been passed. When the Government think that they can go back, reconsider the matter and come to a better decision and want to re-open clause 3, I think we are also entitled to move as an amendment to that motion to re-open not only clause 3 but all the clauses from clause 1 that have already been passed so that we can also think over and suggest amendments. We did not have enough time to give notice of amendments. It is not as if I am making this complaint for the first time. I made this complaint in this House even on the last occasion."

MR. SPEAKER:—"Let the hon. Member move a separate motion."

* The consideration of the Bill was adjourned at the meeting of the Assembly on 14th November 1950.

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RAJA MUTHIAH CHETTIYAR OF CHETTINAD:—"What is the chance of success of such a motion?"

MR. SPEAKER:—"I cannot help it."

SRI K. BHASHYAM:—"I think it is open to me to move my proposition by way of an amendment to the motion."

MR. SPEAKER:—"The hon. Member cannot move an amendment to the motion. Let him move a separate motion."

SRI K. BHASHYAM:—"May I ask for your ruling?"

MR. SPEAKER:—"My ruling is that, if the hon. Member wants to re-open all the clauses that have been passed, he will have to move a separate motion."

SRI K. BHASHYAM:—"Then I have nothing to say."

THE HON. SRI K. MADHAVA MENON:—"We have passed clauses 1 to 5. After disposing of the remaining clauses of the Bill, the motion to re-open clause 3 may be moved."

SRI N. S. VARADACHARI:—"Mr. Speaker, Sir, the motion to re-open clause 3 arises from the fact that the Government have modified certain clauses of the Bill as amended by the Select Committee. Some of the changes made may be of far-reaching importance and others may be of less importance. It is better that the Hon. Minister in charge of the Bill summarises the changes made and their effect. It will help discussion as to why clause 3 should be re-opened, clause 7 should be omitted or clause 8 should be re-cast in another form and put in in another place. The objection has been that certain clauses are contrary to the Constitution. The Government seem to have recognized the force of this objection, and come to the conclusion that certain clauses may not fit in with the scheme of things as envisaged by the Constitution."

MR. SPEAKER:—"I will ask the Hon. Minister to explain."

SRI N. S. VARADACHARI:—"Instead of giving the explanation under each clause, I suggest that the Hon. Minister summarises all the changes made and their effect even at the very beginning. Then the discussion will be more informed than it would otherwise be."

MR. SPEAKER:—"The question is—
'That clause 3 be re-opened.'"

The motion was carried and clause 3 was re-opened.

Clause 3.

THE HON. DR. T. S. S. RAJAN:—"Mr. Speaker, Sir, I move—

'That for clause 3, substitute the following:—

"3. Where the Government have reason to believe that any Hindu or Jain public charitable endowment is

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being mismanaged and are satisfied that in the interests of the administration of such charitable endowment, it is necessary to extend thereto all or any of the provisions of this Act and of any rules made thereunder, they may, by notification in the "Fort St. George Gazette", extend to such charitable endowment the said provisions and thereupon the provisions so extended shall apply to such charitable endowment as if it were a specific endowment:

Provided that before issuing such a notification, the Government shall publish in the "Fort St. George Gazette", a notice of their intention to do so, specifying the reasons for the action proposed to be taken by them and fixing a period which shall not be less than two months from the date of publication of the notice, for the persons interested in the endowment concerned to show cause against the issue of the notification, and consider their objections, if any."

MR. SPEAKER:—"Amendment moved—

'That for clause 3, substitute the following:—

"3. Where the Government have reason to believe that any Hindu or Jain public charitable endowment is being mismanaged and are satisfied that in the interests of the administration of such charitable endowment, it is necessary to extend thereto all or any of the provisions of this Act and of any rules made thereunder, they may, by notification in the *Fort St. George Gazette*, extend to such charitable endowment the said provisions and thereupon the provisions so extended shall apply to such charitable endowments as if it were a specific endowment:

Provided that before issuing such notification, the Government shall publish in the Fort St. George Gazette, a notice of their intention to do so, specifying the reasons for the action proposed to be taken by them and fixing a period which shall not be less than two months from the date of publication of the notice, for the persons interested in the endowment concerned to show cause against the issue of the notification, and consider their objections, if any."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I submit that legislation by notification in this manner has been objected to by certain High Courts in this country and I think it has also been adversely remarked upon by the Supreme Court. If the Government really want to treat charitable endowments also on the same level as the religious endowments, they might do so now. After all, we are discussing the entire Bill as it is, and the Government want to make this a comprehensive measure covering charitable institutions also. It is only a matter of historic accident that differences have been made with regard to the treatment of the various trust properties, such as temple endowments and other charitable trusts, but the underlying idea in all these endowments is that they are public charities and public trusts, in which the

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public have an interest. I submit, therefore, that when we are considering certain strict and stringent measures with regard to the administration of institutions of the same nature, we should not make any difference in respect of the treatment of charitable endowments alone. It also, in a way, offends the provision of the Constitution, giving equal protection to all such institutions. I submit that the Government should not have this power of notification under this clause. If there is any mismanagement in any charitable endowment, the Government have ample powers to bring it under their control. I therefore submit that a separate treatment need not be given to charitable endowments.

"Moreover, Sir, I have got another great objection to this clause, which makes a certain discrimination with regard to charitable endowments. These charitable endowments may be for Jains, or Hindus or Christians or Muslims and there must be some law governing these public endowments satisfying the intentions of the founders of such endowments. It is also the duty of the Government to see that the general laws relating to trust properties are properly observed and that such properties are not mismanaged and that the beneficiaries get the benefit of the trust. I submit, it is not fair or proper to make a distinction between endowments made by members of one religion and endowments made by members of another religion. It offends almost all the principles for which a modern Government stand. In this amendment, a discrimination is sought to be made between one religious endowment and another, and it also provides legislation by notification, which is wrong in principle. I therefore oppose this amendment and I submit that neither this amendment nor the original provision be accepted by this House."

SRI K. BHASHYAM:—"Mr. Speaker, Sir, apart from any legal question involved in this procedure, on principle also I object to the amendment, because it seeks to extend the provisions of the Act, the regulations and even the rules made under this Act to certain specified classes of cases by notification. We cannot anticipate what will be the nature of mismanagement in these charitable endowments and perhaps each case will have to be dealt with in a particular way. To say that in all such cases only the provisions of this Act should be applied, will not meet the needs of a particular situation. There may be other laws and other provisions which should be brought into operation to meet certain situations created by the mismanagement complained of in certain specific charitable endowments. Why should the Government limit themselves by saying, 'Where we have reasons to believe that there is mismanagement in any charitable endowment, we shall extend by notification all or any of the sections of this Act or the rules made under this Act', and thus deny themselves the right of bringing to their aid other laws and other provisions of law, for the purpose of dealing with such cases of mismanagement? I submit, Sir, that this amendment is wholly unnecessary and uncalled for, because, if the Government think that there is

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a widespread and large-scale abuse or mismanagement of charitable endowments and trust properties, they can bring forward any legislation at any time to deal with such cases, because they are all powerful and command the majority in this House. At the same time, I may submit, that so far, there has been no investigation made in the matter and the Government have no idea as to the total number of charitable endowments which would come under this legislation and how many of them are treated as family trusts and how many of them are hereditary trusts and how many are mismanaged and so on. In fact, they have no information and no statistics in regard to any of these things. To say in general terms that a lot of mismanagement is going on in these endowments is just like some people saying that everybody is corrupt, that every Member of the Legislature is corrupt or that every Minister is corrupt and so on. Unless an investigation is made, we cannot make such a sweeping statement like that. I think it is a dangerous principle to entrust the Government with the power to extend this Act by notification. If there is widespread abuse of trust properties, let them bring in a separate legislation. But this sort of legislation by notification is wholly wrong in principle and against all canons of law. I therefore oppose the amendment."

SRI V. RAGHAVAYYA :—" Mr. Speaker, Sir, while I am not very keen on making a distinction between a charitable endowment and a religious institution, to which this Bill may be applied, I want to draw the attention of the Government to one thing and that is, that in the amendment, they want to give some reasons for their intention to apply the provisions of this Bill to charitable endowments and to specify the reasons for the action proposed to be taken by them, and also to fix a period and give an opportunity to the persons concerned to make their representations and so on. I ask, Sir, what is all this farce, for? If the idea is to treat the charitable endowments on a different basis and run to the rescue of the various charitable endowments which are mismanaged, and if they want to appear to be just, fair and reasonable to them and give an opportunity for them to make their representations, does it not also follow that they should put in a judge to give a decision on these matters? Here, the prosecutor, the complainant and the judge are one and the same, namely, the Government. If the Government have made up their mind to extend this Bill to the charitable endowments also, let them do so plainly. That is why my hon. Friend Mr. T. Viswanatham said, let the Government straightaway apply this Act here and now to the charitable endowments also. That would be a very good thing, because then the Assembly will have an opportunity to discuss threadbare the various aspects of that question. When once the Government have given an opportunity to the parties concerned to state their reasons and make their representations against the Act being extended to these endowments, is it not fair that they should leave the matter to be decided

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by the tribunal which has been provided for under this Bill? If these charitable endowments deserve to attract the provisions of this Bill, then by all means, let the Government appoint a tribunal to decide whether the reasons given by the parties concerned are adequate for proving the mismanagement of the endowment, or whether there is at least a ghost of a chance of its being proved in a court of law and then apply the Act. That will be the proper way to deal with the matter and therefore I oppose this amendment."

SRI K. VARADACHARI :—" Mr. Speaker, Sir, I support the amendment moved by the Hon. Minister. So far as this clause is concerned, we are committed to the principle that charitable endowments should get under the control of the Government, and that the provisions made for religious endowments in this Bill should be made applicable to them also. If hon. Members who opposed this amendment want to have this clause redrafted, they must have given notice of their amendments to the Government amendment itself. So, when the matter has been re-opened and when the Government have moved an amendment to the original clause, my hon. Friends who have now opposed it, should have taken the opportunity and given their own amendments to the Government amendment. Therefore it comes with very much less force from them, when they are simply opposing this amendment without suggesting an alternative to it. Suppose this amendment goes, what happens? The original clause 3 as passed by the Assembly will remain. Then what will be the consequence? We will have the same unsatisfactory provision which has been already there, and we will not be any the better for that. That should not be our purpose. In the original clause, which has been passed by the Assembly, the Government said that they would apply the provisions of this Act to any charitable institutions, even without their being any reason to believe that there is mismanagement there. Now they have restricted the scope of this clause and have taken only limited powers to extend the provisions of this Act to such charitable institutions in which they have reason to believe that there is mismanagement. To that extent, we must be thankful to the Government for the small mercy they have shown and in having reconsidered this clause and in having brought forward this amendment. Therefore, Sir, I support this amendment of the Government and request all Members to support this amended clause moved by the Hon. Minister."

SRI N. S. VARADACHARI :—" Mr. Speaker, Sir, I submit that the clause as amended is very much an improvement on the original clause. But, at the same time, I would ask the Government to consider whether it is necessary to centralize the control over all these charitable endowments and keep it in their hands. Even if they want to take up only limited powers of control over these public trusts, the psychology that would be left behind these institutions will be this. The Government are

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going to control all types of charitable endowments, and so let them look after the things which are now looked after by the private charities. That would be the kind of feeling that would be created in the minds of those people who are charitably disposed. But my objection is not to the redrafting of this clause as such, because, in substance, it seeks to mitigate the evil contained in the original clause for I suppose, the Government will not lightly notify any charitable endowments unless there has been some flagrant mismanagement or grave frauds having taken place in their administration before such notification. No doubt, the clause relates only to any Hindu or Jain public charitable endowments. I suppose it means that such endowments should have been founded by a Hindu or a Jain, although the beneficiaries might belong to all communities. If that were so, I am afraid, that sometimes the character of the charitable endowments themselves would be altered or changed in order to escape the provisions of this legislation altogether. That is a point that strikes me, which the Government might consider, although it is a very small one.

"But my main and fundamental objection to any change in the present position, so far as these public charities are concerned is this. Please, do not at this stage of our country's progress and development, introduce any legislation which might create an atmosphere where private charities would get stifled altogether and where there would be no incentive whatever for people to create more private charities than have hitherto existed.

"It is difficult to get at money. It is difficult to appeal for charities and raise funds. Money is wanted for colleges. But money collections have fallen short and those attempts have become infructuous. I know of at least one institution in the City suffering very much for want of funds, and in spite of the most influential citizens going round to collect funds for that institution, they have not reached even a quarter of the measure of success which they had hoped to reach. If we want that public charity should be developed, and if we want to see that the flow of public charity is unceasing and that there should be enough response from the public to appeals made for charity, it is but natural that people should expect that they should be allowed to manage the very gifts they made, and that the Government should stand at as far convenient a distance as they would expect. There are other remedies for mismanagement. Even to-day there are remedies in the law provided for setting right mismanagement of private charities. If people are not taking advantage of those remedies, it only shows that they are not blind to the mismanagement going on, but that they really do not think that the mismanagement is of such a grave character as to justify its being taken to a court of law. My objection is only this. That is that Government should not take more power than they can digest. The Government should not create a centralized administration for everything leaving nothing for private effort, as it were, in the country. In fact there should

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be one sphere of activity for the Government and another sphere of activity for private enterprise and public charity. And if these two spheres are practically delimited, then there is bound to be co-ordination and a constant interflow, and then the State's resources will be augmented. What the Government say is that, if there is mismanagement, and if after the enquiry is made, the mismanagement is proved to their satisfaction, they will extend any or all the provisions of this Bill to that endowment. Sir, I am afraid that Public charity will get very much stifled, and that is not a good thing. That will happen under the circumstances. So, I would ask the Hon. the Minister to consider whether the provisions of this Bill should be made applicable at all in the present circumstances to public charities. Of course, private charities are not covered by this Bill at all. I want a clear answer on this point and the opinion of the Government as to what its general effect will be on the flow of public charity."

SRI M. S. PATTABHIRAMAIAH:—"Mr. Speaker, Sir, I quite agree that the language of this amendment is more liberal, and I welcome it. But I am not very happy over it, because this Bill is a Religious and Charitable Endowments Bill. According to our Constitution we have less right to interfere with the religious institutions. There is not that great objection to see that the management of the charitable endowments is properly carried out. Charity is common to all religions. If the charitable endowment is not properly conducted and administered, it should be the consideration of the Government to reform or control it, and see that it is properly administered. When the Government take over all the religious endowments, Jain and Hindu, of the State, why should they not take over all the charitable endowments also? Many of the charitable endowments made by the original founders, whether they are Hindus or Jains, were intended, I believe, for all people. For instance, I know of a charity in my district founded by Queen Mangammal of those days. The beneficiaries of her charity belong to all religions. Because it was founded by a Hindu will it be called a Hindu charitable endowment? Or is it to be defined as the Hindu endowment only if the beneficiaries are Hindus? This is a point which should be clarified by the Government. Further, these charities, as was pointed out by my hon. Friend Mr. N. S. Varadachari, will not freely flow, if Government go against the will and intentions of the original founders. But charities which are already in existence with large funds at their disposal, and which are not properly administered, should be taken over by the Government. The Government have a duty in this regard. Government are more bound to take first the charitable endowments than the religious endowments. Religion is entirely a private matter. Charity is intended for all people. Therefore, charity is a non-religious subject. I say that this liberalising provision for taking over the charitable endowments should not in the end develop into a neglect of the charitable endowments by the Government. While I support this amendment, I wish to say that the original provision is not really so bad, as it was pointed out

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by my hon. Friend Mr. K. Varadachari. The charitable endowments should be properly administered, and the Government have a duty to see that they are properly administered. With these words, Sir, I support the amendment."

SRI V. M. RAMASWAMI MUDALIAR:—" Mr. Speaker, Sir, having already agreed to clause 3 of the Bill, and the principles underlying that clause having been already accepted, I think it is not necessary to re-open the underlying principles of this clause. Two objections, so far as I could follow the debate, have been raised, namely, 'why include charitable endowments in clause 3; it will dry up, so to speak, private charities'. The psychological aspect of the question was raised. I would like to draw the attention of the House to the fact that in England, Charity Commissioners have taken ample powers for the proper administration of public charities in that country. Public charity in that country has not dried up. They flow in large numbers. That I understand is due not to the fact that the State has interfered. But it shows that it is the death duty levied by the administration in that country that is prompting the people to endow their moneys to go to specific charities instead of to the State Exchequer. The whole law embodying the proper administration of charities is in existence in England. In this country also we have endowments dedicated for charitable purposes. Something has to be said against the management of these endowments. No doubt the donors of these charities have founded the endowments with all good intentions. They made endowments for laudable and charitable purposes. But the persons who succeeded them may not have the same motive, the same sense of duty or the same sense of public benefit. The misdeeds of the successors, I believe, have prompted the Government to bring them under the provisions of this Bill. In cases where there is proven mismanagement, the Government take the power to extend the provisions of this Bill to those charities. After all, the Government are responsible to the legislature. No Government can have the hardihood to do a wrong thing when they have to face the legislature at some time or other on that question and get exposed to public criticism. Therefore, I say that the Government, where there is proven mismanagement, can extend the provisions of this Bill to those charities. No serious objection can be taken to that. My hon. Friend Mr. Bashyam suggested 'why not bring a separate legislation in respect of those charities where there is mismanagement'. Legislation, Sir, as we know, is a cumbersome process. It has to go through the first reading stage; then there is the select committee stage; then the Bill has to pass through its second reading stage, and so on. For instance take this very Bill. This was introduced some eighteen months ago. Still, we are on the discussion of first few clauses. That is why I say that legislation is a cumbersome process. Separate legislation in respect of each charity, where there is proven mismanagement, is not called for. And I do not also think that it is practical politics. Therefore, I think that, where there is proven mismanagement, the Government should have the power to apply the provisions of this

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Bill, and bring that charity under the administration of the Commissioner. My hon. Friend Mr. Viswanatham and some others suggested that this amendment went against the fundamental right affecting Hindu temples and Jain temples. The hon. Member Mr. M. S. Pattabhiramiah said that it interfered with the freedom of religion. I do not think this administration or control of the management of Hindu temples or maths or charities can be said to go against the fundamental right. Nor the question of describing charities as Hindu charities or Jain charities, can be stated as discriminatory legislation. Even in the Indian Parliament, there is the Hindu Code Bill. It affects the Hindus only of the Indian Union. Such legislation cannot be stated to be discriminatory and likewise when legislation is brought forward to bring within its provisions a certain type of charities. I, therefore, Sir, think that clause 3, as amended, is an improvement. I support the amendment."

SRI L. N. GOPALASWAMI:—" Mr. Speaker, Sir, at the outset when the Hon. Minister yesterday spoke on the introduction of the new amendments, he was kind enough to say that, because of the Constitution which he alleged had crept in after the framing of this Bill, he had to make certain amendments so that the provisions of this Bill might not contravene the provisions contained in the articles relating to fundamental rights and other articles of the Constitution. If that were so, I am afraid that this clause 3 which offends the fundamental rights guaranteed in the Constitution—as I shall presently show—is again brought in, in spite of the provision at a later stage in the Bill which runs as follows:—

'Nothing contained in this Act shall be deemed to confer any power or impose any duty in contravention of the rights conferred on any religious denomination or any section thereof by clauses (a), (b) and (c) of Article 26 of the Constitution.'

Clause 3 that is now proposed wants power to extend the provisions of this Bill to Jain or Hindu charitable endowments. I may point out to the Hon. Minister and also to my hon. Friend Sri Ramaswami Mudaliyar that this conflicts with Article 15 of Part III of the Constitution which says that the State shall not discriminate against any citizen on ground only of religion, the only exception being as follows:—

'Nothing in this article shall prevent the State from making any special provision for women and children.'

In no other case can there be any discriminatory legislation on the ground of religion. I am really surprised how they are able to argue that this clause does not contravene the provisions of the articles relating to fundamental rights.

" My hon. Friend Sri Pattabhiramiah said that these endowments had nothing to do with religion. I am really not able to understand it. Most of our endowments have been made by persons possessing religious faith, in favour of a particular religious sect and, if I may go further and say, they have provided endowments for the particular sub-sect in our communities. As such, I am at a loss to know how these endowments can be said to have nothing to do with religion and therefore these endowments can be interfered

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with by the Government as and when they please. Therefore, I would like to point out that we must see that this legal difficulty does not once again crop up and when we make an attempt to pass a legislation we should also safeguard ourselves. I am thankful for all the small mercies that the Government have shown us. We made some protests once or twice long ago regarding clause 22 of this Bill. I want the Government to go into the articles relating to fundamental rights once again and find out whether any discriminatory legislation can be made on this point. When I make the suggestion, it should not be understood that we are all opposed to the proper management of religious or charitable institutions or that we want people to misuse the funds of these endowments. Far from it. What this Government should do is not to discriminate the Hindu and Jain institutions only but should take up all charitable endowments in the State and have the courage to say that no man on this earth shall misuse the Trust entrusted to him, be he a Jain, Hindu, Mussalman or Christian. If that were the case, I will wholeheartedly support this Bill. But if we are to discriminate and confine it to particular religions in our State, then I beg to submit that it not only offends the Constitution but it offends the principles of common justice between man and man. While a man of another religion can do whatever he pleases with the endowment of which he is a Trustee, a man because he happens to be a Hindu or a Jain is sought to be brought within the provisions of this Bill. This is far from any reason, and the purpose of which I am not able to understand."

SRI V. I. MUNISWAMI PILLAY:—"Mr. Speaker, Sir, I rise to support the motion made by the Hon. Dr. T. S. S. Rajan. The mismanagement of charitable endowments has given rise to a lot of criticism in this country especially in our State. So, the Government thought it necessary to bring a Bill of this nature. It is admitted on all hands that the charitable endowments have been mismanaged for a very long time in this country and people connected with religious institutions have thought it necessary that there must be some law whereby these endowments may be properly utilized for the purposes for which they have been endowed. Though many of us have taken objection to the inclusion of maths in this legislation, I do not think for a moment that the management of charitable institutions should be left alone. I think the passing of this clause will go a long way to purify the management of these endowments and the objects with which they were endowed will be properly served. I think under the control or management of the Commissioners that may be appointed under this Bill the purposes for which these endowments were made will be served. With these words, I support the motion, Sir."

SRI K. LINGA RAJU:—"Mr. Speaker, Sir, this provision seems to be too wide and sweeping and gives rise to a possibility for misuse. Under the present law, I understand that if the Government want to interfere with a religious or charitable endowment, they will have to obtain a certificate from the Advocate-General. Under the provisions in this Bill, it looks as though the

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Government can come down on any endowment rather arbitrarily. There is no provision for appeal or opportunity for the parties to make adequate representations in any Court. I, therefore, feel that such a power in the hands of the Government will be too wide. I am afraid that the net result of such legislation will be to check the tendency on the part of individuals to give substantial charities. I am afraid that this law may interfere with the management of educational institutions and things like that. Therefore, I am unable to support this amendment."

THE HON. SRI K. MADHAVA MENON:—"Sir, as my hon. Friend Sri Ramaswami Mudaliyar pointed out, we have already accepted the principle of taking power to control the administration of charitable endowments, in the original clause 3 that was passed. We have only sought to make certain changes in the original provision. The principle has not been changed. Most hon. Members have agreed that the proposed amendment is an improvement on the original clause that was passed. I do not think it is necessary for me to go into everything that was spoken about on the last occasion when the original clause 3 was passed and to repeat the same answer."

SRI T. VISWANATHAM:—"On a point of order, Sir. The Hon. Minister says that clause 3 has been passed. I understand that his motion is for the substitution of another clause. So, he has reopened the matter. When the matter has been reopened, why not he reply to the points raised? The original clause is not here."

THE HON. SRI K. MADHAVA MENON:—"Sir, either he has not heard me or I have not made myself clear. (Interruption.) Sri Prakasam says it is sharp practice. I do not know very much about that. What I said was this. Clause 3 was once passed. The matter has been reopened now. The question of the principle involved, viz., having control over the administration of charitable endowments, was discussed then and it has been reopened. So, I have nothing more to add to what I said then. It may be that there is difference of opinion on the principle between the hon. Members who objected to it and the Government. I did not say that the original clause 3 is still there."

"According to the original clause, it was open to the Government to extend the provisions of this Bill to any charitable endowment, without assigning reasons. Now, in order to make it absolutely clear, we have proposed that the Act can be extended to charitable endowments only if there is mismanagement, unlike in the case of religious institutions. That is the principle of the amendment that has been proposed. Whether it is wise or right to take power to control the administration of charitable endowments is a matter on which there may be considerable difference of opinion."

"My hon. Friend Sri Viswanatham said that the extension of an Act by notification was wrong, and that it had been held so by

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the Supreme Court. As regards the principle of this objection, we have already passed clause 2 also. It has got the identical wording. (Interruption.) My hon. Friend says it is equally bad. But I want to point out to him that what the Supreme Court held about the extension of legislation by notification was this. The Government can, by notification, extend a legislation for one, two or three years. In the particular case, it said that the Government can, by notification, modify the legislation passed. It was this that was objected to by the Supreme Court. I refer my hon. Friend to that latest decision. Regarding the Civil Courts (Amendment) Act, the Government have been given power to extend the jurisdiction of the City Civil Court from Rs. 3,000 to Rs. 10,000. The Bombay Government extended a provision like this by notification. The Bombay High Court by a Full Bench set aside that legislation by notification. But it has been reversed by the Supreme Court. Though I have not got a copy of the judgment here, I inform my hon. Friend that I am also conversant with the decision.

"According to the original clause, the Government may, by notification, extend the provisions of the Act to any Hindu or Jain charitable endowment. It might give room to arbitrary discrimination between public charitable endowments. To avoid that, we have now proposed as follows:—

"Where the Government have reason to believe that any Hindu or Jain public charitable endowment is being mismanaged and are satisfied that in the interests of the administration of such charitable endowment it is necessary to extend thereto all or any of the provisions of this Act and of any rules made thereunder, they may"

So, it is only under the above condition that the provisions of the Act can be extended.

"My hon. Friend Sri Gopalaswami spoke about the fundamental rights. Some can say that this offends the fundamental rights and I may assert that it does not offend them. However much the strength of the assertion may be, the final decision does not rest with us. Somebody else only can say whether it offends or not. Article 16 of the Constitution only says that every citizen shall have equality of opportunity and that there shall be no discrimination against anybody. But that is not applicable in this case.

"Apart from that, according to the advice that we have at our disposal, we feel that it does not offend the fundamental rights. That is all what I can say. Regarding the objection of hon. Sri Linga Raju that we are trying to interfere with the management of the Charitable institutions, I would like to put it the other way and say that we want to interfere with the mismanagement of these institutions and not with the management as such. I do not want to go into more details as this is a question of principle whether we should have control over the administration of charitable endowments. That is all what I wish to say with regard to this amendment."

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MR. SPEAKER:—"The question is—

For clause 3, substitute the following clause:—

"3. Where the Government have reason to believe that any Hindu or Jain public charitable endowment is being mismanaged and are satisfied that in the interests of the administration of such charitable endowment it is necessary to extend thereto all or any of the provisions of this Act and of any rules made thereunder, they may, by notification in the *Fort St George Gazette*, extend to such charitable endowment the said provisions and thereupon the provisions so extended shall apply to such charitable endowment as if it were a specific endowment:

Provided that before issuing such a notification, the Government shall publish in the *Fort St. George Gazette*, a notice of their intention to do so, specifying the reasons for the action proposed to be taken by them and fixing a period which shall not be less than two months from the date of publication of the notice, for the persons interested in the endowment concerned to show cause against the issue of the notification, and consider their objection, if any."

The amendment was carried.

Clause 3, as amended, was put and carried.

Clause 6, Sub-clause (10).

SRI N. S. VARADACHARI:—"Mr. Speaker, Sir, I move the following amendment standing in my name:—

"That in sub-clause (10), after the word 'institution' in the first line, add the words 'recognized as such'."

"This is a very simple change. In the definition for the word 'math' it is said a Hindu religious institution with properties. I want that the words 'recognized as such' may be added. I do not want that we should make any mistakes in this matter. The definition says religious institution with properties attached thereto and presided over by a person. Such institution need not necessarily be a math. Every institution should not be made to come under this clause. It is only such institutions which are well-known in the country and which are recognized as such should be brought under the clause. There may be some little property attached to some of these institutions which may not be managed by the person who is presiding over the institution, but may be managed by other people. I want that the words 'recognized as such' should be added as everybody will know the well-known maths in the country. There may be cases and I know many of them, where certain institutions have come into existence for a specific purpose and which may not be recognized as maths. That is why I want that the words 'recognized as such' should be introduced so that it may be easy to operate."

SRI T. VISWANATHAM:—"Sir, I second the amendment."

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MR. SPEAKER:—"Amendment moved—

'That in sub-clause (10), after the word "institution" in the first line, add the words "recognized as such".'

THE HON. SRI K. MADHAVA MENON:—"Sir, it is very difficult to accept this amendment. Hon. Sri Varadachari wants that the words 'recognized as such' should be added after the word 'institution'. I do not know which is the authority to recognize these institutions and what rule or laws have to recognize them. Unless we understand the implication and meaning of the words 'recognized as such' and know what is the recognition that is intended, we cannot consider the amendment. The wording is very vague. Who will recognize these institutions and what is the law to recognize them? Sir, these are matters which will lead to endless disputes and troubles once we leave the wording vague. The words 'recognized as such' have no meaning as it is. So the amendment cannot be accepted."

SRI N. S. VARADACHARI:—"I do not wish to say any thing more in this matter. I beg leave to withdraw the amendment."

The amendment of Sri N. S. Varadachari was, by leave, withdrawn.

SRI N. S. VARADACHARI:—"I beg to move the following other amendment to the same sub-clause (10):—

'In sub-clause (10), for the words "whose duty it is to engage himself in imparting religious instruction," substitute the words "who engages himself in imparting religious instruction".'

This amendment relates a formal change in the wording to make the language polite. The dignity of the person who is at the head of the math should be protected. In fact I do not like the definition which says, 'presided over by a person whose duty it is to engage himself . . .'. Who are you to prescribe the duties for such people? If, however, the Government want to give a description of the person concerned, I would suggest that a more polite language should be used. I will read the original clause so that the hon. Members may understand the full implications. It says—

"math" means a Hindu religious institution with properties attached thereto and presided over by a person whose duty it is to engage himself in imparting religious instruction or rendering spiritual service to a body of disciples or who exercises or claims to exercise spiritual headship over such a body; and includes places of religious worship or instruction which are appurtenant to the institution."

My objection is that the Government are using a language which is not very pleasant. Why not they make it more agreeable and pleasant by saying, 'presided over by a person who engages himself in imparting religious instruction'. We should not say, 'whose duty it is . . .' and all that. Let the definition

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remain as it is, but let the language be pleasant. The Government cannot prescribe the duties for these persons. My amendment only seeks to alter the language so that it may be proper and in accordance with the rules of courtesy and culture."

MR. SPEAKER:—"Who is seconding the amendment?"

SRI V. RAGHAVAYYA:—"Sir, I second the amendment."

SRI T. VISWANATHAM:—"Sir, with regard to these amendments, you can take it that one of us will second the amendments."

MR. SPEAKER:—"We have to observe certain formalities. At least to enable the reporters to record who is seconding the amendment, the name of the hon. Member who seconds the amendment must be known."

SRI V. RAGHAVAYYA:—"While seconding the amendment moved by my hon. Friend Sri Varadachari, I wish to observe that the Government have forgotten for a moment that they are dealing with the religious institutions and in most cases very venerable and sacred persons are the heads of such institutions. Simply because there are a few black sheep here and there, the Government ought not to mete out the same treatment to all the dignitaries. While they are very careful to recognize the temporal greatness, I do not see any reason why in such matters they should not be more polite, and I may even say over-polite. The purpose which is sought to be imported into this amendment by hon. Sri Varadachari can very well be satisfied by changing the word 'duty' into 'function'. The Government may be anxious to define their control over certain institutions. Even for that purpose they could say, 'presided over by a person whose function it is . . .'. Duty is different from function. Duty is one imposed by the Government or defined in the law, whereas function is a more comprehensive thing which includes not only duties which are cast upon him by external authority but also duties which are imposed upon him by the position itself. I think there will not be any difficulty in accepting this suggestion."

SRI K. BHASHYAM:—"Mr. Speaker, Sir, I want to oppose this amendment. I will now tell the reason why I do it. If only the words suggested by hon. Sri Varadachari are to be inserted in the clause, it will include cases those where the Professor of Philosophy or Professor of Spirituality founds a College and wants to teach Philosophy and Spirituality to all persons concerned. Of course the Professor concerned will be engaging himself in imparting instruction in those institutions. Now according to the amendment, it will not be his duty to do so and he may stop giving instruction to-morrow. Take a further instance. There is the Theosophical Society. It engages itself in religious and spiritual teaching. We do not call that Society a math. It is only a Society registered under the Societies Act. Therefore I would like hon. Sri Varadachari to leave things as

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they stand at present, as I feel that his purpose will be served by leaving things as they stand and by not asking for such an amendment which will really mean that a large number of institutions, which are not really intended to be brought under the Bill, will have to be taken up by the Government."

SRI M. S. PATTABHIRAMIAH:—"Mr. Speaker, Sir, I rise to support the amendment moved by my hon. Friend Sri Varadachari. If we have the sub-clause as it stands, it will be derogatory to the head of the math. The heads of the maths are generally people who explain the doctrines which they propagate. They are not Government officials or Ministers who are bound to answer questions. In this connection I wish to quote a Sanskrit sloka from Santhi Parva in Mahabharatham which says—

यश्चाधमेण वे ज्ञयात्

यश्चाधमेण पृच्छति ।

तयोरन्यतरः वैति

विद्वेषं वापि गच्छति ॥

Our religious heads are not bound to answer questions which are not properly put and they may refuse to answer questions; but our Ministers are bound to answer questions. (Interruption.) If they do not do that to-day, it is a different thing. The Government are simply trying to prescribe duties for the heads of maths who are held in great veneration and who are viewed with great respect as the Pope is viewed by the Roman Catholics. Therefore, if the Government say that it is the duty of these religious heads to do a particular thing, it is not desirable. These religious heads will explain things only when they are pleased and only when they find that the man who approaches them for the purpose of learning is a suitable person. So the whole matter should be left entirely to their discretion. For these reasons I think that the amendment moved by my hon. Friend Sri Varadachari is quite reasonable and I hope that the Government will not find any difficulty in accepting it."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, the term 'math' itself is a well-known term throughout India. It is a Sanskrit term. It has got a special meaning. When we say Sringeri math, everybody knows what it is. We do not find the definition of math. It is only translated into three words, Hindu religious institution. It need not necessarily be a religious institution. Sometimes, it happens to be merely a philosophical institution. For instance, my hon. Friend Sri Pattabhiramiah has quoted some slokas from the Mahabharatha. In Naimisharanyam, the sage Vyasa used to hold gatherings for the purpose of imparting instruction to his disciples. Surely that cannot be called a religious institution. As I said, the word "math" is only translated as a Hindu religious institution. It is an English term and it is not defined here. I am unable to get the proper English translation

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for it because the idea of math is foreign to English. I strongly feel that 'math' itself cannot be translated as 'Hindu religious institution'.

"The other point which my hon. Friend, Mr. Bhashyam, raised is a very important one. It is necessary that we should understand the implications of the point not because we rely on him generally for enlightenment on matters of this kind (laughter) but because there is considerable force in it. For example, he brought in the case of the Theosophical Society. Whether it is a math or not under the provisions of the Bill we cannot say and it is not easy for us also to say. But we always think of it as a seat of religious instruction although it has got cultural activities and had some twenty-five years ago political activities also. And yet we are unable to say whether it is a religious institution in the sense in which we understand, for example, the Meenakshi temple at Mathurai as a religious institution. Now, what will happen if my hon. Friend, Mr. Varadachari's amendment is accepted? A philosophical association will automatically become a religious institution. There is the Aryan Path Society in Bombay which deals generally with matters which, after a particular level change their names; it deals with matters religious which after a certain stage change into philosophy. After all, the difference between religion and philosophy is little because religion in its higher, sublime stages becomes mere philosophy which is but a sublimated portion of the religious practices and religious observances. Therefore, if the amendment is accepted societies like the Aryan Path Society may become religious institutions. Then there are the colleges of Philosophy. Let us assume there is one such college now. It may also come within the mischief of the definition if it is amended. While this secular State seeks to constrict religion to the four corners of certain well-known stone structures called temples, etc., the amendment would enlarge the scope of the definition which will then apply to every society, every college and every other institution engaged in teaching philosophy although it is not their duty to do so. Such associations and colleges have disciples of their own who are not necessarily Sadhus. They are just disciples in the same way as the hon. Mover (Mr. Varadachari) himself is a disciple of my hon. Friend, Mr. Bhashyam (laughter) in several matters. The fact that they have disciples cannot mean that they are regular religious institutions. There is also a famous institution in Bangalore, whose advertisement we see almost daily in the newspapers, which practises Hata Yoga according to Hindu religious principles. Are we to declare such bodies also as maths? Sir, I may point out in this connection that it is for this reason that such definitions would raise a crop of difficulties in the administration of the measure, hon. Mr. Bhashyam suggested the exclusion of maths from the scope of the Bill. The word 'math' as I have said, has no English equivalent. The maths are sacred institutions and certainly it cannot be the duty of the head to impart religious instruction. The head is a big man and is always one who has

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reached a high level in religious practices. Take, Sir, the case of Ramanamaharishi. Is it our intention to bring his Ashram within the purview of 'math'? Surely, it is not, I know, the intention of the Government. But yet the definition would include it and most certainly it would if we remove the words 'whose duty it is'. There is no duty cast upon the Matadhipatis to teach anything. On account of their religious, cultural and philosophical attainments people go to them and become their disciples. They do not teach anything. They simply sit in meditation and contemplation. By merely observing them meditate, the disciples learn something and develop their own inner mind. The Matadhipati, therefore, need not teach anybody, and this is the reason why I say the present definition is unhappy. At the same time I oppose the amendment also since it will make it more unhappy. In the circumstances, I submit that though the existing expression 'whose duty it is' is not quite happy, there is substance in what my hon. Friend, Mr. Bhashyam, has said. I would go even a step further and say, though I have not given notice of any such amendment, that 'math' may be excluded from the list of definitions under clause 6."

SRI R. V. SWAMINATHAN :—" Sir, while I rise to oppose the amendment moved by my hon. Friend, Mr. N. S. Varadachari, I would like to say a word about the remarks made by the hon. Member, Mr. M. S. Pattabhiramiah. He said that the matadhipatis should not be made answerable to anybody. In support of this, he quoted certain slokams from the Mahabharatha. His line of argument may be correct according to Mahabharatha but my idea is anyone who manages public funds, whether in an honorary or paid capacity, should be made answerable for his actions to the people or their representatives. Let us take the case of this House. Though no outsider can come into this Assembly and put questions to the Hon. Ministers, yet the public have a right to question the Ministers while they are out on duty and the Ministers are bound to answer them. In the same way the Matadhipatis who are responsible for the proper administration of public trusts should be made answerable to the Government. With these words, I oppose the amendment."

THE HON. SRI K. MADHAVA MENON :—" Sir, I oppose the amendment. The arguments put forth by my hon. Friends, Mr. Viswanatham and Mr. Bhashyam in support of the original sub-clause strengthen me in my belief that the amendment, if accepted, will widen the scope of the provision. There is also another objection to the amendment. The sub-clause says '... a person whose duty it is to engage himself'. Suppose it is the duty of the head of a math to impart religious instruction and he does not do so himself. According to the sub-clause such a math also will come within its purview since there may be other persons who may impart instruction under directions from the head. But according to the amendment the head must himself give instruction so that a person who may have a duty to do so may not do so

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and thus escape. So, there is room for such a danger. Even Naimisharanyam would become a math if the amendment is accepted. Therefore, it would serve no purpose if we say that the head of a math should engage himself in imparting religious instruction, etc."

SRI N. S. VARADACHARI :—" Sir, I am very sorry that the Government have not been able to understand the meaning of my amendment. I am really sorry for it. I am more sorry, Sir, for my hon. Friend, Mr. Bhashyam, who could not understand even this very simple thing. We are here concerned with the definition of the word 'math'. If my first amendment had been accepted, viz., the addition of the words, 'recognised as such' after the word 'institution' it would have avoided all this trouble. But the Government having overruled it, I have moved the second amendment which seeks to substitute the words 'who engages himself' for the words 'whose duty it is to engage himself'. This is a simple thing, and I feel that the analogy of the Theosophical Society here is sheer nonsense. . . . (Sri T. Viswanatham : 'If it is nonsense, I am willing to withdraw my statement'.) I shall presently explain how. Neither the Theosophical Society nor the Ramanashramam has any place here nor even the Aurobindo Ashram will ever become a math. They have never claimed to exercise spiritual headship. Even Mahatma Gandhi has declared so on many occasions. It is only those who are to exercise spiritual headship that will come within the purview of this definition. How would we describe a zamindar, for instance? Would we say that a zamindar is a person whose duty it is to go round and collect rents? No. We would say that he is a person who collects rents on behalf of Government, which is the simpler language. That is the polite language. Is a professor to be defined a person on whom is cast the duty of studying his lessons beforehand pouring midnight oil, coming to the classes and explaining the lessons? Certainly not. We would say that a professor is a person of culture who teaches his students. There is another difficulty also. Suppose a math is so clever as to say that there is no duty cast on its head and that he does not claim spiritual headship. Is it not then for the Government to go to a Court and disprove that fact? Are they to take the onus of proof on themselves? The hon. Member, Mr. Bhashyam, nods his head. I see the trick he is playing on the Government. I warn the Government not to be caught in his net (Laughter). The Government must be polite when they describe a matadhipati. I would have convinced people who were determined to be convinced. But I cannot convince those who refuse to be convinced. Let us try to understand what it is that is sought to be done by this amendment. The sub-clause says '... who exercises spiritual headship' but not 'whose duty it is to exercise spiritual headship'. This being so, I ask, what is the objection in saying 'who engages himself' instead of 'whose duty it is to engage himself'? Then, there was the talk about the Theosophical Society. It is not a Hindu religious institution at all. It is a conglomeration of various

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peoples, Hindus, non-Hindus, Whites, non-Whites, in fact every nation in the world is represented there. It is a convention. It is a school of thought. Similarly, there are hundreds of schools of thought. There is the Visishtadvaitam school of thought which belongs to no math. My unfortunate difficulty is that the Hon. the Law Minister does not know what a math is. (Laughter.) Let me give an instance. There is a small place of worship at which students gather and study. Kalakshetrams on important and valuable treatises in Sanskrit are offered there and it is presided over from generation to generation, from master to master, by various individuals. There is a beautiful garden attached to it and the person who presides is one who engages himself in imparting religious instruction. There is no duty cast on him or for the matter of that on anybody. Yet, it cannot be said that the man will escape saying there is no duty cast upon him. If we want to control such institutions properly let us call the matadhipatis by dignified names. The definition should be more dignified. Because these men are all men of culture who engage themselves in imparting religious instruction, rendering spiritual service and exercising spiritual headship, I have proposed the amendment. "Why are the Government prescribing a duty in the first clause and cast it on him? No vital or important change is asked for. The Government need not press such unimportant things. All I can say is there will be more advantage in the language being respectful, polished and refined."

THE HON. SRI K. MADHAVA MENON:—"I concede, Sir, I have not as much knowledge about maths as my hon. Friend Sri Varadachari has but I have only this much to say, that a similar legislation passed in Bombay in May 1950 has practically copied out definition of 'math'. The definition in the Bombay Act is "Math" means an institution for the promotion of Hindu religion presided over by a person whose duty it is to . . . etc.", more or less identical wording as is used in this Bill. This is therefore fortified by a similar legislation passed elsewhere with similar wording."

The amendment was by leave of the House withdrawn.

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(After lunch—2-30 p.m.)

SRI K. BHASHYAM:—"Sir, I move the amendment standing in my name, viz:—

'That in sub-clause (10) to Clause 6 omit the words "and includes places of religious worship or instruction which are appurtenant to the institution".'

"Sir, I want to make my position clear so far as the temples of the heads of maths or matadhipathies are concerned. These heads of maths or matadhipathies are also trustees of various temples such as the matadhipathi of Sankaracharya Math is also the trustee of the Kancheepuram temple. There are many other cases like these. I am not speaking about these trusteeships. I am not saying that the Government should not take up the temples for which these heads of maths are trustees or have hereditary rights. What I am thinking of or what the clause speaks of is a sort of temple inside the math. I think the Hon. Minister in charge of the Bill knows that in the case of all heads of maths there is a sort of a 'Vigraha', or a 'Lingam' which is intended for the personal worship of the head of the Math. If only we make a little research into it, we can know how these maths came into existence. Justice Muthuswamy Ayyar has said how these Maths came into existence. He says—he did not think of this Bill then,—as a matter of research he says: 'The best men, learned men originally gathered round him for the purposes of religious instruction and they wanted to put up a shelter for him, which started with a hut; then a house and finally it became a sort of a big building'. Thus these Math buildings came into existence. So it started as a cottage or a hut for what he had, a sort of a 'Vigraha' or a 'Saligraha' or even a 'Lingam' in his hand for the purposes of personal worship, just as there is a prayer room in every householder's house in which a small 'Vigraha' is placed and worshiped every day either by the householder or a priest employed for the purpose and the 'prasadam' is taken every day. It is the belief among the Vaishnavites that no food which has not been consecrated by being offered to God shall be taken by him. So much so it is necessary at any rate for Vaishnavites—I do not know about others—that there should be the worship of the idol at home. It is in that way that the head of the math has also got the 'Vigraha' or the 'Lingam' or 'Saligraha' for his personal worship and because it is a big math he consecrates a room and puts his idol there and worships. Now you say in the definition of the math 'places of religious worship or instruction which are appurtenant to the institution.' The Government want to include the temple or the place of instruction. The Government say they are not interfering with the personal belonging of the head of the math. But when the Executive Officer is appointed he will take possession of these things. Of course the Government say that in the later portion of the Bill there is provision to see that he does not interfere with the religious portion of it and something of that kind. Why then are the Government anxious to include it here?

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If the profession of the Government were true, if they are sincere in their statement that they do not want to interfere with the religious or internal affair of the maths or these religious institutions, they ought to accept this amendment. The personal rooms or other places reserved by the head of a math where he has placed his idol and dedicated for the purpose of personal worship should not come under the scope of the Bill. In some cases, as the Hon. Minister in charge of the Bill himself knows, the idol itself is carried from place to place with the head of the math. Alagiasingar, the titular deity of the math of Ahobilam is being carried along with the Swami whenever he goes on pilgrimage or for instructing his disciples. The worship is a personal worship as much as in the case of the householder having a prayer room in his own house. According to the definition contained in the Bill it would be very difficult to say that the Bill will not be interfering with the sanctity or the inner management of the worship of the idols.

"As regards religious instructions, the point is this. The heads of maths are persons selected for special knowledge on particular philosophy or religion and they are there. People gather round them to get religious instructions. It is not like a modern college where you get admission by putting in an application and paying an admission fee. But here a definite atmosphere is necessary for the imparting of the religious instruction and the person must be prepared to receive it. Every man cannot go into it. The teacher is not bound to instruct anybody unless he finds the man fit to receive instructions. The teacher may refuse to give instructions if the pupil is not qualified to receive his instructions. Therefore I say the Government ought not to take possession of these, what I call the personal effects and buildings of the maths. They are really part of the daily life, that is to say, as soon as he gets up every morning, finishes his bath and ablutions and 'Sandhya' he has got to worship the idol which is carried with him or has dedicated it in a portion of the building, call it a temple or anything you like. It is a private place of worship for personal salvation or purification. Nothing more than that. In this case the head of the math is not bound to admit even his own disciples into it. So I appeal to the Hon. Minister in charge of the Bill who knows something so far as these maths are concerned to exclude from the definition of the maths, the whole of the math temples. I have nothing to quarrel with the Government in regard to other temples. But these are idols that are put in the temples and worshipped not only by the Swami but so many others who congregate there. That is the point."

THE HON. DR. T. S. S. RAJAN :—"I should like to point out this. If the hon. Member says that the temple should not be considered as part of the math, there is no special temple built for the special purpose . . ."

SRI K. BHASHYAM :—"If the head of the Math by virtue of his office is also the trustee of a particular temple I have no quarrel with the Government. These temples may be taken

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up by the Government. But what I am actually concerned with at present is that portion of the math which is utilized for locating the Personal God only for the purpose of his own personal purification. Therefore, so far as this is concerned, if the Government are sincere that they are only trying to improve the administration, they must accept my amendment. I strongly appeal to the Hon. the Minister in charge of the Bill to accept the amendment."

THE HON. DR. T. S. S. RAJAN :—"I just want to explain, Sir. Most of the heads of the maths receive all their emoluments during the time when they worship the Personal God. The Personal God is worshipped in the presence of so many people. Immediately after the worship is over, the Archaka or whoever is responsible for the job makes collections from all those who attend the worship. Most of the income of the temple is derived in front of the God he worships, and it is not meant for his personal benefit but for his trust and for the discharge of whatever duty is cast on him, and he has got to do that as the head of the math. The place of seclusion and the place of worship is all there. I wish to inform my hon. friend that in the case of the Vaishnavas, the very branding instrument with which the people are branded is kept near the God so that it could get the sanctity of the God by constant contact with Him. After the worship in the presence of the devotees, the silver plate is taken round and collections are made and kept before the God. Then, the branding instrument is taken from the seat of the God and the people are branded with it. These are religious ceremonies which only Vaishnavites could ever appreciate or understand. As my attention was drawn to it I wanted to inform the House the actual facts, and how these good people derived their income. There they worship an image which they call as Personal God. But from the point of view of the discipline, it is worshipped by all as it is considered glorious and great. Offerings are made; one gives Rs. 5 another Rs. 50 and so on. It is only a fee voluntarily raised from the people and it is considered that such offerings will bring greater income. Can it be said by any stretch of imagination that this public income should be considered as personal income, and nothing can be done by law with regard to it?"

SRI K. BHASHYAM :—"Mr Speaker, Sir. I am glad that the Hon. the Minister has explained his point of view as a Vaishnavite."

THE HON. DR. T. S. S. RAJAN :—"Sir, I am not a Sri-vaishnavite and I do not claim to be one in this House."

SRI K. BHASHYAM :—"It does not require the Hon. the Minister to make a declaration for everybody knows it, and everybody proclaims from the housetops that he is not a Vaishnavite. What I was pointing out is that, if as a matter of fact a Gurukul or an Archaka in a particular temple for the purpose of carrying

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on the worship is paid 2 annas, 4 annas or 10 annas, you exclude them from the religious endowments. Let me explain the position further. So far as the matadhipathi is concerned, even if he is unconnected with worship, people give him some gifts and they come under math endowment. But, when one worships in a private room on a Deepavali or Pongal day, persons from other houses come, attend the worship and pay some small moneys to the Brahmin. But, this is for the Brahmin who worships and gives some *prasadam* or sacred water to the disciples. And I do not understand why you want to take those amounts which are really paid in the presence of God and which is really a personal gift, as part of the math income. You may say "I have no objection to any money received in the temple for the purpose of worship being included" because it adds to the temple funds. I do not mind it at all. But, I do not want the definition of 'math' to include places where personal worship is carried on.

"So far as the place inside a math is concerned (in which the matadhipati personally worships every day), it may be excluded from this definition. If this place were to be excluded from the scope of the Bill, it will be a test of the sincerity of the Government in saying that they will not interfere with the internal management of the matadhipati, and that all that they were concerned with was only in regard to the secular management of the institution."

SRI T. VISWANATHAM :—"Mr. Speaker, Sir, the Hon. the Minister has said that although the gifts are made to the matadhipati, they become the public property. I am deeply interested in the gifts given to the matadhipatis which the Hon. Minister would said become public property. I have now got in my hand certain memoranda presented to the Joint Select Committee on this Bill—which are 9 or 10 in number, which say that such gifts need not be treated as public property. For example, Sri G. Vaideludham Pillai, M.A., Professor in Tamil, American College, Mathurai, says—

'The personal wearings of the matadhipathis and the presents by way of *patha-kanikka* have not been spared in the Act. *Patha-kanikka* or *Guru-kanikka* are presents or offerings by the disciples or devotees to the *Guru* as personal gift, in appreciation of his spiritual achievements or as a return to the spiritual services rendered.'

So, Sir, opinions are not clear and the Government cannot all of a sudden say that these gifts are public property. Besides, the points raised by the hon. Member Sri K. Bhashyam are very clear. It is all right if you define the 'math' without the appurtenances. Therefore, I second the amendment."

SRI N. S. VARADACHARI :—"Mr. Speaker, Sir. In supporting this amendment, I wish to say a few words. What is a 'math'? It is a Hindu religious institution including places of religious worship or instructions which are appurtenant to the institution. In fact, Sir, if the whole object of the legislation is to keep a proper check and control in the case of certain institutions

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and not to disturb the other side of the administration with which the Government are not concerned at all, I think the omission of these words would very well serve the purpose. What is this place of religious worship, which my hon. Friend Sri K. Bhashyam referred to. It is not a temple. It is a place where personal meditation is done for the purpose of meditation. In it are included disciples also; and it may stand. It is not the same religious teaching that takes place in an ordinary temple. It is not *aradhana* done to the Swami himself. There is no person employed and there is no service rendered. It is not a place where one comes and performs the *puja* to the Swami and attends to the temple service. In fact, Sir, the place of religious worship is the place at which these things take place. I am surprised to note that at these places of worship, the gifts that are given, go to the matadhipatis who use them as their personal gifts. Even if it does take place, no such gifts are collected. So far as I know, there are no such places in this State. There may be some outside the State. But the custom is the same throughout.

"The idea is that a 'math' is supposed to hold some classes on philosophy. It is generally presided over by a learned scholar who has renounced the worldly things and has taken to *sanyasam*. He has no property of his own. Whatever he collects, he collects as a trustee for others. He performs the duties better than most of the so-called secular trustees. I must say that without fear of contradiction.

"It may be that there are some exceptional cases or some mismanagements here and there. But, in general the disciples assert and even without their assertion, the *sanyasi* or the scholar will see that the worship is properly carried on, that the moneys are properly accounted for and the use to which these gifts are put is in conformity with the traditions and the usages of the 'math'.

"Then, Sir, what is the particular thing you want? There is no such thing as 'pathakanika'. So far as I know, we do not give 'pathakanika'. I am not a disciple of a 'math'. But, I know the usage in 'maths'. And I can tell you that, if you put these also, it will lead to much misunderstanding amongst the people. If you exclude the places of religious worship inside a 'math' and the places of instruction, which are usually used as places for *kalakshepam* and where important books on philosophy or treatises and commentaries on the original vedic literature, are read, you will perhaps have a more cultural body passing the legislation which will only touch the secular side and leave absolutely untouched the religious side of worship. The exclusion of these does not mean that you do not exercise your control over the property. The 'math' has property and they are endowments. You will have full control over that property and if you want to exercise your control, the provisions relating to the 'math' may be amended. You don't see the susceptibilities of those who in their own right and in their own responsibility are expected to discharge their duties in a pleasant manner. Don't disturb the peaceful life in these places.

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At times, they may take, for instance, the idol of Srilaxminarayana along with them and then worship at the places where they visit. Then disciples may flock and give some small moneys at those places. Why do you wish to include them also in the definition which will give rise to misinterpretation and perhaps misunderstanding in the actual working of the Act. If you exclude these, there is no harm done. The control over 'math' is there and nobody escapes it. On the other hand, you will be saving yourselves being called unhelpful and uncertain. That is my point.

"The Hon. the Minister is kind enough to explain that he is careful enough that gifts made at such places should not escape control. Now, by putting them in the definition, you do not bring them under your control. On the other hand there are ways and means of escaping from the control of Government.

"Pathakanika' is non-existent. I don't know anything about it. I am a Vaishnavite and I am not ashamed of saying so here. I wish to remain so. I, therefore, feel very strongly for the exclusion of these words. By excluding them, you don't exclude your control and so there is all the more reason why you should agree to the modest and most reasonable proposition which does not in any way take away your authority and the jurisdiction that you want to exercise over certain Hindu Religious institutions."

SRI M. S. PATTABHIRAMIAH:—"Mr. Speaker, Sir, I support this amendment. I agree that these words 'and includes places of religious worship or instruction which are appurtenant to the institution' should be omitted. From the explanation given by the Hon. the Minister and from what was pointed out by the hon. Member Sri N. S. Varadachari, it is clear that the Government are particular to take only the *kanikkas* or gifts given in the Vaishnava maths. But, so far as I know, in the Ahobila and other maths, there is no such ritual performed where any such money is collected. For instance, in the Sringeri math, to which I am bound to owe my allegiance in spiritual and religious matters, this practice is not observed. We invite the *matadhipatis* to our homes and offer worship and make gifts or *pathakanikas* by placing some specific sums such as Rs. 108 or Rs. 1,008 at their feet. It is an offering made to them. It is not offered to any deity. I am not here elaborating on the spirituality or the rightness or wrongness of any particular theory. You say, 'the appurtenances to the place where religious worship is being conducted by the *matadhipati*.' If the Government take possession of the appurtenances, it will be going entirely against the Constitution of our land. I am sure that can be reversed by any court of law. Of course, our Government do not care very much for the proper or prospective findings of any court. But they have very wisely or unwisely put in a Clause towards the end which reads: 'Anything offending the Constitution would be null and void.' Such a provision would be unnecessary if they exercise a little more care and avoid such phrases where it really affects the Constitution and offends our moral sense also.

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"As regards the amendment for the omission of the explanation"

MR. SPEAKER:—"That amendment will be moved later. Only the first part of the amendment has been moved. When the second part is moved, the hon. Member may speak on it."

SRI M. S. PATTABHIRAMIAH:—"The dropping of the words I have referred to are necessary and such dropping will not affect the effect of this legislation. Those words are an unnecessary addition and can be dropped. I only appeal to the Hon. the Minister to accept the amendment."

SRI K. T. KOSALRAM:—"கனம் சபாநாயகர் அவர்களே! கனம் பாஷ்யம் அவர்கள் கொண்டு வந்தது திருத்தத்தை நான் எதிர்க்கின்றேன். அவர்கள் இப்போது சாதாரணமாகப் பார்க்கும்போது இந்த பில்லை எவ்வளவுக்கெவ்வளவு தள்ளிப்போட்டு இது விஷயத்தில் காலம் கடத்தவேண்டுமோ அவ்வளவுக்கும் வேண்டிய முயற்சி எடுக்கிறார் என்று தெரிகிறது. கனம் பாஷ்யம் சென்னை நகரிலே பிரபலமான வக்கீல். அவர் ஒரு வக்கீல் என்ற முறையில்"

SRI K. BHASHYAM:—"Sir, is the hon. Member in order in referring to me like that?"

THE HON. SRI K. MADHAVA MENON:—"He was only referring to the experience of the hon. Member Sri Bhashyam as a lawyer."

SRI K. BHASHYAM:—"He has no right to refer to my practice as a lawyer in those terms. I protest against it. If he is a gentleman he should withdraw what he said about me."

SRI K. T. KOSALRAM:—"தலைவர் அவர்களே! கனம் பாஷ்யம் அவர்களின் திறமையைப்பற்றி கூறினேனே தவிர அவரைப் பற்றியோ அவர் தொழிலைப் பற்றியோ குறைவாக நான் கூறவில்லை.

"நிற்க, மடாதிபதிகளைப் பற்றியும் பாத காணிக்கைகளைப் பற்றியும் நண்பர்கள் பேசினார்கள். ஆனால் ஒன்று சொல்லுகின்றேன். அரசாங்க மென்று ஒன்று இருக்கிறதென்றால் பொது ஜனங்களாகவே மடங்களுக்கு காணிக்கை செலுத்தினாலும், அல்லது பொது ஜனங்களிடமிருந்து காணிக்கை பறிக்கப்பட்டாலும் வசூலாகின்ற ஒவ்வொரு பைசாவும் ஒழுங்காகவும், சரியாகவும் செலவழிக்கப்படுகின்றதா என்று கணக்குப் பார்ப்பதற்கு அரசாங்கத்திற்கு அதிகாரம் இருக்கவேண்டும். ஆனால் குறிப்பாக ஒன்று சொல்லுகின்றேன். மடாதிபதிகள், மத குருமார்கள், மத விஷயங்களை மாதிரிப் போதிப்பவர்கள் என்ற நிலைமை மாறி அவர்கள் அரசியலிலும் கூட தலையிடுகிறார்கள் என்று கூறுகிறேன். எங்கள் ஜில்லாவில் காங்கிரஸ் தேர்தல் நடந்தபோது இந்த மடாதிபதிகள் மடத்தின் பணங்களை ஏராளமாக தேர்தலுக்காகச் செலவு செய்திருக்கிறார்கள். அரசியலில் கலந்து இந்த மாதிரி வேலை செய்யக்கூடிய நிலைமைக்கு அவர்கள் வந்து விட்டார்கள்."

SRI T. VISWANATHAM:—"May I ask for an English translation of what the hon. Member is saying? It is impossible for me to follow his Tamil."

SRI K. T. KOSALRAM:—"The heads of maths are interesting themselves in political organisations and participating in political activities."

SRI T. VISWANATHAM:—"They are doing worse things."

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SRI K. T. KOSALRAM :—“ இந்த நிலைமையில் அவர்களிடத்தில் ஒரு பைசா இருந்தாலும் சரி அதை கணக்குப் பார்க்கவேண்டிய நிலைமை அரசாங்கம்திறகு இருக்கவேண்டும். ஆகையால் கனம் பாஷ்யம் அவர்கள் கொண்டு வந்த திருத்தத்தை எதிர்த்தேன். அரசாங்கமும் அதை எதிர்த்து மென்று நம்புகிறேன்.”

SRI L. N. GOPALASWAMI :—“ Sir, I wish to say a few words in support of this amendment. This sub-clause (10) deals with the definition of 'maths'. So far as I can see, a math includes a religious institution. But here we are begging the question. In sub-clause (15) we have the definition of 'religious institution'. It says: 'religious institution' means a math, temple or specific endowment.' This carries us nowhere. I wish the Government had taken pains to say what really they want to include under 'maths'. From what the Hon. the Minister told us it is clear that the Government want to grab at all moneys offered in the name of religion to a matadhipati. I am not able to agree with my hon. Friend Mr. Kosalram that whatever money is given to anybody should be accounted for and that the Government should have the right to ask for accounts in all such cases. The Constitution says, and the same has been referred to at the end of this Bill itself, in Article 26, 'Subject to public order, morality and health, every religious denomination and section thereof shall have the right to establish and maintain institutions for religious and charitable purposes and manage its own affairs in matters of religion.' That being so, when it is a religious matter, and acceptedly religious as mentioned in sub-clause (10), and includes places of religious worship. I do not see how, by bringing in places of religious worship under a math, the Government can lay their hands on a math and on the funds that the person in charge of it has been offered in the name of religion. It would be a different matter altogether if it is a question that does not relate to religion. But in so far as it relates to religion, irrespective of what my hon. Friend Sri Kosalram may say, the religious head of the institution is entitled, as per Article 26 of the Constitution, to gather such moneys as are offered to him for his worship and manage them as he pleases. Nobody, in spite of what the hon. Member Sri Kosalram may say, can have any right or access to it. If anybody wants to dispossess the matadhipati of that right to dispose of the money offered to him as the head of a religious denomination he will be certainly violating of Article 26 of the Constitution.

“ That apart, I do not see why the Government should include in the definition of 'math' the places where the matadhipatis go in any part of the State. This definition as it stands will bring within its scope the places or houses where the head might have his *pūja* including that even a poor man who has invited the matadhipati to his abode. If the matadhipati were to deliver a lecture at the Victoria Hall for instance, even that place will be brought under the category of 'place of religious instruction' and included in the definition of 'math'. Let there be a limit put on this temptation to expand the scope. Let us not interfere

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too much in religious matters. The Government are a secular Government and what we are concerned with is only the proper management of the maths. Even to this there is a limit, under the Constitution, up to which the Government can go. I request the Government to drop the definition of the word 'math'.”

SRIMATHI V. LAKSHMI AMMAL :—“ கனம் அக்கிராசனாதிபதி அவர்களே! கனம் பாஷ்யம் அவர்கள் கொண்டு வந்த திருத்தப் பிரேரணையை நான் ஆதரிக்கின்றேன். அதை ஆதரித்து இரண்டொரு வார்த்தைகள் சொல்ல விரும்புகிறேன்.

“ மடம் என்பதற்கு விரிவான அர்த்தம் இதில் கொடுத்திருப்பதால் எல்லாவிதமான மடத்தையும் ஹிந்து மடங்கள், ஜைன மடங்கள் எல்லா வற்றிற்கும் விரிவான அர்த்தம் கொடுக்கிறது. மடத்திற்குள்ளிருக்கும் விகிதாசனாதிபதி பூஜை பண்ணுகிறவர் மடாதிபதி. இப்போது சிருங்கேரி மடத்தை எடுத்துக்கொண்டால் சிருங்கேரி மடத்தில் சாரதா தேவியை பூஜை பண்ணுகிறவர் ஸ்ரீ. சங்கராச்சாரியார். அவ்விதம் பூஜை நடக்கும் காலத்தில் நிறைய ஸ்திரீகளும், புருஷர்களும் போய் கற்பூர ஹாரத்தி சமயத்தில் ஏராளமான காணிக்கைகளைக் கொடுப்பார்கள். பெண்கள் நகைகளைக்கூட கொடுப்பார்கள். விசேஷமான பூஜை நடக்க வேண்டுமென்றும், விசேஷமான அன்னதானங்கள் செய்ய வேண்டுமென்றும் அவர்கள் நினைத்து பொதுவாக காணிக்கைகளை சமர்ப்பிப்பார்கள். இது மாதிரி அல்ல. இன்னும் மடாதிபதிகளுக்குப் பாத பூஜை செய்கிற காலத்தில் ஆங்காங்குள்ள எழும் எளியவர்களுக்கு சாப்பாடு போடுவதற்கு செலவு செய்வார்கள். ஆகையால் இவ்விதமான பாத காணிக்கைகளை இதில் சேர்க்காமல் இருப்பது தான் உத்தமம். அதில் போய் தலையிடுவதென்பது முற்றும் பிசுபென்பதை நான் தெரிவித்துக்கொண்டு முடித்துக் கொள்ளுகிறேன்.”

SRI V. RAGHAVAYYA :—“ Sir, I have a great mind to tell the Government that they must make a distinction between gifts made to a temple and gifts made to a person. The Government motion seems to smack of a little predatoriness. Some disciple thinks it necessary—perhaps not as wise as the hon. Member Mr. Kosalram Nadar—out of his little or great wisdom, to go and offer something to God or to a divine man. He offers *pathram* (leaf), *pushpam* (flower), *phalam* (fruits) or *thoyam* (water) or perhaps a thousand rupees. One cannot assess the piety of a person from the value of the offering he makes. There is an invisible contract between the person offering and the person offered. It is not the medium of communication that matters much in these contacts. What I wish to know is what is the power of this Government to stretch out their hand like a beggar and go about scrambling over offerings that come in the way and lay their hands, as it were for plunder, on everything that looks like money?

“ Is it the idea of this Government—God forbid that it should be so—that they should post a man at the grave-yard, like Veerabahu in the story of Harischandra, and collect all the coins that are thrown there? There must be some limit to the avarice and greed of the Government. Simply because it is the Government, it cannot escape certain laws of decency prescribed for all decent men. Sir, my submission is this. Here is a gift given to a person. You are not maintaining the matadhipati. You are not contributing a pie towards his welfare. Enough if you save him from income tax, profession tax, sales tax and all the other

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taxes. The matadhipati simply says: 'I am here by dint of my piety. I am here because God made me so. I do not want any help from the Government. I only want to be left in peace. There are some people in the world who somehow or other like me, who have got some respect and devotion to me and who flock to me now and then with their offerings. I may use that money for charity or for any purpose I like.' Sir, were not the Hon. Ministers promising many things that have been given, that are yet to be given and that have not been given? When a human being of a Minister's type can go about promising so many things, why not a religious head do the same? At any rate he does not promise anything in this world; he promises something only in the other world. There may be people and there are gullible persons who believe him when he says that a seat is reserved for them in the other world. Let them believe in it. There is no harm.

"I say, Sir, it is too much for the Government to try to grab at everything. They should halt at some stage and say that these are the things which will be left to others. For instance, how is this great man to equip himself first? Is he not to purchase the literature, and the books on the subject? Do you want him to take a spade and go and work in the fields? The hon. Member Mr. Kosalram was very eloquent about *podu makkal* (common men). Nowadays everybody seems to canvas the *podu makkal* for his own purpose. The *podu makkal* are the only people who say, 'Leave the matadhipati alone. Why do you touch him?' Sir, speaking for the *podu makkal*, let us not deprive them of a little satisfaction in the feeling that they get some temporal or spiritual benefit here or elsewhere. My submission is that the Government should not touch all these offerings. There are certain individuals whose dignity—I am not speaking of worldly dignity but spiritual dignity—must be preserved in a manner which will not compel them to go about begging for bread telling people, 'I have been impoverished. The Government have taken away everything. Give me alms.'"

SRI P. KANDASWAMI PILLAI :—"கனம் தலைவர் அவர்களே, இது ஒரு சின்ன திருத்தம். இதற்காக பெரிய வக்கீல்கள் இவ்வளவு தூரம் வாதம் செய்யவேண்டியதவசியமில்லை. இந்த ஒரு சின்ன திருத்தத்தை வைத்துக் கொண்டு பிரமாதப்படுத்த வேண்டியதவசியமும் இல்லை. இது ஒரு முக்கியமான சட்டம். அதைப்பற்றி விவாதிக்கும்பொழுது ஒரு பழமொழி உண்டு. அதாவது 'மடத்தை விட்டுப் போகும் சந்நியாசிக் கு பூந்தோட்டத்தைப் பற்றி என்ன கவலை' என்பதைப்போல் Hindu Religious and Charitable Endowment-ஆக உள்ள எல்லா Charitable Endowment-ஆயும் எடுத்துக் கொள்ளும்படி சட்டம் செய்யும்பொழுது இந்த மடாதிபதிகளையும் மடத்தையும் எடுத்துவிட வேண்டுமென்று சொல்லுகிறார்கள். கனம் ஸ்பீக்கர் அவர்கள் கார் நினைப்பதைப்போலல்லாமல் இவைகளை இனிமேல் சர்க்காரே எடுத்து நடத்தப்போகிறார்கள். அவ்வப்பொழுது நடத்தப்படும் சர்க்காருடைய மனப்பான்மையைத்தான் பொறுத்திருக்கும். ஆகவே, அதைப்பற்றி சட்டத்தில் மாறுதல் செய்யவேண்டியதவசியமே இல்லை. இது ஒரு சின்ன திருத்தம். இந்த திருத்தம் ஒரு பிரயோசனத்தையும் அளிக்காது. யாருக்கு சந்தர்ப்பம் கிடைக்கப்போகிறதோ அவர்களுடைய மனப்பான்மையைத்தான் பொறுத்திருக்கிறது. இப்பொழுது இருக்கிற டாக்டர் இராஜன் மாதிரியல்ல, கனம் ஸ்பீக்கர் மாதிரி மனம் மாறாமல், யார் இருந்து நடத்தப்போகிறார்களோ"

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அவர்களுடைய மனப்பான்மையைப் பொறுத்திருக்கிறது. அதற்கு சட்டம் இருக்கிறது. ஆகவே, மனதில் ஏதோ ஒன்றை வைத்துக்கொண்டு பேசுகிறார்கள். Beating about the bush என்பதைப்போன்று ஏதோ ஒன்றை மனதில் வைத்துக்கொண்டு பேசிக்கொண்டே போவதில் அவசியமில்லை. ஆகவே இந்த சின்ன திருத்தத்தை அப்படியே விட்டுவிட்டு சர்க்காரை இந்த சட்டத்தை நிறைவேற்ற வேண்டுமென்று கேட்டுக்கொள்ளுகிறேன்."

THE HON. SRI K. MADHAVA MENON :—"Mr. Speaker, Sir, the hon. Member Mr. Raghavayya said that the Government had no sense of decency."

SRI V. RAGHAVAYYA :—"I never said that. I said, 'not enough decency'."

THE HON. SRI K. MADHAVA MENON :—"I stand corrected, Sir. I thank him for small mercies. He says that the Government have at least some decency. I request him also to have some little sense of decency in using words like 'plunder, greed, grab' and so on as if that is the business that we have to do here. I appeal to him, Sir, 'Physician, heal thyself; have a little bit of decency in the language you are using'. The Hon. Dr. Rajan of course referred to *pathakanika*. But it has nothing to do with this Clause. With due deference to hon. Members Srimathi Lakshmi Ammal, Sri Gopalaswami, Sri Kandaswami Pillai and Sri Kosalram, I have to say that this Clause has nothing to do with *pathakanika*. Because, unfortunately, *pathakanika* was referred to the hon. Member Sri T. Viswanatham wanted to know what it was. I invite his attention and the attention of the hon. Member Mr. Raghavayya who spoke about 'greed' and so on to Clause 60 of the Bill which refers to *pathakanika*. This Clause does not refer to it." (Sri T. Viswanatham rose to interrupt.)

MR. SPEAKER :—"The Hon. Minister is not yielding."

SRI T. VISWANATHAM :—"If he does not yield, I request him that he may be clear enough."

THE HON. SRI K. MADHAVA MENON :—"The gifts received by the *matadhipati* which are commonly known as *pathakanika* are referred to in Clause 60 of the Bill."

SRI L. N. GOPALASWAMI :—"There are gifts other than *pathakanika*."

THE HON. SRI K. MADHAVA MENON :—"The hon. Member Mr. Bhashyam's amendment does not refer to gifts at all. It only refers to places. I do not know whether gifts include places of religious worship and instruction."

SRI T. VISWANATHAM :—"Places may be property."

THE HON. SRI K. MADHAVA MENON :—"If places which may be property are given as gifts, then it is the object of the Government that they should be included in the definition of 'Moth'. Sir, let us not confuse the issue. The hon. Member Sri N. S. Varadachari spoke about the idol of Narasimhaswami which

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a particular matadhipati always took with him. The hon. Member Sri Bhashyam referred to a particular matadhipati personally worshipping a *Sivalingam* or *Saligramam* in a particular place. They said that these places were like the *puja muris* in our houses. These are not at all intended to be touched. There are shrines inside the premises of certain maths where people will be allowed to worship. The hon. Member Mr. Bhashyam said that this was a case of the test of sincerity of the Government. Really it is a test of sincerity of the Government, for if the hon. Member Mr. Bhashyam's amendment is accepted, these shrines within the maths will become temples, because the people are allowed to go and worship there. When they become temples, it is open to the Government or the Commissioner to appoint trustees. But we have specific provisions for maths and these are not controlled like temples. Only a very little administrative control is proposed to be had over them. But if the amendment is accepted and if these shrines become temples, it will be open to the Government or the Commissioner to appoint trustees for them. It is to avoid that exactly, so that these shrines may not be treated as temples but may be treated as part of the maths that they are included in the definition. Therefore all the imaginary things about the *pathakanika* and the greed of the Government are out of place here. There is a proverb that to the eyes of a jaundiced person everything will appear yellow; similar ideas of plunder, greed, etc., will occur only to some people. But that is not at all the case here. No question of greed or *pathakanika* comes in here. This Clause says that a math includes places of religious worship or instruction which are appurtenant to the institution. By including these places in the definition of a math, it does not mean that they will all go to the Government. There are other Clauses in the Bill relating to the control of the administration of maths. This is only a definition of a math.

"Sir, I may be accused of quoting precedents and bad precedents. The hon. Member Mr. Gopalaswami has become a Constitutional expert and he has been saying at every stage that this will infringe the Constitution and that will infringe the Constitution. I have not become a Constitutional expert. At least the hon. Member Mr. Bhashyam did not say that this would infringe the Constitution. (Interruption.) It is open to us to become wiser. We do often become wiser and sometimes *vice versa* also. In the existing Act of 1927, the definition is the same. It may be said that it is bad enough. It says that it includes places of worship and instruction which are appurtenant to the institution. We have not found any difficulty so far. The Bombay Act of May 1950 also includes places of worship and instruction. It is nothing very strange that we have done. Therefore references to *pathakanika* and gifts have nothing to do with this Clause."

SRI K. BHASHYAM:—"Sir, I think the Hon. the Minister for Law who is practically in charge of this Bill is more specious than sound in what he has said. He says that we have been beating about the bush in talking about *pathakanika*. I agree with

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him, Sir. But who started it, Sir? It is the Hon. the Minister who is in charge of the Department who started it. He said that in places where worship goes on when the swami goes round, he collects any amount of money and puts them in his pockets. (The Hon. Sri K. Madhava Menon rose to interrupt.) I do not yield to him as he did not yield to my hon. Friend a little while ago. My point is, it is not as if all this money is put into the pocket of the swami, if he has a pocket, and it is all mis-spent altogether. This point arose because it was started by the Hon. Dr. Rajan. When he raised the question, I at once recognized that there is a separate provision about it and we know that it allows the person to spend it as he pleases. What I am concerned with is not with the money collected, but with the portion of the math which is used for the purpose of personal worship by the swami. It should not be touched. That is what I am anxious about. When the swami goes round on *sishyadanam* as it is called, the idol is always carried with him in a palanquin. Wherever he goes, there is a temple at once and he really worships there. Money is presented to him there. Do you want to say that a temple inside a math is a temple and when he goes out to other places and when money is presented to him in connexion with the worship of the idol in those particular places, then those places also must be considered to be temples? It is so illogical to assume that such things could be done. I also want to quote in this connexion what one Santanagopalan and Rajagopala Pillai say. If I quote a Brahman, it may be stated that the opinion is prejudiced. I want you to see what a Pillai says about it—

"The definition in the present Bill includes within the term mutt "places of religious worship or instructions which are appurtenant to the institution". This again is based on a wrong conception. The Guru, who occupies the *Gurupeta*, has a *murti*, to which he performs *pooja* in the same manner as has been performed for generations. The places where such *murti* is kept for the time being is its place of worship. Hence, it will be a mistake to think these places as being appurtenant to the institution. . . . It is a tragic irony and very deeply to be deplored that, in the name of preventing mismanagement of endowments, things and places held as sacred by Hindu traditions and scriptures should be treated with deliberate indifference as is done in several provisions of the Bill."

This exactly describes what the feeling of an ordinary Hindu is or of a disciple of a math is. It is found at page 236 and is stated to be the memorandum submitted by Sri G. Rajagopala Pillai, Sri Santhanagopalan and others.

"I only want to say a word or two in regard to what hon. Mr. Kosaram said. He said that apparently I am trying to delay the Bill as much as possible. But this is an important Bill affecting the religion of every Hindu. May I ask him whether he has got a copy of the Bill in his hands, whether he has studied all its provisions and whether he knows what are all its implications? May I ask him whether he keeps an account for the Rs. 150 that he gets, how he spends it and all that? I do not know what he means by saying all the bad things he has said. It is really wrong. I think, for him to speak in this irresponsible manner, and it is indeed very regrettable that you should not extract an apology from him in regard to this matter. That is all I have to say to him, Sir."

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THE HON. SRI K. MADHAVA MENON :—" Sir, in spite of the compliment given to me that I am more specious in my argument than sound and whatever may be my capacity to be specious, I did not get a reply from hon. Mr. Bhashyam to what I said. I said that if these words are omitted, there is a likelihood of a wrong interpretation and it may be held that such places are temples. We want to avoid such misinterpretation. Secondly, hon. Mr. Bhashyam read the memorandum of Mr. Rajagopala Pillai. I may say that is as much a mistaken argument as what hon. Mr. Gopalaswami said, that is, that if a matadhipati brings his idol and keeps it in the Victoria Public Hall, it will become his property. Sir, I may say at once that even if the Bill is passed and even if the Victoria Public Hall becomes a place appurtenant to a religious institution, the law will not permit the Government to treat it as such, because that place belongs to somebody else and the matadhipati will be only a guest in that place for some time. So, I say that the argument of Mr. Rajagopala Pillai is as mistaken as that of my hon. Friend Mr. Gopalaswami."

MR. SPEAKER :—" Is the hon. Member withdrawing his amendment? "

SRI K. BHASHYAM :—" No, Sir; this is the most important portion in the Bill; I feel very strongly about it, I will therefore press it before the House and I may even think of demanding a poll, if necessary, as it is a matter affecting the religion of the people and I may know who vote against it."

THE HON. SRI K. MADHAVA MENON :—" Sir, as an elderly Member himself, I expected that these threats will not come from hon. Mr. Bhashyam."

MR. SPEAKER :—" The amendment is—

'That in sub-clause (10), omit the words "and includes places of religious worship or instruction which are appurtenant to the institution".'

The amendment was lost.

SRI K. BHASHYAM :—" Sir, I move—

'That the Explanation under sub-clause (10) be omitted.'

"This is a matter in which nothing important is involved; it is a mere matter of convenience, and that is why I place it before the House untrammelled by any consideration of respect due to a matadhipati or anything like that. The explanation says that when the headquarters of a certain math is not in the Madras State but outside it, some of its properties situated within this State should be governed by these provisions. I may submit there are certain maths called the Veerasaiva maths situated in Dharwar and there are certain temples attached to them in Bellary, etc. I do not want to refer to any Brahman math because there will be a prejudice attached to it. In respect of such maths, the Bombay State has passed some legislation. That Bombay Act is one

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which was passed after our Bill was framed, and so it is all a question of one copied from the other. The Bombay Act does not give us any special sanctity because after all it has been copied from our Bill, and probably there was no Bhashyam or Kosalram in Bombay to object to it, as we see here. That is, however, a different matter. What I particularly have in mind is the case of the Sringeri math which has its headquarters in the Mysore State and which owns a lot of property in the Madras State. Mysore has all along been a Hindu State—at any rate up to recently—and in Mysore they have a Mozrai department which controls all religious institutions, but the Sringeri math has been treated all along with the greatest respect. As a matter of fact, the State gives the head of that math all kinds of honours including military honours and receptions are arranged for him whenever he goes to any cities in the State. The Mysore State has also appointed a person to look after the math properties as its agent. When there is such a good arrangement in regard to foreign maths—or maths with a foreign domicile, if I may say so—why should this State concern itself with their management, I ask? Suppose there is some difficulty felt by the agent of the math because he is far away, why should this State concern itself with that? That will only be inviting trouble. You have enough maths and their properties to look after in this State; then why burden yourself with other maths? It really means expanding your responsibility without any benefit. I think this explanation has been put in by the department because probably they thought that if they roped in these foreign maths, they could get some 4 or 5 per cent by way of commission. It may be a small matter; but still, why interfere with the control and superintendence of these properties by another equally good Government? Let us leave it to them to make their own arrangements for their proper management. That will bring about the utmost harmony and the closest relation between one State and another neighbouring State."

SRI T. VISWANATHAM :—" Sir, I second this amendment. Incidentally, I should like to know from the Hon. Law Minister whether he said that there would be no contributions from maths. If we look at clause 81, we will find that contributions have got to be paid by 'every religious institution' and 'religious institution' includes maths. Apart from that, on the basis of the other arguments advanced by Mr. Bhashyam also, I second the amendment moved by him."

THE HON. SRI K. MADHAVA MENON :—" Sir, the Explanation comes in only where, as hon. Mr. Bhashyam said, the headquarters of a math is outside this State and it has properties here. Whatever administrative control this Government may exercise over properties of maths within the State must necessarily apply to them also. In fact, this amendment is more or less connected with the amendment of hon. Mr. Varadachari which comes next. That amendment is to the following effect: He wants an additional explanation that—

'except in so far as they do not contradict the provisions of similar Acts passed in the State where the math is situated.'

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That practically means that he wants that properties belonging to foreign maths situated in this State should be governed by the law of this State. It is quite reasonable and I think it should be so."

SRI K. BHASHYAM :—" Sir, if the Government think that by exercising some administrative control over them, they should get some income from these maths, let it be so; but I think it will be only ordinary courtesy to the other States that we should respect their laws so far as their properties are concerned. I think Hon. Mr. Madhava Menon asked : ' Why not our laws which are prevailing in our own State be made to apply to properties situated in our State? ' ' Why should the laws of other States prevail in respect of their properties here? ' I can only say it is a sort of courtesy to be shown to a sister State that we should respect their laws in respect of their own properties."

MR. SPEAKER :—" I wish to know whether hon. Mr. Bhashyam is withdrawing his amendment."

SRI K. BHASHYAM :—" No, Sir."

MR. SPEAKER :—" Then I shall put the amendment to the vote."

The amendment to omit the Explanation under sub-clause (10) was put and lost.

SRI N. S. VARADACHARI :—" Mr. Speaker, Sir, my amendment has been summarily dismissed by the Hon. Minister without even caring to see what its effect is. My amendment says—

' except in so far as they do not contradict the provisions of similar Acts passed in the State where the math is situate.'

Supposing there is a law here and a law there in relation to this matter. There may be one set of obligations imposed under this law and quite a different set of obligations under the other law, so far as the same math is concerned. There will thus be duplication in the arrangements for management of properties, etc. On the other hand, if my amendment is accepted, it saves the control in so far as their properties situated within our jurisdiction are concerned; and our control over them will be only in accordance with your law, except in those rare cases where their law is not the same as your law. In fact, your Bill was published in 1948 and your Select Committee reports must have been available to the Bombay Government before they passed their law, and we find that almost all these definitions are simply copied there, as hon. Mr. Bhashyam pointed out. Again, we know there are not many maths in Bombay, at any rate not so many as we have in Madras. Our legislation was taken up first and Bombay followed us, and therefore there is no use quoting Bombay. We should see that our State law is made in such a manner as not to roughen our control—I am using this phrase deliberately, I am coining this phrase anew in order that the Government may understand the effect of what they do in regard to this matter.

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" My argument is very seriously made and it is made in this way; the Government will have control over these properties. Supposing the Government are levying a contribution but there the other Governments contribution is a little less; there is no meaning in saying that we will take more; why not be lenient and show some kind of tolerance? The position is that when the laws are contradictory, we would prefer the other law, because the other law makes it obligatory to control the management of properties outside their own jurisdiction, the State jurisdiction in which they are situated. It is for the convenience of such people that I am pressing this amendment. I suppose the Hon. Mr. Madhava Menon will see the difference between the two proposals; if we omit the explanation, we lose control over maths whose headquarters may be outside the State. I do not say that we should lose control over the math properties in so far as they are situated here. We are not going to lay down the principles of management by this Act only; we will be making rules and regulations with a view to close supervision and control and one thing might differ from another and it would only mean imposing additional burden on the management of the math. That is why I am saying that this should not be so lightly dismissed. If we take the State of Mysore they have a separate department dealing with religious institutions and they do not even levy contributions and I know it they subsidize maths and they pay certain sums of money to maths according to ancient usage and custom. The Maharajah himself is a disciple of one of the maths. In such a case why don't the Government recognize that there would be differences and why should we want to take control over such institutions when the other States themselves are looking after them in a particular manner. It may be they may have full autonomy and it is also true to say that whatever control exists there should also continue here in so far as the laws do not contradict each other. I submit that this is a very reasonable amendment; it is no use brushing aside every amendment as it comes. I am not asking for the deletion of the explanation because I want that the Minister should have control even with regard to them in so far as they are here. It is a very modest amendment and I would request the Hon. Minister to re-consider his very summary decision in this matter. I move that in sub-clause (10) of clause 6, the following be added at the end of the Explanation :—

' Except in so far as they do not contradict the provisions of similar Acts passed in the State where the math is situate.' "

SRI M. S. PATTABHIRAMIAH :—" Mr. Speaker, Sir, in modern political life, we find that properties are not taxed twice. Supposing in Mysore State in the case of Sringeri Math, they pass a law like this and want some contribution from the math then they will have to pay to that State and also to Madras. Even criminals are not tried twice for the same offence and why should a person, for the crime of being made the religious head of a particular denomination, pay the contribution twice? Its headquarters may be in Mysore and it may have some properties in our part of the country and why should it be administered according to

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our law; it is not administration, as has been generally conceived, in the matter of contribution but it includes superintendence and control according to our own ideas which may not be quite right in their view and it may be considered to be harassment; why should they be subject to our laws? As has been pointed out by my hon. Friend, Mr. Bhashyam, there is a department in Mysore which takes care of the properties and it will be good for our State at least to copy this part of the administration of Mysore. The Sringeri Math has been in existence for a very long time, since the days of the Vijayanagar Empire and during the time of Bednur Nayak, a feudatory of Vijayanagar, the grant was consolidated and properties were given to the Sringeri Math and a jagir was also formed. Even the Muslim Rulers that followed continued the old traditions and of course the Mysore Government is maintaining the properties of the math. When that is so, why should a new innovation be brought in to harass the particular math which is quite unnecessary? I have given this only as a typical instance and there are some of our maths which have headquarters in our State but properties are situated outside, as for instance the Dharmapuram Math in Tanjore which has got the Kedharghat in Benares which I quite well remember. If the U.P. Government makes a law like this and requires contribution from that math, it will not be just. If the Government are pleased to see the justness of the amendment, they may accept the amendment and I wish they will."

SRI K. BHASHYAM:—"Speaker, Sir, my amendment has been defeated and I hope at least the more reasonable amendment of my hon. Friend, Mr. Varadachari, might be accepted. I foresee many complications by not accepting this amendment. Apart from the question of courtesy in the matter of inter-State law, there is this complication. There is a math in Pondicherry and there are properties in Madras State. Supposing succession takes place in the headquarters in Pondicherry, are you going to recognize that person as the head of the math here, or will the Government make their own enquiries and come to a decision? Supposing the head of a math in Mysore is of unsound mind; according to law the mere fact that the head of the math is of unsound mind does not entail forfeiture of matadhipathiship; he cannot be put aside on that ground and just as in the case of royalty somebody has to be appointed regent and in the same way also this thing will have to be disposed of. It is just in the same way as is being done in the sections. Supposing he commits default or breach of trust, he can be removed; supposing he commits default like this and others come and ask you to take possession of the properties. As a matter of fact, you will hold your own enquiries whether the person is entitled to do it or not. If sections 57 to 61 are made applicable to all these cases of control, I am sure complications will certainly arise. If it is a foreign State, I can say that the provisions of International Law shall apply according to which if it is immovable property, it must be according to the law of the place where it is situated and otherwise, the law of the place where the person is born applies. I submit, Sir, that we can avoid all these question of International and Inter-State law, if we

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only accept the position placed before the House by Mr. Varadachari. It may be a matter of pride for our own institutions and our law and it is asked 'Why should not our law be supreme in our own country in preference to the law of other States?' I agree and I share in the pride. Apart from the question of courtesy to the laws of a neighbouring State, what I mean to say is, 'Should we apply a certain portion of our Act to them?'. There is this question of contribution; Madras leads in everything and they have this system of contribution and there they may also levy contribution as we have a secular State established in Mysore; if they levy a contribution there, are you really going to ask for contribution here also? I know a case which has come to my notice in my professional capacity where the present Board has been levying contribution from matadhipathis on their lands in Hyderabad and income which was secured by way of pathakanikas in that State has been taken as part of the income for contribution. Therefore, all these complications will vanish if the amendment moved by my hon. Friend, Mr. Varadachari, is accepted. He is a very, very reasonable man and never wants to go against the Government's policy. It may be I am a person opposing the Government on many matters; I am a critic no doubt but I want to help them to see the other point of view. I believe Mr. Varadachari is much more reasonable than myself according to the Government's opinion and therefore, I should like the Hon. Minister to accept the amendment."

SRI L. N. GOPALASWAMI:—"Mr. Speaker, Sir, apart from the question of reasonableness or otherwise of the Explanation, I would request the Government to throw some light on the necessity for the Explanation itself. To my mind, it seems to me that if some person extraneous to our State has some properties in our State, he is at best the owner of some property as any other member of the State. The intention of this Act is to administer and regulate the conduct of endowments. I am asking why on earth the owner of that property for whose endowment and for whose other things we have not done nor propose to do anything, simply because he happens to be the owner of some properties here, why should the owner of such properties be brought under this Explanation, I wish to ask what will be the purpose that will be served by this provision apart from the emoluments that may be realized by the Government from such properties by the Government. Otherwise, the reasonableness or otherwise of the Explanation cannot be easily understood."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, the Hon. Minister was good enough to say that there is an Act in Bombay where they have similar provisions. I want to know what would happen to the properties of maths, the headquarters of which are here but certain of its properties lie within the State of Bombay and similarly if the Mysore law has got a similar provision, we can have the inter-State legislative and administrative courtesies as they have been narrated by my hon. Friend Mr. Bhashyam. The question that really arises is that there will be conflict of jurisdiction as hon. Mr. Bhashyam has explained by the Government exercising

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control over such properties within the State under this Act which is a special piece of legislation which provides for certain special remedies and imposes certain disabilities upon owners of properties. It does not, however, refer to the general law of property, to the Transfer of Property Act or the general provisions with regard to the acquisition, enjoyment or disposition of properties; it does not refer to the general law of testamentary dispositions but it refers to certain special disabilities. Therefore, the point raised by my hon. Friend is a point for very serious consideration, whether we have a conflict of jurisdictions. If, we refer to the chapter which deals with maths separately, we will find there is no particular clause dealing with immovable properties. I believe the property the Hon. Minister has in his mind is only immovable property. If I remember right, in the special provisions relating to maths, there is no mention of immovable property. Therefore, I am not able to see what purpose is served by this Explanation. What is the sort of control sought to be exercised over properties situated outside this State? Is it with regard to their transfer; is it with regard to the acquisition of properties; is it with regard to the disposition of properties? Such things are all governed by other Acts. So, I want to know what exactly is the scope of this Explanation? Unless he explains the position I am not able to comprehend the discussion now going. My hon. Friend, Mr. Bhashyam—of course there is no reflection on other lawyers—who is an eminent lawyer, has put forth certain difficulties. My hon. Friend, Mr. Varadachari, has said that we should not interfere with the control of properties in other States, that there should be a law of reciprocity. If it is reciprocity, it is good. But what about conflict of jurisdiction; what about conflict of laws of one State with those of the other States regarding the removal of trustees and other disabilities upon trustees? I shall be glad if the Hon. Minister will explain the intention of Government in this Explanation."

THE HON. SRI K. MADHAVA MENON :—" Sir, it must be understood that we are now dealing with the definition clause. So, it should be remembered we are now only defining what particular words used in the main body of the Act do mean. This Explanation was added by the Select Committee deliberately, because there are certain provisions in the Act which refer to property. Hon. Mr. Viswanatham wanted me to state in what particular purpose this Explanation is used. I cannot now make a roving examination at this stage. I can only say that the properties of a math, the headquarters of which is not in this State, will be governed by the provisions of this Bill. Whatever applies to other maths in this State will apply to these maths also. It was suggested that there might be contributions to maths situated outside this State. Clause 51, I think, governs cases of services rendered by Government or their servants to such maths. So that, the question of compensation can arise only if Government render a service to an institution. In case the Government does render the service to such a math, it is only then that contribution can be claimed. When that contribution is given, then, those maths would be subject to the same administrative control as other maths in the Province.

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"The amendment of hon. Member Sri Varadachari, is certainly different from that of hon. Member Sri Bhashyam. Hon. Sri Bhashyam wants the Explanation to be omitted altogether. Hon. Sri Varadachari wants the Explanation should not conflict with the provisions of similar Acts passed in other States where a math belonging to this State is situated. As was pointed, it is a matter of mutual courtesy. There are temples belonging to other States in this State. Travancore has got such temples, Cochin has got such temples. There are big temples in Malabar owned by Travancore. Now, with regard to them, it is a matter of courtesy; and such courtesy we are bound to exchange. It is a thing we can do by executive orders. In that way we can see that our law does not work any hardship on another person. It is a matter of arrangement, which can be achieved by executive orders, and so there is no need for an amendment of the Explanation."

SRI N. S. VARADACHARI :—" Sir, I will not take more than a minute, my amendment does not seek to subtract even a little of the control which Government seek to exercise. My amendment only seeks to make the position clear so as to render the working of the Act smooth. There is a special chapter relating to maths no doubt. But that enables the special officer empowered by the Commissioner to call for accounts and similar acts of details of management. There is nothing in that chapter with reference to maths situated outside this State or maths belonging to other States situated in our State. I do not think the Explanation, as it stands, will enable people to understand things properly. When did Government discover the need for this Explanation? Why do they think that my amendment is far-reaching? The Hon. Minister said that my point can be clarified by executive orders. Sir, I would prefer my amendment to be carried out rather than be embodied in an executive order. I have already explained the purpose of my amendment, and so, I need not repeat it. I do not want an executive order for this. I have suffered very much from the promise of executive orders in respect of inams when the Estates Abolition Bill was on the legislative anvil. Government then said that many things could be clarified by executive orders. I could quote chapter and verse on this point. Only I do not want to do it now. But later on not only did they not fulfil that promise; they withdrew from their position, and amended the Act in a different way. Therefore I can attach very little weight to their promise of relief by executive orders. In view of these reasons, I would urge for the acceptance of my amendment. There is no harm in accepting my amendment. There is no liability involved in accepting it. The control to be exercised by the Government over maths will be rendered full. So there is every reason for Government to accept my amendment."

THE HON. SRI K. MADHAVA MENON :—" Sir, I forgot to mention to hon. Mr. Viswanatham, that in the Bombay Act, there is no 'Explanation'."

SRI T. VISWANATHAM :—" Why not you write to the Bombay Government to put it? " (Laughter.)

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MR. SPEAKER :—" The question is—

'Add the following at the end of the Explanation to sub-clause (10) :—

"except in so far as they do not contradict the provisions of similar Acts passed in the State where the math is situate."

The amendment was lost.

Sub-clause (11).

SRI K. BHASHYAM :—" I beg to move—

'That in sub-clause (11) (a), omit the words " or a person of the religious persuasion to which the math belongs "'.

Sir, if my motion is carried, then the sub-clause will read as follows :—

'(a) In the case of a math, a disciple of the math.'

I have done this to make the working of the math smooth. If we are to have the words ' or a person of the religious persuasion to which the math belongs ', then, any person who belongs to the same religious persuasion of the math may be appointed a trustee or may bring a suit with respect to the math. Such a person need not necessarily be a disciple of the math. I am a Vadagalai, and so is Dr. Rajan. I may be a disciple of a math or may not be a disciple of it. Still I will be classified as one who has an interest in a Vadagalai math, as I belong to the same religious persuasion of that math."

MR. SPEAKER :—" What about the other amendment relating to sub-clause (11) (c), of which the hon. Member has given notice? "

SRI K. BHASHYAM :—" I am not moving it. Now, Sir, in the case of a disciple, one can believe that he is really interested in the math of which he is a disciple. But can that be said of any person who belongs to that same religious persuasion. Sir, in fact there has been in the past some sort of trouble between the disciples and those who are not disciples but all the same they belong to the same religious persuasion of the math. So to ensure the smooth working of the math I have moved for the deletion of those words in the sub-clause. Of course, there will be the difficulty felt as to who are the disciples. If you will look at the amendments I have given under Chapter V, you will find that I have suggested a way for this. Therein I have suggested that every matadhipathi should give a list of disciples as soon as this Act comes into force; and, if, within six months he does not give such a list, the Collector of the district should call for a meeting and prepare a list of disciples. And, then, year by year, or at stated intervals, that list may be revised, new disciples added or existing disciples being deleted from the list. This would ensure smooth working of the math and will lead to absolute confidence in the head of the math by the disciples. All this is in harmony with the doings and practices of ordinary maths; and therefore I request my amendment may be accepted."

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SRI T. VISWANATHAM :—" In seconding the amendment, I want to draw the attention of the Government to the fact that a matadhipathi is confused with a trustee. Somehow or other it has been taken for granted by the Government that a matadhipathi is a trustee. (Interruption by the Hon. Sri K. Madhava Menon.) The High Court has not said that. On the other hand, the High Court, in one of its old judgments, has said that a matadhipathi is not a trustee in the ordinary sense of the term because he is one of the beneficiaries and that a trustee is not a beneficiary. There is a fundamental difference between a matadhipathi and a trustee. That is the reason why from the beginning hon. Sri K. Bhashyam was insistent on excluding maths altogether from the purview of this Bill. Having decided on retaining the provisions relating to maths, we are trying to make the Bill as innocuous as possible. The Government, on the other hand, want to make it as injurious as possible. The definition given to a ' person having interest ' is too wide. I have gone through some of the memoranda which drew the attention of the Select Committee to the point that a trustee of a math is not beneficiary. If we include any person because he belongs to the same religious persuasion as the math, I think we are simply opening the floodgates of unnecessary litigation and giving a handle to interested persons to move the Government to take coercive steps against the institution. In one of the speeches in Tamil—I did not properly understand it—it was said that some matadhipathis were misusing the funds of the math for political purposes. Already there is that feeling engendered. In the light of that speech, I say there is very good reason for accepting Sri Bhashyam's amendment. A man may be a Smartha, Saivite, Veerasaivite or Visishtadwaithin and yet he may have absolutely no interest in the math representing his school of thought. Now-a-days, generally speaking, people are not very religious though they claim to be religious. Anybody who has a political animosity may say that he belongs to the same religious persuasion as the math and that therefore he is entitled to institute a suit for the removal of the matadhipathi and so on. When we are vesting enormous powers in the Government to deal with property, we ought to be very careful. It was quite a different matter if the same definition had been adopted in the legislation of 1863 relating to religious and charitable institutions. Under that legislation the Government had no power to deal directly with properties. Under this Bill, the Government are taking vast powers to deal directly with properties; and Government means party Government. Particularly after the statement made by my hon. Friend that some matadhipathis are misusing the math funds, I have no doubt that this provision will be misused by several persons who have got political feeling against matadhipathi. Therefore I very strongly support the amendment of hon. Sri Bhashyam to confine the definition to disciples only."

SRI N. S. VARADACHARI :—" Sir, I urge the Hon. Minister to consider the advisability of accepting this amendment. A person having interest to move for the better management of a math or for Government interference must be a person who is a disciple

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of that math. There are already quarrels in respect of rituals, etc., between, say for example, Vaishnavites who belong to a math and Vaishnavites who do not belong to any math and are absolutely independent. If we say that a 'person having interest' includes any person of the same religious persuasion as the math, there will be eternal confusion. There will be a chance for petty rivalries and jealousies to prevail and there will not be smooth-sailing. Maths have got very enlightened disciples and it is their concern to see that the maths are properly managed. If this system is not in vogue, then it is a quite a different matter. Belonging to a math carries with it certain obligations. In matters like ritual, mode of worship and order of recitation, there may be differences of opinion. These differences may become more and more pronounced and people, taking advantage of the present definition, may lodge frivolous and vexatious complaints against matadhipathis. The disciples take a lively interest in maths and the Government can trust them to move for the better administration or care of these maths."

SRI V. I. MUNISWAMI PILLAY :—" Mr. Speaker, Sir, I am not in agreement with what has been expressed by my hon. Friend Sri K. Bhashyam. Every math has got on its management its disciples and students. The disciples are mostly brahmacharis. (An hon. Member : ' No '.) Some of them may be married people. According to my experience, these two categories of people carry on the management of maths. If we delete from the definition the words ' or a person of the religious persuasion to which the math belongs ', we are deleting altogether that category of people who have taken initiation from the Guru and are following the dictates of the maths. Moreover, the disciples have to carry on certain functions on the religious side that have been taught by the Guru and followed by the math. Persons other than disciples and who have taken to married life following other avocations collect the sums due to the math and their work also is conducive to the welfare of the maths. Therefore it will be a great hardship if we delete a section of the people who, though not disciples, carry on work pertinent to the math. So I feel that it is better to leave the definition as it is."

THE HON. SRI K. MADHAVA MENON :—" Sir, the Government feel that it will be very dangerous to accept the amendment and particularly so after hon. Sri T. Viswanatham's saying that its object is to make the Bill innocuous. The Government cannot sponsor a Bill and make it innocuous. The object of the Government is that the Bill must be effective.

" The Select Committee took evidence from the disciples of various maths. The trend of the replies to the questions put to them repeatedly was that they believed in the infallibility of the head of their math and that they would not go against his orders. Whether his orders are right or wrong, there is a feeling of infallibility in the judgment of the head of the math. Generally, disciples feel that their Guru can do no wrong. Even assuming for argument's sake that a disciple does not agree with his Guru, he

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does not like to go to the extent of offending the Guru. No disciple of a math will incur the displeasure of its head by doing anything against his wish or desire. If we say that a ' person having interest ' means only a disciple of the math, that means nobody else can take any action, and we are giving the power of initiative only to those who feel that their Guru is infallible in his judgment. The hon. Member Mr. Bhashyam himself said that he was a Vaishnavite though he was not a disciple of any particular math. If he is charitably inclined and imbued with a sense of religious devotion and gives a donation to a math, should he not have a voice in seeing that the donation is spent on the purpose for which it was given? The effect of restricting the definition to disciples only will be, in the words of Sri T. Viswanatham, to make the Bill innocuous so far as maths are concerned and that is not the object of the Government.

" The definition is similar to the one in the existing Act and we have not had any difficulty about it so far. The wording in the Bombay Act also is similar. It is not a case of the definition in the existing Act being found to be bad. As I said, it will be very dangerous to accept the amendment."

SRI K. BHASHYAM :—" Sir, I think the Hon. Minister has been over-clever in his reply. I will take his latter point first : should not the donor of a math be allowed to have a voice and be construed as a person having interest in the math. If his assumption is granted, why then should we restrict the definition to persons of the same religious persuasion as the math? A Saivite may develop an attachment to a Vaishnavite saint or matadhipathi, though he may not subscribe to the Vaishnavite philosophy, and he may contribute a lot of money. According to the argument of the Hon. Minister, he also must have a voice in the management of the institution to which he has made contributions. Why should we say that a person having interest should be of the same religious persuasion as the math? He is proving too much by his argument. That was why I said that he was over-clever. I hope he will excuse me for using that expression.

" As regards the argument about ' infallibility ' that he made does he not know the theory that the King can do no wrong? As a matter of fact, we know that a number of suits filed by the disciples against the heads of maths disfigure the pages of the Law Reports, though it is said that the trend of replies to the questions put by the Select Committee to disciples of various maths was that they believed that the heads of their math could do no wrong. Ask the servant of a house whether his master is always right. Even though the master goes wrong some times, the servant will not admit it out of respect for the master. That is a respectful way of saying things. It does not mean that the people will not complain if there is anything seriously wrong. Besides even if there is mismanagement, who are the Government to ask if the disciples are prepared to put up with it? I will give one instance which occurs to my mind. There was an Acharya of South India who went to North India. He was an Acharya of the Maharaja of Indore, Gwalior

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and a number of rich persons. He was very learned and ascetic in his ways. He had a son, but he was quite free in his ways. But he was not put away on that account. When asked some disciples and they said 'There are different avatars, like the Rama avatar and the Krishna avatar of Maha Vishnu.'

"Therefore we must put up with all these things. After all, Sir, our Acharyas and Matadhipathis are very respected people and their sentiments should be respected. Sir, as I told you at the beginning, there are millions of people outside the maths who will not agree with the Matadhipathis in their views in certain matters or observe the math practices and acharams. Therefore, if you put in the words 'or a person of the religious persuasion to which the math belongs' in this sub-clause, you will be only introducing disharmony in these maths. If you want that the administration of these maths should go on peacefully and smoothly, please do not create difficulties in their way by passing definitions like this. The Government will only be getting *kozhi* petitions and frivolous complaints about the things going on in maths from all and sundry. I would only request you to avoid this. There may be various kinds of mismanagements going on in maths and sometimes even the Matadhipathis might be responsible for such mismanagements. But who are we to question them, if the disciples of the math, who are the interested persons, do not complain about such things? Sir, I do not want to talk about these things at any great length, but I submit that it is not proper and healthy to bring in communities and communal denominations in a legislation of this kind. I think also that it is against the spirit of our constitution to encourage communal and sub-communal denominations and bring them within the provisions of a law. I think it is better that we confine ourselves to disciples, for the purpose of the definition of the term 'person having interest' in the case of a math.

"Sir, there is another point that I want to mention in this connection. Mention was made about the Catholic priesthood, and one hon. Member went to the extent of saying that our Matadhipathis are somewhat like bishops in churches with a number of celibates surrounding them. I may inform him, Sir, that neither in the Sankarar math nor in any of the Vaishnavite maths, for that matter, are there any permanent residents who are celibates or bachelors surrounding the Acharyas. People simply go there for worship or for getting blessings from the Acharyas and most of them are family people and are married. But there may be some few persons attached to the math who seek spiritual guidance from the Matadhipathis and they might be living in the math itself, just as some of the disciples of the math. But all others, as I said just now, simply go there for initiation and for getting blessings. So far as the Vaishnavite maths are concerned, there are no bachelors at all and to say that these Matadhipathis are like bishops surrounded by a number of bachelors, only shows that the hon. Member has not properly understood or known what is taking place in these maths. Therefore, Sir, my object is that the Government should not introduce complications and create difficulties within the math.

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itself by putting in definitions of this kind. I submit that this question of getting petitions from persons against the Swami or the head of the math, should be confined to persons who are the disciples of the math and they are the people, who are interested in the math and who can give the necessary information for taking proper action in the case of any grave mismanagement in the math and persons outside the math should not be brought in at all. That is all my submission, Sir, in regard to this matter."

THE HON. SRI K. MADHAVA MENON:—"Sir, my hon. Friend Sri K. Bhashyam said that I was rather too clever, for I said that he should not have committed that mistake of using the word 'donor'. But, if I may so say, he has proved himself much too clever by taking his own case as an example and saying that although he is a Vaishnavite, he is not a disciple of any math. That is exactly the reason why we have put it in the definition that the 'person having interest' in the case of math, means a disciple of the math or a person of the religious persuasion to which the math belongs. We have not put in there, that any person in the street may claim as the person having an interest in the math. We have definitely restricted the scope of persons entitled to claim an interest in the math and it is only those people who can make complaints about mismanagement in the math and not all and sundry."

SRI V. I. MUNISWAMI PILLAY:—"Sir, on a point of personal explanation, what I said was with reference to what is happening in our own math, namely, the Dakshinamurthy math and the Ramakrishna math, and not to these Vaishnavite maths, which my hon. Friend Mr. Bhashyam has referred to just now."

MR. SPEAKER:—"Now let me put the amendment of the hon. Mr. Bhashyam to the vote of the house. The amendment is—

'in sub-clause (11) (a) of clause 6, omit the words, "or a person of the religious persuasion to which the math belongs".'

The amendment was lost.

Sub-clause (13).

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I move the amendment standing in my name, namely—

'That for sub-clause (13) of clause 6, substitute the following:—

"(13) 'Religious charity' means charity associated with religions or a religious practice, observance, worship or prayer."

"Sir, the definition as given in the Bill is this. 'Religious charity' means a public charity associated with a Hindu festival or observance of a religious character, whether it be connected with a math or temple or not. I submit, Sir, that it is stated in the first clause that this Act applies to all Hindu public religious institutions and endowments and that only after a notification is made

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that it will be extended to other endowments. My point is that this discriminatory language need not be used in each and every clause in the Bill, when once it has been made clear that the Act applies to all Hindu religious endowments in the first section. Sir, I maintain, that in spite of all that has been said by the Hon. Minister to the contrary, this is a discriminatory piece of legislation and I have no doubt that this matter will have to be thrashed out later on in another place. According to the constitution, we can have only one general law relating to all public charities and religious endowments. We cannot have one law for Hindu religious endowments and another law for Muslim or Christian religious endowments. I therefore submit, Sir, that the word 'Hindu' occurring in this clause may be dropped, because it does not in any way injure the object of the Government, although my object in doing so is entirely for a different reason.

"Then Sir, the rest of my amendment is only to make a slight verbal change. I want also to include 'worship or prayer' along with religious observance to make the definition more comprehensive. There are so many places where religious gatherings are held and if we really want to control public trusts, we must include such gatherings also, because they are also associated with religious practices and observances. That is the reason why I have moved my amendment, Sir."

SRI K. BHASHYAM :—"I second the amendment, Sir."

THE HON. SRI K. MADHAVA MENON :—"I oppose the amendment, Sir. I do not know whether my hon. Friend Mr. T. Viswanatham has really understood the implications of the insertion of the word 'public' and 'Hindu' in the definition by the Select Committee. Sir, it is the Select Committee which made certain changes in the definition of the term 'Religious charity' in the original Bill and according to them, 'Religious charity' means a public charity associated with a Hindu festival or observance of a religious character, whether it be connected with a math or temple or not. Now, if my hon. Friend's amendment seeks to omit the words 'public' and 'Hindu' from that definition, then I think it would alter the entire nature and character of the charity, which is not the intention of the Government. The word 'public' is absolutely necessary, as otherwise the danger is that it may cover any kind of charities, including private charities also."

MR. SPEAKER :—"In the first place, I want to know whether the amendment is in order at all. If the object of the amendment is to bring within the scope of this Bill all kinds of charities, including private charities, then, I am afraid, it would be out of order. The Hon. Minister may examine that aspect of the matter also."

THE HON. SRI K. MADHAVA MENON :—"It is only just for the sake of argument, Sir, that my hon. Friend wants that the word 'Hindu' should be omitted, because in the preamble and in the first section, there is already the mention of 'Hindu public charities'. As I have already said, Sir, if we accept the amendment and if the word 'public' is omitted, then the definition would

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cover any kind of institutions. It is not the intention of the Government to bring private charities also within the scope of this measure.

"Then Sir, my hon. Friend wants to add the words 'worship or prayer'. The words in the present definition are 'observance of a religious character'. The addition of these words would only make the definition too wide and cover everything and every form of worship. I submit, Sir, that there is no necessity to make the definition too wide and therefore I cannot accept the amendment, Sir."

SRI T. VISWANATHAM :—"Sir, if the object of the legislation is to get the control of all charitable endowments also, then why not let us have a full-blooded legislation and why should we be content with a half-hearted measure like this? It is not as if the Government want to touch only some kind of charitable institutions and leave the rest untouched, by means of this legislation. The whole underlying principle of the legislation is that the Government should have complete control over all religious and charitable endowments, so that they might, on behalf of the people of this State, act as persons having interest and to see that such endowments are properly administered and their funds properly utilized, with the authority of the law behind them. That is, I think, the real intention of the Government behind this legislation. But the Hon. Minister now says that it is not their intention to bring in all charitable institutions within the scope of this legislation. Sir, a little while ago, when I moved an amendment to remove certain provisions connected with the control of charitable endowments, the Hon. Minister said 'No, the Government must have control over all charitable endowments also.' But now, if I move an amendment saying, 'have full and complete control over all charitable endowments', he says, 'No, it is not the intention of the Government to control private charities'. I submit, Sir, that the Hon. Minister is contradicting himself. The Government must have one mind, one purpose and one determination in these matters. There should not be a half-hearted or incomplete piece of legislation, Sir. That is why, Sir, I want to press my amendment."

MR. SPEAKER :—"The amendment is—

'That for sub-clause (13) of clause 6, substitute the following :—

"(13) 'Religious charity' means charity associated with religions or a religious practice, observance, worship or prayer." "

The amendment was lost.

SRI K. BHASHYAM :—"Mr. Speaker, Sir, I move the amendment standing in my name, namely—

'That in sub-clause (13) of clause 6, omit the words "whether it be", and also the words "or not".'

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"Sir, I submit that the arguments just now advanced by the Hon. Minister for rejecting the amendment of my hon. Friend Mr. T. Viswanatham, will exactly hold good in favour of accepting my amendment, because I am only asking the Government to restrict the definition to all public religious charities alone. What happens if the words 'whether it be connected with a math or temple or not' are added on to the definition?"

MR. SPEAKER :—"Let the hon. Member read the definition as he wants to amend it. Then he will make his point clearer."

SRI K. BHASHYAM :—"Sir, if my amendment is accepted, then the definition of 'Religious charity' will be this—

" 'Religious charity' means a public charity associated with a Hindu festival or observance of a religious character connected with a math or temple."

Sir, I want my hon. Friend Mr. Kosalram to hear me carefully, because he has been having some wrong notions about public charities to be associated with Hindu festivals. Now take for instance the Hindu festival Deepavali, which we have just gone through. Suppose my hon. Friend Mr. Kosalram has instituted a fund to give aid to the poor people on the Deepavali day in the form of distribution of cloth. This is certainly associated with a Hindu festival and the Government may come forward and say 'This is a religious charity' which comes within the terms of the definition.

Then again, take another instance, like this. Suppose you donate a fund for the supply of water during the hot weather to the public. Suppose you want to put up a Thannir Pandal or a water-shed during the hot months and endow some money, for the purpose, what happens?"

SRI K. RAJARAM NAYUDU :—"It is a private endowment."

SRI K. BHASHYAM :—"Sir, it is not the person who endows the money that determines the character of the endowment. The persons who receive the benefit are the public and it is that fact that determines the character of the endowment. I think, Sir, it requires some little instruction in these matters, if I may respectfully say so, in order that my hon. Friends Mr. Kosalram and Mr. Rajaram Nayudu may be able to understand the legal implications of these charities, because I know it is going to hit them and others who are charitably disposed, if the present definition is retained. Suppose a person institutes a charity, it is not for himself that he does it. It is for the public benefit that he does and so it becomes a public charity, although it is a private person who is a donor. So long as the recipients of the endowment are the public, the endowment becomes a public charity. The supply of water to the public by putting up a water-shed is a public charitable endowment and the suggestion that though it need not be connected with any temple or math, it should come within the Act, is too much to accept. Under the Act as it stands it becomes a public charity. When it becomes a public charity, it need not be connected with any temple or math. Therefore the Government's amendment is correct. I want hon. Members to

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understand the implication of this sub-clause. Suppose on the *sraddha* day a man has to feed about one hundred people, and for this purpose an amount of Rs. 2,000 had been left with him by the deceased, it becomes a religious charity not connected with any temple or math. It is of a religious character, and that person has to feed a number of people according to the wishes of the person who made that endowment. Under this sub-clause that also becomes a public charity subject to the provisions of this Bill. I want hon. Members to understand that the provision in the sub-clause is too wide. Therefore, let us confine it to charities connected with a temple or math. Suppose it is laid down by the founder that on the Deepavali day, *Archana* should be done in the temple and that the *prasadam* should be distributed to the people. I can understand that it is a charity connected with a temple. Therefore I say that the provisions of this Bill should be applicable only to charities connected with a temple or math. Otherwise, it will widen the scope of the Bill. On Pongal day, in our place clothes are distributed by people to their servants. This also will come under the provisions of this Bill, because it is of a religious nature connected with a Hindu festival. Suppose on a festival day in a temple some *pani* (kattalai) is set apart for distribution of *prasadam* to people. It is a charity connected with a Hindu festival, and therefore it becomes a public charity. That charity comes under the provisions of this Bill. I can understand cases of charities which are connected with the temples or maths. One may give money for a *thalikai* and distribution of food to *paradesis*. But the provisions of the Bill cover also private charities like feeding a number of people on the *sraddha* day or making presents to a number of people on the Deepavali day or on the Pongal day. This is very oppressive. While I may agree that Government have full control of religious charities connected with a temple or math, I say that they should not bring private charities, not connected with temples or maths, under the provisions of this Bill. The Government should not exercise control over private benefactions connected with Hindu festivals or religious observances if they are not connected with temples or maths. The sub-clause, as it stands now, is too wide. The Government must generously accept my amendment which will go far to mitigate the evils and difficulties that may arise."

SRI T. VISWANATHAM :—"Mr. Speaker, Sir, I second the amendment. I see from the Hon. the Minister's face that he is not going to accept the amendment. Whatever it is, he did not exactly understand the word 'innocuous' that was used. I used innocuous in the sense that it should not be injurious to any one. I want to make it as little injurious as possible. It does not mean that I want to make the Bill ineffective. Therefore, I want the Hon. the Minister to understand the hon. Member Mr. Bhashyam in the proper spirit in which he has moved the amendment. The whole object of the Bill is to exercise control over Hindu temples and maths, and religious institutions. Therefore, it stands to logic and reason that we should include only such charities as are connected with temples or maths or religious institutions. It is only a

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corollary to the purpose and object of the Government. All of a sudden, we cannot come forward and say 'whether it be connected with a math or temple or not, we still will exercise control over it.' That is why I say that the Government must have a clear object. The amendment that has been moved by the hon. Member Mr. Bhashyam is the most modest one. I hope Hon. the Minister will accept it."

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family. The Hon. the Minister seems to be wiser than the commentators. 'Give us' means give the persons who are really interested. I am interested in myself and my family. Of course 'Naha' is plural, but it does not mean the whole world in general. Perhaps this particular case of Sahasranamam is peculiar to Malabar. There is no such thing anywhere else."

MR. SPEAKER:—"The question is—

'That in sub-clause (13) *omit* the words 'whether it be', and also the words "or not".'

The amendment was lost.

THE MADRAS LEGISLATIVE ASSEMBLY.

Thursday, the 16th November 1950.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVASHANMUGAM PILLAI) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BILL,
1949 (L.A. BILL NO. 10 OF 1949)—*cont.*

MR. SPEAKER:—"The House will take up consideration of clause C, sub-clause (14).

[At this stage some hon. Members were leaving the House and there was some noise.]

"Hon. Members who want to leave the House may do so without making noise."

Sub-clause (14).

SRI T. VISWANATHAM:—"Will it not be convenient, Sir, if the Government move their amendment first?"

THE HON. SRI K. MADHAVA MENON:—"I submit, Sir, there is no connexion between the amendments to be moved by hon. Mr. Viswanatham and by the Government. The amendment to be moved by me is more or less a formal amendment."

MR. SPEAKER:—"Hon. Mr. Viswanatham may move his amendment."

SRI T. VISWANATHAM:—"Sir, I move—

'That in sub-clause (14), delete the words "maths or temples", in line 3.'

"This is a very simple amendment."

MR. SPEAKER:—"I see the hon. Member Sri Varadachari rising in his seat. He has not given notice of any amendment to sub-clause (14)."

THE HON. SRI K. MADHAVA MENON:—"He has got an amendment to Explanation 1."

SRI T. VISWANATHAM:—"Sir, my amendment only seeks to fulfil the object of this Act. I want the maths and temples to be excluded from the definition of 'Religious Endowments'."

SRI K. BHASHYAM:—"I second the amendment."

THE HON. SRI K. MADHAVA MENON:—"My hon. Friend wants that maths and temples should be excluded. That is not the object of the Bill. The Bill seeks to include maths and temples. I regret, therefore, that I cannot accept the amendment."

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MR. SPEAKER:—"I shall now put the amendment to vote."

SRI T. VISWANATHAM:—"I did not hear the reply, Sir."

THE HON. SRI K. MADHAVA MENON:—"My hon. Friend said that his object in moving the amendment was to exclude maths and temples from the endowments. The object of the Government, on the other hand, is to include them. His amendment, therefore, cannot be accepted."

SRI T. VISWANATHAM:—"Sir, maths and temples are not omitted from the operation of the Act. If my motion is accepted it will serve the purpose the Hon. Minister has in view, because if from the definition of temples and maths the particularity is excluded, there is the general definition which includes every religious charity. Therefore, his object is the same as mine. I do not see any reason why it should be confined to maths and temples. I am seeking to enlarge the thing and therefore the Hon. Minister may please reconsider the matter before he says 'No'."

THE HON. SRI K. MADHAVA MENON:—"I am not reconsidering the matter."

The amendment was put and lost.

SRI K. BHASHYAM:—"Sir, I move—

'Omit the words "and includes the institution concerned and also the premises thereof."'

"This amendment which I have moved will conduce to the harmonious working of the several stringent provisions of this Bill. What happens is, particularly in the case of maths which I have in mind, even the habitations or places where the matadhipathi lives and has his being and also the premises of the maths, which are not really required for the purpose of the administration, will come under this definition. What I say is that the premises of any person should be left untouched. That is why I have moved this amendment. Really we should exclude all places in a math which are connected with the day-to-day living therein. I would be glad if those things which are used for the personal comforts of the persons living there are excluded and left untouched. If an executive officer is appointed it would look as if he will drive out the matadhipathi from the math and take possession of it leaving him to find a habitation elsewhere. You will say that the Government will not do things so unreasonable. Of course, there will be strong public opinion against it. But I want to make it a sort of right of the matadhipathi to retain such portions of the math as he has been using for his personal comforts and for imparting lessons to his disciples. My object, Sir, as I said, is to exclude definite portions of the math which are not in use for public purposes."

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SRI T. VISWANATHAM:—"I second the amendment. In doing so, I would ask the Hon. Minister to look at sub-clause (15) in which 'Religious institution' is sought to be defined. According to that definition 'religious institution' means a math, temple or specific endowment. In the definition for 'specific endowment' you say it means any property or money. This has been dealt with in a separate clause already, and there are other provisions concerning the institutions. Therefore, it is proper that this amendment should be accepted."

SRI V. RAGHAVAYYA:—"Sir, apart from the personal considerations that should be taken into account in excluding personal apartments of the matadhipathis, there is also another consideration, viz., the sanctity attached to the apartments. A person goes to the Tirumalai Hill, not because God cannot be found elsewhere, but because there is a sanctity attached to the *sanctum sanctorum* and people go there with great piety. Take for instance, Sri Sankaracharyar. He has got a matam at Sringeri and people wait there for days together to get a glimpse of him at the math. Seeing him when he goes on tours is one thing, but special sanctity attaches to the institution, a sanctity which may not be visible to the mundane eyes. I, therefore, request the Government to accept the reasonable suggestion of hon. Mr. Bhashyam."

THE HON. SRI K. MADHAVA MENON:—"Sir, the hon. Member, Mr. Bhashyam, and other hon. Members who supported his amendment were only thinking about the maths. The amendment of hon. Mr. Bhashyam wants to omit the words 'and includes the institution concerned and also the premises thereof.' A religious endowment does not consist of maths and temples alone, but it consists of the endowments of property for the support of the maths and temples. The endowments given for the purpose of service in these temples also come under the definition. In the existing Act, 'premises' are not mentioned. Take for instance the Tirupathi temple which hon. Mr. Raghavayya mentioned. If the institution of the temple is not part of the endowment, if supervision cannot be exercised over it, what happens? It is not the property alone that has to be considered. The administration of the institution also has to be done properly. If we want to have things done properly in the institution, the Commissioner or the trustees or the area committee will have to go into the question and see whether they are done properly. There is a lacuna in the original Act and we are now adding the words 'premises' here."

SRI K. BHASHYAM:—"Sir, whatever the merits or the demerits of the contention of the Hon. Minister for Law, I should like him to appreciate the difficulties in the case of the maths themselves. If he will make an exception in respect of these maths at least by a proper amendment later on, I shall be satisfied."

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The Hon. Minister may have other difficulties, because from the point of view of the policy of the Government that they should take everything into their hands, possibly what he says may be correct. But I should like him to examine the case over again. As many hon. Members have stated, in the temple there is the God and in the math there is the Swami. Therefore, the precincts or the premises of a math should not really be touched. For that purpose, if the Hon. Minister would introduce a proper amendment, I shall be extremely glad and thankful to him."

THE HON. SRI K. MADHAVA MENON:—"Since it included maths and temples, the amendment as it is, could not be accepted. But with regard to the institution of a math, what exactly the implications are, we shall examine, Sir."

MR. SPEAKER:—"In view of the assurance of the Hon. Minister, is the hon. Member prepared to withdraw his amendment?"

SRI K. BHASHYAM:—"In view of the promise made, Sir, I beg to withdraw my amendment."

The amendment was, by leave, withdrawn.

Explanation (1) of sub-clause (14).

SRI T. VISWANATHAM:—"Sir, I move the following amendment:—

'Delete *Explanation (1).*'

Sir, this Explanation relates to inams, the scope and content of inams, what are inams and what is to be deemed to be the subject-matter of inams. I submit, Sir, that it is not covered by the objects and reasons of this Bill. It is beyond the scope of this Bill to determine or seek to determine the nature and content of inams by legislation. The whole purpose of this Act is to bring under control the properties belonging to religious institutions if the property is there. It is not the intention of the Bill to go into the nature of the property. The nature of the property has got to be decided by another tribunal. Suppose the Government are of the opinion that a particular inam is an endowment in favour of a temple or a charitable institution, then it is for the Government to go to a court of law and establish that point. They cannot straightway say that whatever the nature of the property relating to the endowment, it shall be treated as the property belonging to the temple. The distinction between the two is this. In one case, if my amendment is accepted, the Government can lay claim to the property and can establish their title to the property as belonging to the temple before a court of law. If, on the other hand, this Explanation is retained as it is, the Government would not have the necessity to go to a court and all the claims of others in the property are denied at one stroke by this legislation. It is very wrong in principle. Even assuming it is

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a case of movable property, the Government cannot straightaway say that such and such movable property belongs to the temple. They have to make their claim before a proper authority and establish their claim. In the case of immovable property, we really do not know the position. This Explanation is opposed to the existing position. When the matter is in doubt in regard to the content of the inam, it is always left to the decision of the courts. It is not at all a matter for presumption either way. Each grant has to be decided on its own facts, as to whether the inam was only the melvaram or both the varams. The Government are well aware of the position and they cannot always say that these inams are the property of the temple. But they want to bypass the present position and bypass the existing state of the law which has been in force for the last 150 years or so by one stroke of legislation saying that these shall be treated as endowments. It is not a fair way of doing things to come forward with one legislation and include in it another legislation. Sir, I had occasion in connexion with another Bill to point out that there is legislation in some of the States of America to the effect that the subject-matter of the Bill should never exceed the objects and reasons or the title of the Bill. There is a legislation like that as over-enthusiastic Ministers or over-enthusiastic draftsmen might combine every possible subject which they have in their minds in one piece of legislation. Here it is certainly a case of over-enthusiasm and I submit it is far beyond the scope of the Bill to say by way of an Explanation that this shall be the scope and content of an inam. For years and years, for 150 to 200 years, it has all along been understood by Government and by this Government even now in connexion with some other legislation, and it has been recognized that when a dispute arises as regards the content of an inam it is a matter for the courts to decide. Now by a side-wind as it were, the Government want to close the matter by this piece of legislation; and without giving an opportunity to the persons concerned to prove their claim they want to say straightway that the inam shall be treated as a property belonging to the temple.

"Sir, the Government are certainly aware of the decisions of the High Court in several cases which have come up from Guntur district. In several cases the court has held that the property does not belong to the temple but to the incumbents themselves. With all these decisions before the Government, it is not fair on their part to straightway wipe them out and wipe out all the claims of others without going into the merits of the cases and to say that they shall be treated as the property of the temple. Sir, I submit it is a matter extraneous to the objects of this legislation and it should not be there. I request the Hon. Minister to consider carefully whether it is legislative propriety to mix up inam tenure with the object of controlling religious endowments. I submit that my amendment is very reasonable and it will lead to clarity. Whenever the Government

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want to lay claim to an inam, they could certainly go to a court of law and if the property belongs to the temple, the court will grant it to the temple."

SRI K. BHASHYAM:—"I second the amendment, Sir. Most of the arguments I had in mind have been advanced already. The stated object of this legislation is to protect the properties of the religious institutions. It is not the purpose of the Bill and I take it that it is not the purpose of the Government also to acquire properties afresh for these institutions. The Government must keep the properties that are there, but they ought not to go and grab other people's property for the purpose of getting properties for these institutions. The Government cannot say by a side-wind as it were, 'We will raise a presumption in regard to these inams. These have been made 100 or 200 years ago. There will not be evidence one way or the other. We will grab them.' Is it not a case of confiscatory legislation without provision for adequate compensation? I want you to think about it very seriously. There are specific cases where there will be hardship. I will point them out later on. In the present case, this is something which is wholly foreign to the scope of the Bill itself. When you say that you want to conserve the property of the institution, it is quite right and you may do all things necessary for the purpose; but if you really say that you will also go further and acquire property which is not already the property of the institution, by a side-wind like that, by raising a presumption, I submit it is something which is wholly unjustified. I will therefore say it is confiscatory and expropriatory. This is what I would like the Hon. Minister to think about.

"These grants were made 400 or 500 years ago. You say in the first portion of the clause that all property given for the performance of any service or charity is a religious endowment. If it is a religious endowment you can ask an officer to take charge of it and ask him to submit returns and give the budget and so on. But consider the grants made to these archakas on the merits of the case and in justice to them. These grants were made 400 or 500 years ago and at the time they were granted, we do not know the state of the country. We do not know whether there were already some cultivators on these lands and whether only the melvaram was given to these persons. If there was a person already cultivating the land, all that could be given to the service-holder was the melvaram. The grantor was entitled only to the melvaram and melvaram alone was given to the service-holder for service. I only want you to visualize the state of things which might have existed when the Raja for instance gave these lands 400 years ago. The Raja was in possession of the melvaram, the Government dues, and he should have given it to the service-holder. Then suppose, Sir, in the olden days a land was granted, that is both the varams were given. The whole land was granted. Naturally it must have been uncultivated when the

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grant was made. The Raja cannot take away the land which is cultivated by another tenant and give it to other persons. It will not be fair to do so. The grantee or the service-holder might have brought the land under cultivation, improved it and added to it and has been enjoying the benefit of it all these years. Now by calling it a religious endowment, you have taken away from him all the benefits of the improvements which are due to his own exertions and not to the original grant. Therefore, it is I am asking, 'Is it fair, is it just that you should really say in this case that the whole land must be taken away as part of the endowment?' That will cause difficulty. I should like this matter to be considered. I do not want to give particular cases, for you do not care at all for courts of law or for Judge-made law. You say that you make the laws here and you are supreme. What I say is when you make laws, make them properly. I have no objection to your claiming supremacy in matters of law-making. You are quite right in your claim and I grant it. You are a giant in the matter of making laws and you can do anything you like. You may have the strength of a giant but you should not use it tyrannously to deprive poor persons of the property to which they are really entitled. In all fairness and in justice, I am asking you to consider this. You are, no doubt, thinking of the institution; you want to protect it no doubt, but look at the other party who is affected. Do the archakas all belong to a wealthy class? They are entirely dependent upon these lands and they have been enjoying these lands for more than 400 years. What will be their position if you all of a sudden throw them out into the streets tomorrow? The service of these archakas is practically one of the important functions of the temple and if you want to have this kind of control over them, you will be simply throwing them out; they will simply have to come and beg before you with, so to say, their tails between their legs, and ask you for your favour for this and that. And if that is the idea at the back of your mind, then I can only say it is base."

SRI K. VARADACHARI:—"Sir, I never thought that the Government would go to the length of trying to acquire property for religious institutions by calling them religious endowments. You cannot under cover of this Bill appropriate another man's property by merely calling it a religious endowment, by a definition in this Bill. Service inams have always been considered to be owned by the persons to whom the inams have been granted. Services are of different kinds—they may be temporal or they may be spiritual. The mere fact that a man is asked to perform service in a religious institution and for his support some inam is granted to him, should be deemed to be a gift of land made for the support of the temple itself. In the case of property given to an archaka for performance of service in a temple, as long as he performs the service, he will be the owner of that property. If you call that 'religious endowment' it would mean that all the

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provisions of this Bill would be applicable to it, and he can be asked to say how much he has got, how much he has eaten, how much he has saved, whether he has put any money in the bank, and all that. Is that the way to treat lands given to service-holders? It is really uncharitable on the part of the Government to introduce this by way of an explanation to a definition of the word 'religious endowment' and say that he can be ousted from his place at any time and another man may be brought instead and thereby you can misappropriate the property. That is not fair. I would therefore request the Government to consider this aspect, that it is really expropriatory and will even go against the intention of the Constitution, that it is likely to be held *ultra vires* and that it will be completely outside the scope of the Bill itself."

SRI V. RAGHAVAYYA:—"Sir, all the sympathies showered on the matadhipathi need not be showered upon a service-holder. It will be expanding your sympathy too far. My submission is that in all these matters, the original intention of the grantor has to be considered. When a grantor gives the property to a particular person and says you must perform such and such service, it is the service that the grantor has in view more than the person to whom it is given, because the person does not last long. Suppose the service is 2,200 years old, can you say that the grantor thought that the man to whom it was granted would live for ever? In the case of a math, there is some sort of succession; for instance, Sri Sankaracharya is succeeded by an eminent string of scholarly people; and in that case, a grantor of a gift may have the math in view. But here in the case of service like supplying garland to the deity or some such thing, the grantor has the service in view and the person is only a medium for that service. So, to extend to that person the importance that you attach to the head of a math is, I submit, a waste of too much sympathy upon a man who does not deserve it. Further, knowing as we do how these service inams are being managed, how can we say the grant is personal? It is not always correct to say that an arachaka will have his son as an archaka. Very often their sons take to other jobs and leave the service itself to their proxies. Suppose a proxy archaka is let in here, can we say that the idea of the original grantor was that the proxy also should enjoy the sanctity and the importance attached to the person of the original grantee? It is absurd. Again, if you want to treat it as personal property, is it to be divided and subdivided among the descendants? For instance, take the karnam's job. If the karnam fails to do the service expected of him, he loses his job. If his son is not qualified for it, or if he goes in for a Deputy Collector's job instead of a karnam's job, is the service to be retained in his family for ever and for ever?"

SRI K. BHASHYAM:—"It is retained, Sir."

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MR. SPEAKER:—"Before giving my ruling, let me hear what the Government have to say."

THE HON. SRI K. MADHAVA MENON:—"Sir, in the first place, I do not at all concede that it offends against the Zamindari Abolition Act. Apart from the question whether it affects the Zamindari Abolition Act or not, so far as my knowledge of legislation goes, if a Legislature passes a law which is inconsistent with, or which goes against, the provisions of any other law, the effect will be that the later law will have effect over the former law, that is the subsequent law prevails over the former law, unless there is any specific mention to the contrary."

SRI N. S. VARADACHARI:—"But, what I say is, the Government will be well-advised to consider the policies laid down in one Act and in another before bringing in such amendment in the light of the new policy. I ask, is it right on the part of the Government to lay down two policies at one and the same time?"

MR. SPEAKER:—"I want to know whether there is any discrepancy between the two."

SRI N. S. VARADACHARI:—"Whether there is discrepancy or not, we have a right to proceed with the enactment of this law, the effect of which will be to amend a totally different Act and this would prevail with reference to the general law."

MR. SPEAKER:—"I have not got a copy of the other Act and so let us now proceed with this matter and I shall deal with the point of order later."

SRI N. S. VARADACHARI:—"Then, Sir, I shall proceed with one or two more important aspects of the matter. I want to make two things clear. It is always assumed that the grants made to the archakas are really not personal gifts according to this Explanation. This is absolutely wrong. The personal gifts the archakas may be of various kinds. In a temple, for instance, the archaka has no other emoluments and he is not permitted to take anything and the only emolument he would get for the entire service would be from the village or villages granted to him under service tenure. Obviously certain hon. Members do not know that in very big temples the archaka is denied any personal gifts made by any worshipper and he cannot take even a copper coin once he sets his foot inside the temple and begins his service. That is so in the great temple at Tirupathi, which is the richest temple and where service is of such an onerous character that it has to be carried on from early morning up to very late at night and particularly during festival times, the service is almost continued all the 24 hours of the day with perhaps only three hours at his disposal for rest. So, Sir, let us not talk lightly of the archakas, thinking these are small people and can be dealt with lightly. But, these people are needed for

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the very upkeep of the solemnity and the grandeur of the temples. You forget the person altogether. But, you must remember the importance of the service, the dignity attached to the temple and the sacred atmosphere created by the continuance of the service which is performed under very difficult circumstances from day to day. Take a case like the temple at Tirupathi, there it is very bitter cold at times, but still the archaka has to get up at 4 o'clock in the morning, go to the temple and recite the beautiful verses in the morning and open the doors of the temple and continue the service which now takes him right up to 1 or 2 o'clock in the afternoon. Then he has time only to go home and take a little food before he comes back again to do service till late at night, that is, up to 10 or 11 o'clock. For all the service, what does he get? He gets no cash emoluments; not even a pie whatsoever. He may get some prasadam or perhaps 'Sripadarenu' and a few other gifts which are not material gifts. Then, Sir, what does the service depend upon? The service depends upon gifts made to this class of people by donors, who are worshippers of God and who gave these gifts out of their own property. Perhaps the ancient Rajas or other families were intent on keeping up the grand worship in such places. These people have to do service in the temples, and for doing this service in the temples, I may tell you there are at least 20 families stationed on the hill at Tirupathi. If one falls sick, the other family has to take up the service and so they have a sort of turn and he who goes in the morning has to go out late in the afternoon. And, sometimes, they have to employ substitutes, as was pointed out by hon. Mr. Raghavayya. These latter do not act free, but they are paid for the service and they are fully qualified people to do service in the temple and they are well looked after by these archakas. Have they the time to keep a ledger and accounts as if they are living on religious endowments? The effect of this Explanation is, the Hon. Minister makes it as though the gifts are not deemed to be personal gifts. On the other hand, these gifts have been enjoyed by these archakas for ages. It is very insulting. Then after depriving him of all that, and after having not made it the personal gifts, you want to make it all religious endowments . . ."

MR. SPEAKER:—"The hon. Member should avoid using the word 'you' except when he refers to the chair."

SRI N. S. VARADACHARI:—"Sir, I am thankful for the correction. Then, Sir, the service rendered by these archakas depends entirely on the income derived from the villages. How can either the Government or the public expect that these people could find sufficient time to keep an organization for maintaining an account of all they get from the villages? Even to-day they are finding it difficult to collect the rents from the villages. The laws made by the Government have created such tremendous difficulties that for the last few years they have not got even one-fourth or one-eighth of the total income which they should get

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from the lands. Such being the case, how do you expect them to carry on with their service in the temples? People do not realize that temples might be closed down if the service is interfered with. These inams are subject to service being continued. If therefore, the archaka ceases to do service, the inams can be resumed and Government have of course the right to resume such inams. If the archaka gave up service altogether and retired to some other profession, then the family would lose the inam and so they are very careful in seeing that the service is rendered from day to day whatever difficulties there may be in the way of the service being rendered.

“ Now, Sir, they are controlled in three different ways. I have never come across a case where such controls are sought to be exercised. First, the archaka is controlled by the executive officers of the religious institution. For instance, he is asked, ‘ why do you come late, why not begin work at 4-30 ’ or so, though the officer himself might have come at 8 o’clock after having had coffee. It is all very disgusting for me to tell the Government that I have seen such remarks addressed to the archakas. The officer himself comes at 10 or 12 and ask the archaka ‘ why do you come late? ’ Then he sits there as if he were the lord of the entire place and gives his dictation as to how the entire service should be proceeded with. In fact the old practice was that there were some learned people who participated in the worship; they were honorary people and they were in charge of the entire service. But, to-day the practice is different. Your executive officer seeks to control him. That is the first control. Then, the second control over the archaka is, we have said that the archaka should not receive any emoluments at all as personal gifts and courts also have upheld that contention. It is a very severe control and worshippers will not part with money. So, he cannot collect anything from them. Then, the third control which you are introducing is, you are treating all religious endowments as specific endowments and the Endowment officers will say, ‘ we are endowment officers, bring your accounts and let us see whether you are properly utilizing the amount or not ’. They may even ask, ‘ why did you employ this person or that; why did you travel to such and such a place to bring a substitute or why not you go to some other place and fetch a substitute or get a substitute from your own place? ’ and so on. There will be so many meticulous enquiries which might cause embarrassment and hardship of a character which I cannot approve of. I say, let these controls go. Leave alone the archakas; there are others whose service may be entirely of a permanent character. For instance, offering flowers in the temple the whole day. In Tirupathi there are gardens for this purpose. I know the Tirumalai-Tirupathi Devasthanam has never done this service satisfactorily. I have the good fortune to look after today one of the institutions which is making the entire supply of flowers from day to day from only one acre of land well cultivated and there is vast acreage which

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the Tirumalai-Tirupathi Devasthanam has in its possession—and I challenge whether the Devasthanam is discharging its duty of supplying flowers in a satisfactory manner. Now, what is to happen to these service-holders? Now, we have introduced considerable difficulties for people to come and settle in this hill from different parts of the country, take a portion of land, go over the land and employ labour on their own account and eke out their livelihood. How can these people plant trees, sell the produce in the bazaar and raise flowers for worship to the God every day? I ask, would you like to penalize such people? These are small services rendered, from the archaka down to the last man, who may even be the watchman or a man who has to recite the song, for instance, songs that are sung in the Tirupathi temple. Do you think that these are not necessary? Do you want to say that that is a specific endowment, so, stop your singing, bring your account and let me see, whether you are keeping accounts properly and so on? I tell you, Sir, this is tyranny of a character which I cannot approve of. Of course, we may control religious endowments and we may have control over the management of the properties connected with religious endowments, but why do we seek to control in this manner? I want to know whether the Government have got control over the entire individuals in the country, including their own services? Such being the case, why do you seek to impose that kind of control over these unfortunate people and by so doing, dissuade people from coming and taking service in the temples. Even at present we find difficulty in getting men well-versed in Agamas.

“ We know nothing about the difficulties; it is a course of seven years and eight years sometimes, it is an elaborate course. Should we not attract suitable men to this kind of service? Many people are living on this because to-day they have no other occupation to take to and we introduce all sorts of controls; cut down their income in one Bill, destroy their properties in another Bill and by a third Bill we seek to retain a stranglehold on what little that comes to them. I say, Sir, this is tyranny of a character which the Government would do well to keep away from. In view of the importance of the service and in view of the fact that the service-holder is left with very little and his work leaves him no time to attend to such secular affairs, as maintaining regular accounts, I request the Government to drop the ‘ Explanation.’ ”

SRI L. N. GOPALASWAMI:—“ Mr. Speaker, Sir, I have only a few words to say in support of the amendment and I shall only confine myself to the moral and equity aspect of the matter as much has been said about the legal aspect of it. I believe it is not the contention of the Government that there can be no personal gift to the archakas or service-holders. In sub-clause 14 there is a provision that a gift of property as a personal gift to the archaka or a service-holder shall not come under this category.

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But suddenly under this Explanation the Government want to take away the right of a particular service-holder over his inam. They themselves have said that if it is a personal gift made to him, it shall not form part of the religious endowment. Service inams have been granted to the service-holders from time immemorial, hundreds and hundreds of years ago and nobody can now at this distance of time say whether it was a personal gift to him or not. I can quite understand the position if the Government were to say: 'We are not aware whether it is a personal gift or otherwise; so, let it be decided by a court of law'. But on the other hand, the Government want to take the position not only of the plaintiff but also of the Judge himself. They say that he should not only be not presumed to have had it as a personal gift but the contrary should be presumed, namely, that it is a religious endowment. I beg to submit, Sir, that this is uncharitable, unjust and immoral. In this connexion, I wish to say that not long ago, only in the previous sitting, the House passed a Bill on the question of service inam tenure; they said that the service inam of an artisan of a village should be presumed to comprise not only the emoluments therefrom but also the corpus also. When it has been said that not only the income but the corpus also has been vested in the service-holder in the case of the village artisan. I do not know why there should be this distinction in the case of the archakas and holders of inams for religious service or charity. This has nothing to do with the endowment and I am not able to understand how it is presumed to be an endowment. If the person is able to establish his right for it and prove that it was given as a personal inam, I feel, he ought to be entitled to it and the Government will not be justified in treating it as an endowment; it is not right that a personal property should become part of the endowment by a stroke of the pen and I, therefore, request the Government to reconsider the matter in spite of whatever they may contend against it."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I have not been able to understand the relevancy of the various remarks made in the House about the question of acquisition, compensation and personal property and so on, apart from its being unmoral or immoral or inequitable, nor have I been able to understand the relevancy of the question whether the melvaram has been granted or the kudivaram. As far as I could understand, Sir, the explanation only says that whatever may be the varam, whether it is kudivaram or melvaram, if an inam has been granted for the performance of service or charity in a temple, it must be treated as and included under the definition of 'religious endowment'. My hon. Friend Mr. Varadachari, himself said that if a service inam holder does not perform the service, he forfeits the inam. Therefore, when an inam is granted to him for the purpose of performing a service or charity in the temple, it is necessary to see that he does that service. There is no attack or

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encroachment on any of the rights of the service-holder except this; we only say that we have to see to it that the service-holder performs the service he is expected to do and for which the inam has been given to him. I rely, Sir, on what hon. Mr. Varadachari himself quoted in the point of order that he raised. Section 17 of the Madras Estates (Abolition and Conversion into Ryotwari) Act says—

'Where any land granted on service-tenure, whether to an individual or institution falls under section 3, clause 16 (c) of the Estates Land Act, then irrespective of whether such land consists of only a portion of a village or of one or more villages—

if the service to be rendered is personal or private service to the landholder, not being a religious, educational or charitable institution, the land shall be discharged from the condition of such service and the holder of such land shall be entitled to a ryotwari patta.'

I invite the attention of the House to the words 'if the service to be rendered is personal or private service to the landholder, not being a religious, educational or charitable institution'. That is, if the service for which the inam is given is not for a religious or educational or charitable institution, and if the service is personal to the landlord, that property becomes his own and he is granted a patta. But if the service is for religious, educational or charitable institution, a distinction is made and they are not discharged from the obligation to perform the service. The hon. Member Sri N. S. Varadachari referred to the very good work put in by the archakas; I concede that very good work is done by the archakas and he said they work at a very great sacrifice, rising up early in the morning at 4 o'clock and do duties in the temple till noon and then return after some food and remain in the temple till 10 in the night; that is a very arduous work but it is imagination running ryot to suggest that they would have to come to us with the tail between their legs; otherwise they would be driven out. My submission is, Sir, that if the property of a particular person is an inam property given for the purpose of performing certain services in the temple, then that property is an endowment, because it has been endowed for the purpose of doing charity or service to the temple. It is an endowment that is given as wages or as compensation for the work that he has to perform for the institution and so long as it is endowed for that purpose, it is the duty of the public or the Government or anybody to see that he does that service. If he does not do it, then even according to law, he forfeits his right to hold the property. There is nothing new in this and no new law is necessary. Further, Sir, it cannot be deemed to be a personal gift to the archaka for this reason. Can the archaka give up his service and alienate the properties? That is the test; if he is entitled to give up the service and at the same time sell away the property, it is no longer a service inam. With due deference to the views of hon. Mr. Bhashyam, I wish to submit, Sir, that if an inam is given for the purpose of doing a particular charity or service or a particular work in a temple, there is a presumption in law according to this definition that it is an endowment. My hon. Friend,

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Mr. Gopalaswami, asked why the thing should not be settled in a court of law. Clause 67 says that if it is disputed that it is not an endowment, it is open to the person affected to take the matter to the court of law and get a decision upon it. But *prima facie*, if the property is given as an inam for the purpose of service in a religious institution, or a charitable institution or for the performance of charity, the presumption is that it is an endowment. It is however, open to that archaka who is affected by the presumption to go to a court under clause 62. There is thus no question of acquisition, or things being done without compensation and there is no question of immorality. Therefore, Sir, I am unable to accept the amendment."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, the Hon. Minister said that he has not understood the relevancy of most of our remarks. It is most unfortunate that he has not understood the relevancy of our remarks and that is our complaint, because the subject-matter is so extraneous to the object of the Hindu Religious Endowments Bill that the Hon. Minister has not bestowed any attention upon service-tenure and inams. He has been reading nothing but the mismanagement of religious endowments and properties belonging to endowments and has been bestowing his thoughts as to how to control them, whether it is through executive officers or through some other agencies. These things have been engaging his attention and that is the reason why he has not been able to understand the relevancy of our remarks and that is why we were not able to understand why by an executive stroke the scope and content of the subject of inams could be brought under a legislation of this kind, a legislation which does not deal with the principles of inam tenures and which by its very nature cannot deal with interpretation of grants whether for the archakas or for anybody else. That is the reason why he has not been able to understand our remarks. With your permission, Sir, I shall take some more time to explain the matter further."

MR. SPEAKER:—"If the hon. Member can finish his remarks within five minutes, I have no objection."

SRI T. VISWANATHAM:—"I may take a little more time, Sir."

MR. SPEAKER:—"Then we shall adjourn. The House will rise and meet again at 2-30 p.m."

(After lunch—2-30 p.m.)

There was no quorum, the bell was rung and the quorum was formed.

MR. SPEAKER:—"The hon. Member, Sri Viswanatham, will now continue his speech."

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SRI T. VISWANATHAM:—"Sir, as I already submitted, the subject of inams is unrelated to the religious endowments. My contention is, Sir, that legislation should always be confined to the object which is stated in the title and in the preamble of any legislation. Otherwise the persons affected will have no notice as to what is happening. Now, people really are thinking that we are having discussion on religious endowments. People in the State and people affected will not know and do not know the nature of inams included in this Bill. They would be right in thinking so. And, therefore, Sir, it is well for us to always confine to the object in view, and that is one of the reasons, a chief reason, why the question of inams should not be dealt with in the legislation.

"Sir, in reply to my argument, the Hon. Sri Madhava Menon said that he did not see the relevancy of my contention. As I submitted, I do not see the relevancy of this 'Explanation' either. My argument becomes relevant, because he puts in a clause, which according to me is irrelevant. If the substance of my argument becomes irrelevant, it is because it is based upon this provision, which is irrelevant to the purpose of this Bill. There are other pieces of legislation, as the hon. Mr. Varadachari pointed out, where we are considering the same question of inams. In fact there is another Bill where the nature and treatment of these inams are being considered. That is at the Select Committee stage now. Then, under the Zamindari Abolition Act, there is an inquiry about so many other kinds of inams. In all these cases, whenever there is any doubt with regard to the nature of the inam, till now, it was left to the courts of law to decide as per the language of the grant. But the Hon. Sri Madhava Menon seems to be under the impression that the words 'shall be deemed' should be understood as 'shall be presumed.' The whole basis of his argument is that after all we are not taking away the property of anybody and this is not a confiscatory legislation. He says, instead of leaving it to a court to decide, when a dispute arises, we only presume that it is part of an endowment, we are not doing anything more, and therefore the question of confiscation does not arise. I want him to go through the language in this provision. It runs thus:

'Any inam granted to an archaka . . . shall not be deemed to be a personal gift to the archaka . . . but shall be deemed to be a religious endowment.'

I ask in all earnestness what does the term 'shall be deemed' mean? I deny the contention that it means 'it shall be presumed.' When the Bobbili Ministry passed a legislation in 1936 giving occupancy right in certain kinds of inams, they did not go to this extent. They simply said it shall be presumed to include both warams. Then in another piece of legislation which we passed a few months back with regard to artisan inams, the word 'presume' was used (in the Act of 1895, which referred to emoluments

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consisting of something) and extended to include also the land. Even there we objected that all presumptions should not be statutorily made. It should all be left to ordinary provisions of the Evidence Act. If I understand English aright, the words 'shall be deemed' are not 'presumption,' and the inam granted to an archaka is not his personal property but is the property of the endowment. And what is the result? Property till now treated as personal property by the archakas, has by statute, been converted into property belonging to the religious endowments and converted so without paying any compensation. Certainly it is confiscatory! Possibly it is not the intention of the Hon. Minister to do it. If it is not the intention of the Government to take away the property of the archakas, I ask the Hon. Minister to change the language of the Explanation. I am not asking him to do anything more than that. I am only asking him to give the religious institutions all the properties that are legitimately due to them. The question whether an inam belonging to an archaka is really an inam which is his or belongs to the endowment is a matter to be decided on the merits of the case. Each case has to be decided on its merits according to the language of the grant or according to the practice obtaining in a particular locality or according to the practice and enjoyment of the endowment which has been obtaining from time immemorial. It should not be the province of the Government or it should not be the province of legislation to say that every inam which is now in the name of an archaka shall hereafter belong to the temple. This Government have had no compunction in introducing legislation taking away properties without giving just compensation. It has always prided that it is doing it; it is taking pride in moving with the times, in taking away property without just compensation. I submit this Government may be taking a 'forward move.' But unfortunately the Constitution Act is not so forward as the Government of Madras is. The entire Constitution Act is based on individual property and individual freedom, and it declares that no property shall be taken without paying compensation. The Government of Madras and those of us who are supporting its measures may be proud that we are taking a forward step in giving good-bye to the sense of private property and individual property; whenever we feel that it is in public interest to take away property without paying compensation, we may do so. But at the same time our enthusiasm should not take us off our feet, for the Constitution binds us down; we have taken the oath of allegiance to the Constitution on the floor of the House; and when we show all sincerity in standing up here and speaking, it is not because we have no other business—in fact I am anxious to go away in a day or two. When we raise objections here to the provisions of measures, we do so, because we feel they are wrong; we do so, because we are anxious that things should be done in a right manner. May I remind the Hon. Minister what happened when the Criminal Law (Amendment)

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Bill was being passed in this House? The Hon. Minister, Mr. Madhava Menon was in charge of that Bill. What did he say then; what language did he use then? What did we say then? And what has happened to-day? I do not want to say that every one of my contention is right, or every contention I raise will be right; but I only say, when I raise a matter of objection, I feel that it is a matter for consideration. When my hon. Friend, Sri Bhashyam raises any point of objection, he does so, because he feels that it is a point for consideration before the provision is passed. Government should examine what it is, and it is not right for the Hon. Minister to say, he does not understand the relevancy of the contention. Have those of us who sit here come here to bandy words? Is it correct to say, so and so alone is an expert and so and so is not an expert? I submit in all earnestness that all unrelated subjects have been clubbed together in this Bill."

MR. SPEAKER:—"If they are all unrelated subjects, then the Bill is out of order. The hon. Member could have raised it as a point of order."

SRI T. VISWANATHAM:—"Unfortunately, Sir, I did not raise it as a point of order, as there is no legislation on it. So, it is a matter for our understanding and commonsense. In some of the States of America there is a legislation that if unrelated subjects are brought in in one enactment, it shall be declared void. But, here, we have no such legislation. So we have to proceed upon our commonsense. I believe I have made it clear that the subject-matter of inams is quite different from the subject-matter of management of religious properties. Therefore the persons who are affected by this provision are not at all aware of what is happening here. Everybody thinks that we are legislating for the better management of temples. I myself, until I came to this explanation, when I gave notice of amendments, did not know that we are dealing with inams in this Bill. Therefore, Sir, I submit it is not right we should legislate about inams in this Bill. Hon. Mr. Varadachariar said that we are actually considering in another Bill about inams. I happen to be a member of the Select Committee of that Bill. Government also intend to bring in a comprehensive legislation about inams after the inquiry under the Zamindari Abolition Act is over. So, I submit Government should not take away the property—I assert they are taking away the property, they are taking it away without compensation! If the Hon. Minister thinks that the words 'shall not be deemed' mean only 'shall not be presumed' and the words 'shall be deemed' mean only 'shall be presumed', I wish just to ask him what the following words mean:—

"The Act shall be deemed to have come into force on such and such a date."

It means the Act comes into force on that specified date. It is not a presumption. It is a positive mandate. I submit, under

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these circumstances, it is wrong to convert one man's property into the property of an institution. By all means, if the Commissioner appointed under this Act, feels that there is a good case for taking away the inam given to an archaka as per his title, let him do it. Do you think the donor would be such a fool as not to mention to whom the land should go? Sir, it all depends upon the merit of each case. Sir, a number of such cases of inams from Guntur district have come up before the High Court and settled. Particularly in the matter of an inam relating to an archaka there was great doubt and a decision has been given by the High Court on it. Now, there is another point which I did not mention till now. The Explanation does not say whether it holds good even against a decree of court. Suppose in 1949 the High Court had decided that a particular inam standing in the name of an archaka belongs to him and not to the temple; what happens to it under this Explanation? Does this take away the property from the archaka?

"I submit that this is very wrong, unjust to the persons concerned and unjust to ask the House to agree to it. I once more submit that, if the Hon. Minister feels that 'shall not be deemed to be' is only a presumption, let him move an amendment. The acceptance of that amendment is the farthest limit to which a person of my stamp can go, though I do not agree even with the use of the word 'presumption' as each case must be decided on its own merits in a court under the general law of the country. Let him not misunderstand that the wording used connotes a presumption. This provision bodily takes away the property of a person, property which stands in his name and has been in his enjoyment for years and years, and vests it in the religious institution. Therefore, I submit that my amendment may be accepted."

THE HON. SRI K. MADHAVA MENON:—"Sir, when I said that I could not understand the relevancy of introducing the question of inam tenure, I was not under the impression that I was bandying words. Anyhow, I had no such intention at all. When stones are thrown at me, I try to defend myself. If this is construed as bandying words, I cannot help it. I still maintain that the explanation has nothing to do with inam tenure. My hon. Friend said that there was a Select Committee considering about inams. That is true. But this Explanation has nothing to do with inam tenure. If there is an endowment for the performance of any service in, or a charity connected with, any religious institution, that is deemed to be a religious endowment. That is the presumption there and I maintain that it is a presumption. Hon. Mr. Bhashyam said in the course of his speech that it was a presumption. I felt he was right. Clause 62 of the Bill says—

'Subject to the rights of suit or appeal hereinafter provided the Deputy Commissioner shall have power to enquire into and decide whether any property or tenancy is a religious endowment.'

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This clause provides for a suit or appeal against the decision of the Deputy Commissioner.

"I cannot understand the point about taking away one's property and vesting it in another. When a service, for rendering which an inam has been granted, ceases to be rendered, the Government or the Collector can resume the inam. There are inams registered in the name of a temple and in the possession and enjoyment of the archaka. There may be service inams of which the archaka himself is the pattadar. An inam granted for doing a religious service is presumed to be an inam for the religious institution. I want the House to consider this with reference to sub-clause (16). The sub-clause says—

"'Specific endowment' means any property or money endowed for the performance of any specific service or charity in a math or temple, or for the performance of any other religious charity, but does not include an inam of the nature described in Explanation (1) to clause (14)."

The words 'but does not include an inam of the nature described in Explanation (1) to clause (14)' were added by the Select Committee. The effect of the addition is that an inam of the nature described in the Explanation will not be a specific endowment. When that is not a specific endowment, what is the power that the Commissioner has got? He cannot call for accounts, claim any contribution or appoint a trustee, as the provisions conferring these powers do not apply to it. When the archaka is not performing the service, the only power that the Commissioner has is to move the Collector to resume the inam.

"I still think that there is no question of any tenure involved in this Explanation."

SRI T. VISWANATHAM:—"I just want to ask for some clarification."

MR. SPEAKER:—"I have already given enough time. The question is—

'Delete Explanation (1).'

The amendment was lost.

SRI N. S. VARADACHARI:—"Sir, I move—

'In Explanation (1) omit the words "shall not be deemed to be a personal gift to the archaka, service-holder or employee, but."'

This amendment is very different from the previous amendment to omit the Explanation. Even if the Government think that inams should not be excluded from the purview of this Bill and the control which it aims at, they should not draw the presumption that these were not personal gifts. If that presumption is drawn, what happens? I shall come to that later.

"The Hon. Minister Sri K. Madhava Menon has a very nice way of dealing with irrelevant objections. But when relevant objections are raised, he simply shuts his mouth and does not

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even attempt to answer. I raised two relevant objections. Let me point out that this is grossly misinterpreting section 17 (1) of the Madras Estates (Abolition and Conversion into Ryotwari) Act. The section says—

“Where any land granted on service-tenure, whether to an individual or institution, falls under section 3, clause (16) (c), of the Estates Land Act, then, irrespective of whether such land consists of only a portion of a village or of one or more villages—

(a) if the service to be rendered is personal or private service to the landholder, not being a religious, educational or charitable institution, the land shall be discharged from the condition or such service and the holder of such land shall be entitled to a ryotwari patta in respect of the land”

If I ask a learned man to write a slokam about me every day as some ancient Rajas did, that is purely personal service. The land given for rendering that personal service shall be discharged from the condition of that service irrespective of what the Inams Commission might have said, and the holder shall be entitled to a ryotwari patta in respect of that land. But if the land has been given for doing other than personal service, the holder shall have the same rights and liabilities in respect of that land as the inamdar of a minor service inam in a ryotwari village. Minor inam means only this. I do not know very much about it. It may have a favourable rate of assessment so far as the landholder is concerned. The land does not carry any obligation over and above what a ryotwari patta land is carrying. The inamdar of a minor service inam is a ryotwari pattadar in every sense of the term except for this one condition that he must continue to perform the service. That is all. If he does not continue the service, the Government can resume the inam. I agree to it. But that is a matter which is wholly irrelevant to this Bill. Even if there is no provision in this Bill, an inam can be taken off the list of inams when the service ceases to be rendered. Service inam means that.

“I come to the second objection I raised. The Hon. Sri Madhava Menon has been good enough to point out that it does not matter since the inam taken away from an archaka or serviceholder is only vested in the religious institution to which he renders service, and to admit: ‘There is no control at all. We do not ask for the accounts or any contribution or the power of appointing trustees. The archaka is the trustee. He carries on his work and he really does very hard work.’ Then, what is the control left and why do the Government want it? This is, to use a very appropriate expression, a very perverse control. I can understand control over management, effective control against mismanagement and other kinds of control. You say you do not want accounts, you do not want any contribution and you do not want to appoint the trustee and yet you want control. I say this control is a hobby horse which you are riding.”

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hence, the word ‘you’ may be construed to refer to the Chair. Please, for goodness’ sake, let hon. Members avoid using the word ‘you’ when referring to a Minister or the Government.”

SRI N. S. VARADACHARI:—“By ‘you’ I mean the Hon. Minister. There is no control and yet the Hon. Minister says that he wants control. The effect of this very perverse control will be that the archaka will be subjected to harassment and tyranny by petty officials who run after him asking for petty emoluments. If the Government want to deprive the archaka of his *dosais*, by all means let them have that satisfaction. That is the only kind of control that is left. I believe that this House does not want that kind of thing to occur. We must think in large terms, in terms of service honourably and voluntarily rendered. We should not at every turn in our life think that the whole world will misbehave if we do not keep our hands on the control machine. It is not control that makes an archaka work; it is the force of public opinion and the general moral law that makes him work. As the Hon. Minister himself admitted that essentially there was no control at all, why should he not be good enough to respond to my request to recast the clause so as not to include inam?”

“Sir, let me now come to another point. Till now the archaka has all the rights of a full pattadar. His tenant has no occupancy rights. We created a doubt by section 17 (1) of the Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 and that doubt has been decided in his favour by courts of law and also by the Hindu Religious Endowments Act. But now that section is sought to be amended by an amending Bill which is now before the Select Committee. I submit, Sir, that it is a most unhappy amendment and I shall have to deal with it later on when an opportunity comes. But, having got all rights of property, an attempt is now being made to make these inams part of Hindu Religious Endowments by means of this Explanation. I cannot understand the reason behind it. This is as it were a double-edged sword. First, the Government have taken away his rights to property and secondly, they are forcing an imaginary control, while in fact, there is nothing for any control being exercised. I ask the Government, why should they stick to this imaginary control, which will only lead to misunderstanding in the institution and not conduce to the efficient upkeep of the services concerned. Of course, the right of resumption of an inam is always there and the Government can exercise that right at any moment. It means that the officers of the Government are not blind. They are vigilant enough and so are the public also. Does the Hon. Minister think that when there is no worship in a temple, or when the services in a temple are not carried on properly the public would sit quiet with folded hands and allow such a state of things to continue? The Hon. Minister must be fully aware that if such a thing happens, the public would not only rush to the Government and intimate to them what is

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happening, but at the same time they would take upon themselves to see that the services are performed in the temple then and there, because, temple service is considered to be most important and it will not be allowed to be stopped even for twelve hours. That is the position even in these days. Then where is the question of control, I am unable to understand, except that it is in the imagination of the Hon. Minister which he is sticking to, because he has already resolved about it."

SRI K. BHASHYAM:—"May I know, Sir, the exact wording of the amendment of the hon. Member?"

SRI N. S. VARADACHARI:—"My amendment, Sir, is this—

'In Explanation (1) under sub-clause (14) of clause 6, omit the words, "shall not be deemed to be a personal gift to the archaka, service-holder or employee, but."'

SRI M. S. PATTABIRAMIAH:—"I second the amendment, Sir."

SRI K. T. KOSALRAM:—"Mr. Speaker, Sir, கனம் வாத்தாச்சாரியார் அவர்களுடைய amendment-ஐ நான் எதிர்க்கிறேன். ஒரு கோவிலுக்கோ அல்லது மடத்திற்கோ ஒரு மனிதன் ஏதாவதும் சொத்தை எழுதிவைத்திருந்தால் அந்த தர்மத்தை அவன் செய்யாமலிருந்தால் பொது மக்கள் சம்மா இருக்கமாட்டார்கள் என்பதை நான் அவருடைய கவனத்திற்குக் கொண்டு வருகிறேன். எவ்வளவோ கோவில்களுக்கும், மடங்களுக்கும் எவ்வளவோ மனிதர்கள் தனிப்பட்ட முறையிலும், இன்னும் அவர்களுடைய மூதாதையர்களும் இன்னும் பலபேர்கள் தங்களுடைய சொந்தமுறையிலும் தர்மங்களை நடத்துவதற்காகவும் இன்னும் சத்திரங்களுக்கும், மடங்களுக்கும் அவைகளை நிர்வகிக்கும் பொருட்டு பல சொத்துக்களை எழுதிவைத்திருக்கிறார்கள். எந்தக்காரியங்களுக்காக அந்த சொத்துக்களை எழுதிவைக்கப்பட்டதோ அந்த தர்ம காரியங்களை நடத்தாமல் இருக்கிறார்கள். இன்னும் கோவில்களிலிருக்கும் அநேகம் வெள்ளி, தங்கம் முதலியவைகளையும் விற்கும் முறையிலிருக்கிறார்கள். கோவில்களிலிருக்கும் விற்கக்கூடியவற்றையும் விற்பது வருகிறார்கள். இன்னும் சில இடங்களில் கோவில்களிலுள்ள சில பாகங்களை கலைத்தும், பிடுங்கியும் அவைகளை விற்பதுகொண்டும் வருகிறார்கள். அதை இப்பொழுது பொதுமக்கள் பார்த்துக்கொண்டு தானிருக்கிறார்கள். ஆனால் சர்க்கார் இப்பொழுது ஹிந்து மத தர்மத்தை அழிக்க பிரயத்தனப்படுகிறது. தர்மங்களும், கோவில்களின் பூஜைகளும் ஒழுங்காக நடக்க வேண்டுமென்பதற்காக யாரோ ஒருவர் தன்னுடைய சொத்தை எழுதிவைத்திருந்து அது சரியானபடி நடத்தப்படாமலிருந்தாலும், எந்தக்காரியங்களுக்காக எழுதி வைக்கப்பட்டதோ அந்தக் காரியம் நடைபெறாமலிருந்தாலும் அதை அரசாங்கம் பார்த்துக்கொண்டிருக்க முடியுமா என்று கேட்கிறேன். குறிப்பாக சொல்லவேண்டுமென்றால் எங்கள் ஜில்லா சம்பந்தப்பட்டமட்டில் பல கோவில்களுக்கும், பல சத்திரங்களுக்கும் எத்தனையோ பேர்கள் தங்களுடைய சொத்துக்களை எழுதிவைத்துப்போயிருக்கிறார்கள். ஒருநாள் ஒன்றுக்கு இவ்வளவுபேர்கள் சாப்பிடவேண்டுமென்று எழுதிவைத்திருக்கிறார்கள். ஆனால் இப்பொழுது எவ்வளவு பேர்களுக்கு சாப்பாடு போடுகிறார்கள் என்பதைப் பார்க்கவேண்டும்.

(Sri. N. S. Varadachari: 'அங்கு அநேகம் சோம்பேரிகளுக்குக் கலாம்'). திருநெல்வேலியில் சோம்பேரிகளுக்குக்கிறார்கள் என்று சொல்லுகிறார். நான் சொல்வது என்னவென்றால் அங்கு இருப்பதுபோலவே பல ஜில்லாக்களிலும் அப்படித்தானிருப்பார்கள் என்று நான் சொல்லுகிறேன்.

16th November 1950] [Sri K. T. Kosalram]

எங்கள் ஜில்லாவில் 96 கிராமங்களிருக்கின்றன. குறிப்பாக எங்கள் ஜில்லாவில் பல மடங்களும், பல கோவில்களும் இருக்கின்றன. அவைகளுக்கெல்லாம் பல பெரியோர்கள் சொத்துக்களை எழுதி வைத்திருக்கிறார்கள். ஆனால் அங்கு நடக்கும் நிர்வாகத்தைப் பார்த்தால் டேக்கனாக் தர்பார் நடப்பதாகத் தான் தோன்றும். அங்கிருப்பவர்களெல்லாம் சோம்பேரிகளாகிவிட்டார்கள். அவர்களுடைய வேலைகளை அவர்கள் பார்ப்பதே இல்லை. அவர்களுடைய சொத்துக்களை கவனிப்பதைப்போலது பிரமாதமாக வாதாடுவது அத்யாவசியமில்லை. வன்னென்றால் எந்த மனிதன் குறிப்பாக எந்தக் காரியத்தைச் செய்யவேண்டும் என்று சொத்துக்களை எழுதிவைத்து அந்தக்காரியங்களை செய்யாமலிருந்தால் அரசாங்கம் அதைப் பார்த்துக் கொண்டிருக்க முடியாது. ஒருவனுக்குக்கொடுத்த காரியத்தை அவன் செய்யாமலிருந்தால் அவனை அரசாங்கம்தான் அடக்கமுடியும். சரியான நிர்வாகம் நடைபெற்றால் அதை தடை செய்யவேண்டியதவசியமில்லை. இன்றையதினம் கொண்டு வரப்பட்ட சட்டத்தில் அவ்விதம் தடை செய்வதற்குள்ள அதிகாரமில்லை. அந்த நிலையில்தான் இந்த சட்டமிருக்கிறது. சில இடங்களில் எவ்வளவோ தர்ம சொத்துக்களெல்லாம் சரியானபடி நிர்வாகம் செய்யப்பட்டு அர்ச்சகர்கள் ஒழுங்காக நடத்தி வருகிறார்கள் என்று சொல்லுகிறார்கள். அவைகளைப்பற்றி நமக்கு கவலை இல்லை. அவைகளில் அரசாங்கமும், அதிகாரிகளும் தலையிடவேமாட்டார்கள். அவ்விதமேதான் இப்பொழுதுள்ள சட்டமும் நிச்சயமாக இருக்கிறது என்று சொல்வோம். ஒரு தர்மசொத்தை துர்வநியோகம் செய்தால் அதை அரசாங்கம் எடுத்துக்கொண்டுதானாகவேண்டும். இப்பொழுது இருக்கும் நிலைமையில் பொதுமக்கள் அந்த சொத்துக்களை எடுத்துக்கொள்ளவேண்டுமென்று சொன்னால் அவைகளை எடுத்துக்கொள்ள முடியாத நிலைமையிலிருக்கும் என்ற நிலைமையில் இப்பொழுது நாயிருக்கிறோம். இப்பொழுது பொதுமக்களுடைய அபிப்பிராயம் அவைகளை எடுத்துக்கொள்ள வேண்டுமென்பதுதான். இப்பொழுது எந்தக்கூட்டத்தில் போய் பேசினாலும் ஹிந்து மத தர்ம பரிபாலன மசோதாவை வைத்துக்கொண்டு இரண்டு வருஷமாக சட்ட சபையில் அவர்கள் வாதாடிக்கொண்டிருக்கிறார்கள், என்ன விளையாடுகிறார்கள் என்று கூட கேட்கிறார்கள். ஆனால் தர்ம சொத்துக்கள் அக்கிரமமாகப் போய்க்கொண்டிருக்கின்றனவென்றும் சொல்லுகிறார்கள்."

MR. SPEAKER:—"நீங்கள், இப்பொழுது இருக்கும் amendment-ஐப் பொருத்ததான் பேசவேண்டும்."

SRI K. T. KOSALRAM:—"Amendment-ஐப் பொருத்ததான் பேசுகிறேன். இப்பொழுது மடாதிபதிகள் ஸ்சக்கணக்கான தர்ம சொத்துக்களை வைத்துக்கொண்டு குரையாடிக்கொண்டிருக்கிறார்கள். அதைப்பார்த்து மக்கள் கொதித்துக் கொண்டிருக்கிறார்கள். ஆகையினால் அவைசியமாக இப்படிப்பட்ட amendment-களை கொண்டு வரவேண்டாம். ஆகவே அரசாங்கமும் இதை எதிர்க்கும் என்றே நம்புகிறேன்."

SRI K. BHASHYAM:—"May I request you, Sir, to permit me to speak in Tamil."

MR. SPEAKER:—"I have no objection."

SRI K. BHASHYAM:—"கனம் அக்கிராசனாதிபதி அவர்களே! ஸ்ரீ கோசலராம் அவர்கள் ரொம்ப தெளிவாக, ரொம்ப ஸ்பஷ்டமாக, ரொம்ப விமர்சனமாக கோவில் டிரஸ்டிகளும், மத குருமார்களும் எப்படி இப்பொழுது நடந்து கொண்டு வருகிறார்கள், அவர்கள் எப்படி நடந்துகொள்ள வேண்டுமென்பதைப்பற்றி சொல்லிவிட்டார்கள். அது பற்றி நமக்கும் அவருக்கும் கொஞ்சம் கூட வித்தியாசமே கிடையாது. அவ்வாறு யாராவது இருந்தால் கடவுள் தண்டனை அளிப்பதோடு கூட அரசாங்கத்தாரும் தண்டனை அளிப்பார்கள் என்பதெல்லாம் வால்தவமானதுதான்."

[16th November 1950]

THE HON. SRI K. MADHAVA MENON :—"Sir, on a point of order, my hon. Friend Mr. K. Bhashyam says that he is not speaking on the amendment of hon. Mr. Varadachari, but that he is only replying to what my hon. Friend Mr. Kosakram has said. May I submit, Sir, that it is not relevant to the subject matter of the present discussion?"

MR. SPEAKER :—"The hon. Member may confine his remarks to the amendment under discussion."

SRI K. BHASHYAM :—"இந்தத் திருத்தப் பிரேரணைக்கும் தர்ம பரிபாலனத்தைப் பற்றிய பொதுப்படையான ஒழுங்குகளைப் போன்ற விஷயங்களுக்கும் என்ன பொருத்தமிருக்கிறது என்று எனக்குத் தெரியவில்லை."

"அது போகட்டும். என்ன இருந்தாலும் கனம் கோசல்ராம் அவர்கள் நமக்கு புத்தி சொன்னதைப் பற்றி ஆசேஷனை எதுவும் கிடையாது."

"இப்போது விவாதிக்கப்படுகிற விஷயம் என்னவென்றால்: கோவில் அர்ச்சகர்கள் அல்லது மாலைகட்டிகள், ஓதுவார், மேளகாரர், இம்மாதிரி கோவில்களுக்கு தொண்டு செய்பவர்கள் இருந்தால் சர்க்கார் என்ன சொல்லுகிறது என்றால் அவர்களுக்கு சொத்து இருக்குமேயானால் அது அவர்களுக்குச் சொந்தமானது அல்ல. ஆதலால் அதில் அவன் பாட்டன், தகப்பன் யாராவது கோவிலில் பணிவிடை செய்வதற்காக அந்த சொத்தை மானியமாக பெற்றிருப்பான். ஆதலால் இப்போது அந்த சொத்து Religious Endowment-ஐச் சேர்த்துவிட வேண்டுமென்று சொல்லுகிறார்கள். உதாரணமாக சிதம்பரத்தில் தீக்ஷிதர்கள் இருக்கிறார்கள். அவர்களுக்கு சொத்து கிடையாது. அவர்கள் வேலைக்கு போவதும் கிடையாது. பின்னர் அவர்கள் எப்படி பிழைக்கிறார்களென்றால் மாதம் 5 ரூபாய், 10 ரூபாய் என்று வெளியிடங்களுக்குச் சென்று அர்ச்சனை செய்ய பணம் வாங்கி அர்ச்சனை செய்து ஒரு கவரிலே அந்த பிரசாதத்தை அனுப்பியும் ஜீவித்து வருகிறார்கள். இப்போது இந்தச் சட்டத்தின் வாசகப்படி இம்மாதிரி தீக்ஷிதர்களிடம் எண்க்காக அர்ச்சனை செய்துவா என்று யாராவது 'நிலம் எழுதி வைத்திருந்தாலும், சொத்து வைத்திருந்தாலும் அது Religious Endowment-க்கு சேர்ந்து விடுகிறது என்று இருக்கிறது. கனம் கோசல்ராம் அவர்கள் இந்த விளக்கத்தில் (explanation) சொல்லப்பட்டிருக்கக்கூடியவார்த்தைகளை அதாவது (any other religious charity shall be deemed to be a religious endowment . . .) என்றிருப்பதைச் சுர்ந்து பார்க்க வேண்டும். Deemed என்ற வார்த்தைக்கு எவ்வளவு power இருக்கிறது என்று பார்க்கவேண்டும். ஆகையால் இந்தமாதிரி வார்த்தையை போட்டதினால் அவன்டம் உள்ள மானியம் கோவில் Endowment-ஐச் சேர்ந்ததானது என்று விசாரிக்கவே இடமின்றி அது கோவில் Endowment-ஐச் சேர்ந்தது என்று முடிவுசெறி விடுகிறது. அது சரியல்ல—நியாமம் அல்ல என்பதுதான் எங்கள் வாதம்."

"இப்போது அர்ச்சகர்களை வேண்டுமானாலும் தள்ளிவிடுங்கள். உங்களுக்குப் பிடித்தமான கோவில் ஓதுவார் ஒத்தி ஊதி, மாலைகட்டி மற்ற பலருடைய தலையிலே இந்த சட்டம் கைவைத்து விடுகிறது. ஆகையால் நீங்கள் எல்லோரும் இதை நன்றாக யோசித்து இந்த திருத்தத்தை ஒப்புக் கொள்ளவேண்டுமென்பது எனது அபிப்பிராயம். அவ்வாறு ஒப்புக் கொள்ளும்படியும் உங்களை தயவு செய்து கேட்டுக்கொள்ளுகிறேன்."

SRI N. ANNAMALAI PILLAI :—"கனம் தலைவர் அவர்களே, கனம் N. S. வரதாச்சாரி அவர்கள் கொண்டுவந்திருக்கிற திருத்தத்தை ஆதரித்து சில வார்த்தைகளைச் சொல்லப்போகின்றேன். நான் இப்பொழுது பேசும் பொழுது திருத்தத்தை ஆதரித்துப் பேசுவது எல்லோருக்கும் வேடிக்கையாகவும், விந்தையாகவும் இருக்கும். ஏனென்றால் பொது மக்கள் ஜனங்களிடத்தில் ஒரு பரபரப்பும், கோவில்களைப் பார்த்தால் ஒரு விருகிற்ப்பும் ஏற்பட்டிருக்கிறது. கோவிலிலிருக்கும் கல்லை கழுவ

[16th November 1950] [Sri N. Annamalai Pillai]

கிறார்கள் என்றும், இன்னும் கடவுள் இல்லை என்றும், அவைகளுக்கு மான்யம் எதற்கு என்றும், விளக்குப்போடுவது எதற்கு என்றும், பூஜை எதற்கு என்றும், மணியடிப்பதும், கற்பூர ஹாரத்தி முதலியவைகளைச் செய்வது மிகவும் பைதயக்காரத்தனமாக இருக்கிறது என்றும் இப்பொழுது கருப்புச்சட்டைக்காரர்கள் வெளியே டேசுகிறார்கள். அவர்கள் பேசுவதற்கு ஏற்றாற்போல் இம்மாதிரி சட்டம் செய்வது ஹிந்து மதத்தைக் கேவலப்படுத்துவதாகும். எங்கள் ஜில்லாவில் திருவண்ணாமலை கேஷத் திரத்தில் சுமார் ஆயிரம் வருஷங்களாக ஒரு பரம்பரை குருக்கள் வேலை செய்துகொண்டு இருக்கிறார்கள். அங்குள்ள கோவில்களில் அர்ச்சகம் செய்கின்ற குருக்கள்கள் ஆயிரம் வருஷமாக இருக்கிறார்கள். பிரிட்டிஷ் சாம்ராஜ்யம் ஏற்பட்ட காலத்திலிருந்து வெகு நாட்கள்வரையிலும் கூட அந்தக் கோவிலுக்கு அர்ச்சகர்களே தர்மகர்த்தாவாக இருந்தார்கள். அந்தக் கோவிலில் சுமார் ரூபாய் இருபது டீசம் மதிப்புள்ள நகைகளிருக்கின்றன. அதிக தொகை மதிப்புள்ள நகைகள் இருக்கின்றன. எனக்கு அவ்வளவாக மதிப்பு தெரியாது. அவ்வளவு பெரிய மதிப்புள்ள நகைகளையும், சொத்துகளையும் அந்த அர்ச்சகர்கள் தான் பாதுகாத்து வந்தார்கள். அது மாதிரமல்ல. ஆகமங்கள், புராணங்கள், ஸாஸ்திரங்கள், விதிகள் எல்லாவற்றையும் அவர்கள் பாதுகாத்து வந்தார்கள். அவைகளை யெல்லாம் இன்றைக்கு நம்முடைய கையில் கொடுத்திருக்கிறார்கள். அதை நாம் சீர்திருத்தம் செய்ய ஆரம்பித்து இருக்கிறோம். இவ்விதம் நாம் ஆரம்பிப்பதற்கு முன்னால் ஒரு கோவிலுள்ள அர்ச்சகர் ஒருவருக்கு சம்பளம் ரூ. 4. பூஜை செய்கிறவர்களுக்கு அதாவது சின்ன குருக்களுக்கு சம்பளம் ரூபாய் மூன்று பிரிட்டிஷ் சர்க்கார் வந்த பிற்பாடு பெரிய குருக்களுக்கு சம்பளம் ரூபாய் எழு. சின்னக் குருக்களுக்கு சம்பளம் ரூபாய் ஆறு என்று ஏற்பாடு செய்திருக்கிறார்கள். அவ்விதம் செய்ததினால் அவர்களுக்கு வருமானம் என்னவென்றால் அவர்கள் கோவில் அர்ச்சகம் செய்து சரிவர காலங்களை நடத்துவதற்காக நவாப் காலத்திலும், கரிகாலசோழன் காலத்திலும் மான்யம் விட்டார்கள். அந்த மான்யம் இன்னும் அவர்களிடமே இருக்கிறது. அதற்காக கோவிலுக்கு தொண்டு செய்துகொண்டு வருகிறார்கள். அதே மாதிரி மத்தளம் கொடுப்பவர்களுக்கும், மேளமடிப்பவர்களுக்கும், ஒத்து வாசிப்பவர்களுக்கும் இன்னும் இதர தொழில் செய்கிற எல்லோருக்கும் மான்யம் விட்டிருக்கிறார்கள். அவர்களுக்கு சம்பளம் கோவிலில் ரூ. 1, 2, 3 தான் கொடுக்கிறார். அதற்குமேல் கிடையாது. அந்த மான்யங்களையெல்லாம் இப்பொழுது எடுத்துவிட்டார்கள். இன்னும் கோவில் களுக்குள்ளே தேவதாசிகள் இருக்கிறார்கள். அவர்களுக்கும் மான்யம் ஒதுக்கி வைத்திருக்கிறார்கள். அவர்களுக்கெல்லாம் கோவிலில் கொடுப்பது ஒரு ரூபாய்தான் சம்பளம். அதனால்தான் அவர்களுக்கு மான்யம் விட்டிருந்தார்கள். இப்பொழுது தேவதாசி முறையை எடுத்துவிட்டார்கள். இப்பொழுது இருந்திருந்தால் அந்த மான்யங்களையும் எடுத்துக்கொண்டிருப்பார்களோ என்பதுதான் எனக்கு சந்தேகமாக இருக்கிறது. அந்தமாதிரியான சொத்துக்களை எந்தப்பலனை அடையவேண்டுமென்று ஒதுக்கிவைத்திருக்கிறார்களோ அந்த சொத்துக்களை இன்றைக்கு நாம் எடுத்துக்கொண்டால் அதாவது அரசாங்கம் எடுத்துக்கொண்டால் அதற்குள்ள உத்யோகஸ்தர்களுக்கும், அர்ச்சகர்களுக்கும் ரூபாய் ஐந்து சம்பளம் கொடுக்கும்படியாக இருக்கும். இன்னும் பஞ்சப்படி ரூ. 25 வேறு கொடுக்கவேண்டும். இந்த மாதிரியான நிலைமை தேவஸ்தானங்களுக்கு ஏற்பட்டு, கயிவுனர்களுக்கும் Endowment மந்திரிக்கும் இந்த வேலைகளைச் செய்யத்தான்முடியும். அதனால் கோவில்களெல்லாம் அஸ்தமித்துப்போய் மூடப்பட்டுவிடும். அவ்விதம் மூடப்பட்டால் என்ன நஷ்டம் என்று சொல்லலாம். நான் சொல்வது என்னவென்றால் அதனால் கருப்புச்சட்டைக்காரர்களுக்கு வெற்றி ஏற்படும் என்பதுதான். ஆகையால் நான் சொல்வது என்னவென்றால் இந்த கோவில் சொத்துக்களையெல்லாம் மைனர் சொத்துக்களாக பாவித்துவைத்து, தாய் தகப்பன் இல்லாத குழந்தைகளின் சொத்துக்களை பாவிப்பதுபோல் இந்த மைனர் சொத்தாகிய கோவில் சொத்தை பாவித்து பாதுகாத்துவைக்கவேண்டாம் என்று கேட்டுக்கொள்ளுகிறேன். கடன் தீவரண சட்டம்

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வந்தபோது, அதாவது தலைவர் ஸ்ரீஜத் இராஜாஜி அவர்கள் பிரதம மந்திரியாக இருந்து இந்த சட்டத்தைக் கொண்டுவந்தபோது 1932-வது வருஷத்திற்கு முன்னாலிருந்து வட்டி வாங்காமலிருந்தால், அவர்கள் எல்லா வட்டிபணத்தையும் தள்ளிவிடவேண்டுமென்று இருந்தது. ஒரு ரூபாய் கடன் கொடுத்திருந்து இரண்டு ரூபாய் வட்டியாக வாங்கியிருந்தால் அச்சுலே கொடுத்தாகிவிட்டதாகிவிடும் என்று தீர்மானம் வந்தது. இந்த தீர்மானத்தை கட்சிக் கூட்டத்தில் வாதிக்கப்பட்டது. அப்பொழுது ஒரு விதவை தன்னுடைய பத்தாவது வயதில் ஆயிரம் ரூபாய் அருப்பு கூலியாக வாங்கி வந்து அதை வட்டிக்குப்போட்டு 30-வது வயதில் மூன்று மடங்காகியிருந்து அந்த அச்சுலேத் தள்ளுபடி செய்யவேண்டுமென்று சொன்னால் அவளுடைய 30-வது வயதில் அவளுடைய கதி என்னவாகும் என்று கேட்டேன். அதன் மேல் மைனர் சொத்துக்களை அந்த சட்டத்திலிருந்து நீக்கினார்கள். அதன் பிறகு மைனர் சொத்துக்கள் அந்த சட்டத்தின்படி கட்டுப்பாடு என்று ஒதுக்கினார்கள். அதைப்போலவே இந்த சட்டத்திலும் செய்யவேண்டும். இப்பொழுது கொண்டு வந்திருப்பது ஒரு நல்ல சட்டமானாலும் துர்விதியோகம் செய்யப்படும் பணத்தை சர்க்கார் manage பண்ணுவது நல்லதுதான். ஆனால் அவைகள் நல்லவழியில் நடக்கும்படியாக விட்டுவிடவேண்டுமென்று தெரிவித்துக்கொள்ளுகிறேன். மொத்தமாக கோவில் சொத்துக்களை மைனர் சொத்துக்களாக ஒதுக்கிவைத்தால்தான் கோவில் காரியங்களும், மத சம்பந்தமான தர்ம கைங்கரியங்களும் நன்றாக நடந்துவரும். சொற்ப சம்பளத்தை வைத்துக்கொண்டு கோவில் ஊழியர்கள் கைங்கரியங்களைச் செய்யமாட்டார்கள் என்று தெரிவித்துக்கொண்டு இத்துடன் முடித்துக்கொள்ளுகிறேன்.”

SRI P. KANDASWAMI PILLAI:—“கனம் தலைவர் அவர்களே, கனம் வரதாச்சாரியார் அவர்களுடைய திருத்தம் என்ன வென்பதை புரிந்து கொள்ளாமல் எனது நண்பர் கனம் அண்ணாமலை பிள்ளை அவர்கள் ரொம்ப தூரம் பேசி இருக்கிறார்கள். கனம் இராஜாஜி காலத்தில் தான் சொன்னது என்ன விஷயம் என்பதை அவர்கள் புரிந்து கொள்ளவில்லை என்பதை நான் பகிரங்கமாகக் கூறுகிறேன். அவ்விதம் புரிந்து கொள்ளாமலேயே அதைப்பற்றி பேசிவிட்டார்கள். இப்பொழுது Service inam என்றிருக்கிறது. ஒரு கோவிலுக்கு ஊழியம் செய்யவேண்டுமென்றிருந்து அந்த ஊழியத்தை அவன் சரியாக செய்யாமலிருந்து அதனுடைய பலனை அடைய முடியாமலிருக்கும்படி செய்து விட்டாலும், அல்லது அந்த ஊழியத்தை அவன் செய்ய தவறிவிட்டாலும் அல்லது அந்த ஊழியத்திற்கு என்று ஏற்பட்டுள்ள காரியத்திற்கு மாறாக காரியங்களைச் செய்தாலும் அந்த சொத்துக்களை அவனால் அனுபவிக்க முடியாமல் செய்து பொது சொத்தாக எடுத்து கொள்ளப்படும் என்பது தான் இப்பொழுது கொண்டுவரப்பட்டிருக்கும் சட்டம். அந்த விஷயத்தைப்பற்றி சொல்லும் காலத்தில் கனம் பாஷ்யம் அய்யங்கார் அர்ச்சகர் என்றால் கோபம் வரும் என்றும் மற்றப்படி மேனக்காரர்கள் என்றும், மாலை கட்டி என்றும், ஒதுவார் என்றும், பிரித்துக்கட்டி பேசினார். அவர் அவ்விதம் பேசும் போது மனதில் எதையோ வைத்துக் கொண்டு தான் பேசினார். காளி கோவில்களில் பூசாரிகள் இருக்கிறார்கள். அங்குள்ள பூசாரிகள் பிராமணர்களல்ல. என்பதை அவருக்குத் தெரியப்படுத்துகிறேன். ஒவ்வொரு ஊரிலும் அப்படித்தானிருக்கிறார்கள். எங்கள் ஊரில் ஒரு கோவில் இருக்கிறது. அங்கு பூஜை செய்யவேண்டுமென்று நிலம் கொடுக்கப்பட்டு பட்டாவும் கொடுத்திருக்கிறார்கள். அவ்விதமிருக்கும் பொழுது அங்குள்ளவர்-தான் செய்யவேண்டிய ஊழியத்தைச் செய்யாமல் அந்தக் கோவில் இடத்தில் ஒரு ம. கலையை வைத்து நடத்தினார். இப்பொழுது யார் வந்தாலும் அதைப் பார்க்கலாம். இவ்விதமான நிலைமையில் தூற்றுக்கணக்கான கோவில்களிருக்கின்றன. இவைகளை யெல்லாம் தடை செய்ய வேண்டாமா வென்று கேட்கிறேன்.

“மற்றப்படி சிதம்பரத்திலுள்ள தீட்சதர்கள் ஒரு வேலைக்கும் போவதில்லை என்று அவர் சொன்னார். அது முற்றிலும் பிசுரு, அங்குள்ள தீட்சதர்களுக்கு வேதனாக்களை வாடகைக்கு ஒடுவதுதான் வேலை. இன்னும் கோழிச் சாண்ட விடுவதும், பந்தயம் வைப்பதும் தான் அவர்களுக்கு வேலை.

16th November 1950] [Sri P. Kandaswami Pillai]

இன்றைய தினம் என்னுடன் வந்தால் அதை நான் காண்பிக்கிறேன். அவர்கள் வேறு வேலையில் ஈடுபடவில்லை என்று சொல்வது தவறு. ஆகவே இம்மாதிரியான அபிப்பிராயங்களை புதுத்த வேண்டாமென்று கேட்டுக் கொள்ளுகிறேன். ஆகையினால் இப்பொழுது கனம் வரதாச்சாரியார் அவர்கள் கொண்டுவந்த திருத்தத்திற்கே அவ்விதமில்லை. அது நியாயமும் இல்லை. ஒரு தொழிலைச் செய்யவேண்டுமென்று ஒரு பொருளை எழுது வைத்திருந்து அந்தத் தொழிலை சரியாக செய்யாவிட்டால் அதை மெது ஜன சொத்தாக சர்க்கார் மாற்றியமைக்கவேண்டும். அவ்விதம் செய்வதுதான் பொது ஜன சர்க்காரின் கடமையுமாகும். பொது ஜன நன்மைக்காகவும், கேஷமத்திற்காகவும்தான் அந்த சொத்துக்களை கொடுத்தார்கள். தர்மங்களைச் செய்ய வேண்டுமென்பதற்காகத்தான் அவைகளைக் கொடுத்தார்கள். எந்தக்காரியத்திற்காக அவைகளைக் கொடுத்தார்களோ அதைச் செய்யாமலிருந்தால் அதை நல்ல முறையிலுள்ள காரியங்களுக்கு உபயோகப்படும்படியாகச் செய்யவேண்டியது அரசாங்கத்தினுடைய கடமை. ஆகவே இந்தத் திருத்தம் பொறுத்தமானது அல்ல. இதை ஏதே அங்கீகரிக்கவே கூடாது என்று கேட்டுக்கொண்டு கனம் வரதாச்சாரியார் அவர்கள் கொண்டு வந்த இந்த திருத்தத்தை நான் எதிர்த்தேன்.”

SRI R. V. SWAMINATHAN:—“Mr. Speaker, Sir, I should also like to speak in Tamil.”

MR. SPEAKER:—“I have no objection to the hon. Member speaking in Tamil, but the difficulty is that we have got only two reporters and they will find it difficult to take down if all the Members go on speaking in Tamil. Let the hon. Member make his remarks very briefly.”

SRI R. V. SWAMINATHAN:—“I shall be very brief, Sir. I am going to speak only two or three sentences.

“தலைவர் அவர்களே! கனம் பாஷ்யம் அவர்கள் பேசும்போது மிக அழகாகப் பேசினார்கள். அவர்கள் மிக்க காரசாரமாக எல்லாவற்றிற்கும் பதில் சொன்னார்கள். அவர்கள் பிரகாரம் பார்த்தாலேயே எனக்கு ஒரு சந்தேகம் வருகிறது. அதை நிவர்த்திக்கவேண்டும். சிதம்பரம் தீக்ஷதர்கள் அல்லது கோவில் மாலை கட்டி, மேனக்காரன் முதலியவர்களுக்கு இப்போது மானியம் கொடுத்திருப்பதாக வைத்துக்கொள்வோம். இப்போது இந்த சட்டப் பிரகாரம் அவர்களுக்கு முன்பு கொடுக்கப்பட்ட நிலங்களும் (Endowment) போர்டையே சேர்ந்ததாகிவிடுமென்றால் அந்த ஏழை எளியவர்களின் கதி என்ன ஆகுமென்று கேட்டார்கள். ஆனால், ஒன்று கேட்கிறேன். அவர் சொல்லும் விஷயம் நியாயமானதுதான். இந்தந்தக் காரியத்தைச் செய்யவேண்டுமென்று மானியம் கொடுக்கப்பட்டிருக்கும்போது அவர்கள் அந்தக் காரியத்தைச் செய்யாவிட்டால் என்ன செய்வது என்று கேட்கிறேன். அந்த மாதிரி குறிப்பிட்ட காரியங்களைச் செய்யத் தவறினால் அவர்களை டிஸ்பீஸ் செய்துவிட வேண்டுமெனலாம், உண்மை. ஆனால், குறிப்பிட்ட ஒரு காரியத்தைச் செய்யவேண்டுமென்று கொடுக்கப்பட்ட மானியம் தனிப்பட்ட மனிதன் பேரில் இருக்கிறது. அவன் அம்மாதிரி காரியங்களை சரிவர செய்யவில்லையென்று அவனை டிஸ்பீஸ் செய்தாலும், அவன் பேரிலுள்ள பட்டாவை எப்படி மாற்றமுடியும். இவனை நீக்கிவிட்டு வேறு ஒருவனை அந்த இடத்தில் கொண்டு வந்து அமர்த்தினால் அவனுக்கு அதே காரியத்தைத் தொடர்ந்து நடத்த அந்த மானியத்தையே கொடுக்க வேண்டுமென்றால் எப்படி சாத்தியமாகும்? இந்தச் சட்டத்தின்படி அவன் அந்தக் காரியத்தைச் சரியாக நடத்தவில்லையென்றால் அவனைத் தொகுத்து மத ஸ்தூபன இலாகாவுடன் சேர்த்துக்கொண்டு விடுவதால் மறுபடியும் அதே வேலையைத் தொடர்ந்து நடத்த வேண்டுமென்று யாரையாவது போட்டால் அந்த மானியத்தை புதிதாக வருஷவாசகங்களுக்குக் கொடுத்து வேலை சரிவர நடக்கும்படி செய்யமுடியும். இப்படிச் செய்யாவிட்டால் ஒருவன் குறிப்பிட்ட காரியத்தை

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செய்யாமல் விட்டுவிட்டால் அதை நாம் எப்படி திருத்த முடியுமென்று கேட்கிறேன். ஆகையால், அதற்குச் சட்ட பூர்வமான பரிசாரம் காண வேண்டியது அவசியமானதுதான் என்று தெரிவித்துக் கொள்ளுகிறேன்.”

SRI L. N. GOPALASWAMI :—“கனம் தலைவர் அவர்களே! எனது நண்பர் ஸ்ரீமான் கந்தசாமி பிள்ளை அவர்கள், ஸ்ரீமான் அண்ணாமலை பிள்ளை அவர்கள் இந்த திருத்தத்தைப் புரிந்து கொள்ளவில்லையென்று குறிப்பிட்டார். ஸ்ரீமான் கந்தசாமி பிள்ளை அவர்களும் இந்த திருத்தத்தைப் புரிந்து கொள்ளவில்லையென்பதை நான் உங்களுக்குத் தெரிவிக்க ஆசைப்படுகிறேன்.

“இப்போது இந்த (Explanation) விரிவுரையில் கண்டிருக்கிற விஷயம், அதாவது ஒரு கோவில் சிப்பந்திக்கு அவர் செய்யும் வேலைக்காக சில நிலமோ பொருளோ மானியமாகக் கொடுக்கப்பட்டிருக்குமேயானால் அது அவருக்கு சொந்தமான சொத்து அல்ல. அவர் இந்த தர்ம ஸ்தாபனத்துக்கு ஊழியம் செய்கிறவர் ஆகையால் அந்த சொத்து இந்த ஸ்தாபனத்தையே சேர்ந்தது என்று திட்டமாக முடிவு செய்கிறது இந்த விரிவுரை. அதைப்பற்றித்தான் இப்போது விவகாரம். ஒருவனுக்கு ஒரு காரியத்தைச் செய்து கொண்டுவர வேண்டுமென்பதற்காக மானியம் கொடுக்கப்பட்டிருக்கிறது என்றால் அப்படியே பட்டாவும் எழுதப்பட்டிருக்குமேயானால் அதைப்பற்றி விவாதமே கிடையாது. அந்த வேலையை அவன் செய்து வரவிட்டால் உடனே சட்டத்தின் பிரகாரம் ஸர்க்கார் மாத்திரம் அல்ல ஒரு தனி நபர் கூட புகார் செய்து அந்த வேலையை அவன் தொடர்ந்து செய்யவேண்டுமென்றும் இல்லாவிட்டால் அவன் மானியத்தைப் பறிக்கவும் அதிகாரமுண்டு. அதற்கு இந்த விரிவுரை தேவையேயில்லை. ஆனால், இந்தச் சட்டத்தில் இந்த விரிவுரையில் சொல்வது என்னவென்றால் இம்மாதிரி ஒருவன் இந்த வேலை செய்வதற்காக வென்று மானியம் பட்டா செய்யப்படாமலிருந்தாலும்கூட இந்த வேலைக்கும் அதற்கும் சம்பந்தம் இராக்குமேயானால் இந்த சட்டப்படி அந்த சொத்து இந்த ஸ்தாபனத்தையே சேர்ந்ததாகுமென்று முடிவு கூறுகிறது. ஸ்ரீமான் டி. விஸ்வநாதம் அவர்கள் கூறுவதுபோல் இது அந்த நபருடைய சொந்த சொத்தாக இருந்தாலும்கூட இந்தச் சட்டப் பிரகாரம் அவன் கோயிலைச் சேவகம் செய்பவன் அதற்காகவே அவனுக்கு அந்த நிலம் கொடுக்கப்பட்டிருப்பதால் அது இந்த ஸ்தாபனத்தையேதான் சேர்ந்தது என்று கூறுவது நியாயமல்ல. ஸ்ரீமான் வரதாச்சாரியார் அவர்கள் கூறுவதும் இம்மாதிரி முடிவு செய்வது சரியல்ல வென்றும் ஒருவனிடமுள்ள நிலம் அவனுக்குச் சொந்தமானதா அல்லது கோயிலைச் சேர்ந்ததா என்று கோர்ட்டார் முடிவு செய்யவேண்டுமே தவிர இந்த சட்டத்தின் மூலமாகவே அது கோயிலையே சேர்ந்தது என்று கூறுவது நியாயமில்லை. அவனிடமுள்ள நிலம் (Endowment) ஐசேர்ந்தது என்று சர்க்கார் நினைத்தால் கோர்ட்டிலே தாவா செய்து ருசுப்படுத்தி அதை அவனிடமிருந்து எடுத்துக் கொள்வதுதான் நியாயமே தவிர இதுமாதிரி சட்டம் செய்து அதை எடுத்துக்கொள்வது நியாயமில்லை.”

THE HON. SRI K. MADHAVA MENON :—“Mr. Speaker, Sir, the amendment moved by my hon. Friend Mr. N. S. Varadachari is not for the omission of the Explanation as some hon. Members have taken it to be. It is not intended to take away the private property of the archakas as my hon. Friend Mr. Annamalai Pillai was led to believe by the very persuasive and humorous speech of my hon. Friend Mr. Bhashyam. I am sorry, Sir, I cannot speak as good a Tamil as some of my other hon. Friends, otherwise I should have preferred to talk in Tamil in order to clear any misapprehensions which some of my hon. Friends might have entertained with regard to the actual intention of the Government so far as Explanation (1) to this sub-clause

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is concerned. Sir, I was watching very closely the Tamil speech of my hon. Friend Mr. K. Bhashyam in order to find out what his arguments are and whether he was really supporting the amendment of Mr. N. S. Varadachari or not. But I may say, that apart from the pleasing and humorous way in which he was trying to say something in reply to the remarks of my hon. Friend Mr. Kosalram, for obvious reasons, he did not actually speak anything about the amendment itself, nor has he uttered a word in support of or against the amendment, and when I deliberately got up and pointed out to you, Sir, that he was not speaking on the amendment, he simply retorted by saying that it was for the Chair to call him to order, if he was not relevant. Sir, the amendment moved by my hon. Friend Mr. N. S. Varadachari to the Explanation is for the omission of these words,—‘shall not be deemed to be a personal gift to the archaka, service-holder or employee, but’, from that Explanation. If that amendment is accepted, the Explanation will read as follows:—

‘Any inam granted to an archaka, service-holder or other employee of a religious institution for the performance of any service or charity in or connected with a religious institution shall be deemed to be a religious endowment.’

He wants the retention of the words ‘shall be deemed to be a religious endowment’ at the end of the Explanation. He wants the omission only of the negative portion of the explanation, but has no objection to the retention of the positive portion. Sir, I remember that in the Select Committee my hon. Friend Mr. Bhashyam moved an amendment for the deletion of the positive portion of the Explanation which was not accepted, but which if it had been moved here would have cut at the root of the whole thing. But Mr. Bhashyam knows that even if the amendment for the omission of the negative portion is accepted, it would not make much difference and would not affect the explanation very much, so long as the positive portion is retained. That is why, Sir, I suppose, he was not very serious in either speaking in support of or against the amendment of Mr. N. S. Varadachari. But I submit, Sir, that so long as the positive portion is there, there is nothing wrong in having the negative clause also there.

“Sir, in this connection, I want to say one thing about the Explanation itself. Neither my hon. Friend, Mr. Bhashyam, nor Mr. Kosalram, nor Mr. Swaminathan has really understood the true implication of the Explanation or the amendment of my hon. Friend Mr. N. S. Varadachari. Mr. Bhashyam was explaining as if the Explanation implies that if a blower of the conch or the Nathaswaram, or the person who makes garlands or the person who rings the bell or beats the drum in a temple or religious institution, has any inam or property, that property will be deemed as the property of the endowment, if he does not perform or ceases to perform the duties and services, which he has been doing in that institution. I am afraid, Sir, that that is

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not at all the idea of the Government and that is not a correct understanding of the Explanation. It is not the intention of the Government to touch any of the private properties of these people. It is wrong to presume that the private property of the archakas or the service-holders of the temple will be deemed as the property of the temple of the services are not performed. There is a condition precedent to this presumption, in this Explanation which must be satisfied. It is not any property which a service-holder possesses that will come within the scope of this Explanation. I want my hon. Friend Mr. Annamalai Pillai to understand this point clearly, because he seems to have been led away by the speech of my hon. Friend Mr. Bhashyam that the Explanation takes away even the private property of the archaka, if he does not perform the duties assigned to him. Sir, my hon. Friend Mr. Bhashyam said in Tamil—

‘ஏதாவது சொத்து இருந்திருந்தால் அந்த சொத்தை யெல்லாம் பிடுக்கி விடப்படும்.’

That is exactly where he is wrong, and that is the point which I want to make clear to my hon. Friends. The explanation says—

‘Any inam granted to an archaka, service-holder or other employee of a religious institution for the performance of any service or charity in or connected with a religious institution.’

Please mark the words ‘for the performance of any service or charity in or connected with a religious institution’. That is the condition precedent to the presumption, ‘that it shall be deemed as a religious endowment’, so that in every case of an inam granted to a service-holder, if it is to be deemed as a religious endowment, it must be examined whether it has been granted for the purpose of service or charity in that institution. It is not any property which an archaka has, because he is an archaka, that is deemed to be the property of the religious endowment. It is only the inam granted for the performance of a particular service or charity that comes within the scope of this explanation and it shall alone be deemed as a religious endowment, if the specific service is not performed. Therefore this first condition, that the inam has been granted for the specific performance of a service, must be satisfied and then only the other things follow. Then where is the harm in retaining this provision? Is it not right to say that if an inam is granted to an archaka or a service holder for the specific performance of a service to a religious institution, it shall not be treated as a personal gift to the service-holder? That is why, Sir, I cannot accept the amendment of my hon. Friend Mr. N. S. Varadachari, so long as the condition is there.

“Sir, hon. Mr. Varadachari asked, where is the power to resume the inam under this legislation? He said that all that we can do is, we can ask the trustees to keep accounts under clause 60 of this Bill and it is only a question of contribution. Sir, if an archaka does not perform his duties, if as my hon. Friend Mr. Kosalram has said, there are hundreds of cases in his district where the service-holders had not performed their duties, but have sold away

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those endowment properties, and if as my hon. Friend Mr. Kandaswami Pillai has said that he had known of a case where a person had actually converted a particular institution into a tea-shop—in all these cases if it is proved that that property was given to that person for the specific performance of a service or charity, the Commissioner of the Hindu Religious Endowments or the authorities of the temple concerned, will be entitled to move the Collector of the district to resume the inam, and that is why, Sir, control is necessary and that is the only control we have, over these religious institutions and religious endowments. Sir, my hon. Friend Mr. N. S. Varadachari was so much obsessed with the conditions that are obtaining in the Tirupathi temple which is one of the best Hindu religious institutions where ideal conditions exist, that he thinks that the same ideal conditions would prevail in every place. I submit, Sir, that the Commissioner of the Hindu Religious Endowments has the power to move the Collector to resume an inam, provided it has been granted for the specific performance of a service in a religious institution, and if that service is not performed by the service holder.”

SRI K. BHASHYAM:—“A word of personal explanation, Sir. I think the Hon. the Minister for Law has not been fair to me when he said that I did something which was not quite correct or that I exaggerated a bit. All that I said related to the case that the present service holder in a temple was given some service inam for performing archana (any private person may give an inam to the archaka for performing archana in a temple). He may tell the archaka ‘you really perform archana every day in the temple, and for that purpose you enjoy this manyam property’. The archana is for the benefit of the person who makes that inam. I ask, is it open to the Commissioner to say that it is a religious endowment, and, therefore, it should come under the provisions of this Bill. I want to know whether that property is really subject to the control of the Commissioner. That is all I want to know. (Interruption.) Sir, I will repeat what I said. What I said was not that every property which an Archaka or service holder had got, would be taken over by the Commissioner. No such thing can happen or will happen. If the Hon. the Minister understood me that way, it is because either he did not understand Tamil properly or that my Tamil was not clear enough for that purpose. My intention was only this. Suppose a person is now doing work as a service holder in a temple. I give that man one acre of land and tell him ‘you take the income from this land; do some service in the temple in the sense that you remember me to God every day; you go to the temple, stand before the deity and utter a few mantrams, and say “May Bhashyam and his family prosper”’. This is what is being done in Tirupathi temple every day. There are so many manyams made by the Maharaja of Mysore in Tirupathi. He has endowed lands for the temple. The lands are given to the Archaka or the person who

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renders the service. Are those lands to be brought under the provisions of this Bill under cover of religious endowments? If that is so, I stand corrected. If it is not intended to be so, I think it requires a little modification."

THE HON. SRI K. MADHAVA MENON:—"Sir, the instances quoted by the hon. Member Mr. Bhashyam of particular individuals making endowments for worshipping God for the benefit of themselves and their families can never become a service or charity connected with a religious institution. It is a charity connected with the individuals concerned. If the hon. Member Mr. Bhashyam wants X, Y or Z to pray in a temple for his own good, it is not a charity or service connected with the religious institution. Therefore, it cannot come under the provisions of this Bill."

SRI N. S. VARADACHARI:—"Mr. Speaker, Sir, I wish to reply to the Hon. the Minister at some length. I wish to reply to all the points raised by the Hon. the Minister. My appeal to him is to drop the Explanation altogether. But failing that . . . (Interruption). I am not asking the Government to do that now, though they have the right, on their own initiative, after being convinced of the soundness of the case, to withdraw it altogether at any stage of the proceedings. Let me answer all the points one by one. I am aware that it applied only to inams given on service tenure. It does not refer to the other private property which the Archaka may hold. I do not also agree that there is no other power, if the service is not rendered, for the Government to resume the lands. There is abundant power reserved for Government in other Acts to resume the inam in case the service is not performed. If Government have not done so even on proved suspension—or absolute neglect of the service—the blame is more on Government than on the person rendering the service or is expected to render the service. Sir, through you, I want to inform the hon. Member Mr. Swaminathan that if a service holder of an inam does not render the service, he cannot continue in possession of the service inam. There is ample power for the Government to expel him from the inam which he holds. Even if that inam has been alienated in favour of another man, the burden of service will devolve on the alienee. He cannot escape the burden of service. That is the law as it stands to-day. It is the law and the practice also. If for instance a sharer in a village has alienated the lands in favour of a third party, who may not be the person who performs the service to-day, the burden of performing the service equally rests on the other man along with the members of his family. These points being absolutely clear, there is every case for the service holder to ask for these small mercies at the hands of the Government. The Commissioner need not move in the matter, and there is no need also for the Commissioner to move in the matter. The Commissioner is already overburdened with various duties. Why should we burden him with this

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empty duty of looking into the service tenure holders' records? It is not a proper thing for him to do. I would ask the Government to desist from that path.

"The second point raised by the Hon. the Minister is this, namely, 'why do you want the negative to be omitted when you concede the positive'. I say, Sir, 'if you do not give the whole bread, at least give one-half'. If it is specified in an inam document that it is a personal gift to the Archaka, I tell the Hon. the Minister that in spite of the declaration contained in the document itself, a new interpretation will be given to it on account of this provision that it shall not be deemed to be a personal gift. It does not apply to the cases cited by the hon. Member Mr. Bhashyam. If one wants to perform Sahasranama Archana every day in Tirupathi temple, and he has got an agent for the purpose there, there is no inam behind it. If it is a few hundreds of rupees given to him, or it is a common contribution, or even if it is a question of a few acres of land, it will certainly not be an inam. There is no grant in that case. But the case I am pointing out is different. Sir, the hon. Member Mr. Annamalai Pillai drew pointed attention to the fact that Archakas and other temple servants got only a nominal salary. Why was this low salary fixed? I will explain to the Hon. the Minister. In those days there were no communications, no roads, and no bus transport. People had to render service under very difficult conditions. It was just possible that they ran away from one place to another. So, it was the intention of the original donors not to tempt the temple servants with cash which could be dropped and the service abandoned, but to tie to them a piece of land and make them render service in the temple from day to day and from generation to generation. What a good and noble object! Why are the Government looking at all that with a very bad eye? I say these Archakas are good people. The other service holders also are good people. They are very honourable men who have taken upon themselves the duty of rendering service in the temple not from the paltry income which they got from the inam village they possessed, but from other collections and income which the other members of their families were getting towards the upkeep of the service. I am sorry that the Hon. the Minister did not understand the force and the significance behind my appeal. The force of the argument is really this. If really the Government do not want any control of any character, administrative or financial, then why call it control and why include it as a religious endowment? It would be better to leave it severely alone. The other argument is that the Government unwittingly would have prevented many people from seeking this kind of noble service. It is as good a service as any that is being attempted by us. The attempt now made is to convert every such village into a religious endowment. Even a future owner (who is not the present owner of that inam) will think one hundred times before he enters any such service. The Government are really detracting

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him from the dignity of the temple service. They really have obstructed the progress of worship in temples, if ever they believe in temple worship. I say this in the interests of peace, harmony and well being of the people. The hon. Member Mr. Annamalai Pillai rightly raised the question of minors; not those who have come of age, but those who are unprotected; those who seek the Government protection; those who are at present helpless and have no representation anywhere; those who made no representation to the Government when this Bill was passed, and who are not influential. I say that the Government should really go back on their original decision and exempt all such inams from being brought under 'religious endowments'. The other Act deals with land tenures. It even seeks to deprive them of whole village inams. I do not object to that. But if it is a minor inam, it seeks to make them the sole proprietors. Thus there is considerable anomaly between the two. As I pointed out the other day, even if it be the Government's intention, I still forcefully appeal to them to withdraw this Explanation altogether, if not now at least at a later stage, and then come to the conclusion that all our people are not so bad. There is still hope for us. There is still good sense and good feeling in the country. There are still people anxious to render service of a difficult and very unattractive character. It is not all who aspire to get to these small things. Mr. Speaker, Sir, many of these Archakas are regarded as inferior even in their own sect. Nobody intermarries with them, and sometimes people even do not interdine with them. They are considered as something apart from the community to which they belong. It is very unfortunate. My conscience revolts against such treatment being meted out to such good, respectable and honest citizens. I know at least of some Archakas in Tirupathi who, after the grant of the village to them, have developed beautiful gardens. They have devoted their whole time and attention to agriculture and improvement of the soil. Now the Government are trying to lay their hands unnecessarily on their shoulders. The Government should not frighten them. They should be gentle and deal with them in a very honourable manner. I say there is nothing wrong in leaving out this Explanation. What would happen if the Explanation is left out? If this negative presumption is left out, what would happen? The Hon. the Minister said nothing in reply to that. The positive would be there, and he should be content with that. Why should the negative be there? The check reminds me of things happening even in temples. We go to the temple with all sorts of strange dress. Yet the Archaka does not refuse to honour the man who goes in his whimsical way. There are ways prescribed. But the person goes there in his own dress and in his own way. He may even insult the Archaka inside the temple. But still the Government want control over him. I do not know what control it is—empty control and useless control which may result in petty harassment. There is nothing else in that control. If all that

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control is taken away, I will be glad. I am glad that the Hon. Mr. Madhava Menon has made it clear that there is no control of any sort except the only control that the Commissioner may move for the resumption of the endowment if the service is not performed. I hope that will stand as law and not as mere *obiter dicta*."

THE HON. SRI K. MADHAVA MENON:—"Sir, my hon. Friend Sri Varadachari mentioned by way of answer that if this amendment were not accepted and if there was a document containing a statement that it was a personal gift to a particular Archaka, this Explanation would deem it as a religious endowment. It is not so, Sir, because we are talking forgetting the main clause that we have already passed. The main clause says that 'religious endowment' or 'endowment' does not include gifts of property made as personal gifts to the archaka, service-holder or other employee of a religious institution. We have already passed it.

"Hon. Sri Varadachari asked me what the objection was to remove the negative thing. It is because we have already said that personal gifts of property shall not be deemed to be religious endowments. Now we only say that gifts made for the purpose of a service shall not be treated as personal gifts. It is necessary because the other thing has already been passed."

MR. SPEAKER:—"The question is—

'That the words "shall not be deemed to be a personal gift to the archaka, service-holder or employee" shall be omitted.'"
The amendment was lost.

Explanation (2).

SRI T. VISWANATHAM:—"Sir, I move—

'That Explanation (2) may be deleted.'"

THE HON. SRI K. MADHAVA MENON:—"Sir, in view of the Government amendment to the proviso to substitute 'before the commencement of this Act' for the words 'before the 2nd day of April 1946', I do not think my hon. Friend is pressing his amendment."

SRI T. VISWANATHAM:—"It is only in view of the Government amendments that we have given notice of our amendments. Somehow in spite of our greatest attempt both on the part of myself and my hon. Friend Sri Bhashyam, we have not been able to persuade the Hon. Minister and get the language modified. He believes that he is right. We are at pains to show him that his explanation is not borne out by the language. That is why I want the deletion of both these Explanations. We have done with one Explanation and come to Explanation (2). We must be very clear as to what is a religious endowment. In the main Clause, as the Hon. Minister has now pointed out, it is said

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that personal gifts of property do not constitute religious endowments. He has given it with the right hand and in Explanation (1) he has taken away with the left hand what he has given in the main Clause.

"Now we are dealing with Explanation (2) which runs as follows:—

'All property which belonged to, or was given or endowed for the support of a religious institution, or which was given or endowed for the performance of any service or charity shall be deemed to be a "religious endowment" or "endowment" within the meaning of this definition, notwithstanding that, before or after the commencement of this Act, the religious institution has ceased to exist or ceased to be used as a place of religious worship or instruction or the service or charity has ceased to be performed.'

Even if the institution has ceased to exist and even if the man is willing to perform the services, still the provision says it shall be deemed to be a religious endowment. In this connexion, I might point out that these grants are generally divided by persons who have written some text-books into four classes. The question of resumption depends upon the terms or nature of the grant in each particular case. That is the general proposition on which I want to lay emphasis. For 150 years the documents which made the grants have been investigated, closely scrutinized and commented upon by the Courts in this country and they have all come to the conclusion that in the case of these inam grants, each grant must be investigated on its own language and a decision arrived at. No general proposition such as the present one can be laid down. Of course, Hon. Sri Madhava Menon may say that it may be Courts have thought that for 150 years people have followed a particular doctrine but that to-day as Members of a Legislature we have a right to change it. But when we want to change long-established titles, usages, customs and legal presumptions, we must be very careful that we do not hurt people. Why? Because people have relied upon the laws and those who have relied upon the laws of this country shall not be prejudiced or affected on account of subsequent legislation. That is why whenever any prejudice occurs on account of subsequent legislation, the Constitution provides for something to compensate that man. I submit that this definition and these Explanations trench upon the language of Clause 2 of Article 81 of the Constitution. There are four classes of grants. The first class relates to grants of a public nature, i.e., grants which involve police or magisterial duties. The second class consists of grants for services, private or personal. Private or personal grants may again be of two kinds. Either the grants may be burdened with services or the grant may be in lieu of remuneration for services. There is a great difference between these two which I want the Hon. Minister to appreciate. These are certain types of cases which are familiar to us who belong to this portion of the State and which people coming from Malabar are not very familiar with. I do not suggest that the Hon. Minister does not know these things as much as we know. But just as we do not understand, although

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we were all students of law, the difference between kanamdar and kuzhikanamdar and all those as clearly as the Hon. Minister does, so also we who have been dealing with these inams, who have been in the midst of these inams and observing the practice here, want him to understand that there is a difference between grants of estates burdened with services and grants given in lieu of remuneration for services. It is there the confusion has arisen because that difference has not been appreciated. Of course, it is a matter for interpretation and unless you see the terms of the grant, it is impossible to say whether it is a grant burdened with services or one given as remuneration for the performance of some duties. Different consequences are produced in the two cases. Unless these things are clearly noted from the terms of the grant, the law cannot say that it is an endowment. Here it is a matter of interpretation. If it is a matter for presumption, although I am not willing, I shall reconcile myself because there will be a chance for the other side to show whether it is a grant burdened with services or grant in lieu of wages. Here the Government give him no option at all. For 200 years they have given that option in the Hereditary Village-offices Act, Proprietary Estates Act and the Estates Abolition Act. That option is given even in the other Amending Bill which is before the Select Committee. In the face of all these things, we are now going to this position and say that 'all these shall be deemed to be religious endowments.' I am not able to understand it.

"As regards the Government amendment, only the date is changed to the date of commencement of this Act, when passed. Therefore, I move my amendment, Sir."

SRI K. BHASHYAM:—"I beg to second the amendment, Sir."

MR. SPEAKER:—"Amendment moved—
'That Explanation (2) be deleted'."

SRI L. N. GOPALASWAMI:—"Sir, in supporting this amendment, I would like to place before you a few facts. This seems to be an omnibus Explanation. Anything connected with religion seems to come within the terms of this Explanation which says—

'All property which belonged to, or was given or endowed for the support of a religious institution, or which was given or endowed for the performance of any service or charity of a public nature connected therewith or of any other religious charity shall be deemed to be a "religious endowment" or "endowment" within the meaning of this definition,

Therefore, I do not think anything is let out of this Explanation. I am unable to understand how any Government, however powerful it may be, will be able to properly supervise all these endowments. To my mind it seems that it will be misused more than properly used. I will only say that so far as these charitable

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endowments are concerned, the Government are not taking them all at once. Under the amended Clause 3 which we have now passed, the Government have to state whether a charitable endowment has been mismanaged or not and if they are satisfied that it is mismanaged, then it can be brought within the scope of this Bill. But the Government are not going to have enough machinery to supervise all these various kinds of endowments. The only thing is, if there are some opponents to the Government who will be in power at any time, the Government will simply lay their hands on some property, charity or endowment of the party who is not amenable to the Government and say, 'Your endowment is mis-managed and, therefore, I bring it under the clutches of law.' This I want to avoid. It is better that the Government now take up only such of the endowments as they want to bring under their control and not any charity or anything connected in any way with religion on the face of it. If they think of bringing under the clutches of law all kinds of charities connected with religion, however small they may be, in spite of the fact that they may not be able to cope with all the work, I submit that it is likely to be misused by Government for political ends. I shall quote one instance here. There is a temple in my district where the Executive Officer mismanaged the whole property. By bringing this temple under the Religious Endowments Act, we have not been able to prevent it. The Government have appointed trustees for the temple. The trustees were asked, 'What has happened?'. They said that the Executive Officer had misappropriated. At once an order was received by the trustees that they had been removed from service because they had not been able to control the Executive Officer and make him discharge his duties properly but allowed him to misappropriate the property. On the other hand, no action was taken against the Executive Officer himself. He was simply transferred. This seems to be the sort of control which the Government are going to have over these endowments.

"One word more regarding the proviso. Hon. Sri Madhava Menon said that in view of what is contained in the proviso and the proposed subsequent amendment of the Government, everything would be all right. It is not so. I do not think that this proviso will ever confer any rights on any person. It is just like a Clause which comes at the end of this Bill and says, 'Nothing contained here shall be deemed to be in contravention of the fundamental rights of the Constitution . . . and so on. Even if the Government did not say so, the position will be the same and nothing can be in contravention of the Constitution. Similarly, even if you do not say in the Explanation that the Clause shall not be deemed to apply in respect of any property which had vested in any person before a particular date, by the operation of the law of limitation and all that, the position will be the same, and the law of limitation will certainly be there and the

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Government cannot do anything even by statute that is in contravention of the same. I do not think that we are going to say that a property that is already vested in a person will be taken back."

SRI D. V. RAMASWAMI:—"Mr. Speaker, Sir, when the Hon. Minister for Law justified the retention of Explanation (1) I was able to understand that. Because he refers specifically to the provision that an inam is granted to an archaka for a specific service. There, the service is linked with the grant of inam. When the grant is so very clear, certainly there is some force in the argument that when the service is abandoned or is not done or is neglected, the person must not be entitled to the inam as it cannot be taken as a personal gift. But, when we come to Explanation (2), it is a matter of great surprise to me that any inam granted to a person for a particular charity should be taken away from the persons concerned once the religious institution ceased to exist and so on. When it is not possible to prove that he has neglected his duty, the person concerned should not be penalised for no fault of his and he should not be deprived of the properties that he might have been enjoying. He might have been rendered incapable of performing the service. In line 5 of this Explanation it says, ' . . . shall be deemed to be a religious endowment or endowment within the meaning of this definition, notwithstanding that, before or after the commencement of this Act, the religious institution has ceased to exist or ceased to be used as a place of religious worship or instruction or the service or charity has ceased to be performed'. My submission is that when a particular service could not be rendered by a person, this Explanation should not militate against that person and he should not be deprived of the enjoyment of the inam. Centuries ago, when these inams were granted, as hon. Member Sri Varadachari said, it was the essentiality of the service that was counted and not the paltry sum that was given to them as wages. Because, such positions were considered to be dignified and valuable they have also become hereditary. Hence I feel that even though the religious institution has ceased to exist or ceased to be used as a place of worship, this Explanation should not militate against the rightful enjoyment of the inamdar or the employee of the institution. I therefore feel that the second Explanation does not hold water and may be dropped."

THE HON. SRI K. MADHAVA MENON:—"Sir, coming soon after Explanation (1), many of us are only reminded of inams and so Explanation (2) is also taken as something related to inams. The question of inam may come in here. But I should say that Explanation (2) is really based on this principle. If a person has misappropriated money or property or if a person is in possession of property which belongs to some other person, he should not be allowed to continue to be in the enjoyment of that misappropriated money or property, and that he must be disgorged

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of what he has unlawfully taken. The last speaker, hon. Member Sri D. V. Ramaswami said that this Explanation should not apply to the inamdars and they should not be made to suffer. Suppose there is a temple for which there is some property and some trustees are appointed for the purpose of managing this property, and something is given to the archakas for performing pujas, etc. If this temple is destroyed at a future date and there was no prospect of its being re-erected what should be done with the properties attached to this temple? Should not the Government or somebody have the right and power to take these properties so that they could be utilized for the public instead of their being enjoyed by a few individuals? Is there any justification or fairness in people keeping the property which was intended for a particular purpose and which was in their possession by accident of circumstances? When a property was endowed for the support of a religious institution or for the performance of any service or charity of a public nature, nobody should be allowed to continue to be in the enjoyment of that property if for any reason the service or charity could not be performed. That is the principle on which this Explanation is based.

"Now coming to hon. Sri Viswanatham's remarks, his dictum is this. The Constitution provides and the jurisprudence demands that those who have relied upon the previous legislation should not be made to pay for and penalised for having done so. That is the principle on which hon. Sri Viswanatham based his argument. But I should point out to him that this Explanation is only a reproduction of the previous legislation. Even in the old Act, we have got the same Explanation, except the words 'of public nature' which we are adding in the present Explanation now under discussion. So there is the existing legislation with regard to this matter and people have relied upon it. Hon. Sri Viswanatham said that those who have relied upon the previous legislation should not be made to pay for and penalised for having done so. We have followed that principle suggested by him in having the same Explanation as in the original Act."

SRI T. VISWANATHAM:—"Sir, there was apparently some misunderstanding of the position that I have taken. At present there are some laws. Do the Government want to abrogate all those laws and propound new laws? Whenever they wanted to make any special provision, they used to have a Clause saying, 'Notwithstanding anything in so and so, this shall be the case and so on.' What is to happen after the passing of a particular legislation? Here the Government do not wish to make any reference to the existing laws. They do not make any reference to the existing Standing Orders of the Board of Revenue. The Board of Revenue and the Revenue Department have been dealing with this subject very intimately and elaborately year after year. They have been dealing with cases where inams might have been endowed for charitable and religious purposes."

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the Hon. Minister to be clear about his object, so that I can understand his viewpoints clearly, and criticise his proposal. Now there are laws. The Hon. Sri Madhava Menon goes on speaking as if there is no law at present. Don't we have laws with regard to this matter? The Board of Revenue have been passing their Standing Orders from time to time, and they have been in force for a number of years. I may be permitted to read the relevant Standing Order of the Board of Revenue. It says:

'Religious and charitable inams when resumable.—Religious and charitable inams may be resumed on the ground that the whole or a portion of the land in respect of which the title-deed was issued has been alienated or otherwise lost to the institution or service to which it once belonged or that the terms of the grant are not observed. The alienation of the land specified in the title-deed by sale, lease, mortgage or otherwise will not however be treated as an alienation of the inam, if such alienation is subject to the payment to the institution or in support of the service of a sum not less than the net assessment on the land. If an inam is alienated and the service is performed by the alienee, the alienee will be recognized as the inamdar and the inam will not be resumed.'

During the discussion, it was asked by some hon. Members, 'what is the present position of law in regard to this matter?'. If any particular inam is alienated and the service for which the inam was granted was performed by the alienee then the alienee will be recognized as the inamdar and the inam will not be resumed. If, however, he does not perform the service, the inam can be resumed. If the alienee is willing to continue the service, it cannot be resumed. Supposing the institution itself disappears, the properties that might have been granted for performing some specific services in respect of that temple, should be credited to the general revenues. My submission is that these properties would then become part of the general revenues and part of the Consolidated Fund of the State. The Government should bring appropriate legislation by a Money Bill. That is the position, Sir. It is not as if there is no law at present. If an institution has ceased to exist, I do not mean to suggest for a moment that some private individuals should be allowed to take the properties attached to such institutions. The whole position is being canvassed by the Government on a wrong principle. I would only wish to point out that there are provisions even now to deal with cases where the institution might have ceased to exist and with regard to the utilization of the properties attached to such institutions. Are the Government making this provision in supersession of the existing provisions? If it is also to be there side by side with the existing provisions, let there be some correlation between the two. That is what is wanted. I think according to the existing law, it is provided that in certain cases such properties should be handed over to the local bodies, if there were no other parties. So, the local bodies have got a reversionary claim on it were, upon the assets of such institutions. If nothing else has happened, I think it is part of the general revenues. In view of all these, I feel that my amendment is quite in order and the Explanation must be deleted and some full-fledged legislation should be brought forward to cover all these things."

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THE HON. SRI K. MADHAVA MENON:—"Sir, there is something new in what the hon. Member, Sri Viswanatham has said. What he said originally was that those who relied upon existing laws should not be made to suffer. Sir, this sub-clause is identical to the existing sub-section in the Act but without the words 'public charity'. Then, he pointed to the Board's Standing Orders. Even under the provisions of this Bill, resumption can be done only by the Board. All that this sub-clause does is that it enables the Commissioner or the Deputy Commissioner to move the Collector to take appropriate action in accordance with the Standing Orders of the Board of Revenue. It does not mean that the property will come into the possession of the Commissioner or the Deputy Commissioner."

MR. SPEAKER:—"The question is—
'Delete Explanation (2) of sub-clause 14.'"

The amendment was lost.

THE HON. SRI K. MADHAVA MENON:—"Sir, I move—
'In the proviso at the end, for the expression "before the 2nd day of April 1946," substitute "before the commencement of this Act."'

The object with which this amendment has been moved is that whatever rights that have accrued under the Statute now in existence, i.e., before this Bill becomes law, should not be affected. It was suggested here during the general discussion of the Bill that the interests of those who had proceeded in the belief that the existing Act would continue should not suffer. This is in deference to that wish expressed by hon. Members."

MR. SPEAKER:—"Amendment moved—

'In the proviso at the end, for the expression "before the 2nd day of April 1946," substitute "before the commencement of this Act."'

SRI K. BHASHYAM:—"Sir, I am glad that the Government have recognized the justice of making the proviso read 'before the commencement of this Act'. I would, however, like to invite attention to certain specific cases which even this amendment will not cover. Suppose there are properties divided among the members of a family and sold and fall consideration for the same taken. Do the Government take into consideration such cases (P). I feel that such cases will also be covered if the proviso reads 'property which lawfully vested in any person before the commencement of the Act'. That would be more gracious. I would request the Government to amend the proviso in the manner suggested by me, if it is possible for them to do so."

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THE HON. SRI K. MADHAVA MENON:—"Sir, I submit that it is not necessary to say 'lawfully vested'. The term 'law of limitation' is there because any decree has to be executed within twelve years. When we use the words 'vested in any person' it means 'vested in any person by decree, estoppel or *res judicata*'. This proviso will apply to all property in whatever manner it vests. After all, it can vest only lawfully and not unlawfully."

MR. SPEAKER:—"The question is—

'In the proviso at the end, for the expression "before the 2nd day of April 1946," substitute "before the commencement of this Act."'

The amendment was carried.

SRI T. VISWANATHAM:—"Sir, I want to raise a point of order. Now that the whole sub-clause stands amended I have got a point to make."

MR. SPEAKER:—"The hon. Member may raise his point of order in the end when the whole clause (clause 6) is put to vote."

Sub-clause (15).

SRI T. VISWANATHAM:—"Sir, I move—

'Delete sub-clause 15.'

I feel that this sub-clause is not necessary, because 'math' has been defined already, 'temple' has been defined already and there is a definition about 'specific endowment' also, all the three meaning 'religious institution'. Yesterday, while discussing a previous sub-clause relating to maths, we said that a 'math' was a religious institution. So also in respect of the other two terms, there is a similar definition. When we have defined these three as a religious institution, where is the need now to define 'religious institution' as math, temple or specific endowment? Why this repetition? Here I am reminded of a discussion which took place once upon a time between two philosophers. One philosopher asked the other 'What is "mind"?' The other man said 'no matter'. Then the first philosopher asked what is 'matter'. The reply came 'never mind'. (Laughter.) This sub-clause looks like that."

SRI K. BHASHYAM:—"I second the amendment."

MR. SPEAKER:—"Amendment moved—

'Delete sub-clause 15.'

THE HON. SRI K. MADHAVA MENON:—"Sir, the amendment moved by my hon. Friend, Sri Viswanatham, says that the sub-clause is not necessary. I am afraid I cannot accept this view. On the other hand, I feel it is very necessary. In this

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Bill, we have used the words 'maths,' 'temples' and 'specific endowments' in very many places. Unless we have a simpler expression such as 'religious institution' we have to be repeating these three terms often and often. So, in order to avoid the repetition of such terms in the various clauses, we have adopted the simpler term for all the three, viz. 'religious institution'."

MR. SPEAKER:—"The question is—

'Delete sub-clause 15.'"

The amendment was lost.

MR. SPEAKER:—"The next amendment standing in the name of hon. Sri L. N. Gopalaswami seeks to delete the word 'math' from this sub-clause. There is also another amendment, standing in the name of hon. Sri K. Bhashyam, which is identical to and even more comprehensive than the one proposed by Sri Gopalaswami. I suggest that he withdraws his amendment in view of the more comprehensive one suggested by hon. Sri Bhashyam."

SRI L. N. GOPALASWAMI:—"I have no objection, Sir. However, it may be that the Government will be inclined to accept my amendment and throw out his." (Laughter.)

SRI K. BHASHYAM:—"Sir, though I have given notice of only one amendment, it deals with two distinct points and my arguments for one will differ from those for the other. So, I would like to split it into two amendments and move them separately."

MR. SPEAKER:—"In that case, the hon. Member, Sri Gopalaswami, may move his amendment."

SRI L. N. GOPALASWAMI:—"Sir, I move—

In sub-clause 15, delete the word "math".

My reasons for moving this amendment are these. 'Math' has already been defined as something more than a religious institution. Now a religious institution is sought to be defined as a 'math'. I do not know how the Government reconcile themselves to these things. When we say $X = Y + Z$, how could we say again in the same place $Y = X$ only. I do not understand the meaning of such definitions. 'Math' has been accepted by this House as meaning a Hindu religious institution with properties attached thereto and presided over by a person whose duty it is to engage himself in imparting religious instruction, etc. That being so, to bring 'math' under this sub-clause also, is, if I may use the term, utterly, mischievous. No doubt, the Government have been somewhat kind towards these maths in providing a separate chapter for them in the Bill, where they are dealt with somewhat leniently. But even there, there are certain provisions which are repugnant to the Constitution. So far as the secular activities of

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a math are concerned, the Government can interfere and there is provision to this effect in the Constitution. But so far as the religious activities of a math are concerned, it is not open to the Government to interfere since the Constitution says, 'you shall not tread on that ground'. By defining 'religious institution' as a 'math' the Government will get certain powers. Even under the limited powers that they will get under Clause 57, the Commissioner or any two persons can put in a petition to the Court for the removal of the trustee of a math. The only condition laid down for this is that the two persons must have 'interest' and this word 'interest' has been defined to include anybody. It was declared here yesterday as a very vague term. All that needs to be satisfied is that they should belong to the Hindu religion, no matter whether they believe in God or worship God. If they tell the Court that the trustee is of unsound mind, then he can be removed. This is what that clause says and what great havoc it will work on the heads of maths is a thing which the Government should realise. It is not as if, as my hon. Friend, Sri Viswanatham, pointed out yesterday, all these matadhipatis are simply trustees of maths. Our religion has a certain aspect in it which is more than a trust. For some of the Matadhipathis, we have very great regard and respect. It may be that certain matadhipatis do not deserve any respect or regard from us. But there are certainly some who never care for property, who have never thought of property all their lives and have remained so with the firm conviction that their lives are dedicated to the propagation of the Hindu religion. Such being the case, with what conscience, I ask, are we to interfere with these maths? The Constitution clearly says—

'Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

- (a) to establish and maintain institutions for religious and charitable purposes;
- (b) to manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and
- (d) to administer such property in accordance with law.'

Sir, the appointment of a matadhipati is certainly a matter of religion. Nobody can have a voice in it, not even the Commissioner and not even the Government who appoint this Commissioner. There is another curious thing about the provisions in clause 57. A trustee can be removed from the math not only if he is of unsound mind but also if he has ceased to profess the Hindu religion or the tenets of the math. I ask, who are these persons, the so-called 'interested persons' to say that the matadhipati is of unsound mind or has ceased to have faith in Hindu religion? Who are the Government to say so? It is here that the Constitution says, 'you keep aloof; you shall not have anything to do there'. This is the reason why I have confined my amendment to the deletion of 'math' alone. I have no objection to charitable endowments under the control of these maths and temples being brought within the purview of this Bill. But to bring the math

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advantage tried to bring them here. Otherwise they won't be clubbed in here. I beg to state that it is not necessary. It is a matter which indicates the mind of the people in charge of this matter.

"Then, Sir, the only other point I wish to put before the House is this. The Hon. Mr. Madhava Menon is capable of enlivening the discussion so that we may not get too serious in respect of these matters. He gets up to pull us down from the heights and now and then comes down to the level of the discussion. I am thankful to him for that. My point is that these maths are not ordinary temples. These are colleges of learning. These are institutions for the purpose of religious instructions. It is not as if it is a public place of worship. It is not open to everybody to go into the math. Only persons of that persuasion are entitled to go there and not all of them either. It is intended only for those disciples of the math who acknowledge the matadhipati as his 'Guru' to whom they look up for initiation. To go into the math is not just like temple entry. Every temple is now open to anybody, the temples are open to the public. But the math is not so open. These are what I call colleges of learning. Suppose the Government institute a chair for the purpose of oriental philosophy and appoint a certain person for it with an endowment for it. He continues there and after some time the Principal appoints his successor, a person who is well qualified for teaching the particular philosophy. Then what happens is this. I am only saying that according to the definition you have of a math, it will be a math. We have got maths which are really 'Somberi maths', solely for the purpose of feeding people. There are also maths presided over, not by the ascetics but by those who are called 'Vellai Vettikattara Matadhipatis' persons who have families and these are supposed to initiate people. They are also married matadhipatis. Many people may not know this. That person marries, begets children and so on. This is not like the Catholic clergy. The Catholic Bishops do not marry and their disciples also do not marry. Heads of maths are persons who are held in esteem and these should be kept intact. Our religion is tolerant, that is why it suffers most. It is more or less a conformist religion. If you have 'namam' and 'kudumi' it is enough and you can claim to be a Hindu. Why all this, even simply call yourself a Hindu and it is enough. So the question of defining this math is very difficult. I should like the Government to think very seriously in making a law for these maths.

"Again I have been more than once told that the country is behind the Government in this matter. I cannot fully agree with the statement. I may be right or wrong. But I would like the Government to take the sense of the people who believe in temples, who wish for the continuance of these temples, who believe in matadhipatis and disciplehood and not persons who do not believe in these things but feel that these idols are mere stones

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and the temples are only costly buildings of no utility. At least to the extent of preservation of these works of architecture, one would want the retention of these maths."

MR. SPEAKER:—"It is already 5 o'clock. How long does the hon. Member want to continue."

SRI K. BHASHYAM:—"I want another 10 or 15 minutes, Sir. I will continue to-morrow."

MR. SPEAKER:—"I adjourn the House till 11 a.m. on Friday, the 17th November 1950."

The House then adjourned.

**THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS BILL, 1949 (L.A. BILL
No. 10 OF 1949)—*cont.***

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essential difference between a temple and a math and it has been recognized by courts of law from very early times. While any member of the public is entitled to go into a temple and have darshan of God, in the case of the math there is no such right at all. In fact, it is only the disciples of maths that will have such a right and even then it is not as if every disciple is entitled to initiation or even instruction for it is open to the matadhipathi to say that he is not yet ripe for it and that he would not count him as one of his disciples for many reasons, one of which may be that he has not the respect that is due to acharyaship. So, Sir, you are not dealing with the vested rights of anybody. Of course the math has properties; of course he is not a trustee in the sense that a trustee is a trustee of a temple. In England, you call it naked trustee, it is a case of a sort of trustee who has got a beneficial interest in the properties and the income therefrom. I said, Sir, I can quote a number of cases but in a legislature like this, it is not necessary to quote cases for after all this Legislature is supreme and may override the existing law. But I would submit that Members must realize that maths are different from temples. I do not say that there ought to be no control for that is a different matter because we have passed that stage; I tried for it and the Government was against it and I have been over-ruled in the Select Committee and elsewhere so that I have reconciled myself to some sort of control but it must be one in conformity with the law as it exists. With the traditions as they obtain and the general wishes of the people who are disciples, I have framed certain clauses to take the place of the clauses in Chapter V which will truly serve the purpose for which the Government feel interference is necessary. They profess and they say so (but certainly they do not carry it out in practice) that any person appointed by them or by any other authority subordinate to them should not interfere with the internal management of maths. Many of the clauses in the Bill do really allow officers to interfere with the internal management of the institutions. I should like to quote in support of my proposition some influential opinions. Sir, on page 168 of Volume I of the Memorandum, you will find this is what the President of the Saiva Vellala Mahasabha, Mathurai, has stated—

'Maths and matadhipathis should be treated under a separate Chapter consistent with the history and tradition of a particular math or institution concerned.'

A matadhipathi is the guru of certain devotees and followers and properties have been endowed to them personally to further the spiritual needs of his followers and as a reward for their benedictions on the particular donees concerned. That cannot be concluded as a public fund, though the matadhipathi in his discretion may use it for the spread of philosophy or for particular forms of worship. The matadhipathi should not be considered as an ordinary trustee, but he must be considered as a religious head with temporal authority, like the Pope. He has to provide for the spiritual learning and advancement of his followers.

THE MADRAS LEGISLATIVE ASSEMBLY.

Friday, the 17th November 1950.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVASHANMUGAM PILLAI) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BILL, 1949 (L.A. BILL NO. 10 OF 1949)—cont.

SRI K. BHASHYAM:—"Mr. Speaker, Sir, in seconding the motion of my hon. Friend Mr. Gopalaswami, I was on the point that you must omit maths altogether from the definition of 'religious institutions'. I also stated, Sir, that there is an

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It is, therefore, not proper to make him a non-temporal religious head. Then, Sir, one Mr. Shanmughanayanar, Advocate, Tenkasi, at page 56 of the booklet, says—

‘The governance of the math may be left in the hands of the members of the community for whose benefit the math was founded, the Government retaining a power of general supervision and control.’

I have strictly followed this idea and that is why in my amendments to Chapter V, I have said that there should be a council of Sishyas or council of disciples, who will look after the management and the general administration of the math and they will bring to the notice of the Commissioner any lapses that may occur and ask him to rectify them.

‘Then, Sir, a Tamil pandit from Mathurai, whose words may carry weight with us, at page 275, says this. He refers in Tamil to the Sastras, and he knows the religious practices and canons well, and therefore, he is not like you or I (referring to Mr. S. Nagappa) who speak here without knowing facts in full.’

MR. SPEAKER:—“Order, order, the hon. Member should not address as ‘you’.”

SRI K. BHASHYAM:—“Sir, this ‘you’ does not refer to you, Sir; those words were intended as an aside to my hon. Friend, who was doubting about the weight of the authority I am about to quote.”

MR. SPEAKER:—“It is unparliamentary to speak in ‘aside’.”

SRI K. BHASHYAM:—“I am sorry I have been deflected from my speech. I was referring to the opinion of Sri G. Vadi-velayudham Pillai, Professor in Tamil, American College, Mathurai. This is what he says—

‘In conclusion we are of opinion that like the previous Act and consistent with the tradition of the Maths and Madathipathis, the present Bill should judiciously avoid undue interference with those institutions and allow the management independently perhaps subject to certain restrictions and safeguards which may be deemed necessary for the future good governance of those institutions. The position and status of the Madathipathis as spiritual heads, their honours, their rights to manage the properties and the beneficiary rights they have in them should be duly respected.’

Sir, I would like to quote one more opinion. This is in volume II of the opinions printed in the form of a book.”

THE HON. SRI K. MADHAVA MENON:—“There are several opinions also in favour of the Bill!”

SRI K. BHASHYAM:—“Sir, I do not want to be interrupted. But since the Hon. Minister wants to score a victory over me I would like to point out to him, that if he goes through the opinions published in the form of a memorandum, more responsible opinion and more informed opinion is against the Bill. It may be there are several persons who favour this Bill. But it is not so responsible or reliable; but I quote the opinions of

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learned people, of men who have a stake in the country, and whose opinion commands respect in the country that we should take into account. Therefore, Sir, I have selected only the opinion of persons who hold responsible position, whose view will carry weight, and therefore whose view may be considered fairly as correct.

“Sir, the Mathurai District Saiva Vellala Conference says as follows:—

‘The entire administration of the various maths of Saivites, Vaishnavites, Madhwas, etc., must be left in the hands of a committee elected by the respective sects in the area where the maths and the properties are situated. The right to disburse the funds of a math of a particular sect must vest with the committee elected and not with the Government. Interference by the Government as to the mode of disbursement will only lead to degradation of these institutions. The only power that should vest with the Government is the power of supervision and to check and to audit accounts.’

“Then, Sir, I would quote another opinion, which I think my friends opposite cannot set aside. This is by the Coimbatore District Saiva Conference. It appears at page 7 of volume III of the memorandum of opinions received. The conference was opened by Sri C. K. Subramania Mudaliar. This is what the conference says—

‘மடாலயங்கள் அந்தந்த சிஷ்யர்கள் அடங்கிய நிர்வாக குழுவினால் பல பிரிவுகளாக வகுத்து நிர்வகிக்கத்தக்கன என்றும் அரசாங்கத்தார்களோ வேறு எந்த பிரிவின்றோ அதில் பிரவேசிக்கலாகாது எனவும் எடுத்துக் காட்டினார்கள்.’

I will quote also one other opinion—

‘மடாலயங்கள்:—இவை அந்தந்த குரு சிஷ்யர்களின் தனிப்பட்ட பாத்தியமுடயவை. கிருஸ்து, மகமது, பௌத்தம், லோகாயதம் எல்லா மடங்கிய பொது ஜனங்களுக்கு இவைகளில் எவ்வித பாத்தியதையுமில்லை. அரசாங்கத்தார் இவற்றின் சொத்துக்களின் பராமரிப்பு விஷயத்தில் மட்டும் முனிசிபாலிட்டி போன்ற தனியாட்சியுள்ள ஏற்பாடுகளை திட்டம் செய்து கண்காணித்து அந்தந்த குரு, சிஷ்யர் கூட்டங்களின் தனியாட்சியில் விட்டுவிட வேண்டியது. வேறு எவ்விதமாகவும் இவற்றின் நிர்வாகத்தில் பிரவேசிக்கக்கூடாது. சிஷ்யர்களின் ஜாப்தா ஏற்படவேண்டும்.’

(ஒப்பம்) இராவ பகதூர் லி. எம். இராமச்சந்திரன் செட்டியார்.

This is signed by Rao Bahadur C. M. Ramachandra Chettiyar. He is a person well known for his erudition in Tamil; he was for some years Commissioner of the Religious Endowments Board. He is a learned man; everybody respects him. The same also may be said of Mr. Subramania Mudaliar. I quote these opinions, not because I say, these opinions will carry weight with the Government, for they have already made up their mind one way on this matter. I only want to make clear that such respectable persons also feel that Government should have only power of supervision and that they should not interfere with the day to day administration of these maths. It is not as if I plead that Government should have no control over them. I have reconciled myself to the fact that they may have some control. And that is why, I have suggested in my amendment to have a council of disciples for each math, who will carry on the day to day administration of

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the math and who will bring to the notice of Government irregularities, for them to take action. Therefore, Sir, I strongly urge upon the Government the desirability of not setting aside all this responsible opinion. It is not as if their opinion is against this Bill. It is the Government who are opposed to their opinion; it is the Cabinet, the thirteen people who constitute it, who are opposed to it. They propose to decide the matter by a vote. But what about the persons who are affected by the vote, i.e., the disciples? Have they no voice in the matter? I would like the disciples to decide this matter. For if at all there is any beneficiary to these maths, it is they. Let Government take a list of disciples and get their vote in respect of this matter. If that is done, I am sure the majority will vote against this absolute control; they will only vote for general supervision. Why should Government unnecessarily go against the wishes of the beneficiaries?

"Here, Sir, I will refer to one other matter. Though I may get another opportunity, still I prefer to deal with it here, as it will save time. That is about the Constitution Act. I am not talking now as a lawyer. (Laughter.) I want to talk only as a layman. Under the Constitution Act every denomination is entitled to establish, maintain and manage their institutions according to law. That law may be any law, even ordinary law. Under the Constitution Act that is conceded. So under the law, every denomination is given some right to manage its institution. If Government were to pass this Bill, those denominations will have nothing to do with maths. So I submit this is not the proper way of dealing with denominational institutions. There are specific endowments for purposes of special sects or denominations; they are specially set apart for them. Therefore the views of the denomination must be obtained before their management is taken over by Government. That is what I have provided for in my amendment. Therefore, Sir, I submit Government will be doing not only a fair and just act, but also doing the right thing under the Constitution Act, if they accept my amendments given under Chapter V."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I support the amendment that maths should be excluded from this definition clause. Hon. Mr. Bhashyam has explained in some detail the nature of the math and why it should be excluded. Sir, I want the Hon. Minister to look at this question, not from the point of view whether the Government or the public should have the right to interfere in the administration of maths simply because they have ample powers to do anything they like, but to view the question, whether Government have got the right to do things, which they propose to do with respect to maths. First of all the Government are proceeding on the assumption that the maths are trust properties, of which the public are beneficiaries. I submit Government representing the people have no right to interfere with any property in which the public have no beneficial

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interest. This Government have no right to interfere with the private life and properties of an ordinary citizen, because they are not in the nature of a public trust and when the public have no beneficial interest. I get a salary of Rs. 150 for doing my duty in the legislature. Have the public any beneficial interest in that Rs. 150? So, before we decide to take a particular course of action or impose certain restrictions we have to see whether we have power to do so. We should see what the nature of the property is with respect to which we seek to impose restrictions. Just as the public have no right to touch the salary of Rs. 150 of the members of the Legislature, likewise the public have no beneficial interest in the property belonging to maths. The unfortunate feature of the whole thing is that the word 'math' has been translated in English to mean a 'trust', and the matadhipathi has been translated as a 'trustee'. In that way the original sin began. So it is not a question to be decided by counting of numbers for and against. I want to know whether the hon. Sri Madhava Menon can by counting numbers for and against decide whether a man's private property is private property or not. Can anyone decide that by taking votes in this House? Voting in the House is always based on other principles. When we want to know the nature of a particular property, it is not by counting of votes that we should decide that point. I am not going into that aspect of the question just now. Because, hon. Mr. Bhashyam has taken great pains to read out to the House the opinions of people of eminence on this question. It is not the number of people who favours or not favours this legislation that counts. Even if there are only a hundred people of eminence and learning who disavour this legislation against several hundreds of ordinary people, it is the opinion of the former that should decide the point.

"Sir, I submit, we have to know what is the nature of the property of the math. There are people who have before the present controversy arose, before the controversy whether Government should take over the management of the property of maths—this question was carefully considered by a very competent body of men. At that time there was no political controversy about the maths to colour opinions. At that time the question of the nature of math property was taken to a court of law for decision. It happened at a time when there was no political controversy to colour the opinion. So, I submit that opinion is of great weight. I submit that happened so long ago as 1904, when a careful investigation was made by eminent lawyers. A certain dispute arose relating to certain math property and the matter went up to the High Court. I shall presently read out extracts from that judgment of the High Court to show what the nature of the math property is. For unless we know the nature of that property, the House may not be able to appreciate why some of us are incessantly pleading that maths should be excluded from the Bill.

In the case of the mutts, however, though there are idols connected therewith, the worship of such is quite a secondary matter, the principal purpose of such an institution being the maintenance, in circumstances likely to command

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due respect and estimation, of a line of competent religious teachers, who, as already shown, are given for the welfare of the foundation itself, a real and, so to speak, beneficial interest in the usufruct, the restrictions governing the disposition whereof by them being of the nature of a mere moral obligation. Having regard to these facts, it is obvious that the correct view to be taken is that in the case of mutts the ideal person is the office of the spiritual teacher Acharya, which, as it were, is incarnate in the person of each successive Swami who, for the time, is a real owner and not a mere trustee.

After careful consideration of the arguments of both the parties, this is the opinion expressed by the learned Judge, Sir Subrahmanya Ayyar. It is found on page 442 of the Indian Law Reports, Madras Series 27 (1904). Sri Bhashyam Ayyangar also dealt with the position of the head of a math. In the case to which the judgment relates, the Advocate-General sought strenuously to prove that the head of a math was equivalent to a trustee. After careful consideration of the arguments of both sides and the position placed by the Advocate-General, the learned Judge Sri Bhashyam Ayyangar has expressed the following opinion and it is found on pages 447 and 454-455 of the Indian Law Reports, Madras Series 27 (1904):—

‘I am, however, of opinion that the head of a mutt, as such, is not a trustee in the sense in which the term is generally understood in the Law of Trusts.

The origin and growth of mutts in this country is thus described in the two judgments of this Court already referred to: “A preceptor of religious doctrine gathers around him a number of disciples whom he initiates into the particular mysteries of the order and instructs in its religious tenets. Such of those disciples as intend to become religious teachers renounce their connection with the family and all claims to the family wealth and, as it were, affiliate themselves to the spiritual teacher whose school they have entered. Pious persons endow the schools with property which is vested in the preceptor for the time being and a home for the school is erected and matam constituted. The ascetics who presided over them were held, owing to their position as religious preceptors and often also in consequence of their own learning and piety, in great reverence by Hindu princes and noblemen who, from time to time, made large presents to them and endowed the mutts under their control with grants of land. Thus a class of endowed mutts came into existence, in the nature of monastic institutions provided over by ascetics or sanyasis who had renounced the world.” The object of these mutts is generally the promotion of religious knowledge, the imparting of spiritual instruction to the disciples and followers of the mutt and “the maintenance and strengthening of the doctrines and tenets of particular schools of philosophy. These institutions have thus exercised considerable influence over the laymen in their neighbourhood, becoming centres of classical and religious learning.” The two classes of institutions, viz., temples and mutts, are thus supplementary in the Hindu Ecclesiastical system, both conducing to spiritual welfare, the one by affording opportunities for prayer and worship, the other by facilitating spiritual instruction and the acquisition of religious knowledge—the presiding element being the deity or idol in the one, the learned and pious ascetic in the other. The position of the head of the mutt is thus not the same as or analogous to that of managers or dharmakartas of devasthanams and temples In the case of temples, the endowments, whether in the shape of landed property or tasdik allowances, have to be devoted to the carrying out for the specific purposes connected with the temple, i.e., the daily worship and the periodical ceremonies and festival—purposes defined and settled by usage and custom and generally recorded in what is known as the “dittam”—and the dharmakartas are mere trustees for the carrying out, or executing of such trusts. In the case of mutts, however, such defined and specific purposes immediately connected with the maintenance of the mutt as an institution, are, in the nature of things, very limited and a large part of the income derived from the endowments of the mutt as well as from the money-offerings of its disciples and followers—which offerings as a rule are very considerable—is at the disposal of the head of the mutt for the time being, which he is expected to spend, at his will and pleasure, on objects of religious charity and in the encouragement and promotion of religious learning. His obligation to devote the surplus income to such religious and charitable objects is one in the nature only of an important

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moral obligation resting in his conscience and regulated only by the force of public opinion and he is in no way, whether, as a trustee or otherwise, accountable for it in law In legal contemplation, therefore, the head of a mutt, as such, has an estate for life in its permanent endowments and an absolute property in the income derived from the offerings of his followers, subject only to the burden of maintaining the institution.

It is clear from the judgment that the learned Judges were of the opinion that the math property was one in which the matadhipathi had got a beneficial interest and that he was not in the position of the trustee of a temple.”

SRI P. KANDASWAMI PILLAI:—“On a point of order, Sir. I wish to know whether this House is bound by the judgments of the High Court. The hon. Member is reading from judgment after judgment. Are we to be bored by this reading?”

SRI T. VISWANATHAM:—“I am reading for the benefit of those who can understand the implications. The hon. Member need not get angry, because it is boring to him. I quoted the opinion of persons who have gone into the question so that we may profit by it. If Mr. Viswanatham expresses it as his opinion without quoting the authority of learned men in support of it, it will be said that Mr. Viswanatham is not an authority on the subject. We have had enough and more of such arguments. I am glad that you, Sir, appreciate the reason which prompted me to quote from the judgment.

“In 1913 or 1914, i.e., about ten years later, Sir Sankaran Nair in a Full Bench case reported in 38 Madras says—

‘The fact that a matadhipathi cannot alienate the land does not mean that he holds it for the benefit of the public.’

I was at great pains to read from the judgments to show the nature of the property which a matadhipathi has in his possession. If the opinion expressed by the Judges after careful investigation is right, I submit that nothing has happened between 1904 and 1950 to change the concept or nature of the property of a matadhipathi. Therefore I submit that the opinions given by them do bind us. They may not bind us as judgments of a High Court because we are a legislature. They bind us because they are judgments given by learned men who knew the topic with which they were dealing. They did not give a mere arm-chair or academic opinion. Persons having interest agitated the matter, they heard the arguments of interested parties, went through evidence and gave their judgment after careful investigation. In view of these weighty pronouncements, I submit the amendment must be accepted.”

SRI R. V. SWAMINATHAN:—“Mr. Speaker, Sir, sub-clause (15) defines religious institution. Sub-clause (10) defines math as a religious institution. By passing sub-clause (10) we have committed ourselves to the position that math is a religious institution and conversely religious institution includes a math. Why should we now say that math should be excluded from the definition of religious institution? The Mover of the amendment,

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the Second Mr. K. Bhashyam and the supporter Sri T. Viswanatham know the effect of the amendment. Their object is to take away maths from the purview of this Bill whereas our object is to retain them. Inclusion or exclusion of maths is a fundamental point. When the Government prepared the Bill, they included maths. The Bill passed through the first-reading stage in this House with the retention of maths. The Select Committee which went into the Bill also approved the retention of maths. Why then should we now attempt to exclude maths? I do not say that members should not object to the retention of maths. They are free to put forward their case.

Hon. Members Sri K. Bhashyam and Sri T. Viswanatham said that matadhipathi and math should not be treated as trustee and trust respectively. Hon. Sri Viswanatham said that unfortunately matadhipathi and math were defined as trustee and trust in the English language. Anyhow, when the British undertook legislation in this country, they brought maths within the scope of their legislation and defined matadhipathi and math as trustee and trust. A matadhipathi is the head of a math and he has got absolute right including the right of sale over the math property. That is the contention of Sri T. Viswanatham and the substance of the judgments quoted by him. He said that math property was not public property and that therefore the Government could not interfere. The question we have to consider is whether math property is private property or not. A person does not become a matadhipathi by virtue of any hereditary right. When a matadhipathi vacates the gadi or dies, his son cannot succeed. Any one of his sishyas by virtue of his piety, learning and asceticism can succeed. Once a person becomes a matadhipathi, he continues to be so for life. The Bill makes provision for the removal of a matadhipathi in certain contingencies. We do not intend any disrespect to the head of any math; we are prepared to give respect so long as he continues to be a respectable religious head. We only want to have a check over maths to see that matadhipathis do not act according to their will and pleasure or mismanage the math properties. So far as religious functions and rituals are concerned, they are dealt with in later clauses and I shall express my opinion when those clauses are taken up.

Hon. Members Sri T. Viswanatham and Sri K. Bhashyam have not made out a convincing case to show that a matadhipathi should not be treated as a trustee even after quoting several judgments of the High Court. How else should he be treated and the math property managed has not been explained. No matadhipathi has till now agitated in a court of law that he should not be treated as a trustee. (Interruption by Sri K. Bhashyam) Anyhow, math property is there. It should not be left to be treated as hereditary property. It is public property. Though Hon. Sri K. Bhashyam said that a matadhipathi's right over the math property is a personal right, he admitted in the course of his speech

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speeches that the sishyas should have a voice in its management. A math may have 100, 200 or even 500 sishyas. How is the voice of the 100 or 500 sishyas to be represented in the management of the property?

"I am not able to agree with my hon. Friends and I definitely agree with the Government that math and matadhipathi should be treated as trust property and trustee. Of course, a matadhipathi must be given due respect as the head of a math. I strongly support the sub-clause as it stands. I appeal to the Members to accept it as it is and reject the amendment."

SRI M. S. PATTABHIRAMIAH:—"Mr. Speaker, Sir, I rise to support the amendment moved by my hon. Friend Sri L. N. Gopalaswami and very ably seconded and explained by hon. Sri Bhashyam and supported by hon. Sri T. Viswanatham. I speak as a layman who takes some interest in the matter. I am one of those who support the Bill and want that it should be passed in the interests of the religious institutions of the State. But I object to the inclusion of 'math' in this sub-clause."

It is really interesting to study the origin of the word 'math'. 'Math' is the Sanskrit word. In Hindi and English it is called 'math' and in Tamil 'matam'. In the judgments which were quoted—the quotation was boring to some Members but it was interesting and illuminating to some of us—it was clearly stated that a math was not a place of worship and prayer where the devotees directly prayed to a diety, but was a place where they got spiritual instruction, spiritual solace and spiritual calmness from the preceptor, the head of the math. A math, as generally understood in our country especially in Tamilnad, is not what is defined in sub-clause (10). I think there is no math anywhere coming under that definition. If 'religious institution' is defined as a math as defined in sub-clause (10), there need not be this amendment. I think the Hon. Minister is not prepared to enlarge the definition as I suggest."

THE HON. SRI K. MADHAVA MENON:—"It can mean only that."

SRI M. S. PATTABHIRAMIAH:—"Then the words 'as defined in sub-clause (10)' may be specifically added. I think that there is no math coming under the definition in sub-clause (10) whose control the Government can take over."

"Sir, in the Kanarese language, a Mata means a place of instruction and it has been confirmed by a Kanarese-speaking gentleman that Mata is a place where children are taught. In Mysore it is known as a school. In every place of pilgrimage, such as Palni and Tiruparankunram, we have got Matams, but I know that there are no religious heads over these matams. Perhaps those matams are quite different from the maths that are described here, which are to be brought under this legislation. Those

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matams are simply rest houses for pilgrims who visit these sacred places, and in the Tamil districts, we call them by the name of chatrams. There are hundreds and thousands of matams like these in all the districts and it is evidently not the intention of the Government to bring them under their control by means of this legislation. Our object in bringing in this legislation is to control only religious endowments and temples and maths which are Hindu religious institutions, and places of religious worship or instruction. There is no doubt about that.

"Sir, let me just say a few words about the origin of these maths. I may state at the outset that most of these maths had no connection with any of the temples at all. Probably these maths were established in India long before the temples had been built. Anyone who has studied the ancient history of our country will agree with me that many of these maths were started at the time when Buddhism was spreading in this part of the country and when the Buddhist monks were going about preaching that religion. These maths were originally established by them and since then these places became the refuge of the Buddhist bikshus. These bikshus used to go about the villages and towns in the mornings for biksha and take their shelter in these maths during nights. They preached their religion and taught their disciples anywhere either within or outside the villages and towns, sometimes under the shade of trees or in public parks and sometimes in the forests near the town and sometimes in the natural caves in the mountain regions. They used to preach the great truths contained in the Buddhist religion and in the Buddhist doctrines. They used to preach about the philosophy of life explaining the sufferings and miseries of the world and the various doctrines contained in their religion for the removal of these miseries and sufferings. The rich men of those days became the sravakas or disciples of these bikshus and they helped them to build such places of rest and resort, where they could live during nights and especially during what were called Chaturmasas, that is to say, rainy and winter months. Sir, I may, in passing say that the present day Chaturmasas of the Hindu matadhipathis had their origin from among the customs and habits of these Buddhist bikshus. Lord Buddha himself had stated in a particular place, that during rainy seasons his sravakas or disciples used to build maths or asramas or places of rest, in order to make his stay comfortable and listen to his teachings during those months. Sir, the Sanskrit meaning of the word asrama is a place of rest and comfort. These asramas were not big buildings, but were simple cottages built in forests near the villages, free from public haunts. These forests were not the forests of the type that we now see in hills and mountains. They are called upavanas or tiny forests that we see in cities, where a number of big trees had grown, and which are free from the public bustle.

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"Sir, it was only during the days of Sri Sankaracharya, the first and the great expounder of Advaitism that maths were established all over this country. He was the first great Acharya who went about the country preaching the gospel of the Hindu religion and establishing maths everywhere. In an authoritative work known as Sankaravijayam it is stated that during his lifetime, he had established maths all over India."

MR. SPEAKER :—"The hon. Member may continue his speech after lunch. The House will now rise for lunch and meet again at 3 p.m."

(After lunch—3 p.m.)

MR. SPEAKER :—"The hon. Member Mr. M. S. Pattabhiramiah will continue his speech."

SRIMATHI V. LAKSHMI AMMAL :—"Sir, I request you to allow the hon. Member to speak in Tamil."

MR. SPEAKER :—"I have no objection to allow the hon. Member to speak in Tamil."

THE HON. SRI K. MADHAVA MENON :—"Sir, it is for the hon. Member concerned to make that request and not for others."

SRI M. S. PATTABHIRAMIAH :—"Mr. Speaker, Sir, I was tracing the origin and the establishment of maths in our country from ancient days and I propose to continue from there. I stated, Sir, that during the time of Bhagawan Buddha, his disciples built and founded asramas, which were his refuge and his disciples' refuge also. His disciples were celibates. They were bikshus. They followed him wherever he went. Buddha taught his doctrines to the common people in the asramas or in groves. His first preaching was in Benares in a place called Deer Park."

THE HON. DR. T. S. S. RAJAN :—"Sir, I just want to know what all this has to do with the Bill under discussion."

SRI M. S. PATTABHIRAMIAH :—"Sir, as I told you already, I am just tracing the origin of the maths. I am not argumentative."

MR. SPEAKER :—"The hon. Member will not take much time of the House in tracing the origin of the maths."

SRI M. S. PATTABHIRAMIAH :—"Sir, I cannot stop with a distorted view or distorted picture. When I want to paint the background . . ."

MR. SPEAKER :—"But it should be relevant to the subject."

THE HON. SRI K. MADHAVA MENON :—"Whose view is distorted view, Sir?"

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SRI M. S. PATTABHIRAMIAH :—“ If I stop at this stage, it will be an unfinished picture. Maths began from Buddha's time and his disciples built many aramas. When that religion was propagated, that began to spread not only in India but also outside India. This must be kept in mind. Even during the time of Buddha, there was another reformation of the Hindu religion and that was started by Jaina, the founder of Jain religion.”

MR. SPEAKER :—“ He is called Mahavira. Let the hon. Member come to the subject proper.”

SRI M. S. PATTABHIRAMIAH :—“ His followers and disciples founded maths. His disciples were bikshus and they practised celibacy. I want to mention about Mahavira, because our present day Hinduism and its tenets of ahimsa and other things are more in tune with the Jaina religion than with Buddhism. That is a fact. Ahimsa was preached by Buddha to the people. Buddhist disciples were not forbidden from taking meat or animal food.”

MR. SPEAKER :—“ What have we to do with ahimsa and other tenets? In tracing the history of these maths let not the hon. Member take much of the time of the House.”

SRI M. S. PATTABHIRAMIAH :—“ I shall be as brief as possible, Sir. When Buddhism spread to foreign countries and when many disciples came to this country from other countries, some people thought that they were losing Indian nationalism. There was even a revolt among the people. Buddhists were exhibiting patriotism of an extra-territorial kind. But Jainism was of a different kind. When Sankaracharya founded his math, he also preached his doctrines. When Ramanujacharya came, he also preached his doctrines. In this connection I want to say that, Sankaracharya preached Advaitism. This is very much allied to Buddhism and Sankaracharya came to be called by later reformers as Pracchanna Buddha, because he followed, in many respects, the doctrines of Buddha. He was not so rigid. Later on when Ramanujacharya taught Visishtadwaita to the people, he followed Jaina tenets and his doctrines were more exclusive. Ramanuja was called Ethiraja. Ethiraja Mudaliar, Ethiraja Naidu, etc., are all Ramanuja's names. Originally those Ethirajas were heads of maths. What did this Ramanuja do during his time? He is stated to have lived for 100 years. He taught his *Bashyam* on Vedanta Sutras more than one hundred times. Here I am subject to correction of course, because there are so many Vaishnavas here who may know the correct number. He thought it was his duty to teach. Not only did he think so, but he did it. I am simply giving a typical example of what a matadhipathi was expected to do. Other matadhipathis later on founded maths. All these matadhipathis have propounded certain doctrines. As it is wellknown, they were not succeeded by their sons.

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The office was not hereditary. It is not as if they have no right over the math or the arama from which they were teaching and propagating their doctrines. I want here, Sir, to emphasize this fact. These matadhipathis did not emphasize the religious aspect of the teaching. They were philosophers and they were teachers. Their maths were colleges and even now they are simply colleges. In support of my view, I shall quote the essentials given by the glossary of administrative terms used by the Madras Government, published in the year 1893. This is a Government publication. Mutt is defined as—

‘ Mutt : From (math, Sanskrit, to dwell). Cloister. A species of college where a celibate Hindu priest lives with disciples making the same profession, one of whom becomes his successor.’

It is not described as a religious institution. Simply because the matadhipathi is a Hindu, we cannot call that math a Hindu religious institution. That is what I want to stress. Sir, what are the teachings of Jaina? ”

MR. SPEAKER :—“ It is a controversial thing. I do not understand what relevancy it has to this Bill. How is ahimsa relevant? ”

SRI M. S. PATTABHIRAMIAH :—“ Sir, they were san-yasis. They did no kind of ritual.”

MR. SPEAKER :—“ The hon. Member need not introduce any controversial subject. Ahimsa, for instance, is a controversial subject.”

SRI M. S. PATTABHIRAMIAH :—“ I am not introducing any controversial subject, Sir. Ahimsa is an old term. I simply mentioned it. What did the Ethis do? What did they practise and preach? They preached right intuition, right knowledge and right conduct. (Samyak darshanam. Samyak nyaunam, Samyak chauritram.) They have got these five vows. The first is ‘ Do not kill or injure ’. I do not wish to take the time of the House by reading all the five vows. The *Yaty* dharmam is of ten kinds. I want the House to see whether any particular deity worship is mentioned here. The *Yaty* dharmam says—

‘ *Aurjvam* to follow the right way and teach it to others : *Maurdavam*, to behave with reverence to superiors, and carefully to instruct disciples ; *Satyam* invariably to speak the truth ; *Showcham*, mentally to renounce hatred, affections, or passions, and evil desire, and outwardly to act with purity ; *Tyagam*, to renounce all bad conduct ; *Ushamay*, to bear patiently like the earth in time of trouble ; *Tapas*, outward and inward self-mortification ; *Bramhacharyam*, to relinquish all sexual attachment even in word or thought ; *Akinchanatva*, to renounce the darkness of error and to follow the light of truth it means the vow of poverty which every hermit should take.’

These are all followed by them. Though ahimsa is not mentioned here, ahimsa is the basis of all dharmas that followed.”

MR. SPEAKER :—“ The hon. Member will finish his speech soon.”

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SRI M. S. PATTABHIRAMIAH :—“ These are the important vows which they practised and professed. They gave spiritual instruction to the people. They belonged to the Hindu religion. But that has no connection absolutely with what they practised and preached. They might have worshipped some aspect of God somewhere as an aid to contemplation. That is immaterial. It is not for directing or for promoting any particular kind of religion at all. It is not a religious institution where people worship a deity or where any prayer is conducted. It is a place for self-purification. In the Hindi Pramanik Kosh, the meaning of ‘ mutt ’ is given thus

- (1) निवास-स्थान ।
- (2) साधुओं के रहने का मकान ।
- (3) आश्रम ।

It means that it is a building where sadhus live. In other words, it is the place of a hermit. It cannot be translated as a monastery. It is not a place where monks live as in western countries. Why do they want to bring under this Bill the hermits who want to live outside the town limits and who are simply propagating and expounding abstruse tenets of the religion? If they are bad people—as human beings everywhere become bad—are there not other provisions of law under which they can be brought? Therefore, the deletion of the word ‘ math ’ will make the Bill less controversial and more acceptable to the people. Of course, people in the State have accepted that there should be a reform of the religious institutions. But if you want to disturb the lives of those people who want to lead a retired and quiet life preaching piety to the people, it will be an unfortunate feature of our scheme and it will hinder the attainment of a welfare state which we want to achieve. Therefore, Sir, the word ‘ math ’ may be deleted.

“ Sir, even if it is taken to be a religious denomination—because there are different kinds of maths preaching different doctrines—Article 26 of the Constitution says—

‘ Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

- (a) to establish and maintain institutions for religious and charitable purposes ;
- (b) to manage its own affairs in matters of religion ;
- (c) to own and acquire movable and immovable property ; and
- (d) to administer such property in accordance with law.’

Sir, regarding public order, morality and health, there are other laws governing them. In this Bill, the Government are taking over the management of affairs. When they are permitted to own and acquire movable and immovable property, the Government want to bring them under their control. Then the right is given to administer the property in accordance with law. This law which you can make should conform to the Constitution. We may pass a law with some object but that law may not be quite

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valid morally. So, the law we pass must be acceptable to the people of the State. I request the Government to accept the amendment and make the Bill less controversial.”

SRI P. KANDASWAMI PILLAI :—“ Mr. Speaker, Sir, this is a very important clause wherein my hon. Friend Sri Gopalaswami has introduced an amendment to delete the word ‘ math ’. If we exclude the word ‘ math ’, I think we can simply drop the whole Bill. In a temple there is the deity and the trustees perform all the functions. In a math the matadhipati carries out all the functions. My hon. Friend Sri Pattabhiramiah narrated the history of the growth of maths. Whether it is relevant or not is left to the Chair to decide. Now the point is whether we can exclude maths. In support of the amendment, my hon. Friend Sri Bhashyam quoted several gentlemen intended to be matadhipathis and disciples also. I do not question it. But in answer to all the quotations of Sri Bhashyam, my hon. Friend Sri Viswanatham said, ‘ No use of quoting a hundred quotations. One correct quotation is sufficient.’ ”

SRI T. VISWANATHAM :—“ I have not said it, Sir.”

SRI P. KANDASWAMI PILLAI :—“ He has said it, Sir. It is in the record ; it can be perused. Therefore, one correct quotation is sufficient. I am citing one such quotation, Sir. The late Raja of Panagal in all sincerity wanted to purify these institutions. So, he brought forward a Bill in 1927. People protested and cried that religion was being spoilt. However, the Bill was passed, and the Raja of Panagal selected a suitable person at that time. The late Sir T. Sadasiva Ayyar was selected as the President of the Hindu Religious Endowments Board. He has said in a judgment in the case of a temple in Salem district, ‘ All the temples and religious endowments must come under public control.’ It is not private property, Sir. The matadhipathi has not inherited the property. All public property should be administered in a public manner. The matadhipathis are there to impart spiritual knowledge and mould the character of the people or disciples. A Bengali writer has written that Hindus are a dying race. That book is a monumental example of all the work done by the matadhipathis. I have not seen the gentleman, Sir, but I have seen the book. The society to which these matadhipathis are imparting the knowledge must be elevated spiritually. That means they must be elevated in the moral, physical and social spheres. To put it in a nutshell, the matadhipathis must look after the progress of human society. A man who never attends to his physical duties cannot go to the spiritual sphere. He cannot understand what these matadhipathis teach. During the time of the British Government, these people were not educated and so they did not attend to the educational aspect. I feel that these matadhipathis have not discharged their duties properly.

“ Regarding the judgment, some years ago some gentleman expressed his opinion in a court of law. Here we must note that

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time is an important factor in all these things. In 1920 if a Harijan entered a temple, he would be almost killed. In several places people have beat the Harijans. Swami Sahajananda and a few other people were invited to Salem. . . ."

SRI A. KAMESWARA RAO :—" Is it all relevant to the Bill, Sir? "

MR. SPEAKER :—" What the hon. Member says is that times have changed. "

SRI P. KANDASWAMI PILLAI :—" Times have changed, Sir. According to Manu, a Sudra may be kicked and beaten and his property may be taken away by a Brahman. Do you admit that now? "

SRI M. S. PATTABHIRAMIAH :—" On a point of order, Sir. Can any hon. Member quote from his imagination? "

MR. SPEAKER :—" How is it a point of order? "

SRI M. S. PATTABHIRAMIAH :—" Can any hon. Member say that a quotation is from a book when he cannot quote the sloka? "

MR. SPEAKER :—" It is not a point of order. "

SRI M. S. PATTABHIRAMIAH :—" Can he say that there are certain words or clauses in a Bill passed by the Government while they are not found there? "

MR. SPEAKER :—" It is only his own opinion. I allowed the hon. Member to have his say on the matter. Let him be allowed to proceed. "

DR. S. SUBRAHMANYAM :—" Opinion may be different from extracts quoted, Sir. "

SRI P. KANDASWAMI PILLAI :—" Sir, if any hon. Member doubts the correctness of my quotation, I shall take him to the library and show him the verses. My point is what is said in them is not binding on us. Times have changed, and we must move with the times. Some 50 years ago the people were brought up in a particular way. Gandhiji has now moulded and changed that way of life. I want to give one instance.

" Mahathma Gandhi has once said, ' When big leaders like even Jawaharlal Nehru tour the various places, people used to pour money at their feet. These leaders are not entitled to make use of these moneys as the moneys are not their private moneys. They are given large amounts by the people for utilizing in a public cause. The leaders are only tools and instruments of the Congress to receive money from the public in the name of the Congress and they should not mistake that it is their private property. ' That is the advice and idea inculcated to us by our great leader Mahathma Gandhi. We should not forget his advice so soon

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after his disappearance. When such a small Bill comes before the Assembly, it is not proper for anybody to suggest the deletion of maths from the scope of the Bill on the ground that the properties attached to the maths are the private properties of the heads of such maths which have been given to them for the purpose of imparting some extraordinary knowledge to their disciples. The main idea that lies behind these institutions is this. They are primarily intended for the utility of the public. They must care for the benefit of the public and for the moral, physical and religious and educational uplift of the society; all departments of human life should be attended to by these people. Now, why do the Government come in here? Are the members of the Government not Hindus? Do they want to destroy all these maths and take away by force all the moneys belonging to these maths into the Government Treasury? That is not at all the object. My hon. Friends evidently seem to forget that. The Government want to maintain these maths in a proper manner and they want to prevent any possible abuse. They want to make use of these institutions for the benefit of human society as a whole and not only the Hindus.

‘ நெல்லுக்கு இறைத்த நீர் வாயக்கால் வழியோடி, ’ என்பதைப்போல,

All other people will also enjoy it. Our religion is such a generous one that it will help everybody. We really feel proud of it because of its wide generosity. Our religion is not based on narrow-minded principles. I want to know what will be the gain if these maths were not included in this Bill. The supporters of the amendment for the deletion of maths have not made the position very clear as to why they want their exclusion. Do they fear that all these matadhipathis will be imprisoned to-morrow? Nothing of that kind will happen. The Government are only seeking to check these matadhipathis against any possible abuse of powers. If any deliberate wrong was committed by these people, there should necessarily be some check to prevent them from doing so. Here, we are providing for the Government check, and there is nothing wrong in it. Therefore, I request my hon. Friends who have introduced these amendments to withdraw them as they serve no useful purpose. If they withdraw the amendment, it will help the Government to finish the business speedily and quickly; because every day of our stay here costs Rs. 2,000 and we must not waste time."

MR. SPEAKER :—" We are not wasting time here. The hon. Member should not say that the House is wasting time. "

SRI P. KANDASWAMI PILLAI :—" I never meant that time is wasted in this House. If that idea was formed in your mind, Sir, I request I may be excused. I also want to eradicate that idea from your mind. When Sri Rajagopalachari was the Chief Minister, I am told that he used to finish every business very quickly. I know that we are spending time very usefully in

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this House by raising all minor amendments and discussing everything very thoroughly and fully. We have discussed every point concerned in great detail. Therefore I only request the movers of the amendments to withdraw the amendments and thus help the Government in getting through this Bill expeditiously."

SRI V. M. RAMASWAMI MUDALIYAR :—" Sir, Speaker, Sir, I am not going to go into the details as to whether the maths should be retained and other things. Already we have had learned discussions on the point. So far as I can see, we are concerned with certain definitions in this particular clause. This Bill seeks to replace Act II of 1927 which has been on the Statute Book for the last 23 years. I think even under this Act II of 1927, there is a definition of the terms 'math', 'religious endowments', etc. I am yet to learn how the inclusion of maths under the scope of the Act II of 1927 has worked to the detriment of either the functions of the heads of these maths or the spiritual efficacy which they are supposed to confer upon the disciples. I do claim that this definition has fairly stood the test of time and the present definition in the Bill under discussion is an improvement upon the old definition of the term 'math'; clause 6 (15) of the present Bill says: 'religious institution' means a math, temple or specific endowment'. Hon. Member Sri Bhashyam said that the term 'math' should be deleted. Other Friends have said that temples and maths are the twin things of Hindu religion—the temples being the places of worship and prayer whereas maths are really places where spiritual instruction and spiritual light flows from the head of the math at the time being. It is said that due to the efforts of these maths Hindu religion has been made the Catholic religion that it is to-day and we should be thankful to them. I have reasons to believe that we should be thankful to them. Then Government 25 years ago took grounds which prompted the of control over the dittams allowed to the powers to exercise a sort administration of the affairs of the temples, and the general during the 25-years. We have seen what has been gained force various religious institutions and maths. We have gained in the and additional grounds and reasons for exercising this control, not over the spiritual teachings and spiritual message and qualities of the matadhipathis, but over the temporal management of the properties attached to these maths. If I may say so, we have had many cases where the maths' moneys have been mis-spent and mis-used. It was only the other day one Friend said that a particular matadhipathi was trying to purchase properties worth 3 to 4 lakhs of rupees for his convenience in the City of Madras. Some other Friend was saying that a Matadhipathi had set apart several lakhs of rupees for carrying on political propaganda in order to defeat this Bill and so on. Sir, we are not, however, concerned with all those things here. Some of the heads of these religious institutions, namely, maths are really very good men. But there are quite a large number of bad men also among them. After all, laws are not meant for the good people only. The

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present Bill is only intended to check any possible abuse. My learned Friend, Sri Viswanatham, referred to the judgments in 27 Madras and 38 Madras. We find that in that judgment it is said, 'His obligation to devote the surplus income to such religious and charitable objects is one in the nature only of an imperfect or moral obligation resting in his conscience and regulated only by the force of public opinion and he is in no way, whether, as a trustee or otherwise, accountable for it in law.' It was said that these matadhipathis are in a sense-absolute owners of these properties and have absolute power of disposition of the income from these properties. With all respect to them, I should point out that there have been several abuses. Reference had been made to these abuses in a critical manner by the then Chief Minister, Sri O. P. Ramaswami Reddiyar, when introducing this Bill then. He was very vehement and he gave a catalogue of the abuses committed by these matadhipathis in respect of the math properties. He said that after seeing all these abuses one could not sit quiet with folded hands. I do not wish to re-catalogue those abuses here. Even in the judgment quoted by Sri Viswanatham reference has been made to the moral obligation resting on their conscience. I ask in all seriousness whether my Friends who have introduced these amendments for the deletion of the term 'math' can sincerely say that there have not been several cases where this high standard that has been prescribed by the ancient customs and usage and ancient texts has not been maintained by these matadhipathis. I think it has been prescribed that these people should be ascetics and celibites. Celibacy has been prescribed in most cases. Can we say seriously that there has not been any dereliction from that high standard prescribed? I am of opinion that there has been considerable deviation from the high standard prescribed. Times are changing and reforms also should change. Already there is some control over these institutions. Under the legislative powers, we are seeking to have some more powers to control these institutions in an effective manner. That is all what is contemplated in this Bill. With the little acquaintance that I have about the law relating to the maintenance of these temple properties, I have reasons to say that the Act II of 1927 does not confer sufficient powers to exercise control over the maths. I find in the present Bill the Board is replaced by the Commissioner. I only want to say that we are deliberately taking powers for the better governance of the affairs of these maths. In this connexion I also want to say that the framers of this Bill have been somewhat hesitant over this question. Even under this Bill, certain special privileges have been accorded to the maths. In Chapter V, certain special privileges have been given in respect of *padha kanika*. The matadhipathis are given absolute rights of disposal of these *padha kanikas* which are considered as personal gifts. They are only to maintain an account of how much has been received and how much has been spent. Nobody can question a matadhipathi about his utilizing these *padha kanikas* in any manner that he may choose. It has also

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been provided that for the administration of the secular affairs of a math the trustee of the math shall, when so required by the Commissioner, appoint a competent person as manager. It is but right and proper that every spiritual head should have a secular manager. The spiritual head is an ascetic and he must have nothing to do with the secular administration. In the case of temples, the Commissioner can appoint the executive officers or managers. But with regard to maths, it has been provided that the matadhipathis shall appoint the managers, of course with the previous sanction of the Commissioner.

"I do not think we are interfering unduly with the religious or spiritual activities of the matadhipathis. I am yet to see a case being made out why we should not interfere. If the concepts have to be changed, we shall take the responsibility of changing them by enacting the necessary laws. With due respect to the Judges who presided over cases 27 and 38-Madras, I may say that it is wrong to interpret them as having said that the law must be constant and should progress no more. It is always open to the law-makers to change the concept in the light of the changing conditions in our society. As I have said, it will be our duty then to give the Government powers, to invest the Commissioners or other authorities who exercise superintendence over the maths with necessary authority to prevent abuse of the math properties and endowments connected therewith."

SRI V. I. MUNISWAMI PILLAY :—"Mr. Speaker, Sir, if I rise to-day to support the amendment moved by my hon. Friend, Sri Gopalaswami, it is because I am quite conversant with the duties and functions of Matadhipathis. In the Hindu religion, there are two sections; the philosophical section is one and the other is the ceremonial side. I would have no objection whatever if temples and endowments connected with a math are sought to be controlled. But when we touch the maths, we will be touching the very live wire of the Hindu religion. Most of the hon. Members who preceded me have given in clear and plain language the history of the maths and how true Hindus were taken to the philosophical side of life by the preachings of the great Gurus, the Matadhipathis. Many people fail to think how the true head of a math lives. They imagine that such men are ordinary men. Those of us who have sat at the feet of a Guru and studied the great vedic teachings and the philosophy which Hinduism teaches know with what respect and veneration such men are treated. We know the sanctity attaching to such maths. The heads of such maths by their divine knowledge and wisdom come into possession of certain properties mostly endowed to them for the propagation of the Hindu religion. The Bill seeks to exercise control over these properties. It does not stop even there. It affects the very fountain from which knowledge flows. Sir, this piece of legislation has been resented greatly by the heads of maths. That being so, I feel that the inclusion of 'math' in this definition is not fair. The Government are definitely treading on a dangerous path. These maths have risen out of the voluntary efforts of great men who have not thought of properties

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either for themselves or for others. They went to forests; they went to the cities and towns, put up small huts and explained the greatness of the religion. Such endowments came into being out of the efforts of such great men. A true and real matadhipathi does not feel the pinch for money. Money is given to him by people because of the great reverence in which they hold in order to enable him to continue his religious work. An hon. Member said that the late Raja of Panagal did a bold thing in having brought about this reform. Yes. We accept it is a bold piece of work that he did. But even that great man did not touch the maths, but . . . (The Hon. Sri K. Madhava Menon : 'No, no. The existing Act covers maths also.') He left the case of maths nebulous. I strongly feel, Sir, that if maths are included in the definition, the Hindu religion will disappear from our State. Those people who are earnest about learning the Hindu philosophy will not have any chance of acquiring such knowledge at the feet of the Guru. As a matter of fact, I find that some maths have been excluded from the scope of the Bill. For example, the Ramakrishna Math has been excluded. So also, the Ramana Ashram has been omitted. Why? Because the framers of the Bill felt they should not be touched. Similarly, as one who has been connected with maths for a long time, I feel it would be a wise thing if other maths are also excluded from the scope of the Bill. I would request the Hon. the Minister in charge of the Bill to think over the matter very seriously. If he wants really to preserve the greatness of the Hindu religion, he must do something to see that maths at least are exempted from the operation of this Bill. With these words, Sir, I support the amendment before the House."

SRI A. KALESWARA RAO :—"Mr. Speaker, Sir, it is true that the Hindu Religious Endowments Board, as it has worked these twenty and odd years, has not administered the endowments and trusts properly. It has not become famous for impartiality, purity and good administration. People have no high opinion of the Board. But the great Raja of Panagal—he was a great man—conceived of the idea boldly and acted boldly in setting up a Board in spite of the cry raised by a large section of the Hindu community then that religion was in danger, that a secular Government should not touch any of the religious institutions, and that they should not try to control them. He took courage in both his hands and got this famous Act passed. I call it a famous Act because it marked a great change in the management of the affairs of religious institutions. The whole question now is whether the Government should or should not interfere with the management of such institutions. If we concede the principle that the Government can interfere, then there will be no distinction made between temples and maths. If we consider that the principle is wrong, then the whole Bill is wrong and I could then understand the opposition to the whole Bill. I know, Sir, that there used to be a great deal of opposition to the Government entering into this field. But gradually, however, the

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opposition died down and the very Congress party which raised this opposition in the years 1926 and 1927 and made it an election issue, accepted the principle as good. The party also worked it during the regime of Sri C. Rajagopalachari in 1937-39. Therefore, it is only following in the footsteps of the previous Congress Governments that the present Government want to recast the whole measure in order to make certain things clearer and improve upon them. Excepting this, there is no difference between the existing Act and the proposed Bill. It is true, however, that there is a lot of difference between a temple and a math. The distinction is real. Temples are places for congregational worship. People go there and worship God, i.e., the idol there whatever its denomination be, whether Siva, Vishnu or Sakthi. And now, thanks to the great work done by Mahatma Gandhi, Harijans are also admitted to the temples and they are also worshipping God along with other Hindus. Even non-Hindus also can go into the temples just as Hindus can go into churches and mosques. Christians, Muslims and all others are welcome and there is no such thing as untouchability now. The temples have been made cosmopolitan and universal. But the maths are no doubt different. Certain holy men, certain philosophers and founders of particular religious schools of thought have come and stayed in certain places which are now called maths. According to the degree of respect and veneration in which such holy men are kept, properties are endowed to them, though sometimes they are endowed more profusely than necessary. For example, the Chettiers and others who obtain large sums of money by bad means want to wash off their sins by giving lots of jewels to the temples in Tirupati and Kalahasti for adorning the deities. Of course, these temples do not become more holy by the jewels or other properties given to them. Some people even build big towers at the entrance of the temples and some others resort to more extravagant things. These things happen only in the South. In Northern India, we see only small temples. When I went to Rishikesh I saw a small Rama's temple. It is a famous one and it is said that Sri Rama himself had visited that temple. It is considered the holiest of temples in the whole of India. So also the Shiva temple in Benares—Kasi Viswanatha. They are all simple. Here, in the South, people respecting Swamis have given them lands and villages as charity in order to wash off their sins. What happens in course of time is, in the case of certain Swamis, luxury sets in. They begin to enjoy material life so that to-day is one Swami is good, ten Swamis are bad.

“There are the temptations. Nobody can say that the maths are kept holy, the Swamis are holy, that they are doing their duties well, that they are serving the community and spreading the doctrines of the Hindu philosophy and religion among the great Hindu community. Nobody can say that. So Government come in to manage the endowments. There are restrictions with regard to Governmental interference. They will be there only to prepare the estimates and budgets and to see that the moneys are spent for the very object for which these institutions were founded. Therefore I do not see anything wrong in including the maths under this Bill.”

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SRI M. A. EASWARAN :—“Sir, I oppose the amendment moved by my hon. Friend Sri Gopalaswami. Speaking on this amendment, my hon. Friend Sri Bhashyam referred to the speech of the President of the Saivite Conference held at Coimbatore. The President is a person to whom various endowments have been entrusted. He is using the properties of those endowments as his own personal properties. There are very many complaints against him in that district. Naturally the opinion of such a person who is entrusted with endowments and who is misusing it would be that they should be treated as private property.

“These maths are religious institutions and are intended for the spread of the religion among the people by doing propaganda. Now, for the last fifty years, these matadhipathis have not done any religious propaganda. They have never gone to the villages or towns for this purpose. I have seen once Sankaracharya coming to Erode. He did no religious propaganda. But he feasted people and went about the villages in a golden palanquin, with golden rings in all his ten fingers and jewels all round him. He never did any propaganda for the Hindu religion when he was there.”

SRI M. S. PATTABHIRAMIAH :—“Which Sankaracharya is that . . .”

SRI M. A. EASWARAN :—“It was some Sankaracharya, a matadhipathi . . .”

SRI T. VISWANATHAM :—“On a point of order, Sir, I request the protection of the Chair. Whenever hon. Members make references and statements, this is not the way of talking—‘If it is not Sankaracharya—it is somebody else’. Whenever they refer to Sankaracharya or some other acharyas they must take more care and show greater sense of respect.”

SRI M. A. EASWARAN :—“That Swami gave feast only to the Brahmans and to none else. He did no religious propaganda. Another Matadhipathi came to Erode, a Thambiran. He remained there for two or three days and gave some lectures and he was also carried in a bedecked palanquin. To carry him in the palanquin ten fat people, fully drunk, were engaged. Without this drink how can they carry this Swami, this matadhipathi. Even when Sankaracharya came he was carried in the palanquin by people who were fully drunk. The people who carried them were generally weak and probably to get enough strength they might have drunk. These matadhipathis have done nothing for religious propaganda. Only Gandhi enlightened the people and made them understand what Hindu religion meant. But these matadhipathis have only been mismanaging the endowments. My hon. Friend Sri Pattabhiramiah tried to define these matadhipathis and read extracts from books. But the funds entrusted to these matadhipathis were not utilised on proper lines. The Government have come forward now just to help them and relieve them of the difficulty in the management of these endowments, and do religious propaganda on the right lines.”

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"I can say, Sir, these matadhipathis have not done their duty properly and utilised the money for the purpose for which they were entrusted to them. They were given all powers. Of course some have acted well, but most of them have not acted well. I, therefore, oppose the amendment, of my hon. Friend Sri Gopalaswami."

SRI K. VARADACHARI :—"The discussion on this amendment has gone on lines in which one Member does not appreciate what exactly another Member is speaking about and there has been a lot of confusion imported regarding both with the concept of the math as well as the measures adopted by the Courts and the Legislature to deal with these institutions. It is true there have been decisions of the High Court defining exactly the constitution and the organization of the maths as well as the status of matadhipathis. The law that has been quoted from the decisions of Justice Subramania Ayyar, Bhashyam Ayyangar and Sankaran Nair, 27 Madras and 38 Madras, are still good law and this Bill does not seek to change any of those conceptions adumbrated in those decisions. These decisions themselves contain the limits within which the matadhipathis can deal with these properties. Within the narrow limits, the matadhipathis are responsible for the properties in their hands either movable or immovable. The matadhipathi though not a trustee, he is not as we ordinarily understand the term 'private ownership', fully private owners so that they can dispose of properties or abuse the power by wasting away the property belonging to the math. This is a sort of a quasi-trustee, not a full trustee as the Dharmathikari of a temple, or a person who can dispose off or squander it away. We have had instances, large number of instances coming before the Courts and those that have not gone before the Courts for want of financial help, and thus we have got them reformed and have got the property safe for the institution. The result has been, there was felt some necessity to control the institutions. This Bill cannot go against the public opinion in the matter of interference with these maths. If public opinion is not at all cared for, the enactment will die a natural death. One day the Legislature will come forward and delete these provisions."

"So far as the maths are concerned we have accepted the principle of the Bill. We included the maths also within the purview of this Bill and it is too late to say that these maths should be taken out of the purview of the Bill. Though I would ask for some time to be given, say a quarter of a century or more to these maths to see how they fare, it is another matter to say that we should not get through this Bill. The mover of the amendment as well as the supporters are *bona fide* in their contention as to why they say that the provision ought to be deleted from the Bill. It is not that no control should be exercised over these maths and their properties or the conduct of the matadhipathis but that the forum that is sought to be created for the purpose of correcting the abuses is not the court but it is the administrative machinery that is sought to be used for this purpose. There is certainly a grave fear in the minds of the people in regard to this. People who have had experience

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of the working of the Religious Endowment Boards so long, as well as the administrative machinery that we have had under that board with powers given to them, fear that the powers would be abused by the executive authority. That was so. But with regard to all legislation that we frame we have to guard against administrative abuses. That the provisions of the bill would be misused by the executive authority cannot be a ground for saying that the legislation itself is bad. However we should take care to see that these maths are not interfered with in the manner threatened either by the provisions of the Bill or in the way in which people are afraid that the provisions of the Bill would be abused."

"We have been unable to convince the Government of the necessity of leaving matters of this kind to courts for adjudication just as in England the Charity Commissioners, even in ecclesiastical matters where he has jurisdiction, he simply refers the matter to the courts. Here we have followed another method. All the legislation we pass in this House not only with regard to endowments, but on every other matter, we have been trying to oust the jurisdiction of the courts in all manners and ways possible. It has become a tradition with us in this House to see that the courts are placed at a discount and this is nothing new. Therefore, when the provision relating to section 92 of the Civil Procedure Code, is being excluded hereafter from any operation in the matter of the control and administration of religious endowments or charitable trusts, the chance was lost to convince the Government to delete the clause 3. We are now trying by other methods to see that the maths are excluded from the operation of the Bill. This is a case where the court's jurisdiction has been ousted, and there is the fear that the executive authority will abuse the power vested in their hands and the maths would be victimised. That is the fear. (Hon. Members: 'No, No'.) I submit there are some people who have this fear, but as our administration improves we should give a good account of ourselves and see that the administration is properly conducted. Therefore I say that this need not be a matter for heated discussion."

MR. SPEAKER :—"Many more hon. Members still want to speak on the amendment. I therefore fix five minutes for each Member."

SRI K. BHASHYAM :—"On a point of personal explanation, Sir. I fear the amendment has altogether been misunderstood. I want to clear the misunderstanding. It is not that I want the maths to be entirely excluded from the operation of the Bill. I say that these maths should be treated differently from the ordinary trustees of temples. It is not also that I want that no control should be exercised over these maths. I have reconciled myself to the position that some control is inevitable. True these maths are dealt with in a separate chapter, Chapter 5. I have also given amendments for this chapter. But all I say is that it is unnecessary to have these maths included here in this clause as they have already been defined in a earlier place and that only specific provisions need be made and that is done in Chapter 5."

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SRIMATHI V. LAKSHMI AMMAL:—“அக்கிராசனாதிபதி அவர்களே! கனம் கோபால்சாமி அவர்கள் கொண்டுவந்திருக்கின்ற திருத்தப் பிரேரணையை நான் முழுமனதோடு ஆதரித்து இரண்டொரு வார்த்தைகள் பேச விரும்புகிறேன்.

“இந்த திருத்தப் பிரேரணைக்கு சாதகமாகவும், பாடகமாகவும் அநேகம் மெம்பர்கள் இன்று பேசினார்கள். கனம் கந்தசாமி பிள்ளை அவர்கள் வெகு தெளிவாக அதை எதிர்த்துப் பேசினார்கள். கனம் M. A. எஸ்வரன் அவர்களும் கவர்ன்மெண்டார் ஏன் இதில் தலையிடவேண்டும் என்ற விஷயங்களைப்பற்றியும் பேசினார்கள். மடங்களில் நடக்கின்ற ஊழல்களை கண்டிக்கவேண்டுமென்பது எல்லோருக்கும் பொதுவான, சமத்துவமான அபிப்பிராயம். ஆனால், சில சில மத சம்பந்தமான விஷயங்கள் இதனால் அடியோடு போய்விடுமோ என்ற ஒரு உணர்ச்சியினாலேதான் சில மெம்பர்கள் அதில் சர்க்கார் தலையிடுவது நியாயமல்ல, அவர்களுடைய சக்திக்கு மீறி அவைகளை விஸ்தரிக்கக்கூடாது என்று குறிப்பிட்டார்கள். ஸ்ரீமான் கந்தசாமி பிள்ளை அவர்களும் இருபது வருஷத்துக்கு முன்னாலும், ஐம்பது, நூறு வருஷங்களுக்கு முன்னால் நடந்த பல தீர்ப்புகளையெல்லாம் ஸ்ரீமான் விஸ்வநாதம் அவர்கள் எடுத்துக் கூறியதைக் கண்டித்து பேசினார். அவர்கள் பேசும்பொழுது பழங்காலத்து தீர்ப்புகள் இப்போது அவசியமில்லை. அப்போது இருந்த காலம் வேறு இப்போது இருக்கக்கூடிய காலம் வேறு, காலத்திற்குத் தகுந்தாற்போல் நாம் நடவடிக்கைகளை மாற்றிக்கொள்ள வேண்டுமென்று சொன்னார்கள். உண்மை, இது வாஸ்தவம்தான். ஆனால், காலத்திற்குத் தகுந்தாற்போல் நம்முடைய நடவடிக்கைகளையும் மனதையும் மாற்றிக்கொண்டுவிடவோமே தவிர அந்தந்த காலத்திற்குத் தகுந்தாற்போல் மத சம்பந்தமான ஸ்தாபனங்களை மாற்றுவது சரியல்ல. குறைத்திலும் எண்ணத்திலும் பல மாற்றங்கள் ஏற்படவேண்டும். நம்முடைய குணம் மாறவில்லை. நம்முடைய மனப்பான்மையும் இப்போது இருக்கின்ற சூழ்நிலையும் சரியான முறையில் இல்லை. இப்படிப்பட்ட மனப்பான்மை நீடிக்கும்போது சர்க்கார் மத ஸ்தாபனங்களில் பூரண அதிகாரத்துடன் இறங்கினால் அது மக்களுக்கு மிகக்கூதாதாகிவிடும். இப்போதும் மதப்பற்றுக்கள் உள்ளவர்கள் ஆங்காங்கே மத ஸ்தாபனங்களை நிர்வகித்ததான் வருகிறார்கள். திடீரென எந்த பழைய பழக்கங்களையும் மாற்றிவிட முயற்சிப்பது சரியல்ல. இந்த சமயத்தில் எனக்கொரு சம்பவம் ஞாபகம் வருகிறது. ஒரு சமயம் நானும் கனம் சபாநாயகர் அவர்களும் சமீபத்தில் ஒரு இடத்திற்கு போக வேண்டி இருந்தது. அப்போது அவர்கள் ஒரு விஷயத்தைச் சொன்னார்கள். அதாவது இப்போதும் லண்டன் சட்டசபை கூடுவதற்கு முன்னால் மெழுகு வர்த்தி விளக்குடன் ஒருவன் எல்லா மெம்பர்களின் இடத்தையும் சம்பிரதாயமாக பரிசோதிப்பானாம். பின்னர்தான் அவ்விடத்தில் மெம்பர்கள் உட்கார வேண்டுமாம். எலக்ட்ரிக் விளக்கு இந்தக் காலத்தில் இல்லையா? டார்ச் லைட்டை எடுத்துக்கொண்டு கூட பார்க்கலாமே! இருந்தாலும் பழைய சம்பிரதாயத்தை விடக்கூடாது என்பதற்காக இன்னமும் மெழுகு வர்த்தி விளக்கை வைத்துக்கொண்டுதான் பார்க்கிறார்கள் என்று கனம் சபாநாயகர் அவர்கள் சொன்னார்கள். இதை எதற்காக அவர்கள் சொன்னார்கள் என்றால் நாம் பழைய சம்பிரதாயங்களை எளிதில் கைவிட்டுவிடக்கூடாது என்பதற்காகத்தான். மத விஷயங்களில் பூரண அதிகாரத்துடன் அரசாங்கத்தார் தலையிடுவதானது மக்களுக்கு தெய்வபக்தியே இல்லாதுபோய்விடும் என்று சொல்ல விரும்புகிறேன். தெய்வபக்தி இல்லாவிட்டால் எந்த சமூகமும் கெட்டுவிடும். பாரதத்தில் ஒரு விஷயம், எனக்கு இப்போது ஞாபகம் வருகிறது. தர்மபுத்திரர் வீற்றிருக்கும் காலையில் பீமசேனன், ‘அண்ணா, அண்ணா!! அதோ கலி புருஷன் போகிறான் பார்; தன் இளம் மனைவியை தோளிலே தூக்கி வைத்துக்கொண்டு தன் வயது முதிர்ந்த தாயை கரகர வென்று பிடித்து இழுத்துக்கொண்டு போகிறான்’ என்றுனாம். அப்போது தர்மபுத்திரர் ‘பீமா கலியை உன்னிடத்திலேயே பார்த்துவிட்டேனே, கலி புருஷன் போய் பார்க்கவேண்டாமே’ என்று மரியாதைக் குறைவாக வந்ததைக் குறிப்பிடுகிறார். இதை நான் பாரதத்தில் படித்திருக்கின்றேன். இப்போது இந்த கோவில்களின், மடங்களின் நிர்வாகப்

[17th November 1950] [Srimathi V. Lakshmi Ammal]

பொறுப்பையெல்லாம் சர்க்கார் ஏற்று நடத்த வந்தால் புதுப்புது உத்தியோகஸ்தர்களும் கமிஷனர்களும் நியமிக்கப்படுவார்களே யன்றி கோவில் நிர்வாக விஷயத்தில் எந்தவிதமான சீர்திருத்தமும் இருக்காது என்று குறிப்பிட விரும்புகிறேன். மேலும், இப்போது நம்முடைய கவர்ன்மெண்ட் டிபார்ட்மெண்டுகள் எவ்வளவு மோசமாகயிருக்கிறதோ அவ்விதம் தான் மத ஸ்தாபன நிர்வாகமும் இருக்கும். இது நாம் அறிந்த விஷயம். இப்போது மடங்கள் சரியாக நடைபெறவில்லை என்று கூறுகிறோம். நான் சொல்வது என்னவென்றால் இந்த மடங்களின் நிர்வாகத்தை ஏற்றுக் கொள்ளப்போகின்ற சர்க்காரும் நான் ஒழுங்காக ஒரு விஷயங்களில்கூட நடந்துகொள்ளமுடியாது என்றுதான். ஏனென்றால் இன்று சர்க்கார் இலாகாக்களில் எவ்வளவு ஊழல்கள் இருக்கிறது என்பது நமக்குத் தெரியும். ஆகையால் சில அதிகாரங்களை எடுத்துக்கொண்டு இந்த மடங்கள் நல்ல முறையிலே நடப்பதற்கு சர்க்கார் வழிகாட்டியாய் இருக்கவேண்டியதே தவிர இம்மாதிரி பூரண அதிகாரங்களை எடுத்து அந்த மடஸ்தாபனங்களை கைப்பற்றுவது சரியல்ல.

“ஸ்ரீமான் எஸ்வரன் அவர்கள் பேசுகிறகாலத்தில் மடாதிபதிகளைப்பற்றி மிக இழிவாக எடுத்துச் சொன்னார்கள். இம்மாதிரி அவர்கள் சொல்வது சரியல்ல. தெளிந்த அறிவுள்ள மனிதர்கள் பேசும் வார்த்தைகளும் அல்ல அவை. இதற்காக என்னை மன்னிக்கவேண்டும். காந்தியை நாம் எவ்வாறு போற்றுகிறோமோ, எவ்வாறு அவரிடம் நாம் மதிப்பு செலுத்துகிறோமோ அதேமாதிரி ஒவ்வொருவரும் மத குருமார்களை கௌரவிக்க கடமைப்பட்டிருக்கிறோம். ஒரிரண்டு மடாதிபதிகள் தவறுதலாக நடக்கலாம் ஆனால் மடாதிபதிகள் பதவி சாஸ்வதமல்ல. அவர்கள் பரம்பரை வாராக இருப்பதில்லை. ஒருவரை நியமிப்பதும் அவருக்குப்பின் அந்த ஸ்தானத்திற்கு வேறு ஒருவரை தேர்ந்தெடுப்பதும் அவர்களுடைய சிஷ்யக் கூட்டத்தாரின் வேலையாகும். அப்படியிருக்கையில் பொதுப்படையாக இம்மாதிரி சட்டம் செய்வதும், மடாதிபதிகள் அவ்வளவு பேரையும் இம்மாதிரி குறைகூறுவதும் தப்பு என்பதையும் தெரிவித்துக்கொண்டு கனம் கோபால்சாமி அவர்களின் திருத்தத்தை சர்க்கார் ஏற்றுக்கொள்ளவேண்டுமென்று கேட்டுக்கொள்கிறேன்.

SRI S. CHIDAMBARA AYYAR:—“Mr. Speaker, Sir. In the first instance, I strongly protest against the insinuations and the damaging language used by my hon. Friend Sri M. A. Easwaran about matadhipathis. As regards the amendment moved by my hon. Friend Sri L. N. Gopalaswami, his point is that the word ‘math’ should be excluded from the definition of ‘religious institution’ and nothing more. My hon. Friend Sri K. Bhashyam has explained about control over maths and their properties and there is no quarrel about it. We can discuss it in detail as and when the concerned chapter comes up for discussion. The question is whether in the present definition it should be excluded.

“Hon. Sri T. Viswanatham has read some judgments delivered by the High Court of Madras with regard to the definitions of ‘temples’, ‘maths’ and ‘matadhipathis’. The position of both ‘maths’ and ‘matadhipathis’ is vitally different and this House has to carefully see it—and I wish the Hon. Ministers also should read the judgments. My hon. Friend Sri Kandaswami Pillai said that the judgments were delivered long before and were hence useless. But, the validity of their conclusions is still there so far as the rights and duties of ‘maths’ and ‘matadhipathis’ are concerned. The grounds on which they came to the conclusions are most important.

[Sri S. Chidambara Ayyar] [17th November 1950]

"In fact, Sir, maths have been formed by highly spiritual and learned men with a number of followers called 'Shishyas' to propagate the tenets and doctrines in respect of a philosophy they thought good. They formed an institution by themselves and there is nothing wrong. I therefore plead that it should be omitted from the definition.

"As a matter of fact, Sir, as mentioned in some of the judgments, so far as matadhipathis are concerned the income is for the math and the matadhipathis are the beneficiaries of the income and in case of temples the public are the beneficiaries. So, math is distinct from temple. I therefore submit, Sir, that the Government may well omit the word 'math' from the definition.

"Also the course of management is different. Sir, the matadhipathis may spend the moneys for instituting Veda Patasalas and Thevaram Patasalas and also for other purposes which the trustees of temples cannot do. Therefore, the matadhipathis have got greater powers over the property as mentioned in the judgments. The temples have not got as much power as the maths. Under these circumstances, Sir, I support the amendment moved by my hon. Friend Sri L. N. Gopalaswami."

SRI K. T. KOSALRAM :—"Mr. Speaker, Sir, நண்பர் கனம் கேரபால் சுவாமி அவர்கள் கொண்டுள்ள திருத்தத்தை நான் எதிர்க்கிறேன். அவரும் பேசினார், பல அங்கத்தினர்களும் பேசினார்கள். இந்த மடங்களை இந்த சட்டத்தை விட்டு நீக்கினால் தான் ஹிந்து மதம் இந்த நாட்டில் இருக்க முடியும். இல்லாவிட்டால் அரசாங்கம் இந்த ஹிந்து மதத்தையே அழித்து விடும் என்ற தோரணியில்தான் அவர்கள் பேசினார்கள். உண்மையில் நான் என்ன சொல்லுகிறேன் என்றால் இந்த அரசாங்கம் இந்த சட்டத்தினால் தான் இந்த ஹிந்து மதத்தை தழைக்கமுடியும். இன்றிருக்கும் முறையில் மடங்களிருக்குமானால் ஹிந்து மதமே அழிந்துவிடும் என்பதை நான் நண்பர் கோபாலசாமி அவர்களுக்குச் சொல்லுகிறேன். மடாதிபதிகள் டிரஸ்டிகளாக இருக்கவேண்டுமென்று காந்திஜி சொல்லியிருக்கிறார். காந்திஜி அவர்களுடைய பொன்மொழிகள் என்னவென்றைப்பற்றியெல்லாம் பேசப்பட்டது. இன்னும் ஹைகோர்ட்டு தீர்ப்புகளைப்பற்றியும் பேசப்பட்டது. இன்னும் முன் காலத்திலிருந்த வழக்கத்தை இன்று மாற்றுகிறார்கள், அப்படி மாற்றுவது தவறு, அவ்விதம் மாற்றினால் ஹிந்து மதமே போய்விடும் என்றும் சொல்லுகிறார்கள். நான் ஒன்று சொல்லுகிறேன், அன்று மனிதன் மிருகமாக இருந்தான். காடுகளில் சுற்றிக்கொண்டிருந்தான். மனிதன் துணிமணிகள்கூட இல்லாமலிருந்தான். அவ்விதமே இப்பொழுதும் நாயிருந்தால் அரசாங்கம் எந்த நிலையிலிருக்கும் என்பதை யோசித்துப் பார்க்க வேண்டும். நாம் இப்பொழுது காலசட்டை அணிந்துகொண்டும், ஜிப்பா போட்டுக்கொண்டுமிருக்கிறோம். அன்று மாதிரியே இன்றுமிருக்கவேண்டுமென்றால் அவ்விதமிருக்க முடியுமா என்று கேட்கிறேன். ஹிந்து மதம் தழைக்கவேண்டுமென்பதற்காக முன்காலத்திலிருந்ததைப் போலவே இப்பொழுது மிருக்கவேண்டுமென்றால் முடியுமாவென்று கேட்கிறேன். ஆகவே நாம் காலத்திற்கு ஏற்ப நம்முடைய கொள்கைகளையும் நடவடிக்கைகளையும் மாற்றிக்கொள்ளவேண்டும்."

MR. SPEAKER :—"இந்த மசோதாவிலுள்ள இந்த உட்பிரிவு சம்பந்தமாகத்தான் நீங்கள் பேசவேண்டுமே தவிர வேறு விஷயத்தைப்பற்றி பேசக்கூடாது."

SRI K. T. KOSALRAM :—"முன்னால் பின்னால் இருந்ததைப்பற்றி பல நண்பர்கள் பேசியதால் அதற்கு பதில் சொல்லும் தோரணியில் நான்

[17th November 1950] [Sri K. T. Kosalam]

சொல்லுகிறேன். இன்றையதினம் மடத்தின் சொத்துக்களையெல்லாம் மடாதிபதிகள் தங்களுடைய சொந்த பெயருக்கு வைத்துக்கொண்டிருக்கிறார்கள். தங்களுடைய சொந்த சொத்துக்களென்றும் வாதாடிக்கொண்டிருக்கின்றார்கள். என்னுடைய சொந்த ஊரிலுள்ள அனுபவத்தை நான் சொல்லுகிறேன். என்னுடைய பாட்டனார்களும், மூதாதையர்களும் பல லட்ச ரூபாய்கள் பொறுமானமுள்ள சொத்துக்களை மடத்தின் பெயரால் எழுதிவைத்து மடத்தை பரிபாலனம் செய்யவேண்டுமென்றும், ஹிந்து மதம் தழைக்கவேண்டுமென்பதற்காகவும் எழுதிவைத்தார்கள். இன்னும் அநேகம் நஞ்சை, புஞ்சை நிலங்களையும், மார்க்கெட்களையும், தர்ம காரியங்கள் செய்யவேண்டுமென்பதற்காகவும், ஹிந்து மதம் தழைக்கவேண்டுமென்பதற்காகவும், இன்னும் மதசம்பந்தமான பல காரியங்களையும் செய்ய வேண்டுமென்பதற்காகவும் எழுதிவைத்தார்கள். இந்த மடாதிபதிகளுடைய பெயருக்கு எழுதிவைக்கவே இல்லை. ஆனால் இன்று என்ன நடக்கின்றனவென்றால் எந்தக் காரியங்களைச் செய்யவேண்டுமென்று எழுதி வைக்கப்பட்டனவோ அவைகளெல்லாம் செய்யப்படாமல் மடாதிபதிகள் தங்களுடைய சொந்தக்காரியங்களுக்காக உபயோகப்படுத்திக்கொண்டு வருகின்றார்கள். மடாதிபதிகள் என்பது பெயருக்குமட்டுமல்ல. மடாதிபதிகள் என்பவர் மதத்தின் குரு. அந்த முறையில் அவர்கள் நாம் எழுதிவைத்த சொத்துக்களை ஹிந்து மதம் வாழவேண்டுமென்பதற்கான காரியங்களைச் செய்து மடங்களையும் கோவில்களையும் பரிபாலிக்கவேண்டுமே யொழிய வேறு விதமான காரியங்களுக்கு சிலவிடவேகூடாது. இவ்விதம் எவ்வளவோ பொதுமக்கள் தங்களுடைய சொத்துக்களை எழுதிவைத்திருக்கிறார்கள். அந்தமாதிரியான சொத்துக்களை இப்பொழுது மடாதிபதிகள் சரியான முறையில் சிலவிடாமல் துர்விநியோகம் செய்து வருகிறார்கள் என்பதை யாரும் மறுக்கமுடியாது. ஒழுங்கான முறையில் சிருங்கேரி சங்கரர் மடம், முதலிய இதர மடங்களும் நடத்தப்படலாம். அதைப்போலவே எல்லா மடங்களும் சரியான முறையில் நடக்கின்றனவென்று சொல்லமுடியாது.

"இன்னும் பல விதமாகப் பேசப்பட்டது. பிராமணர்களும் மடாதிபதிகளாக இருக்கிறார்கள். பிராமணரல்லாதார்களும் மடாதிபதிகளாக இருக்கிறார்கள். ஹிஜன் மதகுருவும் இருக்கிறார். இவ்விதமிருக்கும்போதும் மதகுருவைப்பற்றி பேசும்போது ஜாதி வித்தியாசம் வரவேண்டியதெவசியமில்லை. மடத்தின் தலைவராக பிராமணர்களும் இருக்கிறார்கள் பிராமணரல்லாதார்களும் இருக்கிறார்கள். யார் மடத்தின் தலைவராக இருந்தாலும் சைவமதமாக இருந்தாலும் சரி, வைஷ்ணவ மதமாக இருந்தாலும் சரி அவர்கள் தங்கள் செய்யும் வேலைகளை சரிவர மதத்தின் பெயரால் செய்ய வேண்டுமே தவிர, ஜாதி வித்தியாசத்தைப் புகுத்த வேண்டிய தவசியமே இல்லை. பொதுவாக மதம் வாழ்வதன் பொருட்டு தான் வேலைகளைச் செய்யவேண்டுமே தவிர ஜாதி பிரிவினையை புகுத்தப்படவேகூடாது. மடம் என்பது எல்லோருக்கும் தான் ஏற்பட்டது. ஆனால் இன்று உண்மையில் பார்த்தால் அங்கே ஜாதி வெறிதான் தாண்டவமாடுகிறது. இவ்விதம் ஜாதி வெறி தாண்டவமாடுவதனால் அதில் மடாதிபதிகள் புகுந்துகொண்டிருக்கிறார்கள். அதனால்தான் இந்த சட்டத்தில் மடங்களையும் சேர்க்கப்பட்டிருக்கிறது. அவ்விதம் மடாதிபதிகள் ஜாதி வெறியில் புகுந்துகொண்டிருப்பதனால் அதில் அரசாங்கம் தலையிட்டு சட்டம் செய்யாமல் இனிமேல் இருக்க முடியாது. அவ்விதம் அரசாங்கம் தலையிட்டு ஜாதி வெறியை அறவே ஒழித்து அதை களைவதற்காகவேதான் இந்த 'பில்' கொண்டுவரப்பட்டிருக்கிறது. இந்த சட்டமானது அமுலுக்கு வந்தபிற்பாடு மடங்கள் பிராமணர்களுக்கென்றே அல்லது பிராமணரல்லாதாருக்கென்றே இல்லாமல் ஹிந்து மதத்திற்கு என்றே ஏற்பட்டது என்று வரும். ஹிந்து மதத்திற்காகவே தான் மடங்கள் ஏற்பட்டது என்றும் மடத்தின் தலைவர் யாராக இருந்தாலும் அவர் தான் மதத்தை வாழச்செய்யவேண்டுமென்பதற்காகவும் தான் இந்த மடங்களை இந்த clause-ல் சேர்க்கப்பட்டிருக்கின்றன.

"ஆனால் கனம் பாஷ்யம் அவர்கள் பத்தாவது clause-ல் தான் இந்த மடத்தை சேர்த்திருக்கிறோமே என்று சொன்னார். 15-ஆவது clause-ல் சேர்க்காவிட்டால் என்ன முழுதீர்ப்பாய்விடும் என்றும் சொன்னார். நான்

[Sri K. T. Kosalram] [17th November 1950]

சொல்லுகிறேன். நாம் எதற்காக ஒரு நான் பூராவிலும் அந்த ஒரு clause-ஐ வைத்துக்கொண்டு பேசினோம். அதற்காகவே ஒரு நான் பூராவும் உட்கார்ந்து ஒரு நாளைக்கு சுமார் ரூ. 1,500-ஐ, அதைப்பற்றி பேசுவதற்காக சிலவழித்திருக்கிறோம். அதன் பொருட்டு நாம் பொது மக்களின் பணத்தை அக்கிரமமாக சிலவழித்திருக்கிறோம்.

MR. SPEAKER :—“ நீங்களே அதைப்பற்றி பேசும்பொழுது அக்கிரமமாக சிலவழித்தோம் என்று சொல்வது சரியல்ல.”

SRI K. T. KOSALRAM :—“ இந்த இரண்டு, மூன்று clause-ற்காக அனாவசியமாக இரண்டு மூன்று நாட்கள் விவாதித்துக்கொண்டு நேரத்தைக் கழித்துக்கொண்டிருக்கிறோம் என்பதற்காக சொல்லுகிறேன். இவ்விதம் அனாவசியமாக பேசி நேரத்தை கழித்து பொதுமக்களின் பணத்தை சிலவழித்து வருகிறோமே அதற்கு நாம் அங்கேயே அதைப் பெற்றிருக்கிறோமா? அது ஒன்றுமில்லை. இந்த நிலைமையில் மடாதிபதிகளையும் மடத்தையும் இந்த clause-ல் சேர்த்தால்தான் ஹிந்து மதத்தை வாழவைக்க முடியும் என்பதாக சொல்லிக்கொண்டு இந்த திருத்த பிரேரேபணையை முழுமனதுடன் எதிர்க்கிறேன்.”

SRI M. KANNIAPPAN :—“ கனம் தலைவர் அவர்களே, இன்றைய தினம் அரசாங்கத்தார் கொண்டுவந்திருக்கின்ற பில்லை ஆதரிப்பதோடு நம்முடைய நண்பர் ஸ்ரீ கோபால்சாமி கொண்டுவந்திருக்கும் திருத்தத்தை நான் எதிர்க்கிறேன்.

“ இந்த ஷரத்திலிருந்து மடத்தை நீக்கவேண்டுமென்று சொல்வது மிகவும் தவறுதலான காரியம். மதத்தின் பெயரால் எவ்வளவு இன்னல்களை மடத்தின் சந்நிதானங்கள் செய்துவருகிறார்கள் என்கிற விஷயம் நாடு அறிந்ததுதான். யாரும் அதை இல்லையென்று சொல்லமுடியாது. அந்த மடத்திலுள்ள சந்நிதானங்கள் இன்றைய தினம் இந்த நாட்டிலுள்ள ஹிந்து மதத்திற்கு புகழை தேடிக்கொடுத்திருக்கிறார்கள் என்று பார்க்கும் போது அவர்கள் புகழை தேடிக்கொடுக்கவில்லை. ஹிந்து மதத்திற்கு அழிவைத்தான் தேடிக்கொண்டிருக்கிறார்கள். ஏன் இதை தெரிவிக்கிறேன் என்றால் மடாதிபதிகள் நம்முடைய பெரியவர்கள் மதத்திற்காகவும், தர்ம கைங்கர்யத்திற்காகவும், நல்ல காரியங்களைச் செய்வதற்காக பல கோடி லக்ஷக்கணக்கான ரூபாய்களை நமது முன்னோர்கள் மடத்தின் பெயரால் எழுதி வைத்தார்கள். அந்த விதமான சொத்துக்கள் அனைத்தும் இன்றைய தினம் எந்தெந்த கைங்கர்யத்தைச் செய்யவேண்டுமென்று நமது முன்னோர்களால் கொடுக்கப்பட்டதோ அந்த கைங்கர்யங்கள் நடைபெறுகிறதா என்று கேட்டால் நடைபெறுவதாக நாம் சொல்வதற்கே இல்லை. ஏதோ சில மடங்கள் வேண்டுமானால் ஒழுங்காக நடப்பதாகக் கூறலாம். ஆனால், ஒரு சில மடங்கள் ஒழுங்காக நடக்கின்றன என்பதற்காக ஒழுங்கானதாக ஊழல் நிறைந்ததாக நடக்கும் மடங்களை திருத்த சட்டம் வேண்டாமென்று சொல்ல கூடாது. சட்டம் மிக அவசியமானது. அந்த முறையில் நம்முடைய அரசாங்கத்தார் நன்றாக ஆலோசனை செய்து இந்த மடங்களுடைய நிர்வாகத்தின் பொறுப்பையெல்லாம் ஆலோசித்து பார்த்து இந்த சட்டத்தை கொண்டுவந்த போது கனம் ஓமந்தூர் ராமசாமி ரெட்டியார் அவர்கள் பலவிதமான மடங்களில் நடக்கும் ஊழல்களைப்பற்றி பேசியபோது எல்லோருடைய மனமும் உருகாமலில்லை. அவ்வளவு பெரிய தப்புக்களையா இந்த மடாதிபதிகள் செய்திருக்கிறார்களென்றும் நினைக்கத் தோன்றுகிறது. உதாரணமாக திருவாடுதறை மடத்தைப்பற்றி சொல்லுகிறேன். அவர் இன்றைய தினம் சுற்றுப் பிரயாணம் செய்கிறார்கள். அந்த மடங்களில் இன்று நடக்கக்கூடிய அக்கிரமங்களைப் பார்க்கும்போது

SRI K. BHASHYAM :—“ கனம் மெம்பர் என்றவது ஒரு முறையாவது மடத்திற்குள் நுழைந்திருக்கிறா என்று கேட்கிறேன்.”

SRI M. KANNIAPPAN :—“ மடத்திற்குள்ளேய் இருக்கிறேன். பல சந்நிதானங்களையும் பார்த்து இருக்கிறேன். ஆனால், பார்த்ததும் அவர்

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கள் செய்கின்ற தப்புகளை நான் சொல்லாமல் இருப்பேனையானால் தவறு செய்தவன் ஆவேன். மதத்தின் பெயரால் இன்று அவர்கள் செய்து வருகின்ற அக்ரமங்களைப்பற்றி நான் மாத்திரம் சொல்லவில்லை. பொது மக்களே பகிரங்கமாக அச்சிட்டு படங்களுடன் கூட பலருக்கும் அனுப்பியிருக்கிறார்கள். எனக்கும் அம்மாதிரி ஒரு செய்தித் துண்டு வந்திருக்கிறது. கனம் மந்திரி அவர்களும் அதைப் பார்த்திருப்பார்கள் என்று நினைக்கிறேன். ஆகவே, இப்பேர்ப்பட்ட பெரிய தவறை செய்யக்கூடிய மடங்கள் இருக்கும் போது அதை திருத்தவேண்டியது அரசாங்கத்தாரின் கடமை அல்லவா? இப்போது அந்தக் கடமையைச் செய்வதற்காக ஒரு சட்டத்தைக் கொண்டு வந்தால் அதற்கு திருத்தம் தேவையா? இப்படி திருத்தங்களை கொண்டு வந்து வாதாடும் காலத்தில்தான் என்னைப்போல் உள்ளவர்கள் பலர் சந்தேகிக்க நேரிகிறது. இப்போதுள்ள மடங்களின் நிலைமையை நன்றாக உணர்ந்து அதைத் திருத்தவேண்டிய நாம் ஒரு சட்டத்தைக் கொண்டுவந்து அதை ஏகமனதாக நிறைவேற்றவேண்டுமே தவிர அதற்கு இம்மாதிரி பல தடங்கல்களை எழுப்புவது நியாயமும் அல்ல. ஆகவே, பொதுவாக நாம் எல்லோரும் அரசாங்கத்தாரின் இந்த சட்டத்தை முழு மனதுடன் ஆதரிக்க வேண்டும் என்றும் நண்பர் ஸ்ரீ கோபால்சாமி அவர்கள் கொண்டுவந்திருக்கின்ற திருத்தத்தை நாம் அத்தனை பெரும் தோற்கடிக்கவேண்டிய முயற்சியை எடுத்துக்கொள்ளவேண்டுமென்றும் கேட்டுக்கொள்ளுகிறேன்.”

THE HON. SRI K. MADHAVA MENON :—“ Mr. Speaker, Sir, we have been listening to very enlightening speeches about the origin of maths. Hon. Mr. Pattabhiramiah was very kind to take us to the very origin of certain words. His purpose was to remind us of the origin of the maths and to tell us exactly what they are and to what extent, as a Legislature, we should have administrative control over them. In spite of it all, and in spite of the personal explanation which hon. Mr. Bhashyam gave, I have not been able to get over my one difficulty in this matter. I do not see how, by omitting the word ‘math’ from this sub-clause (15), hon. Mr. Bhashyam could attain his object of excluding the maths from the scope of this Bill. All the speakers except hon. Sri K. Varadachari want that maths should be excluded from this Bill altogether. (A voice: ‘If possible’.) Yes, ‘if possible’. But, hon. Mr. Bhashyam, knowing perhaps the awkwardness resulting from not having the word, has added it. ‘I find that all the arguments advanced are to the effect that ‘math’ should not be included in this Bill. I want to know how the omission of the word ‘math’ from this sub-clause (15) can achieve that object, so long as Chapter V is there in the Bill. Sir, as I submitted even yesterday, the object of providing a definition of ‘religious institution’ is simply this: In a number of places in this Bill we have to use the words ‘maths, temple or specific endowment’. To avoid their repetition in a hundred places in the Bill, we are providing this definition of ‘religious institution’. I do not know how, as I said, by removing the word ‘math’ from this definition, the maths could be taken out of the scope of this Bill. This attempt seems to me like securing the cage after the bird has flown away. We have passed sub-clause (10) which defines what a ‘math’ means. ‘Math’ has therefore been included in the Bill. We have laid down further, in sub-clause (11), that a ‘person having interest’ means in the case of a math,

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a disciple of the math or a person of the religious persuasion to which the math belongs. What is a math and who is a person having interest, we have already defined. Now, I cannot understand how the object of removing the maths altogether from the scope of this Bill can be achieved by omitting from the definition of 'religious institution' the word 'math' and retaining it in every other part of the Bill. Perhaps it is the idea of some hon. Members to omit 'maths' from all the clauses of the Bill. If that is so, they could have adopted a different course and not, every time when the word 'math' comes, raise a full-dress debate. This would save time. (An hon. Member: 'Waste time?') I never used the word 'waste'. I said for saving time they could have adopted a different course. I never even felt that we were wasting time. I did not use the word 'waste'. I was only trying to understand why there was so much of discussion to exclude 'maths' from this Bill, if that was the object of hon. Members. If there is not so much discussion about this matter at every stage there will be a saving of time and energy. That is my submission in regard to this discussion.

"I do not feel called upon to answer seriously why the 'maths' should be included in this definition. The object of this Bill is to include maths in its scope and, as hon. Mr. K. Varadachari pointed out, it is too late in the day to say that a math should not be included in this definition, seeing that, whatever be the origin of these maths they should be included in this Bill and we have already so included them to the extent necessary. Of course this is subject to any change which the House may choose to make hereafter in the course of the discussion of the further clauses.

"I want at this stage to make one or two points clear. I do not quarrel with the decisions of the High Court. 27, Madras, which hon. Sri T. Viswanatham quoted, was about the head of a math who became a lunatic. He is supposed to have nominated his successor before he became a lunatic. That person died before somebody else was nominated and somebody personated the head of the math and claimed that he had been rightly nominated. The question for decision before the Court was whether this claim was correct and whether even when a matadhipathi becomes a lunatic he still has the right to nominate his successor. The High Court held that even when a matadhipathi became a lunatic, he does not, *ipso facto* cease to be a matadhipathi. There was no provision of law to enable one to authoritatively declare that the position would be such and such when a matadhipathi becomes a lunatic. The matter had therefore to go before a number of courts and finally to the High Court. There was also this question to decide as to what happened in between the time when the matadhipathi became a lunatic and the courts gave a decision. A lot of time, money and energy was spent over this matter by the disputants. One of the provisions in this Bill is that in case

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there is a vacancy somebody must step in to see that the matadhipathi or the institution does not suffer. What I say is this: as Mr. Ramaswami Mudaliyar pointed out, Justice Bhashyam Ayyangar's judgment says—

'The two classes of institutions, viz., temples and mutts, are thus supplementary in the Hindu Ecclesiastical system, both conducing to spiritual welfare, the one by affording opportunities for prayer and worship, the other by facilitating spiritual instruction and the acquisition of religious knowledge—the presiding element being the deity or idol in the one, the learned and pious ascetic in the other.'

So these temples and maths are both supplementary to each other in the Hindu Ecclesiastical system. It will be really a far-fetched statement for anybody to say 'I have the authority of the High Court decision that math does not form part of the Hindu religion at all, it is a different thing altogether.' Their Lordships also went into the question whether when a matadhipathi is a lunatic, he loses control over the math or not. The hon. Mr. Muniswami Pillay was saying 'Don't touch the math, do as the late lamented Raja of Panagal did, do not touch them at all'. Sir, the Hindu Religious Endowments Bill of 1922 which subsequently became law, was referred to a Select Committee consisting of the following 27 members—

- (1) The Hon. Raja of Panagal (*Chairman*),
- (2) Sri N. Gopalaswami Ayyangar, C
- (3) Sir C. P. Ramaswami Ayyar,
- (4) Sir T. Desikachariar,
- (5) Diwan Bahadur M. Ramachandra Rao,
- (6) Rao Bahadur C. Natesa Mudaliyar,
- (7) Sri T. A. Ramalingam Chettiar,
- (8) Sri B. Muniswami Nayudu,
- (9) Sri T. Somasundaram Mudaliyar,
- (10) Sir M. C. T. Muthiah Chettiar,
- (11) Sir A. Ramaswami Mudaliyar,
- (12) Mr. E. Periyannayakam,
- (13) Rao Bahadur P. C. Ethirajulu Nayudu,
- (14) Diwan Bahadur M. Krishnan Nayar,
- (15) The Raja of Ramnad,
- (16) Sri O. Thanikachalam Chettiar,
- (17) The Raja of Chellapalli,
- (18) Rao Bahadur C. V. S. Narasimha Raju,
- (19) Sri C. Ponnuswami Nayudu,
- (20) Sri S. Muthumanickachariar,
- (21) Rao Sahib M. C. Madurai Pillai,
- (22) Diwan Bahadur T. N. Sivagnanam Pillai,
- (23) Rao Bahadur T. Namburumal Chettiar,
- (24) Diwan Bahadur L. A. Govindaraghava Ayyar,
- (25) Diwan Bahadur C. Arunachala Mudaliyar,
- (26) Rao Bahadur K. Gopalakrishnayya, and
- (27) Sri C. Ramalinga Reddi.

I think the hon. Mr. Muniswami Pillay also was a Member of the Council in those days. At least in the year 1926 when the Bill became an Act, I think he must have been a Member. The

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Select Committee in one of the places relating to their unanimous recommendations stated as follows. I want to refer to it because hon. Mr. Muniswami Pillay was saying that the provisions included in this Bill regarding maths are perhaps more stringent than the provisions made in the original Bill. It is just the other way and those provisions were really stricter—

It is admitted that in respect of temples and other religious charities handed over to matathipathis in specific trust they should be held strictly accountable as trustees and that there is no objection to their administration of such trusts being brought under control. With regard to properties belonging to the math proper, it is claimed that its head is not in the position of a trustee and that interference with his management of such property would be as little justified as interference with private property. The latter, we think, is an untenable position. It is admitted that the head of a math is not at liberty to alienate the corpus of the math property except in circumstances which would almost justify alienation of ordinary trust property. As regards the income from such corpus and what the head of a math may himself earn by way of offerings and gifts, he is, according to the evidence that has been given before us, expected to use it only for purposes connected with the math and with himself as head thereof. Any other appropriation of such funds would be deemed to be improper. We cannot therefore subscribe to the somewhat extreme view that a math and its endowments and income constitute the absolute personal property of the matathipathi for the time being and it is significant that exponents even of this extreme view have conceded before us that, where the circumstances require such a step, it would be desirable to associate the disciples in the administration of an ill-managed institution. The math as an institution exists for the spiritual welfare of its disciples. The matathipathi is an ascetic and could, *ex hypothesi*, have no interests other than those which are proper and which subserve the interests of his disciples. Large properties are in the hands of many of them and there is evidence that several of them have mismanaged and misused the properties in their charge. These facts and considerations are ample justification for our declining to drop maths out of the Bill altogether.

So, Sir, the facts and considerations which I have read out just now which led the Legislative Council Members in those days to decline to drop maths out of that Bill altogether, is my argument now for declining to accept the amendment to drop maths altogether out of this Bill. The question whether the provisions are adequate or not and the question, to what extent there is interference, etc., are quite different altogether from the question whether maths should be included or not. I definitely say, Sir, that maths cannot be excluded from the scope of this Bill. If that is the idea of the mover of the amendment or if that is the effect of this amendment, certainly, I must oppose it with all the vehemence that I can command."

SRI T. VISWANATHAM:—"Sir, the Hon. Minister has read out the opinion of the Select Committee, and we know there were some clauses there dealing with maths; But is it not a fact that that Act gave power to the Government, and is it not a fact that almost all the maths were exempted?"

THE HON. SRI K. MADHAVA MENON:—"I cannot off-hand say, Sir, whether all the maths were exempted or not. The provisions were there regarding the maths . . ."

SRI K. BHASHYAM:—"But there were some provisions exempting these maths . . ."

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THE HON. SRI K. MADHAVA MENON:—"I am not yielding, Sir. Let me continue my argument. The question now is whether the provisions of that Act were acted upon and whether matadhipathis were brought within the scope of that Act. No doubt power was given by the Legislature under that Act; but I am told that not all the maths were exempted although some maths were exempted. For the matter of that, even under the present Bill, in the case of a math which is properly managed, the administrative control or supervision is practically nil. It is *namka caste* even now. I am glad to note that to this extent at least my friend is prepared to trust the Government to give the necessary exemption in certain cases, I am glad for this small mercy. It is true that in Chapter VI there is a section which says that—

'The trustee of every math shall in each year submit to the Board before such date and in such form as the Board may require, a budget showing the probable receipts and disbursements of the following year and a statement of the actual receipts and disbursements of the previous year.'

Again, in case of mismanagement by a trustee, power is given to the Commissioner to file a suit, and in the case of removing a matadhipathi the Commissioner has only to go to the Court concerned or the High Court. In respect of other matters, I agree with the opinion expressed in Justice Bhashyam Ayyangar's decision, viz. :—

'I am however of opinion that the head of a mutt as such, is not a trustee in the sense in which that term is generally understood in the Law of Trusts, and the decision of the question under consideration cannot therefore properly be governed by the principles regulating the appointment of new trustees or by analogies derived therefrom.'

I agree with it perfectly, because the trustee of a math is not in the same position as the dharmakartha of a temple, and the provisions regarding them are different.

"Sir, I do not want to speak more about the many other points that have been raised. Whatever may be said about the institution of maths, that they are good institutions, about their historicity, their antiquity, etc., as mentioned in the judgment, the matadhipathi is a sanyasi or an ascetic who has renounced everything in the world. And so, as we know a sanyasi, he is not interested in the worldly affairs and naturally we must give him sufficient leisure for the purpose of propagating good in this country. Therefore, the management of vast properties belonging to the math should be in the hands of some other person, irrespective of whether the head of the math is a good or a bad person, whether he is a clever man or an ordinary man—and in fact sometimes things miscarry when they are done too cleverly, as hon. Mr. Bhashyam said yesterday—and it must be so even if it be for the purpose of seeing that a good matadhipathi who is an ascetic is not duped by persons who may have purposes of their own to carry out. I am not making any complaint against the matadhipathi. In fact I will be the last person to say that any matadhipathi is bad at all but, as I said, they may not know in many cases where and in what respect mismanagement is going on and

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how it must be prevented in the interest of the math, the society and the Hindu religion itself. So, Sir, the idea of removing maths altogether from the Bill is not, according to me, quite a correct idea, however much some people may feel that the sacredness of the math may go if we do so. It was also stated by my hon. Friend that this question should not be decided by the counting of heads, that the Ministers here, 12 of them, may be of one opinion, but that it is the disciples that must decide. I answered that point yesterday. As a matter of fact, in the course of the long sittings we had in the Select Committee, evidence was taken, the matadhipathis' agents also came; the one question that was put to every witness by the Members was whether the disciples believed in the infallibility of the matadhipathi, and the answer invariably was 'yes'. So, Sir, it is not a question for consideration by the disciples alone in cases like this. It is the House that has to decide the question and it is not the twelve Ministers alone that decide—hon. Mr. Viswanatham was mistaken in saying that the Ministers were 13 in number. We in this House have sufficient power to see that mismanagement is prevented, and that is the question to be decided by us now. (Interruption by Sri T. Viswanatham.) As I said, hon. Mr. Muniswami Pillay must have been labouring under a misapprehension when he said that the old Bill did not contain all the provisions we find in this Bill. It is not so; all these provisions were also in the old Bill.

"Hon. Mr. Bhashyam says that he has been convinced of my arguments. I can only say he is only speaking evidently not with the idea of convincing me or this House but to satisfy someone else. If the hon. Mr. Bhashyam has made the remark sarcastically that he has been convinced of my arguments, I say he is clever. But, if it is otherwise, I withdraw my argument. If it is his idea that my argument is not convincing and if he had been under the belief that we were under the impression that he was talking to convince us, I say he is mistaken.

"Then, Sir, hon. Mrs. Lakshmi Ammal said that by passing Bills like this, we are only encouraging an agitation by certain sections and when hon. Mr. Kanniappan referred to a picture of the tours of certain matadhipathis some friend remarked that it is produced by black-shirts. I must strongly repudiate it. It is the mentality that is shown here that one should never go into the question of mismanagement of public funds that encourages agitation by certain sections and black-shirts. I say still properties of maths are all public funds to some extent because it is once given by some ancestors, as Hon. Mr. Kosalam said, for the purpose of propagating religion. It is all the mentality of certain sections that we should not interfere with the mismanagements of such funds that creates the sections referred to by Mrs. Lakshmi Ammal and not a Bill like this."

THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS BILL, 1949 (L.A. BILL
No. 10 OF 1949)—cont.

THE MADRAS LEGISLATIVE ASSEMBLY.

Saturday, the 18th November 1950.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVASHANMUGAM PILLAI) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BILL, 1949 (L.A. BILL NO. 10 OF 1949)—*cont.*

MR. SPEAKER:—“ We shall now pass on to the next item in the Agenda, namely, the discussion of the Madras Hindu Religious and Charitable Endowments Bill, 1949. The hon. Member, Sri L. N. Gopalaswami, will now reply to the debate.”

SRI L. N. GOPALASWAMI:—“ Mr. Speaker, Sir, I am in a way glad that my small amendment has provoked a number of Members of this House to take part in the debate, although, I must say, that I am in a way sorry, that some of them have dealt with things which were not quite relevant to my amendment. I should like first to confine myself to the argument of the Hon. Minister, before I proceed to reply to some of the points raised by my other friends. Sir, the Hon. Minister, as usual, said that he was not able to understand what useful purpose would be served by my amendment. If by this, Sir, he meant, that all the amendments which we have given notice of, are not going to serve any useful purpose, because the Government have already made up their minds to pass all the provisions of this Bill without the addition or alteration of a single comma or semi-colon, the Hon. Minister might as well say, ‘ Why all this discussion about this Bill, why should the House waste its time in discussing this Bill for a week, when it knows that we are not going to accept any of the amendments of hon. Members? The Bill is already there and we shall pass it in a day’. Sir, that will be more in accordance with the wishes of some of our friends who shed tears for the cause of our religion and who want to legislate for the reform of our religious institutions in the quickest manner possible. But, Sir, they really do not understand what is meant by this amendment, let me tell them once more, what my amendment is and what is my purpose in moving this amendment. Sir, this amendment of mine is a very simple one. It only wants that the word ‘ math ’ should be deleted from the definition of the term ‘ religious institution ’ in sub-clause (15) of clause 6 of the Bill. The Hon. Minister’s argument was that we have already defined math under sub-clause (10) and we have also got a separate chapter in the Bill dealing with maths, viz., Chapter V, and so we have included maths also in this definition and that being so, why should the word ‘ math ’ in sub-clause (15) be alone deleted. It is exactly for the very same argument, Sir, that as we have defined ‘ math ’ in sub-clause (10) and are going to devote a separate chapter in the Bill for dealing with maths, that I want that maths should not be included in a ‘ religious institution ’ which is being defined in this sub-clause (15). If the intention of the Government is to bring maths

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also under their control and to deal with them separately under Chapter V of this Bill, then why should they want to classify them with ‘ religious institutions ’. They have already defined what they are for the purpose of this legislation? Does it not stand to reason, Sir, that if maths are to be dealt with separately, they should not be confused or equated with religious institutions? I want to save maths from being classified with religious institution for this simple reason, that although the Government are anxious to take up the control of maths under this Bill, the control over maths is entirely different from the control over other religious institutions, and merely equivocating them in a verbal sense, by means of this definition, cannot really make them so, because they are entirely different things. At the same time, I would ask my Hon. Friend, the Minister for Law, to remember that Chapter V is only in the Bill stage and has not yet been passed. For that also, my hon. Friend Sri K. Bhashyam has given notice of an amendment to delete the entire chapter and to substitute it by a new chapter. Even according to the intention of the Government, they are going to deal with maths separately, they have defined maths separately and they have also expressed their intention of taking up control of maths and that being so, why should they now want to bring maths within the definition of religious institutions, because if some unscrupulous officer put in charge of the administration of this Act, would treat all these maths as religious institutions and make a confusion of things, by applying to them any of the provisions of this Act, which might suit him. That, Sir, will lead to most undesirable consequences.

“ Now, Sir, a lot of confusion has been created over the provisions of this Bill that we are only thinking in terms of the persons who are occupying the posts of matathipathis. That is a matter that was being discussed very much on the floor of the House, although that was not relevant to the issue. The real point is, what is the origin of the math, and what is the difference between a math and other religious institutions, and what are the religious aspects of the maths brought within the purview of this Bill and so many other religious institutions. Those are the points that will have to be examined, in order to see whether they should be dealt with separately or not. Sir, many of the members who have spoken on this amendment, including the Hon. Minister, were simply saying that these matathipathis had misused the properties of the maths, that they had not accounted for the income from those properties, and so the State should interfere. How all these things are relevant to my amendment, I am not able to comprehend. There has been this confusion throughout the discussion of this amendment and nobody was able to understand the real purport of my amendment.

“ Sir, let me trace the history of this Bill. When it was first proposed about three years ago by the then Chief Minister, Mr. Omandur Ramaswami Reddiyar, there was no distinction made between a math and a religious institution and the entire religious

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field was sought to be covered and brought within the field of this State legislation. Perhaps he did not know that in the Constitution that was in the making at that time, was going to confer certain fundamental rights to the people, in regard to certain religious matters, and that the State could not interfere with such rights. After a period of about ten months, he brought it before this Assembly and by that time the new Constitution was passed in the Constituent Assembly and the Constitution Act was actually placed on the statute book. Immediately some of the members of this House raised the objection that that Bill offended the fundamental rights given under the Constitution and that the Government had no right to interfere in such religious matters. But the Government were adamant and said that they had consulted the Advocate-General and their law officers, that everything in that Bill was quite legal, and that they would proceed with that measure. That Bill was introduced in the Assembly and referred to the Select Committee. The Select Committee have made certain changes in the Bill and made their report to the House. But even before the Select Committee had made their report, there was a change in the Minister in charge of the Bill and a new Minister has taken charge of this portfolio and he has proposed a number of changes to the Bill after it had emerged from the Select Committee. We have, therefore, in fact, a new Bill under a new set of circumstances piloted by a new Minister."

THE HON. SRI K. MADHAVA MENON:—"May I interrupt for a moment, Sir, and inform the hon. Member that it is not so. The Hon. Dr. T. S. S. Rajan has been in charge of the Bill all along and there has been no change of the Minister in charge of this portfolio. Even now it is he who is in charge of this Bill, Sir."

SRI L. N. GOPALASWAMI:—"Sir, I can only refer to the Chapter V of maths in this Bill and ask the House to judge for itself what are the changes that have been made by the Select Committee, which are printed in clarendon type and how they alter the entire character of the original Bill as introduced by the ex-Premier. Even at this stage, the Hon. Minister in charge of the Bill has given notice of a number of amendments, after it has been reported on by the Select Committee."

"Sir, when the then Hon. Premier introduced the Bill, he repeated the same arguments that many of the hon. Members have now stated, namely, that these matathipathis had been leading a luxurious life, spending the funds of these maths as they please, that they had refused to be brought before the court, that they had been adopting all tactics in order to evade appearance in courts by putting petitions and counter-petitions, putting first appeals and second appeals at every stage, and thus wasting the finances of these religious institutions, because they were the executive heads of these maths. But now the Government have thought it better to deal with these maths separately from other religious

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endowments. If they want to separate maths from other religious institutions, and give them a different treatment, then why on earth do they want to classify them under religious institutions? My main objection to the present proposal of the Government to include maths under this Bill is that once they have decided to allow a separate treatment for these maths, they should not now bring them within the clutches of this legislation. Further, I submit that the present Indian Constitution permits, under Articles 25 and 26, interference with religious institutions only to a certain extent and the State shall not transgress any further than that limit. It is only to explain what those limits are, beyond which the State should not interfere under the Constitution, that my hon. Friend Sri T. Viswanatham has taken so much pains to explain the origin and history of these maths and how they differed from other categories of religious institutions and what the legal aspect of the matter was, and he also quoted several decisions of the High Court in support of his contention. He quoted those decisions, not because they were simply High Court decisions, but his real object was to bring to the notice of the House, how even in those olden days, there were a lot of controversies and disputes going on over the question of maths *versus* religious institutions, how the matathipathis were controlling these maths and what their position was, so far as the law of the land was concerned. Sir, I could not really understand the argument of my hon. Friends including the Law Minister, when he said that because laws had been in existence for the last 50 or 100 years, we should change the laws and should change our attitude towards religion and religious institutions, for, everything is changing in the world in these days. Of course, I agree that things are rapidly changing, but I cannot understand how even the fundamental truths and principles could change. Sir, I would respectfully submit to my hon. Friend that long long ago, when Euclid first invented his geometry, he said that right angle contain 90° and now because we have travelled such a length of time, is it right for us to alter his theory and say that a right angle should contain only 89° and not 90°? Sir, ever since mathematics originated, we have been taught that 2 *plus* 2 is 4. Is it now right to argue, that because we have made changes in so many other things, we should make a change in mathematics also, and say that 2 *plus* 2 should make 5? That was exactly the line of argument of my hon. Friends. They said that because we have changed certain old laws and introduced certain new measures of reform, we should also change our old religious foundations and our outlook on these religious institutions. Sir, I am unable to understand this kind of logic and this line of argument even with regard to these fundamental things. I would only ask my hon. Friend whether, since we have tried to make certain researches in our Food department to find out some substitutes for rice, it will be right on our part to say that we cannot give rice to the people any more and that they should hereafter eat something else, because the food situation in the State is very grave.

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"This argument cannot hold much water. Certainly there are things which can change with the change in times and there are others which can never change and will not change. I shall give an example of a thing that can change. We have changed so far as untouchability is concerned. We have now stated that untouchability should not exist. After 100 years will my friends say, simply because times have changed, that untouchability should come back. It will be as foolish as the argument of theirs. I was just now talking about the changes made in the Bill. The Bill has undergone so many changes made by the Select Committee and other amendments?"

MR. SPEAKER:—"Let the hon. Member come to the point."

SRI L. N. GOPALASWAMI:—"I am just pointing out, Sir, how the confusion has arisen, and how the amendment has been confused with other aspects. After the Select Committee stage, it has come back to the Assembly with many changes. The Government themselves now want to make so many changes after the Bill has emerged from the Select Committee, because they now at least thought that they should descend to earth and see that the fundamental rights of the Constitution should be respected. What I submit is that they have changed some clauses, but as a corollary or concomitant of the changes made, they have not altered the other relevant clauses. I am here reminded of a story. A Governor was given a party by one of the zamindars. The zamindar was asked to prepare an address to the Governor. The zamindar evidently did not know English. He asked one of his friends to prepare the address in English. He prepared it, and the address began with the words 'Ladies and Gentlemen'. At the time when the address was to be presented to the Governor, the person who prepared the address found no ladies in the audience, and therefore he whispered into the ear of the zamindar to omit the word 'Ladies'. The zamindar accordingly began by reading 'And Gentlemen'. That is what we are now doing. Certain changes have been made to remove the objectionable features, but the consequential objectionable features have not been removed. We should now take out all such portions that are in contravention of the fundamental rights which has been accepted."

SRI P. KANDASWAMI PILLAI:—"On a point of order, Sir. I wish to know whether the hon. Member is reviewing the whole Bill, or is speaking on the amendment."

SRI K. BHASHYAM:—"Is that a point of order?"

SRI L. N. GOPALASWAMI:—"As the Constitution has now come into force, I say that maths, as I shall presently show, cannot come under the definition of religious institutions."

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MR. SPEAKER:—"If there is any discrepancy between the Constitution and the Bill, let the hon. Member raise a point of order. Let him come to the point."

SRI L. N. GOPALASWAMI:—"Sir, the Government have taken away certain provisions of the Bill. They have taken away the right of appointing the executive officer, and that clause 22, which deals with the right of management, is gone. But the definitions have not been altered accordingly. I say that there is a chapter on maths, and when we come to that chapter we will discuss maths, and that until then we need not bring maths under the category of religious institutions. By including maths in religious institutions, they will suffer not only from the handicaps of maths but also from the handicaps to which religious institutions are subject."

MR. SPEAKER:—"I will allow two more minutes for the hon. Member."

SRI L. N. GOPALASWAMI:—"I want some more minutes, Sir."

MR. SPEAKER:—"The hon. Member has already taken 10 minutes for the reply. I will allow him five more minutes."

SRI L. N. GOPALASWAMI:—"Even Mr. Madhava Menon has stated . . ."

MR. SPEAKER:—"The hon. Member will say 'the Hon. the Minister'."

THE HON. SRI K. MADHAVA MENON:—"It is only familiarity, Sir."

MR. SPEAKER:—"No, we should proceed on Parliamentary lines."

SRI L. N. GOPALASWAMI:—"The Hon. Minister Mr. Madhava Menon seemed to contend that if all the Members of this House were agreeable, certainly a Bill could be brought forward to legislate on this matter. The hon. Member Mr. Bhashyam, who seconded my amendment, had also expressed such a thing by implication that if all the *sishtyas* of a math were amenable, then he had nothing to say and that he would keep 'mum' and allow the Government to go on. That is not the correct attitude, Sir, according to me. Even if all the *sishtyas* of a math, and even if all the Members of this House are agreeable, they cannot legislate on matters which are not within their domain. Law says that we can legislate only upon certain matters."

MR. SPEAKER:—"If it is the hon. Member's view that there is a discrepancy between the Constitution and this Bill, let him raise a point of order."

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SRI L. N. GOPALASWAMI:—"Sir, you have stated already I am not well versed with law; I have no legal assistance, etc."

MR. SPEAKER:—"No; let not the hon. Member repeat it again."

SRI L. N. GOPALASWAMI:—"I have already answered the points raised by hon. Members while advocating for the exclusion of maths from this sub-clause. Simply because one wants to kill the dog, he gives it a bad name and hangs it. Powers are not vested in the Government to bring maths under the category of religious institutions. Maths cannot be brought under the category of religious institutions simply because all the Members are agreeable to bring in such a law. Suppose, Sir, some of the hon. Members of this House do blackmarketing, by getting licences and make money, I ask, Sir, is it open to this House to say that those Members who have been blackmarketing and amassing wealth should account for all the money they have collected by way of blackmarketing?"

MR. SPEAKER:—"The example is a bad one. The hon. Member should not bring in such examples."

SRI L. N. GOPALASWAMI:—"I only say, Sir, that it is as bad as saying that matadhipathis misappropriate the money, and, therefore, they should be asked to account for it. The Government should have first the right to ask so. Unless they have that right, they should not enter into that portal. That is my humble submission." The hon. Member Mr. Ramaswami Mudaliyar stated that the Endowments Act of 1927 is there already. Nobody said that it was not there. Maths have been defined there. But my reply to him is that most of these maths are given exemption, and no action has been taken against the maths. At the time when that Act was passed, there was no Constitution. Now the Constitution has come, and the Government are prevented from making this law. Under Article 25 of the Constitution, the Government are entitled to make laws only so far as religious practices are concerned. They could not make laws in respect of propaganda management or the other portions of it.

"The argument of the hon. Member Mr. Varadachari was that this should be left to the future people. I am unable to understand this argument. If it is wrong now, it is wrong even at a future date. In conclusion, Sir, I want to bring two points to the notice of the Government. The intention of the amendment is simple. It has nothing to do with appropriation or misappropriation by the heads of maths. The point is only to take away maths from the definition of religious institutions. I hope the Hon. the Minister understands this point. If and when we get an opportunity to move our amendments to the clauses relating to maths, it should not be said then 'we have already defined maths in sub-clauses (10) and (15) of Clause 6 and therefore no useful purpose would be served by attempting to remove maths'."

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THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I have understood now what the hon. Member has in his mind in moving his amendment. He said that his idea was that maths should be taken away from the definition of religious institutions. He said 'the Hon. the Minister stated that if all the Members were agreeable they could bring in a Bill', and also 'the hon. Mr. Bhashyam expressed that if all the *sishyas* were amenable, he would keep 'mum'. The hon. Member stated that both were wrong, and that it was not within the domain of this legislature to have anything to do with maths."

SRI L. N. GOPALASWAMI:—"I never said that, Sir."

THE HON. SRI K. MADHAVA MENON:—"We cannot legislate on a matter which is not within the domain of this legislature', these are the words he used, Sir. Even now the hon. Member says that his object is that nothing should be done in this legislature regarding maths. He says that maths should certainly be outside the jurisdiction of this Bill. It is a matter of fundamental principle. Maths should be brought under the definition of religious institution. My friend was humorously referring to Euclid's right-angle of 90 degrees, and to the fact that 2 plus 2 is always 4, without reference to change in times. There is a proverb in my language Malayalam, namely—

'Asvini Barani Krithika padam—Mesha Rasi'

So, everything is yes, because it is yes. My hon. Friend has reconciled to changes of things which were thought to be sacred and even sanctioned by scriptures. He felt that Harijan temple entry and the Removal of Civil Disabilities Act were all good."

SRI L. N. GOPALASWAMI:—"Sir, untouchability was never sanctioned by scriptures."

THE HON. SRI K. MADHAVA MENON:—"I do not know that untouchability was never sanctioned by scriptures. I have heard from religious authorities saying that it was sanctioned by scriptures. Sankara Smriti was quoted in support of untouchability being sanctioned by scripture. Untouchability was permitted for Chandalas—whatever may be the definition of Chandalas. Untouchability was sanctioned by Manu. Even those principles laid down in ancient days by Yagnavalkya and others have changed. Because Euclid's theorem cannot change, it is no answer to say that things of a social nature cannot change. The right of matadhipathis as absolute owners of the maths is not affected. It was wrong on the part of my friends to understand that way. I have nothing against them personally. I only say that there is certainly a demand that the money which is in the hands of these matadhipathis (the matadhipathis themselves being ascetics and persons who have renounced the world) should not be misspent or misappropriated, and that the Members of the House have a right to see that those moneys are not misspent. Sir, even economic principles which were thought before as absolutely unchangeable

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have now changed. The fifth dimension and also the sixth dimension have come. (Sri K. Bhashyam: 'Einstein's theory has upset.') Absolute theories have become changed. To say that Euclid's theorem cannot change, and that 2 plus 2 would always make 4, and, that, therefore, social things cannot change for all time, is not correct. That is all I have got to say."

MR. SPEAKER:—"The question is—

'In sub-clause (15) delete the word "math".'

The amendment was lost.

Sub-clause (18).

MR. SPEAKER:—"I suppose the hon. Member Sri Viswanatham is not moving his amendment."

SRI T. VISWANATHAM:—"I move, Sir."

SRI K. BHASHYAM:—"It is so amusing to move amendments, Sir."

SRI T. VISWANATHAM:—"Sir, when we move an amendment, it is a matter of amusement to us. When we do not move, it is equally an amusement. The whole thing is amusing. But it cannot be helped, as Hon. Sri Madhava Menon knows. The reason why I move for the deletion of this sub-clause is very simple. There is already an existing legislation and from the Administration Reports of the Madras Hindu Religious Endowments Board I see that the Act is working satisfactorily with regard to the Tirumalai-Tirupati Devasthanams, and no case is made out why they should be included again in this legislation. There is already a separate legislation and it may be continued. The Administration Report says that the institutions are all working satisfactorily. Therefore, I would like the Hon. Minister to tell us why it is found necessary to repeal that Act and bring those institutions also within the purview of this Bill. I move, Sir—

'That sub-clause (18) be deleted.'

SRI K. BHASHYAM:—"I second the amendment, Sir."

MR. SPEAKER:—"The amendment moved—

'That sub-clause (18) be deleted.'

THE HON. SRI K. MADHAVA MENON:—"Sir, it is not because the existing Act has not been working properly that the Tirumalai-Tirupati Devasthanams have been included in this Bill. There is no particular reason why those Devasthanams should be treated in a different way from any other Devasthanam. All Devasthanams are sacred. Conditions are the same except that Tirumalai-Tirupati Devasthanams hold more property than others. Therefore, there is no necessity to make a distinction

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SRI T. VISWANATHAM:—"Sir, I thought that I would be enlightened on the point why those Devasthanams have been included in the present Bill. But the Hon. Minister has not enlightened me. The Government have so far dealt with those Devasthanams under a separate legislation and now they are trying to change it. I press the amendment, Sir."

The amendment was put and lost.

Sub-clause (19).

THE HON. SRI K. MADHAVA MENON:—"Sir, I move—
'That the brackets and words "(including the Board of Trustees appointed under section 40)" be omitted.'

These words are redundant and, therefore, they may be omitted."

SRI K. BHASHYAM:—"May I be permitted to second the amendment?"

MR. SPEAKER:—"Government amendments need not be seconded."

SRI K. BHASHYAM:—"I support it, Sir."

MR. SPEAKER:—"The amendment is—

'That the brackets and words "(including the Board of Trustees appointed under section 40)" be omitted.'

The amendment was carried.

MR. SPEAKER:—"Hon. Sri Viswanatham may now move his amendment."

SRI T. VISWANATHAM:—"I am not moving the amendment, Sir. The Government do not seem to have any general ideas on the subject." (Laughter.)

THE HON. SRI K. MADHAVA MENON:—"My hon. Friend moved an amendment to clause 3. This is more or less a corollary to that."

MR. SPEAKER:—"The motion is—

'That clause 6 as amended do stand part of the Bill.'

SRI T. VISWANATHAM:—"On a point of order, Sir. At the time of discussing Explanation (1) to sub-clause (14), I thought that sub-clause would be separately put to vote and I could raise a point of order. But you were good enough to suggest that I could do it now."

MR. SPEAKER:—"If anything is out of order, the hon. Member can raise a point of order at any time."

SRI T. VISWANATHAM:—"My point of order is that the portion covered by Explanation (1) to sub-clause (14) of clause 6 is *ultra vires*. That is why I move that it is out of order. In doing

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so, I shall briefly state my reasons. You are aware of the provision which has now become very famous and with which everyone is very familiar, namely, clause (2) of Article 31 of the Constitution. Clause (1) of that Article says that no person shall be deprived of his property save by authority of law. Clause (2) says that no property, movable or immovable, including any interest in . . .

MR. SPEAKER:—"The hon. Member considers it is private property?"

SRI T. VISWANATHAM:—"The point is that a property belonging to any person shall not be taken away for a public purpose unless the law provides for compensation. If you refer to the language of Explanation (1) to sub-clause (14), you will find the wording 'Any inam granted to an archaka, service-holder or other employee of a religious institution'. The provision itself says that the grant stands in the name of the service-holder. Therefore, even if the Government do not have it in their mind, the language says that the grant is in favour of the archaka, service-holder or other employee of the institution. When once they say that it is a grant in his name, they cannot at the same time say that it shall be deemed to be the property of the temple or the religious institution, without payment of compensation.

"Sir, I could have understood if it had been stated there like this 'inams which are in the enjoyment of archakas, service-holders, etc.' Here they actually say that it is granted."

MR. SPEAKER:—"Granted for a specific purpose."

SRI T. VISWANATHAM:—"Whatever the purpose may be, the grant is not to the temple but to the archaka. At the time of the grant, the temple and the archaka, both were in existence. The donor while making the grant knew the existence of the temple and yet he specifically gave it in favour of the archaka, service-holder or other employee of the religious institution. It is not as if the matter is in doubt. There have been cases where the language was not clear and the matter was looked into by Courts of Law and decisions were arrived at whether an inam belonged to the employee or to the religious institution. Here in this case the position is not so. The inam has been granted to the archaka, according to the language of the Bill. It is a positive admission of the Government and yet they say it shall be deemed to be the property of the religious institution. When once they say so, they have also to provide for compensation as required by Article 31 of the Constitution. If it is a matter of doubt, I shall take you, Sir, through one or two sentences of Justice Venkata Subba Rao who went into the question of these tenures carefully. I have already drawn attention to this aspect on another occasion. It is said—

'To determine whether the grant is resumable or not . . .'

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The language of the grant is not forthcoming. When once the language of the grant is there, there is no further question as to whom it belongs. Whether the grant is burdened with services or whether it is in lieu of wages is a different aspect altogether. The donor knew the existence of the institution. Still he wanted to make a specific grant in favour of a specified person. It may or may not be burdened with service. If it is burdened with service, it can be resumed only in some cases. The Judge says, 'To determine whether a grant is resumable or not . . .'

MR. SPEAKER:—"Is it about archakas?"

SRI T. VISWANATHAM:—"I think I have not made myself clear. I am saying that it is out of order because the law is seeking to take away the property belonging to certain archakas or service-holders and convert it into part of the property of the religious institution. That is to say, it is taking away the property of private persons."

MR. SPEAKER:—"The contention of the hon. Member is that the archaka or the service-holder is the owner of the property?"

SRI T. VISWANATHAM:—"Not any contention, it is in the present provision. I want to draw your attention to the language of the Bill. The Hon. Minister gives an explanation but that explanation is not borne out by the language of the Bill. According to the language of the Bill, the Government admit that the inam is granted to the archaka or service-holder. It may be burdened with service, but if it is burdened with service, as long as the grantee is willing to perform the service, it is not resumable at all. The Government cannot touch it under the existing law. If they want to touch it, they may do so paying compensation. While we were discussing Explanation (1), we were on the point that the Government could not touch these things. Now we are on a different point altogether. The House agreed to the proposition that the Government can take away that property but I submit that they can take it only on payment of compensation.

"The grant was made to the archaka or service-holder while the religious institution had been existing. It is not as if the grant was made prior to the coming into existence of this institution. The donor knew the existence of the institution and yet he made the grant in favour of the archaka or service-holder. Therefore, it is absolutely clear that the grant is in favour of a specified person. It may be burdened with service but when it is burdened with service, it cannot be resumed so long as the grantee is willing to do the service. But if the Government want to convert it by legislation to-day into a property of the religious institution, they must pay compensation. Here the difficulty has arisen for me to convince you as to how it is *ultra vires*. It is *ultra vires* because of the language used. If they did not say, 'Any inam granted to the archaka, service-holder or other employee of a religious

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MR. SPEAKER:—"Even two days ago I felt that the hon. Member Sri Viswanatham would raise this point of order. I entirely agree with the Hon. Minister that it is not the intention of the Government either to take possession of or acquire the inams. So . . ."

SRI T. VISWANATHAM:—"May I be permitted to interrupt the Chair and say a few words?"

MR. SPEAKER:—"All right, the hon. Member may say what he wants to say. Let him not complain afterwards that I gave my ruling without hearing him."

SRI T. VISWANATHAM:—"Sir, you began by saying that it is not the intention of the Government. We are not concerned with their intention. My point of order is that what is contained in Explanation (1) is *ultra vires* of the Constitution."

MR. SPEAKER:—"As I read the Explanation (1) I find that Government do not seek to take possession of or acquire the inams. Therefore, I rule the point of order raised by the hon. Member out of order."

Clause 6 as amended was then put and carried.

CHAPTER II.

Clauses 7 and 8.

MR. SPEAKER:—"The motion is—

'That clauses 7 and 8 of Chapter II do stand part of the Bill.'"

THE HON. SRI K. MADHAVA MENON:—"Sir, I move—

'That Chapter II and clauses 7 and 8 thereunder be omitted.'"

MR. SPEAKER:—"This is a Government amendment. If this is accepted neither hon. Member Sri Viswanatham nor hon. Member Sri Bhashyam can move their amendments. That is the procedure. Now, the amendment is—

'That Chapter II and clauses 7 and 8 thereunder be omitted.'"

SRI V. M. RAMASWAMI MUDALIYAR:—"Sir, I thought at the Hon. Minister in moving the amendment would explain the position."

MR. SPEAKER:—"The Hon. Minister may explain the amendment."

THE HON. SRI K. MADHAVA MENON:—"Sir, hon. Member Sri Varadachari wanted me to say why under clause 7 of Chapter II, the Government should seek to take wide and exceptional powers. He said that insertion of a general clause like that

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is dangerous and not necessary too. We agree that it is not necessary to have such a wide and all-embracing clause and so have brought forward the present amendment for the deletion of that clause. Regarding clause 8, though it is omitted here, it has been inserted at the end as new clause 99-A as that is a more proper place than Chapter II."

SRI V. M. RAMASWAMI MUDALIYAR:—"Sir, one of the points that I wanted the Government to explain is, 'Why they are omitting clauses 7 and 8 and as a matter of fact the entire Chapter II?' I find that clause 8 comes in at the end and that it has been recast as new clause 99-A. I do not know why they should omit clause 7. I am sure that clause 99-A by itself is not sufficient and it would be much better to retain clause 7 of the Bill as it is. However, if they want they can remove this Chapter II and add an altogether different Chapter. It does not matter very much whether it is at the end or at the beginning. I would like to have the least number of changes in the order of these clauses unless there is some logical sequence.

"I feel it is necessary to have a more detailed explanation and therefore, I am for the reproduction of clause 8 under clause 99. At the same time, I am also for the retention of clause 7."

SRI R. V. SWAMINATHAN:—"Mr. Speaker, Sir, I am very sorry that the Government have come forward to delete Chapter II altogether. I feel that this chapter is very important. All along, Sir, we have been under the impression that the Government would ask for more powers to deal with these endowments. Even now, the powers delegated to the Hindu Religious Endowments Board are not much. People are not really satisfied with the working of the Board. Of course, there are charges that the Board is exercising too much control. But these are all made by interested parties and just as there are such charges, there are also other charges levelled by other men that the Board is not given any power to have effective control over religious endowments. Sir, when this Bill was moved in this House for the first time some two years ago, we all suggested that the Government should have absolute control over the activities of maths and others. It is true, however, that certain hon. Members raised objection to the Government taking such powers. They said, 'ours is a secular State and the Government should not have anything to do with religious matters'. They pointed to the existence of several other communities in the country and said that all had freedom to do anything religious so far as each individual's religion was concerned. But let me say, Sir, that so far as our State is concerned, the majority of us are Hindus and, therefore, nobody need be frightened about this measure. Some other hon. Members said, 'When you have a Hindu Religious Endowments Bill, why not you introduce a measure to control mosques and churches'. I think this point is not at all relevant. As a Hindu, I want that the Government

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should have control over Hindu religious institutions. If the mosques and churches also need control let the Christians and Muslims ask for it. It is not our business to do so. I want Hindu religious institutions to be maintained properly and I cannot understand why the Government have come forward with a Motion which seeks to take away such powers. I do not understand either how this chapter goes against the provisions of Article 26 of the Constitution. I may say one thing here. At each and every stage, objections are raised with reference to Fundamental Rights and the passage of measures is delayed. I therefore, strongly feel that both the clauses 7 and 8 should be retained."

SRI PYDAH VENKATANARAYANA:—"Mr. Speaker, Sir, clause 7 confers unlimited, vague and sweeping powers on the Government which are quite unnecessary"

MR. SPEAKER:—"The Government motion is that that clause should be deleted."

SRI PYDAH VENKATANARAYANA:—"I am only supporting the Government Motion. There are other clauses which give sufficient powers to the Government to manage and control religious institutions and other endowments."

SRI K. BHASHYAM:—"Mr. Speaker, Sir, it is rather an intriguing position which the Government have put themselves into. While they say that clauses 7 and 8 will be withdrawn, they have reproduced clause 8 elsewhere in the Bill. When the Motion says that clauses 7 and 8 may be deleted, it is not correct. It is not absolutely accurate. Clause 8 is retained but transferred over to clause 99 and made clause 99-A. Therefore, I do not know what the idea of the Government is. When I read in the newspapers that clauses 7 and 8 were sought to be omitted. I felt that there was some sense in it. But when the Government say that clause 8 will be reproduced it makes nonsense. Clause 8 which will be reproduced as clause 99-A gives powers to the Government to revise any order passed by the authorities constituted under the Act. They can revise the Commissioner's orders or the orders of the Assistant Commissioners and Area committees. Every one of the proceedings can be revised. They have got all powers. They want to grab all powers. They want to sit tight and yet want to show to the outside world that they do not seek any powers. They want to show to the world that their 'secular' Government are not concerned with religious matters. Why all this camouflage. I ask, if I may use the term here. It is not proper, it is really wrong, it is misleading to publish in newspapers that Chapter II would be omitted when the real position is that it is not so. This is not a fair thing to do for any Government. I would call it a trick played upon the public if any ordinary person has done it. I do not know what to say when it is the Government that have done it."

[Sri K. Bhashyam] [18th November 1950]

"Again, Sir, the Government want to have power but would not take up responsibility. They want to interfere with the administration of religious endowments and public charities but they would not have the responsibility of administering them. Clause 7 deals with superintendence of all religious institutions and endowments by the Government and that is taken away. But the power of revising the orders passed by the Commissioners and other authorities remains. It all means this. The Government will have no powers of initiating but will control. It is not safe to put power into the hands of the Government to control without responsibility. To use a political maxim power should not be given without placing responsibility as well. Therefore, let the Government retain both clauses 7 and 8 and take thus the responsibility for superintendence also. It is for this reason that I said, that the position was intriguing and you really laughed over it when it was said. Let the Government come out and say, 'we shall be responsible for the whole management of and superintendence over these things'. Let them say not merely 'we shall revise, confirm or do anything we like in respect of orders passed by the Commissioners'. Any ordinary man would have thought, after seeing the publication in the newspapers of this amendment, that the Government had given serious consideration to the provisions of the Constitution or that some directions from above had come at any rate from persons whose views could not be set aside—to delete this chapter in keeping with the secular character of the administration and that therefore, they have proposed an amendment to delete it. What now happens is clause 8 remains. I want the Government to make a specific declaration as to the necessity of clause 99-A. If they would not insist upon clause 99-A, I shall vote with them so far as the present amendment is concerned. If they say that they will insist, then I shall vote against the amendment. Clauses 7 and 8 must remain together or must go together. I wish they go."

SRI K. VARADACHARI:—"Mr. Speaker, Sir, I am really surprised that hon. Members on this side as well as the other side of the House objected to the deletion of clauses 7 and 8. I am still more surprised that the hon. Member, Sri Bhashyam should plead for completely omitting clauses 7 and 8 (not reproducing clause 8 as clause 99-A) or retaining both. The Government must have certainly revised their opinion about the validity of clause 7 which deals with general superintendence of all religious institutions and endowments. That is to say, the Government take upon themselves the responsibility of managing all institutions connected with the Hindu religion. This provision is certainly against the provisions of the Constitution and will certainly be held to be *ultra vires* if it remains. The Government have, therefore, done well in having taken legal opinion on this provision and seeking now to omit it."

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"So far as clause 8 is concerned, how far it will be just and proper on the part of the Government to take such powers as mentioned therein and how far such powers will be in keeping with the provisions of the Constitution are matters which can be dealt with when we take up clause 99-A which is but a reproduction of clause 8. Clauses 7 and 8 are sought to be deleted. Once they are deleted, it is open to the Government to introduce one or both of the clauses in any other later chapters. Then only it will be time for us to criticise or to amend that clause and certainly not now. I, therefore, submit that the Government motion can be accepted."

SRI K. BRAHMANANDAM REDDI:—"Mr. Speaker, Sir, I feel that my hon. Friend Sri Bhashyam should not blow hot and cold in one breath. When the Bill was introduced he was saying that its provisions were opposed to the Constitution. And now, when the Government have come forward to delete a provision which had been introduced originally and which the Government felt impelled to withdraw since it went against the provisions of the Constitution, he opposes it. It is not open to him to say 'delete both or retain both.' It is not fair to say so. It is not even proper, in my opinion . . ."

SRI V. RAGHAVAYYA:—"What about the merits of the motion?"

SRI K. BRAHMANANDAM REDDI:—"I am coming to the merits of the motion. My hon. Friend, Sri K. Varadachari, spoke at length about clause 7. I agree with him that the Government would have been told that the provisions of that clause go against the Constitution. Even according to the hon. Member, Sri Bhashyam, it is so. I submit, therefore, that it is fair and legal that this clause is omitted."

"Secondly, I would like to tell my hon. Friend, Mr. Swaminathan, who is opposed to the deletion of both the clauses that there are sufficient powers for the Government under clause 8 which will be reproduced as clause 99-A. There is sufficient check provided for in this clause and I would request him to withdraw his opposition."

SRI M. S. PATTABHIRAMIAH:—"I heartily support the amendment, Sir, that has been brought forward by the Government, because it was felt all along by people who have real interest in the religious institutions, who want that this Bill should be passed into law that these clauses which are so irritating should go. I consider it to be not a small mercy. It is really a big mercy and we are really grateful and thankful to the Government for bringing in this amendment. As it was pointed out by hon. Sri Bhashyam this clause 8 is being shifted and incorporated later under clause 99-A). Instead of referring to it now, we can

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discuss it later on when we reach that clause. But as it is, if this clause 7 had been there, it would have vitiated the whole Bill and I would have been sorry, if on that account this Bill were to be returned by the President for reconsideration. The Government have therefore done a good thing in coming forward with an amendment for the deletion of these clauses and I agree with them and heartily congratulate them on bringing in this amendment."

SRI T. VISWANATHAM:—"I would certainly, Sir, like to congratulate the Hon. Minister for at least once he has admitted that the provision, for which he fought and retained in the Bill in spite of our advice, is wide of the mark. This clause was there when the Bill was presented to us. The term 'vest' in the clause was commented upon pointedly and the Hon. Minister in charge of the Bill said that they have taken legal advice and also read the legal advice to us, and talked as though they had understood everything and that we did not, when we raised objection to this clause. But now, Sir, I am glad on further consideration the Government have decided to drop that clause 7, because it contains one particular word. One word like 'vest' generally is enough, just as I was talking about the service 'inams' one word is enough to vitiate the whole Bill. I therefore, congratulate the Hon. Minister. But however, I agree with the remarks of my hon. Friend Sri Bhashyam for entirely deleting the chapter. The reason is, the clauses have been deleted only in name, just to satisfy the legal conscience. The Government have taken the substance from here and put it under other clauses without however using the word 'vest.' It can only satisfy the persons who raised constitutional objections. But if you look at the redrafted clause 22 and then read it with clause 99-A you will find that only these two gentlemen clauses 7 and 8 have changed their dress, from the 'dhoti' and the bare body which they had then to a shirt, suit, tie, and collar. That is all the difference. That is the reason why when the hon. Member Sri Swaminathan was saying 'why do you remove this chapter', I was actually sympathizing with him. The reason is that the Government have not actually removed these clauses. They have just done this to conform to the Constitution, and in obedience to the Constitution. But I would like to point out that all the things which would vitiate the Bill if passed into law are still present in Clauses 22 and 99-A. With the same sense of broad-mindedness with which the Government have reconsidered and omitted clause 7, they will, I hope, also reconsider the other provisions in the Bill and consider the objections when we raise them in the proper place and drop these clauses also."

SRI R. V. SWAMINATHAN:—"Sir, I raise an objection. Some hon. Members have taken advantage of my objection to the deletion of these clauses and made certain references. I want to explain my position."

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MR. SPEAKER:—"The hon. Member is trying to make a second speech. Nobody has attacked him, or made any reference of a personal nature about him. There is therefore no need to make a personal explanation."

SRI K. BHASHYAM:—"Sir, the hon. Member Sri Brahmanandam Reddi said something about me, that I was blowing hot and cold in the same breath and that I was illogical and something like that. I want to say a word about it."

MR. SPEAKER:—"Is it that the hon. Member wants to speak after the Hon. Minister's reply?"

SRI K. BHASHYAM:—"I want to say only a few words. Sir. I should like to tell the hon. Member Sri Brahmanandam Reddi for his information and his knowledge that I opposed both the clauses, clauses 7 and 8 and I do it even now. There is nothing illogical about it. The Government only say 'Take the Kudumi and not the head.' But let them say so openly. I only want my hon. Friend to know that it is wrong to think that I am wrong while all the time he is wrong indeed."

THE HON. SRI K. MADHAVA MENON:—"Sir, I have not much to say beyond what my hon. Friend Sri K. Varadachari has said about this amendment. I have only to answer hon. Member Sri Bhashyam to whom it is all intriguing. It is certainly intriguing to him. The hon. Member would have liked the clauses to remain as they are. The hon. Members Sri Bhashyam and Sri Viswanatham and others think that if these clauses were there as they are, they would offend the Constitution and the whole Bill would become invalid. In that sense only it is intriguing. Otherwise there is nothing intriguing in this. I definitely said when I moved the amendment and it was expressed in this House that the clauses would offend the constitution. For this my hon. Friend Sri Viswanatham takes me to task. We have examined the whole thing and we find it would be better to remove the clauses and avoid the difficulty. I also said that Clause 8 is reproduced as Clause 99-A. This clause empowers the Government to call for the records and examine them and so on. The hon. Member Sri Viswanatham said we have removed the man in 'dhoti' and put him in trousers and collars and that was all the difference. Assuming for argument's sake, all that is correct, what is the harm in doing it? Apparently there was something in these clauses that we thought would offend the Constitution and worse harm would be done. In order to remove the difficulty what is wrong in dressing them up properly so that they may not offend the constitution and that is all what we have done. For the time being there is therefore no intrigue at all. Clause 7 is being omitted and Clause 8 is being reproduced later on under a different section."

The amendment was put and carried.

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Clause 9.

MR. SPEAKER:—"The motion is—

That clause 9 do stand part of the Bill? "

* SRI T. VISWANATHAM:—"Sir, I move the amendment standing in my name, namely:—

For existing item (a), substitute the following:—

"The Commissioner of Public and Religious Endowments, Charities and Trusts."

"Sir, the purpose of my amendment is, I want to give him a better name, a big name a dignified name, a name indicative of his duties, functions and privileges. The name looks a little long but the Government are not unused to such long names in almost every statute. There are the Excise Commissioner, the Prohibition Commissioner, Police Commissioner (An hon. Member: Corporation Commissioner and Municipal Commissioner.) Therefore, Sir, I think the use of the expression I have suggested would be better."

SRI K. BHASHYAM:—"I second the amendment, Sir, for this reason. Now, the Government say that the work of superintendence shall not vest in them and therefore this work should vest in somebody else. I want that the Commissioner, in whom it may be vested, shall be a person of sufficient status. I have also given an amendment. It may come a little later. I do not know whether it forms part of this clause or not."

MR. SPEAKER:—"The hon. Member has not given any amendment under this clause."

SRI K. BHASHYAM:—"Yes, Sir, I said it may come a little later. Probably it is an amendment to Clause 11. To make my point clear I may be permitted to read my amendment, Sir."

MR. SPEAKER:—"The hon. Member may read it."

SRI K. BHASHYAM:—"My amendment, Sir, to clause 11 is—

After clause 11, insert the following as a new clause 11 (A):—

"11 (A) The Commissioner shall be a person who shall be a Judge of the High Court, Madras, or the Advocate General, Madras, or the Government Pleader, Madras, or a legal practitioner who has been practising as such for 20 years before the Madras High Court."

The Deputy Commissioner shall be a person who is or has been holding a post not less in rank than that of a District Judge or a legal practitioner who is actually practising for 10 years in the Court in the State of Madras."

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That is why I say, Sir, the new name suggested is best suited and that it should be there. In the present case what happens is this. The Government have renounced all claims for responsibility for the superintendence over these matters. The entire thing is therefore left solely and primarily to the Commissioner. He is the highest officer who is going to be in charge of these matters subject of course to the liability of his orders being revised by the Government under clause 8 which is going to be clause 99-A hereafter. Therefore, I say, the new name suggested would be more appropriate than calling him a mere Commissioner."

THE HON. SRI K. MADHAVA MENON:—"I do not think it is necessary to have such a long name 'The Commissioner of Public and Religious Endowments, Charities and Trusts.' Even then it will not be exhaustive. We will have to add something more. There is absolutely no necessity for the amendment."

MR. SPEAKER:—"Is the hon. Member withdrawing his amendment?"

SRI T. VISWANATHAM:—"It need not be withdrawn, Sir."

The amendment was put and lost.

Clause 9 was put and carried.

Clause 10.

MR. SPEAKER:—"The motion is—

'That clause 10 do stand part of the Bill.'"

SRI T. VISWANATHAM:—"Sir, I beg to move the amendment standing in my name, namely—

'Renumber the existing clause as sub-clause (a) and add the following as new sub-clause (b):—

"(b) The Commissioner, Deputy Commissioners and Assistant Commissioners shall be recruited from persons who possess a degree of law of any recognized University."

"Sir, it is a very self-explanatory amendment. These Commissioner, Deputy Commissioners and Assistant Commissioners have in fact to perform mainly judicial and quasi-judicial functions. Their administrative and executive functions are not many; particularly for Deputy Commissioners the functions are more judicial than executive. In this connexion I may draw your attention, Sir, to the English Charitable Trusts Act. In the English Charitable Trusts Act of 1853 and 1855 there is a special section that the Charity Commissioners shall be recruited from among the qualified barristers of 12 years' standing. The Hon. Minister, Sri Madhava Menon may well know it. In these it is said, the Charity Commissioners some of whom have analogous functions like those of the officers referred to under this.

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clause, that they shall be recruited from among the barristers, barristers of twelve years' standing. I submit, Sir, it is a very important thing. We have found in our experience that the element of law predominates in matters which they have to deal with under this Bill. I, therefore, urge that this amendment must be accepted. It is surprising to see that the Government have not laid down any qualifications at all for these officers. In a statute like this even for the biggest officer, the Government have not laid down any qualifications. It is not enough for the Government to tell the House, although the House is willing to accept whatever they may say, that everything will be stated in the Rules that would be subsequently framed. They must prescribe the qualification and whatever the qualifications might be, the officers shall be only from the profession of law with sufficient practice in law courts. Otherwise difficulties will arise. I know, when I say lawyers should be appointed to these posts, some Members are smiling. That is all that they can do. There is no use appointing people to these posts who are not trained in law. The Government have accepted the principle even with regard to the magisterial posts. Are they not appointing law graduates to these magistrate's posts under the new scheme? Also for these tribunals we are appointing only law graduates because they are quasi-judicial bodies."

MR. SPEAKER:—"Has the hon. Member finished his speech?"

SRI T. VISWANATHAM:—"I would like to continue, Sir."

MR. SPEAKER:—"The hon. Member can continue after lunch. The House will rise and meet again at 2-30 p.m."

The House then adjourned.

(After lunch—2-30 p.m.)

MR. SPEAKER:—"The progress in regard to the Bill is very slow. I think, if we progress at this rate, we will not be able to finish it. We may have to sit for longer hours and may have even night sessions. Or I will have to adopt Kangaroo closure."

THE HON. DR. T. S. S. RAJAN:—"I have no objection. I only want this Bill to go through."

MR. SPEAKER:—"We will sit till 8 in the night."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir. I do not want to be generally very long in the stage of discussion on the clauses. I am not at all long, Sir. Because the clauses are many, the intricacies are many and there are pitfalls, we are obliged to take much time. But, if the constitutional portion and the 'definition' portion of the Bill is over, the remaining discussion will be very easy. I am now moving a small amendment and some hon. Members may have something to say about it. After

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all it may not take half-a-minute. We need not think about the time factor. I can only say that those who agree with the wording of the Bill need not speak but leave it to the Hon. Minister."

MR. SPEAKER:—"But the point is that it will appear in the press afterwards or in the proceedings that all the Members opposed and that the Government have never allowed them."

SRI K. BHASHYAM:—"Everybody knows it."

SRI T. VISWANATHAM:—"The people know that the Government Bill is there and the Government have got the majority. Where the wording is agreed to, hon. Members should have no objection to cut short their speeches. I do not suggest—I have no objection to sit here even till mid-night and finish the Bill. . . . Anyway I shall not be very long."

"Sir, judging from the latest Administration Reports, the number of institutions that come under the powers of these officers will be as follows:—

Number of major institutions (of which	
198 are Mantapams)	about 12,218
Number of temples	about 12,347
Number of specific endowments	about 668
Number of minor institutions	about 15,378

The annual value of their properties will be between $2\frac{1}{2}$ to 3 crores of rupees. Apart from the value, there are buildings, mandirs, institutions, etc., attached thereto. So, these officers are expected to deal with problems arising from as many as 30,000 institutions and properties worth 5 or 6 crores of rupees. I submit, therefore, Sir, that these persons shall be persons who know something of Law. And if we look into the various provisions provided in the Bill, we find that they are to exercise quasi-judicial functions in one or two cases and that the Government are now trying to divest themselves of their general superintendence and putting them in the hands of Commissioners. It is clear from that that the Commissioners will have even greater judicial powers to exercise than Commissioners in other departments. I therefore submit, Sir, that these officers should have legal training.

"There is an amendment by my hon. Friend Sri K. Bhashyam which discusses more specifically about this matter. But, with regard to their basic qualifications, I submit that the Government should be pleased to accept this amendment.

"In the English Act, Sir, these Charity Commissioners are also to serve during good behaviour and not during the pleasure of the Government only. I therefore submit, Sir, that their basic qualification should be a Degree in Law of any recognised University and that their tenure of office also should be during good behaviour. I therefore move my amendment, Sir."

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SRI K. BHASHYAM:—"Mr. Speaker, Sir, I want to say in advance a few words on the amendment I am going to move. My amendment prescribes the qualifications for Deputy Commissioners and Commissioners. But, the present amendment applies not only to those people, but also to Assistant Commissioners. Therefore, Sir, there should be no inherent difficulty in accepting both the amendments if the Government want to.

"So far as the question of deciding between the general people, Government, Commissioners and other officers, and persons now in charge of all these institutions, is concerned, it will be complicated not only with regard to the Act, but even in the practical working of certain sections which will involve the decision as to the interpretation of the various sections. They will have to refer to different sections for different matters. As a matter of fact, they have got to decide, when an endowment is both secular and religious, which portion is secular and which portion is religious. So, it will be very difficult to manage unless these officers are qualified in Law.

"So far as the present officers and persons being appointed now are concerned, I do not complain about them. But, if questions I have referred to above are thrown in the hands of the Commissioners not possessing the legal knowledge, the whole thing will get accumulated in the hands of the Commissioners and they will not be able to get on with the work at all.

"I, therefore, submit, Sir, that this basic qualification in Law will be a very good thing. I even suggest that every person should have some knowledge of Law that he is governed by."

MR. SPEAKER:—"It is not necessary if you want to second the amendment, to . . ."

SRI K. BHASHYAM:—"The qualification is an important matter and is necessary to be included. Some of us go to them and say: 'I have a boy who has not passed any examination, Put him somewhere—these political exigencies are there.' The point is by putting in qualifications we are helping the Hon. Ministers and members of the Government also. To say by rules there is a qualification is not enough. That qualification should be a statutory qualification. Otherwise everybody will approach the Hon. Ministers for the purpose of appointments for this man or that man either from their own relations or M.L.As. Therefore, statutory recognition of qualification should be there so that rules may be made—whether they do or not is a different question, and the Government should recognise the principle involved. I therefore second the amendment, Sir."

SRI M. R. APPA RAO:—"Mr. Speaker, Sir, in these days of so many laws, I think that everybody should have some knowledge of Law and especially so for Members of the Legislature and for all Government Servants. If the Government deem

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it necessary, all the above persons should be Graduates in Law. I do not think that for the posts of Commissioners, Deputy Commissioners, etc., that qualification is necessary. We expect them only to know the administration and capable of understanding points of law. Even for I.C.S. Officers it is not necessary. They will have an idea of Law and they study Law afterwards. I therefore, Sir, do not support this amendment."

SRI V. RAGHAVAYYA:—"Mr. Speaker, Sir, no doubt, as things stand today, no educational qualifications are necessary even for a Minister of Government. Because, if anybody is not required for any post in this world, he may be made at least a Minister as it is the only job under the Constitution, which does not require any educational qualification. I am not passing a mere remark. The point here is whether intricate matters that are going to be dealt with in this Act require the proper handling of the Constitution. You may say 'a Medical man may become a Law Minister. But, some grounding of knowledge in Law is absolutely necessary for administration of some of the chapters in this Act. A lawyer's course is not necessary for a Minister's office. A mere passing of B.A. is enough. Why don't you say that a pass in Intermediate Examination is not enough. There are Deputy Collectors and Collectors who have passed only S.S.L.C. That is not the point. The administration should always seek to be efficient. The idea of prescribing a qualification is to make the administration most efficient. For, one officer may think that certain provisions of the Act require the decision of a Court of Law and not in certain others. So, to respect the jurisprudence and the feelings of the people, the Government should appoint for these jobs persons who have a grounding in Law. Are we not doing it even now? I think that almost all the Assistant Commissioners appointed by the Government are Lawyers. There is none who has no legal qualification. I do not know why the Government should feel shy of simply copying what they have done already. Have not the predecessor Government thought it necessary? The experience of Government makes us feel that the legal knowledge is absolutely necessary in these matters. A mere University Degree is not enough. I think we are right in asking the Government to prescribe this qualification. The other speaker was intervening in the discussion and asked why it should not be brought under this rule-making powers of the Government. There is the possibility of mischief there in the rule-making power. Taking power to prescribe qualifications under the rules is the easiest way of doing things. Why not you lay down the qualifications in the clause itself? You have prescribed qualifications and age for the trustees. This has been done with the idea of safeguarding the proper working of this piece of legislation. Why not you do the same thing for the Commissioners and Assistant Commissioners also? Let the qualification be nothing less than a degree in law."

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SRI P. KANDASWAMI PILLAI:—"I oppose this amendment. The world-famous mathematician, the late Ramanujam was not the holder of a degree in law. As a matter of fact, poet Rabindranatha Tagore was not conferred any degree when he was a student. Sound commonsense and capacity for administration are the two things essential for the management of temple affairs. Above all else, what is required in an administrator of religious institutions is that he should be well versed in the agamas and usages of the temple concerned. He should be conversant with the customs of particular temples so that he can conduct their affairs in conformity with religious injunctions."

"Sir, if any legal dispute with regard to property or other thing arises, he can get legal advice, if necessary. Therefore I say that to assert that lawyers alone are competent for this service is to degrade common sense and is insulting the intelligence of the non-lawyer population of the country. The Government should not bind itself by legislation that lawyers alone are competent to hold any office under this Bill. I strongly oppose this amendment. Any man of commonsense and ability and character, not merely people with academic qualifications should be selected for these posts."

SRI V. M. RAMASWAMI MUDALIYAR:—"I am not moving my amendment, but wish to say a few words at this stage. Sir, we are asked in this Bill to give certain powers (Section 9) to Commissioners and Deputy Commissioners. I do not say that lawyers claim the monopoly for character or efficiency or even for competence. But under this Bill very many enquiries or investigations are entrusted to Commissioners and Deputy Commissioners. These are of a quasi-judicial nature. Therefore it is necessary that these officers must have had some training to conduct those enquiries. Even when I.C.S. Officers are recruited, even though they have legal qualifications too, before they are called upon to exercise judicial functions, they are given this training as district munsifs or sub-judges. Let us therefore have some training of some sort for these Commissioners, etc. Even if a Commissioner or Deputy Commissioner is a man without any qualifications, he should possess some judicial training—some legal background. To emphasise the need for this, I may read out to the House clause 62 which enumerate the duties cast upon the Commissioners and Assistant Commissioners—

"62. Subject to the rights of suit or appeal hereinafter provided, the Deputy Commissioner shall have power to inquire into and decide the following disputes and matters:—

- (a) whether an institution is a religious institution;
- (b) whether a trustee holds or held office as a hereditary trustee;
- (c) whether any property or money is a religious endowment;
- (d) whether any property or money is a specific endowment."

It should be noted that the question whether a trustee is a hereditary trustee or non-hereditary trustee has been a sore question. In spite of the decisions in 6 Madras, and 7 Madras and 38

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Madras of Sadasiva Ayyar, even to-day the law in this regard is in a state of flux. Even our own definition of 'hereditary trustee' is 'the trustee of a religious institution succession to whose office devolves by hereditary right'. The interpretation of the term 'hereditary trustee' has been the subject-matter for decision by various Benches of the Madras High Court. And yet, even to-day the law in regard to this is in a state of flux. To strike a personal note, I may mention that I had, two days ago, to argue this very matter before the District Judge of North Arcot in connexion with an appeal from the decision of the Endowments Board. What I mean to say therefore is that, as such intricate questions of law are likely to come up before these Commissioners and Deputy Commissioners, it is not understandable how any person who does not have law qualifications can conduct these very important enquiries concerning the rights of the parties in religious institutions such as the archakas or the trustees who administer several crores worth of property. I therefore say, let some minimum qualifications be prescribed for these officers, preferably with judicial or legal training. The House is entitled to know that certain minimum qualifications are prescribed for Commissioners and Deputy Commissioners.

"Sir, even under the existing Act of 1927, qualifications have been prescribed for the President of the Endowments Board. The qualifications for Commissioners correspond to those of the President. Section 12 says—

'12 (1) The Commissioners of a Board shall be persons professing the Hindu religion.

(2) The President shall be—

- (a) a barrister of England or Ireland or a member of the Faculty of Advocates in Scotland of not less than five years' standing, or
- (b) a person having held judicial office not inferior to that of a Subordinate Judge or of a Judge of a Small Cause Court, or
- (c) a person having been a pleader for a period of not less than ten years.'

These qualifications have been rightly prescribed. And what do we see in practice? (A Member: 'Under different circumstances.') The Commissioner has to be prescribed qualifications. Under clause 9 of the Bill, the Commissioner corresponds to the President. For Deputy Commissioners wider powers have been given now. That is why I am urging that some qualifications must be prescribed for them. I do not mind judicial officers being appointed to these offices. But the House is entitled to know that certain qualifications are prescribed for these people. I may also say in this connection that, as a matter of practice, the President and other members of the Board are judicial officers or persons recruited from the bar. I would like to know what the Government's intentions are in this matter: whether they would lay down the qualifications in the clause itself or they would prefer to do so in the rules."

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THE HON. SRI K. MADHAVA MENON:—Sir, the object of the Bill includes the idea of provincialising the post of Commissioner and other officers employed in the present Hindu Religious Endowments Board. The intention is to provincialise the whole office. But we have to frame statutory rules for each post, and rules prescribing qualifications for these posts have to be framed. Therefore at this stage I can only say that it is not likely that for the posts of Commissioners or Deputy Commissioners persons without legal knowledge will be appointed. It is, on the other hand, most likely that only persons with legal qualifications will be appointed to these posts. I may mention here that even when there is an statute fixing qualifications for Commissioners, we find that only persons possessing legal qualifications are there. Hence there is no necessity for a cast-iron rule that it must be so. The difficulty in accepting the amendment moved by the hon. Member Sri T. Viswanatham is that even if we have I.C.S. officers who have passed legal tests, they cannot be posted as Commissioners, etc., if they do not have a university degree in law. We have judicial officers who have no degree in law. If you insist on a degree in law, even officers with 20 years' service may be disqualified for these posts. We all know that there are advocates who possess no degree in law. Pleaders without such degrees can enrol as advocates and there are very good advocates among them. (A voice: 'You put it like that.') It is not so. If the amendment is accepted, there will be this difficulty. For instance, for the post of Administrator-General, the Government sometime ago wanted to appoint an I.C.S. officer, but they found that the law did not permit it as he had no degree in law. Therefore these cast-iron rule sometimes cause difficulty. With the best of intentions this thing sometimes happens. We have therefore under consideration the question of prescribing qualifications in the rules. In regard to the Port Trust Act for instance, a similar situation has arisen and a Bill has to be passed. I can in this case assure that it is very unlikely that for the posts of Commissioner and Deputy Commissioner people without legal qualifications will be appointed. Even in the case of Assistant Commissioners, hon. Member Mr. Viswanatham wants that qualifications should be laid down in the Bill itself. I may state here that for the posts of sub-magistrates under the Separation Scheme we did not get sufficient applications. And I may tell the House that for the posts of Assistant Commissioners we have not yet decided what pay we should offer. In this state of affairs all that I say is that if you have a cast-iron rule or law like this and we do not get sufficient number of men, we will be in a difficulty. For these reasons I can only assure the House that it is very unlikely that the Government will appoint men with no legal qualifications for these posts."

SRI T. VISWANATHAM:—"I am disappointed at the reasoning given and at the conclusions arrived at by the Hon. Minister, I would not have been disappointed if he is himself not

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a member of the legal profession. I was not disappointed to hear what fell from my other friend who said: "Kill these lawyers. Have we no commonsense? Common sense is enough." The Friend who said it represents the majority in this country and we/I represent only a minority. I would have been totally out of court if I had attempted to answer him. But, when my Hon. Friend Mr. Madhava Menon speaks, he does so haltingly and hesitatingly he has already printed this particular provision. He does not like to alter it, although he is perfectly convinced. (Laughter.) That is why he says: "We are already appointing only lawyers." But I may point out that he appoints only lawyers now, because the qualifications are prescribed in the old Act. Therefore I say if as a matter of practice he is doing it, what is the statutory, constitutional, basic, legislative or legal objection to put it on a statutory basis? As the hon. Mr. Bhashyam said, in these days of group and political pressure, it is necessary that we must have certain things specifically and clearly laid down, so that afterwards neither the Ministers nor the Members might feel any embarrassment in these matters. To-day if we go a bit into the details of administration—I do not like to cast any reflection on the Ministers—but the Ministers themselves know, wherever there is the question of exercise of some patronage, to what extent they are embarrassed. After all, it is not Government property that is touched; it is not like the land Encroachment Act or the Irrigation Cess Act where the Government have a direct interest; in this case, the general revenues are not going to be touched, and therefore Government as such are not very much interested. I know they agree in principle with what I, Mr. Ramaswami Mudaliyar and Mr. Bhashyam say. It may be said, as one of my friends said, that knowledge is not always confined to lawyers. But knowledge is not also always confined to legislators, people who are sitting here. Therefore it is I said, let Mr. Madhava Menon alone talk on these clauses and none others and we would have no objection, but that was not agreed to. If all these things are reported, what happens? Sometimes we who belong to the same party have to make general reflections which are not after all very important but which when reported will result in the concerned Member being taken to task, and people will say "Look at these Congressmen talking at cross purposes." Now, Sir, shall I draw attention to the remarks made by the Chief Justice of India recently in connection with some applications for writs? Did he not draw the attention of the legislators of the entire country, their special attention to the fact that they must be very careful and know the implications of what they were doing? He said it when he saw that there were a number of Acts coming from every province containing certain kinds of provisions with something common between them, and he was obliged to say that legislators should understand the implications of the Constitution and know what exactly they were doing. He had to make that appeal to the legislators to note that the provisions in the Constitution were

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supreme and that therefore there was a great responsibility resting on them. It is true we depend mostly on commonsense, but at the same time why do you prescribe qualifications for so many other things? For instance, why do we say that for a legislator, he should be of a particular age? Why should he not be a man of 17 years with probably a superior wisdom? We all know that under clauses 62, 63, 64 and others, matters and issues of a momentous nature have to be decided by these persons, and there is no use saying that a man with commonsense alone will do or can do them. It may be that a man with good commonsense is superior to a bad lawyer and sometimes men with commonsense will even excel lawyers, but there may be good lawyers with good commonsense. That is why we want a basic qualification to be prescribed here. Let not Mr. Madhava Menon stand on prestige; there may be some difficulties as he said; but because there was some difficulty felt with regard to the post of Administrator-General, should it be so in other cases also? I submit, Sir, those days are over. He can change the rule now. Wherever quasi-judicial functions are imposed on an officer, I submit it must be the bounden duty of this Legislature and of this Government to provide a basic law qualification. Unless we proceed on some such principle, we cannot get on. Why do engineers say that there must be 4½ feet of foundation if the wall is to be 17 feet high and if a double storey is to be put? Even foundations of lesser depth might be enough to take a second storey; but the fact is that in most cases the engineers have had the experience that unless there are proper foundations, the building will not stand, and that is why they insist upon particular basic foundations for a building of a particular dimension. That is why Mr. Madhava Menon also agrees with us and says he will provide for this in the rules. There is of course a clause dealing with the power to make rules, clause 100. That clause contains sub-clauses from (a) to (aa) and (bb); in all, there are 28 sub-clauses. One of these sub-clauses deals with the qualifications, method of recruitment, pay, grant of leave, leave allowance and travelling allowance, etc., of the officers and servants of the Tirumalai-Tirupathi Devasthanams but has nothing to say about the staff in general. There is no clause authorizing the Government to make rules regarding the qualifications, pay, tenure of office, etc., of the Commissioners or the Deputy Commissioners. After all, as has been said, these posts are very important posts. I submit it is only proper that there should be such a rule. The Government may consider my amendment, the amendment of my Friend Mr. Bhashyam and also that of Mr. Ramaswami Mudaliyar, they may club them all together and arrive at some wording. There can be no harm done if this particular clause is taken up to-morrow: let the Government come up with an amendment which will satisfy everybody. After all our object is the same, and we are not at cross purposes and there is nothing unreasonable that is asked for. I therefore request the Hon. Minister to accept the amendment."

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THE HON. SRI K. MADHAVA MENON:—"Sir, as I have already said, I cannot accept this amendment for the reasons mentioned. We have not even thought of fixing the pay of the posts. And if there is nobody coming up, are we not to get along with the administration? As I said, we have had enough experience of such cases in the past. I am sorry therefore I cannot accept the amendment."

MR. SPEAKER:—"The question is—

'Re-number the existing clause as sub-clause (a) and add the following as new sub-clause (b):—

"(b) The Commissioner, Deputy Commissioners and Assistant Commissioners shall be recruited from persons who possess a degree of law of any recognized University."

The amendment was lost.

Clause 10 was put and carried.

MR. SPEAKER:—"I think hon. Member Mr. Ramaswami Mudaliyar is not moving his amendment."

SRI V. M. RAMASWAMI MUDALIYAR:—"I want to make a short statement, Sir, I have given notice of the following amendment, viz.:—

'Add at the end of clause 10, the following:—

"The Commissioner and Deputy Commissioner shall be persons professing the Hindu Faith and shall be recruited either from Advocates of not less than five years' standing or from persons who have held judicial office not inferior to that of a Subordinate Judge."

But in view of the statement of the Hon. the Minister for Law that in the rules to be framed, these qualifications are likely to be included, I will reconcile myself with that assurance, and I shall not move my amendment, Sir."

MR. SPEAKER:—"Regarding hon. Mr. Bhashyam's amendment, I think it is better he moves it even now. Let it be an amendment to clause 10 and not to clause 11."

* SRI K. BHASHYAM:—"Sir, the amendment which I move is as follows:—

'After clause 10, insert the following:—

"10-A. The Commissioner shall be a person who shall be a Judge of the High Court, Madras, or the Advocate-General, Madras or the Government Pleader, Madras, or a legal practitioner who has been practising as such for 20 years before the Madras High Court.

The Deputy Commissioner shall be a person who is or has been holding a post not less in rank than that of a District Judge or a legal practitioner who is actually practising for 10 years in the Courts in the State of Madras."

My amendment seeks to prescribe qualifications only for the Commissioner and the Deputy Commissioners. As for the Assistant

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Commissioners, I thought, being inferior officers, no special qualifications need be prescribed for them here. But the Commissioner and the Deputy Commissioners are important officers and they get added importance because the Government are taking away their own responsibility; the person who will therefore be supreme in office will be the Commissioner. That person must therefore be a person of high status so that people may have confidence in him. Therefore, the suggestion I make is that the Commissioner shall be a person who is a Judge or a retired Judge or an Advocate-General or Government Pleader or a legal practitioner with a practice of 20 years in the Madras High Court. Local knowledge is necessary for discharging the duties attached to these posts, and that is why I have restricted it to Madras people and not extended to other people outside. As a matter of fact, there is a certain respect attached to these officers. In the case of the Government of India, they prefer a retired High Court Judge, however dilapidated, to anybody else nowadays for making enquiries, etc., and wherever judicial experience is required because the people will have confidence in them. They probably want to impress the people by saying 'we have appointed a retired High Court Judge and he will do things properly.' In the case of the Boundary Commission and the Income-tax Commission, they took only High Court Judges. There is therefore a clamour for retired High Court Judges, and in accordance with that, I am making this suggestion. Besides, if you look at the history of this Legislature the same will be clear. You know the Raja of Panagal was a very clever man; he knew what to do and when; he knew how to placate you; he will be hitting you in the front, but being a clever man, he will nicely pat on the back. What he did was, he included all the maths in the Act, but at the same time, he exempted practically all the maths, because he did not want opposition from those people. The second thing he did was, for the purpose of making the Act successful, he said 'I will appoint Sir T. Sadavisa Ayyar, a man of integrity with advanced views in respect of religion.' He appointed him and the opposition of the people faded out when they saw a man of integrity being appointed to the post. Even Mr. Kandaswami Pillai will agree that Sir T. Sadasiva Ayyar was a man of great standing and high character, and that is why I think he referred to him yesterday in the course of his speech. That is why, Sir, I want the Commissioner may be a person who is or has been a High Court Judge. So far as Deputy Commissioners are concerned, they are persons approximating to the status of District Judges, and therefore I suggest District Judges for appointment to these posts. I also suggest an alternative, that a legal practitioner with ten years' standing in Madras may be appointed. The Law Minister has stated that he will do all this in the Rules; but I know he cannot do so by Rules. I do not want to raise any legal point over this because I know it will be discounted, but I have my own doubts as to whether under the section relating to the rule-making power, he can really make a rule regarding the qualifications, etc., of these officers.

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For the reasons that I have mentioned, Sir, I think that the supreme man in control must be a person who must command the confidence of the people; at any rate most of the criticism and disputation that has been raised over this Bill will receive a quietus if you appoint people of that calibre to these posts, and I want to compel the Government to do so through my amendment."

SRI T. VISWANATHAM:—"I second the amendment."

THE HON. SRI K. MADHAVA MENON:—"Sir, I cannot accept the amendment for the reasons I have already given in connection with another amendment just now. Mr. Bhashyam says, he shall be a Judge of the High Court. But High Court is in the Union list and it is beyond the jurisdiction of this Legislature. That is one difficulty—I am only telling the difficulties that will arise. Not that in the interests of proper administration, the Chief Justice will refuse to spare the services of a High Court Judge; I only say it is not in our power to get him. Similar difficulties will arise which I have already mentioned. Dr. Rajan, I am sure, will try to be as clever as the Raja of Panagal was clever, as Mr. Bhashyam said. In what ever was done by the Raja of Panagal in a clever manner, I am sure Dr. Rajan will not lag behind him and he will certainly do things cleverly. I do not know what Mr. Bhashyam meant when he said that the Government of India were taking in retired High Court Judges, however dilapidated they might be."

SRI K. BHASHYAM:—"Certainly I should be satisfied, Sir, if the Hon. Minister accepts the principle embodied in my amendment and also the justification for it. If as he says on behalf of Dr. Rajan, that Dr. Rajan will bear all these things in mind when he makes the appointment, I think I must be content with such assurance. After all, if my motion is going to be defeated, I should certainly have it withdrawn rather than press it and have it defeated."

The amendment was, by leave, withdrawn.

MR. SPEAKER:—"I will now put clause 10 to the vote of the House. Afterwards, Mr. Viswanatham's amendment, introducing new clause 10-A, will be taken up. The question is—

'That clause 10 do stand part of the Bill.'"

The motion was carried.

New clause 10-A.

* SRI T. VISWANATHAM:—"Sir, I move—

'That the following be added as new clause 10-A—

"10-A (a) The functions of the Commissioner of Public and Religious Endowments and Charities and Trusts are—

(1) to maintain registers of all Public and Religious Endowments and Charities and Trusts;

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(2) to watch whether the working of such institutions is in accordance with the objects of the Endowment, Charity or Trust and with the general laws of the land relating to public order, morality and health;

(3) to apply to the Civil Court for the framing of a scheme of administration for such an institution where such one is lacking or is not sufficient or to settle any dispute as regards the succession to the office of a Trustee, or a Manager or other hereditary post in any such institution or to settle any other disputes of a civil nature; and

(4) to launch prosecutions in cases of misappropriation, cheating, embezzlement and similar offences.

(b) The Commissioner and Deputy Commissioners and Assistant Commissioners, when the Commissioner delegates any or all his functions subject to such restrictions as he may impose, shall have the power for the better exercise of their duty—

(1) to enter any Religious Charitable or Trust institution excepting portions which are not ordinarily open to members of the public;

(2) to call for and inspect records of the institution and have copies of such records; and

(3) to sequester such records as he may consider necessary until any proposed or pending inquiry in a Court is over.

(c) The Commissioner may start proceedings under this section suo motu on information received or on application by any person interested in the institution in question."

"Sir, my idea in moving this amendment is that I want to concentrate on the scope and the functions of the machinery created by this Bill. There are Commissioners, Deputy Commissioners and Assistant Commissioners, to whom certain powers are given, in some cases final powers and in some cases reference to court also is allowed. The question has troubled us, as you are aware, in the early stages of the Bill as to what should be the domain or dominion of the officers and what should be the domain of the other judicial agencies to go through and control these institutions and their management. The Government are of one view and I am of a different view in regard to the matter. My view is slightly different from the view of the Government and it is embodied in this new clause which I am now presenting. I agree with the Government, as I have always agreed with them, that we must have control of the religious institutions, which mean temples, public charities and public trusts. We must have control of every public trust or charity or anything which has got the semblance of a public trust or charity, provided the public have

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a beneficial interest in it and unless we have got a beneficial interest, I submit, we cannot take control over them. But agreeing with the Government to the extent we must have this beneficial interest, I suggest that this power of control should be confined within certain limits. Sir, we have now and then had occasions to point out these limits, but as we go through the various provisions of the Bill, we will know exactly how far the Government would like to control and we will point out how far they have got the right to control and how far they do not possess such rights. I submit, these religious endowments and institutions being protected by the Constitution, they must be treated differently from other Government institutions. The Bill as it embodies, deals with temples and public trusts and public charities as almost Government institutions. I do not want that the Government should treat them like that, because they are particularly to be managed by the religious denomination. I submit, Sir, we have no right to legislate on properties or the management of the properties belonging to them, except where the public have an interest in them and the Government representing the public, can go only to that extent. That is to say, the Government is in the position of a beneficiary of the public trust or charity and as a beneficiary, it has got a certain right and that right is to see that the properties are not mismanaged, that those properties are put to proper use, and that the institutions are run along the intentions of the founders. These are the three objects and the Government as representing the public which has got a beneficial interest, have got the right to pass legislation to this extent. Sir, I have often heard in the early stages of the Bill that the Government do not intend doing more. Government said, 'why do you raise all constitutional questions, our view is not to take hold of the various trusts and charities, we represent five crores of people here including those worthy gentlemen who made these endowments and we cannot keep quiet when mismanagement is going on?' It is true they have got to see that there is no mismanagement. They can control only to the extent to which a beneficiary can do. If we had not brought in a Bill like this, prior to it, if we look into the original Acts, namely, the Charitable Endowments Act of 1863, the Charitable Trusts Act of 1920, Section 92 of the Civil Procedure Code and the 1907 Regulation Acts, under the provisions of which, sometimes the revenue authorities and afterwards persons having interest have been given a procedure and a machinery to enforce those rights see that all those Acts were confined only to the endowments in which public had a beneficial interest. Even this morning when the Hon. Minister moved for the deletion of clause 7 he said that was the object. The original provisions said that these things shall vest in the Government and the Government found it was wrong and when the Government found it was wrong, other provisions of the Bill also must conform to that. The mere omission of clause 7, will not help us unless the other provisions are in conformity with the deletion of the clause. Then, why did they

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delete clause 7 at all? Because it was wide of their powers. Of course, Government can by legislation enforce their powers, but beyond a certain limit they cannot go. I submit, there are quite a number of provisions which go beyond their intentions as expressed by the Hon. Minister at the time he introduced the Bill and as expressed by the Government today compelling them to delete clause 7 for which they put up a hard fight. Therefore, Sir, I submit that Government should go to the extent of creating the Commissioner who will act as the beneficiary on behalf of the public. He will be under the control of the Government and he will be the person with the help of the staff given to him and with such other statutory powers which may be given to him under this Bill, to see that the endowments are properly run, that they are not mismanaged and to take such steps as are necessary, proper and legal, to see that the intentions of the founders are properly carried out. And, Sir, what are the steps he can legally take? When a certain property is mismanaged, he should go to a court of law and tell them, 'Here is a public endowment, a public trust or a charity and there is mismanagement.' The court should frame a scheme if one was not existing, give directions and remove such and such a trustee or appoint a new trustee. Then, where a scheme is not there originally, the court should give a fresh scheme and if the trustees are not properly working, they should remove them and so on. We have all those powers under the Act of 1863 and under Section 92 of the Civil Procedure Code. Let us assume now they are consolidating all these. On the civil side that is the limit to which they can go. Again, on the criminal side the law is there and whenever a person commits any offence of cheating or embezzlement or misappropriation or breach of trust, even today we have got powers to bring him under the Criminal Code. In fact, we are seeing where some trustees have mismanaged, they have been booked and some cases have been filed against them. In fact, that is the reason why this Bill has been brought forward. It is true there is mismanagement and misappropriation in some institutions and there are also remedies provided but the remedies did not act well hitherto, because they were left to the persons having interest. That was under the foreign Government and not having represented the subject they did not assume powers of the public over themselves and they asked a person having interest to take care of the institution. For instance, if I am personally interested in a temple, they left it to me to go to a court of law. And, if it is a criminal offence, of course, the police would take cognizance of the offence, or complain. But, today the Government have changed and the Government represents the people, that is to say the Government represents all the persons having beneficial interest in the charities. That is why, this Government on behalf of the people of this State can appoint officers to act as persons having beneficial interest. We want this Government to represent me, represent yourself and represent the educated and the uneducated men who have interest in public institutions and to take action.

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What is the action that I want them to take? For instance, I can go to a court if a particular public property is not properly managed. That is on the civil side. And, if there is breach of trust, on the criminal side, I can go to a criminal court. If you want, give powers to the Commissioner straight away and imprison the person who is guilty of the offence of breach of trust. But they do not give such criminal powers and they only want to take powers on the civil side. Of course, although I cannot agree to that and even if we agree, the Constitution does not agree and we cannot take powers ourselves. We can only go to a court of law, and these denominations will enjoy the properties and enforce their rights. We cannot create ad hoc laws for taking over the management of the properties and say it is management of religious trust. That is the difference. We can create a machinery to enable the beneficiaries to enforce these rights and that machinery is the Commissioner, the Deputy Commissioner and the Assistant Commissioner. Whatever the objection may be, you are the final arbiters in the matter and people have no right of appeal. In taking over the beneficial interests on their own shoulders, Government should see that they do not exceed the powers. Government can only exercise a right which I can exercise and nothing more than that. In regard to a public trust in which the public have a beneficiary, interest, I can exercise some rights and those rights I can exercise and it is those rights alone that the Government can exercise. And by passing this Bill the Government will not have more rights than the people of the State and they cannot go further because the Constitution says, their management and their administration of religious endowments is entirely that of the denominations. The very words used in the Constitution are 'their management and their administration'. What does 'management' used in the Constitution mean? If management means anything and if it is reserved for public trusts or charities, then they cannot be taken over. Therefore, the Commissioner, the Deputy Commissioner and the Assistant Commissioner shall usually be subject to the general control of the Government. So, Sir, if I have no power, the Government cannot have power. If, as a person having interest cannot do a thing, the Government also cannot do it. That is the point at issue. The Constitution says the religious denomination alone can administer, manage and maintain an institution. Therefore, we cannot go beyond that. That is why I am submitting an alternative scheme in the amendment I have moved and I have defined the functions of the Commissioner in my amendment. His function will be—

* to watch whether the working of such institution is in accordance with the objects of the endowment, charity or trust and with the general law of the land relating to public order, morality and health; to apply to the Civil Court for the framing of a scheme of administration of such an institution where such one is lacking or is not sufficient or to settle any dispute as regards the succession to the office of a trustee or a manager or other hereditary post in any such institution or to settle any other disputes of a civil nature; and to launch prosecutions in case of misappropriation, cheating, embezzlement and similar offences.

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" This is also parallel to what is happening in England. In England there are Charitable Trusts Acts beginning from 1812 up to 1919.

" Whenever a Charitable Trusts Act was passed in England, two or three years later a similar act was passed in India. The Act of 1812 was passed in England and in 1817 we had the Regulation and in 1853 they passed an Act which is still in force and we here have got the 1863 Act. They had an Act in 1919 and we passed our Endowments Act of 1925. It is not as if the old position was secured but as notions were developing, the Government being quite sensible to the interest which they have to take regarding the management of public trusts, the law has been re-imposed from time to time and there the Charity Commissioners excepting in matters whose pecuniary value is less than £40 have no powers such as the Deputy Commissioners are being given here. They simply move a civil court or a criminal court and they are given certain statutory powers which have been retained for the purpose of getting information and the trusts should be under an obligation to submit their annual budget so as to enable them to watch the working of those institutions but whenever they feel they must move, they move in the matter. I submit, Sir, that this amendment must be accepted; I have, however, no objection if they propose any alteration but the principles mentioned in my amendment are principles which would be acceptable when tested in a court of law and I would ask the Government representing persons who have interest to go with them up to the point to which they can go and not beyond that."

SRI L. N. GOPALASWAMI :— " Mr. Speaker, Sir, I second the amendment. The Government have been kind enough to delete section 7 from the Bill, which defined their powers. Those sections are not there but the Commissioners will be appointed and it is natural that their duties should be fixed. I submit, Sir, that my hon. Friend's amendment is quite necessary and appropriate in view of what the Government should do. He has very lucidly painted a picture of the limits to which the Government can interfere in matters concerning religion and public charity. I want the Government to act not merely upon the mere wording of law omitting a word here and there but as I had occasion to point out earlier, when once the Government make an amendment the concomitant effect of that upon the whole Bill should also be watched and wherever they interfere with the purpose behind the amendment which has been carried out, necessary amendments should also be adopted. But I am sorry to say that this has not been done by the Government and hence the difficulty arises in interpreting these things. Mr. Viswanatham has pointed out that the Government must define the powers of the Commissioner; they should not exceed the powers that have been granted to them under the Constitution. If the Government really want to take more powers, then they ought to have defined them. The very fact that

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they have taken away section 7 means that they want to act under the powers vested in them by the Constitution Act. If that be so, I do not see any reason why these powers which are only an exemption or clarification of what the Government can do, should not be defined instead of leaving them vague saying 'such action as he may think fit can be taken'; I feel that it is not correct but such powers, certainly which are not in contravention of the Constitution Act, should be defined and I hope the Government would accept the amendment."

SRI K. BHASHYAM :— Mr. Speaker, Sir, I am supporting the amendment on the ground that it is really in accordance with the law; I am speaking as a lawyer; not that I have not that the common sense of a lay man but I have the added qualification of being a lawyer and so, if I say something about what is laid down in the law, it would not be considered presumptuous. Articles 19, 25 and 26 of the Constitution says that the denominations shall have the right to manage their own affairs according to law. I want persons who are not familiar with law to understand what 'according to law' means; it means that it must be a law which will regulate the management; it must not be a law which will wholly eat up the management. The management must be in the hands of the denomination and not a third person altogether. That is the position that is likely to take place. I am saying this to explain the possible implication though some friends may be thinking that I am wasting the time of the House and Rs. 1,500 a day for nothing and I want those gentlemen to understand that it is not so. (Sri K. T. Kosalram rose to interrupt) The hon. Member did use those words and I have a right to put it to the House that it is not anything like that; I do not think he really understood those words and what my idea in regard to the matter is this. Instead of creating litigation, paying lawyers, paying court-fees and having long delays in respect of these matters, why not I ask by adapting the Act to the Constitution Act make it constitutional. They may say that my interpretation of the Constitution is wrong and may have got their own interpretation of it. But the whole thing is that if you accept my position, no judge can interfere. I want to see that no litigation comes into the court so that it may be said that the laws passed by this Assembly in all its wisdom, knowledge and capacity should not be treated by any court as being *ultra vires*. That really pains me. I really feel proud of being a member of this Assembly and I naturally feel much hurt and pained when any law passed by it is questioned in a court of law and is declared *ultra vires*. Therefore I want to avoid such a position and I am pleading with all members to take a little more interest in these matters; I know many of them have not even copies of the Act nor of the amendments but they are wise enough to know everything and I am glad that they understand things without any help from books or anything. When, therefore, they are so good and so wise, let them understand this as well, namely,

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that we should not unnecessarily invite litigation about constitutional points, if it can be helped. I am impressing that upon hon. Members of the House though they are very few now. The amendment of my hon. Friend Mr. Viswanatham seeks to achieve this object. It says that the Commissioner can be appointed, that he should be given all the powers which the Police man will have for purposes of investigation whenever a crime takes place but after that is concluded, let him put the case before the denomination and if the denomination complains, he ought to take action. It is just on lines similar to the provisions we have in the Indian Penal Code according to which the Police cannot take action unless the person hurt complains before a judge and I think many hon. Members know it because they are more familiar with the Penal Code than with civil matters. What I want is that the person who is a member of the community who is hurt by the mismanagement of that institution ought to come forward and make an application, at least a complaint, and then the officer who had been charged with the duty of investigating it and getting information regarding the mismanagement, will place it before the court of law. If it is done like that, the denomination has got its work, the Government on their part have got their work and also the court. If it is done, it will be quite constitutional and it will not be a thing for anybody to take offence nor pick holes in what we do. I am very anxious that this should be a pacca Bill in which there ought to be nothing wrong. The amendment is based upon this view. Just as the Government appoint the Director of Prosecutions in criminal matters, so also here they appoint the Director of Public Charities who will be entitled to get all the information from all quarters and then place the matter before the court. We have had complaints even in the Select Committee that people were not so much interested in the proper management of public charities, that they do not care what happens to public trusts and that they do not want to put themselves to the trouble and expense of going to court with the possibility of meeting the cost. They are merely satisfied with having the *dharshan* and they are not interested in the trust or endowment beyond that. For that purpose the Government must appoint a person who will do so. That, I submit, is the scheme underlying this amendment and I commend it to the House with all humility and sincerity. I may tell hon. Members that it is not as if we can pass a law and get away with it; there are persons who are awaiting for any slip on our part to take advantage of any deficiency that may be noticed and to object its validity and to challenge them in a court of law. We must be really able to meet the challenge that may be made later on that and that is why I commend the amendment to the House."

THE HON. SRI K. MADHAVA MENON :—" Mr. Speaker, Sir, with as much sincerity and humility as my hon. Friend, I must oppose the amendment also because if we understand the explanation offered by Mr. Viswanatham, we can see that it completely

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sabotages the whole Bill. (Sri T. Viswanatham: 'I object; it is not so'.) If my hon. Friend objects, I withdraw it but will say that it will completely destroy the Bill. If this is passed, Chapter IV will be absolutely unnecessary. I entirely agree with the dictum of constitutional law explained by my hon. Friends Mr. Bhashyam and Mr. Viswanatham and Mr. Gopalaswami said that we should not do anything which offends the Constitution. Hon. Mr. Viswanatham was at pains to explain why we should limit ourselves to the terms of the Constitution and I am sure nobody will take objection to it. I entirely agree that knowingly we are not going to pass a law which will go against the Constitution; even if it is done by oversight, the courts, and the people are not going to keep quiet. So, there is no question of offending the Constitution at all. Mr. Bhashyam pleaded with some Members here that they may be pleased to understand things; whether they have copies of the Act or other papers with them or not, they pretend that they know everything but let them understand them properly. But let me tell you, Sir, hon. Mr. Bhashyam may know things very well and hon. Mr. Viswanatham equally well. There are people on his side who support this amendment and there are people like that. In this connexion, I am reminded of a sloka in Bhartruhari's Neethi Sathakam.

अज्ञः सुखमाराध्यः सुखतरमाराध्यते विशेषज्ञः ।

ज्ञानलवदुर्बिदग्धं ब्रह्मापि नरं नरञ्जयति ॥

There are people like that and they have also to understand things properly."

SRI S. NAGAPPA:—"May I know the meaning of the sloka?"

THE HON. SRI K. MADHAVA MENON:—"At any rate hon. Mr. Bhashyam understands it."

SRI K. BHASHYAM:—"Those beautiful words ought to go in vain."

THE HON. SRI K. MADHAVA MENON:—"Since I have quoted a verse in Sanskrit from Bhartruhari's Neethi Sathakam, I think I shall do well to give out also the meaning thereof. It means as follows:—

'It is easy to make a person understand who does not know anything; if it is a person who knows everything, it is easy to make him understand; but if it is a person who knows nothing but pretends to know everything, even Brahma, not to speak of man, it is impossible to make him understand'. (Loud laughter.)

In fact there are persons on the other side of the House who say everything we do is bad."

SRI K. BHASHYAM:—"That equally applies to your side."

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THE HON. SRI K. MADHAVA MENON:—"Sir, in spite of the lucidity of the arguments expounding implications of his amendment, hon. Mr. Viswanatham was pleased to say that his views in this matter slightly differ from those of Government. I do not know how to measure that 'slightly'. It fundamentally differs from Government. Because he wants to make the Commissioner or Deputy Commissioner into a first-class vakils clerk; or I do not know whether I would be right in calling him a tout, a person who goes about, collects cases and engages vakils for them. The position of the Commissioner will be like that."

SRI K. BHASHYAM:—"And not like that of the Police Commissioner."

THE HON. SRI K. MADHAVA MENON:—"Whatever may be the position of the Police Commissioner, at any rate that is not the idea of the Government, or the idea like an agent of the Government to file suits. My friend wants to give the Commissioner the power-of-attorney, *muktearnamah* to file suits in courts. It may be a lawyer's paradise, but that is not the intention of Government. The intention of the Government is not that the Commissioner should not have sufficient powers. Now, what are the powers sought to be given to the Commissioners by the amendment of my friend? They are to maintain registers of all public and religious endowments and charities and trusts (I submit, those things a village register will show), to watch whether the working of such institutions is in accordance with the objects of the endowment, to apply to the civil court for the framing of a scheme of administration for such an institution where such one is lacking or is not sufficient. Or to put it shortly, the powers he wants to give the Commissioner are to watch, keep registers and file suits. Now, if this amendment is conceded to, then all the other chapters from Chapter IV go away. So, the amendment has far-reaching effect. The intention of the Government is that the Commissioner should have real powers of administration and should have power of superintendence that is required under normal circumstances.

"I only want to show what hon. Sri Bhashyam wants us to do. No doubt, he gave us very nice advice, that if Government accept hon. Mr. Viswanatham's amendment, it will not offend the Constitution. Therefore, he wants us to change the clause. Sir, if his advice is to be accepted, there will be no law. Then all the other clauses in the Bill will go. Surely, then, there is no danger of offending the Constitution, as there is no law at all! Sir, that is a solution which I cannot accept. Then, Sir, may I ask him what can this Legislature legislate? It will have no power other than what an ordinary man or a person in the street will have. Has this Legislature no power to invest the Commissioner with special powers other than what an ordinary person in the street has? Article 246 of the Constitution Act says that

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the Legislature of any State has power to make laws with respect to any matter enumerated in the Concurrent List in the Seventh schedule. And what does Article 28 of that list say? It refers to charities and charitable institutions, charitable and religious endowments and religious institutions. So, we can make laws regarding them. Then, let me take Article 25 of the Fundamental Rights. Sub-section (2) of that article says—

‘(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice.’

So it is open to this Legislature to make any law for that purpose. Then, let me take Article 26 of the Constitution Act. Sir, I shall have to take a little time to reply as I have to explain this point, since it was mentioned by the hon. Member. Article 26 runs as follows:—

‘26. Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

(a) to establish and maintain institutions for religious and charitable purposes;

(b) to manage its own affairs in matters of religion;

(c) to own and acquire movable and immovable property; and

(d) to administer such property in accordance with law.’

What is that law? It is any law which can be made by the State Legislature which is competent to pass. So, it is in accordance with law that we are now passing this Bill. So, it does not offend the Constitution Act. So, while agreeing with the general principles that we cannot go against the Constitution, if we are to agree with the amendment of Mr. Viswanatham we will have no law at all. It amounts to saying that we need not regulate the conduct and management of temples and religious institutions. Then, any person who has an interest in such institutions can only take action under section 92 of the Code of Civil Procedure. That is the position the acceptance of hon. Mr. Viswanatham's amendment would lead us to. But that is not the idea of Government. So, I oppose his amendment.”

SRI T. VISWANATHAM:—“ Mr. Speaker, Sir, Government have a perfect right to differ from me. But before so differing, they should try to understand what I have stated. The Hon. Minister read out only a portion of my amendment. He did not read it in full. He said in unmistakable language that I have reduced the Commissioner to the position of an ordinary man in the street. He said I had made the Commissioner as a man holding a *muktearnamah*, a power-of-attorney. And, then, he said, ‘if I accept Mr. Viswanatham's amendment, there is no law’. Sir, I am not so ignorant as to stand up here and make a suggestion which will reduce the position of the Commissioner to that of a tout. When I say that representing the people of the province, Government should have only certain powers and

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not certain other powers, I cannot understand how the Hon. Minister can say that I want the Commissioner to be reduced to the position of an ordinary man in the street. May I request him to turn to page 4 of the list of amendments; there he will see under clause (b) I have said that the Commissioner shall have the power for the better exercise of his duty—

(1) to enter any religious, charitable or trust institution excepting portions which are not ordinarily open to members of the public;

(2) to call for and inspect records of the institution and have copies of such records;

(3) to sequester such records as he may consider necessary until any proposed or pending inquiry in a court is over; and

(4) the Commissioner may start proceedings, etc.’

Thus it will be seen I have given the Commissioner power to enter any religious institution, right to take possession of any document and right to sequester records until all the proceedings are over, so that other people may not bolt the door after the horse is stolen. In this way I have provided powers to the Commissioner to discharge his duties. Therefore, it is not charitable for the Hon. Minister to say that I have suggested an amendment, the acceptance of which would reduce us to a position where there will be no law; or that I am reducing the Commissioner to the position of a man holding a *muktearnamah* on behalf of the Government. I have not said that all the other provisions should go. I have only said that the Commissioner should not have any power to do anything which he cannot do under the Constitution Act. Why do I say like that? The public have no power, the Government have no power, or for that matter, have I got power to manage the property of Mr. Bhashyam? Can the Hon. Minister bring a law to-morrow before this House saying that Government want to manage the property of such and such a person, because he has got a report that he is not managing his property properly? If I do not manage my property well, has he a right to bring a law to take it over and manage it? What is the law relating to administration of property? What is the law relating to the acquisition of property? What is the law relating to public order and morality? These are general laws. These are laws propounded for a general purpose; these are not laws propounded for any specific purpose. The words ‘according to law’ mean according to justice, public morality and equity. Justice Patanjali Sastri in one of his judgments has said—

‘A competent legislature may change the procedure; but it must not be a change *ad hoc* for any special purpose or occasion.’

So all we can do is to have a change in the procedure; because the right to administer, the right to manage is vested by the Constitution. Why does the Constitution say it? What is the meaning

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and content of the language which is used to denote that, namely, 'management'? What does that word mean? If I have a property, what do I do with it? I lease it for rent and collect the rent. Or, if I have the necessary power and skill to plough it myself, I plough it myself and cultivate it. If there is no water-supply, I get water to the land through electric power. If somebody trespasses into my land, I go to court and oust him. If I appoint a manager to manage my land, I ask him to maintain a register of accounts and also keep the records properly. If he mismanages, I remove him. All these things are part and parcel of management. Under the proposed provision, the denomination has little to do with the management or administration of the property of the institution. The real authority in all such matters is the Assistant or Deputy Commissioner or the Commissioner. The powers entrusted to these officers amount to taking over the maintenance, administration and control of the property and the institution itself. The words 'manage the property' mean that the officers shall have the power of acquisition, enjoyment and disposition of property. This means the religious denominations will have no such right.

"Precisely these are the things which the Deputy Commissioner or Commissioner is asked to do. Therefore, I submit that it is not right to say that I am trying to create conditions where there is no law. There is a law already; it cannot be said that there is no law. This Bill seeks to consolidate it. By all means let us consolidate and I am co-operating in the process. But I am going further in order to ensure better exercise of functions and administration of property. On behalf of the public we are giving certain extra powers to the Commissioner and the other officers created by this Bill. To the extent to which the powers are not inconsistent with the Constitution I am willing. I might have been willing to give all the powers proposed by this Bill if the Constitution had not stood in my way. It is not as if I am opposed to what the Government do by the texture of my Constitution. We as legislators have got a certain responsibility. The Hon. Minister may say that the Government also have got a responsibility. It is true and I do not minimize the sense of responsibility which the Government are exhibiting. At the same time, I, in my own humble way, feel that the powers given to the Commissioner and Deputy Commissioner go to the extent of taking over of the property and administering it on behalf of religious institutions. It may be asked why we should not give those powers. We can give, provided the Constitution had not come into existence. If only the Government had been careful at the time of finalizing the Constitution, as they had been careful with regard to the Madras Estates Abolition Act, and extracted more powers of control over religious institutions, I would not have objected. I am not opposed to the Government taking power, but I am opposed to taking power against the Constitution to which we have sworn our loyalty."

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THE HON. SRI K. MADHAVA MENON:—My hon. Friend only repeated his arguments in another form. He still wants that the Commissioner should exercise only such powers as any member of the public can exercise. That is a position which the Government do not accept. The Government want him to exercise such powers as are given to him by this Bill."

MR. SPEAKER:—"The question is—

Add the following as a new clause 10-A:—

"10-A (a) The functions of the Commissioner of Public and Religious Endowments and Charities and Trusts are—

(1) to maintain registers of all Public and Religious Endowments and Charities and Trusts;

(2) to watch whether the working of such institutions is in accordance with the objects of the Endowment, Charity or Trust and with the general laws of the land relating to public order, morality and health;

(3) to apply to the Civil Court for the framing of a scheme of administration for such an institution where such one is lacking or is not sufficient or to settle any dispute as regards the succession to the office of a Trustee, or a Manager or other hereditary post in any such institution or to settle any other disputes of a civil nature; and

(4) to launch prosecutions in cases of misappropriation, cheating, embezzlement and similar offences.

(b) The Commissioner and Deputy Commissioners and Assistant Commissioners, when the Commissioner delegates any or all his functions subject to such restrictions as he may impose, shall have the power for the better exercise of their duty—

(1) to enter any Religious, Charitable or Trust institution, excepting portions which are not ordinarily open to members of the public;

(2) to call for and inspect records of the institution and have copies of such records; and

(3) to sequester such records as he may consider necessary until any proposed or pending inquiry in a Court is over.

(c) The Commissioner may start proceedings under this section *suo motu* on information received or on application by any person interested in the institution in question."

The amendment was lost.

Clause 11.

MR. SPEAKER:—"The motion is—

That clause 11 do stand part of the Bill."

MR. SPEAKER:—"The hon. Member Sri T. Viswanatham will now move his amendment to 'delete the clause'."

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THE HON. SRI K. MADHAVA MENON:—“ The hon. Member wanted to delete the word ‘ Hindu ’ and thereby make the Bill applicable to the religious and charitable institutions of not only the Hindu religion but of all religions. This follows that amendment.”

SRI T. VISWANATHAM:—“ I do not move the amendment.”

SRI K. BHASHYAM:—“ Mr. Speaker, Sir, I move—

‘ After the word “ *professing* ”, add the words “ *and practising* ”.’

This is a very important amendment. But I do not know how the Government view it. I want persons who are connected with this department should be persons who are not merely Hindus in name. Hinduism is an elastic thing. It does not require a Hindu to subscribe to a creed or doctrine. As I said before on another occasion, it is a conformist religion. If a man says that he is a Hindu and puts on the trappings of his caste like *namam* or *viboothi* on ceremonial occasions, he becomes a Hindu. In the Hindu-Muslim trouble, it is said that Muslim distinguished Hindus from the tuft which they had to chop off their heads. Since temples cater to the needs of people who have great respect and regard for God and religion, persons in charge of the administration of the temples also should have some respect and regard for them. It is not enough if they say that they profess and believe in Hindu religion. If an Executive Officer, Commissioner or any other officer connected with the department goes into a Vaishnavite or Saivite temple in a very unorthodox style, with his hat and boot on, people will think very lightly of the department. So, the officers to be appointed should not only profess but also practise Hindu religion. Whether they actually believe in it or not is a matter of their inner minds and we cannot dive deep into their minds. An Assistant Commissioner, for example, in charge of various temples should at least look orthodox, though he may be a fraud or humbug. The Government may say we promote fraud and humbug for this purpose. What I want to impress upon the House is that a person who is appointed as Deputy or Assistant Commissioner to control the affairs of a temple must be an orthodox person. He must be pious and put on his caste-marks when he goes to the temple so that he might produce a good impression in minds of the people who come there for worship. That is why I am asking that it is not enough that the person who is put in charge of these temples should not merely profess to be a Hindu, but that he should also practise Hinduism in some form or other. I have seen persons who are appointed as Executive Officers in some of these temples who are very good people, no doubt, but who have returned from England and who are tip-top in their dress and their fashions and come to the temple in an European style with a hat and boots on, and still they profess to be Hindus, although they do not practise Hinduism in any form and conform to the actual modes of the lives of the people who come to temples

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for worship and so, they do not favourably impress upon the worshippers of the temple. I submit, Sir, that they must have not only a religious bent of mind but have a respect and reverence for God and for godly things and traditional usages. That is the reason why I want to add the words ‘ practising ’ in this clause. Sir, even if it is not so very expressive, that is the only word that I can think of, and if the Government want to improve upon the word, they are quite welcome to do so, and I do hope that the Hon. Minister will be good enough to accept this simple and innocuous amendment, because it is very necessary that the sacredness of these institutions should not be spoiled and a bad impression created in the minds of the worshippers on account of the wrong choice in the appointment of the Executive Officers of these temples.”

SRI T. VISWANATHAM:—“ Mr. Speaker, Sir, I second the amendment and in doing so, I want to make a few general remarks. After all, religion is a matter of faith proceeding from the innermost recesses of the heart and as we know, Sir, in matters of faith, it is the old traditional habits and customs and forms and ceremonies that play a very important part. Suppose, Sir, I go to a temple on a holy occasion and stand near the Garbhagruha with my cropped head, with my shirts on and with my spectacles, and possibly holding a copy of some constitutional law or a copy of the Religious Endowment Act, certainly I cannot make a favourable impression in the minds of the people who have come there for worship, with a sense of devotion expecting some divine grace from the deity. Therefore, it is not enough that I am merely a Hindu, but I must be practising the tenets of the Hindu religion in my every-day life. It may be that I do not strictly conform to the traditional orthodox standards, but still by the way in which I stand before God, by the way in which I behave towards the deity and the ceremonies performed in the temple and the manner in which I view the forms and practices in the temple, and the interest I take in matters of religion, I should be in a position to be spotted out by the people there, saying, ‘ Oh! Here is a person who is fit to be in charge of the temple and who is a Smartha or a Vaishnavite, par excellence! ’ If there is any object in putting these words ‘ he shall be a person professing the Hindu religion; there is a greater object in adding these words also, namely, ‘ and practising ’. Again, I may be a Hindu, but still, I cannot be asked to administer the affairs of a temple belonging to Vaishnavites, where the worship and ceremonies are carried on according to Visishtadvytham, because I am one professing Advytham which is entirely different from the other. If I were asked to administer a Vaishnavite temple, what impression or what reaction would be produced in the minds of the Vaishnavites who come to the temple for worship from long distances or in the minds of the archakas or other people in the temple?

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“ Sir, when some of our friends from this country went to London in 1931 to take part in the deliberations of the Round Table Conference, they were not recognized or cared for by the press representatives who were waiting there at the harbour to greet them, because most of them were in Englishman's style of dress, with suits, boots and hats and hence those press reporters thought that they were not the real representative Indians. They did not even care to look at them or have a chat with them. But then when some Maharajas got down from the steamer with their big turbans and long coats, these press reporters greeted them saying ‘ Oh! Here are the real Indian representatives ’. It is because they were waiting for the Indian representatives to the Round Table Conference, that when they saw people coming in the English style of dress, their attention was not attracted to them, whereas, when the Maharajas came with their turbans, they were able to distinguish them as Indian representatives. Even Sir Tej Bahadur Sapru, who was the leader of the Liberal Party and who went as an Indian representative to the Round Table Conference, was not able to impress those people, because he was in English dress. But, Sir, although this has nothing to do with the present amendment, this is only an illustration to show how a particular mode of dress on a particular occasion has a peculiar attraction for the on-looker. Even so, in these religious institutions it is only the mode of dress and the behaviour of the authorities in charge of these temples that will impress the worshippers. Sir, there are many important temples and sacred shrines in our State to which many a poor people come and worship from distant places. They may not have many occasions in their lifetime to visit such temples and holy places and when they come, they come with a zeal and an ardour which cannot be described in words, and with a sense of devotion and sacredness, which has no parallel in any sense, which is a typical feature to be seen in the Indian pilgrims only. What reaction would be produced in their minds, if they see an Assistant Commissioner or an Executive Officer of the temple dressed in a tip-top English style? I therefore submit, Sir, that we must take every care to see that those officers who are to be in charge of these temples should dress themselves in such a fashion and behave in such a manner as to make a favourable impression in the minds of the devotees of the temples and so I am very glad to second this amendment.”

SRI P. KANDASWAMI PILLAI:—“ Mr. Speaker, Sir, I entirely agree with my hon. Friend Sri K. Bhashyam when he said that the person who is to be in charge of the affairs of a temple must appear in a suitable fashion. It means that we must adopt all the temple rules and the injunctions prescribed by our ancestors in regard to temple worship. There is no doubt about that at all. This is a very small matter of detail, although it is important. Our Hinduism is very wide and its tenets are very numerous.

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You cannot give any particular definition to a Hindu. There are various communities among the Hindus, such as Saivites, Vaishnavites and Madhvites and various sub-classes and sub-communities. According to the Saiva Agamas, a person going for worship in a Siva temple must go in a particular dress and in a particular form. He must wear *rudraksham* and must have *vibuthi* marks on his forehead. He must go in a particular form and worship in a particular manner. And if a person belongs to the Vaishnavite community, he must go to the Vishnu temple with *Dwadasi* namams and if he were a Vadagalai, he must wear a different caste-mark, and worship in a particular form. If he happens to be a Tengalai, he must wear Tengalai namams and worship in a different style. If we go into all these details, there are oceans of them and it would be practically impossible to adhere to each and every rule prescribed in religious text-books and practices. Therefore if the amendment of my hon. Friend Sri K. Bhashyam is accepted, it means that the Assistant Commissioner or the Executive Officer of the temple must undergo a course of the Agama Sastras of the particular religious institution to which he is to be put in charge and practise them in his every-day life. I think, Sir, that we can conveniently leave these details to the Government, because I believe that the whole law will be in charge of a Hindu Minister and he will see to it that only the proper person is put in charge of the temples concerned. I am sure that no Christian or Muslim will be entrusted with this portfolio and therefore he will take great care to see that the temples are not desecrated by the appointment of improper and unsuitable officers. We must trust the Government to do the right thing and leave these minor details to their good sense. I therefore oppose this amendment, Sir, and I request my hon. Friend Sri Bhashyam to withdraw it and not to press all these minor matters of detail.”

THE HON. SRI K. MADHAVA MENON:—“ Mr. Speaker, Sir, I find it rather difficult to accept this amendment, because I think it would be impossible to put it into practice, if once it is accepted. Now the clause as it stands reads as follows:—

‘ The Commissioner, every Deputy or Assistant Commissioner and every other officer or servant appointed to carry out the purposes of this Act, by whomsoever appointed, shall be a person professing the Hindu religion, and shall cease to hold office as such when he ceases to profess that religion.’

“ My hon. Friend Sri K. Bhashyam wants to insert the words ‘ and practising ’ after the word ‘ professing ’. It is very difficult to define what is meant by practising the Hindu religion.

“ Apart from that, Sir, the dictionary meaning of the term ‘ professing Hindu faith ’ is affirming one's belief in the Hindu religion and this is totally different from the meaning of the term ‘ practising Hindu religion ’. I really doubt, Sir, how many of us would be really practising Hindu religion according to the strict tenets prescribed in the Sastras. I really wonder, Sir, whether this would not be inconsistent with the amendment just now moved by Sri T. Viswanatham and seconded by my hon. Friend

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Sri K. Bhashyam, to clause 10 of this Bill, wherein they wanted that the Commissioner, the Deputy Commissioner and the Assistant Commissioner should be recruited from persons possessing law qualifications of a recognized University or practising lawyers, because I want to know how many of us, practising lawyers, really practise Hindu religion according to the tenets prescribed in the Hindu Sastras and scriptures. Perhaps my hon. Friend Sri K. Bhashyam might be an exception to that."

SRI K. BHASHYAM:—"The Hon. Minister is blaspheming the lawyers of the whole Hindu community, Sir."

THE HON. SRI K. MADHAVA MENON:—"I am not in any way blaspheming anybody, Sir, but I am only asking how many lawyers of the Hindu community are practising Hindu religion in accordance with the strict injunctions of the Sastras. There are people who do not even perform their Sandhyas and I know there are people who cannot even repeat the Gayatri by heart correctly. So that, Sir, if we accept this amendment, we must have to put in a definition for the term 'religious practice' and we will have to prescribe a number of religious practices which should be observed by these officers. We must prescribe that as one of the qualifications for making appointments to these posts. It is very difficult to carry all these things into practice. It may be that my hon. Friend Sri T. Viswanatham may have a living faith in the Hindu religion, but whether he is practising that religion in his daily life is a thing which nobody can know. We know, Sir, the oft-quoted expression that 'Even the devil itself cannot know the mind of man' and such being the case, how can man know the mind of man and say that such and such a person is practising Hindu religion. We have got no yard-stick to measure the mind of man. The very example given by my hon. Friend Sri T. Viswanatham as to how even such stalwarts like Sir Tej Bahadur Sapru were not able to impress the press reporters in England by his outward appearance, while a chaprasi was able to do so simply by wearing his turban, is enough to show how very difficult it is for people to understand the real state of things by mere outward appearances and expressions."

SRI T. VISWANATHAM:—"I said Maharajas, not chaprasis."

THE HON. SRI K. MADHAVA MENON:—"Yes, Sir, I accept the correction. It comes to this, that the Maharajas by themselves were not impressive, but that their turbans had made them more impressive. That is an example which shows that outward appearance creates greater impression than real truth. I do not want, Sir, that such a false impression should be created in this matter, or that people should be judged by their outward appearances. A person may be wearing a big namam on his forehead and call himself a Vaishnavite, but in practice, he may be

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doing the most outrageous things on earth. You cannot put in things in this Bill which are impracticable of performance or which cannot be measured by any yard-stick. But we can only lay down certain general practical conditions and prescribe certain general principles which we can enforce in making appointments to these posts and the qualification that we have prescribed is that he must profess the Hindu religion. I submit, Sir, that the amendment of my hon. Friend Sri K. Bhashyam is impracticable of application and therefore cannot be accepted."

SRI K. BHASHYAM:—"Mr. Speaker, Sir, I submit that my amendment is a very reasonable one and a very necessary one because there is a vast difference between a person professing a religion and practising a religion. As my Hon. Friend the Minister for Law just now said, 'Even the devil cannot dive into the depths of man's mind' and know what he professes and whether his profession is really true or not. Therefore, Sir, much less can the devil of a Minister—without meaning any offence or disrespect to him—discern the mind of a person who says that he professes a religion and make the appointment, although he may, in fact, be a most profane Hindu. It may be that in many cases, even people belonging to the black-shirt movement can say that they too profess the Hindu religion and get into these temples. You know, Sir, that even in Tirupati some of the students belonging to the black-shirt movement got themselves admitted into the school and disfigured the picture of Lord Sri Venkatesa, after having got into that institution. Perhaps you may not be able to get people who are so orthodox as to wear always the Dwadhasa namams, or people who look like Sivapalanis for being appointed as Assistant Commissioners or Executive Officers of these temples, but I do want that they should at least conform to some ordinary standards which might indicate that they are practising Hinduism in some form or other. Otherwise people would lose faith in these temples. (Interruption.) I can give the Hon. Minister the names of a number of lawyers who still wear namams and who are still very orthodox and if he really wants them, I can send them on to him for being selected to these posts. Now let me give you a practical example of what I mean. Take for instance our great revered leader Sri V. Bhashyam Ayyangar, the retired Judge of the High Court, who has been appointed as the Director of Harijan Uplift. He is a very orthodox gentleman, and a gentleman who is well versed in law. If you appoint such a gentleman as the Commissioner of the Hindu Religious Endowments, nobody will complain about him. But what is going to happen is that some I.C.S. or some I.A.S. officer might be put in charge of these institutions. People who come for religious worship in temples and devotees of God would not like such people being the head of the religious institutions. If my amendment is accepted, you can avoid those things. Because this is in the nature of an Ecclesiastical department, you must take

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special care to appoint people who are religiously minded, in addition to merely professing the Hindu religion. Suppose, you appoint a person to be a Bishop in a church. He must go there with his reversed collars and with a black coat and put on such dress as is prescribed for a Bishop. I am not so very impractical as to suggest that the person who is appointed as an Assistant Commissioner should be strictly orthodox. But he should have a religious bent of mind and should be a bit religious in his everyday life. At least, if the Hon. Minister can give an assurance that he will appoint a person as Executive Officer, who will put up a namam or vibuthi when he comes to the temple and who will bear a panchakacham and not suit, hat and boots, that would satisfy me. Otherwise, what will happen is, that if a person comes up for being appointed as an Executive Officer, you will ask him 'Are you a Hindu?' and he will reply 'Yes, don't you see that I am putting up a namam?'. But who is there to see that in his every-day conduct in the temple, he behaves himself in such a manner that the ordinary person who goes to the temple may be able to reconcile with him? I ask, why not appoint a person who is really orthodox as the Commissioner and ask him to select these other officers, in which case, he would only choose the right sort of persons? What difficulty is there if you ask these officers to study the various Agamas and Sastras and prescribe that as a qualification for them in the future? The Government can frame rules prescribing the qualifications of these officers, if they want. That is why I am asking that at least this harmless amendment may be accepted by the Government. It is not a small amendment going into the details of the administration, as my hon. Friend Sri Kandaswami Pillai has pointed out. I do not quarrel with him, even if he thinks this is only a minor matter, but if he has any real faith in the temple, he must support me at least in this amendment, which is perhaps a very small one, according to him. I hope, Sir, that the Government will accept my amendment, because it is really good for the persons who are to be appointed as Deputy and Assistant Commissioners, not only to profess but also practise Hinduism in some form or other, and there should be some justification for them to be appointed to these posts."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, my hon. Friend Sri Bhashyam only a little while ago supported the amendment of my hon. Friend Sri T. Viswanatham when he wanted that these Deputy and Assistant Commissioners should have a Law degree qualification, but now he says that he would be satisfied if they know the Agamas and Sastras to some extent. At least he wants an assurance from me to that effect, even though he is sure that I cannot accept his amendment. The hon. Mr. Bhashyam forgets that I come from a district where nobody can enter a Hindu temple or even within the precincts of a temple with a shirt and without a bath. Even Sri Bhashyam who had

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once visited one of the temples there had to remove his shirt and take a bath before he could enter the temple. That is the custom in Malabar. In 1937 when my Hon. Friend Dr. T. S. S. Rajan visited the Guruvayur temple, one gentleman came to him and said, 'Sir, you cannot enter the temple with your shirt on. You must take off your shirt and have a bath before you can enter it'. So that, it is not a case of anybody wanting to see that the temple is desecrated or destroyed of its sanctity that a provision like this is put in this legislation. It is not at all the intention of the legislation to affect the sanctity of the temple or to diminish, in any way, the sacredness and the religious character of temple-worship. If that is the idea, then I am sure, we will get ourselves destroyed. But we want to preserve the temples, to maintain the faith of our people in the temples and to see that religious worship is carried on as before and that the temple funds are properly utilized for the promotion of these purposes and that is the object of this Bill."

SRI A. VEDARATNAM PILLAI:—"Sir, on a point of information. கனம் மந்திரி அவர்கள் மற்ற விஷயங்களை கட்டுப்படுத்தி என்ன செய்தபோதிலும், அல்லது செய்யாதபோதிலும் ஆலயங்களில் நுழையும் பொழுது hat, boots, போட்டுக்கொண்டும், சிகரெட் பிடித்துக்கொண்டும், ஆபீசர்கள் போகாமல் பாதுகாப்பு அளிப்பார்களா? இப்பொழுது இம்மாதிரி நடந்து வருகிறது. அதற்கு பாதுகாப்பு கொடுக்க ஏதாவது வழி இருக்கிறதா என்ற விஷயத்தை எனக்கு விளக்குமாறு கேட்டுக்கொள்ளுகிறேன்."

THE HON. SRI K. MADHAVA MENON:—"இந்த amendment உத்தியோகஸ்தர்களைப்பற்றி மட்டும்தான் சொல்லப்பட்டிருக்கிறது. சாதாரண மாக யாராக இருந்தாலும், உத்தியோகஸ்தர்களாக இருந்தாலும்கூட, அல்லது சாதாரண மனிதருக இருந்தாலும்கூட ஆலயத்திற்குள் போகும் பொழுது boots, shoes, போட்டுக்கொண்டும், சிகரெட் பிடித்துக்கொண்டும் போவதை கட்டாயம் கண்டிக்கவேண்டியதுதான். அதற்கு எவ்வளவு தண்டனை கொடுக்கவேண்டுமோ அதைக்கொடுக்க வேண்டியதுதான்."

MR. SPEAKER:—"The amendment is—

'In clause 11, after the word "professing" add the words "and practising".'

The amendment was lost.

SRI V. RAGHAVAYYA:—"Mr. Speaker, Sir, I beg to move the amendment standing in my name, namely—

'After the words "Hindu Religion" in line 4, insert the words "and having a knowledge of the mode of worship and the ritual adopted therefor".'

"Sir, the idea behind this amendment is that the gentleman who is asked to administer a particular temple must have a knowledge of the mode of worship that is being carried on in that temple and if possible, a knowledge of the rituals also that is adopted in that institution. I know, it is a very difficult thing, no doubt, to expect all these officers to have a knowledge of the various Agamas and Sastras and so on. But at least, it may not be difficult for them to study these things even while they are under

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training, so that they might carry on their work with ease. My idea is that the official to be appointed need not be well-versed in Vedanta or the Agamas or the great truths of the Hindu religion. But he must have at least a true understanding of the rituals that are followed in the particular temple. I submit, Sir, that it is not difficult to get a knowledge of these things in a few months. In some temples, the rituals are more important than the general mode of worship. In some other temples people attach greater importance to the modes of worship. Therefore the official should have a knowledge of both these things. It may be argued, how is it possible for the Commissioner to be appointed by the Government to go through all these various systems of philosophy and the various practices obtaining in each temple? But I submit, Sir, that a basic idea of these philosophies is absolutely necessary for any person who claims to be the Commissioner of the Hindu Religious Endowments.

"If they like they may choose graduates of philosophy passing out from our colleges so that the men who go there go with a bent of mind and mood who will not scoff at everything they see foreign to their own ways of thinking. It is also necessary that in such matters people are essentially in agreement with the mode of worship. For instance, Advaitam, Dvaitam, and Visishtadvaitam, are there. There are people, whatever may be the views of outsiders, who profess and practise Advaitam, Dvaitam, and Visishtadvaitam. There is friction in maintaining the intricacies of these various modes of worship. I do not think it will be out of the way to ask that the Government should see that these officials have a grounding in the philosophy of these various modes of worship. If the official does not know these, he will certainly be misfit. Any amount of trouble may arise. Suppose the Commissioner who is going to be appointed is a Saivaite, will he not be a misfit in a Vaishnavaita temple? Are the Government going to appoint Saivaites to Saivaite temples and Vaishnavaites to Vaishnavaita temples alone? It will be far more advantageous for the officers to have a grounding in these various modes of worship. That will create in the mind of the man that much of liberality and that much of breadth of vision as not to look askance at what is being practised in the temple. Saivite mode of worship may appear repugnant to those who do not follow that type of worship. But still there are millions of people in this country who follow Saivaite mode of worship. The recent Bill passed by this House bans the killing of animals and birds. Taking out the life of animals and birds may not be quite in consonance with the views of some people. Apart from the opinions of individuals in the matter of appointing Commissioners, I say, Sir, the Commissioner has absolutely no business to import petty prejudices into the work of his office. I, therefore, think that it is necessary, in the first instance, to have a man who has good grounding in the various modes of worship followed in the country, so that he may

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behave himself in a careful and inoffensive manner. Secondly, he should have a general knowledge of the rituals practised in the various temples so that he may not step on another's toes and make himself a nuisance. It is also better that the Government insist on these officials passing a certain test in these matters. The official is to do a special job, and unless he is qualified for it, he has absolutely no business to be there. Just as we require the judicial officers and the revenue officers to pass the judicial test and the revenue test respectively, I ask that these officials do pass certain tests which may be prescribed in consultation with the various Pandits. Some syllabus may be drawn up by the Government for the easy mastering of these principles. I commend my amendment for Government's acceptance, and I hope there will not be any trouble in accepting it."

SRI T. VISWANATHAM:—"Sir, I second the amendment. This is a very reasonable amendment. According to the Hon. the Minister this would be a more reasonable and more practicable amendment than those that we moved already and lost. Better to move and lose rather than never move amendments at all! The hon. Member Mr. Raghavayya has given us happily on this occasion a very good amendment. When I was seconding, the amendment of the hon. Member Mr. Bhashyam, I had this in my mind, but I did not get the proper language. When the hon. Member Mr. Raghavayya moved the amendment, I was delighted. I have absolutely no doubt that the reasons given are very sound. If the object of control of the various trusts is to maintain and restore the pristine purity of our religion, and re-elevate in the estimation of the world the position of our various religious institutions and temples, I submit that the officers, who are put in charge of the endowments and trusts, must certainly have a knowledge of the mode of worship and ritual adopted. It is the least we should expect of them. I submit even if they are not law graduates, and even if the Government are unwilling to have law graduates, though ultimately they may provide some appellate authority and have the mistakes of these officials set right, as these officials come into contact with the temple servants and worshippers throughout the State in about 13,000 institutions, their influence for good or for evil will be tremendous. After all, the hon. Member Mr. Raghavayya does not require any expert knowledge, and I also do not say that we require expert knowledge on these questions. But one must certainly have a knowledge of the modes of worship. If the Government appoint a Commissioner for the Tirumalai Devasthanam, that Commissioner must certainly know the practices and the ceremonial functions. He must be in a position to understand those practices. He need not be an expert. He need not recite *mantrams* off-hand. He need not have the capacity to officiate. But he must know exactly what the rituals are, what the modes of worship in Ramanuja's time were, and whether there has since been any change. He

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must know whether the *Archakas* do their duties properly and observe the necessary rituals. It is absolutely necessary that he should know all these things. Unless he knows the rituals and the mode of worship, it will be ludicrous on his part to occupy this post. Government can create some syllabus for them, as my friend Mr. Raghavayya stated. Let them pass some test in the various modes of worship and rituals practised. Let them pass a test in the philosophic doctrines underlying the various tenets. They may be posted to Udipi temple or Mathurai temple or Simhachalam temple. They have got to understand the underlying tenets of these various temples. There is no use of Hindu officers occupying these posts, unless they know all these rituals and modes of worship."

THE HON. SRI K. MADHAVA MENON:—"Sir, the same difficulty which I stated with regard to the previous amendment, in a more exaggerated form, is here. The hon. Member Mr. Raghavayya's amendment is to insert the words 'and having a knowledge of the mode of worship and the ritual adopted therefor' after the words 'Hindu Religion' in line 4 of this clause. This is a qualification for the Commissioner, Deputy Commissioner, Assistant Commissioner and every officer appointed to carry out the purposes of this Bill. I understand that the hon. Member Mr. Bhashyam himself does not know all the rituals."

SRI K. BHASHYAM:—"I am not aspiring for the post of Commissioner."

THE HON. SRI K. MADHAVA MENON:—"I do not say, Sir, that the hon. Member is aspiring for the post of Commissioner. He suggested persons with law degrees should be chosen for appointment. Even if such an expert lawyer like the hon. Member Mr. Bhashyam does not know the modes of worship, how can we expect youngsters of the department to know the modes of worship and religious practices adopted in the temples? The hon. Member Mr. Raghavayya wants that the officer should have a knowledge of the mode of worship and the ritual adopted therefor. What is the quantum of knowledge that we have to fix? That is the difficulty. For each place, we will have to prescribe the quantum of knowledge in the mode of worship. It is an impossibility for the officers to know every mode of worship. Some Hindus may even consider it an insult if asked whether they know the modes of worship. Other people may say that they know the modes of worship, but I cannot profess to know all the modes of worship. That is a difficult thing to practise."

SRI K. BHASHYAM:—"Sir, my name has been dragged in, and I want to say a few words. I may not know all the *sastras*. But I can tell the Hon. the Minister that I know what are the various ceremonies that take place in a temple. I have grown up in a temple. My uncle was a *Stanika*. I have begged in *goshthas*

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and taken *prasadam*s. I may not be able really to perform the ceremonies in the morning, noon, and evening. But I know what these ceremonies are. I cannot really say that I can perform them. What is required is that he must have some knowledge of these ceremonies. He should not behave like the officer who said, while puja was going on, 'how long does it take God to take the food that is offered'."

SRI V. RAGHAVAYYA:—"Mr. Speaker, Sir, as one listens to the Hon. Mr. Madhava Menon's curious arguments in respect of these amendments, one gets almost frightened. I do not know if it is parliamentary to use the terms. Are the Government going to put in idiots as officials?"

MR. SPEAKER:—"I did not hear the hon. Member."

SRI V. RAGHAVAYYA:—"Mr. Speaker, Sir, when the Members of this House suggested that the officials should possess the law degree or philosophy degree, it was not accepted. We ask, Sir, whether the Government are going to put in barbers, washermen, or tailors in the shape of officers? The person posted must be fit for the job. If persons in other posts are required to fit themselves in their jobs, why should not the Government require these people also to fit themselves in their jobs? The Hon. the Minister in charge of temples has stated that it is not the object of this Government to wound the feelings of the people. The idea is to maintain the sanctity attached to these temples. If that is the professed view—though not the practised view—what prevents the Government from agreeing to some of the very reasonable suggestions made by hon. Members in respect of qualifications for the post. I only want some knowledge of the rituals and the modes of worship. It is not 90 per cent knowledge or 100 per cent knowledge. Whoever asked them to have that much of knowledge? All that I wanted to say was that the official should not mistake a dog for an ass! He must have some idea in the matter. Suppose he considers it a waste of time to have three *pradakshinams*, and says one will do, and thus makes himself an ass. I am sure many cries will rise against him. Let him be an administrator receiving garlands and not kicks."

THE HON. SRI K. MADHAVA MENON:—"Sir, they will certainly distinguish between a dog and an ass. The hon. Member Mr. Raghavayya asked 'are the Government going to appoint barbers and washermen?' Perhaps in Tirupathi temple, we may have to appoint barbers to do *mundanam*. According to Mr. Raghavayya's amendment, he must know the rituals and modes of worship in the temple! I do not think, Sir, that the barber's work requires a knowledge of the rituals and modes of worship in the temple. Like this, there will be practical difficulties. Arguments may seem curious. But to say that because arguments are curious, the Government's idea is to have idiots who will make no distinction between a dog and an ass, is not correct."

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MR. SPEAKER:—"The question is—

'After the words "Hindu religion" in line 4, insert the words "and having a knowledge of the mode of worship and the ritual adopted therefor".'

The amendment was lost.

Clause 11 was put and carried.

Clause 12.

MR. SPEAKER:—"The motion is—

'That clause 12 do stand part of the Bill.'

Sub-clause (1).

THE HON. SRI K. MADHAVA MENON:—"Sir, I move—

'That in line 3 of sub-clause (1), for "a Deputy Commissioner", the words "each Deputy Commissioner" be substituted.'

That is only a verbal amendment."

MR. SPEAKER:—"Amendment moved—

'That in line 3 of sub-clause (1), for "a Deputy Commissioner", the words "each Deputy Commissioner" be substituted.'

SRI T. VISWANATHAM:—"Sir, what is the difference between 'a' and 'each'? I want to know what the grammatical connotation is."

THE HON. SRI K. MADHAVA MENON:—"There is no necessity for me to explain to my hon. Friend the grammatical connotation of 'a' and 'each'."

SRI T. VISWANATHAM:—"Legal implication?"

The amendment was put and carried.

Sub-clause (2).

THE HON. SRI K. MADHAVA MENON:—"Sir, I move—

'That in line 6 of sub-clause (2), for the figures "40", the figures "41" be substituted.'

This is another amendment of a verbal nature. We are going to move an amendment to omit clause 40. There is a reference in this sub-clause to clause 40. When we are omitting clause 40, there is no meaning in putting a reference to clause 40 here. Therefore, I move the amendment, Sir."

MR. SPEAKER:—"Amendment moved—

'That in line 6 of sub-clause (2), for the figures "40", the figures "41" be substituted.'

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SRI K. BHASHYAM:—"Sir, I do not know whether they are omitting clause 40 entirely. Before an amendment that clause 40 be omitted is accepted, he cannot move the present amendment. He must postpone the amendment and if the House agrees to the deletion of clause 40, then he must re-open the matter and move his amendment."

THE HON. SRI K. MADHAVA MENON:—"Sir, we have given notice of an amendment to delete clause 40. Technically my hon. Friend Sri Bhashyam is right. I cannot anticipate whether or not the House will agree to the Government amendment to delete clause 40. Therefore, let that be passed over."

MR. SPEAKER:—"If clause 40 is deleted, then we can re-open the matter."

THE HON. SRI K. MADHAVA MENON:—"If the Government amendment to delete clause 40 is accepted, then I will have to go back and move the amendment to this sub-clause. With the confidence of the House, I can move it now."

SRI T. VISWANATHAM:—"Sir, accepting or rejecting an amendment has nothing to do with the confidence of the House. I want the Hon. Minister not to entertain any such notions."

MR. SPEAKER:—"We may now itself take up the amendment."

The amendment was put and carried.

Clause 12 as amended was put and carried.

Clause 13.

MR. SPEAKER:—"The motion is—

'That clause 13 do stand part of the Bill.'

Sub-clause (1).

SRI V. RAGHAVAYYA:—"Sir, I move—

'That for the word "divisions" in line (2) of sub-clause (1), the word "zones" be substituted.'

It seems to me that the word 'zones' would be a better word than 'divisions'. Of course, legally 'divisions' may be a better term."

MR. SPEAKER:—"Then let the hon. Member formally move it."

SRI T. VISWANATHAM:—"I have already seconded it, Sir."

THE HON. SRI K. MADHAVA MENON:—"I have already opposed it, Sir."

SRI V. RAGHAVAYYA:—"I have already formally withdrawn it, Sir."

The amendment was, by leave, withdrawn.

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Sub-clause (3).

THE HON. SRI K. MADHAVA MENON:—"Sir, I move—

'That in line 4 of sub-clause (3), for the figures "40", the figures "41" be substituted and that after the words "limitations and conditions", the words "if any" be inserted.'

This is only a verbal amendment.

The amendment was put and carried.

SRI K. BHASHYAM:—"Sir, I move—

'That for the words "by general or special order", the words "by general order" be substituted.'

The Commissioner may delegate to an Assistant Commissioner any of the powers conferred on the Commissioner under this Bill other than the powers referred to in certain clauses, subject to such restrictions and control as the Government may, by general or special order, lay down. There may be a special order laying down restrictions. I want that the Government may make up their mind to issue a general order concerning delegation of powers and duties of a Commissioner to an Assistant Commissioner. Let them not say that in a particular temple there is a particular difficulty and that, therefore, a distinction has to be made. We should not make such invidious distinctions. I think it would be more dignified if the Government issue only general orders. Consequent upon the withdrawal of clause 7, the Government should not make a special order in a particular case for delegation of powers. The word 'special' seems to be inappropriate. Therefore, I move, Sir."

SRI T. VISWANATHAM:—"I second the amendment, Sir."

MR. SPEAKER:—"Amendment moved—

'That for the words "by general or special order", the words "by general order" be substituted.'"

THE HON. SRI K. MADHAVA MENON:—"Sir, there is no sinister motive underlying the idea of issuing special orders on special occasions. The question may be raised whether an order is of a general character or not. It is clearly necessary for Government to issue special orders in individual cases of importance. The other portion deals only with restrictions and control to which an Assistant Commissioner is subject. That means he should not exercise any powers which he is not specifically authorized to do."

SRI K. BHASHYAM:—"Sir, he wants power to issue special orders to suit special occasions. It means that the Government are subject to any possible pressure. When clause 7 was there, the superintendence of all religious institutions and endowments was vested in the Government. In that case, they could make any order they pleased. Now it has been deleted. The Government

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have been denied the power of superintendence over the institutions. Therefore, they cannot have any power to interfere and issue special orders. The whole thing is left to the Commissioner. Not only 'special order' is inappropriate but after the delegation of clause 7, it is objectionable also."

THE HON. SRI K. MADHAVA MENON:—"Sir, we are only talking of delegation to an Assistant Commissioner of powers which the Commissioner possesses. We only say that this will be subject to such restrictions and control as the Government may, by general or special order, lay down. Therefore, the question is only about delegation of powers. What is meant is that the power of Commissioner to delegate his powers can be restricted by the Government by any special order. It is not in all cases that the Government will issue special orders. Suppose in a very important matter the Commissioner delegates his power to an Assistant Commissioner. The Government want that a particular power should be exercised by the Commissioner himself and not by the Assistant Commissioner. In that case we will have to issue a special order."

The amendment was put and lost.

Clause 13, as amended, was put and carried.

Clause 14.

MR. SPEAKER:—"The motion is—

'That clause 14 do stand part of the Bill.'"

SRI T. VISWANATHAM:—"Sir, I move—

'That clause 14 be deleted.'

"Sir, this clause is about the constitution of Area Committees. Originally I was one of those who said that the people of the area should be given a voice. In the Select Committee, I got an institution called an Area Committee but not of the type I wanted. I wanted a Committee which would represent the people but here we have got a body which is not elected. The whole idea of asking for the association of the people of the locality is that they must have an effective voice in the management of the institution and in the discussions of the Area Committee, whether it is called Temple Committee or Area Committee. When once it becomes an appointed Committee, the entire purpose is lost. I think I have given notice of another amendment as an alternative that the Committee must be an elected body."

MR. SPEAKER:—"No, the hon. Member has not given notice of any such amendment."

SRI T. VISWANATHAM:—"It is with regard to the next clause, Sir. If the Government agree to make it an elected Committee, then I have no objection to retain this clause. But if they want to stick to their idea of having an appointed Committee, then

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I want the omission of this clause. If this clause is retained as it is, then it will give room for further patronage. 'The Government can appoint whomsoever they like. These Area Committees have got some powers of the trustees. In one place trustees are appointed and in another place Area Committees are appointed. Therefore, unless it is an elected body, the House should not be willing to create so many appointed bodies.'

SRI V. RAGHAVAYYA:—"I second the amendment, Sir. I think in matters of omissions at least the Hon. Minister will agree with us because he has agreed to omit several other things and without much harm he can omit this clause also. I think it is a thoroughly unnecessary clause which gives more trouble than good and more pinpricks than blessings. I expect the Government to accept the amendment."

MR. SPEAKER:—"Amendment moved—

'That clause 14 be deleted.'"

THE HON. SRI K. MADHAVA MENON:—"Sir, my hon. Friend Sri Viswanatham said that it was very vehemently demanded in this House during the first reading of the Bill that Area Committees must be there. The Select Committee considered the question whether there should be elected Committees or appointed Committees. I am sorry my hon. Friend Sri Karanth is not here. He also said that there were dangers in having elected Committees at this stage. When we were dealing with the previous clauses, everyone of us was particular that only people who had faith in temples and who professed and practised the religion should have anything to do with these institutions. Even after the closure, my hon. Friend Sri Vedaratnam Pillai said that at least people should not go in with cigarettes, hats or shoes, and that such people should not have anything to do with the temples. It is perfectly right in a democracy that we must have elected members. But in the case of a temple, if we have elected members, it is quite possible that people who have absolutely no faith in temples and who decried temples become members of the Area Committees. Then the very purpose of the Bill will be defeated. This was a forcible argument put forward in the Select Committee by a good number of Members. That is why the Select Committee said that the Government might appoint people who had faith in temples as members of these Area Committees. In days when atheism is preached as a fashion, it may be dangerous to have elected bodies. Further, there will be a difficulty in preparing the electoral rolls. We will have to decide who the people entitled to vote are and what the area commanded by the temple is. In a State-wide temple as the Tirupati temple, there will be a difficulty in deciding who the electorate shall be. Are we to have the worshippers in the whole State or only those people in the particular area? Such difficulties will arise. If it is an elected body, we will not know the nature of people who will constitute the Committee.

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Temples have got a lot of property and they should be properly administered. Therefore, I cannot accept the suggestion that it should be an elected body."

SRI K. BHASHYAM:—"The Hon. Minister has been talking about my amendment which comes hereafter."

THE HON. SRI K. MADHAVA MENON:—"Hon. Member Sri Viswanatham was all along referring to that amendment. That is why I had to refer to the hon. Member's amendment."

SRI T. VISWANATHAM:—"The Hon. Minister's argument is not at all convincing. I will like to adduce some more argument in favour of my amendment. The Hon. Minister has raised a point which is productive of some misapprehension. The Hon. Minister says that if the members of the Area Committee were elected representatives, persons who hold views of destroying the temples may also come in into these Committees. I can assure him that such a case will never occur and it is impossible. (Interruption: 'Why?') Because I know the temper of the country and the temper of the people. Your 'why' is a big assumption. The vast majority of the people know how to achieve what they want. I am sure that only a negligible percentage of the population is in favour of the so-called purification of the religion and religious institutions. Just like the elections in the case of co-operative organizations, there may be scramble for getting power. But surely, the suggestion that people who have views for the destruction of these temples will get into the Committee if there was election, cannot be swallowed by anybody. We cannot accept the contention that unless the Government nominate the members to these Committees, all these public institutions and charitable institutions will be destroyed. It is too large an assumption to make. Possibly, the Hon. Minister did not have this in his mind when he said that. I submit that at least the misapprehensions created by his speech should be removed. I want to press my amendment, Sir."

MR. SPEAKER:—"The question is—

'That clause 14 be omitted.'"

The amendment was lost.

THE MADRAS LEGISLATIVE ASSEMBLY.

Monday, the 20th November 1950.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVASHANMUGAM PILLAI) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
BILL, 1949 (L.A. BILL NO. 10 OF 1949)—*cont.*

Clause 14.

SRI T. VISWANATHAM:—“ Sir, my amendment is—

‘ In sub-clause (1) (a), delete the words “ by notification in the Fort St. George Gazette ” and after the words “ Area committee ” insert the words “ elected as hereinafter provided ”.’

Sir, the purpose with which this amendment is moved is this: At the time of the introduction of this Bill most of us pleaded that the members of the denominations must have some effective voice in the management of the various endowments within their respective areas. When we said we wanted the association of the local people of the religious denominations we had in our mind the temple committees as we originally contemplated in the existing Act, temple committees which were provided for in the Act of 1863; but we never wanted that the Government should make provision for committees to be appointed by them by notification. In other words, we wanted only elected committees. These are days of democracy not only at the top but also at the bottom; and if democracy is to prevail in small villages having even 500 of population, and if the Government are anxious to establish panchayats for ordinary affairs, there is no reason why the endowments should be left out of the jurisdiction of elected bodies. One

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might ask, 'what is the electoral college, whom do you contemplate as electors for this purpose'? For such a general question, the general answer would be 'all those who are interested in the upkeep and maintenance and prosperity of the endowment'. For greater details along with other rules for which Government have been making provision in this Act, the Government, in consultation with whomsoever they like, might certainly frame rules and prescribe the necessary machinery for the electorate and give a chance to persons in the locality to have an effective voice. The Government have now provided for Area Committees. As the Hon. Minister pointed out, originally there were no Area Committees but they have been brought in now. But the Area Committees now provided for are appointed committees. I submit the Area Committees appointed by the Government are only an addition to the objectionable machinery, i.e., the kind of machinery to which we have been raising objections. All along, the point of our objection has been that the religious denomination must have some voice; but if you go through the provisions of this Bill, you will find that the religious denomination is practically squeezed out. The Constitution may say that the denomination must maintain these institutions, but still, none of the provisions in the Bill is such as to bring within its scope the religious denomination for expressing its will, effectively or otherwise. If the Government are anxious to associate local people, at least in the case of temples whose income is below a particular level, and if they think Area Committees should be appointed in respect of such institutions, I submit these committees should be elected bodies. If they are not elected bodies, the purpose is not served. On the other hand, this House will put another instrument into the hands of the Executive to more effectively manage the properties themselves, instead of leaving them to the denomination to manage them.

"There is also another difficulty, Sir. The Commissioner, the Deputy Commissioners and the Assistant Commissioners will be paid officers and there will be some kind of check over them. The Trustees also have got certain duties and they have greater obligations to fulfil than other persons who hold property. But the Area Committee will have all the power and no responsibility, practically none, because they do not have the disadvantage of being paid officers nor have they the obligations of trustees, but they will be merely appointed by the pleasure of the Government and be there during the pleasure of the Government. I submit this is a very anomalous position. Area Committees to be constituted like that and spread over the entire Province, with nearly 15,000 temples to be distributed to these Area Committees—provisions like these are not healthy provisions to be embodied in the Bill, in my humble opinion. And that is the reason, Sir, why I want these Area Committees to be manned by elected personnel subject to such rules as may be prescribed, and that is my amendment."

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SRI L. N. GOPALASWAMI:—"Sir, I second the amendment. While seconding it, I need go no further than take the instance of this Government. The Government say that because we represent the public, we have a voice in the management of the religious institutions. It, therefore, stands to reason that local people who are very interested in the temples should certainly have a voice in the management of their own institutions. If simply because we alone represent the public here, we alone should have a voice in managing not only all the institutions in general but even particular institutions, not directly but even through agents to be appointed by Government, i.e., by the Commissioner to be appointed by this Government, it is an indirect way of transferring the responsibility and it only offends the fundamental principles whereby it is only the denomination and the local people and the public of the locality that should be put in charge of these religious institutions. The Hon. Minister the other day said that if we leave it to elections, it may be that irreligious people will capture these organizations. Will not the Oppositionists and the critics of this Bill say that we irreligious people have captured the seats in the Legislature and want to take charge of all the temples which we are not entitled to do? If we adopt one kind of argument for taking over the institutions, that argument should also apply to a provision which will give scope to the local people to choose their own officers, so that there may be proper supervision and so that it may be more in accordance with public opinion, rather than have direct management by the Government themselves."

SRI K. R. KARANTH:—"Sir, I must say, having had some part in the Select Committee stage, that it appears at an earlier stage it was stated here that I was against any elected committee. If that is so, there is a slight misapprehension. The position is this: The Government wanted all powers for the officers and nothing less than that; they wanted that the trustees also should be appointed by the officers. The view I took was: Let there be at least nomination for the present, because instead of having the paraphernalia of electoral rolls and regular elections and so on for this purpose, let us be satisfied with nomination; because nomination even by Government would be preferable to appointment of trustees by the officers. I felt, with the little experience I have had of the committees in my district, that they functioned fairly well and very satisfactorily. I am not sure whether they were appointed or elected, but rather than officers trying to dictate from Madras and appointing local trustees, our own men, however bad or good they may be, would have a better idea of choosing local people than officers who are being transferred from district to district. This position was taken in the Select Committee stage; but that does not mean that I am against elections of any sort. Sir, there is a real fear, and I think hon. Mr. Viswanatham voiced that fear, viz., that as things are being done now in respect of advisory committees and advisory councils,

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certain people only of certain groups who support the Government will be appointed. That is a fact just at present. Therefore, the fear is whether all the 28,000 and odd temples are going to be handed over to the supporters of Government in the shape of these committee members. I hope Government will take care to see that this power of nomination is not abused in any manner. Slowly and at a later stage, it is open to them to see that instead of having regular elections for this purpose and spending much money, the Hindu members elected in the districts are brought in. For instance, there will be a large number of Hindu members elected from various constituencies; we shall be having panchayat elections or there are elected Hindu members of the District Boards already. Therefore, instead of directly nominating and thereby taking the odium, it is open to the Government to take advantage of existing bodies where there are elected Hindu members, without having recourse to the paraphernalia of having regular elections for these committees, and to see that the power of nomination in the Government is not abused in the slightest manner."

THE HON. SRI K. MADHAVA MENON :—" Sir, the mover of the amendment, hon. Mr. Viswanatham, did not adduce any more arguments now than what he adduced yesterday when he moved that the whole clause be deleted. His main argument is : ' We wanted a committee when the original Bill came; we asked for something, but we got something which we did not expect at all. The committees you have proposed are to be nominated, and so we do not want the committees at all.' So, he said, clause 14 should be deleted. Every argument mentioned by him and by his able supporter yesterday has been repeated to-day. And in the course of my reply, I said there would be difficulty; that if the area committees were to come in by election, it would mean that even people who had no faith in temples might come in. And he also said ' if that is so, we have no right to sit in this House and say that we have power to make provision for these special institutions.' I do not think, Sir, that is a convincing argument—of course I agree in the same way he can also say that my argument will not convince him. But apart from what I have said yesterday, I may say this much : the original Bill contained no committees at all. As hon. Mr. Karanth said, the original Bill said that the trustee should be appointed by the Commissioner or the Assistant Commissioner. Here, so far as area committees are concerned, power is given to the concerned officers. There was a strong feeling expressed in this House that it would be wrong and that we should associate local people in the administration of these institutions. It was in deference to this feeling that clauses 14 to 21 referring to these area committees were added by the Select Committee, just with a view to avoid the complaint that the work would be done entirely by officers who may not be people of the locality or of the same place. I mentioned Mr. Karanth's name yesterday; what I understood him to say was that for the present

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he would be satisfied with nominations. Therefore, I said even Mr. Karanth would agree to nomination. The background for his saying so might have been different; he seems to have felt that as the Government were willing to have area committees, let us have them at least for the time being, by nomination at least. Anyway, there are various difficulties as we have said in having elected committees for these temples. I entirely welcome the idea suggested by Mr. Karanth that we are going to have a large number of elected bodies in the districts and from among them, Hindu members can be nominated for this purpose. That will serve both the purpose of representation by election and representation of the locality. I am sure, Sir, this suggestion will be borne in mind when these committees have to be nominated.

" Then, Sir, in regard to the argument that these will be handled by any Government to have their own men or groups of representatives, I should say it is a very plausible argument. But, I do not think the present Government have such a flattering unction to their soul that we are going to be here permanently. We are sure that at least in another year the elections are bound to come and so that is a thing which can be in the hands of anybody; it may be in the hands of this side to-day or somebody else who may be here the next day. So we do not gain anything particular in having a provision like this. It will be to the advantage or disadvantage of any Government that may come in. So, Sir, I cannot accept the amendment."

SRI T. VISWANATHAM :—" Sir, I press my amendment for this reason. The Hon. Minister ended by saying, " we are not going to be here permanently and that a provision like this is not going to benefit us," and so on. I submit, Sir, that no executive Government should have such powers, whether it is manned by the Hon. Mr. Madhava Menon or by men who are raising objections. My point is only this, that the executive Government should not have such wide and extensive patronage in respect of as many as 15,000 institutions spread over 142,000 square miles of this State. I submit it is wrong in principle and that is why I press my amendment."

MR. SPEAKER :—" The question is—

' That in sub-clause (1) (a), delete the words " by notification in the Fort St. George Gazette ", and after the words " Area Committee " insert the words " elected as hereinafter provided " . "

The amendment was lost.

SRI T. VISWANATHAM :—" Sir, I move—

' In sub-clause (1) (a), for the word " temples " in line 4, substitute " those " . '

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"My reason for moving this amendment is for better grammar."

SRI K. BHASHYAM:—"I second it, Sir."

THE HON. SRI K. MADHAVA MENON:—"I entirely disagree that a pronoun instead of a noun makes it any better. Unfortunately, I am not able to find how it fits in into the section at all. No amendment can be moved which does not fit in with the section."

"Again, Sir, hon. Mr. Viswanatham's amendment is to remove the word 'temples' in line 4 and substitute 'those' in its place. But I do not find the word 'temple' in line 4. In fact, I have been searching every line to see whether this will fit in."

SRI T. VISWANATHAM:—"It is in line 5 as it is printed in the Bill. Probably it is a clerical mistake, because it is not correctly put in the amendment."

THE HON. SRI K. MADHAVA MENON:—"If it is in line 5, I think the words 'other than temples included,' etc., are better and I do not see any particular grammatical advantage in having the pronoun instead of the noun."

SRI T. VISWANATHAM:—"I do not press the amendment, Sir."

The amendment was, by leave of the House, withdrawn.

Sub-clause (1) (b).

SRI T. VISWANATHAM:—"Sir, I move—

'In sub-clause (1) (b), after the words "clause (a)" in line 2, insert the words "on grounds of misconduct or wilful neglect of duty".'

"Sir, I thought that hon. Mr. Bhashyam had some amendment relating to election and that we could group all these amendments together. Sir, this power of removal of the area committee must be for specific grounds and it is absolutely necessary now that you have agreed to have a nominated committee, because when once a person is nominated he ought not to be at the will and pleasure of those in authority. You have got the power to make a gift, but you cannot remove that gift when once it is given. Therefore, there must be some safeguard for the person who takes the appointment. That is why I say no person should be removed except on grounds of misconduct or wilful neglect of duty and it is a necessary safeguard against any executive authority."

SRI K. BHASHYAM:—"Sir, I beg to second the amendment for a more practical reason and it is this. It is always difficult to go to Government for nomination and respectable people do not seek nomination. Generally, people that go in for nomination are fairly not qualified for it and so Government have no other go

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but to nominate those persons who go and worry them. Now on the question of safeguard for the person who has been nominated to the area committee, suppose the area committee is abolished, without any specific grounds, it makes it all the more difficult for any respectable man to agree to serve on it. Therefore, you must give dignity and honour to the committee so that respectable persons may offer themselves to serve on the committee. Instead of merely putting a man and turning him out the next day, what I want is if you are to turn a member of the committee out, you must give reasons for doing so. In all committees that are constituted, it is necessary to provide for such a thing. It is one of the conditions that is always understood and so I insist upon the amendment of my hon. Friend. I, therefore, support it."

THE HON. SRI K. MADHAVA MENON:—"Sir, I cannot accept the amendment. Mr. Viswanatham said that clause (b) provides for the abolition of the committee and not of the individual members. He says that for abolition of a committee, there must be grounds such as misconduct or wilful neglect of duty. But, he does not make any allowance for incompetence. Suppose we nominate a person to the committee and he is found incompetent or the committee exceeding the statutory powers given to them. Such contingencies might happen which hon. Mr. Viswanatham has evidently not foreseen."

"Then, Sir, hon. Mr. Bhashyam said that respectable people do not care to come in, and in such a case Government may come in with nomination. But I may tell him that even respectable persons come and ask for nomination. That apart, even after nomination, if the committee is not doing the work properly, if it exceeds its powers and proves inefficient or for some reasons the committee has not been able to do any work by not having a majority and on account of this like that, the work of the committee becomes impossible, in such cases it must be open to the Government to abolish the committee."

"Then, Sir, hon. Mr. Bhashyam wanted to know the reasons for the abolition of the area committee. That is what we have said in the clause, namely, that a reasonable opportunity shall be given to the committee to show cause against its abolition. It is not arbitrary and only after notice is given to the committee to show cause and after obtaining their views abolition is done. So, Sir, it is necessary in the circumstances we have pointed out and I cannot accept the amendment."

SRI T. VISWANATHAM:—"Sir, the Hon. Mr. Madhava Menon thought that he has discharged his duty by giving these reasons. He has given good reasons, except one reason. He said 'incompetence' as the first cause. I do not agree, because they themselves choose the men. On the other hand, if they are elected men, some Secretary or officer might pounce upon them and say they are incompetent. Then, Sir, I have always protested that incompetence and unsuitability are not grounds at all, but that there

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must be some tangible grounds. Therefore, this incompetency and unsuitability are not at all grounds. Again, if he says there are reasons for abolition, I want them to be inserted here, so that the body might be made to show cause against their abolition. As the clause stands, an order for abolition need not state the grounds of abolition and it is not on grounds of misconduct or wilful neglect of duty or that is not functioning without a majority. I say, Sir, that there is the Municipal Act, or Panchayat Act or Corporation Act and wherever there is a removal clause like this, the authorities are expected to give the reasons for removal. I, therefore, submit that the Minister must include these reasons. But, according to the wording of the clause as it stands, what I contemplate is, the order will merely say that in exercise of the powers conferred under section 14 (1) (b) the Government propose to abolish the committee and the committee should show cause why it should not be abolished. In such a case what is the answer that the blessed committee could give? Therefore, I submit, it is absolutely necessary that you must state the grounds. I agree with the Hon. Minister in respect of the grounds he has suggested, except one and at least he can put forward those other grounds in the form of an amendment. Otherwise, I think, my amendment will be more useful. He may well put in misconduct, wilful neglect of duty, exceeding statutory powers, not functioning or discharging any of the functions imposed by this Bill, as grounds for the abolition of the committee. Therefore, Sir, I submit that some reasons must be given; otherwise there is no chance for them to show cause against the abolition and it will only be an eye-wash to say, as stated in the clause, they will be given an opportunity to show cause. It is all vague and it should not be in that form at all. Now, Sir, as the Hon. Minister has agreed to the reasons, I ask him to accept my amendment or if he likes he may put it in his own words."

MR. SPEAKER:—"The question is—

'In sub-clause (1) (b), after the words "clause (a)" in line 2, insert the words "on grounds of misconduct or wilful neglect of duty".'

The amendment was lost.

SRI K. R. KARANTH:—"I beg to move—

'Add at the end of sub-clause (1) (b), the following:—

"And shall reconstitute a new committee in its place within six months from the date of such abolition."'

THE HON. SRI K. MADHAVA MENON:—"May I suggest, Sir, that instead of moving the amendment here, it would be more appropriate to consider it along with an identical amendment which hon. Mr. Bhashyam has given notice of in respect of clause 19. Most probably, I am going to accept his amendment."

SRI K. R. KARANTH:—"In the circumstances explained by the Hon. Minister, I do not propose to move it here."

Clause 14 was put and carried.

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Clause 15.

MR. SPEAKER:—"The motion is—

'That clause 15 do stand part of the Bill.'

SRI T. VISWANATHAM:—"Sir, I move—

'Delete the clause.'

"The clause as it stands runs thus: 'Every Area Committee shall consist of such number of members as may be appointed by the Government, not being less than three nor more than five.' I have already stated my objection. Of course, if clause 14 were deleted, clause 15 also would have to be deleted. Now, I think it is not necessary."

SRI K. BHASHYAM:—"The clause says, Sir, that the Area Committee shall consist of persons who may be appointed by the Government. I suggest that instead of its being appointed, they may be elected in the manner prescribed by the Government. That is the reason why I want this amendment. Arguments have already been advanced in the matter of the election question."

MR. SPEAKER:—"That has already been voted down. So, I rule it out of order."

Sub-clause (3).

SRI K. BHASHYAM:—"Mr. Speaker, Sir, I beg to move—

'In sub-clause 3 (a), after the word "profess" add the words "or practise".'

MR. SPEAKER:—"The House has given a verdict on a similar motion moved in another place and it has been voted down."

SRI K. BHASHYAM:—"Consistent with what I have said I make the motion and consistently with what has been the fate of my previous motion, the Government will defeat it. I want to be consistent with myself and therefore, Sir, I make the motion."

SRI T. VISWANATHAM:—"I second the motion for the reason that it is very necessary."

MR. SPEAKER:—"The question is—

'In sub-clause 3 (a), after the word "profess" add the words "or practise".'

The amendment was lost.

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I beg to move—

'In sub-clause 3 (a), delete the word "Hindu" and add at the end the words—

"or religious denomination or the religious faith for whose benefit the institution is intended or created."

At every stage it is there and I feel it is not necessary."

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SRI K. BHASHYAM :—" I second it, Sir."

MR. SPEAKER :—" The question is—

' In sub-clause 3 (a), delete the word " Hindu " and add at the end the words—

" or religious denomination or the religious faith for whose benefit the institution is intended or created."

The amendment was lost.

Sub-clause 3 (b).

THE HON. SRI K. MADHAVA MENON :—" Mr. Speaker, Sir, I beg to move—

' For the words " has applied " substitute " has applied or applies " and for the words " has been " substitute " has been or is ".'

SRI T. VISWANATHAM :—" I submit, Sir, that the words as they stand are good enough and I do not know the reasons why we should add these words. At the time of the disqualification arising, there must be a person who has applied and therefore, Sir, the words employed are the proper terms. I feel, Sir, the original wording is quite all right and it need not be changed."

MR. SPEAKER :—" The question is that—

' For the words " has applied " substitute the words " has applied or applies " and for the words " has been " substitute the words " has been or is ".'

The amendment was carried.

SRI T. VISWANATHAM :—" Mr. Speaker, Sir, I beg to move that—

' In sub-clause 3 (b), add at the end the words " or is proved to have been living in the company of a concubine or a prostitute ".'

I am very particular about this amendment, Sir. One of the fervid and fervent appeals made by the Government and others supporting the measure to take over the management of temples, maths and every other possible institution which they can is made on the ground that the persons in charge of those institutions are desecrating them by not living a moral life and they are even exhibiting photographs of trustees that are said to be immoral, on the floor of this House. If they are so anxious about the private lives of mata-hipathis and trustees, they must be equally careful about the persons who are expected to exercise authority over the institutions, namely the persons who are to be appointed members of the Area Committee. They will have jurisdiction over 16,000 temples in the Province. (Sri K. Bhashyam : ' 28,000. ') The Area Committee would not operate in respect of certain temples and so, they will have jurisdiction over 16,000 temples. From our experience, Sir, and from the speeches delivered by the Hon. Minister and by hon. Members who support the measure perhaps more fervently than the

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Ministers themselves, we find that private morality of the persons in charge of the institutions has played a very important part in their emotional appeal in support of this Bill both at the time of the introduction of the Bill and at the time when constitutional objections had been raised. It is not as if everybody is perfect in this world. When certain points are raised on the ground that it goes against the Constitution, then the emotional appeal is made based on the private lives of these unfortunate individuals who have no voice here. I attach great value for moral life of people and I want not merely matadhipathis, not merely trustees but all people to have a high standard of morality. But a person chosen by the Government for filling the office of managing and guiding the destinies of so many temples and maths will be in a position to create a certain reaction or impression in the minds of millions of people who attach great importance to their private lives and who feel that their life ought to be pure and beyond suspicion. Unless, Sir, the Government chooses people whose private lives is beyond cavil, we will be handing over those institutions to persons whose conduct will bring down the reputation of those institutions which we want to preserve by enacting this piece of legislation. I have a great and sincere belief that every person if possible in Government service in charge of public institutions must be a person of good morals and so, Sir, every person who is to be nominated by the Government to discharge duties of a public nature must have a private life which is beyond cavil. If it is so essential in general and in relation to public life, it is even more essential when we think of these persons in the context of religious and charitable institutions. After all it is not a case of election wherein the Government might say : ' What can we do; he has managed to get himself elected by his immoral or other means? ' It is a case of nomination and I submit that it is a case in which the Government must exercise the greatest amount of care to see that only persons having a private life beyond reproach alone is to be nominated."

SRI R. V. SWAMINATHAN :—" Who is going to second this amendment? "

SRI T. VISWANATHAM :—" All those who care for morality will second and support the amendment."

SRI K. BHASHYAM :—" Mr. Speaker, Sir, this is the one occasion hon. Mr. Viswanatham has proved he can talk as much as if not more, upon morality than hon. Members Mr. Kosalam and Mr. Swaminathan. That is what I like about it. Their anxiety for the purity of those institutions and the purity of life of the people managing them and their insistence upon purity of life is something which was certainly amazing; but after hearing Mr. Viswanatham, I felt that, that Sri Kosalam and others must get themselves qualified for being appointed to the Area Committee under this sub-clause. (Laughter.) This is a simple proposition that has been put before the House. It is not a difficult test."

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may be said: How are we to go into these things; how is it possible to dive into the lives of people. He said that even the devils cannot dive deep enough to find what man is thinking. I may point out that this does not cover occasional lapses from morality and that is not taken into account at all. I want that aspect of the amendment to be considered by the Hon. Minister and also those sitting behind him. The person complained against must be living with a concubine or a prostitute. I want to impress upon the Hon. Minister the practicability of enforcing this provision and it may well be enforced because we are all anxious for the purity of the lives entrusted with the administration of the temples and of persons around."

SRI R. V. SWAMINATHAN :—" Mr. Speaker, Sir, I never thought of speaking on this amendment. I thought that hon. Mr. Viswanathan was not serious in moving the amendment and I thought there may not be any seconder to his motion. But now, Sir, even Mr. Bhashyam has come forward to second this amendment. I think he is not also serious when he made his remarks and also dragged my name and of my hon. Friend Mr. Kosalram. He said that hon. Mr. Kosalram and I must qualify ourselves to be members of these Area Committees. I am one of those who believe in the moral character of individuals and particularly so when a person wants to become a member of the Area Committee, not only that but for the Legislature and all walks of public life. The hon. Mr. Bhashyam knows that hon. Mr. Kosalram and I am not certainly aspiring to get qualified for an Area Committee membership as we want to get ourselves qualified as matadhipathis and that is our ambition and that has been expressed even at the Select Committee Stage. That is the ambition if the chance comes to us. I need not say that I oppose this amendment. I entirely agree with the sentiments expressed by the mover and the seconder; anyhow they are not serious and that is what I feel."

SRI K. BHASHYAM :—" I am quite serious, Sir, when I seconded the amendment."

MR. SPEAKER :—" The hon. Member is not quite serious in saying that hon. Mr. Bhashyam was not serious in seconding the amendment."

THE HON. SRI K. MADHAVA MENON :—" Mr. Speaker, Sir, may I contradict my hon. Friend Mr. Swaminathan; in fact, Sir, hon. Mr. Bhashyam has never been so serious as he had been in this case. I feel, Sir, he said in joke that those who cared for morality will not oppose this amendment. Even at the risk of being dubbed as not caring for morality, I do oppose this amendment. The clause relates to disqualification by insolvency. I do not particularly see any connection between insolvency and concubinage and prostitution except perhaps that one will lead to the other and insolvency will be the result. I entirely see the dictum that persons nominated for this purposes must be above reproach and

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pure as far as human judgment goes. But the question is: Are we to shut out people who have reformed? Supposing 25 years ago, a man lived with a prostitute and he reforms; is such a man to be shut out? The wording of the amendment proposed by my hon. Friend is: 'or is proved to have been living in the company of a concubine or a prostitute'. The wording includes all that. That is how I look at it with my knowledge of grammar. Apart from that, Sir, I do not think anybody lives in the company of prostitutes. He may go to a prostitute and he may not be living in the company of a prostitute for ever. Also, Sir, going to a prostitute occasionally is not covered by this and I do not know what Mr. Viswanathan means when he suggests the words 'living in the company of prostitutes' to be used. Therefore, Sir, the amendment is not practicable and I oppose it."

SRI T. VISWANATHAM :—" Mr. Speaker, Sir, I seriously refute the argument of the Hon. Minister. As for grammar, I respectfully submit, Sir, that his grammar is not correct. It does not relate to things which happened 20 years ago as the Hon. Minister explained."

THE HON. SRI K. MADHAVA MENON :—" It does."

SRI T. VISWANATHAM :—" It does not; shall I show him the relevant articles of Nesfield's? It refers to a thing that happened not in the past, not at the time of nomination but we come to a stage when he is nominated and is already there and during the course of the discharge of his duties, having a comfortable seat, with somebody to attend upon him in which he can have an easy life leading to compromising situations. It is the intention that only such people should be disqualified and it has no reference to things that happened twenty years ago. The words are 'proved to have been living'. Therefore, I submit, Sir, the first argument of the Hon. Minister is wrong."

"Regarding the second point, that this is not a thing which will be proved and there will be lot of proof of it as hundreds of people in the area concerned will know it and be talking about it when a person in charge of a temple is misbehaving. If the Government think that such a person can be continued in his office, then woe to the institution over which he has to exercise authority. I do not think we can have purity or improve the moral tone of our religious life in this country, if we leave things like this. Regarding the wording employed, if he finds a better wording for the purposes I have explained, I never object to his making use of them for embodying the sentiments I have expressed. He agrees that they must be above moral reproach. So let him accept my amendment; or, if he does not like it, let him have any other suitable amendment. It is not correct to say, as was said by hon. Sri R. V. Swaminathan, that I would not have a seconder. I submit that I would have crores of people living in the province to support me; I would have four

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crores ninety-nine lakhs ninety-nine thousand and nine hundred and ninety-nine persons who will support me. (Laughter.) For nobody wants a person who is proved to have been living in the company of a concubine or a prostitute to be in charge of these institutions."

MR. SPEAKER:—"The question is—
'in sub-clause (3) (b), add at the end the words, "or is proved to have been living in the company of a concubine or a prostitute".'

The motion was lost.

Sub-clause (15) (3) (e).

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I beg to move—

'That in clause 15 (3) (e), for the words "if he is sentenced", substitute "if he has been sentenced".'

The amendment was put and carried.

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I beg to move—

'That in sub-clause (3) (e) in line 3, after the words "other than", insert the words "a political offence or".'

Sir, this is a simple amendment. The words 'political offence' can be there. For if a person has been imprisoned for a political offence not involving moral turpitude, that should not operate as a disqualification for his appointment. This thing obtains in the District Municipalities Act, the Local Boards Act and the City Municipal Act. Therefore, I submit, Government having a particular policy for a long time, this amendment of mine may be adopted."

SRI K. BHASHYAM:—"Sir, I heartily second the amendment. For this is in conformity with what obtains in other statutes. So this amendment is only in line with the wording of the other statutes. Therefore it may be accepted by Government."

THE HON. SRI K. MADHAVA MENON:—"Sir, I do not think this amendment is necessary in view of the fact that the last sentence in that clause provides for it. For what does it say; it says—

'Provided that the Government may direct that such sentence shall not operate as a disqualification.'

So in every case, where the conviction is for a political offence not involving moral turpitude, Government may declare it not to be a disqualification. So I oppose the amendment."

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MR. SPEAKER:—"The question is—

'That in sub-clause 3 (e) in line 3, after the words "other than", insert the words "a political offence or".'

The motion was lost.

SRI L. N. GOPALASWAMI:—"Mr. Speaker, Sir, I beg to move—

'That in sub-clause (3) (e), at the end, delete the words "provided that the Government may direct that such sentence shall not operate as a disqualification".'

Sir, we have been speaking so much of morality throughout from the very beginning of the discussion of this Bill and we have been discussing moral values of persons who are to occupy positions as heads of maths or positions of power over these institutions, that I thought it necessary to move this amendment. There are two sets of qualifications given, one on the positive side and the other on the negative side. One set deals with the qualifications and the other set deals with the disqualifications. Many members of this House moved that certain qualifications should be laid down for members of area committees. But Government rejected them by arguing that suppose they were not able to secure lawyers, or I.C.S. officers have not passed laws what were they to do. And so all those amendments were voted down. Now we are having a series of disqualifications laid down for those positions, namely, if a person does not profess Hindu religion, if he has been adjudicated an insolvent, if he is of unsound mind, a deaf-mute or suffering from contagious leprosy, if he is a trustee, or an office-holder or servant attached to a temple or specific endowment, if he has been sentenced for a criminal offence involving moral turpitude and so on. Now, coming to the last point, I do not see why Government should reserve with them power to exempt any person who has been sentenced for a criminal offence guilty of moral turpitude. It is hardly fair or just that such a person should have control over religious institutions. Apart from this fact, such a provision is likely to be misused in the actual exercise of it. I want Government to look at the morality of retaining such a proviso. The Government cannot say that they cannot find a better person, surely, they will exempt one such and appoint him. In the very sub-clause they have the words, 'such sentence not having been cancelled or reduced to a period of six months or less, or the offence not having been pardoned.' So, Sir, I am of opinion such an exemption is very heinous. I do not really want that such a person convicted for a criminal offence involving moral turpitude should even be allowed to occupy a post of responsibility."

SRI T. VISWANATHAM:—"Sir, I heartily second this amendment. I can understand Government exempting a person committed to prison for a political offence not involving moral turpitude. Sir, our aim in this legislation is to bring these institutions to a high moral level. Here in this sub-clause, in the first

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part, the Government say, that if a person is guilty of an offence not involving moral turpitude and has been convicted he should be disqualified. But at the same time, in the second part, it says Government may direct that such sentence shall not operate as a disqualification. I submit that it is wrong for the Government to ask for power to exempt such persons. Surely such persons should be the last persons who can aspire to positions of trust and responsibility."

SRI R. V. SWAMINATHAN :—" Sir, I have not understood what hon. Mr. Viswanatham wants."

SRI T. VISWANATHAM :—" Shall I turn to his side and speak? " (Laughter.)

SRI R. V. SWAMINATHAN :—" Hon. Mr. Viswanatham wanted to introduce the words 'political offence' after the words 'other than.' But the Hon. Minister said that his point is covered by the proviso, his amendment was not accepted. So this proviso is necessary. Now, hon. Mr. Viswanatham seconds this amendment; and I am not able to understand him. Hon. Mr. Viswanatham wants that if a man has been convicted for breach of trust or for swindling, he should not be nominated by Government. I agree. But suppose a man was convicted for a political offence fifteen years or twenty years ago or for a minor offence, and he is proved now to be a respectable man in the village, and nobody has any objection to have him as a trustee, what is wrong in having such a person. So, that is why this proviso is necessary. So I oppose the amendment."

THE HON. SRI K. MADHAVA MENON :—" Sir, I oppose the amendment. That proviso is necessary to enable Government to give exemption. Apart from the argument of Mr. Gopalaswami, I wish to tell him that everything in this clause turns on the point of morality. That is specifically mentioned in the clause. For, mark the words 'any offence other than an offence not involving moral turpitude.' So it is only offences involving moral turpitude that are sought to be not exempted. Apart from that, Sir, such a saving clause is necessary. For, a man may have been convicted for a technical offence. Should not such a case be exempted. There may be similar cases, and so, it is necessary to have the proviso."

SRI L. N. GOPALASWAMI :—" Sir, I am unable to agree with the Hon. Minister for the simple reason that the language in the clause speaks only of an offence under which a person is convicted not involving moral turpitude only. Therefore the conviction under any other offence bars a man from appointment. A political offence is one that does not involve moral turpitude. So what is the purpose of this proviso at the end of the clause but to enable Government to exempt those who are guilty of offences involving moral turpitude."

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MR. W. J. FERNANDEZ :—" You are wrong! "

SRI L. N. GOPALASWAMI :—" I shall read the relevant portion of the clause. It runs thus—

'Such sentence not having been cancelled or reduced to a period of six months or less, or the offence not having been pardoned, provided that the Government may direct that such sentence shall not operate as a disqualification.'

'Therefore the conviction applies only to cases not involving moral turpitude. So, it is with regard to the other sort of cases that Government seek to ask for power to give exemption. So I press my amendment.'

THE HON. SRI K. MADHAVA MENON :—" I have nothing to say."

MR. SPEAKER :—" The question is—

'in sub-clause (3) (e), at the end, delete the words " provided that the Government may direct that such sentence shall not operate as a disqualification " . '

The motion was lost.

MR. SPEAKER :—" Mr. Raghavayya is not in his place to move the amendment he has given notice of."

SRI T. VISWANATHAM :—" Cannot hon. Mr. Bhashyam move his amendment? "

MR. SPEAKER :—" No."

Sub-clause (15) (3) (f).

SRI L. N. GOPALASWAMI :—" Mr. Speaker, Sir, I beg to move—

'in sub-clause (3) add a new sub-clause (f), viz., " (f) if it is proved that he has no faith in the religion he professes " . '

In doing so, I want to say that by this amendment I want to add one more disqualification for a person to be appointed as a member of the area committee. The reasons are only from experience. We now see that there are several persons who though they profess Hindu religion have lost their faith in Hindu religion; because a Hindu is born and not made. Now, if the clause is allowed to stand as it is, it is quite possible that such person would be appointed as members of area committees. As was pointed by Sri Vedaratnam Pillai yesterday, it is seen that Hindus appointed as officers under the Act are seen entering temples without removing their boots and hats or smoking cigarettes. It is to such people that the care and management of temples would be entrusted if my amendment is not adopted. As pointed out by the Government yesterday, we want to maintain the purity of temples. So, Sir, I submit though a person may profess to be a Hindu he may not have faith in Hinduism, and I want such people should not be appointed under this Bill."

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SRI T. VISWANATHAM :—" Sir, I second the amendment. I want practice and profession should have the same place in public life." (Laughter.)

THE HON. SRI K. MADHAVA MENON :—" Sir, practice and profession should be the same, I submit; but it is difficult to find out. Even the devil does not know the mind of man." (Laughter.)

SRI T. VISWANATHAM :—" Why do you always quote the devil?" (Laughter.)

THE HON. SRI K. MADHAVA MENON :—" I find more devil only here! Sir, sub-clause (3) (a) covers the object of hon. Mr. Gopalaswami's amendment. It says—

'If he does not profess the Hindu religion.'

A man cannot profess Hindu religion unless he has faith in it."

SRI T. VISWANATHAM :—" The contrary is correct."

THE HON. SRI K. MADHAVA MENON :—" As regards the question of smoking cigarette, having hat and boots on and similar things, cannot a person have faith in Hindu religion, in spite of all these things. What is the difference between smoking and snuffing and chewing tobacco. I have seen hard, devoted Hindus chewing while doing puja in temples. So that these members, if they chew tobacco or use snuff, they need not cease to be Hindus. There are very many good people who have faith in Hindu religion in spite of their habit to chew tobacco and use snuff. If a person is in the habit of smoking, snuffing or chewing tobacco, it cannot be said that he has no reverence for God. Addiction to these habits should not be confused with faith in religion. What is faith in Hindu religion? Even among ultra-Hindus, are there not astikas and nastikas? Rishi Charvaka was a Hindu and he was a rishi who said that there was nothing like God."

SRI K. BHASHYAM :—" If he said that, he could not be appointed to the area committee."

THE HON. SRI K. MADHAVA MENON :—" Charvaka was a Hindu and he was certainly entitled to membership of an area committee. Faith in religion cannot be measured by any instrument. Therefore the words 'if he does not profess the Hindu religion' are quite enough."

SRI L. N. GOPALASWAMI :—" If he is content with the disqualification proposed in sub-clause (3) (a), why should he not make it more explicit?"

THE HON. SRI K. MADHAVA MENON :—" The amendment does not make it more explicit; it only confuses."

SRI L. N. GOPALASWAMI :—" If the Government think that it is enough if the person professes one thing and practises another thing, I do not see any useful purpose in trying to convince the Hon. Minister."

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THE HON. SRI K. MADHAVA MENON :—" I have nothing to say."

MR. SPEAKER :—" The question is—

'In sub-clause (3), add a new sub-clause (f), viz., "(f) if it is proved that he has no faith in the religion he professes".'

The amendment was lost.

The House rose to meet again at 2-30 p.m.

(After lunch—2-30 p.m.)

Sub-clause (15) (5) (b).

SRI T. VISWANATHAM :—" Sir, I move—

'In sub-clause (5) (b), for the word "Government", substitute the words "Chairman of the Area Committee having jurisdiction".'

I submit that the Government are out of the picture so far as the internal working of the area committees is concerned. This does not relate to the overall control by Government. This relates more or less to the business procedure of area committees. Therefore I submit that it will be quite right if the resignation is handed over to the Chairman of the Area Committee having jurisdiction."

SRI K. R. KARANTH :—" I second the amendment."

THE HON. SRI K. MADHAVA MENON :—" The appointing authority is the Government and it is only right that the resignation should go to the appointing authority. It is usual to vest the power of dismissal or acceptance of resignation in the appointing authority."

SRI T. VISWANATHAM :—" I am pressing the amendment, because it involves a good principle. It is a committee with a Chairman provided by the Government. Should resignation of membership of the committee be sent to the Government at Madras? I think it is too much."

MR. SPEAKER :—" The question is—

'In sub-clause (5) (b), for the word "Government" substitute the words "Chairman of the Area Committee having jurisdiction".'

The amendment was lost.

Clause 15 as amended was put and carried.

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Clause 16.

MR. SPEAKER :—" The motion is—

' That clause 16 do stand part of the Bill.' "

SRI T. VISWANATHAM :—" Sir, I move—

' For sub-clause (1), substitute the following :—

" The area committee shall elect its own chairman to preside over its meetings.' "

It is necessary to have a chairman elected by the committee and that is why I move the amendment."

SRI K. R. KARANTH :—" I second the amendment."

THE HON. SRI K. MADHAVA MENON :—" The Assistant Commissioner's main duty is to deal with area committees. All the functions that were allotted to the Assistant Commissioner before are now proposed to be given to the area committee. If the Assistant Commissioner is not to be the chairman of the committee, he has no work at all. I think he must be associated with the committee. The sub-clause must remain as it is according to the scheme of the Bill."

SRI T. VISWANATHAM :—" I am not able to follow the reason. The Hon. Minister said that if the Assistant Commissioner did not preside over the meetings of the area committee, he had no work at all. Is that the scheme of this Bill? We have been following the provisions. The Assistant Commissioner was there before the area committees took their birth in the Select Committee. The Assistant Commissioner has many other duties. When the Government provide for a committee and they themselves nominate its members, it is but right that it should be allowed to elect its own chairman. I do not think the Hon. Minister need press his objection."

MR. SPEAKER :—" The question is—

' For sub-clause (1), substitute the following :—

" The area committee shall elect its own chairman to preside over its meetings.' "

The amendment was lost.

Clause 16 was put and carried.

Clause 17.

MR. SPEAKER :—" The motion is—

' That clause 17 do stand part of the Bill.' "

SRI T. VISWANATHAM :—" Sir, I move—

' After the words " may make rules " insert the words " after previous publication " .'

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The addition of the words ' after previous publication ' seems necessary because the public will have an opportunity for raising any objection that they may have to the proposed rules. Otherwise, the Government may make rules without previous publication."

SRI K. R. KARANTH :—" I second the amendment."

THE HON. SRI K. MADHAVA MENON :—" Under clause 100 (3), the power to make rules shall be subject to the condition of previous publication."

SRI T. VISWANATHAM :—" Then I withdraw the amendment."

The amendment was, by leave, withdrawn.

Clause 17 was put and carried.

Clause 18.

MR. SPEAKER :—" The motion is—

' That clause 18 do stand part of the Bill.' "

SRI T. VISWANATHAM :—" The amendments are coming in such quick succession that I am not able to follow."

MR. SPEAKER :—" If possible we will sit to-day till 7 o'clock or at least till 6 o'clock."

SRI T. VISWANATHAM :—" Then we will drop some amendments. That is why I have not moved some amendments. I move—

(i) delete the words " of a defect in the Constitution or on the ground " .

(ii) substitute " is alleged to be disqualified " for " was disqualified " in lines 3 and 4.

(iii) substitute " has " for " had " in line 4.

If there is a defect in the constitution of an Area Committee, the acts of such a committee must be made invalid. That is the reason why I move the first part of my amendment.

" The second and third parts are for improving the grammar. Generally my grammar does not appeal to the Hon. Minister. If it appeals to him in this case, let him accept them."

SRI K. R. KARANTH :—" I second the amendment."

THE HON. SRI K. MADHAVA MENON :—" Identical language is used in the Madras District Municipalities Act and no difficulty has been experienced with reference to that Act. So the language may remain as it is."

MR. SPEAKER :—" The question is—

(i) delete the words " of a defect in the Constitution or on the ground " .

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(ii) *substitute* "is alleged to be disqualified" for "was disqualified" in lines 3 and 4.

(iii) *substitute* "has" for "had" in line 4."

The amendment was lost.

Clause 18 was put and carried.

Clause 19.

MR. SPEAKER:—"The motion is—

'That clause 19 do stand part of the Bill.'"

SRI T. VISWANATHAM:—"Sir, I move—

'After the words "section 14", insert the words "a new Area Committee shall be constituted within six months of abolition and till then" and omit the words "until it is reconstituted".'

There appears to be some lacuna in the clause. When an Area Committee is abolished, a time-limit for its reconstitution should be fixed. Sri Karanth also gave notice of a similar amendment to clause 14."

SRI K. R. KARANTH:—"I second the amendment."

THE HON. SRI K. MADHAVA MENON:—"I accept the amendment."

MR. SPEAKER:—"The question is—

'After the words "section 14" insert the words "a new Area Committee shall be constituted within six months of abolition and till then" and omit the words "until it is reconstituted".'

The amendment was carried.

Clause 19 as amended was put and carried.

Clause 20.

MR. SPEAKER:—"The motion is—

'That clause 20 do stand part of the Bill.'"

SRI T. VISWANATHAM:—"Sir, the object underlying the second part of my amendment to sub-clauses (2) and (3) is the same. Therefore I propose to move them together. I move—

'In sub-clause (2), after the words "reconsideration" insert the words "in the interests of satisfying legal requirements".'

In sub-clause (3) (b) and (c) for the words "as the case may be" substitute the words "in the interests of satisfying legal requirements".'

The Commissioner is given the power to modify, annul or reverse the decision or order. This is an overall power and there must be some restriction upon its exercise. I want that the modification

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or annulment of the decision or order or for remitting it for reconsideration should be confined only to the interests of satisfying the legal requirements, and not for any other purpose."

SRI K. R. KARANTH:—"I second the amendment."

THE HON. SRI K. MADHAVA MENON:—"The revision powers of the Commissioner should not be restricted in any way."

MR. SPEAKER:—"The question is—

'In sub-clause (2), after the word "reconsideration" insert the words "in the interests of satisfying legal requirements".'

In sub-clause (3) (b) and (c) for the words "as the case may be" substitute the words "in the interests of satisfying legal requirements".'

The amendment was lost.

Clause 20 was put and carried.

Clause 21.

MR. SPEAKER:—"The motion is—

'That clause 21 do stand part of the Bill.'"

* SRI T. VISWANATHAM:—"Sir, I move—

'Delete the clause.'

Under this clause, the Commissioner is vested with an Aurangzeb's power. That is not really conducive to good administration, and I submit that he should not be vested with such vast powers. The power should be confined to specific purposes. The powers vested by clause 20 are enough. This may be called Henry VIII provision."

SRI K. R. KARANTH:—"I second the amendment."

THE HON. SRI K. MADHAVA MENON:—"The powers of this 'Henry VIII' clause must be given to the Commissioner. We have made provision in the proviso that in cases falling under clause (a), the Commissioner shall first fix a period and only when the Area Committee does not exercise the power or perform the duty within that period that the Commissioner shall exercise the right conferred on him.

"As regards transfer of pending proceedings to another Deputy or Assistant Commissioner, he must have the power."

SRI T. VISWANATHAM:—"Perhaps I have not made myself clear. I said that the powers conferred by clause 20 were enough. Under sub-clause (1) of that clause, the Commissioner can call for and examine records. Under sub-clause (2), he can modify the decision or order or remit it for reconsideration.

"Sir, sub-clause (3) (a) of clause 20 states that the Commissioner, if he thinks fit, may remit the matter together with his observations in regard thereto to the committee or trustee for

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reconsideration of the decision or order and report to the Commissioner within a time to be specified by him, and on receipt of such report, it is open to the Commissioner to modify, annul or reverse the decision or order or decision as revised after such reconsideration, as the case may be.

"Under sub-clause (5) of the same clause, the Commissioner may stay the execution of any decision or order of the Area Committee. All these powers are already given under clause 20 and these are wide enough. Then, why should some more general powers be given to the Commissioner under clause 21? I think, Sir, these powers are too many and absolutely unnecessary. With these powers the Commissioner can create any amount of chaos and can do anything and everything in the administration of these religious endowments, from north to south, according to the pressure exerted by any political group. I submit, Sir, that no officer in such a responsible position should be entrusted with such wide powers and put in such an embarrassing position."

THE HON. SRI K. MADHAVA MENON :—"Mr. Speaker, Sir, I do not think it is possible to delete sub-clause (2), because the Commissioner is the supreme authority and he can certainly exercise the powers and discharge the duties of the Deputy Commissioner or Assistant Commissioner, if he is satisfied that they had failed to do so. I think, Sir, that the deletion of the whole clause 21 is something which is impossible, because such powers should be given to the Commissioner for the proper discharge of his duty."

SRI T. VISWANATHAM :—"If the Hon. Minister will agree to delete sub-clauses (1) and (3), I shall be satisfied, Sir."

MR. SPEAKER :—"The question is—

'Delete clause 21.'

The amendment was lost.

Clause 21 was put and carried.

Clause 22.

MR. SPEAKER :—"The motion is—

'That clause 22 do stand part of the Bill.'

THE HON. SRI K. MADHAVA MENON :—"Mr. Speaker, Sir, I move—

'For clause 22, substitute the following clause :—

"22. Subject to the control of the Government and the provisions of this Act, the administration of all religious endowments shall be subject to the general superintendence and control of the Commissioner; and such superintendence and control shall include the power to pass any orders which may be deemed necessary to ensure that

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such endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded or exist."

"Sir, the Select Committee did not make any change in the clause as it was in the original Bill and it reads as follows :—

"22. Subject to the control of the Government and the provisions of this Act, it shall be the duty of the Commissioner to see to the proper management of the affairs of religious institutions and he may do all things which are reasonable and necessary to ensure that religious institutions and endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded or exist."

"It was suggested to us that the words 'It shall be the duty of the Commissioner to see to the proper management of the affairs of the religious institutions' might offend the provisions of Article 26 of the Constitution and so a slight change was made by the substitution of the following words in their place :—

'Subject to the control of the Government and the provisions of this Act, the administration of all religious endowments shall be subject to the general superintendence and control of the Commissioner.'

And instead of the words 'he may do all things which are reasonable and necessary to ensure that religious institutions and endowments are properly administered and their income is duly appropriated for the purposes for which they are founded or exist', we have substituted the following words :—

'And such superintendence and control shall include the power to pass any orders which may be deemed necessary to ensure that such endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded or exist.'

"That is to say, the powers of superintendence and control shall be only for the administration of the income of these religious institutions and to see that they are properly appropriated and not for the actual detailed management of the institutions themselves. Therefore the only change we have effected is that we have made the Commissioner responsible for the proper administration of the income of the institution and not the carrying on of their daily functions."

MR. SPEAKER :—"I suggest that the hon. Sri Viswanatham instead of moving his amendment for the deletion of the clause, may oppose this amendment."

SRI K. R. KARANTH :—"I suppose, Sir, that those who are opposed to the revised clause 22 can also speak on it."

MR. SPEAKER :—"Yes."

SRI T. VISWANATHAM :—"Mr. Speaker, Sir, I oppose the amendment for very good reasons. The Hon. Minister has been good enough to admit that the original wording of the clause was deemed to be a little too wide, and that it offended certain articles of the Constitution. It is a very good sentiment, no doubt, Sir. But I submit, Sir, that the mere changing of the language of the clause by itself does not make much difference, because the

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real intention of the Government behind this amendment has not very much changed. Though the language of the clause has been changed to remove the possibility of offending the Constitution, the real intention has not been altered. Sir, both myself and the Government are anxious to exercise some control as *pater patriae* over these religious institutions. With these objects in view, let us analyse the language of the clause which the Government now propose to substitute and see how far it satisfies our requirements. Article 26 of the Constitution says—

‘Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

(a) to establish and maintain institutions for religious and charitable purposes;

(b) to manage its own affairs in matters of religion;

(c) to own and acquire movable and immovable property; and

(d) to administer such property in accordance with law.’

“Sir, you will see that this article gives the religious denomination certain powers. The Constitution-makers were aware that after the attainment of independence, the State Government and the Union Government have sovereign powers to legislate on whatever subjects they like. But at the same time they thought it necessary to reserve certain matters which, even after the attainment of independence, the sovereign Legislatures should not touch and therefore conferred certain rights on the citizens to do certain things without any interference or encroachment by the State or by the State Legislatures and they are what are known as fundamental rights. They have further laid down once for all, that whatever may be the wisdom of the future Legislatures, they should not touch or abridge these powers, unless and until the Constitution itself is amended in an appropriate way. One of such rights granted by the Constitution is the right to maintain, manage and administer the affairs of religious institutions under Article 26 by the religious denominations. It may appear, Sir, that we are over-stating and over-emphasizing the importance of these fundamental rights by repeating them every time and whenever we like. But unfortunately in this Bill so many provisions have been introduced entrenching upon these fundamental rights and that is why we have, much against our will, to refer to these fundamental rights over and over again. I would, therefore, crave your kind indulgence, Sir, in allowing me to deal with this matter in some detail and I hope the House will bear with me for a while and follow the trend of my argument.

“Sir, what are these fundamental rights which are reserved to these religious denominations under Article 26 of the Constitution? The first is the right to establish and maintain institutions for religious and charitable purposes. That is to say the maintenance of these religious institutions is the sole right of the religious denominations. There may be various practical difficulties in the matter of the maintenance and establishment of these institutions

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for a secular Government and that is why the framers of the Constitution have thought it right to leave them to the religious denominations and not to the Government or the Legislature to deal with them and maintain them as they like.

“The second sub-clause of the article says that these religious denominations have the right to manage their own affairs in matters of religion and the third sub-clause says that they can own and acquire movable and immovable property and the fourth gives them the right to administer such property in accordance with law. If such fundamental rights are given to the religious denominations, it means that others shall not exercise such rights. Even the Government cannot take over the management of these institutions, which were established by the religious denominations, because, if they do so, they would be entrenching upon the fundamental rights conferred by the Constitution. Nor can the Legislature do anything which would interfere with these fundamental rights.

“Therefore we must understand the exact scope of these three fundamental rights reserved for the religious denominations in the matter of the establishment and maintenance of religious institutions, in the matter of the management of their own religious affairs and thirdly in the matter of the administration of such property and then proceed to legislate. Any legislation which either directly or indirectly abridges any of these rights will be invalid, and *ultra vires* of the provisions of the Constitution. That is a very simple proposition and there is no doubt about it. But these words ‘management, maintenance and administration’ being words of common usage, seemed to have created some confusion in the minds of the draftsmen of this Bill and that is why they have framed this clause in such a manner as to give the Government and their officers the very same powers as are reserved for the religious denominations by the Constitution. Here in the revised clause 22, you will find the words ‘Subject to the control of the Government and the provisions of this Act, the administration of all religious endowments shall be subject to the general superintendence and control of the Commissioner’. The very word ‘administration’ has been used both in this clause and in Article 26 of the Constitution. The new clause further says, ‘that such superintendence and control shall include the power to pass any orders which may be deemed necessary to ensure that such endowments are properly administered and that their income is duly administered for the purpose for which they were founded or exist’. Therefore, what is the scope and the extent of the powers sought to be taken by the Government by means of this legislation? They are, the powers to pass orders for the proper maintenance, for the good management and for the good administration of the properties of the religious institutions. Sir, no doubt, these are laudable objects and no doubt the Government are actuated by laudable motives in bringing forward a legislation like this, in order to see that the funds and properties of the religious institutions are properly administered and accounted for. But the

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Constitution says that however laudable may be the object of the State, they should not interfere or try to abridge the rights reserved for these religious denominations. Therefore I do not question the motives or the intentions of the Government, but I only question their propriety in seeking powers to take over the maintenance, management and administration of the affairs of the institutions from these religious denominations, by this revised clause 22. Final orders may vest in the Government. In some cases the party is given the right of appeal. But in several cases the parties are not given that right. I submit that whatever is reserved for the religious denomination shall not be provided for to be administered or executed by the Government or their officers. The Government may say 'what is the law by which we can compel those institutions'. They may ask 'if you say that the fundamental rights come in the way of the Government doing anything, what are the Government here for?' They may also ask 'how do you ask the religious denomination to manage its affairs or its property?' It is not a strange feature for such a question to arise. In this country not only now, but for ages and ages, these institutions have been under the control of the general laws. Only general laws have been made regarding the management of properties of these religious denominations. It is only such laws as will apply to everybody regarding the management, administration and enjoyment of properties and the acquisition and disposal of properties, that were made applicable to the religious denominations. The religious denominations did not have one Transfer of Property Act and the rest had another Transfer of Property Act. Religious institutions will have to pay the same amount of court fees if they have to go to the court just as anybody else will have to pay the court fees. That is the meaning of the phrase 'in accordance with law'. The religious denominations cannot step on another's property nor slander nor commit libel against any person, just as anybody else for that matter is prevented from doing so. The religious denomination cannot enjoy, and likewise others cannot enjoy, any property so as to injure another man's property. That is what it means when we say 'and administer it in accordance with law'. It does not mean the Endowments Act as the law, but it means the Bill which we now discuss and by which we propose to take over the administration and acquisition or disposal of the immovable properties belonging to the various institutions. I submit, therefore, that this is absolutely *ultra vires* of the Legislature notwithstanding the fact that the Hon. the Minister was good enough to change the language of the clause. I would point out that his intentions are not carried out in the revised draft. The revised draft contains language which will mean the taking over of the administration of the religious denominations into the hands of the Government and their officers, which are specifically reserved to the religious denomination under the Constitution. I oppose this clause, Sir."

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SRI K. R. KARANTH :—“ Mr. Speaker, Sir, if I take a little time of this House, it is because I feel that this legislation which we are passing after so much cost and delay in this House is going to be declared *ultra vires* by the courts of law. I can quite understand that any *matadhipathi* or temple trustee should not misappropriate, and that if he misappropriates, he should be subject to the decision of a court or in grave cases conviction by a criminal court. I shall not have the least compunction if he is punished, or sent out of his office, or if anything else happens to him. But this sort of interference at every stage by the officers is opposed to the Fundamental Rights specified in the Constitution. A few samples of the orders passed by the officers, I shall place before the House which will show how they are negating these Fundamental Rights given under the Constitution, and how this legislation is going to be declared *ultra vires* of this legislature. By virtue of this clause, namely, general superintendence, there will be interference in the smallest things also. I shall read out a few orders passed by this Board in a few cases to show how they have understood the Act, and how in the last twenty years they have been treating certain heads of institutions, for whom people have great respect. Let us take the instance of maths. There are ample provisions made in clause 57 for the removal of trustees by suits where there is misappropriation, and where a trustee is of unsound mind and so on. Nobody will desire that they should be there. Clause 59 says that their scale of expenditure in maths can be fixed, though I am bound to say that the power taken here is a little too much. In the same clause it is stated that it should be subject to local usage of the institution. Under the guise of fixing the scale of expenditure, the officer here in Madras has got the right to say 'you shall do this and you shall not do that'. From morning till evening, he can go on controlling and humiliating any *matadhipathi*. This is wrong. I would appeal to hon. Members not to think of a few cases where people have misbehaved. Nobody should shut his eyes to such cases. Some *Samians* may be immoral and some may be bad. If the bulk of them are bad, all that I can say is that it is a disgrace to Hindu society which we represent. But the bulk of them are good people and I would request this House to say whether they want these officers sitting in Madras to go on dictating to them from morning till evening, 'you shall not do this or that'. I shall give a few examples now. There is no use of my hon. Friends Opposite shaking their heads to say, 'we do not want to do that'. I will show them what has been done, what is being done, and what is going to be done by these officers. Bad people may be punished. But do the Government want a *matadhipathi* to come here with folded hands and petition before the officers? Take for example the math at Udipi. For years and years together there are certain usages observed from morning till evening during the *pariyayam*. There is a *Samiar* who is going on with the *pariyayam* this year. I want to know whether anyone in this House can raise his hand and

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say that that man is immoral or bad. There may be bad people. I do not deny that. But we must see how people are going to respect the law which we are now passing. Is the *matadhipathi* to be told what kind of *payasam* he should have on a Friday morning? My hon. Friends want to make a distinction between religion and secular matters when the highest authority in this country at one time, in the Privy Council in the case in 41 Madras 296, Lord Shaw stated that it was not possible to divide the two so easily. It is very easy to put in provisions saying what are religious matters and what are secular matters. In Hindu religion much of it is as religious as it is secular. The way in which food is prepared and given to so many people is as much religious as it is secular. For the officers it is a secular matter or a rationing matter. But people who have faith take it as a religious matter. I may not have as much faith in it as others, but what I say is that the various ceremonies done, the food that is supplied to people, and the *aratis* that are performed are as much secular as they are religious. The *arati* is no matter of merely cotton wick and oil. We cannot separate things like that. Under clause 59, the trustee may prepare a *dittam*. But the Commissioner or his assistants may say 'no; you alter the *dittam*; I do not like it'. Do the Government want the *matadhipathis* to be treated like that? All this time of the House which we spend on passing this Bill will become a waste, as I feel that this legislation will be declared *ultra vires*. I can use my little brain and say that. Here, Sir, in their wisdom the Constitution makers have stated in Article 25, 'Subject to public order, morality and health. . .'. That means to say that if people misappropriate, by all means provide a law under which they could be brought to book. If Government want to audit their books and see whether there is misappropriation, I have not the least objection. Let them do it. But they cannot, under the guise of fixing *dittam*, interfere from morning till night by passing orders saying, 'you do this and not that'. Under clause 61, a manager can be appointed directly from here. Under clause 63, schemes can be framed. Even the courts have no power to stay the schemes. (I do not know if any latest amendments of Government are sought to be made to this clause.) But as the clause stands, I see that civil courts have no power to stay the schemes. Then, Sir, there is clause 68 dealing with notifications of institutions. By introducing such clauses, the Government are preventing people from going to the court. This Government, Sir, are making the position impossible for honest men. Any sort of orders will be passed by the officers. I have copies with me of a few orders. One of them is with reference to pisciculture. I will cite those orders to show in what way the officers have been exercising the provisions in the Act, are exercising now, and will exercise hereafter without reference to personalities and their position. They interfere even in smallest matters. This is a circular, dated 22nd September 1950. It says, 'in your tanks you better put new fish and go on auctioning the

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fish you rear in it'. Pisciculture may be good. There is the Fisheries department, I know. But I ask whether it is proper for the President of the Hindu Religious Endowments Board to direct *Samians* of maths in Udipi, who are vegetarians, to put new fish in tanks and auction the fish? Do the Government respect the sentiments of these *Samians*? Do the Government want this sort of power to be exercised by their officers? My hon. Friends are all well-intentioned here. They think that nothing like that will be done. But in the name of general superintendence, I say several things have been done and will be done also. Sir, a certain *dittam* may pertain to the use of jaggery. Hon. Members know that jaggery cannot now be had easily. According to this Bill, if the religious institutions buy jaggery at one anna more than the price stipulated, they will have to get the orders of the Commissioner. They cannot increase expenditure without the Commissioner's sanction. They cannot increase the charges for repairs. Then there is an order regarding raising of crotons in temples. In that math, crotons were grown. On 25th August 1947, an order was passed regarding crotons. The order is, 'they are neither useful nor necessary for services in religious institutions'. Then there is an order given to do certain things, which is very interesting. Two years ago, the Government gave out of their wisdom manure coupons to be utilized by the year to year tenants (*chalgeni* tenants) in my district. The Government gave them for the benefit of the cultivators and not the landlords. But here is an order issued by the Endowments Board which says, 'See that your tenants do not get them; you must get the entire coupons and you must yourself utilize them'. This is an order against the orders of the Government. Then, Sir, certain people in Madras, for example, the Sarada Vidyalaya, Thyagarayanagar, go and approach the President of the Board, for charity or donations for their institutions. At once an order is issued to all the religious institutions in the State saying, 'to such and such an authority, you are recommended to give donations'. But at the same time, for a college in Udipi recently started, and which is recognized by the Government, if the *Samian* gave a donation (about Rs. 1,000 I think) that constituted sufficient cause of action for framing a scheme against that math. The Government are giving grant to that college. Because he gave that donation to the college at Udipi, a notice is sent to him asking him to say 'why should not a scheme be framed for your math, because you have donated so many rupees to the college?' But an ukase goes from Madras saying, 'you give donation to the Sarada Vidyalaya, Thyagarayanagar'. There are very many interesting instances as to how the Board interferes even in small matters. One order says, 'The Board is of opinion that where there are two crops in a year and where one of the crops fails wholly or partially and the second crop is fair, the lessee is not entitled to ask for remission'. My hon. Friend, the Minister for Law, when he comes forward with the Malabar Tenancy Bill, wants all mercy for the tenant. He says, 'Give the maximum concession to the tenant'. But when

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it is the case of the religious endowment, it is an extraction of the worst type. The *Samisars* are asked to give notices to their tenants and to auction the rents every year. I put this question to my Hon. Friend, the Minister for Law who knows the conditions in my district—if the rents from the tenants, verumpattam tenants, on the land are going to be auctioned year after year to the highest bidder, is it a religious institution? Is it a Board run for the improvement of religion? The Board should help the people and keep the rents at the lowest level at which the families of poor tenants have lived on the land for generations. Math after math in Udipi is being asked by the Board to raise the rents, to auction the rents every year, and the maths are also asked, 'why do you not also take security deposits from tenants?' For not doing this, for treating the tenants leniently, notices for schemes are being given. Is it proper or fair for the Government to go on allowing their authorities to pass orders like this irrespective of the position of the people? I know recently an order was passed and sent to a *Samiar* of a math, saying, 'you appear before me in person or by pleader at such and such an hour'. We are bearing all this with patience, but there is a limit to it also. Unfair people, Government may punish by any means, but they should not humiliate all people. We know what some of these officers are. Some of them, every time they go to Udipi, come back with brinjals, dried coconuts and such sort of things. They use the cars of the *Samisars* and go from place to place. These are the kinds of people to parade morality and charity. These officers are there to see that people do not do bad things but not themselves to pocket things. They ought to set a better example to the people.

"My Hon. Friend, the Minister, sitting here has hardly an idea of the extent to which the Board is interfering with the affairs of these institutions. The Commissioner is going to be the successor of the Board. Powers similar to those of the Board are given to him. I shall give another instance. In Madras we know there are no rains. But in the West Coast our difficulty is excess of rain, sometimes 120, 150 and 200 inches of rain we have. An order is passed by the Board as follows:—

'The Board requests Trustees and Executive Authorities of maths and temples to arrange for special puja and solemn prayers every Friday for the advent of rain which has failed this year. The prayers may be continued till rains come by the grace of God.'

It may be quite good here, but in Mangalore if we are to pray for rain, it would be very bad. Here the order is to arrange for special puja and solemn prayers for the advent of rain. But if they want to spend two annás extra, they cannot spend without asking the Board. If they do not spend on this sort of puja and prayers, it is made a cause of action. The above order was passed on 4th February 1949. After six months, the Board in its wisdom says, 'There have been rains in response to the special prayers and the Board feels that there is no need to continue the special prayers any longer'. (Laughter.)

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"Another order is as follows:—

'Reports of cases of theft of jewels and valuables of religious institutions have of late begun on the increase. . . . One of the modern contrivances which would help executive authorities in the matter is the use of Tell-Tale Clocks.'

Certain manufacturers who had these clocks obviously went to the authorities of the Board. So, the names of those persons are mentioned in the order and it is advised, 'You better go to these persons. They have got tell-tale clocks. They may be the best for you. You are advised to buy one or more clocks'.

"Another order says, 'The sanction of the Board has not been obtained for undertaking "self-cultivation" of lands belonging to the math'. 'Self-cultivation' is bad English. For a time in our district as elsewhere, the people cultivate some portion of the land either with labour or themselves. Will any reasonable man ask that the sanction of the Board must be taken for this so-called self-cultivation of the lands belonging to the math? This is while 99 per cent of the lands is given to the tenants.

"Another very interesting order is this. People carry deities upon their heads. As labour has become costly, the trustees are advised to construct 'Sagadams' and use them by engaging a very few persons or a pair of bulls to drag them. Why not a diesel engine? It will be cheap and the best for the purpose. Sir, there is some sanctity for certain people in carrying deities upon their heads. But the order here which is dated 7th May 1947 says—

'It is observed that owing to the abnormal rise in prices and altered labour conditions there is a general complaint from those in the management of the temples that the servicedars refuse the work of carrying the deities unless they are paid a large increase of their wages. In view of the general trend in wages and the temper of the times, the trustees, etc., of temples are requested to consider whether it would not be advisable to construct "Sagadams" and use them by engaging a very few persons or a pair of bulls to drag them.'

"Sir, these officers are very anxious to pass orders. It appears that the executive authorities mentioned in their orders the words, 'as directed by the Board. . . .' Then another circular is issued from the Board that they should not mention in their orders the above words.

"Sir, I say all this with a little regret. People may be in office but they ought to respect those who are elsewhere. Merely because we are in office and we are running the Government, it is not proper for anyone to treat the matadhipathis and temple trustees in this manner. Similar conditions apply to the hereditary trustees. Some of them are very bad people, but it does not mean that the class of hereditary trustees consists of rascals and rogues. If it is so, we must be ashamed of our religion.

"Sir, the whole Bill as framed interferes in very little things also. I think a provision will be enough to check maladministration. For example, it may be provided that the accounts must be produced for check and audit. If anybody misappropriate the funds, he must be punished. Some provisions like these will be enough for the purpose. But as at present we see interference of

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every type and at every stage. By this, what is going to happen? Only rogues will thrive; if vouchers are all that are wanted, they can be easily made. But honest people will not be able to work.

"Sir, you will be pleased to note that article 25 (1) of the Constitution reads as follows:—

'Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.'

Here have these people no right to do what they like provided they do not misappropriate the funds? Clause 2 (a) of that article says—

'Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice.'

I asked Sri Alladi Krishnaswami Ayyar who was present at the time of its passing how it came to be passed. He told me that in the Punjab and other places there were institutions which were lending money at high rates of interest and it was a secular activity. Even in our State there may be similar activities. Suppose a temple has got lands in its ownership. Then we will have the right to say that the temple authorities shall not charge unreasonable rent. General provisions can be made to control such activities. But this cannot be taken to mean that every little activity of theirs such as every offering they make and the quantity of rice they use could be separated from religion and called secular and brought under control. Article 26 of the Constitution says—

'Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

(a) to establish and maintain institutions for religious and charitable purposes;

(b) to manage its own affairs in matters of religion.'

So, the Government cannot interfere with the management. If this officer is empowered in this manner that he can have general superintendence by a simple order from Madras, he orders, 'Put the money in such and such a Bank; give this contract to so and so.' Orders are passed like that. No liberty is at all left. There are so many other provisions for filing of suits, for notifying temples and appointing managers over their heads. The Samiyars are reduced to non-entities. The managers who are appointed look only to the Board Commissioner for orders. They do not care for the Samiyar there. I know an instance recently where the agent refused to show the accounts to the Samiyar who appointed him. At once he runs up to Madras and is able to get orders in 24 hours and such a man is backed up by the Board. This is what is going on in the name of 'General superintendence'. We may spend our time in passing all these provisions. But I have no doubt whatever that the Constitution does not allow us anything more than to frame rules to see that there is no misappropriation and that proper accounts are kept but not to control every activity from morning till evening. In clause 22 of this Bill, the term 'religious institutions and endowments' might satisfy somebody's legal conscience

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but it is not going to satisfy those who know the law a little. I, therefore, request the Government to ponder over this matter and not simply rush these things. People will go to Court. Of course, I am not threatening anybody by saying that. But by passing this legislation, let us be reasonably certain that it will stand. The substance of the fundamental rights is that subject to general laws a person or a community can manage his or its affairs in his or its own way. This is a secular State. Therefore, the Government can make general laws. By all means make law to prevent misappropriation. But I think many of the provisions of this Bill will be invalid. Let my Friends on the Treasury Bench have the satisfaction of passing it."

SRI K. BHASHYAM:—"Mr. Speaker, Sir, after the first-hand information which my hon. Friend, Sri Karanth, has given to the House, there is very little for me to say on the question of pinpricks which the various religious institutions are subject to in the course of administration of the properties which are left to their care. I am more concerned at the present moment with the question as to how the provisions of the proposed clause 22 can be justified or reconcile with the position which the matadhipathi occupies to-day or the rights that they enjoy under law for managing their properties. That is to say, we want to reduce these religious heads to be mere cyphers—widows with no properties but enjoying a little maintenance now and then—with perhaps a dignified name of Sami as is mentioned in communications from the Board or anywhere else. Nothing will be left to them, and that is the position to which they are reduced by this provision. Sir, I thought during the Select Committee stage that the Government had, at any rate, so far as the religious institutions were concerned, accepted the view that, where the Commissioner and the matadhipathi disagreed, they would have to come to the Government for final orders. Now the position is that clause 7 has been taken away and clause 22 is sought to be amended so that the ultimate authority, the person in whom the whole superintendence vests, is the Commissioner with the various satellites mentioned in the Bill. In the light of these changes, how will the Government, I ask, preserve the rights vesting in the heads of institutions—whatever their denominations be—to manage their properties. It is not as if we can mitigate the effects of a particular clause by simply saying at the end of the clause 'the provisions of the previous section shall not be construed as being derogatory to the provisions of article 26 of the Constitution.' I do not think that any decent Government will do so. That is my view. Whether the Government have put in a like provision or not it amounts to that. Does it really require the imprint of this Government to say so in so many words? The whole assumption seems to be that whatever is contained in the Bill is outside the scope of article 26 of the Constitution. Therefore, what I am urging upon the Government is this. In spite of the several questions raised, should we vest the ultimate management of properties in the Commissioner? Why not we go the other way round and say, 'subject to the control and powers of

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revision that the Government have; the management and allied affairs shall vest in the heads of the various institutions? That will be the proper way. That would be fairer than saying that the management shall vest in the Commissioner. That would be more in accord with the requirements of the Constitution. Sir, we have been fighting against the whole scheme of the Bill. We have always been saying that there is something wrong with the Bill but the Government would not listen to it. Of course they have got their own advisers (fairly competent advisers) and I do not want to quarrel with them. But for my part, I am not satisfied with many things that the Government have done. All these had really gone before the Court and were held *ultra vires*. I am anxious that none of the measures we pass here should be called in question. Why not we do the right thing instead of defective things in order that there may not be any controversy? The Government must be careful. They must be loyal to the Constitution. If they do that that will be the best thing. The more controversial portion of the proposed clause is '... control shall include the power to pass any orders which may be deemed necessary to ensure that such endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded'. Now let us see what will happen if this position is accepted. Suppose a difference of opinion arises between the head of the institution and the Commissioner. The head of the institution may deem it necessary to do a certain thing; and the Commissioner may deem it necessary to do something other than what is suggested by the head of the institution. How are we to settle it? That is the question. Of course, the Government may say, 'we have got such powers under clause 99-A'. I know that. We know what it is. The Government always look upon their own officers as persons who really have all the wisdom in the land. I am not complaining against this theory. It must be so because they appoint as officers only those who enjoy their confidence. They cannot say, 'we have no confidence in our officers'. But what we want is the matter must come up before the Government in such a form as the persons aggrieved must have a sympathetic deal. That is all what I want to say. My hon. Friend has already said much and I do not want to elaborate it. If the words 'heads of the institutions, subject to the control of the Commissioner' are incorporated that will be more in accord with the sentiments expressed in the House and will also be fair."

SRI M. S. PATTABHIRAMIAH:—"Mr. Speaker, Sir, after listening to the speeches made by hon. Members who preceded me, I do not wish to take much of the time of the House. I oppose the amendment . . ."

MR. SPEAKER:—"Government amendment?"

SRI M. S. PATTABHIRAMIAH:—"Yes, Sir. If it is changed a little that will satisfy me and other laymen like me."

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According to the Fundamental Rights, this provision is objectionable, and this point has been elaborately explained by many previous speakers. The amendment reads: '... subject to the control of the Government and the provisions of this Act, the administration of all religious endowments shall be subject to the general superintendence and control of the Commissioner.' This of course means, vesting of the power in the Government themselves. This is a little better than the original position which the Government took in keeping clause 7. But what I want is a small change there. Instead of the word 'include' occurring in the next line ('such superintendence and control shall include') I want the words 'be limited only to the power to pass any orders' to be substituted. I hope the Hon. the Minister will note the change I have asked for. If this is conceded then the proposed clause will be acceptable to all. If, on the other hand, the clause stands as it is and accepted by the House, then its provisions may run counter to the Fundamental Rights as enunciated in the Constitution. I hope even those who oppose the Government amendment will support me in this change and I also hope that the Government will favourably consider this and bring in an amendment to that effect themselves."

SRI K. T. KOSALRAM:—"Mr. Speaker, Sir, சர்க்கார் கொண்டு வந்துள்ள திருத்தத்தை ஆதரித்தும், அவர்கள் முன்பு இருந்த அதிகாரங்களையும் கூட இப்போது குறைத்துக்கொண்டிருப்பதற்கு வருத்தம் தெரிவித்துக்கொண்டு நண்பர் விஸ்வநாதம் அவர்கள் கொண்டுவந்திருக்கும் திருத்தத்தை எதிர்த்துப் பேசுகின்றேன்."

"ஸ்ரீமான் கரந்த அவர்கள் பேசினார்கள். அரசாங்கத்தின் எண்டேபமெண்ட் தலைவர்கள் மத்திய தலைவர்களுக்கும் மடாதிபதிகளுக்கும் தாறுமாறாக அனுப்பிவரும் உத்திரவுகளைப்பற்றி எடுத்துக் கூறினார்கள். இவ்வாறு அவசியமாய் மத்தியில் அரசாங்கம் தலையிடுகிறது என்றும் சொன்னார்கள். அதற்கு உதாரணமாக ஐந்தாறு உத்திரவுகளையும் எடுத்து வாசித்தார்கள். ஒன்று அவர்களை நான் கேட்கிறேன், எனக்கு நன்றாகத்தெரியும். ஸ்ரீமான் ஓ. பி. சாமசாமி ரெட்டியார் அவர்கள் பிரதமராய் இருந்த காலத்தில் மடாதிபதிகளை மடத்திற்குச் சொந்தமான தென்னை, பனை மரங்களைக் கள்ளு இறக்க குத்தகைக்கு விடாமலிருக்கும்படி கேட்டுக்கொண்டதற்கு அவர்கள் கட்டுப்பட்டார்கள்? தவிர மீன் வளர்ப்புத் துறையில் அவர்கள் சொன்னார்கள். மீன்களை வளர்ப்பதற்காக ஒவ்வொரு மடாதிபதியையும் அல்லது கோவிலில் அதிகாரியையோ ஆங்காங்குள்ள குளங்களில் மீன் வளருங்கள் என்று சொல்லுவது தப்பிதமல்ல என்று நான் சொல்லுகிறேன். மீன் அந்தக் குளத்தில் வளர்த்தால் அந்த குளத்துத்தண்ணீர் சுத்தமாய் இருக்குமென்பதை எந்த சுகாதார அதிகாரியும் ஒப்புக்கொள்வார்கள்."

SRI K. R. KARANTH:—"They are to be reared to be sold in auction later on. That is all what I said."

SRI K. T. KOSALRAM:—"அதைத்தான் நானும் சொல்லுகிறேன். மீன்களை குளங்களில் வளர்ப்பது குளம் சுத்தமாக்கிறது. அதைத் தவிர ஒன்று சொல்லுகிறேன். மீன் சாப்பிடுவது கேவலமென்று ஒரு சில அங்கத்தினர்கள் கருதுகிறார்கள். அதனால் ஒரு சைவன் மடாதிபதியாக இருந்தால் மடத்திற்குச் சொந்தமான குளங்களிலே மீன் வளருங்கள் என்று சொல்லு தவறு என்று யாரும் கூறமுடியாது. இன்று சுத்த சைவர்களாக இருப்பவர்கள் 100-க்கு 3 பேர்கள் கூட இருக்கமாட்டார்கள். நீதி இருப்பவர்களில் மீன் சாப்பிடுவது யாரும் இருக்கவேமாட்டார்கள்."

[Sri K. T. Kosahram] [20th November 1950]

அதுவும் குறிப்பாக நாங்கள் இருக்கக்கூடிய ஊர்களிலெல்லாம் ஒரு வேளை மீளையே தான் சாப்பிட்டுக்கொண்டிருப்பார்கள். அந்த நிலைமையில் மீளே வளருங்கள், எலம் போடுங்கள் என்றால் மடாதிபதிகளையா செய்யப் போகிறார்கள் அதுவுமில்லை. ராஜா அவருடைய மானேஜரோ, வேலையாட்களோ செய்யப்போகிறார்கள். அது ஒரு பெரிய விஷயமல்லவென்றே சொல்லுகிறேன்.

“மடாதிபதிகளை குறிப்பிட்ட தேதியில் ஆஜராகும்படி Endowment தலைவர்கள் தாக்கீது அனுப்பலாமா என்று சொல்லப்பட்டது. ஆம் உண்மை. மடாதிபதிகளை வரச்சொன்னால் மடாதிபதிகளையா வரப்போகிறார்கள். அவர்களுடைய ஏஜெண்டுதான் வருவார். இப்போது மத்திய சர்க்காரிடமிருந்து ஒரு தாக்கீது வந்தால் உடனே மந்திரிகளையா போகிறார்கள். காரியதரிசிகள் தான் போகிறார்கள். அதேமாதிரி மடாதிபதிகளை வாச்சொல்லி தாக்கீது சென்றிருந்தால் அதில் தவறுதலில்லை. மடாதிபதிகளை பெரிய மனிதராகவேதான் கருதுகிறோம். அவர்களை மதத்தின் சின்னமாகவே தான் மதிக்கிறோம். அவர்கள் தவறுதலாக நடக்கக் கூடாது என்பதற்கும், அவர்களிடமுள்ள சிப்பந்திகள் ஒழுங்காக இருப்பதற்கும் அரசாங்க அதிகாரிகளுக்கு அதிகாரம் இருக்கத்தான் வேண்டும். முன்பிருந்த அதிகாரங்களையே அரசாங்கம் Constitution-க்கு விரோதமாகவுள்ள எது என்று குறைகூறிக் கொண்டிருக்கிறார்கள். ஆகையால் நான் அரசாங்கம் கொண்டுவந்துள்ள திருத்தத்தை ஆதரித்து, நண்பர் விஸ்வநாதம் திருத்தத்தை எதிர்க்கின்றேன்.”

MR. SPEAKER :—“The Minister may reply.”

SRI K. BHASHYAM :—“I have given notice of two amendments, Sir.”

MR. SPEAKER :—“They will come afterwards, when the Government amendment is accepted. They are amendments to Government amendments. They will come afterwards.”

THE HON. SRI K. MADHAVA MENON :—“I shall deal with the propriety of the orders that have been read by my hon. Friend Mr. Karanth here as examples of how the Board has been exercising its powers, later. Let me first deal with the main objection raised by my hon. Friends Sri Viswanatham, Karanth and Bhashyam.”

MR. SPEAKER :—“Shall we do one thing, I shall ask the amendments to be formally moved and seconded. I will put the amendments to vote and when they are decided then the Government amendment may be taken up.”

SRI K. VARADACHARI :—“I have also given notice of an amendment to this clause, Sir.”

SRI L. N. GOPALASWAMI :—“I have also given an amendment.”

MR. SPEAKER :—“The hon. Members' amendment was for the original clause and not for the amended clause which substitutes the original clause.

“The hon. Member Sri Bhashyam may move his amendments.”

SRI K. BHASHYAM :—“I move, Sir, that—

“(1) In clause 22 omit the words “the control of the Government and”.

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(2) In line 2 of clause 22, for the words “the administration,” substitute the words “the secular and property administration”.

“Sir, what I want to say on these amendments is this. The Government is out of the picture now. They really do not want to take any responsibility for control over the institutions and at the same time they say they shall have the mere power of revision of orders and not administrative control in their hands. I can understand these words if they were there at the time when clauses 7 and 8, since deleted, were there. But to-day after deleting the clause 7 why have these words ‘subject to the control of Government’. It will make the whole clause somewhat difficult to understand. Therefore these words ‘the control of the Government and’ must go. This is only a consequential amendment after deletion of clause 7, already approved by us. That is why I ask for the acceptance of the amendment. The wording of the clause as it is will also be misleading to people as if there is some control by Government and the Commissioner is not doing his duties properly. This will give a bad name to the Government. I am trying to help the Government by my amendment. That is all.

“The other amendment is a little more important and it is this. The clause says ‘... administration of all religious endowments ...’, etc. Religious endowments mean not only the property attached to the endowments but also the math, its temples and all the other things belonging to the math. I really fought hard to omit these things but the Government were adamant and that could not be done. Now they recognise at any rate that they ought not to interfere with the internal affairs of the math or the religious institution. Having come to that conclusion, I want the amendment to be accepted, namely, substituting the word ‘administration’ with the words ‘the secular and property administration’, as they cannot interfere with the management of what may be said to be non-secular portion of it. If the Government accept the amendment, they would be making their position in this regard clearer.”

SRI T. VISWANATHAM :—“I second the amendments, Sir.”

MR. SPEAKER :—“The hon. Member Sri K. Varadachari may also move his amendment. It will be easier then.”

THE HON. SRI K. MADHAVA MENON :—“I will reply to all the amendments.”

SRI K. VARADACHARI :—“Sir, I have given notice of a very small amendment, and I beg to move it, namely—

“In clause 22, for the words “shall include” occurring in line 5, substitute the words “shall be confined to”.

“Sir, as has been pointed out by the previous speaker and by the Government themselves, they have committed themselves to the new policy of non-interference in the internal management of religious institutions. Now if that is so after having deleted

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clause 7 from the Bill, and rewriting clause 22 in this manner, the position is not altered even a bit. What they wanted to do under the deleted clause 7 the very same mistake they are again committing in redrafting the clause 22 as it now stands. If in a definition the Government want to say they mean such and such a thing, the ordinary way in which the Legislature does it is by the use of the words 'shall mean and include'. But if the Government omit the word 'mean' and use the word 'include' alone, it means that over and above the powers that are mentioned here, there is something else which you can exercise. It is left undefined. It is a very bad way of drafting the thing. In the clause as it stands there is nothing definite to indicate what 'general superintendence and control' means. In the clause it is sought to be defined by merely saying 'it shall include the power to pass any orders which may be deemed necessary to ensure that such endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded or exist'. These are the only powers that the Government want the Commissioner to exercise. Then the only way in which it could be drafted is to say that it 'shall mean and include' the power and so on. If you omit the word 'mean' and have 'include' alone, the whole sense of it goes. The Government would still have at the back of their mind the exercise of some powers which are over and above those specifically mentioned in this clause. I, therefore, say, Sir, consistent with the policy that you are adumbrating with regard to the management of the institutions limiting the power of the Government and the officers to external supervision and not interference with the internal management of the institutions, I say that the simple word 'include' there would make it absurd and nonsense. It would be inconsistent with the policy. I therefore request that the word should be substituted by the words 'shall be limited' or 'confined to', or 'restricted to' whichever the Government may think fit to choose, and adopt. If the Government do not admire the words 'shall be confined to' very much, they can use some such words as 'limited to' or 'restricted to'. My hon. Friend Sri Pattabhiramiah anticipated me and said that the clause would offend the Constitution, even as the clause now stands. Even if it is amended in the way in which I want it to be amended, I do not know if this clause would be acceptable to any court and considered as going against the Constitution. I think there will be a chance of its being contended as being *intra vires* if at least the words that I have suggested are introduced here and thus make the intention and policy of the Government in this matter quite plain."

SRI M. S. PATTABHIRAMIAH:—"I second the amendment, Sir. It is a fair amendment and the Government ought to see their way to accept it. By accepting this small amendment this Bill would become more popular and acceptable."

SRI T. VISWANATHAM:—"Sir, my hon. Friend Sri Varadachari has not risen during the debate on this Bill very often because he has been very carefully following the discussion and

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generally he has not interfered in the discussion. Even he in his anger was saying that this clause is absurd and nonsense. If that is so, Sir, there is great reason why the Hon. Minister and all of us should consider what it is. 'Shall include' means there is the overall power which is indefinite. I did not exactly note this when I spoke upon the aspect of the clause. There is overall indefinite power which is worse than the power originally sought to be introduced in clause 7, now omitted. You have also, in addition, got this power to pass any orders. What are those orders? The scope of those orders may be anything from the management to administration and so on. I therefore feel the clause is—I do not want to use the expression, my hon. Friend has used, 'absurd and nonsense'—certainly very wide of the mark. My hon. Friend has suggested—he is a practising lawyer and I am not—that by changing the expression, in some measure the Government can mitigate the mischief of the provision. I request that it may be done, Sir."

THE HON. SRI K. MADHAVA MENON:—"I may at the outset say, Sir, that I am prepared to accept the hon. Member Sri Bhashyam's amendment to omit the words 'the control of the Government and'."

SRI T. VISWANATHAM:—"That is something, Sir."

MR. SPEAKER:—"What about the other amendments?"

THE HON. SRI K. MADHAVA MENON:—"The other amendment I am not accepting, Sir."

The hon. Member Sri Viswanatham rose in his seat.

MR. SPEAKER:—"A reply is not necessary. I have already given sufficient time to the hon. Member."

SRI T. VISWANATHAM:—"I want only to congratulate the Hon. Minister on accepting at least one amendment."

MR. SPEAKER:—"Then, is the hon. Member Sri Varadachari withdrawing his amendment?"

SRI K. VARADACHARI:—"I withdraw my amendment, Sir."

The amendment was by leave of the House withdrawn.

MR. SPEAKER:—"I think the hon. Member Sri Bhashyam will withdraw the second amendment, the first having been accepted by the Hon. the Minister."

SRI K. BHASHYAM:—"What does the Government say, Sir?"

MR. SPEAKER:—"They have accepted the first amendment."

THE HON. SRI K. MADHAVA MENON:—"I do not accept the second amendment, Sir."

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SRI K. BHASHYAM:—"I press for a vote on my amendment, Sir."

The second amendment was put and lost.

MR. SPEAKER:—"I shall now put the first amendment to vote. The question is—

'That in line 2 of the Government amendment the words "the control of the Government and" shall be omitted.'"

The amendment was carried.

MR. SPEAKER:—"The Government amendment to clause 22 as amended is before the House."

THE HON. SRI K. MADHAVA MENON:—"I want to reply, Sir. The hon. Members, Sri Viswanatham, Karanth, Bhashyam and M. S. Pattabhiramiah, all said that no court is likely to uphold this clause because it offends the Constitution. The hon. Member Sri Viswanatham told us that the intention of the Government was allright but their translation of their intention, by the language they have used, was a failure and therefore it would offend the Constitution. Apart from the intrinsic objection that the Government or the Commissioner should not have all the powers that are mentioned therein, the legal objection is that it offends the Constitution. I cannot say with such dogmatic assertion that this clause will offend the Constitution or will not offend the Constitution, that it will be upheld by the Court or not. It is not at least for me to say it with such an amount of assertion as my hon. Friends have done. (Sri T. Viswanatham: 'You are encouraging such statements.') Whatever it is, I can only say this. The hon. Member Sri Karanth read what was said by Lord Shaw, namely, that it would be very difficult to distinguish between religious and secular matters. When that is so, what is the fun of trying to say that this is secular and that is non-secular. Unfortunately it is difficult to make a distinction in the matter. But the Constitution itself demands that we must make a distinction between secular matters connected with the religion and purely religious matters. I also depend on the same Article of the Constitution which my hon. Friend, Sri Karanth quoted, namely, Article 25 of the Constitution. He said that Government have no powers according to that Article of the Constitution to interfere with the internal administration of the maths and that the maths should be allowed to manage their own affairs, profess and practise the religion in which they believe and propagate the same subject of course to the condition, he conceded that point, that they did not misappropriate the funds entrusted to them and rendered proper accounts. If that is conceded then the Legislature has a right to legislate that the trustees, whether they are trustees of temples or matadhipathis, whatever that might be, keep proper accounts of the funds. If that could be done, I submit, that the proposals contained in the Bill do not go beyond that.

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"If it is conceded that the Government have got a right to legislate so that the trustees, whether they be matadhipathis or temple trustees, will not misappropriate their funds and that they should keep proper accounts, my submission is that the proposals here do not go beyond that.

"Sub-clause (2) to Article 25 of the Constitution says—

'Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice'

So, according to the Constitution itself we can legislate to regulate secular activities. Though it is difficult to distinguish religious practices from secular ones, we are put in such a position that we have to make a regulation. So, Sir, there is no difficulty about it, according to me.

"Sub-clause (b) of Article 26 of the Constitution says—

'to manage its own affairs in matters of religion'

The clause that we have suggested is—

'Subject to the provisions of this Act, the administration of all religious endowments shall be subject to the general superintendence and control of the Commissioner; and such superintendence and control shall include the power to pass any orders which may be deemed necessary to ensure that such endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded or exist.'

So, we have not touched the management at all. The administration of the religious endowments shall be subject to the control of the trustees. But the Commissioner shall have superintendence only. What is the purpose of superintendence? It is sought to see that the properties are properly administered and that the income is duly appropriated for the purposes for which they were founded or exist. That is exactly what it means—that they are not misappropriated and that proper accounts are kept. So, the administration and superintendence wherever they are needed are only for the purpose of seeing that the property is appropriated for the purposes . . . or to translate it, that the property is not misappropriated in any other form and that the moneys are properly accounted for.

"Clause 22 is a general one and that by itself cannot give much power because it is subject to the provisions of this Act. Only the general superintendence is there and the superintendence shall include power to pass any orders that such endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded or exist. It is not administration on matters of religion. It is administering the endowments so that their properties are properly accounted for and that they are not misappropriated. So, it is confined to that field of administration and superintendence. As such, the wording as it stands does not interfere with religion and will not come into conflict with Article 26 of the Constitution. Hon. Mr. Karanth said 'you have provided for only administration of properties.'

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That is exactly what is said. So, the wording of this clause is allright and I do not think that any Court will set aside or say that the Bill is *ultra vires*. According to me it cannot be *ultra vires*.

"Then, Sir, hon. Mr. Karanth said that this power will not help the orders which are being passed. I want the House to see the provisions of the present Act, Sir. Perhaps it may be that the Board has need to pass orders. They are such wide powers that they may possibly be against the Constitution. The Board may have superintendence for the purpose of seeing that there is no misappropriation so that it may do all the things that are reasonably necessary, that accounts are properly maintained and that religious endowments are properly administered and the income is duly appropriated for the purposes for which they were founded. Certain orders have been read by hon. Mr. Karanth and I feel that some of the orders may appear to be unfair.

"Sir, I do not agree with hon. Mr. K. T. Kosalam that there is nothing wrong in asking the matadhipathis to rear fish and also auction them. I think that this is too much for an orthodox matadhipathi to do. What hon. Mr. K. T. Kosalam meant or understood is this. If the matadhipathis can give coconut trees for drawing toddy without any compunction whatsoever, they may perhaps have no compunction to rear fish in the tanks.

"Apart from that, Sir, I cannot say anything about the orders passed by the Board without hearing the Board and knowing the reasons therefor. For instance, one order was read that the Board directed in places like South Kanara and Malabar where there is excess of rain, that the matadhipathis should pray for rain. I feel it may look absurd. But, that is not it. There was no rain then in the country at all. So, it may be a general circular just like a war-time circular by the King asking that all should pray for Victory. Likewise, a general circular would have been issued to all matadhipathis of temples that they may pray for rain. Rain might have failed in the West Coast, South Arcot, Chingleput, Mathurai, etc. Some of us would believe in prayers. In some places, *homams* also are done for the purpose of getting rain. So, the Board may have issued an order or a directive or a request to all that they may pray for rain. It may look absurd because there is excess of rain in the West Coast. It is quite possible that it may be a general order. I cannot say anything about each of those orders. What is the reason? I have no opportunity to know the reasons that prompted the Board to issue such orders. But assuming for argument's sake that the orders passed are all bad, it is no good to say that it should have no power at all to pass good orders.

"Another thing is that the Board might have issued orders regarding coupons for manure. I know, Sir, that in the case of bonus for procurement the rent due to the landlord was taken away from the tenant in the bonus amount that was given to the tenant. Various suits were filed by the landlords to recover the rent from the bonus amount given to the tenants and decrees were passed by various courts. Similarly, it may be that the Board might have

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issued instructions regarding these coupons for manure and the Board may be justified in thinking that the additional expenditure will be saved if these matters are not allowed to go to courts. I am only saying that there are possibilities of explanation. But assuming for argument's sake that there is the risk of passing wrong orders, it is no reason that no powers should be given at all to pass good orders. I want the Endowment Board or the Commissioner to have powers to see that they must remit rent in the case of tenants whose crops have failed. But, you should not collect excess interest or rent which is immoral. Certainly they should never have power to raise the rent. But, there must be power for them to give relief to the tenants wherever necessary. To say that all orders passed are bad and as such they should not be given at all, is not good. The point is that this will go against the fundamental rights. That contention I cannot accept, Sir.

"I was taken aback when they said that the Board directed to raise rents from the tenants. It may be, Sir, that the Board has reason to believe that there has been collusion in the matter between the tenant and the landlord for reducing the rent and eventually in the loss of income. If the landlord and the tenant colluded and there is reduction in income in the tenancy, then the Board may issue orders to provide against such collusion. I have aversion to any order raising the rent.

"In another instance, the Board has passed an order asking the matadhipathis to collect donations for the Sharada Vidyalaya, Thyagarayanagar. Personally I think that it is a good order that the Board has issued. The Board can only recommend. I would certainly prefer that the Board should only recommend to certain religious institutions. That is a good institution and the Board can give mere advice to donate. Mr. Karanth's point is that such orders will not end there only."

SRI K. R. KARANTH :—"The point is that the local college policy is upset."

THE HON. SRI K. MADHAVA MENON :—"Certainly, Sir, that must extend to the local college also. I agree. But, that should be given for a good purpose. I am told, Sir, that the Board was justified in issuing the orders which have been read. But, to say that, because certain orders have been passed wrongly, they should not pass any good orders at all, is not good. I cannot accept the contention, Sir."

MR. SPEAKER :—"The House has accepted the amendment of the hon. Member Sri K. Bhashyam. The question is—

"That for clause 22, substitute the following clause :—

"Subject to the provisions of this Act, the administration of all religious endowments shall be subject to the general superintendence and control of the Commissioner; and such superintendence and control shall include the power to pass any orders which

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may be deemed necessary to ensure that such endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded or exist."

The amendment was carried.

Clause 22 as amended was put and carried.

Clause 23.

MR. SPEAKER:—"The motion is—

'That clause 23 do stand part of the Bill.'

SRI L. N. GOPALASWAMI:—"Sir, I move—

'In line 5, for the words "of worship", substitute the words to which a worshipper has access.'

"It is quite necessary to clear a misunderstanding as to the limit up to which an officer can go. 'A place of worship' is different from 'a place to which a worshipper can go.' I want this power of the officer to be limited to the particular point up to which an ordinary worshipper can go. The place of worship is the *sanctum sanctorum* itself. These officers cannot be allowed to go into the *sanctum sanctorum* itself. They can be allowed to go only to the point up to which an ordinary worshipper can go in order to see whether things are going allright. He will otherwise be interfering with religion itself and creating confusion. These people should not be allowed to have access to a place where no other person except the archaka can go.

"This is a reasonable amendment which I hope the Government will accept."

SRI T. VISWANATHAM:—"I second it."

THE HON. SRI K. MADHAVA MENON:—"I may explain, Sir, the dangers in our way in accepting this amendment. In certain places, in Malabar for instance, there are certain places such as *ndmaskara mantapam* and so on, into which, according to custom and usage, no non-Brahman can enter or step in and non-Brahmans do not enter it for fear of committing a sin. Only Brahmins enter that mantapam. Again, there are certain places where Vedic hymns are repeated and, into these, people are not allowed to enter. All the same, all worshippers listen to the mantrams and see what is being done there."

SRI K. VARADACHARI:—"There are certain parts of temples where both Brahmins and non-Brahmins cannot go."

THE HON. SRI K. MADHAVA MENON:—"Yes, to which only workers and those engaged in temple ceremonials can go. In these circumstances this widening of the scope of the Bill is not called for."

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SRI L. N. GOPALASWAMI:—"Such differences cannot exist after the passing of the Temple Entry Act. Any place accessible to a Brahman is equally accessible to worshippers other than Brahmins. Therefore there is no force in that argument. But there is this distinction, viz., that there is a limit up to which a worshipper can go. The place to which this proviso gives access is one where even a worshipper cannot go. I must say that this officer should not be permitted to go to a place to which only the archaka has access. If the intention of this legislation is that this officer should go to the *sanctum sanctorum* I have no objection; but if it is the intention to make this officer go and observe or watch certain things done there, he should be content with going up to the point to which the worshippers are allowed to go and not destroy the sanctity of even the *sanctum sanctorum* and affect the susceptibilities of persons. His supervision should not extend to that very sacred spot where actual puja is done and milk and other abhishekams are performed. That is a thing which cannot be tolerated."

THE HON. SRI K. MADHAVA MENON:—"Sir, it would be dangerous to say 'worshippers may have access to places other than places of worship'. I cannot accept the amendment."

The amendment of Sri L. N. Gopalaswami was put and lost.

MR. SPEAKER:—"I will now ask the Government to make their amendment to 'Omit the proviso to sub-clause (1)'. If that is accepted by the House, hon. Mr. Bhashyam's amendment to add some words after the proviso to clause (1) cannot be moved."

SRI T. VISWANATHAM:—"The Government amendment is to omit the proviso and hon. Mr. Bhashyam's amendment is to add something as sub-clause (3)."

SRI K. BHASHYAM:—"The Government have changed their mind after we gave notice of these amendments on the basis of the original Bill. In this situation we must adapt these things to the extent to which it can be done. Therefore I am asking as a general rule that in cases where the Government in its wisdom changes its mind and brings about an alteration in the original Bill, the Members should have the opportunity to suitably modify their amendments. In the present case, you will please permit me, Sir, to move my amendment first. After it is defeated, the Government may move their amendment."

MR. SPEAKER:—"I would allow the hon. Member to have a properly worded amendment and move it in the form of an amendment to the Government amendment."

THE HON. SRI K. MADHAVA MENON:—"The amendment of hon. Sri K. Bhashyam seems to me to be out of order, because it is similar in nature to the one moved by hon. Sri L. N. Gopalaswami and rejected by the House just now."

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MR. SPEAKER:—" But hon. Mr. Bhashyam may move the second part of his amendment."

SRI T. VISWANATHAM:—" When there is an amendment tabled, by interpreting it as an amendment to an amendment, you can allow it to be moved."

MR. SPEAKER:—" But it does not fit in. If it is suitably altered I have no objection to hon. Mr. Bhashyam moving his amendment."

SRI L. N. GOPALASWAMI:—" In view of the Government amendment, the second portion of hon. Mr. Bhashyam's amendment also is not necessary."

SRI T. VISWANATHAM:—" The meaning of hon. Sri Gopalaswami's amendment is different from that of hon. Mr. Bhashyam's amendment."

SRI K. BHASHYAM:—" Sir, I shall read out my amendment: 'To sub-clause (3) as added, add "or authorize any person to enter that portion of the premises to which the general public are not allowed to enter".' "

MR. SPEAKER:—" Yes, the Government may now move their amendment."

THE HON. SRI K. MADHAVA MENON:—" I move—

'Omit the proviso to sub-clause (1) and add the following as sub-clause (3):—

"(3) Nothing in this section shall be deemed to authorize any person who is not a Hindu to enter the premises or place referred to in sub-section (1) or any part thereof."

The proviso as it stands in the original Bill, as approved by the Select Committee is a bit defective. The object of the amendment is to make the proviso applicable to sub-clauses (1) and (2). That is the object of my amendment."

MR. SPEAKER:—" The motion is—

'Omit the proviso to sub-clause (1) and add the following as sub-clause (3):—

"(3) Nothing in this section shall be deemed to authorize any person who is not a Hindu to enter the premises or place referred to in sub-section (1) or any part thereof."

SRI K. BHASHYAM:—" Sir, I move the following amendment:—

'To sub-clause (3) as added, add the following: "or authorize any person to enter that portion of the premises to which the general public are not allowed to enter".'

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Sir, I would like, if possible, that hon. Janab Selamnad's amendment is taken up, because it is more comprehensive than mine. Sub-clause (1) says—

'(1) The Commissioner, Deputy and Assistant Commissioners and such other officers as may be authorized by the Commissioner or the Area Committee in this behalf shall have power to enter the premises of any religious institution or any place of worship for the purpose of exercising any power conferred, or discharging any duty imposed, by or under this Act.'

You know, Sir, from your personal knowledge that in many temples there are *garbhagrahams* and *antargrahams* into which the general public are not allowed to enter. Only persons who are actually engaged in the worship like the *archakas*, the *sthanikas* and the *paricharakas* are allowed to enter. Not even the biggest person is allowed to step in beyond a certain limit. Of course, we have passed the Temple Entry Act and every person is allowed to go and worship in the temple. But by tradition and custom and usage, in many temples no person is allowed to go into the *garbhagraham* or the *antargraham*. The Commissioner, the Deputy Commissioner and other officers, are persons who only profess the Hindu religion. Suppose in the course of his inspection, the Commissioner puts on a coat and shirt and enters that part of the temple. Or suppose some big person has come from England and in order to show him the architecture of the temple, he takes him inside. I want all these things to be avoided. Traditions of the temple should be strictly maintained. There ought not to be a single step which would swerve from the traditions, because we are already slipping away from some of the traditions and the sanctity of some of the temples has been spoiled by the way people behave both inside and outside. If my original amendment had been accepted with regard to the practice of religion by these officers, then there might have been some justification for allowing these people to enter the innermost shrines, but since it has not been accepted, it is quite possible for an officer with a shirt and coat on him to enter into the innermost shrines of the temple. I do not want that to happen. That is the reason, Sir, why I am asking that this amendment may be accepted. Of course, the Hon. Minister may express a lot of sympathy with my amendment and at the same time say that the Government could not accept it. I would like them to accept the amendment in view of what I have said. I may mention here, that in the temples on the east coast things are not so rigid as in the temples on the west coast. In either case, only the *archakas*, the *sthanikas* and the *paricharakas* are allowed to enter the innermost shrine. Therefore I want that the following amendment may be accepted, namely:—

'To sub-clause (3) as added, add the following at the end:—

"or authorize any person to enter that portion of the premises to which the general public are not allowed to enter."

SRI T. VISWANATHAM:—" I second the amendment."

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THE HON. SRI K. MADHAVA MENON :—" Sir, I do not wish to say, as my hon. Friend Sri Bhashyam expected, that I sympathize with the amendment. I do not agree with the amendment at all. Sri K. R. Karanth pointed out that I objected to the present amendment even in the Select Committee. I had my own reasons for it. It is because of my personal experience in the matter that I say that this amendment cannot be accepted. Sri K. Bhashyam is perfectly right when he says nobody except the archaka and the sthanika ordinarily enters the *garbhagraham* and nobody should, according to me, be allowed to enter it under ordinary circumstances. But I had the fortune or misfortune of defending a Nambudri archaka who was accused of having stolen the jewels of the idol, and getting him acquitted. The jewels were taken away from the idol, the idol was lifted and the jewels were secreted below and the idol was replaced. The police officer, unless he is a Hindu could not enter that place. Many documents also may be secreted in that manner. It is necessary that the sanctity of the *garbhagraham* must be preserved, but there may be exceptional cases when other people will have to enter such places in the interests of the proper administration of the institution. I myself had experience of one such case and such exceptional instances might occur again. In such cases, if entrance into the *garbhagraham* is necessary, it is enough if we provide that it must be by a Hindu. Therefore, Sir, I am sorry I am not able to accept the amendment of Sri K. Bhashyam."

SRI K. BHASHYAM :—" Sir, the Hon. Minister has accepted the position that the sanctity of the *garbhagraham* must be preserved, but he has put forward an exceptional case where the delinquent was the archaka himself. I ask, Sir, are there not provisions in the Criminal Procedure Code to deal with such cases? Are you going to allow a police officer with his patti and uniform to enter the *garbhagraham*? You would probably ask him to take a bath and put on a namam or something else before he enters the *garbhagraham*. By the time he does all these things, the jewel might have disappeared to some other place. It is not a practical proposition at all. What I say is this. You have already got persons inside the temple who can go into the *garbhagraham*. It is not as if the archaka alone is allowed to enter the place. There are a number of other persons. If the Commissioner or the officer in charge of the place is a careful man and knows his job, he can keep a police officer standing by and looking on and ask the archaka or the sthanika to get in and search. It is not as if the police officer himself must get in. Is it not enough if he sees the thing being done by somebody else? Therefore I am unable to accept the objections of the Hon. Minister as a valid argument against my amendment. The sanctity of the temple is a thing which is not to be touched. It is agreed. The only logical result of that is the acceptance of the amendment I have moved. I do not know why the Government are adamant in every respect."

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Between the Select Committee stage and now, I expected that the Hon. Minister would have softened his heart a little bit towards me, but I find that he has hardened his heart."

The amendment of Sri K. Bhashyam was put and lost.

The Government amendment to omit the proviso to sub-clause (1) and to add a new sub-clause was put and carried.

JANAB MAHIN SCHAMNAD :—" Sir, I beg to move the following amendment :—

'Add the following as sub-clause (1) :—

"Nothing in this sub-section shall be deemed to authorize any person, who does not belong to the category of persons solely entitled by virtue of ancient and long-established religious custom and usage to enter the *garbhagraha* or sanctum sanctorum of a religious institution belonging to a community or group of persons, to enter the *garbhagraha* or sanctum sanctorum under colour of exercising any power conferred, or discharging any duty imposed, by or under this Act."

THE HON. SRI K. MADHAVA MENON :—" On a point of order, Mr. Speaker. This amendment is identical with hon. Sri K. Bhashyam's amendment which has already been rejected. Instead of using the words 'premises to which the general public are not allowed to enter' he uses the words '*garbhagraha*', '*sanctum sanctorum*' and so on. There is no other distinction, Sir."

MR. SPEAKER :—" Having rejected hon. Sri K. Bhashyam's amendment, it seems to me that this amendment is now out of order."

SRI T. VISWANATHAM :—" May I say a word before you finally give your ruling, Sir? This amendment relates to a person who does not belong to the category of persons solely entitled by virtue of ancient and long-established religious custom and usage to enter the '*garbhagraha*, etc.' This is totally different from the 'general public' referred to in the previous amendment, who have a right to worship and so on."

MR. SPEAKER :—" I rule the amendment out of order. The House having rejected hon. Sri K. Bhashyam's amendment, this amendment cannot be taken up."

JANAB MAHIN SCHAMNAD :—" After hearing me, the Hon. Speaker may give his ruling, Sir."

MR. SPEAKER :—" On the face of it, the amendment is out of order. I am going to put clause 23 as amended to the vote of the House."

Clause 23 as amended was put and carried.

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Clause 24.

MR. SPEAKER :—“ The motion is—

‘ That clause 24 do stand part of the Bill.’ ”

SRI T. VISWANATHAM :—“ Sir, I beg to move the following amendment :—

‘ In sub-clause (a), delete the word “ Hindu ” and add at the end the following :—

“ or religious denomination for whose benefit the institution is intended.” ’

“ Sir, when these officers are given vast powers, they must not only be Hindus but they must also belong to the religious denomination for whose benefit the religious institution is intended. If this amendment is accepted, it will bring the clause within the articles of the Constitution which give equal protection to all the denominations. Therefore I submit that this amendment may be accepted.”

SRI K. BHASHYAM :—“ Sir, as a person who has experience of the disputes between the Vadagalais and the Thengalais among the Vaishnavites, I think that this amendment is very important. There is bitter feud between these two sects of Vaishnavites and they would rather have a Muslim than have a man belonging to the other sect. I want to avoid all quarrels in respect of this matter. I would like the officers to be appointed to be of the same denomination for whose benefit the temple is intended, so that there may not be any disharmony or fight between the persons concerned. It is also necessary to pay at least some homage and show some loyalty to that portion of the Constitution which says that the denominations must have some voice in the management of their institutions. If we do not accept this, then we can appoint any person who is not of that denomination altogether. He need not even profess that, but he must belong to the denomination for whose benefit the institution is intended. As I said there must be some vestige of loyalty and some vestige of consideration for the Constitution and you do not show that, when you do not provide that the persons appointed as trustees or other officers should be of the same denomination for whose benefit the temple or the institution is intended. If you do not make that provision, there will be quarrels and disputes between these people. Imagine what will happen if a Protestant Christian is appointed as the manager of a Roman Catholic institution. There will be heart-burning. When the Bill regarding the requisition of building of educational institutions was under consideration in this House, Christians thought that it would affect their religion if their institutions were taken away from them, and if a Protestant was appointed as the manager of a Catholic institution. We respected their feelings in the matter and if we can respect their feelings there, I want you to respect similar feelings even here also.”

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THE HON. SRI K. MADHAVA MENON :—“ Sir, for the very reasons which Sri K. Bhashyam gave, I am sorry I cannot accept the amendment. This clause is only a reproduction of the existing section 50 and no difficulty has so far been found in its working. Section 50 would not apply to hereditary trustees. It applies only to non-hereditary trustees. If we take a concrete example, there are a good number of temples in respect of which we do not still know whether they belong to the Vadagalai or the Thengalai sect. Sri Bhashyam himself knows that. There are temples also in which even now the two sects, the Vadagalais and the Thengalais, are fighting to see that they belong to the Vadagalais or the Thengalais. In such cases, if you say that a particular temple belongs to this or that denomination, when it is actually not known to whom it belongs, how can we have a provision like that? ”

SRI T. VISWANATHAM :—“ Sir, I am very sorry the Hon. Sri Madhava Menon has missed the point in his enthusiasm just to oppose what Sri Bhashyam has stated. It is a matter for enquiry if the Government or the Commissioner is not aware to what denomination a particular temple belongs. To say ‘ there is a dispute there, therefore I cannot appoint a man whose denomination I know ’, is a wrong method of approach. I submit we are not here trying to wipe out the differences between the various denominations. Let us be clear about that. We are not here to smoothen the differences between the Vaishnavites or the Mardhvas or between the Saivites and the Vaishnavites or even among the Visishtadwaites, the Vadagalais and the Thengalais. People sitting here in a secular place like this cannot wipe out all these differences. On the other hand, being secular, we thought we should not interfere with such things and therefore it is that the Constitution has recognized and used the words ‘ religious denomination.’ The words ‘ religious denomination ’ have not been invented by me for the purpose of this amendment. If you look at the persons who were the framers of the Constitution, you can easily find to how many different denominations they belonged. They had all these differences in mind at the time of framing the Constitution and that is why they said these religious denominations should be kept up. Therefore, I submit it is absolutely necessary that the trustees whom you appoint should belong to the religious denomination to which the trust belongs; otherwise, out of anger or spite a Saivite may be appointed to a Vaishnavite temple or a Vaishnavite may be appointed to a Saivite temple or either of them may be appointed to even a Jain temple. You may ask : are we going to do like that? You may not; but when you give wide powers of appointment in the Act, it will be a *carte blanche* to the officers to do anything they like, it will engender some sort of disregard for all these finer distinctions we have been seeking to protect as referred to in the Constitution. Therefore, it is that in obedience to the language of the Constitution, and in obedience to the faith which we have in the various religious denominations

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which ultimately are based upon philosophic tenets in relation to such questions as Godhood, the origin and progress and end of this universe, etc., the person to be appointed must first of all be a Hindu, and then he must also belong to the same religious denomination as the one for whose benefit the institution is intended. Otherwise, Sir, it will lead to great and unnecessary quarrels and we will be doing what is likely to produce evil. I submit, therefore, the Hon. Minister may please reconsider and accept this amendment."

THE HON. SRI K. MADHAVA MENON:—"I am sorry, Sir."

SRI T. VISWANATHAM:—"All words are wasted."

MR. SPEAKER:—"I now put the amendment to the vote of the House."

The amendment was put and lost.

Sub-clause (b).

SRI L. N. GOPALASWAMI:—"Sir, I move my amendment—

'To delete sub-clause (b).'

For the simple reason that if you limit the age of the trustee to 35 and 70 and if you say that a man between 60 and 70 can discharge his duties as trustee, I really cannot see how a man between 20 and 35 or 25 and 35 cannot discharge them. The age-limit passes my comprehension, Sir. The Government themselves admit that in the case of a hereditary trustee, even a man under 35 can be a trustee. I want the Government to understand that in these cases, they should not be guided by age. In the appointment of trustees they should be guided by the fact as to whether a man, having regard to his enthusiasm, energy, etc., can be fixed up for the proper administration of the institution. In these days of advancing intelligence, there is no point in appointing a man between 60 and 70 to look after the affairs of a temple. Perhaps he may not have the health or the strength to visit the temple even once a day. I think it would be far better if you bring down the age to 25 rather than take it beyond 60. I find there is another amendment given notice of to bring down the age from 35 to 25, and I trust the Government will accept the fairness of that amendment at least and accept it."

SRI T. VISWANATHAM:—"I will second the amendment, if they do not want to accept it."

THE HON. SRI K. MADHAVA MENON:—"I think this is not seconding, Sir. He says he will second it only if the Government do not accept it."

SRI T. VISWANATHAM:—"I second the amendment, Sir, positively and affirmatively."

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SRI M. S. PATTABIRAMIAH:—"It is strange, Sir, that my Friend Sri Gopalaswami was arguing that a person between 70 and 75 or 60 and 70 would not be able to go to the temple, and I must express my surprise at what he said. It is unfortunate that men who are well-versed in our Hindu lore are so ignorant and they think that all Hindus will be weak after 60 or 70. I will point out to him and to others in the House that when the Mahabharata war was fought, all the five Pandavas were above 60 years, and Vyasa describes them as yuvas or young men. Unfortunately we think that even at 35 a man becomes old. It may be that at that age there may be some precocious beings who may do much of work or talk and who may be wise; but it requires a ripened age and much experience to manage such institutions. A man generally becomes ripe only after 60 years, and it is only after 75 that people used to become sanyasis in the olden days, and till 75, they used to be working. If we say that people at 70 or 75 will not be able to attend to this work, it only shows how ignorant we are of our own traditions and history. Not only that; let people well educated in English and well-versed in western ideas, refer to a classical work by Cicero called 'Old age and friendship'—two famous essays very often found and read in the world's libraries. There the author says how people are active after 70 years unless they are crippled or diseased. Such activity is very common among people of 70 and more. Strictly speaking, there should be no age-limit fixed here at all. Again, Sir, my Friend wanted that people below 35 should be appointed and the upper age-limit should be brought down to 60, if the Government so chose. We should not be under the impression that people become weak and unfit for work after 60. They get ripened in their wisdom and they are also active. As I said, the big heroes of the Mahabharata war were all above 60. Bhishma was 150 years old, Drona was 120 years old and the Pandavas were 61, 62 or 63. Krishna himself was above 60 years at that time. Let us therefore remember that people do not become disabled after 60, and they should not become disabled."

SRI K. BHASHYAM:—"Sir, we have had great controversy over the age. It is a very good thing we are discussing it. Especially when a certain gentleman says that old age must be respected, I am very proud, for I am myself old; Dr. Rajan must be older still; and I felt elated when it was said that old age must be respected. After hearing the speeches, I think Sri Gopalaswami's amendment is very good; he says there must be no upper or lower limit at all. But after all, it depends on the concerned person; the older a man grows, the wiser he grows and so, if an older man is appointed, the better it is because he is wiser. The only difficulty is sometimes he may be affected with forgetfulness to do some things at the proper time and then the Commissioner will come down upon him. What I say is that the Government, when they make the appointments, must see to it that there is a mixture of both, the young people for doing the work actively and

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the old people for giving the necessary advice and suggestions. I hope, Sir, they will do so and that by this method, Sri Gopalswami may be satisfied, I will be satisfied and there will be satisfaction all round."

SRI R. V. SWAMINATHAN :—" Sir, I see some point in the arguments put forward by hon. Members Sri Gopalaswami and Sri Bhashyam. I think the maximum limit is quite alright and my Friend referred to the heroes of the Mahabharata war. Even in the present day, our leaders in the Central Government are above 70 and they are ruling the country. Why not take our Hon. Dr. Rajan? I think he must be above 70; if he can pilot this Bill and be a Minister to this Government, why not a member of the Area Committee be of that age? I request the Hon. Minister to reconsider this point. I appeal to him to reconsider and fix up a proper age-limit."

THE HON. SRI K. MADHAVA MENON :—" Sir, the whole controversy arose when Sri Gopalaswami said that people at 70 become useless and Sri Pattabhiramayya and Sri Bhashyam said that old age was as good as young age. We have put the lower age-limit at 35 and the upper limit at 70. Ordinarily a person ceases to be a revolutionary after 35, and comparatively, with experience gained, people become better. Anyway, I don't think the upper limit need be changed, if Sri Gopalaswami will kindly bear with me. Sri Viswanatham's next amendment for substituting 25 for 35 may be accepted and the other limit may remain as it is. The idea of fixing 35 as the lower limit was that comparatively, at that age people would have gained sufficient experience and developed balanced thinking, while people of younger age would think too much in advance of the times. We thought people who have passed the age of romance might be there."

SRIMATHI V. LAKSHMI AMMAL :—" I think this age may be applied to the executive officers also."

SRI L. N. GOPALASWAMI :—" I am very sorry, Sir, I have been misunderstood by Sri Pattabhiramayya. I never said that people after 70 are unfit; I said that if people at 70 can manage temples, why should not people between 25 and 35 be able to manage them. That is all."

SRI M. S. PATTABHIRAMIAH :—" I say that people do not become old at 70." (Laughter.)

SRI L. N. GOPALASWAMI :—" The Hon. Sri Madhava Menon sympathized with me and said that the upper limit may be there but the lower limit of 25 to be proposed by my Friend may be accepted. My submission is that both the limits may be absolutely left out and that in appointing trustees, the Government may be guided by the man's other qualifications, his capacity, his ability, his experience and wisdom."

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MR. SPEAKER :—" I now put the amendment of Sri Gopalaswami to the vote of the House. The question is—

'That sub-clause (b) be deleted.'

The amendment was lost.

SRI T. VISWANATHAM :—" Sir, I move the amendment standing in my name, namely—

'In sub-clause (b) for the word "thirty-five" substitute the word "twenty-five" ?'

SRI R. V. SWAMINATHAN :—" I second the amendment, Sir,"

SRI K. BHASHYAM :—" I oppose the amendment, Sir. How can a young man who hardly attains majority at 21, be put in charge of a big management at the age of 25? As an old man I cannot feel that youngsters can be entrusted with the management of institutions like this. Of course, executive officers are selected by the Government and it is all right, but in the case of appointments of trustees, young men should not be entrusted with such responsibilities.

" Besides, Sir, there is one other matter to be considered in this connection. Joke apart, what I want to say is, there are a number of temples in villages and small localities which are fairly compact and a person of a fairly old age will command more respect and his words will carry weight more than those of young people, however clever and good they may be. That is why I would like to stick to the very good rule provided by the Government, namely 35 years and I do not think we can go below 35 years for the purposes of selecting persons and entrusting them with the responsibilities of a trustee."

SRI K. VARADACHARI :—" Sir, I oppose the amendment proposed by my hon. Friend, Sri Viswanatham. Sri Viswanatham must be partial to very young men because he always appears to be young and that is the reason why he is so sympathetic to young men. I do not of course object to young men being entrusted with such responsibilities in other spheres, but appointment to religious institutions requires mature age and it is a wise thing that the Government put in a lower age limit. Let us not disturb it."

SRI M. S. PATTABHIRAMIAH :—" Sir, I oppose the amendment moved by my hon. Friend, Sri Viswanatham and I would like to be excused for saying this. These young men generally on whose behalf Sri Viswanatham has brought in the amendment and another young gentleman, Sri Swaminathan has seconded it, I think that young age is superior to old age. But I may point out, Sir, that old people know what is young age, whereas young people do not know what is old age. (Laughter.) They are partially ignorant because at 25 they are really children."

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In fact if you go through the whole of the ancient Sanskrit works, they are only denoted as innocent youths or 'balas' that is children. Moreover, Sir, that will be the proper time for them to get married and so will they be able to attend to their family life or to religious institutions? I therefore oppose the amendment and request the Government not to accept it. I am afraid there is some levity in the Hon. Minister in accepting this amendment."

SRI L. N. GOPALASWAMI:—"On a point of order, Sir. Will it not be discriminatory legislation between one man and another if you say that persons between the ages of so and so will be appointed."

MR. SPEAKER:—"How is it a point of order?"

SRI L. N. GOPALASWAMI:—"According to the Constitution, it is discriminatory legislation."

MR. SPEAKER:—"It is no point of order."

THE HON. SRI K. MADHAVA MENON:—"I agreed beforehand that I will accept the amendment to substitute 'twenty-five' for 'thirty-five'. I think there is no question of levity in accepting it. I may say that Sankaracharya ascended the peetam before he was twenty-five. Again, Sir, how many Bhashyams are there? There are not hundreds of Bhashyams and everybody cannot be expected to be as wise in that age. That is not the main consideration also. Article 81 of the Constitution provides thirty years of age for a member of the Council of State and twenty-five years for a member of the House of the People. So, if a member of the House of the People can have responsibility at the age of twenty-five, I thought why not a man be a trustee at the age of twenty-five. (Interruption by Sri K. R. Karanth.) Sri Karanth suggests thirty years. At least in one case let me have the satisfaction of accepting Sri Viswanatham's amendment."

MR. SPEAKER:—"I will now put Sri Viswanatham's amendment to vote. The question is—

'In sub-clause (b) for the word "thirty-five" substitute the word "twenty-five".'

The amendment was carried.

New sub-clause (c).

JANAB MAHIN SCHAMNAD:—"Sir, I move the amendment that stands in my name, namely—

'Add the following as new sub-clause (c):—

"(c) unless, in the case of a non-hereditary trustee, he also belongs to the category of persons whose exclusive right is to hold the trusteeship of the religious institution by virtue of ancient and long-established religious custom and usage of a community or group of persons to which the religious institution belongs."

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"Sir, there are sectional and communal temples in the State and more of them in my district of South Kanara belonging to members of each community exclusively, apart from those belonging to the Hindu public in general. These communal and sectional temples were founded and established by the respective communities for their religious worship, for their own benefit and use and they are managed and administered by them exclusively from time immemorial according to custom. Therefore, the members of other communities have no right in them, although they are allowed to go there and make offerings, as in the case of non-Muslims and non-Christians who are allowed to go to mosques and temples to make offerings. So, Sir, separate rights of the several communities to manage their own religious institutions have been recognized by the courts and the Government in the schemes framed for the temples. This is also in consonance with Article 26 of the Constitution of India and therefore this Legislature can neither abridge nor remove any of the guaranteed rights. So, Sir, superintendence and supervision only can be vested in the Commissioners and their subordinates, but the actual management has to be left in the hands of the trustees of the respective communities. Now, Sir, we have to modify the substance of the provisions of this Bill which remove the right of these people to manage and control their temples, because the trustees of the respective communities have managed the temples very satisfactorily for generations and there is no reason to deprive them of their rights of management. Therefore, Sir, nobody who is not a member of the community can be a trustee. And, only members of the community can manage the affairs of the temple and administer it. So, Sir, my amendment is in consonance with Fundamental Rights in Article 26 of the Constitution of India."

SRI T. VISWANATHAM:—"I second the amendment, Sir, because it is almost on the same lines as the one which I have already moved. It is necessary that the trustees should be of the same religious denomination and they should also belong to the same religious denomination by long and ancient usage and custom. Moreover, Sir, it is not a new thing we are now inventing. Even if you read the Bible in the Old Testament, you will find that only certain clans are entitled to receive all the privileges and be priests. That is there even now in the temple at Jerusalem. Therefore, I submit, Sir, the amendment is a very good one and Government should accept it without reply and without any hesitation."

THE HON. SRI K. MADHAVA MENON:—"Sir, I would have accepted the amendment if I had not already provided for it in another portion of the Bill. In the first place, Mr. Viswanatham's amendment, similar to this, was moved and it had been rejected. Secondly, it is impossible of performance, because the amendment says, 'unless he also belongs to the category of persons whose exclusive right is to hold the trusteeship of the religious institution

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by virtue of ancient and long-established religious custom and usage of a community or group of persons to which the religious institution belongs.' This does not affect hereditary trustees and he says that it is only in the case of non-hereditary trustees, such a provision must be there. Then, Sir, clause 46 of the Bill provides: 'In making appointments of trustees under sections 41, 44 or 45, the Commissioner or the Area Committee, as the case may be, shall have due regard to the claims of persons belonging to the religious denomination for whose benefit the institution concerned is chiefly maintained.' So, Sir, since this has been provided in a subsequent clause, there is no necessity for accepting this amendment. Apart from it, it is impossible of performance."

MR. SPEAKER:—"The question is—

'Add the following as new sub-clause (c):—

"(c) unless, in the case of a non-hereditary trustee, he also belongs to the category of persons whose exclusive right is to hold the trusteeship of the religious institution by virtue of ancient and long-established religious custom and usage of a community or group of persons to which the religious institution belongs." "

The amendment was lost.

Clause 24, as amended, was put and carried.

MR. SPEAKER:—"Shall we sit for a few minutes more and finish some more clauses?"

SRI T. VISWANATHAM:—"Not to-day, Sir. If need be, we shall sit to-morrow till 6 o'clock."

SRI K. BHASHYAM:—"We are not prepared for it to-day, Sir. We may sit even till 8 o'clock to-morrow. I am saying this because I want to provide a quorum if we are going to sit late till 8 o'clock to-morrow."

Clause 25.

MR. SPEAKER:—"Before adjourning, I will put clause 25 to the vote. There are no amendments to it."

Clause 25 was put and carried.

Clause 26.

MR. SPEAKER:—"There are no amendments to this clause."

SRI T. VISWANATHAM:—"I want to oppose the clause, Sir, and I think I will take some time. Then again, Sir, this offends certain provisions of Article 26 of the Constitution. So, we shall take it up to-morrow."

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to this House or to you, Mr. Speaker, because it is not fair to suggest that there is no use of talking anything about law or Constitution here."

MR. SPEAKER :—" The hon. Member Mr. Bhashyam is not right in saying that. He should not have said that."

THE HON. SRI K. MADHAVA MENON :—" I admit, Sir, that I do not know as much of law as the hon. Member knows."

SRI K. BHASHYAM :—" The Hon. the Minister is whipping up a dead horse, Sir."

THE HON. SRI K. MADHAVA MENON :—" If the remark is made against me, I am not complaining. I concede my hon. Friend's superior knowledge of law in these matters. Regarding the clause, Sir, I have not been able to understand the points raised against it. If I say that I am unable to understand, the hon. Member Mr. Viswanatham will complain ' the Hon. the Minister says he is unable to understand '. But the real difficulty is that there is no amendment to this clause or any portion of this clause. All the clauses have been very carefully scanned, and amendments have been given notice of to almost every clause. It cannot be said that it is an omission to give notice of amendments to this clause. When I read this clause, I cannot find anything objectionable in it. The objection, it seems to me, is to the inclusions of the words ' all lawful directions which a competent authority may issue in respect thereof '. I do not see how these words are offensive to the trustees. The trustees must deal with the property of the trusts as carefully as men of ordinary prudence would deal with such affairs, funds and properties as if they were their own. I am not able to see what is the particular sentence in this clause that is objectionable. The hon. Member Mr. Viswanatham stated that the words ' all lawful directions which a competent authority may issue in respect thereof ' should be removed. I do not at all see why the lawful directions of the competent authority should not be obeyed by a trustee. Sir, there is nothing for me to answer. The clause is self-explanatory, and there is nothing to be removed from it."

Clause 26 was put and carried.

Clause 27.

MR. SPEAKER :—" The motion is—

' That clause 27 do stand part of the Bill. '

Sub-clause (1) (a).

SRI K. BHASHYAM :—" Sir, I move—

' At the end of sub-clause (1) (a), add the words " or any provisions made by the founder for filling up vacancies in the office of the trustees. " '

Sir, I think it is necessary, when we make a register of all these institutions, we must also have the information posted correctly

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in these registers. Whatever it was in the original Act, we have now come to a position where the Government themselves recognize that hereditary trustees and their rights should be respected to some extent at least. Therefore, I think it will be best if these words are added to sub-clause (1) (a), namely, ' or any provisions made by the founder for filling up vacancies in the office of the trustee '. I think that it would be very useful to have recorded information on the point. If any dispute arises, the information can be had from a reference to the pages of the register maintained under clause 27. That is the only reason why I have brought forward this amendment. I am sure this amendment will help the Government."

SRI T. VISWANATHAM :—" Sir, I second the amendment."

THE HON. SRI K. MADHAVA MENON :—" Sir; I see no objection to the principle of the amendment. I was under the impression that the words ' the names of past and present trustees and particulars as to the custom ' would satisfy. But, if the hon. Member Mr. Bhashyam would be satisfied, I have no objection to add the words ' usage or a provision or an arrangement in force ' after the word ' custom '. (The hon. Member Mr. K. Bhashyam indicated dissent.) Sir, I am unable to accept the amendment. I oppose it."

SRI K. BHASHYAM :—" Sir, the position is this. Where there are hereditary trustees, so many other additional persons are also appointed. But I would like that we must see how far the original founder has made provision in the matter of succession. My idea is, where the provisions of the founder are good and where they are calculated to be in support of the family or the persons round about, they ought to be there. That is the real object of my amendment. It is not as if we are concerned only with the custom and usage obtaining to-day. We know what is being done to-day. The Board appoints persons even though there are hereditary trustees and sometimes even more than the number of hereditary trustees so as to keep them a permanent minority. But I am not concerned with that now. What I want is we must see what provisions have been made by the founder and how far we have deviated from them, so that if possible, we may try to adhere to the founder's intentions."

THE HON. SRI K. MADHAVA MENON :—" Sir, it is with the idea of accepting the principle advocated by my hon. Friend Sri Bhashyam that I agree to add the words ' usage or provision or any arrangement in force ' after the word ' custom '. But if my hon. Friend does not want it, I cannot accept his amendment."

MR. SPEAKER :—" The question is—

' That at the end of sub-clause (1) (a), the words " or any provisions made by the founder for filling up vacancies in the office of the trustees " be added. ' "

The amendment was lost.

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Sub-clauses (1) (b) to (1) (e).

THE HON. SRI K. MADHAVA MENON:—"Sir, I move—

'That item (b) be omitted, items (c) to (e) be re-lettered as items (b) to (d) and after item (d) as so re-lettered, the following item be inserted:—

(e) particulars of all other endowments of the institution and of all title-deeds and other documents.'"

This is only a drafting alteration, Sir.

MR. SPEAKER:—"The question is—

'That item (b) be omitted, items (c) to (e) be re-lettered as items (b) to (d) and after item (d) as so re-lettered, the following item be inserted:—

(e) particulars of all other endowments of the institution and of all title-deeds and other documents.'"

The amendment was carried.

Sub-clause (1) (f).

SRI T. VISWANATHAM:—"Sir, I move—

'That in sub-clause (1) (f), after the word "images" in line 1, the words "or other valuable articles" be inserted.'

It is necessary not merely that these idols and other images should be listed out but also other valuable articles which are connected with the institution for being carried in processions. In some temples there are very valuable articles. It is good that the inventory takes note of all these things also."

SRI K. BHASHYAM:—"I second the amendment, Sir."

THE HON. SRI K. MADHAVA MENON:—"Sir, I submit what my hon. Friend wants is contained in sub-clause (e) which says—

'the jewels, gold, silver, precious stones, vessels and utensils, and other movables belonging to the institution, with their estimated value.'
'other movables' include other articles also."

SRI T. VISWANATHAM:—"From that point of view it is not necessary to include 'idols and other images' also."

MR. SPEAKER:—"Other movables' would include other articles."

SRI T. VISWANATHAM:—"The Government have made a distinction and rightly with regard to idols and images which are connected with the institution, whether intended for worship or for being carried in processions. They are not covered by other movables. They are of a special character and special sanctity. There is really that difference in temples. Similarly, other articles are not covered by other movables. Therefore, let him accept my amendment. There is no harm in accepting it."

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THE HON. SRI K. MADHAVA MENON:—"If my hon. Friend is so meticulous about it, I would have no objection to add in sub-clause (e) the words 'and articles' after the word 'movables'."

MR. SPEAKER:—"The question is—

'That in sub-clause (1) (f), after the word "images" in line 1, the words "or other valuable articles" be inserted.'"

The amendment was lost.

Sub-clause (1) (g).

SRI K. BHASHYAM:—"Sir, I move—

'That sub-clause (1) (g) be deleted.'

The question is whether it is necessary to have another provision saying, 'such other particulars as may be required by the Commissioner.' Unless there is a change in the clauses relating to list, there is no need for this clause. If this provision is there, the officers will go on asking for particulars. It will be a source of a number of pinpricks. Therefore, I suggest that this sub-clause may be omitted."

SRI T. VISWANATHAM:—"I second the amendment, Sir. My hon. Friend is perfectly right in his suggestion. Just as we do not like any foreign matter in our body so also this sub-clause may be omitted."

SRI V. RAGHAVAYYA:—"Sir, I think this is a very harmless and innocent provision. What is the harm in having this sub-clause by way of abundant caution? Suppose a thing does not come under any of these things. Then we will require this provision. However, this is a provision against contingencies. I do not think there is any necessity to oppose this sub-clause."

THE HON. SRI K. MADHAVA MENON:—"Sir, the idea is to have a register containing information for the present and for the future also. That register must be as complete as possible. My hon. Friends Sri Bhashyam and Sri Viswanatham say that the other provisions are sufficient to have a complete list. But if any further particular is required, we want to have power to get at it. After all, this is only to record as much information as possible. Section 38 (f) of the existing Act has a similar provision. Apart from that, the idea is that the register must contain as full information as possible. Therefore, this sub-clause is necessary. I cannot accept the amendment."

MR. SPEAKER:—"The question is—

'That sub-clause (1) (g) be deleted.'"

The amendment was lost.

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Sub-clause (2).

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—
'That the words "not exceeding three months" in sub-clause (2) be omitted.'

The sub-clause, as it is, says that any objection must be preferred by the affected parties within a period of three months. Three months may not be sufficient time. So, it is proposed that they may prefer the objections at any time. We do not want to limit the period."

SRI N. S. VARADACHARI :—" Sir, while I agree with the object of the Government, I want to know whether they could make available to certain interested sections of the public a complete inventory of all the properties of the institution and all movables and valuables so that they may be able to prefer any objection. Otherwise, objections can be raised only by Members and Committees and the like. The register will perhaps be prepared under the supervision of some official or other. It is just possible that important items are omitted. Therefore, I want to know from the Hon. Minister whether it would be possible to publish or make available to those interested in the institutions a list of the properties."

SRI T. VISWANATHAM :—" Sir, what is the matter about time-limit? What is the obligation on the part of the trustees to make out the lists within three months? "

THE HON. SRI K. MADHAVA MENON :—" The register shall be prepared, signed and verified by the trustee of the institution concerned and submitted by him to the Commissioner within three months or within such further period not exceeding three months as may be allowed by the Commissioner, the Area Committee or the Assistant Commissioner. That is to say, the Commissioner or the Assistant Commissioner can extend the time only by three months. This time may not be quite sufficient. Therefore, it is proposed to omit the words 'not exceeding three months'."

My hon. Friend Sri Varadachari wants to know whether the register would be published. Sub-clause (6) says—

'One copy of the register as approved by the Commissioner shall be furnished to the trustee and one to the Area Committee or the Assistant Commissioner concerned, if any.'

It will be sufficient for the purpose. The register will be there for any person to see."

MR. SPEAKER :—" The question is—

'That the words "not exceeding three months" in sub-clause (2) be omitted.'"

The amendment was carried.

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New sub-clause (7).

SRI K. BHASHYAM :—" Sir, I move—
'That at the end of clause 27 a new sub-clause (7) be added as follows :—

" (7) In case any person or his right is prejudicially affected by such entry, he may bring a suit to establish the right which he claims." "

The register is kept as required by the statute. Suppose the property of an individual is listed as a property belonging to the religious institution. Then that party should be given the right of suit."

SRI T. VISWANATHAM :—" I second the amendment, Sir."

MR. SPEAKER :—" Motion moved—

'That, at the end of clause 27, a new sub-clause (7) be added as follows :—

" (7) In case any person or his right is prejudicially affected by such entry, he may bring a suit to establish the right which he claims." "

THE HON. SRI K. MADHAVA MENON :—" Sir, my hon. Friend Sri Bhashyam wants in case the right of any person is prejudicially affected, a right of suit must lie. For that, we have said in clause 62 that, subject to the rights of suit or appeal, the Deputy Commissioner shall have power to inquire into and decide disputes."

SRI K. BHASHYAM :—" Sir, the Government perhaps had intended to give a right of appeal but it is not clear at all. If we look at clause 62, we shall find that it deals with questions like (a) whether an institution is a religious institution, (b) whether a trustee holds or held office as a hereditary trustee, (c) whether any property or money is a religious endowment, (d) whether any property or money is a specific endowment and so on and so forth. None of these clauses show anything relating to entries required to be made under clause 27. It may well be said that the Government do intend to allow a right of suit. But it is not at all provided for. There are a good many matters connected with such entries. A property may be claimed by a certain person which may actually belong to the institution. Such a case has necessarily to be decided by a Court after verifying facts. The right of appeal to the Court must be statutorily recognized. For instance, there are certain vahanams—made of gold and silver—intended for the temple. But what happens is this. They are actually kept in the houses of certain private individuals—Nattucottai Chettiars or any other persons—who exercise their discretion as to when they should be used and when they should not be used. There is the other side which claims that the vahanams belong to the temple and writes to the Board or tells its officers so. What should happen to this case? Again, there are other matters also. In the village temples, jewels are borrowed

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for adorning the deity on particular days from some of the wealthy residents of the locality and are returned after a few days when the festival is over. This is a practice obtaining for a long time and how are we to deal with disputes that may arise from such cases? There are persons who claim certain properties of the temple as theirs or who enjoy certain specific rights over them. For example, the custodian of a vahanam would allow it to be used by the temple only on a particular day when the mantakapudi may be his or that of his family or friends. On that day the deity may be taken out. Suppose, in such a case, the Board says: 'Give the vahanam to X, he wants to perform the utsavam and he will do it in a grander fashion'. Sir, it is quite possible that a difference of opinion may arise here. In fact, it did arise in a case which I had to do something with. After all, such records are not made year after year. Records are made for all time and it will be difficult, once they are made, to change the entries. There must be provision for filing a suit before the court. As soon as a record is made, as my hon. Friend, Sri N. S. Varadachari, has said, opportunity must be given to the public to know what is contained in the inventory so that they may know what are the things that have been included in it and what has been left out.

"I am sure that the Government intend to have a right of appeal and, therefore, will have no difficulty in accepting my amendment."

SRI K. R. KARANTH :—"Mr. Speaker, Sir, I feel that the amendment suggested by my hon. Friend, Sri Bhashyam, has a good deal of substance in it. It is no doubt true that under clause 62 and those that follow it, suits are dealt with. Whether Sri Bhashyam's amendment should go under clause 27 or clause 62, I consider that right of suit is necessary. He has stated certain cases to explain the object of his amendment. There are other cases also which I wish to place before this House. Under clause 27, the Commissioner is the final authority to say, 'you shall enter this and you shall not enter that'. Suppose there is a case in which there is no article at all to be entered in the register as belonging to the math or the temple and yet the Commissioner says: 'you enter such and such a valuable article in it'. There must be some relief provided for the trustee or the matadhipathi to see that the order of the Commissioner is not final. This matter is of some importance. The Commissioner will order the matadhipathi to include a particular article and the matadhipathi may say, 'there is no such article'. I do not know who is to decide the issue in such cases. A thing may not exist and yet an order will be passed relating to that non-existing thing. Therefore, some right of appeal is necessary. The Government may well bring in an amendment themselves to suit Sri Bhashyam's case. Rights of suit are dealt with in clause 67. When that is taken up I myself mean giving in an amendment. But what I wish to tell the Government is that there are really hard cases

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which need special protection. On the information of some people, the Board may, for instance, say, 'it is understood that there is such and such an article; include it in the inventory'. The person concerned has to make an entry and he has no right of appeal against that order. Some relief must be provided for him and this may well be done under clause 67."

SRI V. RAGHAVAYYA :—"Sir, I suggest that the amendment may be accepted by the Government as it is or it may be withdrawn for the present if the Government give an assurance that they will make suitable provision under clause 62. Besides disputes that may arise out of entries to be made in the register, there are several other parties who are concerned with this matter. When a person makes an entry in the register, the public must have a right to bring it to the notice of the administration—with a view to correcting errors of omission and commission—before being obliged to go to a court of law. It is not easy to go to a court always as it is very expensive. It is not fair that one should take the initiative of going to a court and incur the odium of others. They must be given a chance to file objections before the Government to see that the omitted articles are entered in the register and the non-existing things that may find a place in the register are removed. If the Government give an assurance that suitable provision will be made under clause 62, I feel that my hon. Friend, Sri Bhashyam, may withdraw his amendment."

SRI N. S. VARADACHARI :—"Sir, the Hon. the Minister for Law tried to assure me that the point I had raised was fully met. But let me draw his attention to one or two particulars. The object of this register is to keep an inventory of everything including dittam. The several items mentioned under this clause comprise not only the property but the routine of the administration. Now, Sir, I know—I want the Hon. the Minister's attention here—that in respect of (c) it is just possible that due to certain circumstances, the scale of dittam has been reduced. I may point out the case of the Tirupathi temple here where the daily offering to the deity has been reduced by reason of the fact that other circumstances have intervened and there is no supply necessary forthcoming for the purpose. Now, I want to know from the Hon. the Minister whether, in regard to these particulars, what obtained before these peculiar circumstances intervened would be noted in the register or the current practice would be mentioned. In fact, the latter has no place in the register and the circumstances intervening may absolutely cease to exist after, say, three or four years or five years at the most. I want to know whether in respect of particulars required under (c) those approved by usage and custom—that is, the longstanding practice of the administration—could be mentioned in the register. I know, there is a code called the Bruce Code. It is only a translation in English of the great Ramanuja's record of temple practice. The matter contained in it should not be mutilated when the registers

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are written up. I want the Hon. the Minister to give an assurance that whatever that is required to be mentioned in the register under item (c) will be what is observed by custom and practice for the last so many tens of years.

"The second point, I would like to make, is this. The register should be prepared by the trustee or by somebody else authorized by him and submitted to the Commissioner or the area committee. The register is asked to be made by the very person who is in charge of the temple at the time. Though there is a direction to this effect, there is no provision anywhere for other persons to be present—or for any interested parties to be present—to see that the register is properly made. Of course, I do not suggest that the register will be improperly made. But it is just possible that important omissions may occur. After it is prepared, what is it that the Government say? They say: 'The trustee shall carry out the corrections made by the Commissioner and send three copies of the register so corrected to him'. Correction can only be made on the suggestion of the area committee, I suppose. It cannot be on anybody else's suggestion. Then, the register will be furnished to the trustee and that is the final thing. I want, Sir, that, even if the area committees are made responsible for such work, even if they are made the authority to call upon the trustees to make the necessary entries, the Government should make provisions at least under the rules—not in all cases where frivolous applications may be made but only in certain important cases where persons interested or worshipping in the temples may put in applications—to permit them to scrutinize the register. The register when so demanded should be made available to them. Some people, at any rate those who are not Members of this House—may not be aware of the articles which the several devasthanams possess to-day. The articles were either presented by the Mahratta kings or by other ancient kings of Vijayanagaram. Some of the presents date back even to the Pallava regime. Once a register is written it will be very difficult to make additions to the list and make it up to date. Though corrections can be made under clause 28, what will happen to cases such as those that I shall presently place before the House? Suppose some jewel is melted. Some gold is melted. Naturally that item will have to go out and some other article made out of that gold has to be substituted in its place. Suppose there are loose diamonds. The list would say that there is such and such a number of loose diamonds. And suppose those diamonds are made into a kritam for the deity. These are very important matters and some provision has to be made to permit persons who are really interested in the temple to have access to the registers. For instance, the people next door or those who perform services in the temple may be allowed to scrutinize the register."

SRI T. VISWANATHAM:—"Sir, the amendment seems to be very necessary as the items mentioned under clause 62 are not the same as those mentioned in the clause under discussion. For

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instance, an entry should be made with regard to custom. An entry should be made with regard to succession to the office of trustee. This is a very important and valuable right. The entries in the register would be more or less ex-parte opinions. There is no special provision mentioned in this clause regarding the evidentiary value of these entries though of course it is not said that the entries in the register shall be a conclusive evidence. I agree that the register is not a conclusive evidence because the entries therein are not made after public notification to all parties concerned. However, it is a statement maintained by the institution and scrutinized by the officers appointed by the Government. Therefore, it acquires a particular value. Year after year it goes on, and though the entries are not made after notice to the third parties concerned in the matter, at the end it acquires a particular value. I am not referring merely to these jewels and other articles. I am referring to the custom regarding succession. Those are rights which should not be concluded by a mere entry in the register. Therefore, it is necessary that a person who is aggrieved by an entry in this register should be given similar right, just as a person aggrieved by an entry in the municipal rent rolls or the survey register has a right if he is aggrieved to take the case to a court of law, within the time-limit prescribed by the Survey Act, and get a declaration that the entry is wrong and set right the same. It may be said that it is a record of only such things as jewels and others and the entries are not very important because they are only varying things. This year they may be there, next year they may not be there. I do not think it is not so. It is a complete record made only on one-sided information and where rights of third parties are included it should not be made final in any way or given an air of finality unless the persons aggrieved prejudicially are given an opportunity to question it in a court of law. I, therefore, submit that the amendment is very necessary."

SRI V. M. RAMASWAMI MUDALIYAR:—"Sir, I have listened to the remarks of the hon. Friends who spoke in favour of the amendment. I believe that under this clause they want to give this register an importance which the Government did not claim for the register. As a matter of fact, this register, so far as I can see, is only a catalogue or an inventory of certain things. No doubt under sub-clause (1) (a) the register should show 'the names of past and present trustees and particulars as to the custom, if any, regarding succession to the office of the trustee', etc. But in fact the register is only a list. Suppose a French traveller who might have come some centuries back has recorded in his book some impressions of the customs and manners prevailing at that time, it does not mean that it gets very important than the customs and manners now prevailing. It is simply a record, according to him, of the customs and manners that prevailed when he visited the country. I am trying to persuade my hon. Friend to realize that this is only a register or an inventory and that this is not a 'record of rights' whereby vested interests

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are created or divested. As a matter of fact, if it were a question of record of such valuable rights, the Government could have stated: 'It is unalterable, once the trustees, the area committee and the Commissioner after scrutiny have approved the list'. It is no such thing. The register is only an inventory in the larger sense of the term. After all the Government is as much a party where rights are concerned as any private property. If the Commissioner says that a certain property belongs to a particular temple, it is always open to the party aggrieved to go to the court and say it does not belong to the temple, though included in the list, and obtain a declaration from the court. The right is there and nobody can take away such a right. As my hon. Friend said, there are certain Acts under which after the lapse of some specified time such rights are taken away, as in the case of land rights where a survey is made and if no objection is made to the Survey Officer, within a specified time, the inclusion of the land in the register confers a right. In the case under discussion it is not so. The register referred to is nothing more than a mere inventory with regard to customs, names of trustees and so on. It is always open to the person aggrieved to claim that the custom mentioned in the register is not the proper custom and go before the public forum and show that the record is not right and proper. I submit, Sir, that these rights, so to speak, vested rights, rights regarding property, regarding succession are rights vested in the citizen of the Union and it is always open to him to agitate and go to a court of law whenever he feels these rights are affected. I see also as the Hon. Minister in charge of the Bill pointed out, that this register as approved by the Commissioner and furnished to the trustee or the Area Committee is to be put up in the notice board of the office of the Trustee or the Assistant Commissioner as the case may be for inspection by those worshippers interested in the matter. That will be ample and sufficient to safeguard the rights of the public, the worshippers, 'Kattalaidars' of the temple. After the publication of this list it is always open to anybody to write to the Commissioner to have the register corrected, or added to or delete certain of the items to which the claimant is entitled to, under clause 28. Therefore, Sir, I am unable to support the suggestion of my hon. Friend Sri Bhashyam in this matter."

SRI A. KALESWARA RAO:—"Mr. Speaker, Sir, this clause makes it obligatory on the part of the trustee to prepare an inventory. He is also asked to enter many important things in the register with regard to the usages, customs and rights of certain families and individuals, etc. This register is very important as it gives a lot of information. The omission of an entry in this register of the properties of the temples, rights with regard to precedence in receiving honours, in regard to custom thus becomes such an important piece of evidence that it will be difficult for anybody to rebut. It is a case where a presumptive piece of evidence becomes a sort of a conclusive evidence. When such is the case there must be some right to those who are interested to make representations to correct the entries in the register, and we must

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see that the interests of the temples or the religious institutions are safeguarded and that the properties that really ought to belong to the temples are entered there and in no other and the rights of the third parties are not jeopardised by the entries in the register. Therefore, the register is a comprehensive register, a basic register as it were and when the legislature is passing this Bill, things begin afresh and new records are made of the various items and rights are created. Therefore the public generally interested in the welfare of the temple should not only have the right to put in petitions to the Commissioner or to the Board or to the Area Committee in proper time but also if they find that things are not properly done in the final stage they should have a right to go to a court of law and get a declaration from the court. It is a very valuable right. Individuals who are aggrieved cannot be shut out. Of course, there is much force in what the hon. Member Sri Ramaswami Mudaliyar has said that the third party interests are not affected by this. That is a different thing. When we have a special list and when there are certain other clauses which give the right of suit the presumption would be that there is no right of suit in regard to clauses where such words are not used and where it is merely stated that the Commissioner's orders are final. That means that no right of suit exists under this clause. In order to see that such doubts do not occur, the acceptance of my hon. Friend Sri Bhashyam's amendment is quite necessary. Therefore, I support the amendment."

THE HON. SRI K. MADHAVA MENON:—"I oppose the amendment for two reasons, Sir. In the first place I entirely agree with my hon. Friend Sri Ramaswami Mudaliyar that we are giving undue importance to this register as establishing any rights for anybody. Even the entries in the 'A' Register maintained in the Revenue Department are not conclusive evidence. A suit can be filed to set aside the entries in the 'A' Register. What is contained in the sub-clause is merely a direction that a register shall be kept of the properties and particulars in respect of a math or an endowment. The entries in the register cannot create any right for anybody particularly so in the case of the third party interests. It is not a record of rights at all. My hon. Friend Sri Kaleswara Rao said that when the Commissioner's orders are considered final there ought to be a right of suit. We have not stated anywhere in the clause that the orders of the Commissioner would be final. No judicial enquiry is mentioned except in sub-clause (4). But this is not an enquiry of a judicial nature and no final orders could be passed on such an enquiry. The clause simply says that a record of the properties shall be maintained. The wording used is an identical reproduction of the words in the existing Act. Where, in this Bill it has been mentioned that the orders of the Commissioner shall be final it is subject to the provision that the right of suit against the orders will lie. Under no circumstance can it be argued that an order under this clause cannot be tested in a court of law, as the entries in the register do not confer any rights. It is open to any person whose interests are prejudicially affected by the entries in the

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register, to file a suit. No particular promise is necessary for that. It is open to one to file a suit. No permission is necessary because there is no prevention. When there is no specific prevention to file a suit, it is clear that the orders of the Commissioner are not final and therefore the right of suit is automatically there if a right of suit is necessary at all.

"Secondly, if a particular person has a right over a particular property, he can bring it to the notice of the Commissioner under clause 62. I therefore feel that it has been covered by this clause and that no amendment is necessary.

"Hon. Sri N. S. Varadachari referred to sub-clause (c) about *dittams*. There is no arguments in saying that this is the final register. Clause 28 says: 'The trustee or his authorized agent shall scrutinize the entries in the register every year and submit to the Commissioner for his approval, a verified statement showing the alterations, omissions or additions required in the register.....'. There is no purpose in saying that this register is final. Any person can go through the register at any time. It specifically provides for trustees. I do not think that the Commissioner will refuse anybody to see the register. If anybody wants and if it is necessary to issue specific instructions, they may be done and any alterations or omissions or additions can be made. I therefore feel, Sir, that the amendment is not necessary."

SRI K. BHASHYAM:—"Sir, the contention of the Hon. Minister that it is really unnecessary is wrong. For example, the provisions of the Act are so ambiguous in their wording that I am not sure what is and what is not affected. For example, look at section 95 (1). I really point out the ambiguity in the wording and that suits will really be not coming and they will be barred.

"95. (1) No suit or other legal proceeding in respect of the administration of a religious institution, or in respect of any other matter or dispute for determining or deciding which provision is made in this Act, shall be instituted in any court of law, except under, and in conformity with, the provisions of this Act."

Sir, when we go to section 95, I will have to say something about this. Section 95 as it stands is wide in its scope. I venture to suggest that it is absolutely necessary that suits in respect of properties which are really private properties not belonging to the temple or institution or are subject to certain conditions, must be allowed. Therefore, Sir, if the Government agree that a suit can be filed, there is no harm in accepting this amendment.

"Sir, this will be much more important in regard to succession. There is no succession to a particular institution unless we know what a particular institution is and for that we have got to go deep into the records of the institution. Therefore, Sir, in my opinion the succession rule may be decided *ex parte*.

"Hon. Mr. V. M. Ramaswami Mudaliyar said that this register is an unimportant record. I would like to say that this is a very important register in which nearly every item is entered. It is not unimportant. What happens is this. When an article

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is being repeatedly shown year after year in a particular register for a number of years, it acquires a value in the eyes of the law courts. That is what I want him to note. Are we not seeing a karnam showing a revenue register and saying 'this is the register we have been keeping for a number of years' and this is accepted as such. So, you may say that a register may be of no value and it does not acquire value at all. I hope Mr. Ramaswami Mudaliyar will agree with me, that, if a false statement is being perpetuated year after year in a register like this, it is dangerous to do so, it may be the person affected does not know it at all. So, what I say is it is not unimportant. That is what I want to impress on the hon. Members of the House who argued against the amendment.

"Hon. Sri N. S. Varadachari said that the details of the *dittam* which were in practice previously and which are now reduced, should also be included. I think he is right and it would be better if they are also included.

"The Government say 'we agree with you, but we won't accept the amendment'. That is not the way to do it. If there are difficulties and if we point out some way to meet those difficulties, the Government should accept them. That is the reason why I move my amendment."

MR. SPEAKER:—"The question is—

'That, (a), new sub-clause (7) be added at the end of clause 27 as follows:—

"(7) In case any person or his right is prejudicially affected by such entry, he may bring a suit to establish the right which he claims." "

The amendment was lost.

Clause 27 as amended was put and carried.

Clause 28 was put and carried.

Clause 29.

MR. SPEAKER:—"The motion is—
'That clause 29 do stand part of the Bill'."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir. I beg to move—

'In sub-clause (1) after the word "religious" in line 1, insert the words "and charitable".'

The word 'charitable' must be added to this."

MR. SPEAKER:—"The Hon. Member has given two amendments. Will he move both?"

SRI T. VISWANATHAM:—"Only one by one, Sir."

MR. SPEAKER:—"I have no objection."

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THE HON. SRI K. MADHAVA MENON:—"Sir, the first amendment is out of order."

MR. SPEAKER:—"Let me hear him."

SRI T. VISWANATHAM:—"Sir, I want the words 'and charitable' to be inserted. I want the Hon. Minister also to be a little charitable. If he refers to clause 5 (3), there are certain Acts which will cease to have force in this State after this Bill comes into force:

(a) The Madras Endowments and Escheats Regulation, 1817;

(b) The Religious Endowments Act, 1863;

(c) The Charitable Endowments Act, 1890;

(d) The Charitable and Religious Trusts Act, 1920; and

(e) Sections 92 and 93 of the Code of Civil Procedure, 1908.

All these will cease to have effect so far as the Hindu Religious Endowment Institutions and Charities are concerned. So, the present Bill will be the entire Bible for us hereafter to deal with the religious institutions. Then, what will happen to the other charitable institutions which are not religious institutions?"

MR. SPEAKER:—"That has nothing to do with this."

SRI T. VISWANATHAM:—"It has got some connection, Sir. The word 'religious institutions' does not include other charitable trusts at all. It is not as if there are other legislations. If this legislation confines itself to maths, temples and specific endowments, it would be a different matter. But, this legislation includes all religious institutions. So, all the existing Acts in respect of all charitable institutions and trusts will cease to have effect in this State. I understand that Clause 5 has already been passed. If so, what will happen to charitable institutions and trusts which are not covered by the definition 'religious institution'? The wording 'religious institution' covers only maths, temples and specific endowments. Therefore, unless you make some provision for other charitable trusts and endowments, we will go without law altogether. Hitherto there were 5 pieces of legislation and they will cease to have effect after we pass this Bill."

SRI K. BHASHYAM:—"Sir, I second it."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir. This amendment is out of order. Some clauses of this Bill when it comes into force will become applicable to the charitable endowments also. Clause 3 which we have already passed, says:

"The Government may, by notification in the *Fort St. George Gazette*, extend to any Hindu or Jain public charitable endowment all or any of the provisions of this Act and of any rules made thereunder and thereupon the provisions so extended shall apply to such charitable endowment as if it were a specific endowment."

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Provided that before issuing such a notification, the Government shall publish in the *Fort St. George Gazette*, a notice of their intention to do so, fix a period which shall not be less than two months from the date of publication of the notice, for the persons interested in the endowment concerned to show cause against the issue of the notification, and consider their objections, if any."

Any section can be made applicable by notification in the *Fort St. George Gazette* and so it is out of order."

MR. SPEAKER:—"Yes, I rule it out of order."

Clause 29 was put and carried.

Clause 30.

MR. SPEAKER:—"The motion is—

'That clause 30 do stand part of the Bill.'

Sub-clause (1).

SRI T. VISWANATHAM:—"Mr. Speaker, Sir. I beg to move—

'In sub-clause (1), delete the words "or any officer or other person deputed by the Commissioner in this behalf".'

I can understand the Commissioner getting the power to inspect all movable and immovable properties belonging to any religious institution and referring to any records, plans and other important documents. But, this power should not be given to every person on his behalf because this right of inspection is an important right. I therefore submit, Sir, that, if we are to give such power, we must give only to the highest officer who will exhibit a certain sense of responsibility in these matters."

SRI V. RAGHAVAYYA:—"Sir, I second it."

SRI K. BHASHYAM:—"Sir, I support it. I am not repeating myself again. The title deeds of properties belonging to the temples are confidential documents. If every person is deputed for this purpose, it may even injure the interests of the temple itself. So, it is much better if this inspection is left to the Commissioner only. It is therefore necessary."

THE HON. SRI K. MADHAVA MENON:—"Sir, there are thousands of temples and maths. You cannot expect the Commissioner sitting in Madras to go and inspect all the properties from Visakhapatnam to South Kanara. It is not physically and humanly possible for the Commissioner to personally inspect all the properties. He has to depute somebody and it is necessary that this power of deputation should be retained."

SRI V. RAGHAVAYYA:—"On a point of information, Sir. I can understand the Commissioner being empowered to depute any officer to inspect all movable property, etc. But how can we authorize him to depute 'any other person' or anybody going along the street? May I know what this means?"

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THE HON. SRI K. MADHAVA MENON :—" Sir, does my friend think that the Commissioner would be an irresponsible person? The Commissioner must be expected to use his sense of responsibility in deputing persons for this sort of work."

SRI T. VISWANATHAM :—" Sir, I am unable to understand this argument. We are passing a statute and cannot therefore afford to leave everything to the sense of responsibility of this or that officer and legislate in vague terms. We are not objecting to what is contained in the clause, but we cannot approve of 'any person deputed by the Commissioner' to visit any of the 80,000 temples and religious institutions and do things which may lead to costly litigation. In a matter of this kind, we should not be asked to depend on the sense of responsibility of the Commissioner. It is wrong in principle to give him such a wide discretion to depute 'any' person."

The amendment was put and lost.

Clause 30 was put and carried.

Clause 31.

MR. SPEAKER :—" The motion is—

'That clause 31 do stand part of the Bill.' "

Sub-clause (1).

SRI L. N. GOPALASWAMI :—" Sir, I move—

'In sub-clause (1) in line 5, after the word "Commissioner", insert the words "on the recommendation of the trustees or the Area Committee concerned".'

The clause as it stands enables the Commissioner to sanction any exchange, sale or mortgage of property belonging to any religious institution, provided that before such sanction is accorded, the particulars relating to the proposed transaction shall be published

It only means that the Commissioner can give his sanction to any sale or exchange or mortgage of any valuable temple property at his sweet will and pleasure. In my own village this power has been misused and the Commissioner has given sanction for the exchange of a very valuable property to one which does not cost even a tenth part of it. I want that there should be a safeguard. The trustee should first allow these exchanges or mortgages of valuable properties of temples. The Commissioner sitting in Madras would not know the nature of the property situated hundreds of miles away and therefore should not accord sanction for sale or exchange of his own accord. I therefore want that this recommendation should pass through the trustees of the temples or the Area Committee. Only when both of them agree should such a transaction be given effect to. If either the trustee or the Area Committee does not agree, the transaction should not go through."

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SRI A. KALESWARA RAO :—" I second the amendment of Sri L. N. Gopalaswami. The reasons are very obvious. This is a very important right which the Commissioner will have to exercise and we should see to it that his decisions do not reflect his prejudices. Therefore it is necessary that the whole matter should start with the trustees and the Area Committee and finally go to the Commissioner."

THE HON. SRI K. MADHAVA MENON :—" Sir, I cannot understand the need for the addition of the words 'on the recommendation of the trustees or the Area Committee concerned,' when it is the trustee that initiates the lease proposals."

(An hon. Member : 'Please see the proviso.')

SRI T. VISWANATHAM :—" The trustee does not initiate the proceedings."

THE HON. SRI K. MADHAVA MENON :—" It is possible that where there are executive officers, they may initiate proceedings. But in cases where there are no executive officers, the leases will be in the name of the trustees. Again, there may be cases where if the executive officers want a thing to be done, the trustee may object. So, all things considered, the Government have come to the conclusion that this amendment should be resisted."

SRI L. N. GOPALASWAMI :—" My point has not been answered. I want that if the executive officer initiates such proceedings, the sanction of the trustee or the Area Committee should be obtained before the Commissioner accords permission and, if the trustee or the Area Committee initiates these moves, the trustee should be consulted by the Commissioner. In any case valuable properties should not be exchanged on the sole authority of the Commissioner on the recommendation of the executive officer on his own initiative. An instance of this kind happened in Lalgudi where on the recommendation of the executive officer land worth Rs. 10,000 per acre were permitted to be exchanged for land worth Rs. 1,000 per acre. It is to put a stop to such practices and safeguard public properties that I have suggested in this amendment that people who know the value of the properties should be given power to exercise their discretion and not the Commissioner. I request the Hon. Minister to appreciate my viewpoint and agree to this amendment which aims at securing the temple properties against exchange at the whims and fancies of the Commissioner without the sanction of the trustee or the Area Committee."

The amendment (of Sri Gopalaswami) was put and lost.

SRI K. T. KOSATRAM :—" Mr. Speaker, Sir, I move—

'Insert the following as sub-clause 31 (1) (b), renumbering existing sub-clause (1) as sub-clause (1) (a) :—

"(b) In the case of cultivable lands the Government shall form co-operative societies of the actual tillers of the lands and lease out the same to the societies so formed on a perpetual lease basis."

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"Sir, இந்தத் திருத்தம் மிக மிக முக்கியமானது. இன்று சர்க்கார் பெரிய land improvement, அதாவது நில சீர்திருத்தம் செய்யப்போகிறோம் என்று சொல்லுகிறார்கள். இந்த மடங்களிலும், தேவஸ்தானங்களிலும் மிருந்த நிலங்கள் இப்பொழுது எந்த நிலையிலிருக்கின்றனவென்றால் அவைகளுக்குள்ள நூற்றுக்கணக்கான ஏக்கர் நிலங்களை யெல்லாம் தனிப்பட்ட மனிதர்களுக்கு கட்டுக் குத்தகைக்கு, அதாவது lease-க்குக் கொடுக்கப் பட்டிருக்கின்றன. அவைகளை யெல்லாம் இவர்கள் மற்றவர்களுக்கு கொடுத்துவிடுகிறார்கள். அவ்விதம் நூற்றுக்கணக்கான ஏக்கர் நிலங்களை இந்தத் தனிப்பட்டவர்கள் தாங்களே குத்தகைக்கு வாங்கிக்கொண்டு அவர் மெட்ரஸ் சிட்டி முதலிய பெரிய நகரங்களிலிருந்துகொண்டு கிராமங்களிலுள்ள மற்றவர்களுக்கு sub-lease செய்து கொடுத்துவிடுகிறார்கள். இவ்விதம் sub-lease வாங்குபவர், பலபேர்களுக்கு அதை மற்றும் sub-lease செய்துவிடுகிறார். இவ்விதம் கடைசியில் போவதற்குள் 5, 6 பேர்களுக்கு பிரித்துக்கொடுத்தாகி விடுகிறது. இந்த நிலைமையில் கடைசியில் நிலத்தை உழப்பவன் கைக்குப் போகும்பொழுது சுமார் 10, 15 பேர்களை தாண்டிக் கொண்டு கடைசியில் உழப்பவனுக்குப் போகிறது. இதற்கு பதிலாக நாம் இப்பொழுது பெரிய நில சீர்திருத்தம் செய்யவேண்டுமென்கின்ற பொழுது இவ்விதம் செய்யாமல் சொசைட்டிகள் ஏற்படுத்தி உழப்பவனுக்கே நேரடியாகக் கொடுக்கும்படி செய்யவேண்டும். அவ்விதம் செய்தால் அரசாங்கத்திற்கு கஷ்டம் என்று சொல்லலாம். கஷ்டமும் நஷ்டமும் ஏற்படப்போவதில்லை. மடாதிபதிகளுக்கும், கோவில்களுக்கும் கூட நஷ்டம் ஏற்படப்போவதில்லை. இந்த திருத்தத்தை ஒப்புக்கொண்டால் இப்பொழுது வரும் வருமானத்தை விட இரட்டிப்பு வருமானம் வருவதற்கு ஹேதுவாக இருக்கும். உண்மையில் அவர்களுக்கு கூட்டுறவு முறையில் lease-க்கு விட்டால் அவைகளிலிருந்து அவர்களுக்கும் அதிகமான வருமானம் கிடைக்கலாம். இதனால் மடத்திற்கும் தேவஸ்தானங்களுக்கும் கூட அதிகமான வருவாய் கிடைப்பதற்கு ஹேதுவாயிருக்கிறது. பிற்பாடு ஒரு பெரிய நில சீர்திருத்தத்தைக் கொண்டுவருவதற்கு இந்த மாதிரியான ஒரு திருத்தத்தை அரசாங்கம் இப்பொழுது ஒப்புக்கொண்டால் நம் மாகாணத்திற்கு ஒரு பெரிய காரியத்தைச் செய்ததாகும். மற்ற தேசத்திற்கும் இது ஒரு வழிகாட்டியாக இருக்கமுடியும் என்று நம்புகிறேன். ஆகவே இந்த திருத்தத்தை அரசாங்கம் ஒப்புக்கொள்ளும்படியாகவும் கேட்டுக்கொள்ளுகிறேன்."

SRI V. I. MUNISWAMI PILLAY:—"Mr. Speaker, I heartily second the amendment moved by hon. Sri Kosalram. I have personal knowledge of the fact that most of the lands that belong to temples have been leased out to intermediaries. These people have not given them to the tillers of the soil, but have sub-leased them and this sort of sub-letting has gone on indefinitely. This amendment is a very useful one, in that it will give an economic position to the tillers of the land. The applications of these people for lands on lease to the various trustees are now mercilessly turned down. An amendment of this kind should be made to this clause in the Bill before us. I support the amendment."

SRI K. R. KARANTH:—"Sir, I am rather surprised at the support which the amendment has received from hon. Sri Muniswami Pillay. One can understand and sympathize with him when he says that the temple lands are being auctioned in Tamil Nad and that middlemen are coming in and making a profit. But the remedy for it must be found in a land tenure legislation. The lands belong to the temple. I can understand Mr. Kosalram when he says that in regard to cultivable lands the Government should form co-operative societies. The Government have got ample funds and

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they can spend upon anything. But how can the Government lease out the lands to societies so formed? The lands are the property of the temple. Unless the Government confiscate the lands, what right have they to lease them out to others? The right of leasing belongs to the temple trustees, whoever they are. How can the Government come on the scene unless they take possession of the lands under some provision? Sir, this may be nice propaganda outside and but it is out of place here."

MR. SPEAKER:—"The Hon. Minister will now reply."

SRI K. BHASHYAM:—"I want to say a few words, Sir."

MR. SPEAKER:—"I have allowed enough discussion on this amendment. The Hon. Minister will now reply."

THE HON. SRI K. MADHAVA MENON:—"Sir, I am sorry I cannot accept the amendment. An identical amendment was moved by hon. Sri Kosalram in the Select Committee and when the difficulties of attaining the object he has in view were pointed out to him, he did not press it."

MR. SPEAKER:—"He is not going to press it now also!"

THE HON. SRI K. MADHAVA MENON:—"Apart from that, as hon. Sri K. R. Karanth has pointed out, the Government have no right to lease out other people's lands. With regard to the formation of co-operative societies, with the best will in the world, the Government may not be able to form these societies. It is for the people themselves to decide on forming co-operative societies. With regard to leasing out the lands on a perpetual lease basis, I entirely agree with the principle underlying it, not only with regard to these lands but with regard to every available land. If it is possible to cultivate every piece of available land on a co-operative basis in the best interests of the country, it will be good. But it is not practicable and it is not possible to do anything for it in the present Bill. So I request the hon. Member Sri Kosalram to withdraw the amendment."

SRI K. T. KOSALRAM:—"I beg leave to withdraw the amendment."

The amendment was, by leave, withdrawn.

MR. SPEAKER:—"I wish to remind the House that, as suggested by hon. Sri K. Bhashyam and other hon. Members, we may sit till 7 p.m. to-day."

SRI K. R. KARANTH:—"We shall wait and see what progress we make up to 5 p.m. and then decide, Sir."

SRI K. BHASHYAM:—"On such an important amendment as that of hon. Sri Kosalram, I wanted to say a few words. If I am not allowed to say a few words on such matters, how can we

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MR. SPEAKER:—"In my opinion there has been sufficient discussion on the amendment. It is entirely for the Chair to decide whether there has been sufficient discussion of a matter; and if the Chair thinks that sufficient discussion has been allowed, it is final."

The House then rose for lunch and to reassemble at 2-30 p.m.

(After lunch—2-30 p.m.)

Clause 31.

Sub-clause (3).

SRI L. N. GOPALASWAMI:—"Sir, I move the following amendment:—

"In sub-clause (3), add at the end the words "and published by tom-tom in the village or villages where the property is situate and affixed in the notice board of the temple."

Sir, we are dealing with very valuable properties of temples that are going to be given over in sale, exchange or otherwise. The Government themselves are anxious that the order of the Commissioner should be published and anybody who has got any objection to the transaction should be heard. But the method of publication is this:

A copy of the order made by the Commissioner under this section shall be communicated to the Government and to the trustee.

I want to add, Sir, that this communication should be made not only to the trustee and the Government, but the order should be published locally by tom-tom in the places where the properties are situate and, it should be affixed to the notice-board of the temple so that any person who comes to know that these temple properties have been trifled with or exchanged for less valuable properties may make an application to modify or set aside the order as provided for in sub-clause (4) which says that the trustee or any person having interest may within three months from the date of receipt of the order by the trustee, appeal to the Government to modify or set aside an order under sub-section (1) or sub-section (2). Otherwise how is 'any person having interest' to know of the order if it is a matter only between the trustee, the Government and the Commissioner and if it is all found only in the files of these persons? I therefore want that these things should be published not only in the place where the temple is situate but also in the places where the property is situate so that the people around may know how the valuable properties of the religious institution are going to be dealt with."

SRI K. BHASHYAM:—"Sir, I second the amendment. I have always been saying that the register is a very important document prepared for the safety of the temple property. If the register

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is to be prepared by the trustee, if at least he does it in the presence of two respectable persons in the village, there will be certainty or guarantee that it will be all right. But if it is merely prepared by the trustee and sent to the Commissioner or the Assistant Commissioner or the Area Committee, there must be somebody to check it. That is why it is necessary to give an opportunity to persons having interest to see that the thing is properly done."

SRI K. VARADACHARI:—"Sir, I support the amendment. If the Government think that it is not necessary to add all the words in Sri Gopalaswami's amendment, I think it would be enough if we say that 'a copy of the order made by the Commissioner under this section shall be communicated to the Government and to the trustee and shall be published in such manner as may be prescribed'. The last few words are also found in the proviso to sub-clause (1)."

SRI A. KALESWARA RAO:—"Sir, I also support the amendment of Sri L. N. Gopalaswami. Publication of the order is quite necessary. In a temple in a village all the people of the village are interested and in order that things may not go on in secret, for party purposes and all that, it is necessary that there should be as wide publication as possible of not only the things entered in the register but also particularly of the exchanges and other dealings with the immovable properties of the temple."

THE HON. SRI K. MADHAVA MENON:—"Sir, I agree with the principle mentioned by my hon. Friend. As a matter of fact there is not so much danger as is feared, because the proviso to sub-clause (1) says:

"Provided that before such sanction is accorded, the particulars relating to the proposed transaction shall be published in such manner as may be prescribed"

I have, therefore, no objection to the addition of the words 'and shall be published in such manner as may be prescribed' at the end of sub-clause (3) as suggested by Sri K. Varadachari. We need not specify the nature of the publication. It may be by tom-tom or by affixing notices or both. If my hon. Friend the mover of the amendment will be satisfied I have no objection to the addition of the words mentioned."

SRI L. N. GOPALASWAMI:—"I quite agree to the amendment proposed, Sir."

MR. SPEAKER:—"The amendment is—

'At the end of sub-clause (3) of clause 31, add the following words: "and shall be published in such manner as may be prescribed".'

SRI T. VISWANATHAM:—"Sir, while I agree with the amendment, I have to point out that in several cases where the property happens to be merely land, the rules provide that the order shall be affixed on some spot on the land. The land does

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not have a spot where the notice could be affixed. I am not speaking of the amendment itself; I am only speaking of the general implications of the provision if it is accepted by the Government. I wish to point out that in framing the rules, the Government should take care to see that this publication is made not only in the temple and in the village where the temple is situated but also in the place where the land is situate, wherever the land has got anything on which the notice could be put up prominently. Otherwise, if there is only a plain piece of land, there will be difficulty and it has happened in several cases, where exchanges and sales of sites in municipal areas have taken place."

THE HON. SRI K. MADHAVA MENON :—" Sir, the hon. Member Sri Gopalaswami wanted publication of the notice by tom-tom. This will certainly be included in the rules."

MR. SPEAKER :—" The question is—

'That at the end of sub-clause (3) of clause 31, the words "and shall be published in such manner as may be prescribed" shall be inserted.'"

The amendment was carried.

Sub-clause (4).

SRI L. N. GOPALASWAMI :—" Sir, I move the following amendment :—

'In sub-clause (4), after the word "trustee" in line 3, add the words "and publication thereof as per sub-section (3) "'.

This is only a consequential amendment and I hope there will be no difficulty about accepting it."

SRI T. VISWANATHAM :—" I second it."

THE HON. SRI K. MADHAVA MENON :—" Sub-clause (4) only gives permission to the trustee to file an appeal to the Government. It is only a permissive clause. Why should the permission be published? "

SRI L. N. GOPALASWAMI :—" 'Any person having interest' also may file an appeal. I want to provide that the time for filing an appeal should begin from the date of the receipt of the order by the trustee in the case of the trustee and from the date of publication in the case of 'any person having an interest'."

SRI V. M. RAMASWAMI MUDALIYAR :—" The sub-clause says:

'The trustee or any person having interest may within three months from the date of the receipt of the order by the trustee, appeal to the Government

How is 'any person having interest' to know when the trustee received the order? "

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THE HON. SRI K. MADHAVA MENON :—" I suggest then, that instead of the words used in the amendment of Sri Gopalaswami the following words may be inserted namely, 'or of its publication under sub-section (3) as the case may be'."

SRI L. N. GOPALASWAMI :—" I accept the amendment, Sir."

MR. SPEAKER :—" Amendment moved—

'In sub-clause (4), after the word "trustee" in line 3, add the words "or of its publication under sub-section (3) as the case may be'."

SRI T. VISWANATHAM :—" To whom does the period apply, Sir? To the trustee or to the person having interest? "

THE HON. SRI K. MADHAVA MENON :—" To the trustee, it is three months from the receipt of the order by him and to the person having interest it is three months from the date of the publication. There are the words 'as the case may be'."

MR. SPEAKER :—" The amendment of Sri L. N. Gopalaswami as now proposed will read as follows :—

'In sub-clause (4) after the words "trustee" in line 3, insert the words "or of its publication under sub-section (3) as the case may be'."

The amendment was put and carried.

New sub-clause (6).

SRI K. BHASHYAM :—" Sir, I move—

'Add at the end, a new sub-clause (6) as follows :—

"(6) Nothing contained in this section shall apply to exchange, sale, mortgage or lease executed before the commencement of this Act, which by law or usage or custom is binding on the institution or which by the law of limitation or otherwise has become binding on the institution."

This is intended for the purpose of saving properties which have been alienated or sold away by previous trustees long ago. The clause as it is wide in its terms and nullifies all transactions which have been made long before the commencement of this Act. According to the law as it stands, if the trustee makes any exchange, sale or mortgage of property for purposes connected with the necessities of the institution they have been held to be good, that is to say, if in the course of administration, he finds it necessary that a certain property should be sold or leased for a long time and that otherwise he cannot make any money out of it, in such cases the transactions have been held to be valid and binding on the trust itself. Again, when a trustee has sold away the property

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and the person has been in possession of it for over twelve years, he has acquired title over it by virtue of the law of limitation. Section 31 (1) says:

‘Any exchange, sale or mortgage and any lease for a term exceeding five years of any immovable property belonging to, or given or endowed for the purposes of, any religious institution shall be null and void unless it is sanctioned by the Commissioner as being necessary or beneficial to the institution.’

It applies only to cases that are to come hereafter. But in the case of transactions that have taken place long ago, where the transferee has been in possession either because he has been assured that the necessities of the case required such transfer, and he has paid the sale amount to the trustee or because he has been in possession for a period of twelve years, I am anxious that this provision should not affect such transactions. They are all third-party transactions; and if they have acquired a title to the property, I submit this clause should not apply to them. Already, the Government have recognized that in certain cases, where a person had become the owner of the property prior to the commencement of this Act, these provisions shall not apply. For instance, clause 6 (14), proviso, says:

‘Provided that this Explanation shall not be deemed to apply in respect of any property which vested in any person before the 2nd day of April 1946, by the operation of the law of limitation.’

There, the Government have recognized the justice of excluding it from the property belonging to the endowment. My question is: are you going to say that transactions which have taken place long ago and transactions whereby persons have become owners of the property long ago are going to be null and void? So far as the future is concerned, I quite agree with the provision that the Commissioner's sanction is necessary for the exchange, sale or mortgage of the property. But my submission is that so far as the past transactions are concerned, they must be definitely excluded and should not in any way be affected by this clause. That is my amendment, Sir.”

SRI T. VISWANATHAM:—“I second it.”

SRI A. KALESWARA RAO:—“Sir, this is a very important clause, and the amendment is very necessary for the reason that it refers to properties already vested in third parties. The trustees might have alienated properties to some strangers who were third-parties long ago and the third parties might have acquired absolute title over them. Of course if the title is not there already established, then the Commissioner or the Executive Officer or whoever may be empowered under the Act, may file a suit that the alienation is void for so many reasons, such as made in collusion, not made for beneficial purposes, etc. But to say, as you do here, that all alienations become *ipso facto* void, whatever may be the period of alienation is wrong; it affects third parties and therefore such a provision should not be in a Bill like this.”

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SRI V. M. RAMASWAMI MUDALIYAR:—“Sir, my complaint is just the other way; under the rules of construction unless made specially retrospective, all legislation is only prospective. They cannot apply to past transactions, unless they are made to apply to them, in so many clear words. Clause 31 (1) as it is supports that position. It says:

‘Any exchange, sale or mortgage and any lease for a term exceeding five years of any immovable property belonging to, or given or endowed for the purposes of, any religious institution shall be null and void unless it is sanctioned by the Commissioner as being necessary or beneficial to the institution.’

This provision cannot have effect from a date prior to that on which the Act comes into force. As a matter of fact, I know that during the time between the date of introduction of this Bill and now, some matadhipathis and heads of religious institutions have taken advantage of the transition period and entered into many transactions of a doubtful nature and alienated the properties to some one or other. My complaint is that there is no provision here to cover such cases. So far as interest acquired by the law of limitation is concerned, there can be no going back, I agree; but in the cases such as I have referred to where during the past about twenty months, transactions of a doubtful nature have taken place, I submit this clause does not give the Commissioner or any other authority to scrutinize them. I want to know how Government are going to rectify this defect. Therefore, my complaint is, Sir, that this is not wide enough to cover all transactions because under the ordinary rules of construction, legislation can only be prospective and not retrospective unless specifically stated to be so, and I should therefore like to know the intention of Government in this matter.”

SRI V. RAGHAVAYYA:—“Perhaps the reason is that if it is made to cover prior transactions there may be created a lot of discontent and trouble. I am in favour of stating that this provision should apply to all transactions which have been entered into within the past two or three years ever since this Bill has been in the air, so that these people might not succeed in defrauding the Government or the temples of their just dues. This Bill has been in the air for the past nearly three years; people knew that some reform was attempted to be brought in and it was pretty certain that the whole law was going to be changed. I know there have been cases where trustees have taken advantage to enter into spurious transactions. I know of a case in the Nellore district where land of about 250 acres was given away for Rs. 1,000 to a person who took it *benami*; but suddenly anticipating this Bill and thinking that the Government would sit tight over him, he quietly sent for the previous lessees and gave a registered lease deed for Rs. 3,000. But on petitions filed by several people, Government went into the question, cleverly sent for the lessees and managed things in such a way that they agreed to give away the land. When the property was re-auctioned, it brought in Rs. 8,000—I am referring to the Meykottai affair. The land was

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fetching about Rs. 1,000 for the past nearly fifty years, but all of a sudden it went up to Rs. 8,000, because Government were on the alert and interfered at the instance of people who had the temple's interests at heart. Such things do happen and have happened. I do not want that Government should bind themselves to something by which these defrauders can take advantage. As it is, clause 31 does not provide for such contingencies; it only says that future transactions shall be sanctioned by the Commissioner. It is deplorable that the Government have not made ample provision for covering transactions that have been entered into during the past three years. Some such provision must now be made."

THE HON. SRI K. MADHAVA MENON :—" I cannot accept this amendment, Sir, for various reasons. The amendment says :

' Nothing contained in this section shall apply to exchange, sale, mortgage or lease executed before the commencement of this Act, which by law or usage or custom

What law my friend means is not clear; it is so vague here. Apart from being vague, I may say the very idea of the Government is that notwithstanding usage or custom, no property should be misappropriated, and if there is a law or custom allowing that, this clause must apply. The idea of the Government is that even if there is a custom or usage allowing the taking away of trust property and giving it to somebody else, that custom is bad and should not be allowed to continue. Again, Mr. Bhashyam's amendment says ' before the commencement of this Act ', i.e., that it shall not apply to transactions entered into before the commencement of the Act. That will go against the existing section 76. The present provision in the Bill is an exact reproduction of the existing section 76 which says :

' No exchange, sale or mortgage and no lease for a term exceeding five years of any immovable property belonging to any math or temple shall be valid or operative unless it is necessary or beneficial to the math or temple and is sanctioned by the Board in the case of maths and excepted temples, and by the committee in the case of other temples.'

So, all such things are invalid even according to the present Act. Mr. Bhashyam, it appears, wants to make these things valid now by his amendment. He says : " before the commencement of this Act ". When there is already a law prohibiting that, we cannot take it away. These provisos to clause 31 were not there in the original Bill, but they were introduced in the Select Committee, so that we can safeguard the temple properties as much as possible. So, either on its merits or having regard to the existing law, I am sorry, Sir, I cannot agree to accept Mr. Bhashyam's amendment."

SRI K. BHASHYAM :—" I am afraid, Sir, there has been misconception as to what my amendment implies. My amendment only tries to save from the operation of this clause such transactions which were allowed by law or usage or custom and were binding on the institutions. The Hon. Minister referred to section 76 of the existing Act; but it does not mean that I want

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section 76 to be taken away altogether. If there is any transaction which is covered by section 76 of the Act, then my amendment will not have any effect at all. I am careful enough to say ' Before the commencement of the Act ' because I know there are institutions which have not yet been taken over by the Board. If in such cases, the trustee for the purpose of the necessity of the institution leased out the property, what is to become of that? If you say that section 76 of the present Act applies, I say there are cases where the Board has not taken possession of the institutions. That is why I say, while giving effect to the provisions of section 76 of the existing Act, let there be this additional provision which will safeguard the interests of third parties in cases which have been mentioned by me. Of course, some questions were raised as to whether we are going to give retrospective effect or not. It is a matter neither for me, nor for Mr. Ramaswami Mudaliyar to be definite about and it is for the court to say whether any prior transaction shall apply to this or not. The section as it is worded, does not in terms refer to transactions made before the commencement of the Act. Therefore, I would rather be safe and make some provision as not to give it retrospective effect. As I said, I only want those transactions which are binding on the institution by custom or law or usage to be saved. For instance, in South Kanara there is no question of auctioning out leases. I think that there are certain kinds of tenants who are continued year after year and you cannot change the tenants at all. Such cases are there and therefore it depends upon the custom obtaining in a particular locality. Then take the case of kanams. Twelve years leases there are. Suppose the kanams are for not more than five years. What is to be done in respect of those transactions? There are also mixed transactions; kanam and also lease. In all such cases, what I want is, that these things should be in conformity with usage or custom of the place. If it is expected it is not going to affect honest and bona fide persons selling for the benefit of the institution and not cases of breach of trust or alienation of property with selfish or personal benefit of the trustee I can understand."

THE HON. SRI K. MADHAVA MENON :—" My answer is, Government do not want anything more to be saved than what is exactly saved under section 76 of the existing Act. I do not accept the amendment."

The amendment was put and lost.

Clause 31, as amended, was put and carried.

Clause 32.

MR. SPEAKER :—" The motion is—

' That clause 32 do stand part of the Bill.' "

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THE HON. SRI K. MADHAVA MENON :—" Sir, I move the following amendment :—

' For clause 32, substitute the following clause :—

" 32. (1) The trustee of a religious institution may, out of the funds in his charge, after making adequate provision for the purposes referred to in section 75, sub-section (2), incur expenditure—

(a) on arrangements for securing the health, safety or convenience of disciples, pilgrims or worshippers resorting to the institution; and

(b) for the training of archakas, adhyapakas, vedaparayanikas and othuvans.

(2) In incurring such expenditure, the trustee shall be guided by such general or special instructions as may be given by the Commissioner or in the case of an institution over which an Area Committee has jurisdiction, also by such Committee."

Sir, it was thought that the original expression and the amendment made by the Select Committee, namely, 'the trustee may out of the funds in his charge, after satisfying adequately the purposes of the institution, incur expenditure' etc., might be objected to as being vague. So, in order to avoid this difficulty, it is proposed to specifically refer to those purposes as are mentioned in clause 75 and also make it clear by adding 'for the training of archakas, adhyapakas, vedaparayanikas and othuvans', in this clause. As I said, Sir, it is with a view to avoid any vagueness this amendment is proposed."

SRI K. BHASHYAM :—" I am not moving my amendment for the deletion of the word 'disciple' in sub-clause (1). But, I am moving the following amendment of which I have given notice, namely :—

' For the words "referred to in section 75, sub-section (2)" of the Government amendment, substitute the words "for all purposes relating to the institutions".'

Sir, the Select Committee has agreed with my view. That is, before the surplus is discovered for the purpose of utilising it for the various purposes mentioned in section 64 you must satisfy all the adequate requirements of the institution. What the Government now say is, the amendment originally proposed was so vague and so they want to be more specific. What is meant by saying more specific? After providing for the things mentioned in the budget, you must take all the rest as surplus for the purpose of being utilised for various purposes. I do not want such a thing to be done. After all, the surplus belongs to the institution. It is very important to see that this surplus is not utilised for a number of purposes which

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are not really connected with the institution. Perhaps the Government have in view the utilization of the surplus of one institution for other institutions or for other good objects. I want, the words 'any adequate purposes of the institution,' to be retained. The budget provides only for some things, but it does not say, 'provide for a reserve fund or other unforeseen contingencies. For instance they have got to provide for repairs, it is not concerned with new constructions. Suppose, for any reason, the whole building comes down. Or, a new gopuram may be put up altogether; or a pious devotee wants to give Rs. 50,000 and wants another Rs. 50,000 from the temple for the purpose of putting up a mandapam? In such cases, the budget does not say anything but you take all the surplus over. I say it ought not to be so, but the budget must be elastic. The budget as provided in the present case is not elastic and it is so narrow and indefinite. Once the surplus is taken over, there is nothing left. We object to the Cypres doctrine altogether. For it is left only to the Commissioner or the Government and not to the courts or the denominations concerned or to the shishyas as to which objects the surplus should be spent. Though the Government may like to spend it for very good objects like schools, colleges, establishment of dispensaries and so on, I say they ought not to be given power that the surplus of religious endowments left over should be utilized for purposes mentioned in section 64. I would therefore like hon. Members to consider whether they are going to allow this or not."

SRI T. VISWANATHAM :—" Sir, I second the amendment. The question of surplus has to be discussed again for another reason than what Mr. Bhashyam has said. The nature of the surplus, the concept of the surplus and the power of utilization of the surplus will have to be discussed again when we come to clause 64. Neither under this clause 32, nor under clause 64 the court has got power to go into the utilization of the surplus. By some other section, even if there is a scheme by a court, such scheme also shall be set aside by the provisions of this Bill. I therefore, submit that the question of surplus need not have been dealt with here at all and we could have more conveniently dealt with it under clause 64. When once the section is taken up here, unless the Government are prepared to drop it here and take all the surplus under clause 64, I think I must second Mr. Bhashyam's amendment. It is very necessary to ascertain what is 'surplus' and it is not so easy. It is made year by year and these are permanent institutions. Each year the trustees may change and again they are not acting on their own responsibilities. Sub-clause (2) brings them under the thumb or the heel of the officers concerned. I want to add also another reason. I can understand it to some extent if the trustees are burdened with any responsibility and take the consequences of such responsibilities. But, they come under the officers. I therefore submit there is greater reason why we should accept the amendment moved by Mr. Bhashyam."

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THE HON. SRI K. MADHAVA MENON :—" Sir, the words 'after satisfying adequately for the purposes of the institution' practically nullify section 75 (2) altogether. Section 75 (2) says :

'(1) The trustee of every religious institution shall, before the end of March in each year, submit, in such form as may be fixed by the Commissioner, a budget showing the probable receipts and disbursements of the institution during the following fasli year—

(a) to the Area Committee if the institution is subject to the jurisdiction of such a Committee ; and

(b) to the Commissioner in other cases.

(2) Every such budget shall make adequate provision for—

(a) the dittam or scale of expenditure for the time being in force,

(b) the due discharge of all liabilities binding on the institution,

(c) the repair and renovation of the buildings connected with the institution, the provision made under this clause not being less than ten per centum of its income in the case of an institution assessed to the contribution under section 81 for the previous fasli year on an income not exceeding three thousand rupees and not being less than twenty-five per centum of its income or ten per centum of its income up to three thousand rupees and the whole of the excess of its income over that amount whichever is less in the case of any other institution.

Provided that any institution the income of which does not exceed or does not sufficiently exceed the expenditure referred to in clauses (a) and (b) may be exempted by the Commissioner, in whole or in part as the case may be, from the requirement of this clause ;

(d) the maintenance of a working balance.'

" So, Sir, all the necessary available expenditure has been defined in section 75 (2). When that is so, to simply say 'after satisfying adequately the purposes of the institution' will be very vague. Moreover, any expenditure may be said to be for the purpose of satisfying adequately the purposes of the institution. The Government have made adequate provision for the purposes referred to in section 75. In sub-clauses (a) and (b) of clause 32, we have also provided for arrangements for securing health, safety or convenience of disciples, pilgrims or worshippers and also for the training of archakas, adhyapakas, vedaparayanikas and othuvans. That is, Sir, we do not want to put anything vague so that any expenditure can be said to be for the purposes of the institution. That is the idea with which this amendment has been proposed. Since the purpose has to be defined here regarding the surplus, it has been provided here, so that it may not be said afterwards that that is not the purpose or this is not the purpose and that a dispute might arise. In order that such vagueness should not be there, it has been put in here and that is also the object with which hon. Mr. Bhashyam wants to bring back the provisions of the original clause. So, Sir, the amendment of my hon. Friend cannot be accepted."

SRI K. BHASHYAM :—" Mr. Speaker, Sir, I do not understand the obstinacy of the Government. I have raised a specific point as to what is to be done in case a devotee offers Rs. 50,000 for the temple for the construction of a mantapam for the general purposes of the institution, the other half of Rs. 50,000 coming from the temple funds. There is provision for repair and renovation under clause 75, but there is no provision for new construction

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at all; if such a situation arises, they cannot under the scheme of the budget laid down do anything. So, Sir, the clause as it stood 'making adequate provision for the purposes of the institution' is all right. Having specified certain purposes under clause 75 for certain items of expenditure the thing not being elastic, you will find it very difficult, if not impossible to put through various things that may crop up now and then. I am anxious that there should be a surplus while the Government are equally anxious, but my purpose is that the purposes of the institution, the like of which I have mentioned, must really be met. In that connexion, I would like a definite answer from the Hon. Minister as to how there is a chance of the thing being put through if an offer is made by a worshipper for a donation of Rs. 50,000, the other half of Rs. 50,000 being met by the temple. The Select Committee said that the general purposes of the institution must be provided for. The original section was quite all right. It was elastic and gave a little latitude for the trustee and also to the Commissioner regarding the utilization of the funds of the temple for the benefit and glorification of the temple. Now, his hands are tied and he cannot do anything more than what is laid down in clause 75. I suggest that the Government may think over the matter and come to a decision."

THE HON. SRI K. MADHAVA MENON :—" Mr. Speaker, Sir, I do not see how in the case put forward by my hon. Friend Sri Bhashyam there can be any difficulty and how it will be impossible for the temple to come forward with Rs. 50,000 from its funds when an equal amount is donated for some purpose by Sri Bhashyam or some other devotee. Clause 75 (2) says that the budget shall make provision for certain purposes and it does not at all say that it shall not make a provision for anything else. In other matters, if they make a provision and if it is approved by the Commissioner, certainly it can be done. Provision for dittam, repairs and renovations and the discharge of liabilities binding on the institution have all been made obligatory but there is nothing to prevent the case mentioned by hon. Friend being taken up. Provision may be made for it in the budget; it is not prevented."

MR. SPEAKER :—" The question is that—

'For the words "referred to in section 75, sub-section (2)" of the Government amendment, substitute "for the purposes relating to the religious institution".'

The amendment was lost.

Sub-clause (2).

SRI T. VISWANATHAM :—" Mr. Speaker, Sir, I beg to move that—

'Sub-clause (2) of clause 32 shall be omitted.'

It is very necessary, Sir, and I have indicated the reasons while seconding the amendment moved by my hon. Friend Sri Bhashyam. Here, Sir, we are coming to the fundamental principles of

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the management of the religious institution and once again the Government will have to say which is the body of persons to administer the religious institution; the trustees have been recognized for some purposes and my point is that I want them to be recognized for every purpose. They may be removed by a proper proceedings before a tribunal but so long as they remain the trustees representing the particular denominations in charge of the religious institutions, they should have full responsibility to do what they like and should take the consequences and they should not be interfered in the discharge of their duties by officers every now and then in the name of superior authority or control or general superintendence. The argument that we can sustain the *intra vires* nature of the Bill by mentioning that trustees are given ample powers with regard to the full range of their activities, will not hold good in the face of sub-clause (2) of clause 32. In sub-clause (1) you have given them certain powers and they are given initiative to do certain things and to that extent it is all right. But in sub-clause (2), the Government have put the Commissioner over their heads and he can issue general instructions or special instructions and not only that, there is the Area Committee which is not an elected committee but a committee appointed by the Government and they can also give such instructions in the case of institutions which are under their jurisdiction. Therefore, Sir, I wish to point out that the responsibility of the trustees is taken away and their powers are taken away; it is not the trustees that exercises powers but it is the Commissioner or the Area Committee that exercises all their functions carry on the management under the Bill. If the Government say that they want the trustees to discharge their responsibilities and take the consequences, it is absolutely necessary that this overriding power of the Commissioner should be taken away. Therefore, Sir, I move for the deletion of the sub-clause."

SRI K. R. KARANTH :—" Mr. Speaker, Sir, I beg to second the amendment. The Hon. Minister was pleased to state that they should keep proper accounts and they should be audited. It is one thing to say that trustees and matadhipathis should not misappropriate the funds of the institution and if they do so, they would be brought to book. I have not the least objection to sub-clause (1) in which it is said that after providing for the purposes of the institution so much, they shall incur expenditure for certain other purposes. But sub-clause (2) is really a mischievous clause according to which the trustees and matadhipathis are reduced to mere non-entities and for every item of expenditure the Commissioner or his Inspector can go and tell them not to spend money on certain things but on something else. That sort of thing takes away all initiative from them. If my hon. Friends want an instance I will give a very simple case which will go to what extent things can go. It occurred in 1945 and so nobody at the present time need be hurt by what I am going to say. One Swamiji of Udipi was asked to state whether the sanction of the Board had been obtained by him to present a japamala to a

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devotee. It is common knowledge that a japamala ordinarily costs from Rs. 1-8-0, Rs. 2 or Rs. 3 and it may not exceed Rs. 10 at the most. Being a Madwa institution, they prize it very much especially tulsi malas. In this particular case, I understand it was a doctor who had treated the Swamiji for asthma for nearly one year without taking even a single pie and in return for this he gave a japamala to him. The order was issued to him and the order of the Board is dated 1st October 1945. That is the extent to which interference with their actions can go. As I said, Sir, sub-clause (1) is all right but to say under sub-clause (2) that in incurring expenditure the trustees shall be guided by the 'general or special instructions which may be given by the Commissioner' is to reduce the whole thing to an absurdity and to dictate at every step that such and such a thing should be done and such and such an expenditure shall not be incurred goes against the fundamental rights accorded under Articles 25 and 26 of the Constitution. I say, Sir, for Heaven's sake remove this sort of interference. By all means if a trustee commits breach of trust, punish him; I have the least mercy for such people. But do not go on dictating to them at every step; that is not fair nor proper."

SRI K. VARADACHARI :—" Mr. Speaker, Sir, I am obliged to support this amendment because what is given by one hand under sub-clause (1) is taken away by the other under sub-clause (2). Apart from infringing the Constitution, a positive right like this vested in the Commissioner will cause too many pin-pricks in the course of the administration of religious institutions. While on the one hand the Government are very liberal in saying that they should spend so much of the surplus amount for beneficial purposes under sub-clause (1), the power is entrusted to the Commissioner to say: So much shall be spent for this purpose and not for that purpose and I am going to give you special and general instructions how it should be spent on health, safety and convenience of pilgrims, whether to spend on the one rather than on the other. Not only would it be in the nature of pin-pricks to the trustees but there would be delay in regard to the carrying out of useful purposes by the trustees under sub-clause (1). Why should the Government unnecessarily load themselves with a responsibility of this kind? A general provision that any illegal act would be taken serious notice of will be quite all right. To have framed sub-clause (1) of clause 32 in a very wise manner but to take it away by the subsequent clause is a very unwise step. I submit it is a very wrong thing to do. I submit nothing is lost by omitting it. The power of the Government to catch hold of offending trustees will always be there and this sub-clause is not going to add to that power or to minimise that power. So, I suggest that it might be omitted."

SRI N. S. VARADACHARI :—" Mr. Speaker, Sir, I would urge on the Government to delete sub-clause (2) in its entirety; if not, it might be made applicable to (a) and not to (b). My reasons

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are these, Sir. The Act contemplates that every temple or religious institution shall have a budget and it will provide for the running expenses and also for renovation of the buildings if necessary. All the main purposes of the institution will first be served and then there are subsidiary purposes. I submit there should be a sphere of activity earmarked for the trustees as such without interference by the Commissioner. We should not assume that all trustees are bad people and liable to do wrong things. In fact, our assumption ought to be that trustees would be men of responsibility and would act in a reasonable manner and would be prudent enough to spend money only on purposes closely allied to the main objects of the institution. Now Sir, if we take away by sub-clause (2) what is given by sub-clause (1)—for that is what it amounts to in effect, for look at the wording of the sub-clause which runs thus :

“in incurring such expenditure the trustee shall be guided by such general or special instructions given by the Commissioner or an Area Committee”

—this would lead to a lot of misunderstanding and confusion in the administration of all temples and religious institutions. Sir, the trustee should not merely be expected to act as a mere trustee, but should be given a certain amount of initiative, and he should be expected to command the respect of the worshipping public. Of course, in selecting trustees, great care will have to be taken, provided they are not trustees, who are called hereditary trustees; they have to be men of proper disposition and proper understanding of things. We should not at once tell them that they will frame budgets and submit them to the Commissioner, and afterwards they would not be given even an iota of discretion in their discharge of duties.

“Now, what is clause 32? It takes precedence over clause 64, which is based on the Cypres doctrine. Clause 64 says, where there is a surplus of funds after meeting the regular expenditure of the religious institutions, it should be appropriated to all or any of certain purposes, which are stated in that clause. So this clause 32 is a provision which applies even before the surplus is declared. Under clause 75 the trustee is expected to provide for all expenditure which he considers necessary to incur in connexion with the institution or for allied purposes or for purposes akin to the purpose of the religious institution to which the trust applies.

“Then, Sir, one more point. If we apply the principle of sub-clause (2) to the provision contained in sub-clause (1) (b), that is, for the training of archakas, adhyapakas, vedaparayanikas—I welcome this matter of detail—I ask, what knowledge will the Commissioner have in these religious observances. Often Commissioners do not know Sanskrit, they are not well-versed scholars even in Tamil. Of course they are men of reputation; they are men who are expected to rule very properly in regard to secular matters. And so it is rightly expected of them not to interfere in

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matters solely pertaining to religious observances as otherwise they would cause great disappointment to the worshippers in general. In fact it is better to allow the trustee complete freedom in this, even if he commits mistakes; for if he commits mistakes he will have to face the fire of public criticism. So it is better to do that than allow the Commissioner power to do a thing, in which he is liable to commit mistakes, which he never intends to commit. So, if we retain the sub-clause (2) in clause 32, we would be putting him in an unfortunate position. So, I tell Government through you, Sir, that they are suggesting by sub-clause (2) to carve out a certain amount of discretion over a sphere of activity, from the trustee which he should rightly have, even though he may sometimes do wrong there. If he does wrong he will be taken to task; that risk is there. In respect of the sphere contemplated in sub-clause (b) the Commissioner is a perfect stranger, an absolute stranger and so he should not be given any power in that sphere. So I would request Government to drop this sub-clause (2) to clause 32; or if they are not prepared to do that at least it should not be made to apply to sub-clause (1) (b).”

SRI V. M. RAMASWAMI MUDALIYAR:—“Sir, clause 32 deals with the authority of a trustee to incur certain expenditure and it has been rightly linked with clause 75 which deals with budget, accounts and audit. If a trustee has to deal with trust money, there must be some idea as to how that money is to be spent, and that is dealt with in clause 75, which deals with minimum necessary expenditure to be spent in connexion with the trust, like *dittam*, due discharge of liability, repair and renovation of buildings and the maintenance of a working balance. Now, after incurring such expenditure, the surplus left may be very great, probably much greater in some institutions. I know in some cases it will run to a large figure. So there must be some control as to how this surplus money should be spent. In sub-clause (1) of this clause 32, it is said as to how this surplus money should be spent; and in sub-clause (2) it is said that in incurring such expenditure the trustee shall be guided by the general or special instructions of the Commissioner or the Area Committee. So, if the amendment to delete this sub-clause (2) is agreed to there will be no check by the Commissioner over the expenditure of the surplus money that stands after meeting the expenditure mentioned in clause 75. So some check is necessary over the expenditure contemplated in sub-clause (1); that thing sub-clause (2) provides.

“Sir, if anyone reads the clauses together he will understand what I mean. Clause 32 (1) states that after making adequate provision for the purposes referred to in clause 75 (2), the trustee may incur expenditure on other things such as measures of health, safety or convenience of disciples, for the training of archakas, adhyapakas, vedaparayanikas and othuvans. I must here congratulate Government for introducing a provision for incurring expenditure on the training of archakas, etc. Now if sub-clause (2)

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is deleted there will be no check over the expenditure incurred under sub-clause (1). Mr. Karanth quoted one extreme example of interference by the Commissioner. Now I will quote another example resulting from lack of control over expenditure. Suppose there is a trustee, and he says that out of the surplus money, 'I am going to build a hospital of two thousand beds, because I have a surplus of two crores', a hospital for the disciples. I say there must be some checking authority to say whether that is necessary or not. Or suppose the trustee says, 'I am going to open a college for archakas' or 'I am going to have an university for archakas' there should be somebody who should decide whether it is necessary or not. That power must vest with the Commissioner, and it is that which is contained in sub-clause (2). So sub-clause (2) should stand, and not be deleted."

SRI D. V. RAMASWAMI :—" Mr. Speaker, Sir, after passing clauses 20 and 21 and the following clauses thereto, I am a little surprised that there should be objection to sub-clause (2) of the present clause. After passing a clause like clause 22, under which we have said that it shall be the duty of the Commissioner to see to the proper management of the affairs of religious institutions and he may do all things which are necessary and reasonable to ensure that religious institutions and endowments are properly administered, I fail to see why members should take objection to the Commissioner issuing general or special instructions. Once we accept that the position of Commissioner involves high qualifications and a sense of awareness of his duties vested in him and the responsibility he owes to the public at large and to the trustees and the matadhipathis, I feel sure that in trying to clothe him with the power to issue general or special instructions there is nothing unhealthy or wrong, unless this guidance means practically to throttle the trustee himself, which I fail to think it is the object of Government. I therefore fail to see the soundness of the argument to delete this sub-clause."

SRI A. KALESWARA RAO :—" Mr. Speaker, Sir, I am not in sympathy with the amendment of hon. Mr. Viswanatham. The trustees are men of local reputation and local standing. We know how these men will be appointed. Various influences will come to play upon the Commissioner; communalism will come in to appoint a Komati or a lawyer or a Reddi. Really the choice of trustees will not be made on the ground of learning or any such thing. So I am not in favour of giving entire discretion to the trustees; I think discretion should be given to the Commissioner, who is a high official, who belongs to the Hindu faith; of course they will not be very pious, etc., but from the point of view of office they must be men of great responsibility. Therefore I agree with the clause as it is, namely, that the trustees should be guided by the general and special instructions to be given by the Commissioner. In clause 75 the budget is sanctioned by a higher authority, as the trustee should not have absolute authority in

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occurring everyday expenditure. Even so, with regard to the expenditure of the surplus also there should be a control. So, I think the provision, as it stands, is reasonable."

SRI V. RAGHAVAYYA :—" Mr. Speaker, Sir, I take it that sub-clause (2) seeks to give power to the Commissioner only over matters dealt with in sub-clause (1) (a). I do not think it is sought to give him power to control over expenditure incurred on subjects dealt with in sub-clause (1) (b), which are purely religious matters. So I take it that the object of Government is to give the Commissioner power over measures to secure the health, safety or convenience of disciples, pilgrims or worshippers."

SRI T. VISWANATHAM :—" Sir, he is dealing the whole clause and not with the amendment now under consideration."

SRI V. RAGHAVAYYA :—" If it is the intention of the Government to extend the power of control of the Commissioner over the training of archakas and so on, I protest against it. For they have rightly or wrongly in their original commitment charitable enough and good enough to permit the trustee to deal with the expenditure on major items. What is mentioned in this clause is all minor items, sanitary arrangements, health and safety of pilgrims and so on. When in the previous clauses we have allowed the trustee to incur expenditure on major items, I do not see why he should not be given power to incur on minor items of sanitary conveniences and other health measures."

THE HON. SRI K. MADHAVA MENON :—" Sir, I do not accept the amendment."

" Hon. Sri V. Raghavayya was perfectly right in saying that 'such expenditure' occurring in sub-clause (2) meant only the expenditure referred to in sub-clause (1).

" Sub-clause (1) says that—

" the trustee of a religious institution may, out of the funds in his charge, after satisfying adequately the purposes of the institution, incur expenditure

Firstly, adequate provision must be made for the day-to-day needs of the institution. Making provision for the purposes mentioned in clause 75 (2) is obligatory. Only the surplus that may remain after making such provision can be spent on the purposes mentioned in this clause. Sri V. M. Ramaswami Mudaliyar was perfectly right in making out this point. If all the excess money is spent on arrangements for securing the health or other conveniences of disciples and worshippers and for the training of archakas, etc., clause 64 cannot come into operation and application of cypres doctrine does not arise. To use Sri V. Raghavayya's language, in the name of arrangements for the sanitary convenience or other convenience of disciples and worshippers and the training of archakas, etc., a trustee may spend any amount.

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MR. SPEAKER :—" Let not the hon. Member repeat that."

SRI T. VISWANATHAM :—" Well, Sir, it is all right to say that it is a ridiculous thing. Why did it look ridiculous? Because the existing Board gave an order with regard to a trifling thing. When an order comes from Madras with regard to a trifling thing, it looks ridiculous to those who see and understand and there is nothing very wrong in saying it is ridiculous. On the other hand, it is not ridiculous that the Commissioner should have absolute powers to dictate to the trustees? Suppose the Commissioner says: 'I looked into all the tenders. Stop giving contract to the lowest tenderer and give it to this particular tenderer.' Do not cases like that arise? Therefore this ridiculousness applies either way, to things of a trifling as well as a serious nature. All this happens because persons who should not have any control are being invested with control."

"The Hon. Minister pointed out to the existing provision. The provisions of the existing Act were enacted long before the Constitution. Our complaint is also against several provisions of the existing Acts. There are many provisions in the existing Acts which will not stand the test of the new Constitution. To defend this clause by the provision in the existing Act is not very helpful."

"The Hon. Sri K. Madhava Menon agrees with hon. Sri V. Raghavayya in that this clause related only to expenditure out of the surplus funds left over after making adequate provision for the essential purposes of the temple. I am unable to agree with both of them. The clause reads:

"The trustee of a religious institution may, out of the funds in his charge, after satisfying adequately the purposes of the institution, incur expenditure

For giving a decision whether an expenditure under this clause is worthwhile incurring or not, the Commissioner has got to see whether adequate provision has been made for the purposes mentioned in clause 75 (2). He has actually to go into and scrutinize every item of the entire original budget, because he has got to satisfy himself as to the adequacy of the provision made for the purposes mentioned in clause 75 (2)."

"Therefore the whole thing will go to the Commissioner, and the Commissioner who is a respectable man, with no local bias and no local feelings will judge the case impartially and pass orders. That was the line of his argument. He says that the trustees come from local areas with local feelings and local colourings. That was the argument which he was stressing at every point. But, Sir, in public life we cannot avoid such things. People are bound to have local feelings and local affinities. But I submit, Sir, that as enlightenment comes and as we develop our culture and our spirit of public service, local feelings will not affect the ordinary day-to-day work or the smooth administration of public institutions. I am only sorry that such an argument should have been advanced for the retention of this sub-clause."

[21st November, 1950] [Sri T. Viswanatham]

"On the other hand, Sir, it can be equally argued that the Commissioner and Assistant Commissioners may have to hear all those persons who have got local feelings and local prejudices. But who are these Commissioners after all? They are only the appointees of the Government and therefore they are bound to carry out their orders and instructions. They cannot use their independent judgment always. Sir, only this morning we have seen a judgment of the High Court, published in the 'Hindu' of to-day's issue. It was stated therein that though the head of a department was delegated certain powers and allowed to exercise his discretion in certain matters, but the Government seemed to have called for the file to the Secretariat and sent a demi-official communication to that officer directing him to issue orders superseding a certain panchayat and appointing such and such a person to be in charge of it. (Sri K. Bhashhyam: The name of the person was also mentioned therein.) Therefore, it cannot be said that the Commissioners will not be without local feelings or that they will not be under the influence of the Government. I submit, Sir, it is the local feelings and local colourings and local affinities that are carried into the Fort St. George and it is the same separatist feelings that exist in the Fort St. George that spread into the remotest villages and create local feelings. I therefore submit, Sir, that it is rather unfortunate that such an argument about local feelings should have been brought in this connexion."

"Sir, it has also been argued that there must be somebody to check these trustees and their actions and that this is merely a provision to check them. But in order to check these trustees, there are other provisions and other laws. The trustees are responsible people representing certain particular religious denominations and therefore their discretion in such matters should be unfettered because they will take the consequences in a civil or criminal court if they abuse their discretion. They have got certain duties and responsibilities imposed on them, not only by this Act, but also by the general law of trusts and if they do not carry out their duties properly, action can be taken against them under those laws and they can be sent out or changed or dismissed or punished in so many other ways. Therefore, the proper procedure is, to frame certain rules under the rule-making provisions of this Act for the conduct of the trustees and ask them to follow those rules, and if they fail to follow them, then action may be taken against them. But it is not right and proper on the part of the Commissioner to issue orders or directions to the trustees to do certain things. Orders are different from rules. If you refer to clause 100 of this Bill, which gives powers to make rules under this Act, you will find that about 29 or 30 purposes are mentioned for which rules can be made to cover the entire administration of these endowments. Now the Government can make certain general additional rules for the guidance of these trustees under the rule-making clause, and if any trustee does not follow those rules, he can be removed. But to say that the Commissioner can issue orders directing a trustee to do such and such a thing, is totally different

[21st November 1950]

MR. SPEAKER:—"Let not the hon. Member repeat that."

SRI T. VISWANATHAM:—"Well, Sir, it is all right to say that it is a ridiculous thing. Why did it look ridiculous? Because the existing Board gave an order with regard to a trifling thing. When an order comes from Madras with regard to a trifling thing, it looks ridiculous to those who see and understand and there is nothing very wrong in saying it is ridiculous. On the other hand, it is not ridiculous that the Commissioner should have absolute powers to dictate to the trustees? Suppose the Commissioner says: 'I looked into all the tenders. Stop giving contract to the lowest tenderer and give it to this particular tenderer.' Do not cases like that arise? Therefore this ridiculousness applies either way, to things of a trifling as well as a serious nature. All this happens because persons who should not have any control are being invested with control."

"The Hon. Minister pointed out to the existing provision. The provisions of the existing Act were enacted long before the Constitution. Our complaint is also against several provisions of the existing Acts. There are many provisions in the existing Acts which will not stand the test of the new Constitution. To defend this clause by the provision in the existing Act is not very helpful."

"The Hon. Sri K. Madhava Menon agrees with hon. Sri V. Raghavayya in that this clause related only to expenditure out of the surplus funds left over after making adequate provision for the essential purposes of the temple. I am unable to agree with both of them. The clause reads:

"The trustee of a religious institution may, out of the funds in his charge, after satisfying adequately the purposes of the institution, incur expenditure

For giving a decision whether an expenditure under this clause is worthwhile incurring or not, the Commissioner has got to see whether adequate provision has been made for the purposes mentioned in clause 75 (2). He has actually to go into and scrutinize every item of the entire original budget, because he has got to satisfy himself as to the adequacy of the provision made for the purposes mentioned in clause 75 (2)."

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[Sri K. Madhava Menon] [21st November 1950]

section 32, sub-section (1), there is a surplus in the income of the institution, the trustee thereof may, with the previous sanction in writing of the Deputy Commissioner, appropriate such surplus or any portion thereof for all or any of the purposes specified in section 64, sub-section (1):

Provided that before according such sanction, the Deputy Commissioner shall publish the particulars relating to the proposal of the trustee in such manner as may be prescribed, invite objections and suggestions with respect thereto and consider all objections and suggestions received from persons having interest:

Provided further that the sanction aforesaid shall be published in such manner as may be prescribed.

(2) Any person having interest may, within such time as may be prescribed, appeal to the Commissioner against the sanction accorded by the Deputy Commissioner under sub-section (1)."

"Sir, clause 64 as it emerged from the Select Committee says:

"The Deputy Commissioner may, on being satisfied that the purpose of a religious institution has from the beginning been, or has subsequently become, impossible of realization, or that the machinery for effectuating such purpose has failed or no longer exists; or that after providing adequately for the purposes of the institution and after setting apart a sufficient sum for the repair and renovation of the buildings connected therewith, there is a surplus, by order direct that the endowments of the institution or such surplus as is declared to be available, as the case may be, be appropriated to all or any of the following purposes, namely—

"We have examined this clause further in detail and we found that the adoption of the cypres doctrine by the Deputy Commissioner of the surplus funds of religious endowments is likely to conflict with the fundamental rights conferred under Article 26 of the Constitution. We therefore want to be on the safe side and therefore we have said that even in the case of trustees, they can with the previous sanction in writing of the Deputy Commissioner, appropriate such surplus or such portion thereof for any of the purposes specified in clause 64 (1) of this Bill. My hon. Friend Sri K. Bhashyam says: 'how clever it is that we are trying to introduce a new clause here to get over that difficulty in clause 64, and still retain the words "with the previous sanction in writing of the Deputy Commissioner" with a view to control the trustees and compel them to do the things that the Commissioner or the Government wants.' Sir, I cannot be as clever as my hon. Friend Sri K. Bhashyam, because he might raise the same objection to the revised clause 64 later on, and so to the extent it is possible for me I must try to be clever and see that the surplus amount available is spent for the good of the institution and be in conformity with the wishes of the original donors, and not be squandered away by the trustees in whatever way they like. So, if I can possibly do so, even with a little bit of cleverness on my part, it is but just and proper that I should do it. But it is stated

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"Sir, we are also amending clause 64 of the Bill as it emerged from the Select Committee, as mentioned by me already, for this purpose, retaining only such purposes for which the surplus can be spent. We have also amended the proviso in clause 64, stating that in the case of a religious institution founded and maintained by a religious denomination or any section thereof, the endowments shall, as far as possible, be utilized for the benefit of the denomination or section concerned for the purposes mentioned therein. That is to say, we have also satisfied the provisions of the Constitution guaranteeing certain fundamental rights to religious denominations.

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"For the words "with the previous sanction . . . sub-section (1)" occurring in sub-clause (1) of new clause 32-A, substitute the words "apply to the court for framing a scheme for the utilization of such surplus. The scheme may provide for the method of utilization of future surpluses".

Sir, I really wish that the question of surplus should have been dealt with at one place. Already we have dealt with it in one place. Now we are again dealing with it, and we are going to deal with it still again at a later stage, namely, clause 64. Will it be possible for the Government to take this clause along with clause 64? If so, can we now pass over this clause now? I want to know this from the Hon. the Minister."

THE HON. SRI K. MADHAVA MENON:—"The amendment is to clause 32-A (1). It has to be moved now alone."

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more advantageous to me. But I did not do so. Please give us a little more time, Sir. Let us not be hurried over this. After all, it is not a matter of a few thousands of rupees. It is going to affect the trust properties in the whole of this State amounting to crores of rupees. Therefore, I am appealing to you for some more time. If I appeal for more time it is with all sincerity and not with a view to delay the proceedings."

MR. SPEAKER:—"The hon. Member will continue his speech."

SRI K. BHASHYAM:—"I make the position of the Government absolutely clear. The trustee has no freedom. He is really controlled at every stage by the authorities. When that is so, I ask who really runs the administration of the institutions? Is it the trustee or the Government? Why is this camouflage and pretention? The trustee is only an instrument in the hands of the Commissioner. It is the Commissioner who really does the things. That is why I stated that the Government were clever. Instead of doing it in an open manner, they want to do it in a roundabout way, and do it in a form which cannot be easily seen through by anybody else. This control at every stage is wrong. The position taken by the hon. Member Mr. Viswanatham is correct. The trustee must go to the court for the purpose of utilizing the surplus funds. He has stated the legal point correctly. Under this clause where is the religious denomination coming in for being consulted? The disciples will require to be consulted as to the utilization of the surplus. When the matter is taken to the court, the disciples will put in their objections. The enquiry that is contemplated in the Bill is not a judicial enquiry. The Government are instituting only a departmental enquiry, and the Commissioner is the final authority in the matter. I submit that this is not the correct procedure. It looks as though the Government are proceeding according to the Constitution in letter but not in spirit. The *sishtyas* of the religious denomination must have a controlling voice in the matter. I should say that finality must vest in them; and not in the Commissioner or the Government. I say that the religious denominational institutions must be administered according to law. It does not mean that we should make a law to take the administration altogether from the religious denomination into the Government's hands. If the Government say that the Commissioner or the Deputy Commissioner is there to ascertain the wishes, and that he will follow the majority wish, I shall not have any objection. The position is, even though the majority of the disciples and worshippers are against him, the Commissioner will still have his own way. This I cannot accept either as correct or as moral. I respectfully submit to the Government that they should accept this amendment and thus allay the apprehensions of the people who are interested in the temples. I want the Government to get the approval of all persons interested in temples and all those who still have faith in maths,

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temples and religious institutions. It is only their voice which should count and not the voice of the people who are out to destroy all these institutions."

SRI L. N. GOPALASWAMI:—"Sir, in wholeheartedly supporting the amendment, I want to point out only one aspect of the matter. The whole of this Bill takes protection under Article 25 of the Constitution where the right to make a law to regulate the financial or secular aspect of a temple is not taken away. Under that guise this legislation is being enacted. On the other hand, there are various other aspects that are mentioned in Article 26 where every religious denomination is given the entire right to establish, maintain and propagate religion."

MR. SPEAKER:—"That point has already been answered by the Hon. Minister. It is a repetition."

SRI L. N. GOPALASWAMI:—"Sir, every religious denomination is entitled to establish and maintain religious institutions for the propagation of that religion. Under this clause we give him no scope at all for this purpose. All the moneys of the temple are earmarked for X, Y or Z, firstly for dittams, secondly under clause 75 and then under clause 64 and lastly under this clause 32-A. It is not proper on the part of the Government, under the pretext of regulating the religious practice of a religious institution, to lay its hands on all the properties and incomes of the temples and bind the hands of the trustees in all these matters and not give him scope to propagate his religion which, according to the Constitution, is his sole right. I, therefore, request that at least so far as this matter is concerned, they may not put it to the scrutiny of the Commissioner but may give the trustee some scope to propagate the tenets of his religion."

SRI N. S. VARADACHARI:—"Sir, I little thought that time was so soon coming to contradict what the Hon. Minister said while discussing the last clause. This clause 32-A bears out what I said last. The question of surplus arises only after clause 75, sub-clause (2), and this clause 32 are satisfied. The Hon. Minister spoke just the other way. He said that clause 32, sub-clauses (1) and (2), would give him the right to dispose of the surplus, being led away by the false argument of my hon. Friend Sri Ramaswami Mudaliyar. I will draw the attention of the Hon. Minister to the importance of what I said. Clause 75, sub-clause (2), prescribes the necessary expenditure of the temple. Clause 32 (1) prescribes what I called the ancillary expenditure, i.e., expenditure ancillary to the prime object of the institution, for instance, construction of choultries for pilgrims, training of archakas and the like. These are very important objects. That is why I urge that we should give full discretion to the trustees at least with regard to the training of archakas, adhyapakas, vedaparayanikas and othuvans. That training in the practice of religion is necessary for the promotion of the objects of the

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institution. Now, there may be a surplus only after this is met. What is proposed with the surplus is that the trustee may, in accordance with clause 64 which will come up later, with the sanction in writing of the Deputy Commissioner, say, 'I appropriate the surplus in such and such a manner'. When clause 64 comes up for discussion, I will have to say something about the order of priority. There may be only a small surplus with certain temples and a heavy surplus with certain other temples. It should not be left to the discretion of the Deputy Commissioner to say 'I won't go in that order, I would take up a particular subject which is most dear to my heart'. The initiative should be left to the trustee in these matters. There should be some order of priority so as to save small surpluses being deliberately misused under orders of a higher authority. That I will deal with when I come to my own amendment to clause 64. But this amendment only says that he will publish the scheme, call for objections, and then if necessary an appeal to the Commissioner will lie. But as my predecessor has pointed out, there is nowhere any opportunity given to any section of worshippers or persons having an interest to be consulted on the matter. They can only write their objections and keep quiet. There is no opportunity for ascertainment of their opinion. At least let me get an assurance from the Hon. Minister. He has given me already some assurances. One is in respect of service-holders that there will be no other control excepting the one control that he may be dispossessed of the inams if he discontinues his services. The second is in respect of the previous clause that the Commissioner will be expected to be very liberal and not to issue all kinds of special instructions in regard to the training of archakas and the like. The Hon. Minister felt the reasonableness of my suggestion. In regard to this clause also, I want him to say that in the rules there will be some machinery provided for consultation and ascertainment of the majority opinion, or if not of the majority opinion, of the enlightened opinion either of the denomination or the worshippers in a particular temple, at any rate of those who are interested in it."

SRI V. M. RAMASWAMI MUDALIYAR:—"Sir, I would not have intervened in the debate but for the fact that my hon. Friend Sri Varadachari referred to my speech. While discussing the previous clause, what I said was this. After making the necessary provision for expenditure under clause 75 (2), the balance will be controlled to some extent by clause 32. After satisfying the requirement of clause 32, the trustee may say that there is no surplus. Then there may be no scope for the application of *cypres* doctrine. This is what I said. Let there be no misrepresentation of what I said. I must say that the Government have gone some way in providing for consultation, though not in a very direct way. Clause 32-A says that the Deputy Commissioner shall publish the particulars relating to the proposal of the trustee in such manner as may be prescribed, invite

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objections and suggestions with respect thereto and consider all objections and suggestions received from persons having interest. So, some machinery has been provided. Persons having interest have got scope to make their views known to the trustee or to the Commissioner.

"Sir, even under the existing Act, section 77 gives power to the trustee to incur expenditure. Practically the same wording is repeated here. Whether it offends the Constitution or not is a different matter. So far as the power of the Deputy Commissioner with regard to the application of *cypres* doctrine is concerned, there has been a change in the provision as framed in the original Bill. The Deputy Commissioner is only a directing authority. Whether it is a camouflage or not, I am not much concerned with at this stage. All that I say is this. The rights are there in the Constitution. The Government, having taken the advice of their Law Officers, think that this will overcome all possible objections. Therefore, there is nothing wrong in the Government proposing to do this."

THE HON. SRI K. MADHAVA MENON:—"Sir, my hon. Friend Sri Viswanatham's amendment is in tune with the amendment which he originally moved. He moved that the business of the Commissioner or Deputy Commissioner should only be to initiate proceedings in a Civil Court for misconduct or any such thing. If there is any surplus, then the trustee or the Commissioner may inform the Court and ask them to frame a scheme to use the surplus. Sir, if we could avoid spending of trust money in wasteful litigation, we want to avoid it. It is not because of hatred of Courts or because I do not want members of my profession to have more work. It would certainly be advantageous for the Commissioner or the trustee concerned, wherever there is a surplus, to refer the matter to the Court and decide it. Even in this particular amendment, we have said that only the trustee, if he wants to use the surplus for anything, must get the sanction of the Deputy Commissioner. So, the discretion of the trustee to use it is there. The only thing is the Deputy Commissioner is expected to see whether the money is invested for any purpose other than those mentioned in the various sub-clauses of clause 64.

"Sir, the amendment of hon. Sri Viswanatham also is against the Constitution if the Government amendment is also against it according to his argument. He says that articles 26 gives the right to the trustee to administer the property according to law. Instead of allowing the trustee to administer the property, he wants the Court to administer the property. That will be equally wrong if the hon. Members argument is to be accepted.

"My hon. Friend Sri Viswanatham gave us the pleasant example of the Sanyasi. It is quite common in Malayalam also. That means, if you want to kill a tortoise, put it upside down. If a surplus property of a trust is there, it should be used in a

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proper way. If the advice of the Sanyasi was the correct one, then I am prepared to say that the Government is the Sanyasi in this case, because the Sanyasi has given the right advice as to how to kill the tortoise."

SRI K. BHASHYAM :—"I am no Sanyasi."

THE HON. SRI K. MADHAVA MENON :—"Sir, my hon. Friend Sri Bhashyam said that he was particularly concerned with maths. Both he and hon. Sri Viswanatham said that the trustee was only a creature of the Commissioner or of the Government.

"There are hereditary trustees; there are nominated trustees. It is not always that the Commissioner appoints the trustees. It is not a case here of the Government giving instructions beforehand. If we read the clause once again, we shall find the words 'if after making adequate provision for the purposes referred to in section 75'. It means it is obligatory on the part of the trustee to provide for these. If after providing for such things, there is a surplus, even then it need not be spent for the purposes mentioned in clause 64. Provision must be made for the arrangements and training referred to in clause 32. If after making even this provision, there is a surplus, the trustee may, with the previous sanction of the Deputy Commissioner appropriate it for any of the purposes mentioned in clause 64. The trustee can appropriate it but he should do so in such a way as it is not improperly done and this is the reason why the sanction of the Deputy Commissioner is required. In order that the sanction of the Deputy Commissioner may not be arbitrary, there is a proviso to the effect that the Deputy Commissioner before according sanction publish the proposals, invite objections, etc.

"Then, Sir, my hon. Friend, Sri L. N. Gopalaswami said that he wholeheartedly supported this clause particularly. I do not think that wherever he supported the Government previously he did so otherwise than wholeheartedly. He, however, said one thing. He was sorry that we had not done anything to help the trustee to propagate the tenets of the Hindu religion. Let me tell him, Sir, that what we are exactly doing is what he said we were not doing. Item (a) of clause 64 says: 'propagation of the religious tenets of the institution' and this is one of the purposes for which the surplus funds can be used. It is open to the trustee to spend all the money for the propagation of the religious tenets of the institution. This clause is there only to permit him to do so and not to prevent him from doing so. (Sri K. Bhashyam: Sanction may be refused.) If sanction can be given for other purposes why not for this also? It is to give sanction and not to refuse sanction that this provision is there. My Friends find a thief in every bush and I cannot answer their criticisms. My feeling is that sanction will be given and must be given. That is why the provision is there and not for refusing sanction. If

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the clause should be interpreted in the manner in which it has been interpreted by my hon. Friends, Sri Bhashyam and others, then I cannot help it. Let me once again assure my hon. Friend Sri Gopalaswami that there is ample provision for the propagation of the religious tenets of the institution.

"Then, Sir, my hon. Friend, Sri N. S. Varadachari wanted an assurance about consultation. I am afraid, I cannot give more assurances than what is mentioned in the clause. My hon. Friend, Sri Viswanatham, on the other hand, is not for consultation with anybody. He wants the whole thing to be placed before the Court, which does not consult anybody but decides the issue itself and is costly. There is scope for as much, if not more, consultation, in the clause in the Deputy Commissioner publishing the proposals, inviting objections, hearing parties, etc., as may result from the matter being taken to the Court. No more assurance is necessary and I cannot accept the amendment."

SRI T. VISWANATHAM :—"Sir, the Hon. the Minister closed his speech by saying that I wanted the matter to be placed before the Court, that the Court did not invite objections and that it was a costly affair. (The Hon. Sri K. Madhava Menon: 'I meant that the Deputy Commissioner would invite as many objections as the Court would.') He has modified his statement. He admits that the Court will invite as many objections as the Hon. the Minister may invite or the Deputy Commissioner may. As regards Courts being a costly affair, I submit that this assumption is wrong. Where public interest is involved, the costs are not high. Where the people have a beneficent interest, the fee is very very little. The maximum itself is about fifty rupees or so for the City and for the mufassal, it will be something less. (Sri K. Bhashyam: 'Even this may be excused in this case.') Yes, even this fee may be excused, if the Government so choose. I, therefore, think that the question of cost should not have been brought in here. It is only a red herring across the path. The next herring is even more red than the previous herring. He said that the Court did not invite objections. Does he not know that the Court publishes in all newspapers, in English and regional languages particulars relating to suits of this nature? How can it be said that the public will not have as much notice of Court proceedings? Not only this. Persons who are interested in the matter can appear before the Court either in person or through an advocate who can understand the legal implications of a suit, who can quote precedents and who can help the Court to arrive at proper decisions. Therefore, the foundation upon which the Hon. the Minister based his arguments is very weak.

"Then, Sir, I would go to the other points raised by him. The Hon. the Minister referred to the cypres doctrine. Sir, the doctrine of utilization of surplus funds is an ancient legal concept. The fundamental principle underlying the cypres doctrine is that

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where the original intention of the donor is not known, the Court can find it out by inference from the long practice associated with the institutions founded by him and take it as the intention of the founder. It is not for any and every case that we are going to apply this doctrine. We are now trying to create a position whereby all surplus funds may be utilized for other purposes than for which they were endowed. What kind of funds are we utilizing for such purposes? Funds given by what kind of persons? We are taking the surplus funds of institutions which are based on certain philosophical concepts and on certain religious traditions deriving from certain philosophical doctrines. And when the people gave this money at the time of the foundation of the trust what they had in their minds we cannot know. But there are those who still make contributions to those trusts and we can know their intentions. What is the intention of a Madhwa when he makes donations or gifts to the temple at Udipi? What would be the intention of the persons who make donations to the Mylapore temple? What would be the intention of the persons who make contributions to the Parthasarathi temple at Triplicane? They are all different but ascertainable. Sir, in the inner recesses of the heart of the Hindu, there is a religious sub-stratum of feeling. Hindu life is built upon religious traditions which are themselves based on certain philosophical concepts. Therefore the intention of those that give money is not expressed day to day in writing. It need not be written either. As people having some knowledge and culture, we know their intentions. To ascertain them Court is the most appropriate authority. In England, whose jurisprudence we have borrowed largely, in America which has borrowed much of English jurisprudence and in fact everywhere else, utilization of surplus funds is the general care of the Courts. I feel, Sir, that the Hon. the Minister over did a little when he said that going to the Court would be ultra vires of the Constitution. Evidently he thought by saying so he was giving me a fitting retort. It is astounding that such a statement should come from a Law Minister even, if it was just meant as a joke, for, these things are reported and in the report jocular remarks are not differentiated from the rest in different kinds of types. I do not think that such a statement should be made by a Law Minister. I do not believe that he really believed in what he said.

"Finally, I submit, Sir, that the only authority for the proper utilization of surplus funds is the Court. If this view is accepted by the Government, then it will be in accord with the purposes of the founders, with the purposes of the donors, and the Court will investigate and judge whether the original intentions and the objects of the trust have been properly fulfilled or not. I suggest that the Hon. the Minister do accept my amendment and discard the view that it is wrong to entrust the Courts with such matters."

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THE HON. SRI K. MADHAVA MENON :—"Sir, I want to clear the wrong impression which my hon. Friend, Sri Viswanatham, seems to be under. He said that my statement would go into the reports as was made by me and, therefore, I should be careful. Sir, what I said was this. Sri Viswanatham said that the Government amendment was ultra vires. I replied that if that was so, his amendment to the Government amendment would be as much ultra vires as the Government amendment itself. I used the term ultra vires in the limited sense in which he employed it. Let me make it clearer. I said that if the Commissioner or the Deputy Commissioner administering a certain thing was to be considered ultra vires of the Constitution then the court also could not have any power to administer it but to leave it to the trustee himself to do the job. Therefore, the question of my statement being recorded does not arise at all here. In fact, my safety is that whatever I say is recorded here—and correctly recorded—and I know I shall not be wrongly reported in this case also. I did not say that the courts would not publish anything. I said that provision existed in the new clause now proposed for giving as much publicity as would be given by a court. I did not say either that the courts would not invite objections. Sir, it is not right nor is it fair to interpret my statements in this manner."

MR. SPEAKER :—"The question is—

'For the words "with the previous sanction . . . sub-section (1)" occurring in sub-clause (1) of new clause 32-A, substitute the words "apply to the court for framing a scheme for the utilization of such surplus. The scheme may provide for the method of utilization of future surpluses".'

The amendment was lost.

The new clause 32-A was put and carried.

MR. SPEAKER :—"It is now five of the clock. As agreed to yesterday, I shall now adjourn the House for half an hour."

SRI T. VISWANATHAM :—"Although, Sir, the suggestion was made by a person to whom we could not say 'No' . . ."

MR. SPEAKER :—"But the progress has been very slow."

SRI V. RAGHAVAYYA :—"The Hon. Sri Madhava Menon looks jaded."

THE HON. SRI K. MADHAVA MENON :—"In spite of my feeling jaded I will sit late and work. I have no objection to sitting till seven."

SRI T. VISWANATHAM :—"Sir, the Bill has been pending for a very long time and a delay of one or two days will not matter much. After all, it has to go to the other House

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after being passed here. Then it has to receive the President's Assent and become law. So it will not matter if we adjourn now to meet again to-morrow."

MR. SPEAKER:—"Let us sit till seven of the clock at least to-day. Yesterday we came to the decision . . ."

SRI T. VISWANATHAM:—"Although it was suggested yesterday and agreed to by the House, I did not record my protest because I did not want to oppose such an elderly gentleman like hon. Sri Bhashyam."

SRI R. V. SWAMINATHAN:—"Sir, yesterday we agreed that we would adjourn at 5 and resume at 5-30 and continue till 7 p.m. With that idea I have come prepared. I want to make another suggestion, Sir. From to-morrow let us have night session. We may adjourn either at 4 p.m. or even earlier in the evening, if necessary, and if the hon. Members agree, resume at 8 in the night and continue till 11 p.m. in the night. It will be very convenient." (Hon. Members: 'Like the House of Commons.')

SRI K. BHASHYAM:—"Sir, one word about the suggestion of my hon. Friend, Sri Swaminathan. As things are, we are sleepy except one or two and if we are to assemble at 8 p.m. and continue till 11 p.m. you will perhaps hear the snorings of hon. Members, Sir."

MR. SPEAKER:—"The hon. Member said that we were all sleeping. It will look awkward if it is published. I am going to adjourn the House till 5-30 p.m."

SRI N. S. VARADACHARI:—"Sir, I was not here yesterday. I saw the decision of the House to sit to-day till 7 p.m. only in the papers. Certainly I have every reason to believe that there would be discussion of a character which might perhaps require a little more attention than on the later clauses of the Bill. Most of the things that come under the later clauses of the Bill have been more or less disposed of during the discussion of the clauses that we have so far finished. Some of us who have given amendments to the later clauses find it would be very inconvenient to attend night sessions. In fact we are trying to progress as fast as we can reasonably expect and the progress in future will be faster. I think no case has been made out to sit at nights. Why should we sit at night? Am I to be told by the Hon. Speaker that I should not do any other work except to attend the Assembly from 10 o'clock in the morning to 7 o'clock in the night. I may tell you, Sir, I have just returned after four days' service on a Government Committee. I have lost four days and have still to lose five days more. What am I to do for my other work? It is very inadvisable to have night sessions unless there is a strong case made out by the Government, or the Government wish to rush through not looking into the amendments at all. I can give

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you this assurance, Sir, on my part and on behalf of one or two other hon. Members—I cannot answer for the other side of the House—that there will be no unnecessary delay introduced in this matter. In view of what I have said, I request you, Sir, to adjourn the House even now."

SRI K. R. KARANTH:—"Sir, the remedy lies in our own hands. From to-morrow I would appeal to all hon. Members not to press amendments which are not very material. At the same time I must say that we feel quite fatigued sitting here from 11 o'clock in the morning. As it is we cannot give an intelligent interest to it if we sit for late hours. If it is a question of mere passing we can pass all the amendments—all the clauses even. They may even be guillotined."

"You will be pleased to see, Sir, how ill attended or well attended just now this House is. Most of the hon. Members have gone. It would not be fair to the subject if we continue when the House is so thin. At the same time, I would say, it is open to us from to-morrow to have only important amendments and not to press all the amendments that have been given notice of. That is the understanding to which we must come. It will be better if we meet daily from 11 o'clock in the morning till 5 o'clock in the evening."

MR. SPEAKER:—"The suggestion has to be accepted by the other hon. Members. Let me know what the Hon. Minister has to say."

THE HON. SRI K. MADHAVA MENON:—"I entirely agree with what the hon. Member Sri Karanth has said that the hon. Members should press only important amendments. Unfortunately it is the hon. Members that have to decide whether the amendments given notice of by them are important or not. It has been my experience till now that all the amendments were considered very important."

"It is not right on the part of the hon. Member, Sri Varadachari, to say that we have been rushing through the Bill."

SRI N. S. VARADACHARI:—"I did not say so, Sir."

THE HON. SRI K. MADHAVA MENON:—"The hon. Member said so, Sir. It is not a case where we wish to rush through. The Bill is before the House for the past twenty months. Nobody can say that we have rushed through nor are we rushing through the Bill. To-day we have done only two or three clauses. That is the position. There are very important things yet to be gone through, viz., the maths and all that. You have announced, Sir, at the request of the hon. Member, Sri Bhashyam, and after the consent of all the hon. Members that to-day we would sit from 5-30 p.m. to 7 p.m. We are prepared to sit every day from 8 o'clock to 11 o'clock in the night if it is so desired. But to-day at least we shall sit till 7 p.m."

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MR. SPEAKER:—"I adjourn the House to meet again at 5-30 p.m."

The House then adjourned to meet again at 5-30 p.m.

Clause 33.

MR. SPEAKER:—"The motion is—

'That clause 33 do stand part of the Bill.'"

Sub-clause (1).

SRI K. BHASHYAM:—"Mr. Speaker, Sir, I beg to move—

'In sub-clause (1), omit the words "math or" wherever they occur.'

Because, in my scheme of things, a special chapter should be devoted to 'maths' instead of the present chapter. The present provisions of the Bill are almost inapplicable to 'maths'. Therefore, Sir, the words 'math or' may be omitted from the clause wherever they occur."

SRI T. VISWANATHAM:—"Sir, I second it."

THE HON. SRI K. MADHAVA MENON:—"Sir, clause 33 refers to specific endowments attached to a math or temple. So, if we omit 'maths' in this clause, the specific endowments attached to maths also will be excluded. Hon. Sri K. Bhashyam's idea is that 'maths' may be deleted. In any case the Government cannot accept the amendment. More so, we cannot agree to the specific endowments attached to a math or temple being excluded."

The amendment was put and lost.

Sub-clause (5).

SRI K. BHASHYAM:—"Mr. Speaker, Sir, I beg to move—

'Add at the end a new sub-clause (5) as follows:—

"Any person prejudicially affected by any order made or declaration given under this section may bring a suit to establish his rights which he claims."

This is very near the same which I said before as regards cypres doctrine. A person interested in the temple or religious institution ought to be given an opportunity to go to a court of law. In fact, under clause 67, clause 33 is not mentioned. Otherwise, I would not have moved this amendment."

SRI T. VISWANATHAM:—"Sir, I second it."

THE HON. SRI K. MADHAVA MENON:—"Sir, the very purpose of clause 33 is for a quick enforcement of a remedy. If there is a service holder and the property is in the hands of somebody else and if he does not get the service properly out of the

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property, there must be some quick way of realizing the money and paying it to him. The idea is that, where specific endowments attached to a math or temple are concerned, 'the trustee of the math or temple concerned may require the person in possession of the property on which the endowment is a charge, to pay the expenses incurred or likely to be incurred in causing the service or charity to be performed otherwise . . .'. The service has to be done properly and the trustee must set the money and pay it to the service holder. The very essence of the clause is that it should be done quickly."

SRI K. BHASHYAM:—"Sir, I beg to withdraw my amendment."

The amendment was, by leave of the House, withdrawn.

Clause 33 was put and carried.

Clause 34.

MR. SPEAKER:—"The motion is—

'That clause 34 do stand part of the Bill.'"

SRI K. BHASHYAM:—"Mr. Speaker, Sir, I beg to move—

'That the words "math or" may be omitted wherever they occur.'

If the Government do not accept this, they can vote it down."

SRI T. VISWANATHAM:—"I second it."

THE HON. SRI K. MADHAVA MENON:—"Sir, the Government cannot accept the amendment."

The amendment was put and lost.

Clause 34 was put and carried.

Clause 35.

MR. SPEAKER:—"The motion is—

'That clause 35 do stand part of the Bill.'"

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I beg to move—

'Clause 35 may be deleted.'

This is foreign to the subject of the Bill and what is to be done? There is also a separate Act for various inams and this gives another kind of procedure. I therefore submit, Sir, that this clause may be omitted in this place altogether. If the Government really want to amend any provisions, they can amend the existing Act. Therefore, Sir, I submit that this may be deleted as it is foreign to the purposes of the Bill."

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SRI K. BHASHYAM:—"Mr. Speaker, Sir. I think we are too much in a hurry. After all what is the nature of things laid down in this clause? It is clear that the Government want to enfranchise the inams. I do not see why this clause should be brought in for this purpose. If it is for the purpose of anything, it is a matter which could be done under the Inam legislation or under Devadasi legislation. It has been provided for already and I respectfully submit that it is wholly foreign to the scheme of this Bill. It may perhaps lead to difficulties in the way of reconciliation between the old Act and the present Act. I therefore second the amendment, Sir."

SRI R. V. SWAMINATHAN:—"Mr. Speaker, Sir, while opposing this amendment, I wish to say a few words. This clause is absolutely necessary. According to the Devadasi Act, devadasis might have been given these inams which are enjoyed by them. But, in a separate clause we have to decide, if a person who has been given charitable inam has not performed her duty, whether that should be taken away from that person and transferred to another who is doing that duty. So, unless we are sure that this will be replaced by some other clause, this clause is absolutely necessary. I therefore oppose the amendment, Sir."

THE HON. SRI K. MADHAVA MENON:—"Sir, hon. Mr. Swaminathan has already explained the difficulty. We have said that, in the case of service inams where service is not performed, their inams would be resumed. When an inam is given to a devadasi for service, whatever may be the service that is accepted, she will be relieved of those services. The inam will be hers and the imposition of proper rent only is now sought and nothing more, Sir. This is exactly section 44 of the old Act except sub-clause (9) which is now added. It is therefore necessary that this clause is retained."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I do not know why Mr. Swaminathan is so hard upon devadasies. Almost simultaneously during the same period when the Hindu Religious Endowments Act was originally passed, there was other legislation dealing with this and there are no such inams. This is only a survival of an anachronism and it does not fit in here. If the Hon. Minister thinks that this will fit in here, he can certainly do it."

THE HON. SRI K. MADHAVA MENON:—"Sir, I have nothing to add."

The amendment was put and lost.

Clause 35 was put and carried.

Clause 36.

MR. SPEAKER:—"The motion is—"

"That clause 36 do stand part of the Bill."

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Sub-clause (1).

SRI L. N. GOPALASWAMI:—"Mr. Speaker, Sir, I beg to move—"

"That, after the word "sale" in the first line, the words "other than a court sale" may be inserted."

"I do not want to repeat the same old arguments which have been negative by the Government. Here I want the Government to consider two aspects. Firstly, I have purposely said that only court sales should be excluded. There may be cases where people have advanced money *bona fide* to the temples not only to draw interest from them, but also with a view to help the institutions to run their day-to-day administration. It is not as if our temples are in possession of large funds and that they can command money as they please. There are temples with poor income and which will be without any money at the very beginning of the year before harvest. Therefore, by necessity some of these institutions have to borrow money from persons either for interest or low interest or no interest at all. It is not fair to dispose of these persons without any compensation at all. I have given only an extreme case where these persons *bona fide* give money to these institutions to enable them to carry on their day-to-day administration. Now, if the Government say that, irrespective of the fact that a person has given money, irrespective of the fact that the temples have used the money for the performance of pujas, etc., irrespective of the fact that a person has established his claim in a court of law and that the court has given a decree, and that a person has got possession of properties of temple, all sales will become null and void, it is a thing hardly fair nor will it be for the proper working of the temple themselves. It may be very difficult for these temples hereafter to get money from others for the conduct of their daily rituals. No man will lend money hereafter to carry on the business in the temples if he has not the right to bring the temple property for sale and get his money back. In the circumstances I hope the Government will accept my amendment."

SRI M. S. PATTABHIRAMIAH:—"I second the amendment. I do not want to speak at length on this question. It is only in the interests of the proper discharge of the duties of the trustees that this has been moved. It may therefore be accepted."

SRI T. VISWANATHAM:—"Sir, I have a doubt whether the language employed in lines 5 to 7 of sub-clause (1) is correct. The language employed is this: 'or service connected therewith or of any other religious charity and made, confirmed or recognized by the Government shall be null and void'. Are there such things? It does not apply to other inams."

THE HON. SRI K. MADHAVA MENON:—"I oppose the amendment of hon. Mr. Gopalaswami not only for the reason that this is only a reproduction of the existing provision in 44-B (1), but also for other reasons. There will be very few court

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sales prior to 1934. Regarding the future court sales if we accept this amendment we will be only creating room for much greater fraud. I do not see any reason why Sri Gopalaswami should be particularly partial to court sales as against private sales. The execution of court sales will lead to tremendous fraud. You have only to file a collusive document and get a decree. Why should court sales brought about by this method should have an advantage over private sales, I cannot understand. There will be greater room for fraud if court sale is exempted from this clause."

SRI L. N. GOPALASWAMI:—"I only wanted the court sale to be brought under this clause for the simple reason that the Government have alleged that there may be collusive transactions entered into by the trustees and private owners. If it is a court sale all these points would have been enquired into. The court could be expected to look into the question whether the transaction was entered into to cheat the temple of its money. If the Hon. Minister will take other sales as well into consideration and exempt them I would be glad. As I said already, if the court sales are not exempted, the sufferers will be the temples. There may be at times nobody to lend anything even when it is required for the daily poojas."

THE HON. SRI K. MADHAVA MENON:—"Sir, may I say that my feeling in this matter is just the reverse of what the hon. Member feels? I cannot accept his plea to exempt the court sales."

The amendment (of Mr. Gopalaswami) was put and lost.

SRI K. BHASHYAM:—"Sir, my amendment to this sub-clause runs thus—

'Add at the end of sub-clause (1) (and before the proviso), the words "unless it is found that such exchange, gift, sale, mortgage or lease has been made prior to the commencement of this Act and for the purposes beneficial to and binding upon the religious institution or charity".'

"This I have argued already and got defeated. I move it again to get a second defeat."

SRI T. VISWANATHAM:—"I second the amendment. The Hon. Minister was not quite fair to himself when he opposed the earlier amendment. He would not be fair to himself in this case also if he does not accept the principle of the amendment even if he does not approve of the language of it. There is no point in always arguing that there are some collusive and fraudulent sales and therefore declaring every sale is invalid. It is a wrong way of looking at things. Superior tribunals are there to enquire whether a sale is fraudulent or collusive. There are well-known means of finding out fraudulent practices and therefore there is no meaning in saying that all fraudulent sales will be affected if this amendment is accepted. On the contrary bona fide transactions will be prejudicially affected. No fraudulent action

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is ever protected under any law and no member of this House will be so bad as to bring in amendment to protect fraudulent or collusive sales. I am sure Mr. Bhashyam's amendment is only intended to see that you do not tar everybody with the same brush. There may be genuine transactions and there may also be non-genuine transactions. Therefore you should declare null and void only transactions which are fraudulent. It is no use saying this will provide a loophole and therefore should not be accepted. Let the Hon. Minister reconsider the question and accept this amendment."

THE HON. SRI K. MADHAVA MENON:—"I have considered the question very well."

The amendment was put and lost.

THE HON. SRI K. MADHAVA MENON:—"I move that—
'In the proviso, omit the words "where the inam is held by the religious institution or the trustee thereof".'

"This is intended to give power to the Government to sanction an exchange or gift if it is necessary or beneficial to the institution. The proviso as it stands says: 'Provided that where the inam is held by the religious institution or the trustee thereof, any transaction of the nature aforesaid (not being a gift) may be sanctioned by the Government as being necessary or beneficial to the institution.' It is felt that when the Government is given power to sanction any particular exchange or gift, as being necessary or beneficial to the institution, we need not give that benefit only to inams held by trustees thereof. We can extend that benefit to all service inams. That is why this amendment."

SRI T. VISWANATHAM:—"Sir, having said categorically that he has considered the question and still wants that all these classes of transactions should be declared null and void, I do not understand why the Hon. Minister wants reservation in favour of the Government. I want them to stick to their declaration, Sir."

THE HON. SRI K. MADHAVA MENON:—"Consistency is good and that is why this amendment. Reservation is there already in the case of inams held by a religious institution or the trustee thereof. Consistently with that provision this is extended to inams held by trustees. We are sticking to our declaration."

The amendment was carried.

SRI K. BHASHYAM:—"I move—

'Add at the end of sub-clause (1), the following further provisos:—

"Provided also that where any property is charged or burdened for any of the purposes mentioned in clause (1)

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an exchange, gift, mortgage or lease of such property shall be legal and valid provided proper provisions are made for the execution of the purposes mentioned in the section :

Provided also that the section shall not apply in respect of any properties which have vested in any person before April 1946 by the operation of the Law of Limitation."

"This, Sir, is an important amendment. In consideration of the fact that I have not taken any time over the other amendments moved by me, you must give me more time to speak on this amendment.

"There are properties given away to a charitable or religious institution, but still the property is not actually transferred. There is, for instance, a property given to A who is bound to perform a charity in a particular temple. Such properties are technically known as 'properties burdened with a trust'. This A is bound to carry on some service in a temple like mandagappadi or thanneer pandal. Such cases there are where properties are not vested in any institution, but in a trustee individually and that individual is bound to do some service in a temple. In such a case the law says, so long as the man gets the service performed, neither the institution nor the Government is interested in seeing who is in possession of the property. I will give an instance. A person is bound to contribute Rs. 100 a year for the purpose of performing the Garuda Servai in Parthasarathi temple. The property endowed for this purpose is in the hands of A. A may sell it to B and B will say 'I take the burden of contributing Rs. 100 for the Garuda Servai.' Here, the institution does not suffer. The transaction goes on. Even if B transfers the property to C, C is bound to carry this burden. All that I want is that such transactions should be saved and the properties left undisturbed. Persons who receive such properties with the burden of performing the charity should be saved. There is no provision in the clause to meet such cases. You have not thought about a case where a gift is made and an inam granted not the institution as such, but to a particular person and that person is bound to do the *kaingkaryam* (கைங்கரியம்). In such cases, so long as the performance of the service in the temple either by contribution of money or otherwise continues, the mere transfer of the property by an individual should be recognized and saved. The old law as laid down in Indian Law Reports (Calcutta) is this. A property burdened like this is liable to be sold, exchanged or mortgaged and sold in court auction, but the purchaser would be bound to do the stipulated service. In regard to such cases the Government amendment makes no provision. The cases of properties not given to a temple, but to an individual but burdened with the performance of some sort of *kaingkaryam* must be distinguished and dealt with separately."

SRI T. VISWANATHAM :—"I second it."

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THE HON. SRI K. MADHAVA MENON :—"Sir, I take it that Mr. Bhashyam has moved his last amendment to sub-clause (1). I cannot accept it. It goes against the existing laws. We have merely copied section 44 (b) (1) here. This has so far worked without any difficulty. The amendment cannot be accepted."

SRI K. BHASHYAM :—"Sir, the existence of properties of the kind I have mentioned is a wellknown fact. If they are not treated separately, a large number of people will be hit by a provision of the kind Government have made."

The amendment was put and lost.

Clause 36 as amended was put and carried.

Clause 37.

MR. SPEAKER :—"The motion is—

'That clause 37 do stand part of the Bill.' "

SRI T. VISWANATHAM :—"Mr. Speaker, Sir, this again is one of those clauses which attracts the operation of the Constitution and I request you not to mind it if I bring in the Constitution again. This Constitution, like the *paramathma*, has spread itself into so many clauses."

MR. SPEAKER :—"It is omnipresent!"

SRI T. VISWANATHAM :—"Clause 37 says :

'Notwithstanding anything contained in any scheme settled or deemed to be settled under this Act or in any decree or order of a court, or any custom or usage to the contrary . . .

Sir, I ask you to mark the words 'notwithstanding anything'. That is, you wipe out everything that has happened up to 6 o'clock on 21st November 1950. (An hon. Member : From the date of the passing of the Act). The clause proceeds—

' . . . no office-holder or servant of a religious institution shall have the right to be in possession of the jewels or other valuables belonging to the religious institution except under such conditions and safeguards as the Commissioner may, by general or special order, direct.'

I submit, Sir, that this is to practically declare that all the properties belong to the Commissioner and not to the institution, and not to those who by the Constitution are entitled to be in charge and have the right to possess and manage and administer the institution. The court decrees are wiped out. It may be a court decree which might have been passed after a litigation about who is to be in possession of the jewels and where they are to be kept. Notwithstanding all these things, to-day the Bill seeks to give the right, not to the trustee, not to the religious denomination, but the whole thing is put entirely in the hands of the Commissioner who may pass special or general orders with regard to these things. The particular religious denomination is completely wiped out. If I do not have the right to hold my jewels in custody and somebody else has it, how can it be said that I am enjoying my property?

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If the trustee or the hereditary trustee who is otherwise entitled to the custody of these valuable jewels under a scheme framed by a court after proper investigation and after hearing all the parties interested, has not got the right to have the custody of the jewels and other valuables pertaining to the institution then I submit that the Constitution is given the go-by. This clause is entirely *ultra vires* and therefore in the interest of the preservation of the Bill, I want to be omitted. I move, Sir, the following amendment:—

‘Substitute the following for the existing clause 37:—

“Trustees, managers or other office-holders according to usage, directions of the founders or directions of a Civil Court issued either in a scheme or otherwise, and in other cases, other persons, who come into the possession or custody of jewels, valuable and other properties shall be responsible for their safe custody and maintenance, for the proper collection of income and the incurring of expenditure, and shall be liable to reimburse the institution for any loss or damage except when such loss or damage was due to reasons beyond their control.”

SRI K. R. KARANTH:—“I second it, Sir.”

SRI K. BHASHYAM:—“May I support it with a few illustrations, Sir.”

MR. SPEAKER:—“I have no objection.”

SRI K. BHASHYAM:—“I feel somewhat diffident, Sir. There is a feeling, there is an atmosphere created here that there is something wrong in our speaking here. This provision will specially hit the matadhipathis. Sir, matadhipathis are sometimes presented with some personal gifts. As I said before, the matadhipathi is the God in the math. Sometimes he is presented with a silver tumbler for drinking milk from or given some sort of a bangle or pathakkam for decorating himself.”

MR. SPEAKER:—“The clause only speaks of valuables belonging to the religious institution.”

SRI K. BHASHYAM:—“Sir, a religious institution includes a math also. We have been crying hoarse that the definition of religious institution should not include maths but it was not accepted. Therefore it is I am saying all this. The words ‘religious institution’ come in at every stage and wherever they come they will refer to maths as well. Suppose, Sir, a gold plate is presented to a matadhipathi, then it becomes a jewel or valuable belonging to the math. It must be kept not with him but in the safe deposit vault of the Imperial Bank. But if he wants to keep it, he must give a security for it. Or he must keep it under three locks, one lock by him, one by the Executive Officer and the third by the Commissioner. The matadhipathi can take it out only on application made to the Commissioner and he can

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take it out only on particular occasions like the ‘Karthigai’ coming on Friday next. All these difficulties will be there. I can understand it if it is said that these valuables may be kept in accordance with the custom and usage of the institution but there should be sufficient safeguards made for their safety. But the clause says, ‘notwithstanding the custom, notwithstanding the scheme, notwithstanding any decree of court and so on. The only thing that matters is the whim and fancy of the Commissioner who gives the directions. It all comes to nothing more than this, that the persons who are now in charge of these things are dishonest people and that the only persons who are honest, straight and pure and angelic in their character are the Government officers. Sir, that is an assumption which is too much to make. It is hardly fair and hardly charitable to say that. I am not saying that there are not persons who are bad but that does not mean that for the sake of the badness of a few people you must brand all good people as bad and take action against them. That is the real trouble. We have been reared on British traditions according to which even though thousand guilty persons escape punishment, we must be careful to see that one innocent person did not suffer. But what is happening now is, we start with the presumption that all are guilty men and make provisions saying that they should not do this thing or that thing. They are all put in straight jackets so that they may not move this way or that. Under these conditions if a person wants to be there let him be content with the restrictions made. If he does not want to be there let him get out of it. Then to-morrow a gentleman like Sri Kosalam will be a matadhipathi. That is not the way of looking at things. I feel it is a very very irksome thing and it ought not to be done.”

SRI R. V. SWAMINATHAN:—“Sir, I have listened to the speech of Sri K. Bhashyam describing a matadhipathi and saying that bangles and ornaments and jewels are presented to him. Sir, our conception of a matadhipathi is different. We want that the matadhipathi must be a sanyasin and he must be respected as a sanyasin. Our conception of a sanyasin is one who has no personal belongings—(முற்றுப் பற்றதவர்). That is why we have been insisting in connexion with many provisions in this Bill that the control should be tightened, that the Government should have more powers in regard to these worldly things. After hearing Sri K. Bhashyam and his description of a matadhipathi or a pandarasannadhi I am opposed to this particular amendment. I agree with the main provision in the Bill.”

SRI P. KANDASWAMI PILLAI:—“Sir, I strongly oppose this amendment. By this clause we make the matadhipathi a real matadhipathi with absolute detachment to worldly possessions. Matadhipathis should not have attachment to property. If a man has attachment to property and if he is a family man he ceases to be a matadhipathi, a spiritual teacher. A spiritual teacher must have no attachment of any kind. Now some

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matadhipathis are getting into wrong ways. Just to prevent them from doing that and direct them on the right spiritual path, we think this clause is very essential. At least in the interest of the matadhipathis themselves, I request my hon. Friends Sri Bhashyam and Viswanatham to withdraw the amendment. If matadhipathis give up all worldly pleasures, attachment to jewels, women, lands and everything, if they become sanyasins, they will be competent to guide us on the true spiritual path. But so long as they have feelings of attachment and desire for jewels, gold plate, silver plate, silver cup and so on they cannot elevate themselves and they cannot elevate other people. Therefore, Sir, in the interests of the matadhipathis and the maths and in the interests of our nation we must have this clause so that these matadhipathis may become real sanyasins and real ascetics. I request the hon. Member to withdraw the amendment and allow the original clause to stand as it is in the Bill."

SRI K. BHASHYAM:—"Sir, may I remove one misconception? The whole of the remarks of Sri Kandaswami Pillai seems to be based on the misconception that because in certain maths the matadhipathis are sanyasins, persons who do not marry, so all matadhipathis are sanyasins. There are any number of maths where grahasthas are heads of maths. They marry and they have children and the head-ship of the maths is hereditary. Therefore it is wrong to say that in all cases the matadhipathis are sanyasins. There are what you call Vellai Vettikara sanyasi. When such a person is given the property . . ."

MR. SPEAKER:—"Is it a personal explanation? It is very long."

SRI K. BHASHYAM:—"It is a misconception that I really want to remove, Sir, with regard to all matadhipathis being sanyasins. The hon. Member Sri Kandaswami Pillai wants to be an acharya of acharyas and he wants to teach them how to tread the spiritual path. I suggest, Sir, that Sri Kandaswami Pillai's speech must be printed and circulated to all matadhipathis."

SRI P. KANDASWAMI PILLAI:—"Yes, Sir." (Laughter.)

THE HON. SRI K. MADHAVA MENON:—"Sir, I want the House to understand what exactly the implication of the clause is. No matadhipathi is involved in this. Let us not confuse the issues. The clause says:

"Notwithstanding anything contained in any scheme settled or deemed to be settled . . . no office-holder or servant of a religious institution . . ."

A matadhipathi is not an office-holder or a servant of a religious institution. The clause is intended to cover executive officers, archakas, clerks and other servants of the temple. Various costly jewels are there in the temple. The only object of this clause is to see that the servants of these religious institutions are not put in possession of valuable jewels unless there are sufficient safeguards for their safety and security. The necessary orders and

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rules should be passed for that purposes. That is the only thing that is intended. My hon. Friend might say that it might be my intention but that is not the wording there. The wording can only mean that and nothing more. I would ask Sri Bhashyam to look at Sri Viswanatham's amendment.

"That amendment is worse than the disease. It reads:

"Trustees, managers or other office-holders according to usage, directions of the founders or directions of a civil Court issued either in a scheme or otherwise, and in other cases other persons, who come into the possession or custody of jewels, valuable and other properties shall be responsible for their safe custody . . ."

What is the use of saying that a servant of a temple who keeps valuable properties of the temple shall be responsible for their safety? There is no use of merely saying that he must be made responsible but necessary safeguards must be provided. Office bearers and servants of a temple in possession of valuable jewels must have possession of them only under proper safeguards."

MR. SPEAKER:—"Is Mr. Viswanatham withdrawing his amendment?"

SRI T. VISWANATHAM:—"Sir, it involves a very important principle. Apparently, I was not very clear. The Hon. Minister thinks there is no harm in saying how the office-bearers or servants should have custody of jewels, etc. If that is the simple object, I really cannot understand why he says 'notwithstanding anything contained in any scheme settled or deemed to be settled under this Act or in any decree or order of a court'. If the Hon. Minister can explain it, this House will be very glad. On the other hand, what I have stated in my amendment is: 'Trustees, managers or other office-holders according to usage, directions of the founders or directions of a Civil Court issued either in a scheme or otherwise, and in other cases other persons, who come into the possession or custody of jewels, valuable and other properties shall be responsible for their safe custody and maintenance . . . and shall be liable to reimburse the institution for any loss or damage'. So, I go further than the Government. I have made a provision to see that the cost should be recovered for the benefit of the institution. Again, my amendment is not restricted to office-holders; I am extending it to trustees, managers and anybody who is in possession of the jewels who by law or otherwise have come into possession of the jewels and I have made them accountable for any loss. The Commissioner shall not say the jewels should be kept here or there, but the Government may make general rules for the custody of jewels which may be applicable to all the institutions. The Commissioner or the Government cannot make one rule for one temple and another rule for a second temple; and subject to such rules, anybody whether an office-holder or trustee or manager shall manage and be liable in a court of law, both criminally and civilly—they can be prosecuted if they misappropriate—for any loss caused by them, and the institution shall have the right to have

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the loss reimbursed. I submit, Sir, this is a very good amendment; it is conceived in good spirit and therefore I request the Government may accept this, without seeing something wrong in it."

THE HON. SRI K. MADHAVA MENON :—" Sir, my hon. Friend said I did not understand the implications of his amendment. He is right; I find it really difficult to understand it. My hon. Friend says: 'other persons who come into possession or custody of jewels, valuable and other properties shall be responsible for their safe custody and maintenance, for the proper collection of income and the incurring of expenditure'—I agree with all that—and shall be liable to reimburse the institution for any loss or damage'. There is no use asking a man to reimburse the loss unless he has property. Suppose the person is a servant of the temple, how is the money to be collected? My friend after all wants the responsibility for the loss or damage and he says they shall not be in possession except under conditions and safeguards, and he also wants Commissioner to make necessary provision for the purpose. All that is already contained in the clause as it is, and there is no necessity for this amendment. I am sorry, Sir, I cannot accept the amendment."

MR. SPEAKER :—" I shall now put the amendment to the vote of the house."

The amendment was put and lost.

Clauses 37, 38 and 39 were then put and carried.

Clause 40.

MR. SPEAKER :—" The motion is—

'That clause 40 do stand part of the Bill.' "

SRI T. VISWANATHAM :—" Sir, in the printed list, there is an amendment which is printed under clause 39 but it really belongs to clause 40."

MR. SPEAKER :—" The Government have given notice of an amendment to omit the clause. If that amendment is accepted, none of the other amendments given notice of by the Members to the clause can be moved."

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—
'That clause 40 be omitted.' "

SRI V. M. RAMASWAMI MUDALIYAR :—" Sir, the reason for the omission of this clause should be given to the House. I see there is some principle involved there. The clause as it is, allows the appointment of a salaried executive officer 'notwithstanding that the institution has a hereditary trustee or trustees'. I want to know the reasons which prompted the Government to delete this clause."

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SRI R. V. SWAMINATHAN :—" The Members of the House and some of us who have been members of the Select Committee cannot understand why this clause should be deleted from the Bill now. The idea is that if there is a hereditary trustee and if we find something wrong is going on, and he is mismanaging, there should be some sort of check and we must have power to appoint an executive officer. We want to know why just now the Government want to delete this clause. Will the Hon. Minister kindly explain to us the reason? "

THE HON. SRI K. MADHAVA MENON :—" Sir, the reason is this: In drafting certain amendments to be moved on behalf of the Government, we had certain provisions of the Bill examined in detail. Moreover, we had also general discussions on the Bill after the Select Committee report was made available to us. Clause 40 says:

'For every religious institution included in the list, published under section 39, the Commissioner shall constitute a Board of Trustees and appoint a salaried Executive Officer, notwithstanding that the institution has a hereditary trustee or trustees or that the scheme settled or deemed to be settled for the institution under this Act contains provision to the contrary.'

On further examination, we had reason to doubt that clause 40, as it empowers the appointment of non-hereditary trustees in cases where there are hereditary trustees and also the appointment of salaried executive officers, may offend Article 26 (d) of the Constitution. In cases where there are hereditary trustees, to impose non-hereditary trustees, might offend that Article and so we wanted to be on the safe side, when there was a doubt. That is the reason for our omitting the clause now. So far as executive officers are concerned, there is already a provision empowering the appointment of executive officers in respect of temples and institutions, and so it is not necessary that this provision in clause 40 should remain. And that is the reason, Sir, for the omission of this clause."

The amendment that clause 40 be omitted was put and carried.

Clause 41.

MR. SPEAKER :—" The motion is—

'That clause 41 do stand part of the Bill.' "

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

'That for clause 41, the following clause be substituted:—

" 41. (1) Where a religious institution including in the list published under section 39 or over which no Area Committee has jurisdiction, has no hereditary trustee, the Commissioner shall constitute a Board of Trustees, consisting of not less than three and not more than five persons appointed by him.

(2) Where any such institution has, at the commencement of this Act, both a hereditary trustee or trustees

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and a non-hereditary trustee or trustees, the Commissioner shall have power to appoint the non-hereditary trustee or trustees as and when vacancies arise in their number.

(3) Every trustee appointed under sub-section (1) or sub-section (2) shall hold office for a term of five years, unless in the meanwhile the trustee is removed or dismissed or his resignation is accepted by the Commissioner or he otherwise ceases to be a trustee."

This is only consequential to our omitting clause 40. The reasons which prompted us to omit clause 40 have necessitated this change in clause 41 and power is taken to appoint a trustee only in cases where there is no hereditary trustee, or where there is a combination of both hereditary and non-hereditary trustees even now. This is only intended to bring the clause in consonance with the Articles of the Constitution."

MR. SPEAKER:—"Hon. Members, Mr. Viswanathan and Mr. Karanth have given notice of amendments to clause 41. But they cannot move them now; they can only move amendments to the Government amendment."

SRI K. BHASHYAM:—"Sir, I move the following amendment:—

"At the end of sub-clause (2), add the following proviso:—

"Provided however that a non-hereditary trustee who has been appointed to a religious institution having originally hereditary trustees only, after November 1942 by the Hindu Religious Endowments Board under the provisions of the Hindu Religious Endowments Act, such trustees shall not be treated as non-hereditary trustees for the purpose of this sub-section."

Sir, I am glad the Government have at least at this distance of time come to recognize the claims of the hereditary trustees. True, it is not on the grounds I have mentioned—that they are a useful set of people for the governance of the religious institutions,—but under threat of the provision being unconstitutional. In giving effect to it, however, what will happen is this: Up till now, in all cases where there were hereditary trustees, the Board has interfered; and just to see that the hereditary trustees were put out of action altogether, non-hereditary trustees, larger in number, have been appointed and yoked along with hereditary trustees. In certain cases, however, some hereditary trustees have been dismissed or a scheme has been framed for the institution, or some other arrangement has been made and other people have come in their place. By my amendment I suggest that a non-hereditary trustee who has been appointed in such cases, after November 1942 should not be treated as such. The reason why I put in that date is that at that time we had the Advisers' Government and some committee was appointed at the time which took a retrograde view in respect of these matters. What I submit is:

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if you want to give some consideration to the hereditary trustees, give it with a full heart. As I said, there has been a crusade against these hereditary trustees and they have been practically sent out or put out of action by the appointment of non-hereditary trustees. So, I move this amendment, so that hereditary trustees may be fully recognized and their help and guidance in the scheme of administration of our temples may continue to be taken."

THE HON. SRI K. MADHAVA MENON:—"Sir, I cannot accept the amendment for two reasons. I have already said that where there are hereditary trustees, no non-hereditary trustee can be appointed. It is only in cases where both of them exist, in the vacancies of non-hereditary trustees, others can be appointed. Mr. Bhashyam wants that:

"no person shall be appointed as a member of the Board of Trustees or as a salaried Executive Officer who does not belong to the category of persons entitled to hold

SRI K. BHASHYAM:—"Sir, I may point out that the Hon. Minister is reading some other amendment. My amendment reads as follows:—

"Provided however that a non-hereditary trustee who has been appointed to a religious institution having originally hereditary trustees only, after November 1942 . . . etc."

"That comes under clause 41, Sir."

THE HON. SRI K. MADHAVA MENON:—"I am sorry, Sir. I definitely oppose the amendment. Sir, I definitely oppose it, because Mr. Bhashyam's object is any trustee appointed after November 1942 shall not be treated as a non-hereditary trustee. This in effect would nullify the Government amendment. The Government amendment says, 'Where any such institution has, at the commencement of this Act, both a hereditary trustee or trustees and a non-hereditary trustee, or trustees, the Commissioner shall have power to appoint the non-hereditary trustee, etc., as and when vacancies arise . . . But, hon. Mr. Bhashyam says that ought not to be there. I cannot accept it certainly, Sir."

MR. SPEAKER:—"The question is—

"At the end of sub-clause (2), add the proviso—

"Provided however that a non-hereditary trustee, who has been appointed to a religious institution having originally hereditary trustees only, after November 1942 by the Hindu Religious Endowments Board under the provisions of the Hindu Religious Endowments Act, such trustees shall not be treated as non-hereditary trustees for the purposes of this sub-section."

The amendment was lost.

SRI K. SHANMUGAM:—"I move—

"Add the following to sub-clause (1):—

"Provided the Board of trustees so constituted shall consist of at least one member from the Harijan community."

[Sri K. Shanmugam] [21st November 1950]

“అధ్యక్ష మహాశయ ! అనేకవేల సంవత్సరాలనుండి దేవాలయాల చెంతకు కూడా రానివ్వకుండా హరిజనులను బహిష్కరించి యుండినందున హిందువులు వారు చేసిన అన్యాయానికి కత్తిరాప పడి—అందుకు పరిహారముగా నైనను ప్రతి Religious Institution లో ఒక్కొక్క హరిజనుని non-hereditary trustee గా నియమించి నట్లయిన కాంగ్రెస్ అధికారములోనికి వచ్చి సాంఘిక అనర్హతలను తొలగించి-దేవాలయ ప్రవేశం కలిగించి ఆస్పృశ్యతా నివారణకు తోడ్పడుటయేగాక దేవాలయముల మీద పెత్తనం కూడా యిచ్చిందని దేశములో భృతిగలుగుటయేగాక హరిజనులు ఇంకా ఎక్కువ ప్రోత్సాహకరింగా—భక్తియుతంగా సత్ప్రవర్తనతో జీవ యాత్రను గడుపుగోగలరని యీ సవరణను ప్రవేశ పెట్టుచున్నాను. గౌరవనీయులైన ముగ్గురు గారు తప్పక యీ తీర్మానమును ఆంగీకరిస్తారని విశ్వసిస్తున్నాను.”

SRI V. I. MUNISWAMI PILLAY :—“Sir, I second the amendment and in seconding it, I wish to point out that the Government have been very generous to Harijans in appointing members to the various Advisory Committees of very important temples and I wish them to continue the same spirit by accepting the amendment.”

SRI R. V. SWAMINATHAN :—“Sir, I entirely sympathise with the object of this amendment, but I wish to remove the impression of the hon. Member who moved the amendment that when trustees are appointed the claims of Harijans are being neglected. That is what Mr. Shanmugam said in speaking on the amendment, but I want to inform the House in this connexion of what happened in one case in my own district. In Kunnakudi there is a big Devasthanam where three trustees are appointed once in three years. According to the Act only the District Judge of Ramanathapuram has to select the trustees. People who want to become trustees will have to apply to the District Judge and after going through the merits and claims of all the applicants he will select the trustees. Last year, twelve persons submitted their applications for appointment as trustees and out of these twelve only one Harijan applicant came forward and of course, there were also Brahmins and some so-called high caste people. Though the judge was a Brahmin, he was wise enough to select the Harijan candidate though he was the only applicant and also two others from other communities. I want to bring this to the notice of the House that whether there is an Act or not, it is being done in practice.”

MR. SPEAKER :—“The hon. Mr. Muniswami Pillay is a trustee of the Madhurai temple.”

THE HON. SRI K. MADHAVA MENON :—“Sir, I entirely sympathise with the amendment moved by hon. Mr. Shanmugam. While speaking on the amendment he said that the claims of Harijans are not considered. You may remember, Sir, that both of us were shut out of a temple in Ialgudi in spite of the Temple Entry Act, because both of us were going there. I know it to our cost and to the extent the law will permit, we will certainly try to accommodate the feelings expressed by the hon. Member and others

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who supported the amendment. But, what the amendment says is, in every board of trustees constituted there shall be a Harijan. I may point out that the provision as passed by the Select Committee in respect of clause 46 is that in making appointments of trustees the Commissioner shall have due regard to the claims of persons belonging to the religious denominations for whose benefit the institution concerned is chiefly maintained. To this, the Government have proposed an amendment, namely, for clause 46, substitute the following clause :—

“46. Every trustee appointed by the Commissioner under section 41 or by the Area Committee under section 44 shall be a person having interest in the institution concerned.”

So, Sir, it will all depend upon the qualifications that are necessary for a trustee. The question whether he is of the religious denomination has to be looked into or he has the interests of the institution should be looked into. There are also other legal difficulties in the way if we pass this amendment. Moreover, it may be impossible of performance and the Constitution will come in. That is the difficulty in accepting the amendment, but I may inform the hon. Member that the point raised by him will be borne in mind by the Commissioner in making these appointments.”

The amendment was by leave withdrawn.

JANAB MAHIN SCHAMNAD :—“Sir, I move the amendment standing in my name, namely :—

(1) After sub-clause (2), insert the following as sub-clause (3) :—

“(3) No person shall be appointed as a member of the Board of Trustees who does not belong to the category of persons entitled to hold the trusteeship of the religious institution by virtue of ancient and long established religious custom or usage of the community or group of persons to which the religious institution belongs.”

(2) Sub-clause (3) proposed by the Government may be re-numbered as sub-clause (4).”

“Sir, in communal temples nobody who is not a member of the community can be a trustee. So, only members of that community by virtue of ancient and long established custom and usage can administer the temples. The amendment is also in accordance with the provisions contained in Article 26 of the Constitution of India.”

SRI L. N. GOPALASWAMI :—“I second the amendment, Sir.”

THE HON. SRI K. MADHAVA MENON :—“Sir, I oppose the amendment because, as I said, this applies only to non-hereditary trustees and any such condition like this will not be workable. Moreover, under section 46, we have provided for the conditions for the appointment of trustees.”

The amendment was put and lost.

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SRI V. M. RAMASWAMI MUDALIYAR:—"Sir, I regret very much that the Government are giving up their rights under the original sub-clause (2) of appointing or co-opting so to speak, non-hereditary trustees with hereditary trustees. I do not know why they have become panicky. The only reason advanced by the Government is that their legal advisers have said that it may offend some Article of the Constitution—probably Article 26. When a clause like that was found necessary by the Government and especially when it has been approved by the Select Committee, I should say that even at the risk of its being declared illegal subsequently, it should find a place. After all even if it is declared illegal, only that clause will become illegal and the other clauses will be there. Therefore, Sir, the Government agreed to it on principle in the original Bill and in the Bill as it emanated from the Select Committee. I therefore move my amendment, namely:—

'After sub-clause (2), insert the following as sub-clause (3):—

"(3) Where an institution had only a hereditary trustee or trustees, the Commissioner shall have power to appoint other non-hereditary trustees exceeding the number of hereditary trustees by one."

I want this clause to be put in because, Sir, it is proposed to be deleted from the Bill, having agreed to it originally and approved by the Select Committee. No reason has been advanced for omitting it, except that some doubts might be raised later on. After all, Sir, what will happen is, what happened to clause 14 of the Preventive Detention Act will happen here also. Only that clause will be declared illegal. On the other hand, what will happen if we agree to the deletion of this clause is, institutions with non-hereditary trustees will go without control because there will be no other person to be in charge of the management of that institution. There will be a lacuna so to speak. What will happen is, in the case of temples with hereditary trustees, the hereditary trustee will become the sole monarch. So, Sir, I think no case has been made out by the Government for dropping this provision.

"In fact, Sir, I can quote instances where hereditary trustees misbehave and are not amenable to reason and that is why non-hereditary trustees have been associated with hereditary trustees in some cases. I may refer to the judgment of a Judge of the Madras High Court on the original side about 15 days ago saying that the appointment of a non-hereditary trustee under section 51 of the present Act was not proper. Of course, that went on a different basis altogether, that is where the Board delegated their power to the Assistant Commissioner to appoint a non-hereditary trustee, and they said that such appointment was not proper. However, I do not want to canvass the validity or the propriety of that judgment and that is the subject-matter of appeal. As I said, Sir, if a hereditary trustee misbehaves we have no control at all. (Sri K. Bhashyam: 'He will be dismissed.') Yes, but only by the Court. So, Sir, I do not want any temple to be left in sole charge

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of a single hereditary trustee. In this connexion, I want to bring to the recollection of the House the opinion of such an eminent Hindu jurist like the late Sir Sadasiva Ayyar in 36 Madras (1400). He said that the institution of hereditary trustee is an anachronism. It is an anachronism such as the divine right of kings. Why should there be hereditary trustees for all time? That is the opinion of a very learned and eminent Hindu jurist like Sir Sadasiva Ayyar. I am sorry, Sir, why the Government have become panicky and want to go behind the original idea which they have supported and piloted through the Select Committee and now want to drop it at this stage."

SRI V. I. MUNISWAMI PILLAI:—"Sir, I rise to second the amendment of my hon. Friend, Mr. Ramaswami Mudaliyar. I do not find any reason why non-hereditary trustees should be left out and why the hereditary trustees should be given the first place. From the new clause proposed by the Government in sub-clause (2) it is very clear that they want to give the first place to the hereditary trustees and then only take non-hereditary trustees if there are places available for them. What I would suggest to the Government is in bringing these trustees into office, they should take into consideration the credentials of both the hereditary and non-hereditary trustees who apply for trusteeship. Only if they have good credentials, capacity and such other requisite qualifications they should appoint these trustees either hereditary or non-hereditary. I feel, Sir, that the reasons advanced by my hon. Friend, Mr. Ramaswami Mudaliyar, are very pertinent to this matter. I therefore support the amendment."

SRI K. BHASHYAM:—"Mr. Speaker, Sir, there is a slight misunderstanding as regards the provisions of the Bill with regard to hereditary trustees. Their rights have been recognized even under the old Act. As a matter of fact, any trustee can be removed or dismissed but in the case of a hereditary trustee if he commits any default, he is dismissed but his successor comes into office; that is what is being done even to-day. The position under the present Act is that where there is only a hereditary trustee and there is no non-hereditary trustee, the Government do not propose to interfere with him in any way. But it does not mean that for any default in respect of any matters, he is not likely to be removed. It is not as if there is no provision made for the purpose of getting rid of people even though they may be hereditary trustees. That is the case with regard to hereditary village officers and that is what is being done here. If a person is incapable or has committed any default, his successor will be put in his place and if his successor is a minor, there is a person appointed to perform the duties during the minority of the successor. It is something like that that is proposed and it is nothing new. I am very glad that the constitutional right of the hereditary trustees has been recognized and there need be no misapprehension that the hereditary trustees will be allowed to act as they please."

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THE HON. SRI K. MADHAVA MENON :—" Mr. Speaker, Sir, my personal feelings are almost the same as what my hon. Friend, Mr. Ramaswami Mudaliyar, said, namely that we must if possible associate non-hereditary trustees also with hereditary trustees in the management of religious institutions for after all it is a trust property in respect of which all Hindus have a right to see that they are properly maintained. But it was not due to panic or anything like that that it was given up. If we were definitely advised that it will offend the Constitution and when there is a definite advice to that effect, no Government is entitled to say that they know the law better. As remarked by Sri Ramaswami Mudaliyar it may be an anachronism and the judgment of Justice Sadasiva Ayyar in Madras 38 may be correct in the circumstances then existing and I doubt very much whether 38 Madras would have been the same if at that time they had a Constitution such as we have now under which religious denominations are given powers to manage their own affairs and though it was an anachronism and he felt like that he will have to apporve it. So, Sir, that is the position. Let the hon. Member be not under the impression that it was in a panic that it was done. By the little power that the Government can exercise by means of a provision suggested by my hon. Friend, I do not want to imperil the very Act by adopting a clause which we were definitely advised by the authorities that it will offend against the Constitution. So, the idea is that where there are hereditary trustees now, it must continue. So, I appeal to my hon. Friend, Sri Ramaswami Mudaliyar, not to press his motion."

SRI V. M. RAMASWAMI MUDALIYAR :—" I have no option but to withdraw the motion."

The motion was by leave withdrawn.

MR. SPEAKER :—" The question is—

'For clause 41, substitute the following :—

"(1) Where a religious institution included in the list published under section 39 or over which no Area Committee has jurisdiction, has no hereditary trustee, the Commissioner shall constitute a Board of Trustees consisting of not less than three and not more than five persons appointed by him.

(2) Where any such institution has, at the commencement of this Act, both a hereditary trustee or trustees and a non-hereditary trustee or trustees, the Commissioner shall have power to appoint the non-hereditary trustee or trustees as and when vacancies arise in their number.

(3) Every trustee appointed under sub-section (1) or sub-section (2) shall hold office for a term of five years, unless in the meanwhile the trustee is removed or dismissed or his resignation is accepted by the Commissioner or he otherwise ceases to be a trustee."

The motion was carried.

Clause 41 as amended was carried.

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Clause 42.

MR. SPEAKER :—" The motion is—

'That clause 42 do stand part of the Bill.' "

THE HON. SRI K. MADHAVA MENON :—" Mr. Speaker, Sir, I beg to move—

'For clause 42, substitute the following clause, namely :—

"(1) In the case of a religious institution for which a Board of Trustees is constituted under section 41, sub-section (1) the Board shall elect one of its number to be its Chairman.

(2) In the case of any other religious institution having more than one trustee, the trustees of such institution shall elect one of their number to be the Chairman.

(3) A Chairman elected under sub-section (1) of sub-section (2) shall hold office for such period as may be prescribed."

The amendment is necessitated by the omission of clause 40. For the reasons I have already stated, we cannot associate non-hereditary trustees with hereditary trustees and therefore, Sir, this amendment has become necessary."

SRI T. VISWANATHAM :—" Mr. Speaker, Sir, I beg to move—

'Delete sub-clause (3) of clause 42.'

According to sub-clause (3) of clause 41, every trustee shall hold office for a term of five years and their number has been stipulated in sub-clause (1). So, Sir, the Chairman must have the same period of life, that is as long as he is a member he must continue as such and the period should not be left to be prescribed by the Government because he is an elected Chairman. He will, however, stand on a different footing if he is nominated or appointed by the Government. I submit, Sir, that he must have the same life as that of a trustee or the trust board; if he begins with it he must end with it and if he comes in the middle he must end with its life and his life cannot be for any other period."

SRI K. BHASHYAM :—" Mr. Speaker, Sir, I beg to second the amendment."

THE HON. SRI K. MADHAVA MENON :—" Mr. Speaker, Sir, the Chairman is to hold office for such period as may be prescribed; it may be for the full term. We want to try the system of holding office by rotation. It can be prescribed by rules and it can also be cancelled by rules and therefore, no specific provision is made, the idea being that we want to enable the Chairman to hold office by rotation and see how it works."

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SRI T. VISWANATHAM :—" Mr. Speaker, Sir, I am not at all satisfied with the explanation that he wants to try the system of rotation; if he wants it, it must be made statutory and he cannot think in two ways about the same thing. By rules, we can do so many things and even change the shape of the earth."

MR. SPEAKER :—" The question is—

'Delete sub-clause (3) of clause 42.'"

The amendment was lost.

MR. SPEAKER :—" The question is—

'For clause 42, substitute the following, namely :—

"(1) In the case of a religious institution for which a Board of Trustees is constituted under Section 41, sub-section (1) the Board shall elect one of its number to be its Chairman.

(2) In the case of any other religious institution having more than one trustee, the trustees of such institution shall elect one of their number to be the Chairman.

(3) A Chairman elected under sub-section (1) of sub-section (2) shall hold office for such period as may be prescribed.'"

The motion was carried.

Clause 42 as amended was put and carried.

Clause 43.

MR. SPEAKER :—" The motion is—

'That clause 43 do stand part of the Bill.'"

THE HON. SRI K. MADHAVA MENON :—" Mr. Speaker, Sir, I beg to move—

'Omit clause 43.'

This is consequential on the omission of clause 40 which provided for the appointment of salaried executive officers. With section 40 this automatically goes."

MR. SPEAKER :—" The question is—

'Omit clause 43.'"

The motion was carried.

Clause 44.

MR. SPEAKER :—" The motion is—

'That clause 44 do stand part of the Bill.'"

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THE HON. SRI K. MADHAVA MENON :—" Mr. Speaker, Sir, I beg to move—

'For clause 44, substitute the following, namely :—

"(1) In the case of any religious institution over which an Area Committee has jurisdiction, the Area Committee shall have the same power to appoint trustees as is vested in the Commissioner in the case of a religious institution referred to in section 41 :

Provided that the Area Committee may, in the case of any institution which has no hereditary trustee, appoint a single trustee.

(2) The provisions of section 41, sub-section (3), and section 42 shall apply to the trustee or trustees appointed, or the Board of Trustees constituted, by the Area Committee as they apply in relation to the trustee or trustees appointed, or the Board of Trustees constituted, by the Commissioner.'"

This is necessary for the same reason as I have mentioned for the omission of clause 40."

The motion was put and carried.

SRI K. BHASHYAM :—" Mr. Speaker, Sir, I am able to understand the sense of it, Sir, but I have some little difficulty and that is this : Clause 41 says in respect of institutions included in the list or where the Area Committee has no jurisdiction and there is no hereditary trustee, the Commissioner can constitute the Trust Board consisting of not less than three persons and not more than five and their term of office has also been prescribed and when both hereditary and non-hereditary trustees are there at the commencement of this Act, he appoints the non-hereditary trustees. But here this clause says that the Area Committee shall have the same power as the Commissioner has in the case of a religious institution under clause 41, the powers there being in respect of constitution of the board of trustees. I am at a loss to see how the trustee will be appointed, as the power of appointing trustee is not there. I feel some difficulty in understanding the position, Sir."

THE HON. SRI K. MADHAVA MENON :—" Mr. Speaker, Sir, I do not think there is any difficulty as it is covered by the proviso :

'Provided that the Area Committee may in the case of any institution which has no hereditary trustee, appoint a single trustee.'

The proviso sets at rest the difficulty contemplated by my hon. Friend Sri Bhashyam."

Clause 44 as amended was put and carried.

[21st November 1949]

New clause 44-A.

THE HON. SRI K. MADHAVA MENON :—“ Mr. Speaker, Sir, I beg to move—

‘After clause 44, insert the following clause :—

“ 44-A. *The power to appoint trustees under section 41 or section 44 shall be exercisable notwithstanding that the scheme, if any, settled, or deemed under this Act to have been settled for the institution contains provision to the contrary.*”

Even now there is such a provision and it is considered desirable to make such a provision in the case of other institutions like this also.”

SRI K. BHASHYAM :—“ Mr. Speaker, Sir, this is of great constitutional importance and I am afraid it cannot be disposed of within a short time, as it will take much time. Therefore, we shall take it up to-morrow.”

MR. SPEAKER :—“ We shall take up further consideration of the clause and amendments to-morrow.”

THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS BILL, 1949 (L.A. BILL
No. 10 OF 1949) *cont.*

22nd November 1950]

SRI T. VISWANATHAM:—" Madam, there is a difference between merely opposing a motion and a proposition to delete something. To delete is a more positive act than merely to oppose it. An amendment to delete a clause has got greater significance. As a matter of practice, such amendments have all along been permitted."

DEPUTY SPEAKER:—" The motion is that a new clause be inserted. Unless the House accepts the motion, the hon. Member cannot say that it be omitted. He can only oppose the motion."

SRI K. R. KARANTH:—" Madam, all the clauses as framed by the Joint Select Committee are before the house. So, a motion to delete a particular clause will be in order. In this case there is no such original clause. A new clause is sought to be inserted by the Government. Therefore, the only possible thing seems to be to oppose the insertion of that clause, because it has not yet formed part of the Bill. A motion for deletion of that clause may not be appropriate."

SRI T. VISWANATHAM:—" If there is no original clause, my amendment comes in as an amendment to the Government amendment. Therefore, it is perfectly in order. The Government amendment is to insert a clause. My amendment is an amendment to that."

DEPUTY SPEAKER:—" He can oppose it."

SRI T. VISWANATHAM:—" The practice is this. If the Government want to move an amendment and my proposition is that it should be deleted, my amendment comes in as an amendment to the Government amendment. That has been the procedure here all along. I have gone through the trial of three or four long Bills and I submit that the practice which I am suggesting has been followed in this House. Therefore, I move this as an amendment to an amendment."

DEPUTY SPEAKER:—" I do not think it is a correct proposition at all. Where there is a clause or an amendment that is incorporated in the Bill, the hon. Member can say that it be deleted. But here the Hon. Minister wants to insert a new clause. It has not been considered. If it is once considered and incorporated in the Bill, then the hon. Member can say that it be omitted. Now, he can only oppose it."

(At this stage Mr. Speaker occupied the Chair.)

SRI T. VISWANATHAM:—" Mr. Speaker, Sir, we are now in a very interesting position. (Laughter.) The Hon. the Minister for Law has moved for the insertion of a new clause 44-A. I have an amendment that it be deleted. The Hon. Minister raises a point of order that I cannot move an amendment to delete a provision. (The Hon. Sri K. Madhava Menon: 'That is not what I said. You are misquoting me.') I cannot misquote a person right in his presence." (Laughter.)

THE MADRAS LEGISLATIVE ASSEMBLY

Wednesday, the 22nd November 1950.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVASHANMUGAM PILLAI) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
BILL, 1949 (L.A. BILL NO. 10 OF 1949)—cont.

DEPUTY SPEAKER:—" The Hon. Minister has moved for the insertion of a new clause 44-A in the Bill. Hon. Sri Viswanatham's amendment has to be moved."

THE HON. SRI K. MADHAVA MENON:—" Madam, I have moved for the insertion of a new clause 44-A. There is no clause to be omitted. Therefore, my hon. Friend can only oppose my motion. He cannot ask that the clause be omitted."

SRI T. VISWANATHAM:—" Madam, I can move to delete the clause."

DEPUTY SPEAKER:—" That is, the hon. Member is opposing the motion for the insertion of the new clause?"

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THE HON. SRI K. MADHAVA MENON:—"Sir, my objection was to his moving an amendment to a provision which is sought to be introduced. How can a provision which is not in the Bill be deleted? It is open to him to oppose the new clause and not make a motion to delete it when it is not there. I can understand him if he makes a verbal amendment to that effect. But certainly he cannot make a motion. Sir, I feel that he is making a motion only to get entitled to a right of reply." (Laughter.)

SRI T. VISWANATHAM:—"The Hon. Minister seems to know my mind much more than myself. (Laughter.) Sir, I submit that my amendment is to the Government amendment to insert a new clause 44-A. Let me proceed with the subject-matter of the Motion. The gravamen of the offence of this clause is this. It says—

'The power to appoint trustees under section 41 or 44 shall be exercisable notwithstanding that the scheme, if any, settled, or deemed under this Act to have been settled for the institution contains provision to the contrary.'

Sir, we have always been saying on the floor of this House that where there are schemes already settled, they should not be disturbed by this legislation. The schemes already settled would have created certain positions and my point is that such things must be kept intact. The words commencing with 'notwithstanding' should go if the clause is to stand. But they form the blood and bone of the clause and if they go the whole clause goes. I, therefore, say that the whole clause must be deleted and schemes already settled should not be disturbed by this kind of legislation."

SRI K. R. KARANTH:—"Sir, I am opposing the Government Motion. I have already said that it is enough to oppose it. We need not delete it. It being a new clause, I take this view and I have already expressed it. When I oppose this Motion, Sir, I am doing so on two grounds. In the first place, we were told by the Government yesterday that in respect of hereditary trustees and other persons they were respecting the existing rights of those people, that they did not interfere with them and that they were advised against doing so. But to day the position is just contrary to that, because in the case of settled schemes that have been finally decided by the Courts, by this new provision we are giving authority to the Commissioner or to the Area Committee to appoint trustees in contravention, if necessary, of the terms of the schemes so settled. The Government are doing just the thing which they spoke against yesterday.

"Secondly, Sir, my submission is this. There is a clause in the Bill in which provision exists for modifying existing schemes for valid reasons. Clause 63 provides for modification of existing schemes. I feel strongly that till such modification is made, this power of appointing trustees contrary to the provisions of the existing schemes should not be given. It is not good and the idea should not be supported."

[22nd November 1950]

SRI K. BHASHYAM:—"Mr. Speaker, Sir, we are now far removed from the position which we had taken when the Bill was first introduced in this House. We moved a little further from our original position when the Bill was before the Select Committee and are moving still further now when the Bill is before the House for our acceptance. The position has, therefore, changed from time to time. Now we are in a position where we have to give the Area Committee and the trustees large powers of management of the various institutions in their charge. Their rights we have come to recognize and we have shown our sympathy—lip sympathy I may call it in the present case—to the Constitution by allowing some members of the denominations to have some right to manage their own affairs. In such a case, suppose a scheme has already been framed by a Court or by the Board in its wisdom in a particular manner. Why should we appoint a trustee contrary to the terms of such a scheme when the Court has finalised it? The Court is certainly a better authority than the Board. You will find, Sir, that under clause 63 a Deputy Commissioner can also formulate new schemes which may include the removal of a trustee, hereditary and non-hereditary. In the case of religious institutions other than maths it is to be done by the Deputy Commissioner and in the case of maths by the Commissioner. Now we have taken all these pains for purposes of framing schemes. I do not think that we should really set aside for instance, schemes in which the Court, for some reason or other, has come to the conclusion that the appointment of trustees must be in the hands of the villagers or persons who make contributions to the temple funds. If such a provision has been made by the Court in the interests of the temple or the institutions concerned, why should we put in a new provision to supersede those directions? If such a provision is there, it is a very good provision. It is a salutary provision. If the Government want to modify schemes let them do so properly. Let them not attempt it in this indirect form. This new provision is hopelessly contrary to the assurances given by the Hon. the Law Minister and, therefore, it ought not to be there."

SRI V. RAGHAVAYYA:—"I am afraid Sir, that this clause is the most clumsily worded of all the clauses in the Bill. Sub-clause (1) to clause 44 says that the Area Committee shall have power to appoint either a single trustee or a Board of trustees. I am sure that it is not the idea of the Government to appoint single trustees. I can understand the Area Committees being given power to add one or two trustees to the number of hereditary trustees. If the idea of the Government is to do away with hereditary trustees once and for all by the appointment of single trustees, then it is not fair. When the appointment of single trustees is made it is better to respect the feelings of the people connected with the temples. Hereditary trustees should be allowed to continue wherever they exist. It is only when their continuance in office is felt to be not congenial to the better administration of the temples,

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the Area Committees should be empowered to select one or two trustees in addition to the hereditary trustees already existing and carry on the management of the institutions. In any case, they should not be totally uprooted and told that they will have no place in the new dispensation."

THE HON. SRI K. MADHAVA MENON:—"Sir, there is no question of the hereditary trustees being uprooted. We have already said in clauses 41 to 44 that hereditary trustees will become members of the Board and non-hereditary trustees will be appointed in addition to them to the Board and not by 'uprooting' them. The question of appointing single trustees arises only in cases where there is no hereditary trustee at all. Therefore, the question of ousting hereditary trustees does not at all arise here and this clause must stay.

"After listening to my hon. Friend, Sri Bhashyam, I feel that this is another case of his becoming wiser after the event. Sir, the new clause sought to be inserted under clause 44, viz., 44-A did find a place in the Bill as reported upon by the Joint Select Committee. Clause 44 in the original Bill says—

"In the case of any religious institution over which an Area Committee has jurisdiction, the following provisions shall apply notwithstanding that the institution has a hereditary trustee or trustees or that the scheme settled or deemed to be settled for the institution contains provision to the contrary."

Since this clause has been amended we have put the substance of it in a new clause and introduced it as clause 44-A. The language used in the original clause 44 and the new clause 44-A is identical. When clause 44 was discussed Sri Bhashyam did not move any amendment to it though my hon. Friend, Sri Viswanatham, moved for its deletion. Under the provisions of clauses 41 to 44, we cannot disturb the existing trustees. The new clause is intended to cover such cases as may require certain changes for the better notwithstanding the fact that they have been finalised either by the Court or the Board. Suppose the Court has said there should be one trustee for an institution. It will be open to the Commissioner to have a Board of Trustees instead of one. That is the intention of the Government in inserting this new clause and it is absolutely necessary."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir. . ."

THE HON. SRI K. MADHAVA MENON:—"He has not moved any amendment and, therefore, he has no right of reply."

SRI T. VISWANATHAM:—"I rise on a point of information, Sir. How are we to reconcile ourselves, placed as we are now, with the provisions of clause 63. Clause 63 empowers the Deputy Commissioner to settle a scheme and clause 67 provides for appeal to the Court against the orders of the Deputy Commissioner. What is the position of clause 44-A vis-a-vis clauses 63 and 67? Does the

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Hon. the Minister for Law want to set aside only existing schemes framed by the High Court some time ago or does he mean laying his hands on all schemes which are covered by clauses 63 and 67?"

THE HON. SRI K. MADHAVA MENON:—"Sir, clause 63 gives power to the Deputy Commissioner to frame schemes. Clause 44-A, on the other hand, relates to the powers of the Commissioner to appoint trustees under clauses 41 to 44. I have not come across any scheme framed by the High Court. There are schemes framed or settled by the Board, settled by Courts and drawn up by agreement between two parties. There are such settled schemes in which if any change is required for the betterment of the schemes themselves, the Commissioner can effect those changes. Clause 44-A empowers him to do so and that is all the position."

Clause 44-A was put and carried.

Clause 45.

MR. SPEAKER:—"The motion is—
'That clause 45 do stand part of the Bill.'"

THE HON. SRI K. MADHAVA MENON:—"Sir, I move—
'Omit this clause.'"

SRI T. VISWANATHAM:—"How can it be an amendment, Sir? Government want the deletion of the clause."

THE HON. SRI K. MADHAVA MENON:—"The position is that clause 45 is before the House and as much I move that the clause be deleted."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, in view of the Hon. Minister's statement I should also be allowed to move such amendments, Sir."

SRIMATHI C. AMMANNA RAJA:—"Does the hon. Member, Sri Viswanatham want that the Hon. Minister should oppose the original clause?"

THE HON. SRI K. MADHAVA MENON:—"Sir, in view of the fact that we have omitted clauses 40 and 43 there is no necessity for this clause."

The motion was put and carried.

Clause 46.

MR. SPEAKER:—"The motion is—
'That clause 46 do stand part of the Bill.'"

THE HON. SRI K. MADHAVA MENON:—"I don't propose to move the amendment, Sir. The existing clause may remain."

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SRI K. BHASHYAM:—" May I know, Sir, why the Government are not moving the amendment? They have given notice of an amendment."

MR. SPEAKER:—" It does not simply mean that because the Government have given notice of an amendment, they should move it. They have the power to move or not to move it."

SRI K. BHASHYAM:—" I agree, Sir, they have got all powers. But it takes one's breath away when in the first instance they say they want to move an amendment and then say that they don't propose to move it. It is mere waste of time to put something on paper and then say they do not want it any more. What happens is this. On the basis of the Government amendment we have given a number of amendments. Since Government are not moving their amendment what is to happen to our amendments? I would rather move for the adjournment of the House on the very basis of this matter . . ."

THE HON. SRI K. MADHAVA MENON:—" May I point out one thing, Sir? The Government amendment was given recently, some days back and on this additional amendments have been given by hon. Members. Perhaps all these will have to be dropped. But the other amendments, the amendments given to the original clause, remain and may be moved."

SRI T. VISWANATHAM:—" I want the Hon. Minister to explain the position, Sir."

THE HON. SRI K. MADHAVA MENON:—" The original clause reads thus—

"In making appointments of trustees under sections 41, 44, or 45, the Commissioner or the Area Committee, as the case may be, shall have due regard to the claims of persons belonging to the religious denomination for whose benefit the institution concerned is chiefly maintained."

"The amendment that we proposed was—

"Every trustee appointed by the Commissioner under section 41 or by the Area Committee under section 44 shall be a person having interest in the institution concerned."

The reason for not moving the amendment is that we have defined already what a person who has interest means. The person interested can include any persons, it need not necessarily be 'a person belonging to the denomination for whose benefit the institution concerned exists'. On subsequent consideration we thought that the amendment may not be as good as limiting it to persons of the denomination for whose good the institution concerned exists. That is why the original clause is being retained and the amendment is not moved.

"In view of the fact that we are not moving the amendment to this clause, an amendment may be necessary to the existing clause 46 as we have omitted clause 45. I will move an amendment later on."

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MR. SPEAKER:—" The hon. Member Sri Viswanatham may move his amendment for the deletion of the clause."

SRI T. VISWANATHAM:—" Sir, I move—
'Delete the clause.'

"Sir, all along our fight has been that the persons appointed to the posts of trustees should be persons who belong to the religious denomination for whose benefit the institution concerned is chiefly maintained. I understand now why the Hon. Minister is not moving his proposed amendment. 'A person having interest' may have a double meaning. A person having interest in the religious denomination may mean a person belonging to that religious denomination. But a person having interest has elsewhere been defined—I think in clause 6 (11). Trustees also will be deemed as persons having interest in the institution. If the idea of the Government is that the trustees appointed under clauses 41 and 44 are to be deemed as persons coming under clause 6 (11) then the definition is not quite appropriate. There is another point. The Hon. Minister says that the trustees shall not be of the same denomination but only have interest in the purposes for which the institution was founded. I submit, Sir, the original clause also though not very bad, still it is bad enough: 'due regard to the claims of persons belonging to the religious denomination for whose benefit the institution concerned is chiefly maintained', is the wording in the original clause. It is something. But on the other hand our contention has been that it is not merely due regard that should be given to persons belonging to the religious denomination but that the trustees must belong to the religious denomination for whose benefit the institution concerned is chiefly maintained. Else this due regard may become disregard in course of time. I submit therefore that the Clause should be altogether deleted to save further trouble."

SRI K. R. KARANTH:—" Sir, while Government cannot be compelled to move a particular amendment of which they have given notice, one can quite see why they don't do it. Certainly I understand it in a different way, because the clause as it stands says 'the Commissioner shall have due regard to the claims of persons belonging to the religious denomination'. That means that their claims should be considered; but in actually appointing the trustees, the Commissioner may or may not consider their claims. That opportunity is given here. That is how I understand it. Whereas under the new Clause which the Government had given notice of after taking legal advice they had no power to appoint anybody they liked and that the trustee must be a person having interest in the institution. I do not find any substantial difference between 'religious denomination' in the one or 'having interest' in the other. The thing is no outsiders, persons who have no interest in the institution, should come in. That is the essence. The real difference is, under the Clause as it now stands

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they can appoint anybody whom they like whereas according to the amendment of which they gave notice they are bound to appoint only such persons who have interest in the institution. It would have been much better if the Government had introduced the new Clause but since they don't do it, I see that this is the next best one."

SRI K. BHASHYAM:—"I have given notice of an amendment to the Government amendment, Sir. It says—

'Add at the end of the Clause, "and belonging to the denomination or sect for which the religious institution is intended".'

Sir, you must at least allow me to move that amendment."

MR. SPEAKER:—"It is an amendment to the Government amendment. Government have not moved their amendment and therefore I cannot allow it. Further how does it fit in with the original clause?"

SRI K. BHASHYAM:—"If the Government are not moving their amendment, at least please allow me by using your discretion, Sir, to move it as an amendment to the original clause 46."

THE HON. SRI K. MADHAVA MENON:—"He has not given notice of an amendment to the original clause, Sir."

SRI K. BHASHYAM:—"I have given enough notice, Sir, to everybody of what I have got in my mind. Is there any surprise in this matter to the Government or to any of the hon. Members here is all that you have to look into, Sir. Let me pass on my amendment to you."

MR. SPEAKER:—"Whether it would fit in with the original clause or not has to be examined. It will take time."

SRI K. BHASHYAM:—"If the Government go on changing their ground, we have also to change our mind bit by bit. I shall redraft the amendment and see that it fits in with the original clause. If my amendment is not accepted, I oppose the whole clause. If it is accepted, the point of our side is this . . ."

MR. SPEAKER:—"I am going to put the amendment of Sri Viswanatham to the vote of the House. The amendment is—

'Delete the clause.'

SRI N. S. VARADACHARI:—"Sir, Government are certainly entitled not to move any amendment of which they have given notice. But Government are not entitled to explain things in a different way from what it is actually intended. The difference between the two clauses the original one and the amendment proposed, is this. The Hon. Minister explained that really they were seeking smaller power, a very restricted power than that sought under the amendment of which they gave notice. The amendment of which they gave notice proceeds on the basis that 'Every trustee', please read from the beginning, let

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me understand the meaning of things and vote upon it—Every trustee appointed by the Commissioner—note the language, 'every trustee'—not even one out of ten can be a person other than those interested in the institution concerned. 'Person having interest in the institution' has already been defined and passed by the House. What was the original clause 46? Clause 46 says that 'In making appointments of trustees under sections 41, 44 or 45 the Commissioner or the Area Committee, as the case may be, shall have due regard to claims of persons belonging to the religious denomination for whose benefit the institution concerned is chiefly maintained.' 'Shall have due regard to the claims' that is all it says. They will consider the claims and give them priority if it is necessary or prefer them to other people whom they have in their minds to appoint. The idea is patronage under the original clause 46 would be much wider than exists under the amendment which the Government gave. In fact, the interpretation has been the other way about. Let every hon. Member understand the proper implication of the amendment and the withdrawal of the amendment. I do not object to the Government having clause 46 in the old fashion in which they desire it at present. But let me not be deluded into the belief that clause 46 is not wider than clause 46 as amended or rather was sought to be amended. Really speaking the old clause 46 gives much wider powers of patronage to the Government than they ought to exercise in this matter."

SRI M. S. PATTABHIRAMIAH:—"Mr. Speaker, Sir. The Government have taken us all by surprise by not moving the amendment they gave notice of. I intended to second the amendment to the Government amendment given notice of by my hon. Friend Sri M. R. Appa Rao. I understand that the Government have withdrawn their amendment and so my hon. Friend Sri M. R. Appa Rao may not be very much interested to move his amendment."

MR. SPEAKER:—"Hon. Sri Appa Rao has not given any amendment to Government amendment. He has given an amendment to the original clause. (Interruption.) Let me hear Sri Appa Rao. Does the hon. Members want to speak on the amendment moved by hon. Sri T. Viswanatham?"

SRI M. S. PATTABHIRAMIAH:—"Sir, I do not mind about his amendment. I want to speak on Sri Appa Rao's amendment if it will be taken up."

MR. SPEAKER:—"He has not given any amendment to Government amendment. He has given an amendment to the original clause 46."

SRI M. S. PATTABHIRAMIAH:—"Sir, I beg to point out one thing. At least the Government might have deleted the words 'or 45' occurring in this clause as we have already deleted clause 45. The clause 46 as it stands contains the words 'or 45'."

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MR. SPEAKER:—"The Government have given an amendment for that."

SRI M. S. PATTABHIRAMIAH:—"Sir, that is alright. I simply wanted to point out this."

"As far as it goes, Sir, the Commissioner would try to appoint a person having regard to the religious denominations for whom the religious institution was intended. If it was confined to a person who had interest in the religious denomination for whose benefit the institution was intended, it would have been better. If a person not belonging to that particular religious denomination is appointed, he may not have any interest in the institution itself. As the Hon. Minister, Sri K. Madhava Menon said, even Charvaka was considered to be a Rishi. There may be Charvakas and there are Charvakas in each religious denomination. Charvaka was never called a Rishi by our ancient people. He cared only for sexual enjoyment and he taught only sexual enjoyment instead of spiritual advancement. We have many such people in every religious denomination and generally among people professing faith in Hinduism. May be that these Charvakas are the followers of Rishi Charvaka and who nominally belonged to Hinduism. I am only afraid, Sir, that these Charvakas may be appointed as trustees. If the Government had chosen to put in religious denominational interests and if the Commissioner had been compelled to appoint only persons who have any religious denominational interest in the institution as trustees, it would have been good. If not, Sir, it will be only encouraging the people who have absolutely no religious inclination, to go into the institution and destroy it."

SRI K. VARADACHARI:—"Mr. Speaker, Sir, A difficulty arises in this. The words 'shall have due regard' in the original clause is suspected to mean also 'shall not have undue regard'. That is the difficulty that arises because it lends to that meaning and because it is left to the whims and fancies of an officer or an Area Committee in nominating a trustee. Therefore, why should the Government take upon themselves the responsibility of leaving this in such doubt and creating panic in the minds of the public as to what is being done in the creation of trusteeships for about 30,000 institutions in this State? Therefore, it is better that the Government change the language a little so that it may be binding. Their serious intention to modify this is revealed in the new clause that they have proposed. Consistent with that intention, the original clause may be amended by suitable words in a very short way by the Government themselves, instead of putting all people in a panic about this."

SRI V. RAGHAVAYYA:—"Mr. Speaker, Sir. I do not see absolutely any difficulty in appreciating clause 46. It does not give anything beyond what it means. When the legislature language says 'shall have due regard', I do not think it is proper

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on our part to read something else in it. It only means 'shall have due regard' and there is nothing for monkeying about the language."

"I think, Sir, that Statutes are for all time and not for a particular time only. They are not governed by some persons always. The letter of the law will be always interpreted in a very liberal fashion. The clause concedes the obligation to consider the claims of persons belonging to religious denomination. I do not see any reason why, if simply a Vaishnavite is appointed as a trustee for a Shiva temple, the people cannot get along in the same way as before. The people are getting attracted to Advaita philosophy. I have absolute regard for both Shaivites and Vaishnavites. I do not know that a Shaivite will be inimical to Vaishnavite and *vice versa*. We need not fear that people will fight simply because a man of other denomination is appointed as a trustee for the temple. So long as they are Hindus and they believe in the tenets of Hinduism, I do not think that heavens will fall on account of entrusting the trusteeship to persons other than those who belong to that particular religious denomination. I do not think, Sir, that they will be so narrow-minded."

SRI M. R. APPA RAO:—"Mr. Speaker, Sir. My original intention in moving an amendment is that persons occupying the trusteeships must be persons belonging to the religious denominational interests. As hon. Sri N. S. Varadachari has said, there is lot of difference between the amendment given notice of by the Government and the original clause. The original clause contains 'shall have due regard'. The amendment contains 'shall be a person having interest in the institution concerned'. If Government say that they do not move it, my amendment also is automatically dropped. Is that the ruling, Sir?"

MR. SPEAKER:—"Yes."

SRI M. R. APPA RAO:—"I suggest that the Government may make suitable amendment to clause 46 so that persons belonging to the particular religious denomination to which the temple belongs only may be selected. Of course, as my hon. Friend Sri V. Raghavayya said, other people may not have any hostile intentions to each other's denominational sections; but there may be persons having such narrow view and we must also provide for that. Let the Government say that the person need not necessarily belong to the particular religious denomination and yet he must have interest in the religious institution. But, how to find out that it is so is a difficult question. Let the Commissioner ascertain the information that that person is a Hindu—of course Hinduism has many sects and some sects are opposed to each other—and that at least he is interested in the religious institution and he is not opposed to other sects. Let the Commissioner see that no discord is brought by the appointment of trustees. With this view,

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I want the Government to see what amendments are necessary. This religious denominational interest is guaranteed by the Constitution. So, we must be careful about this aspect."

SRI L. N. GOPALASWAMI:—"Mr. Speaker, Sir, I only want to add a word by way of reply to my hon. Friend Sri V. Raghavayya. I appreciate the highly philosophical ideals propounded by him that a Vaishnavite may be appointed as a trustee for a Siva temple and a Shaivite for a Vaishnavite temple and there is no harm. But, I want to bring to his notice that the Constitution stands in the way because it gives that right to persons belonging to that particular religious denomination only. It has already been recognised and we want to give recognition that the right to manage the institution should really vest in a person who belongs to that particular religious denomination."

THE HON. SRI K. MADHAVA MENON:—"Sir, I cannot be compelled, as hon. Karanth said, to move the amendment. Let it not be under any doubt. Hon. Mr. K. Varadachari said that the Government may accept some other wording. If the wording of the amendment that I have given notice of will satisfy the Hon. Members, I have no objection. But, that is not the case. The amendment is that 'every trustee appointed by the Commissioner under section 41 or by the Area Committee under section 44 shall be a person having interest in the institution concerned. There are other amendments. It is idle to contend that, because I dropped the amendment, that amendment is right. Sir, many amendments have been given. I gave an amendment in the same way as any hon. Member gave an amendment. I do not move the amendment in the same way as any other Member may not move it."

"Sri T. Viswanatham's amendment is that clause 46 should be deleted. Sir, it cannot be deleted. What is exactly the connotation. It says in making appointments of trustees under sections 41, 44 or 45, the Commissioner or the Area Committee, as the case may be, shall have due regard to the claims of persons belonging to the religious denomination for whose benefit the institution concerned is chiefly maintained. It is necessary to have it like that. As Sri N. S. Varadachari said, it has a restricted meaning. But, I feel, Sir, that the words '... having interest in the institution' is much more wide and so the clause may stand."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir. Speaking on the language of clause 46, I said that they shall have due regard to claims of the persons, etc., etc. I submitted, Sir, and I still suggest that the words 'shall have due regard' in course of time will mean 'due disregard'. That is the real trouble, Sir. The Hon. Minister said, 'if you had accepted my amendment, everything would have been all right.' But he has withdrawn that amendment and there is no possibility of accepting it or modifying it. This is not in keeping with the demand we have been making

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that the trustees belonging to the same denomination should be there. 'Due regard' will degenerate into disregard. It should therefore be deleted."

The amendment was put and lost.

THE HON. SRI K. MADHAVA MENON:—"Sir, I move—
In line 2 of clause 46, for the figures and word "or 45,"
substitute the figures and word "41 or ..."

The amendment was put and carried.

JANAB MAHIN SCHAMNAD:—"I want to know whether I can move my amendment to the original clause or the amended clause?"

MR. SPEAKER:—"The Government amendment is not moved now. His amendment can therefore be only to the original clause."

JANAB MAHIN SCHAMNAD:—"I move—

After the words "the religious denomination", add the words "or community or group of persons"."

MR. SPEAKER:—"Nobody has seconded the motion."

SRI T. VISWANATHAM:—"I second it, Sir."

THE HON. SRI K. MADHAVA MENON:—"Sir, for various reasons this amendment is not acceptable to the Government."

The amendment was put and lost.

SRI K. BHASHYAM:—"Sir, I move—

That the following be added at the end of clause 46:—
"The persons so appointed shall belong to the denomination for whose benefit the institution is existing or is being maintained."

"The Government say that they will have due regard to the claims of the community. The claims of the community may be of many sorts. One such claim may be that they wish to elect a person. In many villages these trustees are elected by the community and they may ask this right to be recognized. This might satisfy the letter of the law, but the person so appointed may not belong to that particular denomination for whose benefit the institution exists and you may not get the co-operation of the community. If the person so selected does not belong to that particular denomination, difficulties will arise. In a village there may be two parties, the angalathamman party and one in opposition to it. On account of village feuds one party may say that the person chosen does not belong to this or that particular street and therefore should not be the trustee or ask for one more trustee for their group. To avoid these tangles I am suggesting that the person so appointed shall belong to the

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denomination for whose benefit the institution is existing or is being maintained. A trustee or an archaka may not belong to the community for whose benefit the institution exists and people's mind would be agitated. We cannot really ignore the feelings of the people altogether. Therefore it will be best if the Government take my advice and accept my amendment. This will promote harmonious working and stimulate local interest in the temple."

SRI T. VISWANATHAM:—"I second the amendment."

SRI V. M. RAMASWAMI MUDALIYAR:—"The point sought to be made out is very clear. The hon. Mover says that there is now elasticity in the provision: the Commissioner is now permitted to go outside the religious denomination and choose a man. My hon. Friend does not want this elasticity. But I ask, why should we, in the case of the Commissioner and the Area Committee, always be suspicious that they act without due regard to the intentions of the Legislature? They are bound to consider the claims of persons of that denomination. After all they are human beings and responsible authorities recognized by the Act. Why should we suspect them all and say that they will not consider the claims of persons belonging to that denomination and that they will wilfully disregard the opinion of the Legislature? My hon. Friend moved so many amendments in which he placed the matadhipathis and trustees on a pedestal of infallibility. He does not admit that they are fallible. At the same time he depicts the Commissioner and the Area Committee as irresponsible people who will disregard the directions of the Legislature. I do not think that that sort of suspicion is merited by these persons appointed under the law. The provision in this regard is quite clear and correctly conveys the directions of the Legislature. If still these people go wrong, the Government can pull them up. It is not proper to live in an air of suspicion all the time."

THE HON. SRI K. MADHAVA MENON:—"Sir, I have not much to add to what hon. Mr. Ramaswami Mudaliyar said just now. The existing provision is that in making the appointment of trustees under section 41 or 44, the Commissioner or the Area Committee, as the case may be, shall have due regard to the claims of persons belonging to the religious denomination for whose benefit the institution concerned is chiefly maintained. To this my hon. Friend Mr. Bhashyam wants to add: 'The persons so appointed shall belong to the denomination for whose benefit the institution is existing or is being maintained.' This is something very different from what the Government have in view. I cannot accept the amendment. The Government is always content with saying 'No'. That I can understand. But what I cannot understand is what fell from hon. Sri Ramaswami Mudaliyar. Let me tell him that the whole Bill is based on suspicion of trustees and of the authorities now managing the temples. The Bill in effect

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says that every trustee is a dishonest man; every matadhipathi is a rogue; and only persons in the world who have some honesty are the persons to be appointed by the Government. That is the spirit of the whole Bill. It is not I that raised the question of suspicion. It is not I that suspected that these persons will do something wrong. The whole Bill seems to be actuated by the spirit of suspicion. I could have understood it if hon. Mr. Ramaswami Mudaliyar had stated that everybody should be deemed to be honest till he is found to be dishonest. But what is happening now? Today everybody is held up as dishonest, the small man with the big man, if he has any public money in his hands. This suspicion was not created by me. It is the Government that created it. The Bill has created fear and apprehensions and the words uttered here are also responsible for it. We say we should have responsible people for discharging these functions and that now people walk away with public money. Small people interpret this in their own way and say all sorts of things against the trustees. Therefore let not my friend think that he is right. All that I ask is that, if it is possible, why not we do something to remove the suspicion from the suspicious minds. There is a suspicion that they may go outside the community for making the appointments of trustees. Why not remove that suspicion? I am glad that hon. Mr. Ramaswami Mudaliyar recognized the justice of my amendment."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, I would not have sought to speak a second time on this amendment, but for the remarks made by hon. Mr. Bhashyam. He made a statement that the entire Bill is based on suspicion."

SRI K. BHASHYAM:—"Absolutely."

THE HON. SRI K. MADHAVA MENON:—"The hon. Member misrepresented the Government as saying that every matadhipathi is a rogue and that only the trustees can be trusted. Let me assure hon. Mr. Bhashyam that that is not the case of the Government."

"Then, Sir, hon. Mr. Bhashyam was heard to say that there is apprehension in the minds of the people about this Bill. To that may I say that, as against that apprehension in the minds of some, there are lakhs of people who feel that the temples and trusts which belong to the entire community are not being properly administered and that there rogishness plays a large part in their administration. The whole principle of the Bill is that we should prevent such things and put an end to roguery. As prevention is better than cure, now that it is possible for us to prevent it, let us do so. This Bill is based on actual facts and nothing less."

The amendment of Mr. Bhashyam was put and lost.

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MR. SPEAKER:—" Clause 46 as amended is for the consideration of the House."

SRI N. S. VARADACHARI:—" Sir, I am very sorry that so much heat has been generated in a matter like this. The Hon. Minister and other hon. Members should learn to be restrained in their pronouncements in general and in a Bill of this kind in particular. The Bill does not proceed on distrust. I certainly agree that a certain amount of control is necessary and ought to be exercised over the public, sometimes over a section of the public and sometimes over even a very small section of the public like the Government's own servants. There is no objection to that kind of control. The Bill as originally conceived was one thing and the Bill as it has finally emerged from the Select Committee and after all the Government amendments have been passed, is quite another thing. Today the initiative is all to come from the trustees. Though appointments may be made by the Commissioner, the power will be exercised in the first instance by the trustees. There ought to be a feeling of hope in the country. There are many good men and true everywhere throughout the land who will come forward to take charge of these institutions and run them for the benefit of the millions who are not in this or that controversy or on this or that side and who are looking forward only to one thing, namely, the correct observance of the grand traditions of the country."

Clause 46 as amended was put and carried.

Clause 47 was put and carried.

Clause 48.

MR. SPEAKER:—" The motion is—

' That clause 48 do stand part of the Bill.' "

THE HON. SRI K. MADHAVA MENON:—" Sir, I move the following amendment:—

' Omit clause 48.'

" Since clause 40 which deals with the appointment of executive officers has been omitted there is no necessity for this clause dealing with the powers and duties of executive officers."

SRI T. VISWANATHAM:—" Sir, I congratulate the Government on moving this amendment."

The amendment was put and carried.

Clause 49.

MR. SPEAKER:—" The motion is—

' That clause 49 do stand part of the Bill.' "

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Sub-clause (1).

SRI T. VISWANATHAM:—" Sir, I move the following amendment:—

' For the words " The Deputy Commissioner in the case of any religious institution . . . other religious institution, substitute the words " The Commissioner ", and insert the following after " may " in the line 4:—

" apply to the Principal Court of Original Civil Jurisdiction to."

" Sir, this involves a principle of great importance for which we have been striving energetically for the last three or four days and which has been opposed by the Government equally energetically. This clause deals with the power to suspend, remove or dismiss trustees. The clause reads—

' 49 (1) The Deputy Commissioner in the case of any religious institution over which an Area Committee has jurisdiction, and the Commissioner in the case of any other religious institution may suspend, remove or dismiss any hereditary or non-hereditary trustee or trustees thereof . . . '

We will deal with the question of how far we can touch the hereditary trustees later on. The power to remove or dismiss the trustees should not be exercised by the Commissioner or the Deputy Commissioners on their own authority. The Deputy Commissioner should not come into the picture at all. The Commissioner should initiate the proceedings in all cases covered by sub-clauses (a) to (e). I do not say that the trustee should continue there if it is a case of persistent default or wilful disobedience of lawful orders or if there is misfeasance, malfeasance or misappropriation, if he is of unsound mind or if he has a mental or physical disability which unfits him for discharging his duties. But it is not the Deputy Commissioner or the Commissioner that should be the final authorities in the matter. The Government have been contending that they should be the authority and I have been contending all along that while the thing may start with the Commissioner, the decision must be left in the hands of the civil courts. It is for the Principal Court of Original Civil Jurisdiction to remove or dismiss a hereditary or non-hereditary trustee. Sir, I have been fighting for a principle and I hope that after some time the Government also will agree with me. I want them to agree with me even now and say that these matters are better decided by the courts. We have seen just now how heat has been generated on suspicion. Sir, we are suspecting some people and others are suspecting us here. All of us who live in this world live in glass houses and there is no use of throwing stones at others."

MR. SPEAKER:—" Let us come to this question." (Laughter.)

SRI T. VISWANATHAM:—" I want that the final decision in these matters should not be left to the officers appointed by the Government but to the Courts which are not actuated by any party

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colourings and not subject to any extraneous influences. They should be the persons who will give a final decision in these matters. The Commissioner can certainly initiate action in these matters, but he should get the sanction of the Principal Court of Original Civil Jurisdiction having jurisdiction over the area."

• SRI K. BHASHYAM:—"Sir, I second this amendment for more reasons than one. The first is this. The Commissioner and the Deputy Commissioners and the various hierarchy of officers are the very persons who will be complaining against the trustees for wilful default, misfeasance, malfeasance, misappropriation and so on. These are the very persons again who will decide whether the trustees are guilty or not. A man cannot be both prosecutor and judge in the same case. The Commissioner, let us suppose, issues an order. The trustee says that it is not a lawful order and that he is not going to obey it because it is not lawful. The Commissioner will say that the trustee is not obeying lawful orders, that he is wilfully defaulting and therefore he may dismiss him. That is how the thing will be judged. To have the person making the complaint as the person who is to decide it, is not justifiable from any moral point of view.

"Next, Sir, even from a practical point of view, let us look at the matter. The Hon. Minister in charge of the Bill has more than once admitted that it is very difficult to get respectable persons to come forward to take up trusteeships, because it is an onerous duty. If the person is a very religious man, he will say, 'I am afraid I might unconsciously appropriate some of the property of the temple and thereby I might go to hell.' There is another class of people who would like to have the power and prestige of being trustees but for the irksomeness of the job. They do not like to place themselves in a position where any man may put in a petition about something or other to the Commissioner or the Deputy Commissioner and the latter ask them to give their explanations about it. After all these gentlemen could only give a portion of their time for the duties of a trustee. It is not as though they have a regular office with clerks appointed to look into the tappals and reply to them and so on. I know in one instance there was a complaint that the trustee did not reply to the letters at once. That is the sort of thing that is asked for. We have been going on in some easy way. If there is mismanagement or taking away of funds fraudulently, I do not want you to be lenient. But if for mistakes of the kind I have mentioned a man is dismissed, whoever will come into the job at all? If every petty officer is going to ask the trustee to show his registers, show his accounts and ask him why the returns are not given properly and so on, it will be very difficult. Therefore if you want the right type of men for the posts of trustees, you must see that they are treated properly.

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"Then the third point is this. Suppose a person is dismissed from his trusteeship. If he happens to get into a witness box at any time thereafter invariably the question will be put to him, 'Where you not dismissed from your trusteeship of so and so?' If hon. Mr. V. M. Ramaswami Mudaliyar appears in the case on the opposite side, he is sure to put that question to him. Look at the obloquy that is involved when a man is dismissed in this way. Why should we condemn a man in this way? Will it be proper to do this? It will be a black-mark following him all through his life. Whenever he appears for selection for a public job, this will be trotted out against him. Therefore in a case like this which affects a man's character, where the obloquy will pursue him throughout his life, it is better that the matter is put before a proper court, a judicial enquiry is made, the party affected is given a chance to put forward his case and a decision obtained from the Court. The Commissioner should go to a court of law and he should not be the final authority in these matters. On all these three grounds, it is fairly conclusive that the Government should accept this amendment."

SRI R. V. SWAMINATHAN:—"Sir, I am afraid if this amendment is accepted it will be detrimental to the proper day-to-day administration of the Act. The hon. Member wants that the Commissioner should get the decision of the court in these matters. If there is a provision like that, the Commissioner can take no action even if a trustee swindles and misappropriates the funds. I have not known any cases where even for suspension of officers one has to go to courts. This is a new kind of provision that is being suggested not only in this Bill but in other Bills also. After all, Sir, who are these Commissioners and Deputy Commissioners? They will be officers of great experience selected from the highest ranks of the services and they can certainly be expected to use their sense of proportion. They would not, for any flimsy reason, suspend or dismiss a trustee or hereditary trustee. They will go into the whole question thoroughly before they take any such action. Only if there are any of the grounds mentioned in clauses (a) to (e) of sub-clause (1) will they dismiss or suspend a trustee. There is this thing also, Sir. The trustee affected has got the right of going to a court. Instead of asking the officer to go to a court and adopting a new procedure, the trustee affected may go to a court. Therefore, Sir, I strongly object to the amendment. Though Sri K. Bhashyam has seconded the amendment, he is a lawyer and he must know more than I what is possible and what is not possible and I am sure he will agree with me. It is absolutely impossible to ask the officers to go to a court before they take any such action. I oppose the amendment, Sir."

MR. SPEAKER:—"The House will now rise and reassemble at 2-30 p.m."

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(After lunch—2-30 p.m.)

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
BILL, 1949 (L.A. BILL NO. 10 OF 1949)—*cont.*

Clause 49—cont.

Sub-clause (1)—cont.

SRI V. RAGHAVAYYA:—"Sir, the powers conferred by clause 49 are a bit too wide. I do not think it is proper to confer on Deputy Commissioners such wide powers as summarily dismissing the trustees as if they were mere servants. I should like to suggest, on the other hand, that the Commissioner alone should be empowered to remove any trustee for any one of the causes enumerated in the clause. And he should do it only after an enquiry. As it is, the clause does not provide for any enquiry at all. It is only proper that after an enquiry is held, the order should be pronounced by the Commissioner and the aggrieved party may be asked to go to a court of law in appeal, if he thinks fit. That would be proper; otherwise, if the Commissioner is himself to be asked to refer the matter to a court of law first and then wait for the decision, it may take two or even three years; and that will be defeating the very objects of this legislation. The idea of this legislation is to bring these institutions more and more under the control of the Government rather than to leave everything to go to the law courts for a decision. If that idea is accepted, as has been done in the foregoing clauses, I do not think it is correct to go to the courts for a judgment before any action can be taken. At the same time, I feel that anybody less than the Commissioner should not be empowered to remove the trustees."

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"Again, Sir, there are certain sub-clauses here which are very indefinite. For instance, it says that a trustee can be removed for any infirmity. God knows what this infirmity is. When a man is deaf, is he disqualified? I think mere deafness should not be regarded as a disqualification or as making him unfit for attending to the duties of his office. A man may be deaf, and the only trouble is that he must be told everything very loudly; it may be a nuisance. But anyway, it is better these powers are not made as wide as they are here. Again in clause (c), you find 'neglect of duty'. For neglect of duty, a man can be removed from office. I think if that clause is to be applied to every one of us here sitting in the Assembly, we may be found grossly guilty of neglect of duties which have been prescribed not only by the Constitution of the country but even by modern canons. I think this 'neglect of duty' is too wide a disqualification and ought not to find a place in the list of disqualifications in the clause. I think the Minister himself will not be bold enough to assert that he is clean of this charge; occasions may arise when he will have to plead guilty to God, if not to men, of neglect of duty. And when a reasonable man is chosen, not by the Government or the Commissioner alone, but by the Area Committee and the public concerned, to remove him simply because he is guilty of various things of which I am sure everybody else is equally guilty, is not at all proper."

"Coming to the legal aspect, Sir, I believe an appeal must be provided for against the order of the Deputy Commissioner to a court of law. It may be that the appeal is limited to first appeal and it need not go further up. The Act may provide for the appointment of a Sub-Judge as the first court of appeal and the last court of appeal as well. Some such provision must be here to meet the ends of justice and to restore trustees to their places in cases where the Commissioner thinks they have been negligent in their duties."

"Finally, Sir, when disposing of charges against a man, the power of suspension must always be there; otherwise, the man with impunity can go on misappropriating and continue to ask the Government to go to a court of law, knowing full well that courts of law will take their own time. Even legislation takes its own time in this House; as a matter of fact, this Bill was taken up some three years ago and we are still in the middle of it. I think, Sir, this amendment must be accepted with profit by the Government."

SRI L. N. GOPALASWAMI:—"Mr. Speaker, Sir, I am only afraid that by this clause the Government want indirectly to take powers which are not really vested in them under the Constitution. In one of the speeches yesterday, the Hon. Minister said that however much he would be willing to take and would like to take the hereditary trustees under his control, the law prevented it and therefore he was not taking over such control."

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but here what we find is that even the hereditary trustees are not excluded from the operation of this clause 49. By saying even the smallest thing against such trustee, such as 'you have neglected your duty' and without going to a court of law or even before a Judicial Tribunal, the Deputy Commissioner has power to remove him. This is hardly fair. I ask, Sir, what is wrong if the matter is taken to a court of law? It is a court appointed by this self-same Government to see that justice is done to the people. It may be that in all cases the Commissioner cannot interfere, but why do you want to give the power to the Deputy Commissioner to remove the trustee for vague reasons such as 'neglect of duty' or 'even wilful disobedience of an order he himself may pass'? These are provisions which, I think, are intended to bring the hereditary trustees within the scope of the clause while really as a matter of fact the Government have no right to do so. I therefore support the amendment of hon. Mr. Viswanatham.

SRI K. VARADACHARI:—"Sir, all this trouble and all these fears engendered by the wording of this clause are caused by the omission to prescribe qualifications for the Commissioners or the Deputy Commissioners in the Bill itself. If only we had said that a Commissioner should be a District Judge or a Retired High Court Judge, these apprehensions will not be there and there will not be so much of heated debate here over questions like this. Unfortunately, the Government could not see their way to make such a provision and allay the suspicions of the public, the Members of this House and others. In their anxiety to make the clauses as sweet and short as possible, all matters relating to suspension, removal, dismissal, etc., have been clubbed together, without indicating anywhere for what offence they will be removed, for what offence suspension will be the punishment and for what offence dismissal alone will be the punishment. All these things are jumbled together and that is an additional reason for the apprehensions of some of the Members of the House. Even now, Sir, it is not too late for the Government to make adequate provision for allaying the apprehensions of the public. There should be and there is bound to be some time before we take up the third reading of the Bill; and Government can go into these matters in detail, reconsider the position, and it will never be too late for them to introduce such provisions as are necessary for allaying the reasonable suspicions of the public."

THE HON. SRI K. MADHAVA MENON:—"Sir, the amendment of hon. Mr. Viswanatham is to apply to the Principal Court of original civil jurisdiction before the Commissioner—and not the Deputy Commissioner—takes any action. I thought, Sir, after his amendment to insert a new clause 10-A defining the powers of Commissioners, Deputy Commissioners and others was lost, he would not be moving amendments when he wants that wherever the Commissioner has to take some action, he must

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move the court. In that new clause 10-A he wanted to define the functions of the Commissioner—that he should maintain registers, watch the working of the institutions, apply to civil courts for the framing of schemes, launch prosecutions wherever necessary, etc. After that amendment was not accepted by the House, I thought he would not be moving these amendments. After all, Sir, these are matters of day-to-day administration and discipline; and if in cases of misappropriation or misfeasance or persistent default or not acting according to the directions lawfully given, it is to be the business of the Commissioner to move the court, no administration will be possible. Regarding rules of conduct and discipline, it is not possible, nor is it usual to entrust them to a civil court. So, Sir, I cannot agree to the amendment.

"Then, Sir, in regard to another objection of hon. Mr. Viswanatham I should say that it is not possible for the Commissioner sitting at the headquarters in Madras and looking to matters relating to the whole State. So, Sir, the work has been divided and it cannot be centralised. Again in every matter of discipline we cannot have it done by the Commissioner sitting in Madras. That is why we say 'The Deputy Commissioner in the case of any religious institution over which an Area Committee has jurisdiction and the Commissioner in the case of any other religious institution.' These are the identical provisions in the existing Act. Apart from that, Sir, it is absolutely necessary.

"Hon. Mr. Gopalaswami always finds Constitutional difficulty everywhere. I have only to give him the same answer that I have given before to the question of Constitution. He said this is a ruse. I say it is not a ruse, it has been openly stated and I do not see where the ruse is. It has been definitely stated what the powers of the Commissioner and the Deputy Commissioner are in cases of default committed by the trustees.

"Then, Sir, hon. Mr. Varadachari said, if we had mentioned the qualifications of the Commissioner, then there would have been no objection at all or that much of the objection would not have been raised. Both hon. Mr. Viswanatham and those who supported his amendment do not want on principle that such powers should be given to the Commissioner, even though the Commissioner be a High Court Judge or a Supreme Court Judge but that it should be given to the court. That principle I do not agree, and the considerations mentioned in clause 49, should remain. So, I cannot accept the amendment."

SRI T. VISWANATHAM:—"Sir, I thought I would get some arguments to convince me that my amendment is wrong, but I have been disappointed. As the hon. Mr. Bhashyam has pointed out, an order passed by the Deputy Commissioner or the Commissioner in the cases indicated in this clause will leave a moral stain upon the person concerned. Let it not be forgotten,

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Sir, that there would be trustees appointed for nearly 30,000 institutions. If the Deputy Commissioner or the Commissioner is to be entrusted under this clause with such vast powers of not merely suspension to enable their routine administration to go on, but also of removal or dismissal of the trustees, I submit, Sir, that where offences like malfeasance, misfeasance, neglect of duty or breach of trust, are alleged, what happens is, that a person who is dismissed, although ultimately it may be possible for him to get some redress at the hands of the Government which is the final authority under sub-clause (5) of this clause, in most cases he cannot get redress from the Government, as the Government is bound in ninety-nine cases out of hundred to support the actions of its subordinates in those matters on administrative grounds. The Hon. Minister wants all the powers for the Commissioner and the Deputy Commissioner on administrative grounds. Let us not assume, Sir, that trustees come from the small categories of men, but any one of the hon. Members of this House may be in the position of a trustee and he will also come under the operation of this clause. Sir, we must therefore be very careful. Just to impress upon you the importance of this, I may tell you that one of the persons who held a very important political position in this State, happened also to be a trustee of some small temple and subsequently he became one of the most important political figures of this State also. But, owing to executive and administrative reasons, the Commissioner passed proceedings to dismiss him. I am referring to an event which happened about 12 or 13 years ago. Sir, I submit to you and to the members of this House that it took the personal intervention of two Ministers to see that order was not given effect to and that nothing happened to the gentleman. So, Sir, if the Ministers had not interfered, of course, they interfered on personal grounds—that moral stain on the person would have been there all these 13 years and he would not have become the most important person in this State. So, Sir, in matters like this, I submit, we are not dealing with some small bazaar men coming in as trustees for whose reputation we do not need to have any care. Small men will also become big men. Therefore, Sir, I submit that these Commissioners, particularly when there are no special legal difficulties, ought not to be entrusted with such wide and vast powers. I assume that possibly in the matter of suspension, the Commissioner may have some power. If that is so, I would say, insert the words referred to in my amendment not after the word 'may' but after the word 'suspend.' I have no objection to give the power of suspension to the Commissioner, but the rest of the matter should be left in the hands of the judicial tribunal.

"Then, Sir, the Deputy Commissioners can frame charges against the trustee concerned, collect evidence and appreciate the evidence in such cases and then the superior authority over these are the persons who are the appointing authorities of these ver-

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officers. At no stage is a right of appeal to the civil court is given. It is not an easy matter to know whether a particular act of a trustee amounts to breach of trust or not. So, why should it be left merely to the executive head of the Government or the executive head of the institution to give a decision on the point where there are legal subtleties which cannot be gone into by such officers whose mind may not be of a judicial nature but who merely want to get on with administration somehow or other. Therefore, Sir, it is necessary that the trustees of temples which number as many as 30,000, should have some sense of security. It is not a question of suspicion or anything like that. When we are enacting laws, we have to provide for all contingencies and the only proper method of doing it is to leave such decisions to a court of law. As Mr. Raghavayya has pointed out not even one appeal has been allowed to the civil court. Therefore, I submit, that my amendment is quite in order and I hope the Government will do well to consider it and accept it."

MR. SPEAKER:—"The question is—

'For the words "The Deputy Commissioner in the case of any religious institution . . . other religious institution", substitute the words "The Commissioner" and insert the following after "may" in the line 4:—

"apply to the Principal Court of original civil jurisdiction to."'

The amendment was lost.

SRI T. VISWANATHAM:—"Sir, I would like to move the last amendment that stands in my name, namely:—

'In sub-clause (1), add a new item, viz:—

"for leading an immoral life and bringing the institution into contempt."

"Sir, if at all the Commissioners should exercise any power I submit they should certainly exercise this power. Now that power has been given to them, let them exercise their power at least on moral grounds. When the trustee is found to be leading an immoral life and when his conduct is such as to bring the institution into contempt, the Commissioner must have the right to get rid of the trustee. After all we are dealing with religious institutions and not with ordinary administration. I am not referring to qualifications in the context of the appointment of Commissioner or Assistant Commissioner, but my amendment is that trustees should not lead an immoral life. Whether they lead an immoral life or not, it is another matter, but when they are found to be leading an immoral life, they should not be continued as trustees any longer, because it is necessary in the interest of general purity, general morality and the name and prestige of our country and the nation."

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SRI D. V. RAMASWAMI:—“Mr. Speaker, Sir, I wholeheartedly second the amendment. It is very necessary because in several cases the sort of conduct that is expected of a religious head has been found to be wanting. Even if there are four or five cases, of course, it is sufficient to prove the case. Therefore, such conduct on the part of these persons reduces the position of matadhipathis or of the ‘Mahants’ as they are called in the Ganjam district. These people are looked upon with much respect because they are entitled to that, being heads of maths. But, when the public come to know that they have fallen in the moral opinion of the people by keeping nautch girls or such other people, there is bound to be a reaction in public opinion. Therefore, I feel a disqualification like this should certainly be welcome and should be inserted in the clause, as suggested by my hon. Friend, Mr. Viswanatham.”

SRI M. R. APPA RAO:—“Sir, it is very difficult to put into practice the amendment proposed by my hon. Friend Mr. Viswanatham, particularly when you see that nowhere in the Bill there is any definition of a person who is moral or immoral. Unless it is defined in the Act as to what constitutes moral conduct, it is difficult to put it into practice. After all to some extent morality is subjective. So, I feel that this sort of vague expression will go against the stand taken by Sri T. Viswanatham, because he is against giving more powers to the Commissioner. Anybody can say that a person is immoral and on that ground the trustee may be dismissed. So, Sir, I submit this sort of nebulous power should not be given to the Commissioner.”

THE HON. SRI K. MADHAVA MENON:—“Sir, this is not the only clause where hon. Mr. Viswanatham has given notice of this amendment, but in many other sections also my hon. Friend has given this amendment relating to leading an immoral life and bringing the institution into contempt. I entirely agree with what all he said that a person who leads an immoral life or behaves in such a manner as to bring the institution into contempt is unfit to be a trustee. But, as hon. Mr. Appa Rao has said, the statement that a person is leading an immoral life as to bring the institution into contempt is very vague. I may point out that we have provided in another clause that a person convicted of certain offences cannot be appointed a trustee. Of course, I have no objection if my Friend says of a person convicted of moral turpitude and I can understand it is easy of being acted upon. But, simply to say that a person is leading an immoral life, it is difficult in such cases to lead evidence to prove such a thing. (Sri K. Bhashyam: ‘It is a valid thing also’.) It may be so, but it cannot be valid according to our sense of what should be the conditions in temples. My objection is that the amendment is vague. As I said it must be more tangible, as for instance, a

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person having been convicted of an offence involving moral turpitude, and there will be no difficulty in accepting an amendment like that, but we cannot accept such a vague statement as proposed by hon. Mr. Viswanatham.”

SRI T. VISWANATHAM:—“Sir, the Government claim the words ‘neglect of duty’ are very precise, I should say that ‘leading an immoral life’ is as at least precise as that.”

The amendment was put and lost.

Sub-clause (4).

SRI T. VISWANATHAM:—“Mr. Speaker, I beg to move—

‘Delete sub-clause (4) of clause 49.’

Power is given under this sub-clause to the Assistant Commissioner to move the Deputy Commissioner to take action in respect of a trustee and at the same time, he can place the trustee under suspension pending his orders. I submit that all persons should not have this power. We have already argued though we could not convince the Government that the powers are very wide and that they should be exercisable only by some important authority. Here an Assistant Commissioner can move the Deputy Commissioner to take action against a trustee and naturally when an Assistant Commissioner moves for such action, on administrative grounds for the smooth working of the administration, the Deputy Commissioner will be obliged to approve his action. My submission is that such powers should not be given to all officers. I move, Sir, that the sub-clause be omitted.”

SRI V. RAGHAVAYYA:—“Mr. Speaker, Sir, I beg to second the amendment.”

THE HON. SRI K. MADHAVA MENON:—“Mr. Speaker, Sir, let me draw the attention of the House to the fact that the hon. Member who seconded the motion advocated that power of suspension should be there. The hon. Member suggested that before the Deputy Commissioner takes action, the mischief should not be done. What is provided for here is that the Assistant Commissioner moves the Deputy Commissioner to take action against a trustee and places him under suspension pending orders of the Deputy Commissioner. This is very necessary and I am sorry I cannot accept the amendment.”

The amendment was put and lost.

Sub-clause (5).

SRI T. VISWANATHAM:—“Mr. Speaker, Sir, I beg to move—

‘Delete sub-clause (5).’

Here, Sir, the final authority is the Government. I would rather not have this clause at all so that he may be given a chance of seeking a remedy in a court of law when he is removed or

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dismissed. I would rather give him a chance to go to a court instead of going to the Government. In the other section they said, 'subject to the orders of Government, the Commissioner has got powers. . . . and now they have dropped the words 'subject to the control of the Government.' Therefore, it will be proper that the final appeal to the Government should be removed. My hon. Friend Sri Raghavayya suggested last time while discussing the previous clause that the right of appeal should be provided but the appellate authority should not be the Government. I commend the amendment for the acceptance of the House."

SRI V. RAGHAVAYYA:—" Mr. Speaker, Sir, I second the motion. In doing so, I would like the Hon. Minister to understand one salient factor in dealing with these things and that is that the Government officials have got a herd mentality. Whatever may be the offence committed by the person in the lowest rung of the ladder, from top to toe there is a tendency of people above him to overlook the fault and even the Hon. Ministers sometimes fall a prey to that mentality. If it is a Collector that has misbehaved and is punished for corruption, according to the Minister's view his name need not be exposed and for confidential reasons or in public interests, it must be kept confidential but if on the other hand, a peon misbehaves, his name is published in all the dailies. So, Sir, my view is that the mentality of the officials to support and to cling to each other in times of distress makes an appeal to the Government unsafe. After all, Sir, what is the Government; it may be anything between the Government down to the village karnam and the provision that an appeal should be provided to the Government does not in any way provide any additional safeguard to the trustees. I submit that it may be dropped and the only tribunal which shall have the right to enter into the question should be the court of law. People, rightly or wrongly, have come to believe that even a District Munsif can sometimes rise to the occasion and pull up the Government, however high it may be, because still the traditions left by the Britisher have not died down in spite of the various encroachments made upon courts and still the independence of the courts has been preserved. So, why should not we get relief from such courts and why should we submit ourselves to the paraphernalia of the Government machinery which works in its own way? I strongly support the amendment and I see no reason for the Hon. Minister to reject the amendment."

THE HON. SRI K. MADHAVA MENON:—" Mr. Speaker, Sir, the amendment proposes that sub-clause (5) shall be deleted. According to that clause, the right of appeal is provided for; if the order appealed against is the order of the Deputy Commissioner, the appeal is to the Commissioner and in the case of the Commissioner's orders, the appeal lies to the Government. If this clause is omitted, except that the appeal to the Government will be taken

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away, there is nothing to say that the right of suit has been given. There is no appeal to the Government but does that give a right of suit; if the right of suit is there, the retention of sub-clause (5) does not take away the right of suit. I submit, Sir, that it is not good to take away the appeal to the Government and so I oppose the amendment."

SRI T. VISWANATHAM:—" Mr. Speaker, Sir, I am not unaware of the position explained by the Hon. Minister and I want him to be aware of the position that appeal to the Government at the executive and administrative levels will cause great hardship to those affected. I submit that when the Commissioner or the Deputy Commissioner conducts an enquiry, frames charges, calls evidence and passes orders that must be enough cause of action for the particular person to go to court. I do not want that time should be wasted again by further appeals to the Government. After all, it is only an executive head and that is why I want that it must go to a court of law rather than to the Government. I am equally aware that a man can go to a court of law even if there is a provision by which he can appeal to the Government. I do not want that time should be wasted. When their trusted officers have come to a conclusion, I submit the matter should be left there and the parties should be left to go to the court instead of putting an intermediate obstacle."

THE HON. SRI K. MADHAVA MENON:—" Mr. Speaker, Sir, instead of wasting time, it will save considerable time and there will be speedier disposals and less costly disposals."

MR. SPEAKER:—" The question is—

'Delete sub-clause (5).'

The amendment was lost.

SRI N. S. VARADACHARI:—" Mr. Speaker, Sir, I would like the Government to state what they mean by the words 'neglect of duty in respect of the trust'. In fact, I wish the words had been omitted altogether. Offences such as default in the submission of the budget, wilful disobedience, malfeasance, misfeasance, breach of trust or misappropriation or the person becoming unsound of mind are things in respect of which I can understand the Deputy Commissioner or the Commissioner taking action but the words 'neglect of duty in respect of the trust' gives far too wide an import and what the Deputy Commissioner or the Commissioner may think as such in certain circumstances may not be construed to be neglect of duty in respect of the trust by worshippers. I should ask the Government for an explanation as to how this section would be put into force and would it be neglect of duty by the trust only if it would land the institution in breach of trust or malfeasance or misfeasance. Just now a member pointed out very wrongly, I believe, that most of us neglect our duty. The other day, I read a very interesting report of a Labour

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Member having been censured by the British Labour Party for neglect of duty. That was when he abstained from attending Parliament continuously for a period of three months and took a paying job as war correspondent in the Far East. I can understand such cases like that. Even there, it was difficult for the Government to say or for anybody to say that he has neglected his duty; the party may say this, however, but it is difficult for an officer as such to determine what is neglect of duty. I think, Sir, there is a strong case for the omission of the words. It would be enough if I should expect that the Bill will prevent mismanagement or maladministration of institutions and I would not be surprised if after the Bill is passed there are very many positive improvements in many of the endowments and positive improvements there might well be on the whole. So, Sir, I think there is a case for dropping these words 'neglect of duty' in respect of the trust especially as the power to be exercised is by an officer and not by any court of law."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, my hon. Friend Sri Varadachari wants the definition of the words 'neglect of duty'. It cannot be defined in any particular manner but I would refer him to sub-clause (2)—"

"When it is proposed to take action under sub-section (1) the Commissioner or the Deputy Commissioner, as the case may be, shall frame charges against the trustee concerned and give him an opportunity of meeting such charges, of testing the evidence adduced against him and of adducing evidence in his favour; and the order of suspension, removal or dismissal shall state the charges framed against the trustee, his explanation and the finding on each charge with the reasons therefor."

So, Sir, when a particular action is taken definite charges have to be framed and these charges will relate to neglect of duty and that is all that can be done and we cannot define the words 'neglect of duty'."

Clause 49 was put and carried.

Clause 50.

Sub-clause (1).

MR. SPEAKER:—"The motion is—"

"That clause 50 do stand part of the Bill."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I move—"

"In sub-clause (1) (a), after the word 'disqualification', insert the words—"

"or if he is proved to be leading an immoral life and bringing the institution into contempt."

In connexion with the appointment of trustees; I said that they should have certain moral qualifications. Now, Sir, after becoming a trustee, he might become immoral on account of the easy position which he is occupying. It is not a general or vague proposition. Where a man makes a definite allegation to the Deputy

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Commissioner or the Commissioner or the court and it is proved he should be disqualified. In the interests of public morality I want the Hon. Minister to accept this amendment without hesitation or even smiling."

SRI D. V. RAMASWAMI:—"Mr. Speaker, Sir, I rise to second the amendment. Whatever may be the case of a person who is in charge of a secular office where he has to give patronage to fine arts or Indian dances, it will very ill-befit a person holding the office of a trustee in a religious or charitable institution. Therefore, my hon. Friend Sri Viswanatham is very anxious that sufficient stress must be laid on the purity of the person who takes upon himself the onerous duty of being the religious head or a trustee of a religious institution. I feel that this amendment is quite reasonable and may be accepted by the Hon. Minister."

SRI K. BRAHMANANDAM REDDI:—"Mr. Speaker, Sir, sub-clause (a) says—"

"is sentenced by a criminal court to transportation or to imprisonment for a period of more than six months for any offence other than an offence not involving moral turpitude."

I want to know, Sir, if suppose a man is sentenced and convicted or rather convicted and sentenced to a period of five months in a case involving moral turpitude, what is the position of the Government? Do they want him to be disqualified or not?"

SRI V. RAGHAVAYYA:—"Certainly."

SRI K. BRAHMANANDAM REDDI:—"How, Sir? Look at the clause; it says—"

"to imprisonment for a period of more than six months for any offence other than an offence not involving moral turpitude."

Suppose the trustee is convicted and sentenced to a period of five months for an offence involving moral turpitude, do you want him to continue or not? Here there are two conditions; moral turpitude and six months' imprisonment. I want my friend Mr. Raghavayya to realize that. I want Government to put the clause to have a positive meaning instead of putting it in a negative way. I would like the clause to be—

"to imprisonment for any period for any offence involving moral turpitude."

That would be a better thing as it would make the meaning and intention of Government clear, instead of having a negative phraseology."

SRI N. S. VARADACHARI:—"Sir, there is a lot of difference between clauses 49 and 50. Clause 50 says that the person will cease to hold office if the sentence is for a period longer than six months. In fact I want Government to drop the words—

"provided that the Government may direct that such sentence shall not operate as a disqualification."

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I do not see any reason why Government should reserve power like that. I do not see why a non-hereditary trustee, who has gone to court and who has been found guilty and convicted and sentenced, should be exempted from disqualification simply because they have been appointed by Government. I think there is no case for a proviso like that. In clause 49, the trustee will be removed by somebody who takes the initiative. But in clause 50, the trustee will cease to hold office from the time the verdict is pronounced against him or he is adjudicated an insolvent. I think this proviso has no place in the clause. I fear it has been bodily copied from some other Act. It may have a place when the officer wishes to become a Member of Parliament, or when a man is detained without trial or when he is sentenced for a political offence, then that shall not constitute a disqualification. I think in the case of trustees this proviso has no place. A person when he is appointed as a trustee of a religious denomination, he is expected to be a good man and should have a clean record of character. So, I think there is a strong case for the deletion of the proviso."

SRI K. VARADACHARI:—"Sir, the use of the word 'moral turpitude' will be a difficult thing for any Commissioner or Deputy Commissioner to act upon. There are several things which may be considered to be an offence involving moral turpitude. There will be a difference of opinion with regard to this matter in every case. Suppose a man has been sentenced to imprisonment for a period of six months, or say, seven months for drunkenness under the Prohibition Act, would it be an offence involving moral turpitude?"

SRI V. RAGHAVAYYA:—"Yes."

SRI K. VARADACHARI:—"No. It cannot be so, because the Government itself is issuing permits in deserving cases. (Laughter.) So, it is a difficult thing to determine. I think any offence committed under the Indian Penal Code should be made a disqualification for a trustee to remain in office. Therefore the words 'moral turpitude' should be taken away, and the words 'more than six months' should be deleted."

"Then, Sir, with regard to Mr. Viswanatham's amendment I see absolutely no objection. If a man is proved to have been indulging in continuous concubinage, it should be within the power of the Commissioner to remove him from office. Important things are let off and small unnecessary things are sought to be introduced. So I suggest hon. Mr. Viswanatham's amendment may be accepted at least once."

THE HON. SRI K. MADHAVA MENON:—"Sir, my objection to hon. Mr. Viswanatham's amendment is the same as I said to the previous clause. Hon. Mr. Varadachari said that it is difficult to distinguish what is an offence involving moral turpitude and what is not. Sir, if it is difficult to distinguish what constitutes

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an offence involving moral turpitude and what is not, it is more difficult to prove 'what is leading immoral life and bringing the institution into contempt.' If such vague conditions are introduced, it will lead to all sorts of blackmail.

"But, Sir, there is some force in the argument of hon. Mr. Brahmanandam Reddi. I have examined the sub-clause; there is a double negative. Of course, hon. Mr. Varadachari said that it has been copied from another enactment. Yes, it has been copied from the previous Endowments Act. I agree, due to the use of double negative, the sub-clause can be interpreted to mean that if a person is sentenced to a period of imprisonment of five months that may not constitute a disqualification. But I cannot conceive of a conviction for less than six months, where really moral turpitude is involved. Apart from this, it is quite possible that a man may be given a sentence of imprisonment for a day or till the rising of the court for a rape case. It is possible; but, whether it is probable I cannot say. But when double negative is introduced, whether it will result in exempting convictions for less than six months, is a matter to be considered; and if there is difficulty felt on that score, I wish to be permitted to reopen the clause at a later stage of the Bill. But hon. Mr. Viswanatham's amendment cannot be accepted for the reason that it is vague."

MR. SPEAKER:—"I shall now put Mr. Viswanatham's amendment to the vote of the House. The question is—

'In sub-clause (1) (a), after the word "disqualification", insert the words "or if he is proved to be leading an immoral life and bringing the institute into contempt".'

The amendment was lost.

SRI L. N. GOPALASWAMI:—"Mr. Speaker, Sir, my amendment is a simple one. Much of the ground has been covered by Mr. N. S. Varadachari, when he spoke on the previous amendment. I move—

'In sub-clause (1) (a), delete the words "provided that the Government may direct that such sentence shall not operate as a disqualification".'

Sir, arguments were advanced and in fact it has been conceded by the Hon. Law Minister himself that if it is an offence involving moral turpitude and a sentence has been given even for a day's imprisonment, it should be brought under this clause as a disqualification, and the trustee should not be allowed to hold office. I do not see any reason why even in cases where a man is convicted of an offence involving moral turpitude, Government should have a right to exempt him from disqualification. Then, Sir, another argument I wish to adduce is that this Government is making a distinction between one set of trustee and another set of trustee. The offence that might be committed by a non-hereditary trustee, one is led to believe, is not so heinous as that committed by a

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hereditary trustee. A hereditary trustee even according to Government does occupy a different position or better position than that which a non-hereditary trustee occupies. Such being so, why should there be one set of rules for a non-hereditary trustee and another set for a hereditary trustee. Then, Sir, a matadhipathi under Chapter V is sought to be removed even if his is a case of simple conviction for any offence, be it a fine or be it imprisonment or of any kind. On such a conviction he is immediately removed from office. But if it is the case of a non-hereditary trustee, simply because he is appointed by Government, even if he is convicted of an offence involving moral turpitude even for a period of more than six months Government reserve the right to keep him in office. I cannot understand why there should be one rule for removing a hereditary trustee and another rule for a non-hereditary trustee."

SRI V. RAGHAVAYYA:—"Mr. Speaker, Sir, I say this is nothing but throwing open the flood gates of patronage. Sir, Government have already provided so many things for having men of their liking, and so there is no need for this proviso. A previous party which was in power for some years before, the Justice Party, had ruined itself on account of this power of patronage. I do not know why the Hon. Minister wants to ingratiate with a future Government by this proviso. So this Government should profit themselves by that lesson and not let themselves by this means to bring a lot of obloquy upon themselves by trying to help people to retain their place, who could not be allowed to hold positions of responsibility."

THE HON. SRI K. MADHAVA MENON:—"Sir, every amendment which Mr. Gopalaswami brings is so simple; because he says it is so! Sir, it may look simple; but it is not so if we understand the implications of it, and so it is not so simple for acceptance. Some of the members, I think it was Mr. Viswanatham, wanted that conviction for political offence should be exempted. But, there are cases where people are convicted for what are called vicarious liability."

SRI V. RAGHAVAYYA:—"Constructive liability."

THE HON. SRI K. MADHAVA MENON:—"In such cases, a particular person may be perfectly innocent, but on the ground of constructive liability or vicarious liability, in cases like that, where Government know that the person is absolutely innocent, but still he has been convicted for vicarious liability, should there not be a reserve power with Government to exempt him from disqualification? Then, Sir, reference was made to the Justice Party. It has no bearing to the present clause or to the present question. Sir, this is a power which any Government must have to do justice where an injustice is likely to be perpetrated. So this power is not intended to do patronage to anybody. Sir, I was surprised

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to hear Mr. Gopalaswami when he referred to the case of a matadhipathi being removed on the ground of simple conviction. Sir, is he to be considered no better than an ordinary man? He is a person who has to guide others in matters of religion, and if he is to be convicted of moral turpitude, even if it be for an hour, then certainly he should not be allowed to hold his office than an ordinary man or any other officer. He occupies a greater status, the status of the person of a moral preceptor, and so he should be very careful about his conduct. So, Sir, the comparison is not at all happy. I oppose the amendment."

SRI L. N. GOPALASWAMI:—"Sir, one fails to understand how there can be one set of morals for one kind of trustee and another set of morals for another kind of trustee, when there is no difference in the nature of institutions of which they are the head. The very fact that these institutions are not properly managed necessitates the passing of this Bill and the appointment of good persons as trustees. So I am unable to appreciate the attitude of Government in taking power to exempt trustees convicted for offences involving moral turpitude and sentenced to periods of more than six months. The second point I want to say is Government have not shown such leniency to hereditary trustees. Why should they show such leniency only to those appointed by Government themselves? The question of vicarious liability would arise equally well in the case of a hereditary trustee; for do they not also hold positions of responsibility, and hence would they not also be held responsible for the acts of their agents. Therefore if a code of morals is to be set up, it should be made applicable to both hereditary and non-hereditary trustees. For there can be no difference in morals or moral codes."

THE HON. SRI K. MADHAVA MENON:—"Sir, in the case of hereditary trustees, since they occupy the position of a spiritual head and a moral preceptor, the disqualification becomes greater when they are convicted for any offence, be it fine, be it imprisonment, or be it of any kind."

MR. SPEAKER:—"I shall now put the amendment of Mr. Gopalaswami to the vote of the House. The question is—

'In sub-clause (1) (a), delete the words "provided that the Government may direct that such sentence shall not operate as a disqualification".'

The amendment was lost.

SRI L. N. GOPALASWAMI:—"Mr. Speaker, Sir, I move—

'Add the following as sub-clause (1) (c):—

"if it is proved that he has no faith in the tenets of the Hindu religion."

When I moved a similar amendment with reference to Area Committee members, the Hon. Minister was good enough to say that one could not get into the hearts of persons and see whether they

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had faith in religion or not and that therefore the amendment could not be accepted. I only point out to him clause 57 (1) (c) which he himself has introduced in which it is provided that a suit for removing a matadhipati can be filed if he ceased to profess the Hindu religion or the tenets of the math. In the case of a matadhipati, the Government want to hedge his position with all sorts of conditions. In the case of a trustee, the Government say that he is above all morals and law. The code of morals applicable to a matadhipati is absolutely different from that applicable to a trustee. A trustee can continue to hold office even though he ceases to profess the Hindu religion, but a matadhipati, who is entitled to hold office for life and according to the constitution supreme cannot continue if he ceases to profess the Hindu religion. I want the Government to reconcile the reasons for the distinction made between these two."

SRI V. RAGHAVAYYA:—"I second the amendment."

THE HON. SRI K. MADHAVA MENON:—"My hon. Friend says that provision is made for the removal of a matadhipati if he ceased to profess the Hindu religion or the tenets of the math. There is difference between tenets of religion and tenets of math. Profession of Hindu religion is prescribed for the trustee also. I invite my hon. Friend's attention to clause 24, which we have already passed, in which it is provided that no person can be a trustee unless he professes the Hindu religion. When he moved an amendment to that clause to add faith in religion, I said that faith could not be measured. I referred to the Oxford Dictionary and the meaning of profession of faith given therein is affirming faith in religion. What my hon. Friend wants is not affirming faith but faith itself."

SRI L. N. GOPALASWAMI:—"I understand the difference between ceasing to profess faith and ceasing to have faith. If the negative of one can be proved, the negative of the other also can be proved. If it can be proved that one has ceased to profess the Hindu religion, it can equally be proved that he has ceased to have faith in the tenets of the Hindu religion. I therefore press my amendment."

MR. SPEAKER:—"The question is—

'Add the following as sub-clause (1) (c):—

"if it is proved that he has no faith in the tenets of the Hindu religion."

The amendment was lost.

Clause 50 was put and carried.

Clause 51.

MR. SPEAKER:—"The motion is—

'That clause 51 do stand part of the Bill.'

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THE HON. SRI K. MADHAVA MENON:—"Sir, I move—

'In sub-clause (3), omit the words "legally constituted" and the word "such" occurring before the word "guardian".'

We were advised that the words proposed to be omitted were superfluous. This is only a verbal amendment."

MR. SPEAKER:—"The question is—

'In sub-clause (3), omit the words "legally constituted" and the word "such" occurring before the word "guardian".'

The amendment was carried.

Clause 51 as amended was put and carried.

Clause 52.

MR. SPEAKER:—"The motion is—

'That clause 52 do stand part of the Bill.'

SRI V. RAGHAVAYYA:—"Sir, I move—

'In sub-clause (2) after the word "succession" and before the word "shall", insert the words "according to the law of primogeniture".'

I want that succession to the office of service-holders should be governed by the law of primogeniture, so that the office shall not be split up between various persons. In temples there are archakaship, devadasiship and several similar services. (Sri T. Viswanatham: 'I do not understand what devadasiship means.') This question arises out of a misunderstanding of the purpose of a devadasi. The duty of a devadasi is to perform dance before the deity in a temple. If the dance is called Bharata natya, all educated people attend the performance and praise it. If it is a dance performed by a devadasi, people begin to preach morals. Some of these services are essential. It looks as though subdivision of these services is hindering the satisfactory performance of the various duties. I suggest that the succession to these services should be governed by the law of primogeniture as, according to that law, the properties appurtenant to these services are kept intact without subdivision and the devolving of duties on one person enables their efficient and continuous performance."

SRI T. VISWANATHAM:—"I second it."

SRI K. BRAHMANANDAM REDDI:—"Sir, I do not know why hon. Sri V. Raghavayya wants the law of primogeniture to apply to these services. That law has become obsolete long long ago. Perhaps it finds a place in the Madras Hereditary Village Offices Act and the Zamindari Act. It is the Hindu Law, under which the next in the line of succession succeeds, that should apply to these services. Suppose I am a temple servant, my son succeeds me. If I have two sons, my first son will succeed. If he dies, the

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second son will succeed. If I have no son, my brother will succeed. Why should my son's son get any preference to my second and subsequent son? As I said, the law of primogeniture has become obsolete and I object to the amendment."

THE HON. SRI K. MADHAVA MENON:—"We have copied the language from the corresponding section in the existing Act and we have not found any difficulty in working it for such a long time. What the expression 'next in the line of succession' connotes is well understood. Suppose according to the present custom or usage, the law of primogeniture does not apply. Where is the necessity for introducing the high-sounding expression 'law of primogeniture'? The clause may stand as it is."

SRI K. VARADACHARI:—"I want to submit a point of law so that the Hon. Minister may think over it. The expression 'next in the line of succession' will introduce complications in existing rights. There are several mirasi or service-holders in several institutions. When an office-holder dies, his sons equally share the emoluments and the services. All of them are expected to perform the service. The expression 'next in line of succession' will unsettle rights which have accrued to, and which have been enjoyed for ages together by, mirasi service families. This point may be considered once again before the third reading stage is reached."

SRI V. RAGHAVAYYA:—"The difficulty of the service being split up among the various sons and every one of them being asked to perform the service was pointed out. We have had cases where there are three or four sons. They share the emoluments and service year-war. If one son does service this year, another son does it next year and likewise it goes. There is no hard and fast rule and in some cases difficulties arise. Where the property is small and is not so alluring as to attract the various sons of the previous incumbent, the service falls into disuse and ultimately it is the deity that suffers. I suggest that the law of primogeniture should be followed in this matter, as it keeps the property intact and makes it available to one person so that he can satisfactorily perform the duties."

THE HON. SRI K. MADHAVA MENON:—"Sir, my hon. Friend Sri V. Raghavayya forgets that the law of primogeniture is not applicable in the whole of this State. For the matter of that, in my district, the law of primogeniture does not apply at all. There are temple servants there with service tenure also. We are governed by the Marumakkattayam law and we do not know anything about the law of primogeniture in Malabar. Therefore the amendment of my hon. Friend Sri Raghavayya is not acceptable, Sir."

SRI T. VISWANATHAM:—"Is there no mention of primogeniture at all in the Marumakkattayam law?"

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THE HON. SRI K. MADHAVA MENON:—"No Sir."

The amendment was by leave of the House withdrawn.

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I move—

That in sub-clause (3) of clause 52—

"For the portion 'where the person entitled to succeed is a minor without a legally constituted guardian fit and willing to act as such, or' substitute the following:—

'Where the person entitled to succeed is a minor without a guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as guardian, or.'

"Sir, this is only a verbal amendment intended to improve the wording of the sub-clause as such. If a person who is entitled to become an office-holder happens to be a minor, he can be represented by his legal guardian, who can officiate for him. But if there is no legally constituted guardian, it may be that there is a dispute regarding the question of who should be his guardian and that is why we have added the words, 'or if there is a dispute respecting the person who is entitled to act as guardian'. Moreover, the term 'guardian' really implies a legally constituted guardian, and therefore the words 'legally constituted' are not necessary and therefore they have been left out in the amendment."

The amendment was put and carried.

SRI V. RAGHAVAYYA:—"Sir, I move—

'That in clause 52 (3), add the following as Explanation (2) numbering the existing Explanation as Explanation (1)—

"No proxy shall be entertained."

Sir, this system of proxy is very unpopular and is being banned everywhere. In many of these temples, even boys and sometimes girls of 6 and 7 years of age are pushed into service and certain elderly persons officiate in their place. Sometimes some women continue to hold office, even though they cannot on account of various disabilities perform those functions. Still they are permitted to hang on to their offices and somebody is brought in to officiate on particular occasions. During utsavams, this is a usual practice in many of the temples and somebody else is brought into service as a proxy to act for the original office-holder, who might have been disabled or incapacitated. This is a very unsatisfactory state of affairs and all this kind of thing is going on, because they are in the enjoyment of service inams. My submission therefore is that this system of proxy should not be entertained under any circumstances."

MR. SPEAKER:—"May I know whether any hon. Member wants to second this amendment?"

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"Since no hon. Member has come forward to second this amendment, and for want of a seconder, the amendment falls through clause 52 as amended was put and carried."

Clause 53.

MR. SPEAKER:—"The motion is—

'That clause 53 do stand part of the Bill.'"

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I move—

'That in sub-clause (1) of clause 53—

"After the words 'the trustee may' and before the words 'fine, suspend', insert the following:—

'After following the prescribed procedure, if any.'"

"Sir, the object is that the trustee may punish the office-holders only after following certain procedure prescribed for that purpose and not in an arbitrary manner and that is the proper and legitimate procedure followed in all other services for the punishment of subordinates by the officers concerned. That is why we have inserted the words 'after following the prescribed procedure, if any' in this clause."

SRI K. BHASHYAM:—"Sir, I cannot really understand the object of the words 'if any' in this amendment. Of course, I can understand that the trustees should follow some procedure before punishing any office-holder of a temple for any dereliction of duties or misconduct, etc. But I submit that the addition of the words 'if any' means that whatever is provided for earlier is taken away. If you want to prescribe a procedure to be followed by the trustee in the matter of punishment of his temple servants, then by all means do it, but on the other hand if you do not want to prescribe any such procedure, then keep the clause untouched as it is but do not make it look ridiculous by amending it in this manner, and by adding the words 'if any' at the end. To say that 'the trustee may punish an office-holder after following the prescribed procedure' if any looks rather ridiculous. It would be more in accordance with commonsense if the words 'if any' are omitted altogether. I therefore suggest that it is better that these words are omitted, Sir."

SRI N. S. VARADACHARI:—"Mr. Speaker, Sir, this clause is all important from my point of view. It gives power to the trustee to fine, suspend, remove or dismiss any of the office-holders in a temple, not merely for any breach of trust, but also for incapacity or disobedience of orders, or neglect of duties, or misconduct or other sufficient cause. Sir, I have known of some trustees who are responsible men using their powers in a most irresponsible and arbitrary way, sometimes suspending or sometimes fining heavily the servants of temples even for trivial lapses,

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themselves not knowing anything about the procedure of worship or the custom in vogue in regard to certain rituals, in the temples. Sir, I am speaking from personal knowledge that in the Tirupati Devasthanam, the Committee has taken upon itself the duty of looking into matters over the head of the Commissioner who had decided on a particular matter relating to the usage obtaining in the temple. One gentleman who was the trustee of the devasthanam thought it fit, though he had powers to control the temple servants only in regard to secular matters, to direct a particular temple servant to do worship in a particular manner, and fined him for not doing so, while he offered reward to some other servants who were his favourites. This, Sir, I submit, cannot be considered as a neglect of duty or disobedience of orders on the part of the temple servant or archaka, but it is a gross breach of trust on the part of the trustee who is put in charge of the temple administration, only so far as the secular part of it is concerned. I think, Sir, that this clause does not contemplate that trustees should enforce discipline or take action against temple servants even in matters connected the religious worship or the ritual side of temple affairs. Otherwise the trustees can construe any and every action of the archakas or temple servants unconnected with secular affairs of the temple as coming within the mischief of this provision and punish them saying that they had disobeyed their orders or neglected their duties, etc. I submit, Sir, that the term 'other sufficient cause' in this clause has been kept so delightfully vague that any trustee can do whatever he likes against the temple servants and punish them in any manner for any thing and everything that they might do, which goes against his wishes and fancies. I can understand a temple servant being fined or suspended or removed from service if a jewel is stolen from a temple. Or he may be handed over to the police for necessary action, or he may be dismissed forthwith. But, if a particular temple trustee insists that a particular form of worship or ritual which has been going on there for a very long time and which has been in accordance with certain usage and custom of that temple, should be changed to suit his fancies, then I think, it would be wrong on the part of the trustee to punish the archaka or the temple servant, if he fails to carry out his instruction. He should be given no powers or liberty to interfere with the service-holders or persons associated with the performance of service in matters connected with temple routine or religious forms of worship. I hope that the Government when they prescribe the procedure to be adopted under this clause will take care to see that the trustees do not interfere with the temple routine or the customs and usages in the temple. I want that this matter should be cleared up here and now, so that this provision cannot be used arbitrarily by any unscrupulous trustees. Sir, I have given notice of an amendment to a subsequent clause connected with this subject and I shall have occasion to deal with it more fully later on when we come to the end of this chapter."

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THE HON. SRI K. MADHAVA MENON:—"Sir, the object is, that if a procedure has already been prescribed, it must be observed. But if no procedure has been prescribed till now, the trustee need not adopt any procedure at all. That is all the intention of this amendment and I think it is clear enough.

"With regard to the observation of my hon. Friend Sri N. S. Varadachari, I quite agree with him that ordinarily this provision will apply only to matters of secular importance, but so far as religious matters are concerned, the trustee may consult with people who are in the know of those things. It is only a matter of commonsense that will apply to these things, and if there is any mistake or wrong committed by any trustee, there is the Area Committee above him, and if there is no Area Committee, there are the Deputy Commissioners and the Commissioner to whom an appeal can be made against the orders of the trustee for which there is necessary provision in this Bill. I do not think, Sir, these matters of detail in the temple administration can be settled now in this clause."

SRI V. RAGHAVAYYA:—"On a point of order, Mr. Speaker, this clause 53 makes provision for punishment and fine in the case of a breach of trust also. Breach of trust is an offence punishable under the Indian Penal Code. I do not think it would be in order, if the House gives power to the trustees to compound an offence of breach of trust simply by the imposition of a fine. This clause, I think, offends the Indian Penal Code and is out of order, if we include an offence of breach of trust also in it."

SRI K. BHASHYAM:—"I do not think, Sir, the point raised by my hon. Friend Sri V. Raghavayya is correct. If a servant of mine commits a breach of trust, I can directly dismiss him and can do anything with him which is legal, but that does not prevent a policeman from charging or arresting him for any breach of trust."

MR. SPEAKER:—"The amendment is—

"That in sub-clause (1) of clause 53 after the words 'the trustee may' and before the words 'fine, suspend', insert the following:—

"after following the prescribed procedure, if any." "

The amendment was carried.

Clause 53 as amended was put and carried.

Clause 54.

MR. SPEAKER:—"The motion is—

'That clause 54 do stand part of the Bill.'

THE HON. SRI K. MADHAVA MENON:—"I move, Sir—

'That clause 54 be omitted.'

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This clause relates to punishment by executive officers. Since we have omitted clause 40 relating to the appointment of executive officers, this need not be here and therefore this can be omitted."

The motion was put and carried.

Clause 55.

MR. SPEAKER:—"The motion is—

'That clause 55 do stand part of the Bill.'

SRI K. BHASHYAM:—"I move, Sir—

'That clause 55 be omitted.'

I think, Sir, this is a most mischievous portion of this Bill and it is going to introduce many complications and create discontent among the members of the temple staff. There are customs and usages obtaining in every temple or religious institution, as to what fees are to be charged for archanaïs or other temple offerings, and whether the full fees are to be taken by the office-holders of the temple or if not, what portion should be given to them and how they should be appropriated, etc. If in spite of such a custom or usage which has been in vogue for a very long time, the Commissioner is going to interfere in such things, I am sure it will lead to a lot of difficulties in the administration of these institutions. Sir, I do not want to use the word 'strike', because these servants in religious institutions cannot afford to go on strike and I do not suggest for one moment that they should resort to strikes. But what I want to say is that this provision is likely to create a lot of discontent among the archakas and other temple servants. Under this clause, the trustee is given power, notwithstanding anything contained in any scheme settled or deemed to be settled under this Act or any decree or usage to the contrary, subject to such conditions as the Commissioner may, by general or special order direct, to fix fees for the performance of archanaïs and to determine what portion, if any, of such fees shall be paid to the archakas or other office-holders or servants of the temple. I have known many cases where office-holders have gone to courts to claim their right of share on the offerings to the God. I know, that in the Parthasarathy temple in Triplicane, even to-day if a devotee goes and offers to perform a taligai to the God, he gives some measures of rice and other things necessary and when it is made up and offered to the deity, a portion of it goes to the adhyapakas, a portion to the vedaparayanikas and out of the rest a certain portion is set apart for distribution to the desandhris and people assembled as viniyogam and a little portion to be reserved for the ubhayakars, etc.

"These are settled by custom and usage. Cases have gone to the courts to establish whether the office-holders of the temple are entitled to 1/4th or 1/8th portion. So, it is an emolument attached to the office of the office-holder. If we really look at it

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from that point of view, it will be seen that it is part of the salary of the office-holders. Of course in the olden days the actual salary was very low. These perquisites they had as compensation for the low salary. Under this clause, the trustee can fix fees for *archanais* irrespective of the scheme settled already or any decree passed by a court to that effect. If a person offers *talika* in a temple to the deity, is it the intention that the whole offering should be taken away by that devotee who offered it? I do not think anybody will allow that. Of course there is the special sanctity attached to the offering to the deity, and a portion of the offering is much more priced than even Rs. 100 or more. This clause is a revolutionary innovation in the management of temples. The management of temples is not like Government departments. The persons who do the service in temples do not do it only for the love of money but because they feel that they will get God's grace if they serve Him *prasadam*. The trustee can interfere in all these small matters. I do not know whether the Government will ever leave things to be done according to custom or usage. By all means let Government prevent abuse of usage. I should like to put it that way rather than put it in a positive and perhaps offensive way. I know there have been instances where the *archakas* have demanded extraordinary fees from rich men. They have come to my notice. I am not really concerned with those cases. Where the fees for *archanai*, etc., have not been fixed, let the trustee fix. But in cases where they have been fixed by any scheme of the court, let him not interfere with them. Let him not interfere with the proportion in which the various office-holders must divide. After all what is the *archanai*, Sir? It means the whole setting in the temple. There is the lighting of the lamps. There is the service in the *Garba Graham* for making God ready for receiving the offering and so on. Let not Government imagine that they are hitting at the *archaka* only. By this clause, they are hitting at all the office-holders who do service in the *archanai* in one capacity or another. Therefore, this is a matter which will lead to great complications, and perhaps good lot of unrest among the members of the temple. I should like the Government to go slow in these matters. Let them first know what the abuses are. If they then think that this clause is necessary, let them have it. But as things stand to-day, making the Commissioner the sole monarch of all these things is not correct. This power given to a single individual is liable to abuse not only due to perversity but to ignorance also."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, in seconding the amendment, I would once more appeal to you to understand the implications of what the Government propose to do by employing language of this type from clause to clause. We are not raising our voice of protest for idle reasons. But we do so as we feel strongly in the matter. This clause says that the trustee may fix the fees notwithstanding anything contained in

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any scheme settled or any decree or usage to the contrary. There are immemorial customs. Manu has stated immemorial custom is transcendent law. When this is the position, the legislature shall not be a party to a Bill which wipes out all these things at one stroke. This is not a healthy method of passing legislation. It is not a good precedent either for the future. It is not a good example to be followed by our successors who will occupy these seats after adult franchise comes into full play. If we do not respect the schemes settled, not by any individuals, but by courts of law and by competent authorities including the Board itself, and if we do not respect the decrees of courts which were competent to pass them at the time they passed them, I ask, Sir, what sanctity and respect can we expect to our legislation from the future generation? We want peaceful progress of society. We want society to progress as smoothly as the various parts work in the mechanism of a big machinery. We cannot have violent jerks and jolt. This would not make for progress. Every time the legislature says that the decrees passed by competent courts or schemes framed by courts or by competent authorities can be wiped out by a clause like this, I submit we are doing violence to ourselves and to the art of legislation. We cannot allow this occasion to pass without entering our emphatic protest. I strongly support all that the Hon. Member Mr. Bhashyam stated. I suppose other speakers will participate in this discussion. I hope we will have a full discussion on this subject, because it involves a principle of very great magnitude, not only for the people now but for the future generations."

SRI P. KANDASWAMI PILLAI:—"Sir, I oppose the amendment. This clause really saves lot of trouble when there is difference of opinion between *archakas*. There is one head *archaka* generally. He appoints his assistants. One man performs *archanai* to-day, another man performs to-morrow, and a third does on the day after to-morrow. They are all partners, and they are continuing the profession. Their sons and grandsons also continue the same profession. When there arises a difference of opinion, claims and rival claims are put forward by these people, and they go to courts. The result is lawyers flourish. I do not mean to say that lawyers should not flourish. All I say is that they should not flourish upon unnecessary quarrels. The hon. Member Mr. Raghavayya is very angry because I stated that lawyers flourish on unnecessary quarrels. This clause clearly says that even when the fees have been already fixed, the trustee shall have power to fix the fees and also determine the portion of fees to be paid to the various office holders. The office holders need not go to court when this clause is here. The trustees will fully consider law and be guided by them. They will decide the matter easily. This is a very important clause, and, therefore, it must be here in the interests of the *archakas* and *pujaris* who do service in temples. My hon. friends with all sincerity want to safeguard the interests of the temple and its pristine purity.

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I am quite sure of their *bona fides*. But with all this, they have got some antiquarian ideas and peculiar notions. They want the ideas which held good perhaps 100 years before to continue for ever. There only I differ from them. It is not right to allow these poor *archakas* to go to the Court of law for everything. To save them from the trouble of going to the Court, and wasting money, this clause is put here. Otherwise the *archakas* and others will go up to the Supreme Court. It is only to avoid that the Commissioner is given power. When my hon. friends say that, if power is vested in the Commissioner and the trustee, custom and usage will go away. They presume that wrong persons will get in, and that they will violate every rule in the temple. That will not be the case. When the Government appoint a Commissioner, they will appoint only the best man. The persons appointed will have great interest in our religious institutions. Hon. Members need not presume that wrong persons will get in and spoil the temples. Therefore, Sir, I say that this clause is intended for the benefit of the *archakas* and temple servants. This clause is very essential and it must remain."

SRI N. S. VARADACHARI:—"Mr. Speaker, Sir, I have great doubts whether this clause is at all *intra vires*. That is a different matter altogether. I shall confine my remarks to the merits. In fact I had consultation with a very high authority, and I was told that a mere going to the Supreme Court will negate this clause altogether. I am not giving this information simply as a piece of information, but as one to be seriously pondered over by the Government. What is if this clause seeks to do? In the first place it seeks to give power to the trustee, of course subject to the directions of the Commissioner, to fix the fees for the performance of *archanais*. Obviously the framers of this Bill do not know anything else. They have little knowledge of the routine in temples, and they hardly know how the *archakas* get their emoluments. The custom in each temple is different. In some temples the *archaka* gets nothing out of the money paid for *archanais*. For instance Rs. 7 is the fee charged for *archanais* in Tirupati temple. But six annas is the fee charged in Tiruchanur temple. That is to say, the fee varies from place to place. The *archakas* of the Tirupati temple get no portion whatsoever of the fee for *archanai*. They were never entitled to any portion, but they are entitled to the proceeds from certain villages which were allowed to them in return for their service in the temple. We have now sought to take those villages away if they are whole villages. I cannot understand the policy of Government which first seek to deprive the *archaka* of all his source of living, then make him stick to the service, and then go further and say that the trustee shall have power to decide what portion of the fee the *archaka* can get. In Tirupati temple he is entitled to nothing. But in Tiruchanur temple he is entitled to all the proceeds of the *archanai*. They have no inam villages. Inam

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villages were given to those who rendered service in the temple, because, if cash was given, there was always the temptation for the temple servants to discontinue the service. They were given whole inam villages so that they might be tied down to the lands.

During the Kalyana Utsavam any pilgrim who goes to Tirumalai is entitled to a *dakshina* of a quarter of an anna. That quarter of an anna is considered a sacred thing. The pilgrim is supposed to take it to his home, put it in the safe and preserve it for it is considered that God's present even in the form of a *kowdi* is worth keeping and that the person would grow to prosperity. Thus these *archanas* have a significance of their own. They were settled by custom. Regarding the Tiruchanur case, my hon. Friend Sri Kandaswamy Pillai who knows very little about this obviously thinks that the *archakas* went to Court and fought their case out in the High Court of Madras. Sir, the history of this case is this. The *archakas* were tyrannised by the trustee who contrary to usage said that he would not give them a *kowdi* from out of the proceeds of the *archanas*. Then the case had to go to the court. From one court to another the *archakas* had to go selling even the little property they had earned by the service which they had performed. That is a most pitiable case. Whole families were driven to court by the tyrannical exercise of power by an unknowing person. This scope is given by what is being done here. The trustee may be a good man but he may be totally ignorant of the customs. He may have individual notions, very honestly held no doubt, but which may be harmful to the *archakas*. In the case I referred to the *archakas* fought their case out in the court after selling all their properties. The litigation was forced on them by the trustee. Ultimately it was decided by the High Court that they were entitled to all donations below Rs. 11 made by worshippers and that donations over Rs. 11 would exclusively belong to the temple. The rule is still in force, a very wise and salutary rule, and one which is derived from custom, and the people should not deviate from it. That rule gave the *archaka* his proper place. Now what do we seek to do to-day? We create a trustee. The Government can appoint anybody as the trustee. They have now wide powers and not restricted powers as before. Then the trustee may come with all his new notions and say that he will fix what portion the *archaka* shall receive. Perhaps it may be that the trustee never attended an *archana*. In fact, most of our trustees do not even care to remain there when an *archana* is performed. Hereafter it would not be the order of things. Just the reverse may obtain because the Government are going to choose from others and I hope they will get a better class of people who will follow the temple worship, understand it and really want to receive the blessings of hundreds of people. But this Clause 55 takes away the rights vested in the *archaka* by immemorial custom which was settled for reasons well thought out and argued by our ancient people. What will be the result after this clause is brought into effect? The whole order will be changed. I hope,

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however, that it would not be necessary for a trustee of a temple always to go against the custom and change the order of things. There may be a few trustees who may do it and they tried to do it in Tiruchanur. Therefore, I want the Government to take a serious view of the matter and to entrust the trustee only with such power as to enable him to regulate the affair in accordance with usage settled by Courts of Law or by custom. That is the object of my positive amendment. I cannot enlarge upon this any more. I hope the hon. Members would properly appreciate the importance of fixing the duties and responsibilities of temple servants and would desire that they should discharge their duties in an efficient and proper manner. I strongly oppose the language of the clause as it now stands."

SRI P. KANDASWAMI PILLAI:—"On a point of personal explanation, Sir, my hon. Friend Sri Varadachari says that I do not know much about these *archanas* and other things. I shall give only one instance. I may not know as much as Acharyapurushas know. But in Suguneswarar Temple in Salem there was one Gurukkal. Those people who did not know Agamas well, thought that if this man came in, their profession would go. So they all joined together and there was a tussle. They said that this man was not a proper selection and that puja had to be performed for five days in a week. The matter had to go to court. But a vakil who was there sent for them and made a compromise between them with the help of the Board also. There are several such instances. My hon. Friend Sri Varadachari may be very well acquainted with the Tiruchanur and Tirupati temples for he has been living there from his childhood. Similarly I know about my native place. There is nothing new in this. I am also a Hindu like him and I am as much a religious man as he is. We are not simply renouncing religion; we are not atheists. I submit I have got some knowledge about these religious matters and about these temple bodies also. In view of that, I am honestly convinced that this clause will help all these people."

SRI K. R. KARANTH:—"Sir, after the very lucid argument of my hon. Friend Sri Varadachari, I shall not add very much to it. So far as the last speaker hon. Sri Kandaswamy Pillai is concerned, he has shown how he knows more than all of us in these matters. Regarding his criticism of the lawyers I have found that some of those who are not lawyers are often jealous of the profession. Anyway I can assure him that if he were one he would be one of the most illustrious in the profession because even without passing the Law tests he can put things so nicely and so clearly. Sir, it is not as if this clause is concerned only with *archakas* in so far as what they are to get or in so far as what rights have been conferred on them under decrees or otherwise are concerned. I cannot do better than my hon. Friend Sri Varadachari who has put the case very clearly."

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"Another aspect which suggests to me is that by this clause the trustees are reduced to non-entities. It is there that my quarrel is. The fundamental rights say that the trustees of institutions shall manage the affairs in their own way whereas here even in a matter like fixing the rates for *archana*, we are told that the trustee of a temple shall have power, subject to such conditions as the Commissioner may by general or special order impose. Even in a small matter like fixing the scale of fees for *archanas*, are not the trustees to have their own rights or their own discretions? Even there are they to be dictated to by the Commissioner? If this is done, I may submit that this is an interference of the most undesirable type. Local people are the trustees. The fundamental rights permit them to manage the affairs as they like. But we see that even in these small matters, there is to be control. We have seen with regard to expenditure, framing of a budget and in the incurring of expenditure there is to be control. This clause defeats the very purpose of the fundamental rights and I can only say that the Government are ill-advised in including a provision of this type."

"Yesterday there was one matter about the presentation of a japamala by a swamiyar to his disciple. The Hon. Minister asked whether it was set with diamonds or with gold. I was not very sure about it. I said offhand that it might not be worth more than Rs. 10. I sent a telegram last night so that this House should be possessed of correct facts. I got a reply just now that the doctor who treated the swamiyar for a year for asthma was not paid anything and that the japamala presented to him was worth Rs. 136-8-0. This is only by way of an illustration of interference in such a case. Is he to be told, why have you not obtained the sanction of the Board? Here in this clause we are told that in fixing the scale of fees for *archanas*, the Commissioner is given power of control. This is outrageous, wrong and unjust and the Government by putting such clauses in this Bill will only help a declaration that much of it is *ultra vires*."

SRI K. VARADACHARI:—"Sir, on going through the wording of this clause, I feel I am compelled to request the Government in all humility to delete this clause altogether. After the several clauses dealing with the powers conferred upon the Commissioner and the Deputy Commissioner, we now come to the stage of arming the trustees themselves with powers which they have never possessed. Under this clause, it is the trustees that are given the power to fix the fees for *archanas* and all those things, of course subject to the Commissioner's directions. But the main power is given to the trustee. I submit that at no time the trustee had such power in any institution. The trustee is guided only by the ancient usage of the temple and this *archana* service in temples is part of the dittam itself and nobody has got any power to change these dittams in any manner. There are temples in which *archanas* are part of the regular service and part of the regular ritual. That

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archana is done without any separate fee. The emoluments attaching to the office are in general applicable to this also as this service is part of the regular service. Where an *archaka* performs a service by way of an *archana*, he is not bound to do it for every pilgrim that demands it. The Hon. Minister may know this. In no temple is the *archaka* bound to do it unless there is already an usage to that effect. He may not do it unless the pilgrim pays the required fee, for it is outside the regular duties. For the sake of the satisfaction of the pilgrim or of the devotee, in many temples an usage has grown up that the *archaka* ordinarily performs it but charges a fee which he likes. Courts have regulated these things. In several disputes relating to *archana* in which I had the honour to appear in Courts also, this experience has been noticed, namely, that the *archaka* is not bound to perform the *archana* service to every pilgrim that asks for it but if he does, he must do it only according to ancient usage by receiving a prescribed fee which cannot be altered or enhanced. But this clause not only gives the trustee the power to fix the fee but also says that he can reduce or enhance it. When it is said that he can fix, he may reduce the existing fee or enhance it. Both these powers are given to him. There are many temples in which emoluments to the *archakas* are very little and one source of income for him who is toiling from early morning till late at night is *archana*.

"Are the Government going to disturb those usages and starve the temples and put an end to all the services rendered to the pilgrims by giving such powers to the trustees? I never thought that the Government would go so far as to destroy the usages and customs of the temples—the Mirasi rights of the *archakas* including. I think such interference will be ruled *ultra vires* of the Constitution. I submit, Sir, that this clause may be omitted."

SRI R. V. SWAMINATHAN:—"Mr. Speaker, Sir, the point raised by my hon. Friend, Sri Bhashyam was whether fees should be fixed or not."

SRI K. BHASHYAM:—"Let me clear myself, Sir. Fees are already there and I do not want them to be altered by the Commissioner. This is all what I said."

SRI R. V. SWAMINATHAN:—"I know, Sir, they are fixed. Even in big temples like the Mathurai Meenakshi temple they have fixed fees for the various *archanas*—ordinary *archanas*, laksh-*archanas*, and sahasranamarchanas. They have printed tickets for the purpose. But my point is this. To-day the cost of living has gone up beyond expectations and the common man is not in a position to afford decent clothing, not to speak of food and other equally important requirements of his. Why not we allow this man facilities to worship God at least? I know in most of the temples, to worship God has become a costly affair. Ordinary men cannot go to such temples and perform *archanas*. It is not an easy job for a poor Hindu. According to my hon. Friend, Sri

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N. S. Varadachari, one has to pay six rupees for worshipping at the Tirupati temple. Is it possible for a poor man to go to Tirupathi and pay six rupees there? Sir, this is certainly beyond the means of the poor worshippers and this principle is definitely wrong. Even God, if He can speak, would not tell the *archakas* to charge such high fees. Then, Sri Varadachari referred to certain temples where they charge six annas. I think that a low fee is charged in temples where the *archakas* enjoy inam lands and high fee is resorted to where there are no such inams. If that is so, where is the harm in the Commissioner fixing the scales of fee with reference to the practices obtaining in the particular temple? Sri K. Varadachari threatened the Government that unless this clause was omitted, the matter would go before the Supreme Court where it would be declared *ultra vires*. Sir, every important piece of legislation that comes up before the House is said to be repugnant to the provisions of the Constitution or to go against the Fundamental Rights enunciated therein. I appeal to the Hon. the Minister for Law not to be frightened by such threats but to go on with the measure if only he feels it proper and just."

THE HON. SRI K. MADHAVA MENON:—"Sir, it was said that a very great principle was involved in this provision. My hon. Friend, Sri Viswanatham also said that there was a principle involved in this question. I also know, Sir, that there is a principle involved here. All that I say is let us understand that principle. Let us examine it dispassionately. Let not my hon. Friend, Sri Swaminathan, be under the impression that the reference to the Constitution by certain hon. Members is bad. It is not so. When hon. Members say it is against the Constitution, they would have certainly examined the position, and consulted experts. Even some of us who want certain provision to be there feel that it may go against the Constitution and refrain from inserting such things in the Bill. There are many who have read the Constitution thoroughly and say this provision is repugnant to it. I can see their view point. But there are others who have not read anything in the Constitution, who do not know what is contained in the Constitution but yet say this is against the Constitution in their anxiety that this should not find a place in the Bill. Let me tell them, Sir, they should be charitable to those against whom they hurl such remarks.

"Now, Sir, before proceeding to reply to the points raised by hon. Members, I would like to say a word about the japamala incident to which reference was made by my hon. Friend, Sri Karanth, to-day also. Sir, I contacted the President of the Hindu Religious Endowments Board and enquired what exactly the matter was. He has since given his reply. As I said yesterday, Sir, if the swamiyar had given even ten thousand rupees as fees it would not have been questioned. What happened is this. The auditor who went to audit the accounts found this item there whose

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cost was mentioned as Rs. 193. (Sri K. R. Karanth: 'It was Rs. 136-8-0.') I have got the audit report here and it says Rs. 193. The auditor had said that it was an unauthorized expenditure and thereupon, the Board asked the math to explain how this expenditure was incurred without the Board's sanction. (Sri K. Bhashyam: 'Why sanction for this expenditure?') The Board's sanction is needed only when unusual expenditure is incurred. When it was explained to the Board that the doctor was presented with the japamala, the matter was dropped. This is all what has happened according to the records at my disposal. I do not think that the action of the Board in this case is improper.

"Sir, the position of the archakas has been very clearly explained to the House by the various hon. Members who spoke on this clause. I entirely agree with my hon. Friend, Sri N. S. Varadachari that there are in every temple Thrikala or Kala poojas, i.e., poojas performed at stated times. To perform such poojas, there are archakas who are given either inam properties or paid other emoluments. We are not doing anything with that now. We are thinking of cases where archanas are not performed in pursuance or as a part of the regular poojas. Suppose half a dozen worshippers go to a temple and ask the archaka to perform ashtothra or sahasranama pooja. In such cases we must fix the fees. My hon. Friend, Sri K. Varadachari said that the archakas were not normally bound to perform such archanas. If that is a fact, that is all the more the reason why there should be fixed fees so that the archaka may not begin to auction the rates, so that he may not say, 'whoever that pays Rs. 25 will have his archana done and others will not.' (Sri K. Bhashyam: 'It cannot happen.') I was myself a victim of this kind when I went to Gaya some twenty years ago for performing shardam. (Sri T. Viswanatham: 'That may be in the North. Here in South India it will not happen.') A purohit came and demanded Rs. 250 for performing the shardam. He said, 'you cannot do it unless you pay this amount.' We were half a dozen of us then and a friend of mine put it at 150 and another put it at a still lower sum with the result that finally we paid Rs. 1-8-0. (Sri T. Viswanatham: 'What has it got to do with archakas?') Let my hon. Friend listen to me fully. I say all this because the tendency to auction rates is always there. In a temple where there is archana, it is not always that the archaka gets the fees. So, it would be better for the archaka himself if there is a stipulated fee for him. If there is no fixed fee, how can we protect the archaka's interests? That apart, are we not to protect the temple's interests also? Are we not to protect the interests of the worshippers? The clause says that everybody who wants to perform archanas should pay a fixed fee. Let them pay four annas or eight annas to the trustee, take a ticket, give it to the archaka and have the archana done. If after the archana is done, the worshippers want to pay anything to the archakas, they are at liberty to do so. My hon. Friend, Sri

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Bhashyam said, 'do not have anything that will affect the interests of the archakas; do not whip them.' Sir, I feel as strongly as he feels for the archakas. But at the same time I would tell him, 'do not hit the poor worshipper also.' The worshippers' interests should be safeguarded as much as the archakas. I am not decrying the work of archakas. I want to avoid discrimination between the influential and the non-influential, between the poor and the rich worshippers. Suppose a temple demands Rs. 200 as the fees. Is it not outrageous? Should not the Commissioner intervene then and say it must be reasonable? I say let the worshipper have the satisfaction of having got the archana performed with the minimum sum paid. Let others have the satisfaction or the assurance that they can get such things done without having to pay high fees. Let the archaka be paid more as dakshina—that is a personal gift. In fact I do so whenever I go to Malabar and visit the Guruvayoor temple. If I want to do a kalaham I would pay the prescribed fee of thirty or forty rupees. After it is performed the archaka brings me the kalaham."

SRI V. RAGHAVAYYA:—"What is this 'Kalaham'? We do not understand what it is."

THE HON. SRI K. MADHAVA MENON:—"Perhaps, my hon. Friend thinks it is 'kalagam', that is 'quarrel'. (Laughter.) I do not quarrel, Sir. Kalaham is a kind of pooja performed in the Guruvayoor temple. Kalabham in Sanskrit means 'yana' (elephant). But in our parts it is a pooja, wherein sandal paste mixed with scent is put on the deity. After the performance of the pooja the sandal paste is given to the person who arranges for it. For the performance of the pooja I pay and get a ticket. When the sandal paste is given to me, I pay the archaka out of my own free will three or four rupees. This is done in many cases and we do not want to interfere with this case. Where fees are demanded for the performance of an archana we say that they should be fixed. The idea is let all people be benefited. After all the Deputy Commissioner or the Commissioner may say 'you keep an account book for the purpose' and nothing beyond that. It is only the trustee that is going to fix the fees. There are certain temples in which the archakas are entitled to the entire proceeds from archanas. There are certain others in which they do not get any. In such cases, suppose a person pays one rupee as the archana fee. He pays it because it is performed at a particular place, inside a temple where the deity is installed, and he will not pay this amount if it is to be performed on a public road. When he pays this one rupee, what is wrong, I ask, Sir, in the trustee saying, 'let the archaka take fourteen annas or fifteen annas and let the balance of one anna or two annas go to the temple'? I see absolutely no reason why this should not be done. The people go to a particular temple because they are interested in that temple . . ."

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SRI K. R. KARANTH:—"But why should the Commissioner interfere?"

THE HON. SRI K. MADHAVA MENON:—"The Commissioner is there only to lay down the conditions under which the amount should be collected. It is the trustee that fixes it and the conditions put down by the Commissioner need not be as to how much should be collected. He would suggest the method of collection. If the conditions go against the wishes of the trustee it is a different matter. The person who is asked to fix the rate is the trustee.

"The scope of the Clause is to determine what fee shall be levied for the performance of the 'archana' and what portion of such fee shall go to the 'archaka' and the temple. It has been said and particularly, the hon. Member Sri Viswanatham said that we should not have a law for that, custom must be respected and settlements that might have been given by Courts should not be disturbed and all that. It is not an uncommon thing that when a legislature passes a law, the Court interprets it in a particular way. The Courts interpret the law according to the wording of the law though it might not be the intention of the legislature. The Courts say 'Though it might not be the intention of the legislature the thing has not been properly worded and it is our duty to interpret it only according to the wording of the legislation.' In such cases do we not amend the legislation. To do so is not showing disrespect to the Court, it is only trying to put it in the proper form so that the intention of the legislature might be brought forward correctly. By amending the legislation after the decision of a Court has gone against the legislation, we do not insult the Courts, we only get guidance from the Court and correct the legislation. Have we not also cases where Judges have pointed out particular flaws in certain legislations and expressed that those flaws should be removed. To remove a flaw in the legislation because the legislature wants it, is it an insult to the Court? Not at all. I say all this because it was contended that there are settlements by Courts or schemes by which it has been sought to fix a fee for the 'archana', the trustee collecting it and giving a receipt and all that and therefore the Government should not now pass a law. The trustee is only a collecting agency. It is not paid to him out right. In such cases it is open to the trustee to say that he should be paid a portion of the 'archana' fee for the temple.

"Again it is not only the question of 'archana' and 'archana' alone. In Tirupathi if you pay six annas and take a ticket you can get your head shaved. It seems, before this system was introduced, it was a regular auction business and there was lot of trouble in such cases. 'Tirupathi kshavaram' has become proverbial to indicate that the people are entirely at the mercy of these But now it has been fixed. If you pay the prescribed

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fee you can get yourselves shaved. Of this fee of six annas five annas go to the barber and the balance of an anna goes to the temple. What is wrong there in fixing the fee. I do not see anything wrong in doing it. This Clause says that in such cases the trustee might fix a fee for the performance of the thing. In cases where there are no settlements and where the temple does not get anything there is nothing unreasonable or unconscionable by legislation to take power to make the levy of the fee reasonable and conscionable. That is why we say in the clause—

"Notwithstanding anything contained in any scheme settled or deemed to be settled under this Act, or any decree or usage to the contrary, the trustee of a temple shall have power, subject to such conditions as the Commissioner may, by general or special order, direct, to fix fees for the performance of archanas and to determine what portion, if any, of such fees shall be paid to the archakas or other office-holders or servants of the temple."

There is a principle involved in this. It is that the worshippers are entitled to have the worship without harassment and worry. At the same time the 'archaka' also will be assured of his share of the fee. Particularly in cases where the 'archaka' is not bound to do the 'archana' the trustee must fix the fee, take the money, pay the share of the fee prescribed to the 'archaka' and see that when the money has been paid, the 'archana' or the worship necessary is done. That is the principle involved in this Clause. Only, we can understand it, if we think in this way. We should extend our consideration and sympathy to the temple and the worshippers. After all there is nothing wrong in having sympathy for the 'archaka' but we should show equal consideration and sympathy for the temple and the worshippers. If you view it from this point it won't look outrageous, or obnoxious as was attempted to be made out in this House.

"The hon. Member Sri N. S. Varadachari said 'Do you realise what would be the result if this Bill is passed.' I say, Sir. I perfectly realise what it will be. The 'archaka' will be helped, the worshippers will be helped, the worship will be performed for the money that is paid and the temple may get a share to which it is entitled to.

"There is nothing harmful in this Clause if viewed from these standpoints. This Clause is very necessary and if worked properly it will be to the good of all concerned."

SRI K. BHASHYAM:—"I think, Sir, the Hon. the Law Minister has exhibited lot of vehemence in the matter which is wholly unnecessary. The only question before the House is whether old usages, things settled by schemes, things settled by decrees, should be interfered with by the Commissioner to-day. That is the only question. We are not disputing the fact that there should be some order in respect of these matters, that there should be a fee fixed. In fact, our forefathers have been wiser than we and fixed the fees and determined by custom as to what has to be done in particular cases. They have done it in the case of every temple. I tell you, Sir, if you go to a temple and ascertain the custom,

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they will give you all details, namely, the fee for the 'archana', how much of it will go to the 'archaka', how much to the temple and to other servants. They know how to divide it among themselves. It is a 'mamool'. It is not as if we introduce it for the first time. The Hon. the Law Minister assumes that they start from scrap, as if there is chaos and therefore they must bring order into that chaos and therefore they must have this Bill and all these powers. It is certainly not so, Sir. I deny any such thing happening. I ask the Government why they should interfere now. In cases where there is no such fees fixed they can do so now and I can understand power being taken by Government in such cases. But in cases where there is already the usage, where a scheme has fixed it and a decree of a Court has fixed it, why should the Government intervene in this matter. Things have been going on for a long time. Why then interfere with all these small matter now. Therefore much of the vehemence shown by the Hon. the Law Minister as if we are against fixing any fees is wholly irrelevant to the point at issue. I say when things are orderly why disturb them and make them disorderly and try to bring order over again.

"Sir, it is not as if we are here, persons who want to support the 'archakas' only. The Hon. Minister referred to his experience at Gaya. We don't treat those people as priests. They are quite different from the 'archakas' in these temples. Perhaps my Hon. Friend wanted to perform the 'Sradha' on the banks of the Ganges and therefore certain fellows demanded from him a fee for the performance of the 'Sradha.' When I was there I refused to perform it. I had my own 'purohit' for the performance of the ceremony. Why do it at all under those conditions. That is my point. It is a case where the Hon. Minister could have found his own remedy."

SRI V. RAGHAVAYYA:—"He succeeded in his bargain and had it performed for a rupee and twelve annas."

SRI K. BHASHYAM:—"A Malayalee will do it. (The Hon. Sri Madhava Menon stood up to protest) I am sorry I do not yield. Sir. But that is a different matter. What I want to say is there are ways of doing it. I do not know whether my Hon. Friend went there when he was a Minister. They might have thought he was a Minister and so demanded a big fee."

THE HON. SRI K. MADHAVA MENON:—"I went there as early as 1922."

SRI K. BHASHYAM:—"Then perhaps he went there with a lace cap and lace clothing, or they might have supposed that he was a rich man, a very rich man. (An hon. Member: 'He looks a rich man even now.') It all depends on the appearance. Indeed if you look at him he looks rich. That is the whole trouble. I say, Sir, all these illustrations are no good. We are dealing with

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institutions and practices that have been there for years and centuries. Certain customs and usages are there in these things. Are the Government going to interfere in these things. If you really say that the trustee should do it, why allow the Commissioner to interfere with the trustee. It is the local opinion that should count, the persons there, the worshippers in the temple should do it. The worshippers know what to do. They won't give what is demanded of them by the 'archaka', and the 'archaka' also knows his business. If they feel that the demand is extraordinary, they know how to moderate it. These are mere bargains, each person knows how to deal with the other side. There won't be any trouble or difficulty in respect of these matters. By enacting this Clause Government are trying to raise a devil and then exorcize it. That is what is happening to-day. The Government are creating trouble where there is no trouble. This Clause is wholly unnecessary."

THE HON. SRI K. MADHAVA MENON:—"My hon. Friend Sri Bhashyam said that I thought it was a thing started now, a thing which was not in existence before. I do not want the hon. Members to be misled. It is not my purpose to mislead them now. I have not attempted to do it at any time. About that I am sure. I ask the hon. Members to say where the clause is misleading. I would request them to read the clause and then say whether I have misled them. I simply said that the clause empowers the trustee to fix the fees and also the share that should go to the 'archaka' and the temple from the fee collected. That is the only thing that I said."

"As to my being less clothed or looking rich, at the time I went to Gaya and referred to by my hon. Friend Sri Bhashyam, I may tell him that I was there in 1922 as a poor non-co-operator, a student, not with the 'Kavi vasthram' and all that. Still the 'archaka' thought that I must pay 250 rupees."

The amendment was put and lost.

THE MADRAS LEGISLATIVE ASSEMBLY.

Friday, the 24th November 1950.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVA-SHANMUGAM PILLAI) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
BILL, 1949 (L.A. BILL NO. 10 OF 1949)—DISCUSSION—*cont.*

Clause 55—cont.

SRI N. S. VARADACHARI:—" Mr. Speaker, Sir, while I appreciate the anxiety of Government to conclude the debate on the Hindu Religious Endowments Bill before to-morrow evening, I would urge that such a thing would be possible only if they exercise some amount of consideration for reasonable amendments. Otherwise, a full debate will have to be gone through. Clauses which are very contentious cannot be rushed through this House in the manner in which they are sought to be rushed. My amendment to Clause 55 is as follows:—

For existing Clause 55, substitute the following:—

" 55. The Trustee of a temple shall have power subject to such conditions as the Commissioner may by special or general order direct to fix fees for the performance of archana and to determine what portion if any of such fees shall be paid to the archakas or other office-holders or servants of the temple but in doing so he shall not depart from the settled usage where it has been clearly laid down either in the temple records or by decrees of courts of law."

" Sir, I consider that this amendment is vital to the whole Bill since it touches upon a principle that we shall not ordinarily depart from immemorial custom where it has been sanctioned by

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the force of public opinion for thousands of years or where in cases of disputes it has been settled by a clear statement in the record of the temple itself or by decrees in Courts of Law. The object of this amendment is not to defeat the Government's purpose. I am not opposing clause 55 but am only seeking to put it in a proper setting. The Hon. Minister made a very unhappy reference to the Sraddha ceremony while talking about archakas. Obviously the Hon. Minister while on a visit to North India thought of performing a Gaya Sraddha and sought the service of some family or other there for it. But there is very little meaning in its reference to temple customs and the performance of archakas. The Hon. Minister does not even have full knowledge of this custom of archakas. He said, 'We must safeguard the interests of the worshipper. Why are you only thinking of the underdog called the archaka in the temple? Are not all the poor worshippers to be safeguarded in their rights?' Yes, Sir, they ought to be safeguarded. That is why I ask the trustee of a temple whom the Government appoint to be given the right to fix the fees where they have not been fixed already. But in cases where they have been fixed either by custom or by decrees of Courts of law and the apportionment of the shares of money realized from such archanas has already been determined, I say that the trustee shall not disturb that arrangement. I think the Government could at once concede that it is a very reasonable amendment.

"The Hon. Minister may say that in most of these cases the worshippers have the upper hand and not the poor archaka. The worshippers sometimes crowd in a temple and then say, 'Please offer an archana.' The archana takes usually some 5 to 10 minutes. It consists of a number of recitations of names of God; sometimes it may be a thousand and sometimes it may be only 108. The time taken varies and if the gathering visiting the temple is very large and the worshippers are large in number, naturally the number of archanas performed cannot be more than a few for the whole day. The fee given for these archanas is also very very little. It has never exceeded 2 annas to my knowledge and the richer the worshipper the less he gives. Let me tell the Hon. Minister that I have never seen a rich person in my company opening out his heart in the most liberal fashion and after hearing all the thousand and odd names of God uttered in his presence for His blessings on the worshipper give more than a couple of annas while poor worshippers of my own place, taking a real back seat in the queue that stands for archanas, sometimes give of their hard-earned money a few annas more, perhaps 4 or 8 annas. Four annas perhaps is the top fee paid in any temple for archanas. My hon. Friend will know that in certain temples the archana itself forms the routine for worship as in the Tirupati temple. There is no separate archana performed for each worshipper but the right to be present when an archana is performed is sought to be regulated by the issue of tickets by the Devasthanam. It is then

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that they pay Rs. 7 and 5 persons of a family are allowed to be present at the time of the archana. Even this is not surely an exorbitant rate. In the Tirupati temple what will happen if archanas are made free or if the fee is reduced? There are thousands of worshippers daily. You cannot even accommodate them. At present the Devasthanam is obliged not to issue the archana ticket if there is not enough space for all the ticket-holders to stand beside the sanctum sanctorum. That is the custom even to day. This arrangement is only for the convenience of pilgrims. It is only to take off the rush that occurs at times in the ordinary queue, that attendance at archanas is made subject to a ticket fee of Rs. 6 or 7. In the case of the other temples, what happens? The fee is a few annas and perhaps that is the only income earned by the archaka. The Hon. Minister referred to a case where recently the High Court had held that the trustee would be merely a collecting agent and that all the proceeds of the archanas would be handed over to the archakas. What is the mistake in that arrangement? What are the other emoluments which these archakas get? The present practice in Tiruchanur is nearly the same. The High Court held in a decree that any offering below a particular sum shall belong exclusively to the archaka but that any offering above that sum shall without any apportionment belong in its entirety to the Devasthanam. It is a very reasonable arrangement. The archakas in these cases have no inams and no villages and have not even a few acres of land in their possession. If a trustee takes it into his head to-day to disturb the arrangement very properly legalised by Courts of Law, what will happen? He will simply be disturbing the worship in the temple and give the archakas an inducement to be slack. They may perhaps not perform their duties with the same ardour and zeal with which they are performing them to-day. In the sacred name of religion and with a view to safeguard the rights of worshippers, I suggest that the Government may accept my amendment. It still gives power to the trustee to fix the fees where they have not been fixed already either by custom or by law and also to fix the apportionment. The only exception that I make is with regard to cases where decrees have already been passed by Courts of Law fixing the arrangement or where custom has already fixed the arrangement far in advance of the legislation.

"On a very reasonable consideration of the entire case, I suggest in all humility that this amendment would meet Government's case and they ought to accept it in fairness and reason."

SRI T. VISWANATHAM:—"Sir, it is necessary that the Government should recognise the rights which have been established already in this matter."

MR. SPEAKER:—"The point has already been made by the hon. Member while speaking in support of the amendment moved by Sri Bhaskaran."

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SRI T. VISWANATHAM:—"Then I will resume my seat."

SRIMATHI V. LAKSHMI AMMAL:—"கனம் அக்கிராசனாதிபதி அவர்களே, கனம் ஸ்ரீ வரதாச்சாரியார் அவர்கள் கொண்டுவந்திருக்கும் திருத்தப் பிரேரணையை நான் ஆதரித்து இரண்டொரு வார்த்தைகள் பேசுகின்றேன்.

"இந்த பில்லின் 55-வது கிளாஸில் கோவிலில் அர்ச்சனை பண்ணுவதற்கு அர்ச்சனை பண்ணப் போகிறவர்கள் இவ்வளவுதான் தக்கனை கொடுக்க வேண்டுமென்றும், அதில் இவ்வளவு தேவஸ்தானத்தைச் சேர்ந்தது என்றும், இவ்வளவுதான் கோவில் அர்ச்சகர்கள் எடுத்துக் கொள்ளவேண்டுமென்றும் வற்புறுத்தப்பட்டிருக்கிறது. இம்மாதிரி என்ன சின்ன விஷயங்களில் கூட இந்த பில்லின் மூலம் அரசாங்கத்தார் கோவில் விவகாரங்களில் தலையிடுவார்களேயானால் அது ரொம்ப அநீதியானது என்பதே எனது அபிப்பிராயம்.

"தனது பேச்சில் வெகு அழகாக ஸ்ரீமான் வரதாச்சாரியார் அவர்கள் எடுத்துச் சொன்னார்கள். எண்டென்மெண்டு போர்டு ஏற்படுவதற்கு முன்னால் ஒரு கோவிலுக்கு அர்ச்சனை பண்ணுவதற்கு தக்கனை இவ்வளவுதான் கொடுக்கவேண்டுமென்று இருந்ததேயில்லை. அவரவர்களாக தங்களாலான வற்றை கொடுத்துவந்தார்கள். அதுதான் ஹிந்து கோவில்களில் நடந்து வந்த முறை. பிறகு தேவஸ்தானம் ஏற்பட்ட பிறகு ஒவ்வொரு அர்ச்சனைக்கும் டிக்கட் வாங்கிக் கொண்டதான் அர்ச்சனை செய்யவேண்டுமென்றும் அதுவும் அஷ்டோத்திரமானால் 1/2 ரூபாய் என்றும், சகஸ்ர நாமமாக இருந்தால் 1 ரூபாய் என்றும் இம்மாதிரியான திட்டம் ஏற்படுத்தியிருக்கிறார்கள். பக்தர்கள் மனமுபநந்து அர்ச்சனைகளுக்கு தங்களால் இயன்ற அளவு கொடுத்து தெய்வ வழிபாடு செலுத்தி வருவதுதான் சிறந்தது. இப்போது அரசாங்கம் அதில் தலையிட்டு ஒவ்வொரு அர்ச்சனைக்கும் இவ்வளவுதான் கொடுக்கவேண்டுமென்று நிர்ணயிப்பது அநீதியானது. உதாரணமாக இந்த வருஷம் அஷ்டோத்திரத்திற்கு 8 அணுவாக இருக்கிறது என்று வைத்துக்கொள்வோம் அடுத்த வருஷம் உதாரணமாக இப்பொழுது பிளாக் மார்க்கெட்டு மூலம்தான் சாமான் கிடைப்பதுபோல் சாமான்களின் விலை உயர்வாலும், அர்ச்சகர் எல்லாம் வாய்வலிக்க அர்ச்சனை பண்ணவேண்டியதால் தக்கனை அஷ்டோத்திரத்திற்கும் 1 ரூபாய் கொடுக்க வேண்டுமென்று விதிக்கலாம். இவைகள் ஏற்பட்டால் மிகவும் தவறு இப்போது காகியில் விஸ்வநாதர் ஆலயம் இருக்கிறது. காகியில் விஸ்வநாதர் கோவிலில் யாரும் அர்ச்சனை பண்ண பணம் கொடுக்கவேண்டாம். அவரவர்களே தங்களுக்கு இஷ்டமானபடி புஷ்பத்தைப் போட்டு அர்ச்சனை செய்யலாம். ரொம்ப நாளாக அப்படியேதான் நடந்து வருகிறது. இப்போது சிதம்பரத்திலும், திருச்செந்தூரிலும் சென்று பார்த்தாலும் அங்கேயுள்ள தீக்ஷதர்கள் அர்ச்சனை செய்ய வந்திருக்கும் யாத்திரிகர்களை முதலில் அர்ச்சனை எல்லாம் செய்வித்து தரிசனம் செய்வித்த பிறகு நாமாக எவ்வளவு கொடுக்கிறோமோ அவைகளைத்தான் வாங்கிக்கொள்வார்கள். ஒவ்வொருவரும் மனமுபநந்து கொடுக்கும் தக்கனையைத்தான் வாங்கிக் கொள்வார்களேதவிர அவர்களாக அவ்வளவு கொடுங்கள், இவ்வளவு கொடுங்கள் என்று கட்டாயமாக கேட்கவே மாட்டார்கள்.

"ஆகவே இந்த சட்டத்தின்படி அர்ச்சனைகளுக்கு தக்கனை இவ்வளவு என்று திட்டமிட்ட Commissioner-க்கு அதிகாரம் இருக்கக்கூடாது. இதை எடுத்துவிடவேண்டுமென்று கேட்டுக்கொள்ளுகிறேன்.

THE HON. SRI K. MADHAVA MENON:—"Sir, all the points were dealt with in detail on the first motion moved by my hon. Friend Sri Bhashyam to delete this clause. The arguments advanced to-day are identically the same as those advanced then. Therefore, I have not much to add to what I said the other day.

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I shall answer one or two points made by Srimathi Lakshmi Ammal to-day. She said: 'இந்த மாதிரியாக புனிதமான காகியங்களில் தலை யிடுவது ரொம்பவும் அநீதியானது, தப்பிதமானது.'

"The amendment of hon. Sri Varadachari really negatives the clause as a whole. The clause as it stands says, 'Notwithstanding anything contained in any scheme settled or deemed to be settled under this Act, or any decree or usage to the contrary the trustee of a temple shall have power', etc. Sri Varadachari starts his amendment by saying 'subject to such conditions as the Commissioner may by special or general order direct to fix fees', etc. In the last portion of his amendment he says, 'but in doing so he shall not depart from the settled usage where it has been clearly laid down either in the temple records or by decrees of courts of law'. In effect, the wording of hon. Sri Varadachari's amendment is just the opposite of what the Government want to introduce. I find that Srimathi Lakshmi Ammal supports the amendment of hon. Sri Varadachari. Sri Varadachari says that the trustee shall have power subject to such conditions as the Commissioner may by special or general order direct to fix fees for the performance of archana. But hon. Srimathi Lakshmi Ammal says that the fixing of any fee is wrong but still supports hon. Sri Varadachari's amendment. The hon. lady Member says that nothing should be fixed, and the archana fee should be left to the good sense of the person who wishes to perform the archana and then to the good sense of the trustee, etc. I entirely agree with the hon. lady Member. Let there be no archakas then and let the worshippers themselves perform the pujas, etc. The hon. lady Member also cited the case of Kasi. I am quite agreeable if such a form of worship exists here also. In that case there will be no archakas and therefore there will not be any need for the operation of this clause. This clause is intended to cover cases where there are archakas in temples who perform archanas on behalf of the worshippers. If there were no archakas to perform archana, then it is another matter. (Srimathi V. Lakshmi Ammal: 'I will be glad if the worshippers themselves were allowed to perform the archanas'.) It is not a question of the hon. lady Member being glad or not. Neither she nor anybody can change a custom which has been in existence there for so long a period. It is the custom that only archakas can perform archanas in temples. To-day, I will not be permitted to do archana myself in the Tirupathi temple if I want. I want to tell hon. Srimathi Lakshmi Ammal that hon. Sri Varadachari's amendment gives power to the trustee to fix fees for the performance of archanas; but what hon. Sri Varadachari says is this: 'In certain cases where it has been fixed by settlement or by decrees of courts of law, don't go beyond that'. That is what he says. I may tell the hon. Members that the Government wanted to do something more from the very beginning. The archakas are paid some archana money when they perform archana in a temple. Suppose an archaka to-morrow performs archana in front of the

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Secretariat, will he be paid any fees? I am sure nobody will be eager to call an archaka and ask him to do archana—either Ashtothram or Sahasranamam—in front of the Secretariat, however great it may be. At present the archaka is getting his archana fee only because he performs archana in the temple before the deity. Because it is a temple, people go there and ask him to perform archanas. In view of this, why should not the temple get a small share out of the archana fees? To quote another instance, for mudiyeduppu in Tirupathi the charge is six annas. Out of this, the barber is given five annas and one anna is credited to the temple. Because this has got to be done in Tirupathi, such a charge is made and there is nothing wrong in the temple getting a share of such charges. Similarly, I feel that there is nothing wrong for the trustee to collect the fees and allot a portion of it to the archaka and credit the other portion to the Devasthanam.

“Coming to the fixation of the fees, I think it is very desirable to have fixed rates. Take the case of the Tirupathi temple. If the archana fees were not prescribed, it will be a question of the rich people alone being able to perform archanas. In such a case, only people who have money and influence can get something, and the poor man cannot get anything out of it. Now, if a particular rate is fixed, there is at least a chance for all the people—rich and poor, to perform archanas by paying that amount. The worshipper will have at least this consolation, viz., ‘I have done what is necessary and so I am satisfied. If he does not do it, then he becomes a cheat before God. I have done what is to be done by paying the prescribed archana fee’. It is true that there are some settlements made by custom and also by courts of law. Why should the trustee be a mere collecting agent and collect all the archana fees and pay the entire money to the archaka? As I said the trustee must have power to fix the archana fees and allot a portion of it to the archaka and allot the other portion to the temple. Here, we are not trying to deprive the archakas of their archana fees. There is one other matter. Besides the trustee, archaka and God, there is also one other party, viz., the worshippers. We have to consider their convenience. After all, where is the money coming from? It is coming from the worshippers. So they must be given some consideration and some facility to perform the archanas. That is the reason why we have provided that the trustee may be given power to fix the fees. Srimathi Lakshmi Ammal said that this will lead to blackmarket in archanas. That is exactly what is going on now. Probably the hon. lady Member may not feel it now. But there are scores of worshippers who feel it just at present. As there is no fixed archana fee, a lot of people are compelled to resort to blackmarketing even in archanas. Blackmarketing is going on under any conditions. Our desire is that at least in the name of God it should not be done. It is only with a view to prevent and check blackmarketing in the performance of archanas, we are

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seeking to provide for the fixation of the archana fees. The other day hon. Member Sri Bhashyam instanced a case where the archaka demanded Rs. 200 for performing an archana. He characterised it as highly outrageous. True, to demand Rs. 200 for performing an archana is certainly outrageous. It is with the idea of preventing any sort of harassment of the worshippers by asking them that they should pay huge amounts as archana fees, and also of preventing any bargaining with regard to this fees, we have provided for the fixation of this fees. We have also provided that the archaka will be entitled to a proper share of this fees and the temple also will be entitled to the other share of this fees. For these reasons I cannot accept the amendment.”

SRI N. S. VARADACHARI:—“Mr. Speaker, Sir, the Hon. Minister must accept that all the arguments that he has put forward, though they may seem to him as reasonable and all that, are not correct in respect of this matter. First of all, he unnecessarily drew the attention to what is called blackmarket in archanas. He knows nothing about it. (The Hon. Sri K. Madhava Menon: ‘I entirely agree that I do not know anything about it’.) I have visited temples—twice as many as the Hon. Minister might have done. I have not come across a single instance where an archaka has demanded any fees for performing archana on my behalf. He may not have known me, but all the same the archaka has not demanded anything from me. Again, when the Hon. Ministers visited the Tirumalai temple, they had free archanas, and perhaps they got even Mel Sathus worth hundreds of rupees.”

SRI V. I. MUNISWAMI PILLAY:—“Those things were given by the temple authorities and not by the archakas.”

SRI N. S. VARADACHARI:—“The temple authorities give them through the archaka.”

THE HON. SRI K. MADHAVA MENON:—“The hon. Member is entirely wrong when he says that all the Hon. Ministers were having free archanas. I have always paid a minimum of three rupees wherever I have gone for performing archana.”

SRI N. S. VARADACHARI:—“It may be so in the case of the Hon. Minister for Law. But some Hon. Ministers have had free archanas performed. I do not say that there is anything wrong about it. It is only an honour to the gentleman concerned. When I go to my native place, the archakas may not receive the archana fees every time I want to perform archana. I must say that the use of the word ‘blackmarket’ with regard to archanas is highly objectionable. The Hon. Minister quoted Sri Bhashyam with regard to this matter. I do not know in what context and to what case Sri Bhashyam referred, and any way he is not here now. But I can say this much confidently. In all my experience about these archakas in this State, there has not been

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a single case where the archaka demanded huge amounts as archana fees. After all they are all under-dogs who are under the heels of the trustee and then the Government and then your legislation. I say this deliberately. Never has an archaka demanded even a rupee from worshippers for performing an archana. So let me disabuse all these notions from the Hon. Minister's mind.

"Now, coming to the point, I still maintain that the trustee may have power and not the Government. I may, however, tell the house that in view of what has happened here, no trustee will come forward to take this power for years to come, in violation of the existing practice or in violation of the decrees of the courts of law. I know the strength of public opinion in this matter. The purpose of my amendment is this. Suppose there is a place where the fee has not been fixed and no practice or custom obtains there or suppose a new temple suddenly acquires prominence like the one which acquired prominence in the suburbs of Madras in the last ten years where a large number of worshippers go for worship, in that case, there may not be a longstanding custom or usage, and in such cases under my amendment, a definite archana fees can be prescribed. My objection is this. Do not try to unsettle a longstanding custom or usage. Where there has been trouble and dispute formerly and which has been referred to a court and where the court has finally decided in the matter, do not try to get behind and put up your own trustee and create trouble in the temple where there was no trouble before. We must restore order and peace and confidence in worshippers and give stability to the archakas. That is what I am aiming at. We cannot question the archaka about his duties. If you fix a very low fee, it is quite possible that he may utter only a few names or omit several names when performing archana. The Hon. Minister asked, 'why should the trustees be the collecting agents?' There is nothing wrong in their being collecting agents. The temples have other sources of income. They have landed properties. Even the worshippers get a share of the produce from the properties of the temple in the form of prasadam. But the archakas too get a little like that and their income is very limited. At times we can as well imagine their going without even the prasadam. So there is nothing wrong in the trustee being a mere collecting agent for the archaka. I will tell you the reason. Mr. Speaker, I want to draw your attention to this factor as I know you are a very religious-minded person. So I want you to kindly listen to this. When you go to a temple for performing archana, the archaka gets a few annas. He may have no other income. But the temple itself may have other properties. The trustee need not worry himself about collecting a share of the archana fees to the temple. His chief business is to regulate the practice of archana by insisting a small fee which will go to the person who does this. I do not think that there is anything wrong in his doing so.

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"Is there anything wrong about it? What is the outrageous aspect of it, I want to know. Why do the Government want to disturb the decrees passed by the courts? Why did these decrees arise. It is because of the very reason which the Hon. the Minister adduced just now that those decrees arose. Some trustee who was either very unreasonable or who tried to interfere where interference was unnecessary had driven these people to the courts of law. They had gone to the courts spending all their money and obtained decrees. And what do they find now? They see that the Government go behind the decrees that they have obtained and the rights that they have established. They think that it is a Sacred Charter that they have obtained and that they are entitled to all the emoluments. Now the Government are trying to strike at it, disturb it and throw the whole thing out of gear. Of course, the trustee exercises the power. Let the Hon. the Minister understand, and through him, let the Government understand, that no trustees dare exercise this power which the Government propose to secure for them. They will themselves see it. Whatever the authority of the Government be, I know how difficult it is to proceed in this matter. I utter a warning to-day on behalf of the thousands of worshippers that visit the temples. I know they may not care for it to-day, but they will find in effect later on that they have to-day produced a Dead Sea fruit. There may be hon. Members, who may vote for the law but who still want to respect the sacred rights and traditions created by a long course of public opinion. I strongly press the amendment and commend it for the acceptance of the House."

THE HON. SRI K. MADHAVA MENON:—Sir, nothing new has been said by my hon. Friend, Sri Varadachari, except the imprecations and curses which he uttered. (Laughter.) My only consolation is, Sir, that they were made on behalf of the archakas and not on behalf of the worshippers."

MR. SPEAKER:—"The question is—

For existing clause 55, substitute the following:—

"55. The trustee of a temple shall have power subject to such conditions as the Commissioner may by special or general order direct to fix fees for the performance of archana and to determine what portion, if any, of such fees shall be paid to the archakas or other office-holders or servants of the temple but in doing so he shall not depart from the settled usage where it has been clearly laid down either in the temple records or by decrees of courts of law."

The amendment was lost.

SRI T. VISWANATHAM:—"Sir, I move—

For the words "Notwithstanding anything contained in clause 55" substitute the words "Subject to"

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MR. SPEAKER:—"Does the hon. Member move the other two amendments also?"

SRI T. VISWANATHAM:—"No, Sir. I have moved my first amendment and I do not intend moving the other two."

THE HON. SRI K. MADHAVA MENON:—"It is out of order, Sir."

SRI T. VISWANATHAM:—"Let me finish, Sir. Let the Hon. the Minister have a little patience and say what he has to say after I have finished. Let him raise his point of order then. If my amendment is accepted, Sir, then it will read like this—

'Subject to any scheme settled or deemed to be settled under this Act, or any decree or usage to the contrary, the trustee of a temple shall have power, subject to such conditions as the Commissioner may, by general or special order, direct, to fix fees for the performance of archanas and to determine what portion, if any, of such fees shall be paid to the archakas or other office-holders or servants of the temple.'

The effect of this is that the trustee, subject to the general or special orders of the Commissioner . . .

THE HON. SRI K. MADHAVA MENON:—"On a point of order, Sir, when an amendment is printed and circulated in advance, is it not open to a Minister to rise to a point of order even before the amendment is moved?"

MR. SPEAKER:—"Yes, he can."

THE HON. SRI K. MADHAVA MENON:—"The amendment moved by my hon. Friend, Sri Viswanatham, is identical with the one moved by hon. Sri N. S. Varadachari which was negatived. Hon. Sri Varadachari's amendment said that the settled usage laid down by decrees of courts of law should not be departed from. Hon. Sri Viswanatham's amendment says subject to such directions or conditions as contained in the decrees by courts of law the trustee may fix the fees. So, both the amendments mean the same thing and both seek to defeat the very object of the provisions contained in clause 55. The first amendment has been voted down and, therefore, this is out of order."

MR. SPEAKER:—"Let us hear what the hon. Member, Sri Viswanatham, wants to say on this."

SRI T. VISWANATHAM:—"I submit, Sir, this is, not a point of order."

THE HON. SRI K. MADHAVA MENON:—"It is."

SRI T. VISWANATHAM:—"It is a question on which a point of order cannot arise. Sir, by accepting this amendment no principle of the Government will be thrown to the winds. But, on the other hand, by refusing to accept it, they will be throwing to the winds the decrees passed by the courts of law. Sir, we

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cannot raise any new arguments. The Hon. the Minister said in reply to Sri N. S. Varadachari that he had adduced no new arguments. The Hon. the Minister has not rendered any new arguments in his reply either. Likewise, I too cannot adduce new arguments. My amendment is simple and I have moved it. After it is seconded, let the Hon. the Minister oppose it if he wants."

MR. SPEAKER:—" (After a pause.) For want of a seconder, the amendment falls through."

SRI V. I. MUNISWAMI PILLAY:—"Mr. Speaker, Sir, I welcome the provisions in clause 55 of the Bill. Knowing personally and having visited many of the temples in this State, I may say, Sir, that there is a lot of corruption in the matter of collecting fees for archanas and the manner in which they are conducted. Where the trustees or the executive officers have fixed the fees for archanas, things are going on very well. I may instance here what is obtaining in the Sri Meenakshi temple and the Thiruparankundram temple in Mathurai. The executive officers there have fixed the fees for archanas. In other temples where there is no such fixed fee, people who visit those temples from far off places, pay even three times and four times the ordinary fee demanded of others. The introduction of this clause will save such people and others from being fleeced. This will help the poor people from whom money is being extracted now. Sir, after throwing open the temples to the Harijans, many of them visit the temples regularly and offer worship there. These poor people when they go there are not in a position to know what the exact amount that they have to pay for archanas is. I know that they have on many occasions been asked to pay more than the usual fee they collect. When such a thing is taking place, Sir, how can the Harijans go to the temple and get poojas performed? Will not the whole question of temple entry become a farce then? When I consider this question, Sir, I feel that clause 55 must be there in the Bill."

SRI N. S. VARADACHARI:—"Mr. Speaker, Sir, I am . . ."

MR. SPEAKER:—"The hon. Member has already spoken on this clause."

SRI N. S. VARADACHARI:—"I want only two minutes, Sir. I am sorry that the Government have stuck to this position and are not willing to move even an inch. The Hon. the Minister talked of imprecations and threats. (The Hon. Sri K. Madhava Menon: 'Curse.') Quite right. I have no curses—nor imprecations—for him. But I wish to tell him even now in a very cool and collected manner that he may pass this law because he has enough force to push it through; he will not, however, be able to effectuate it in cases which have been settled by custom or

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by decrees of courts of law because wise trustees will not be tempted by this power which the Government are now seeking to place in their hands and make them exercise it to the detriment of the interests of the archakas and the worshipping community."

SRI L. N. GOPALASWAMI:—"Mr. Speaker, Sir, as I was listening to the arguments advanced both on behalf of the Government and by those who moved amendments, I felt that this archana business was viewed by the Government as something like a tax to be collected for the temple from the worshippers. It was thought of as something to be measured in terms of the offerings being shared between the archakas and the temple. I may tell this Honourable House that it is not a thing to be measured as such. In my own humble way, Sir, I have travelled throughout India and visited all shrines, holy and sacred. There is nothing like special fees offered by the worshippers or demanded by the archakas. The latter are satisfied in some cases with the part of the coconut that is broken while the other half is given back to the worshipper. I now find that the whole question is considered as something of monetary value only. I am not able to understand this position and that is the reason why I have been throughout opposing this measure as one interfering with religion and religious practices. Archanas are nothing but offerings to God by humble individuals like me. Though the worshipper is not able to do it personally, he does it through an agent—the archaka—whose life is one of dedication. He is willing to do it not because of the pittance offered to him by the worshipper but because he believes that his salvation lies that way. He equally believes that he by so doing throws open the gates of salvation for the worshippers also. There are people who have opened their purses, who have emptied their purses, without caring to know whether they have money enough to carry them back home, all in favour of the archakas. There are also persons who view archanas in terms of money and say, 'Two annas will do for this archana; he is simply breaking the coconut'. They calculate the fees on the basis of the amount of time spent for the archana. I do not deny their existence. But the question of money should not at all weigh with the Government in this matter. It is a matter of religious faith and, therefore, this business of regulating the conduct of archanas by introducing tickets, etc., should not be countenanced. Monetary consideration should not prevail in matters of religion."

SRI R. V. SWAMINATHAN:—"Sir, I do not intend to make a long speech now, as has been done by several hon. Members who have spoken two or three times on this clause. After listening to the several points raised by them, I want to ask the Hon. the Minister whether it is his intention that once a fee is fixed for archanas, the worshippers should be prevented from paying anything to the archakas over and above what has been paid as the archana fee. I want to have the position clarified."

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THE HON. SRI K. MADHAVA MENON:—"Sir, on the other hand, I shall be glad if any worshipper who can afford it, if he is decent enough to do it, pays to the archaka something of his own accord after the archana is performed over and above the sum he has paid by way of archana fee to the devasthanam. For my part, I would feel, Sir, that I shall get some more *punyam* by so doing. I pay in addition to the archaka fee which goes to the temple, something to the archaka so that I may have a bit of his grace. This is a thing which he is entitled to and if he gets anything like that it will not be improper on his part to have done so. My hon. Friend, Sri Gopalaswami said that the Government wanted to collect it as a tax. They do not want to collect it as a tax but they want to prevent the archaka from getting it as a tax."

Clause 55 was put and carried.

Clause 56.

MR. SPEAKER:—"The motion is—

'That clause 56 do stand part of the Bill.'

SRI T. VISWANATHAM:—"Sir, I wish to move—

(1) In line 1 in sub-clause (1), after the word "religion" insert the words "or charitable" and for the word "may" substitute "shall".

(2) Delete the words "to the Area Committee" in other cases."

Sir, the Government have in certain cases decided to bring charitable institutions within the scope of the Bill. This provision will be more useful to the charitable institutions once the Government decide to extend the provisions of the Bill to them."

MR. SPEAKER:—"A ruling was already given on this matter."

SRI T. VISWANATHAM:—"What ruling, Sir?"

MR. SPEAKER:—"That it is out of order."

SRI T. VISWANATHAM:—"I do not understand, Sir, what is referred to now."

MR. SPEAKER:—"On a previous occasion, the hon. Member moved a similar amendment and it was ruled out of order."

THE HON. SRI K. MADHAVA MENON:—"Sir, we have adopted clause 3 which says that any or all the provisions of this Bill may be extended to charitable institutions by notification in the Fort St. George Gazette, i.e., by a specific notification. If my hon. Friend's amendment is accepted, that the whole sub-clause will go against clause 3 which we have adopted."

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SRI T. VISWANATHAM:—"It would not go against, Sir."

MR. SPEAKER:—"It does."

SRI T. VISWANATHAM:—"Excuse me, Sir. In clause 3 it is stated that certain sections of the Act or the whole Act may be applied to the charitable institutions after due notification. Does it mean, Sir, that there should be no words referring to charitable institutions in other clauses? If we include charitable institutions in sub-clause 1, that will also apply to the charitable institutions when a notification is made extending the Act to them."

MR. SPEAKER:—"These amendments are out of order."

SRI T. VISWANATHAM:—"If you feel they are out of order, I must bow to your ruling."

MR. SPEAKER:—"Then what about the amendment for sub-clause (3) of clause 56?"

SRI T. VISWANATHAM:—"I move—

'Delete sub-clause (3).'

"Sir, the Government agree with me to a large extent. I want them to agree for a little more. The earlier sub-clauses deal with the scales of expenditure and all that. A further machinery is not necessary."

SRI K. VARADACHARI:—"I second it, Sir."

THE HON. SRI K. MADHAVA MENON:—"I oppose it, Sir."

MR. SPEAKER:—"I am going to put the amendment to the vote of the House."

SRI T. VISWANATHAM:—"Have the Government nothing to say by way of opposition to this amendment, Sir?"

MR. SPEAKER:—"The motion is—

'Delete sub-clause (3).'

The amendment was lost.

MR. SPEAKER:—"The Government amendment to clause 56 may be moved."

THE HON. SRI K. MADHAVA MENON:—"Sir, I beg to move—

(1) Omit the proviso to sub-clause (5).

(2) Omit sub-clause (6)."

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"Sir, the proviso to sub-clause (5) reads—

'Provided that the area Committee or the Commissioner as the case may be, may at any time on its or his own motion, for sufficient cause, direct the trustee to modify the *dittam* or scale of expenditure.'

This proviso gives the power to the Area Committee and the Commissioner to alter the *dittam*. That is not necessary. The trustees must have the liberty to do it and so I want to omit the proviso. *Suo motu* sub-clause (6) is not necessary."

MR. SPEAKER:—"The motion is—

(1) Omit the proviso to sub-clause (5).

(2) Omit sub-clause (6)."

The amendments were carried.

Clause 56 as amended was put and carried.

MR. SPEAKER:—"The hon. Member Sri N. S. Varadachari has given an amendment for the inclusion of a new clause, Clause 56-A."

THE HON. SRI K. MADHAVA MENON:—"I say, Sir, this is out of order in view of the ruling you have given. He cannot move the amendment for this reason. Clause 53 which we have passed says—

'All office-holders and servants attached to a religious institution or in receipt of any emolument or perquisite therefrom shall, whether the office or service is hereditary or not, be controlled by the trustee and the trustee may, after following the prescribed procedure, if any, fine, suspend, remove or dismiss any of them for breach of trust, incapacity, disobedience of orders, neglect of duty, misconduct or other sufficient cause.'

The suggestion in the amendment is that the trustee or the Commissioner shall not dismiss an archaka or other temple servants. This goes against clause 53 we have already passed."

SRI N. S. VARADACHARI:—"I am sorry the Hon. Minister has not made clear the point of order. I was about to suggest that in view of dropping the proviso, the second sentence was unnecessary, namely, 'Any alteration in the scale or *dittam* of expenditure in connection with actual worship in the temple for the time being in force directed either by the area committee or the Commissioner will be deemed to be made for sufficient cause only when the approval of such religious counsel as constituted above is obtained for the purpose.' The Government have taken away these powers. There cannot be alterations made by them. All alterations are left to the trustee, the poor fellow to be appointed who will be made the victim, the scapegoat of the faults to be committed hereafter by us. So that, that part of my amendment goes."

"Now, Sir, the first part is perfectly in order, only omit the words 'or Commissioner.' They have taken away his powers. In my amendment I have not said that the Government have no power to suspend, fine or to do other things."

[Sri K. Madhava Menon] [24th November 1950]

Sri Viswanatham asked whether it was open to a Member or the Hon. Speaker to say that a motion was out of order even before it was moved. I say, Sir, if I feel that the motion is dangerous and should not be allowed on public and other grounds, it is open to the Chair not to allow the motion even before it is moved."

SRI N. S. VARADACHARI:—"I wish the Hon. Speaker would peruse the reports and see whether the words 'knowingly out of order' were used or not."

THE HON. SRI K. MADHAVA MENON:—"I did not say so, Sir."

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CHAPTER V—MATHS.

MR. SPEAKER:—"Chapter V dealing with maths will now be taken up."

SRI T. VISWANATHAM:—"Sir, in the first place, I would like to move the long amendment which was given notice of by my hon. Friend Sri Bhashyam and give notice of by me also. Before moving the amendment, I want to know whether you would like me to take this amendment in several parts or the whole thing as one amendment. I will do as the Chair pleases."

MR. SPEAKER:—"I think it would be better if you move the whole thing, and we can save time."

SRI T. VISWANATHAM:—"Sir, as arguments will be the same more or less for the amendments and as it will save the Hon. Minister from repeating his arguments of opposition, I move—

'Omit Chapter V.'

In the alternative.

The following Chapter is to be made exclusively applicable to mutts:—

"Notwithstanding anything hereinbefore contained, this Chapter shall apply to the mutts.

This Chapter shall apply to such of the mutts in the Province of Madras as are notified by the Provincial Government under section . . . and the endowments therefor. Notwithstanding anything contained hereinbefore, the mutts shall be governed by the provisions of this Chapter only.

As soon as may be after the passing of this Act, the Provincial Government shall constitute a judicial tribunal consisting of three members, one a High Court Judge or a person who has been a High Court Judge within two years of the appointment and two other persons to

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be associated with him who are either District Judges or have been District Judges within two years of the appointment.

The Provincial Government may by notification bring within the scope of this Chapter any mutt situated within the Province of Madras. Such a notification shall not be issued by the Provincial Government unless a judicial officer not below the rank of the District Judge appointed by such Provincial Government finds on investigation and after giving sufficient opportunities to the head of the mutt concerned to offer his explanation and also particulars in respect of any charge against him, comes to the conclusion that it is desirable in public interest that such a mutt should be brought under the provisions of this Chapter.

Nothing in this Chapter shall be construed to affect or in any way derogate from, the powers in respect of religious endowments which the Advocate-General may exercise under sub-section (2) of section 114 of the Government of India Act.

In this Chapter, unless there is anything repugnant in the subject or context,—

- (1) 'Court' means the Court of the District Judge within whose local limits a mutt is situated.
- (2) 'Judicial Tribunal' means a tribunal appointed under the provisions of this Chapter.
- (3) 'Mutt' means and includes an institution by whatever name it may be locally called, for the promotion of Hindu religion consisting of a person devoted or professing to be devoted to the imparting of, or whose duty is to impart, spiritual instruction to and exercise or claiming to exercise, spiritual headship over a body of disciples professing the Hindu religion and engaging himself, or purporting to engage himself, in spiritual service to such disciples or other persons, and a body of such disciples or other persons, receiving or entitled to receive such instructions or service.
- (4) 'Matathipathi' means a person by whatever name locally known, who exercises or purports to exercise the functions of the head of a mutt and discharges or purports to discharge the duties of spiritual instruction and spiritual service to the disciples of the mutt on any particular tenet or philosophy of Hinduism.
- (5) 'Person having interest' means a person who is in the habit of attending such performance or of partaking in the benefit of the distribution of gifts thereof, who

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(5) 'Person having interest' means a person who is in the habit of attending such performance or of partaking in the benefit of the distribution of gifts thereof, who

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is a disciple of the mutt and shall also include persons who receive instructions or initiations for the spiritual advancement.

(6) 'Prescribed' means prescribed by the Provincial Government by rules made under this Act.

(7) 'Religious Endowments' or 'Endowment' means all property belonging to or given or endowed for the support of mutts and includes the premises of mutts but does not include gifts or property made as personal gifts to the head of a mutt or other employee of the mutt.

(8) 'Specific Endowment' means all property given or endowed for the performance of any specific service or charity connected with a mutt.

All properties endowed to or belonging to a mutt shall vest in the mutt and the matadhipathi of a mutt shall not have hereafter any beneficial interest in such properties.

The management of the affairs of the mutt shall be in the hands of the matadhipathi who shall be assisted by a council composed of members chosen as hereinafter provided from among the body of the disciples of the mutt.

As soon as may be after the notification is published, the matadhipathi shall prepare a list of disciples of the mutt and publish it in such a manner as may be prescribed:

Provided that if within one month from the date of such publication, any objection or suggestion is received from any person having interest, the judicial tribunal constituted under this Chapter shall consider such objection or suggestion and direct such additions to, or alterations in the list as it may deem fit and the order of such Tribunal shall be final.

Every mutt shall have a Council of Disciples chosen from among the disciples named in the list published as stated above. The Council shall consist of not more than nine and not less than five members as may be fixed by the Government in the notification referred to in section and shall be elected by the disciples of the mutt in such manner as may be prescribed.

Provided that if any difficulty arises in the constitution of such a Council, the Government may direct the Collector of the district to take such measures as may be necessary to bring into existence such a Council.

Every member of the Council shall hold office for a period of five years and the matadhipathi shall be the ex-officio President of the Council of the disciples of the mutt.

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The Council of Disciples shall have power to make suggestions to the head of the mutt with regard to the affairs relating to the mutt and in case there is a difference of opinion between the majority of the members of the Council of the mutt and the matadhipathi, the matter may be placed before the Judicial Tribunal by either the matadhipathi or by the Council as regards any matter relating to the affairs of the mutt.

(a) When a vacancy occurs in the office of the matadhipathi and there is a dispute respecting the right of succession to such office, or when such vacancy cannot be filled up immediately, or when a matadhipathi is a minor and has no legally constituted guardian for and willing to act as such, or there is a dispute respecting the person who is entitled to act as such guardian or when a matadhipathi is by reason of unsoundness of mind or other physical infirmity unable to discharge his functions, the Judicial Tribunal at the instance of the Council or any person having interest may appoint a fit person to discharge the functions of the matadhipathi until another succeeds to his office or the disability of the matadhipathi ceases to exist, as the case may be. In the meanwhile the Collector shall assume charge of the properties and provide for the discharge of the religious functions with the advice and guidance of the Council of Disciples.

Nothing in this sub-section shall be deemed to affect any thing contained in the Madras Court of Wards Act, 1902.

(b) In making an appointment under sub-section (a) the Judicial Tribunal shall have due regard to the claims of the disciples of the mutt, if any, entitled to succession as well as the wishes of the disciples.

(c) The person so appointed shall be entitled to exercise all the powers which a matadhipathi could exercise in relation to such endowment.

Every mutt having an income not more than Rs. 10,000 a year, shall appoint a Manager for the management of the properties of the mutt. Such an officer shall be approved by the Judicial Tribunal and he shall be a Hindu professing the Hindu religion and also belonging to the denomination for whose benefit the mutt exists.

Such a Manager shall be whole-time officer of the mutt and shall not undertake any work unconnected with the mutt. Such a Manager shall be paid such salary as may be fixed by the Council. He shall be in office for a period of five years in the first instance and the Council is entitled to extend the term of office to such a period as it deems fit.

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The Council will be entitled to dismiss or suspend such a Manager for good and proper cause but the Manager is entitled to appeal before the Judicial Tribunal against such dismissal or suspension. The Judicial Tribunal may pass an order as it may think fit either to restore him to office or direct the mutt to compensate him for dismissal which may be found to be illegal or improper.

The Manager shall be in custody of all the properties and records of the mutt and be responsible for the proper collection of its income and the disbursements to be made on its behalf. He shall also be responsible for the maintenance of true and correct accounts of the receipts and disbursements.

The matadhipathi shall with the help of the Manager before three months before the end of the year, place before the Council of Disciples proposals for fixing the dittam or scale of expenditure for religious functions or ceremonies in the mutt and the amounts which should be allotted to the various objects connected therewith and the proportions in which the income or other property of the mutt may be applied to such objects. The matadhipathi shall publish such proposals in such a manner as may be prescribed together with a notice, stating that if within one month from the date of such publication any objection or suggestion is received from any person having interest, the Council will consider such objection or suggestion, and after the expiry of the period fixed, as stated above, the Council shall consider the objection or suggestion that may have been received and may pass such orders as it thinks fit on the proposal. The decision of the Council shall be final except where a dittam or the scale of expenditure for the time being in force in the mutt is sought to be altered by the Council. Any person interested in the mutt shall be entitled to bring the matter before the Judicial Tribunal who will decide the matter finally.

The matadhipathi with the help of the Manager shall, in each year before and in such form as may be prescribed, prepare a budget showing the probable receipts and disbursements of the mutt and the endowments connected therewith during the following year and have it placed before the Council of Disciples who shall be entitled to alter, modify and add to the budget. Provisions relating to the expenditure required for religious functions according to the dittam fixed under section shall first be included therein as charge on the income and shall be provided for in the first instance. Such a budget shall be published for general information and any suggestions that may be made by disciples shall be considered by the Council, provided however in case of emergency

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the matadhipathi may direct the execution of any work or the doing of any act which is not provided for in the budget and the immediate execution or the doing of which is in his opinion necessary for the preservation of the properties of the mutt or for the service or safety of the pilgrims resorting to the mutt; that expenditure shall be paid. This action should forthwith be reported to the Council with reasons therefor.

The accounts of the mutt shall be audited annually or at such other intervals as may be prescribed by an auditor included in the list of approved auditors to be furnished by the Government. Such an auditor shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

The auditor shall submit a report to the Council which shall among other things specify all cases of irregular, illegal or improper expenditure or of failure to recover moneys or other property due to the institution or of loss or waste of money or other property of the institution, caused by neglect or misconduct. The auditor shall also report on any other matter which the Council may require in respect of the mutt or any specified religious endowment. The cost of auditing the accounts of the mutt shall be fixed by the Council and be payable from out of the funds of the mutt within such time as may be prescribed.

The Provincial Government may make rules for

- (a) the manner in which the records, accounts or receipts, and expenditure and register relating to the mutts may be kept,
- (b) the custody of the records and documents of the mutts,
- (c) the investment of the funds of the mutts,
- (d) the time and place of the meetings of the Council of Disciples,
- (e) the manner in which the notice thereof shall be given,
- (f) the quorum for transaction of business at such meetings,
- (g) the manner in which the proceedings of the meetings shall be recorded, and
- (h) the manner in which the decisions of the Council of Disciples shall be brought forth before the Judicial Tribunal.

For every mutt a register shall be maintained by the matadhipathi showing—

- (a) the names of past and present matadhipathis and particulars as to the outcome, if any, regarding succe-

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- (b) particulars of all endowments of the mutt and all title-deeds and other documents relating thereto;
- (c) particulars of the scheme of administration and of the dittam or scale of expenditure;
- (d) the names of all offices to which any salary, emolument or perquisite is attached and the nature, time and conditions of service in each case;
- (e) the jewels, gold, silver, precious stones, all vessels and utensils and other movables belonging to the institution with their estimated values; and
- (f) such other particulars as the Judicial Tribunal may fix. The register shall be signed by the matadhipathi and shall be kept open for inspection by the Council of Sishyas or any person interested in the mutt. If there is any matter which requires investigation and scrutiny, it is open to either the Council of Disciples or any person interested in the mutt to bring the matter before the Judicial Tribunal who will be entitled to investigate and make final orders thereon.

No exchange, sale or mortgage and no lease for a term exceeding five years of any immovable property belonging to any mutt shall be valid or operative unless it is necessary or beneficial to the mutt and is sanctioned by the Judicial Tribunal.

Not less than three members of the Council of Disciples and not less than 30 in number of persons interested in the institution may institute a suit in the Court to obtain a decree:

- (a) appointing or removing the matadhipathi,
 - (b) vesting any property in the mutt,
 - (c) directing accounts and inquiries,
 - (d) declaring what proportion of the endowed property or of the interest therein shall be allocated to any particular object of the endowment, or
 - (e) granting such further or other relief as the nature of the case may require.
- (1) The decision of the Judicial Tribunal shall be final and shall not be open to question in a Court of Law, except to the extent mentioned.
- (2) The Judicial Tribunal may, after holding an enquiry in such manner as may be prescribed, by order, declare that the purpose of the endowments of a mutt has from the beginning been, or has subsequently become impossible of realization or that the machinery for effectuating the original purposes of the endowments has failed or no longer exists or

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that after satisfying adequately the purposes of the endowments and after setting apart a sufficient sum for the repair and renovation of the buildings connected with the mutt or the endowments attached thereto, there is a surplus which is not required for such purposes, and it may, by such order, direct that the amount of the endowment or such surplus as is declared to be available, as the case may be, be appropriated to religious, educational or charitable purposes consistent with the objects of such mutt.

- (3) It shall be competent for the Judicial Tribunal when giving a direction under sub-clause (1) to determine what portion of such amount or surplus shall be retained as a reserve fund for the mutt and to direct the remainder to be appropriated to the other purposes.
- (4) The Judicial Tribunal may at any time by order and in the manner provided in sub-section (1) modify or cancel an order passed under that sub-section.
- (5) The order of the Judicial Tribunal under this section shall be published in the prescribed manner. The matadhipathi, the Council, Manager or any other person having interest may within two months of the date of such publication institute a suit in the Court to modify or set aside such order. Subject to the result of such suit, the decision of the Tribunal shall be final and binding on the matadhipathi, Manager and all persons having interest.
- (6) Any decision of the Tribunal under this section may at any time for sufficient cause be modified or cancelled by it in a suit instituted by the Council, the matadhipathi or any person having interest but not otherwise.
- (7) Any decision by the Judicial Tribunal dismissing a running matadhipathi or appointing a matadhipathi may be appealed against by the Council or the body of the worshippers to the High Court whose decision thereon shall be final.

All costs and expenses incurred by the Council, the matadhipathi or the Manager in connexion with legal proceedings in respect of any mutt to which the Council, the matadhipathi, or the Manager is a party shall, notwithstanding anything contained in section . . . be payable out of the funds of such mutt.

Every mutt or specific endowment attached thereto shall pay annually for meeting the expenses of the Judicial

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- (b) particulars of all endowments of the mutt and all title-deeds and other documents relating thereto;
- (c) particulars of the scheme of administration and of the dittam or scale of expenditure;
- (d) the names of all offices to which any salary, emolument or perquisite is attached and the nature, time and conditions of service in each case;
- (e) the jewels, gold, silver, precious stones, all vessels and utensils and other movables belonging to the institution with their estimated values; and
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that after satisfying adequately the purposes of the endowments and after setting apart a sufficient sum for the repair and renovation of the buildings connected with the mutt or the endowments attached thereto, there is a surplus which is not required for such purposes, and it may, by such order, direct that the amount of the endowment or such surplus as is declared to be available, as the case may be, be appropriated to religious, educational or charitable purposes consistent with the objects of such mutt.

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Every mutt or specific endowment attached thereto shall pay annually for meeting the expenses of the Judicial

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Tribunal such contribution not exceeding one and a half per centum of its income as the Judicial Tribunal may determine."

"Sir, as the clauses stand at present, we believe that they do not meet the point of view expressed by us both on constitutional and legal grounds and on merits, in regard to the position and the manner in which these maths and the matadhipathis should be dealt with in a comprehensive measure of this type. We have been saying that these matadhipathis stand on a different footing from the other charitable institutions and temples. Government at one stage said that they have dealt with them in a separate way and they have been given a separate chapter. I have gone through the separate chapter and I believe, unless Government accept some of the positions taken by the alternative amendments, they would not really satisfy or fulfil the purpose with which they have allotted a separate chapter for these maths. I would first like to give you the opinions given by some of the witnesses who were examined"

MR. SPEAKER:—"The House will now rise and meet again at 3 o'clock."

The House adjourned to meet again at 3 o'clock after lunch.

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MR. SPEAKER:—"Let the hon. Member, Sri Viswanatham continue his speech."

SRI T. VISWANATHAM:—"Sir, I want to make it clear in the first instance that this is not an amendment which says that the Government should not seek to have any control over maths or their properties. This amendment is an alternative. We would have liked these things to be excluded. But, that not having been done, we wanted to go as far as one can go and therefore in this amendment we provide an alternative in accordance with certain views put forward before the Select Committee by persons who took great pains and interest to know these matters and, Sir, who had also some authority to speak about this subject.

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"Sir, if you refer to the summary of evidence taken before the Joint Select Committee, you will find some good opinions given by eminent witnesses. Here is the evidence of Dr. S. Kanthimathinatha Pillai (Saiva Vellala Maha Sabha, Mathurai)—

"He classified mutts into different classes according to the system of philosophy and tenet followed, viz. Saivites, Vaishnavites, Smarthas, Madhwas, etc. His proposal was that each mutt should maintain a register of its sishyas and followers who have received some initiation and declare their allegiance to the mutt and that from among those disciples, a Committee of 9 to 12 members, in the first instance, should be nominated by the Government.

Then, Sir, he gives some details of his proposals—

"The head of the mutt will be the spiritual and religious head and will look after all religious functions, though he should have an overall and general interest in the mutt properties.

In my opinion, Sir, he should have preferred an elected committee of sishyas. But, nomination was suggested, in the first instance, so that the machinery can start working. This amendment embodies only the opinions of those who have agreed with the proposal that the Government should have control. But, what is the kind of control? The Government have proposed one kind of control under clause 57 and the following clauses. This is an alternative, Sir. He continues—

"The secular administration should be entirely in the hands of the committees through the executive officers. The matadhipathi as a constitutional head should preside over the committees so that there might be mutual understanding and lesser conflict between them.

"Sir, I would next take you to the evidence given by Sri M. C. S. Ratnasabapathi Chettiyar (Saivite Disciple of Thiruvaduthurai Mutt, and Chairman, Municipal Council, Kumbakonam). He is also of the same Conference)—

"He was against mutts being brought under the Bill. Instead of the Government taking over their control there should be a Judicial Board of three judges, a High Court Judge and two district judges. There should also be a committee of sishyas. All matters of maladministration should be referred to that Tribunal by the committee of sishyas.

Then, Sir, I would refer to the opinion of Sri C. K. Subramania Mudaliar and Sri C. M. Ramachandra Chettiar (representatives of the Coimbatore District Saiva Conference).

"With regard to mutts he was of opinion that financial control was necessary. The matadhipathi might be assisted by an advisory committee consisting of his sishyas only. There should be an advisory committee of sishyas for each mutt. Secular and religious administration might be separated. If the matadhipathi did not carry out the purposes of the mutt, the advisory committee could force him to do so. The advisory committee may be constituted by nomination or election. He did not think that election would be expensive. In cases of difference between the committee and the matadhipathi, the matter might be taken to a special court like the Ecclesiastical Court in England. The court should be composed of persons who knew the rituals and so on. If a matadhipathi did not carry out the purposes of the endowment, he must be forced to do it by the advisory committee. If he still persisted, there should be some authority to enforce it."

Then, we come to another opinion, Sir, given by Sri S. Sachidanandam Pillai, Register, Annamalai University (Hindu Dharma Paripalana Sangam, Madras)—

"He approved of Government interference in mutts subject to the safeguards suggested in his memorandum. He would not, however, give the

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Commissioner the power to dismiss a matadhipathi. He should only go to a court of law to get the matadhipathi dismissed. He proposed an advisory council for mutts consisting of sishyas and followers of the tenets of the mutt. The Commissioner might interfere in case there was difference of opinion between the matadhipathi and the committee. If a matadhipathi misbehaved the committee of sishyas could give him a warning and allow him time to improve. If still he did not mend himself, then the court could take cognizance of it either on a complaint by the committee of sishyas or by not less than twenty sishyas as the case may be.

I will now refer to the opinion of Sri Kulasekara Doss, a Member of our Assembly, who also gave evidence—

"The witness said that the matadhipathis should be treated with the respect due to them. He had no objection, however, to committees managing the secular affairs of mutts with an executive officer for each. Such committees should consist partly of sishyas and partly of religious-minded non-sishya Hindus.

Again, Sir, Sri V. Bhashyam Ayyangar, Hindu Dharma Paripalana Sangam, Madras, says—

"The witness said that mutts should be treated on a separate footing. The Government might take powers to notify such of the mutts as were being mismanaged and bring them under the control of the Commissioner. Each mutt should be dealt with individually and not as a class. Prestige of the matadhipathi should be maintained.

"He was against the removal of the matadhipathi without further application to the court, even in cases where the matadhipathi was convicted of a crime for moral turpitude. To a question whether the witness would favour the automatic forfeiture of the office of the matadhipathi after his conviction for a crime involving moral turpitude, the witness said that conviction for an offence involving moral turpitude might, by itself, amount to the removal of a trustee. No further judicial action was necessary.

"In regard to the budgets of mutts, the witness agreed that the Commissioner should not interfere with the small details of these budgets.

"Asked whether the witness would like a small body, say, a council of about a dozen sishyas to be appointed to advise the Government officer in the preparation of the budget, etc. of the mutts, the witness stated that a better body to advise the Government officer would be about a dozen persons selected from the district as a whole with the matadhipathi as the head and if the majority passed the budget, the Commissioner should not interfere. The final authority must be vested in such a committee presided over by the matadhipathi."

The final opinion to which I draw your special attention, Sir, is that of Sri Ravu Surya Rao, Ex-President, Hindu Religious Endowments Board. I know him personally and he is one of the most respected men in our district. He says—

"The witness agreed that mutts had to be controlled in a way and their expenditure regulated. The budget and the audit report might be published for public information. Audit might also be obligatory. The Mahant of Tirupati was different from other matadhipathis. A committee of sishyas might be appointed for the management of the affairs. As there might be difficulty in giving effect to election by sishyas immediately, the committee might be nominated by the Government in the first instance. Committees should consist also of the gahasthas of the community who held the matadhipathi as the guru and not merely those who lived inside the mutt premises. The matadhipathi did not usually excommunicate a person as not being a sishya. Sishyas might be determined by the 'Samasrayanam' in the case of Vaishnavites, 'Siva diksha' in the case of Saivites, and 'Mudradanam' in the case of Madhwas. The matadhipathi might be the chairman and the Government might appoint an executive officer for the mutt in consultation with the committee. This executive officer should work under the committee.

That opinion, Sir, has got to be followed in my opinion, because Mr. Ravu Surya Rao was Ex-President of the Hindu Religious

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Endowments Board for some time and he had intimate knowledge of the working of these institutions. He is also of the opinion that, where executive officers are appointed, they should work under the committee.

'The matadhipathi controlled the sishya committee and the committee of sishyas will control the executive officer.'

This view of his is based on his experience. 'In case of difference of opinion the matter might be decided by the majority of the Committee of Sishyas and their decision should be binding on the matadhipathi and the executive officer. In religious matters it may be carried further to the ecclesiastical court. Civil matters may be referred to the Commissioner for decision with an appeal to civil courts. The court will have to decide whether a matter is civil or religious.'

'As regards customs and usages, what Sri Ravu Surya Rao says is this: 'Where decisions have to be taken, the matter may be referred to the ecclesiastical court, as envisaged by the late Sri T. Sadasiva Ayyar, consisting of two or three retired Judges who knew about these matters and one or two experts. They could meet once or twice a year and decide cases. Their decisions should be final. It should be left to the Government whether a particular mutt should have an executive officer or not. He should be appointed solely for secular purposes and should not interfere with the religious affairs of the mutt.'

'These are some of the opinions given in the summary of evidence. There are also other opinions in this book which contains the evidence of 28 witnesses. Among these 28 witnesses there was only one who said that the mutt also should be treated in the same way as other religious endowments. All the other witnesses whose evidence is given here have suggested that the mutts stand on a different footing and therefore the advisory council composed of sishyas might be constituted to govern them. It is based upon these opinions, which in my humble opinion reflect general public opinion regarding the management of mutts, we have framed this alternative scheme. Sir, in the light of these remarks you will be able to appreciate why it was necessary to give notice of an alternative scheme rather than amendments to each clause. It is very difficult to insert all these by way of amendments to one sentence here or to one clause there. Therefore, we have given notice of this alternative scheme thus--

'Notwithstanding anything hereinbefore contained, this chapter shall apply to the mutts.'

This chapter shall apply to such of the mutts in the Province of Madras as are notified by the Provincial Government under section and the endowments therefor. Notwithstanding anything contained hereinbefore, the mutts shall be governed by the provisions of this Chapter only.

As soon as may be after the passing of this Act, the Provincial Government shall constitute a judicial tribunal consisting of three members, one a High Court Judge or a person who has been a High Court Judge within two years of the appointment and two other persons to be associated with him who are either District Judges or have been District Judges within two years of the appointment.

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The Provincial Government may by notification bring within the scope of this Chapter any mutt situated within the Province of Madras. Such a notification shall not be issued by the Provincial Government unless a judicial officer not below the rank of the District Judge appointed by such Provincial Government finds on investigation and after giving sufficient opportunities to the head of the mutt concerned to offer his explanation and also particulars in respect of any charge against him, comes to the conclusion that it is desirable in public interest that such a mutt should be brought under the provisions of this chapter.'

'The Government, in another clause, have already accepted the principle that only where mismanagement is proved, the provisions of this Bill should apply. Similarly we suggest that, only after this step is taken and after giving an opportunity to those persons who are concerned to establish their position, the Government should notify and apply the provisions of this Bill.

'Then we say--

'Nothing in this Chapter shall be construed to affect or in any way derogate from, the powers in respect of religious endowments which the Advocate-General may exercise under sub-section (2) of section 114 of the Government of India Act.'

'Then we have dealt with certain definitions, so that in the definition clause there would not be any difficulty. In order to make the position clear, the next clause in my amendment says--

'All properties endowed to or belonging to a mutt shall vest in the mutt and the matadhipathi of a mutt shall not have hereafter any beneficial interest in such properties.'

'Now, Sir, you will appreciate how far we have yielded to meet the wishes of the Government in this matter. Our arguments hitherto were based on certain decisions that the matadhipathi has got beneficial interest. But, having been defeated in that stand, we have fallen in line, to some extent, with the view of the Government and that is why we say 'All properties endowed to or belonging to a mutt shall vest in the mutt and the matadhipathi of a mutt shall not have hereafter any beneficial interest in such properties.' It will be seen from this that we are willing to come to a compromise with the Government and hence have provided:

'As soon as may be after the notification is published, the matadhipathi shall prepare a list of disciples of the mutt and publish it in such manner as may be prescribed.'

'All along we have been suggesting that there should be councils of sishyas or persons who reside in the mutt and who closely follow the matadhipathi. Arguments have been advanced to suggest that these sishyas will never be able to question any action of the matadhipathis. We do not have in mind such sishyas. According to us these sishyas will be those who live with the head of the mutt and learn from him the agamas and religious lore so also those who owe active allegiance to the mutt though not living there. A man may be living inside the mutt or outside; if he shows that he owes allegiance to that mutt his name should be taken into the list of disciples. There are several mutts now having such lists. With regard to Vaishnavites there is a slight difference in this matter between the Vadagalais and

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Thengalais. They do not at all like the Madhwas, go to a matadhipathi and get the mudradharanam. They have the samasrayanam. But, whoever does these things and swears his allegiance to any mutt should be put in the list of disciples of that mutt. Some of us from distant places send our donations to a particular mutt sometimes. Since we send our names also, these go into the list of sishyas. Therefore, these sishyas are not an indeterminate body. They are persons who take, as Sri Ravu Surya Rao has said, mudradharanam or samasrayanam or Sivadheeksha and there are also others who send their donations and owe their allegiance and make it known to the matadhipathi that they owe allegiance to the mutt. All these are disciples of the mutt. Therefore, I submit that the sishyas we have referred to here are not the class of sishyas who live inside the precincts of the mutt and who are supposed to be not in a position to protest against any mismanagement of their mutt. They extend over a wider area. They may consist of independent persons living in places where the mutt owns properties. It cannot be said that because they owe allegiance to the mutt they will not question the misdeeds of the mutt. Let us see our own case; we all owe allegiance to the Government and that does not stand in the way of our questioning their actions. When we owe allegiance to a mutt, it does not mean that we as sishyas will not raise our voice in protest where necessary. There are sishyas who have done so in an effective way. There have been schemes framed by the High Court on petitions presented by the sishyas. I, therefore, submit that ours is a very feasible proposition and a practicable proposition and that is why we say—

‘As soon as may be after the notification is published, the matadhipathi shall prepare a list of disciples of the mutt and publish it in such manner as may be prescribed.’

“Then, by this amendment we propose to give power to the judicial tribunal also to consider objections or suggestions to these lists. Thus our proposal in sub-clause (7) of our amendment says—

‘Every mutt shall have a council of disciples chosen from among the disciples named in the list published as stated above.’

“The election thereto will be from a determinate body—

‘The council shall consist of not more than nine and not less than five members as may be fixed by the Government in the notification referred to in section . . . and shall be elected by the disciples of the mutt in such manner as may be prescribed.’

“We are not imposing our own views on the Government as regards election or even the place of election. We are prepared to leave the whole thing to the Government, provided it is a mutt managed by the matadhipathi advised by a managing committee consisting of sishyas.

“The powers of the council of these disciples also does not suffer. We are creating a council which will not exercise real control. It will have power to make suggestions to the head of the mutt with regard to the affairs of the mutt and, in cases of differences of opinion, the matter will be placed before a judicial

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tribunal. Therefore, this council of disciples will be a very powerful body and bring in new thought into the counsel of the matadhipathi. And, wherever there is any strong difference of opinion, instead of leaving it to one man to decide, we suggest an immediate reference to the judicial tribunal to be constituted under this clause. It is not as if one has to go to an ordinary court which has no time to do this work expeditiously. We are creating under this clause something of an ecclesiastical court, because there are about 700 mutts in this State. We submit, therefore, that we are suggesting a practicable, feasible and useful procedure.

“With regard to vacancies in the headship of the mutts, there is a provision in the Government Bill relating to succession. The language employed in the provision is not, however, very clear. What the Government propose to do with regard to succession disputes we do not know. I went through the whole Bill. I do not know the position of the Government with regard to this matter. They have thought over the question of the settlement of disputes. With regard to succession each mutt has sometimes a different method. Sometimes it is by nomination and sometimes the selection is made by the council of sishyas.”

MR. SPEAKER:—“The hon. Member has already taken 25 minutes. As he is moving a whole chapter as an amendment, I will allow him five minutes more.”

SRI T. VISWANATHAM:—“With regard to succession I shall quote a passage from Sri P. R. Ganapathi Ayyar's book, ‘The law relating to Hindu and Muhammadan Religious Endowments’ page 176—

‘There are various ways of succession by nomination as already stated. The nomination by the last mahant may not require any confirmation at all either by the disciples or by the neighbouring mahant. In such cases, however, installation by the Assembly of mahants may by usage seem to be necessary.’

“We may take it, Sir, that the words ‘mahant’ and ‘matadhipathi’ are used synonymously for such purposes.

In the Ahobilam mutt, the usage is for the Jeer for the time being to nominate his successor, failing which the disciples assembled at the place where the Jeer died have the right to elect his successor. The eight mutts at Udipi founded by Madhwachariya are administered according to certain rules framed by the founder. Then we come to several of the maths in the south, the Saivite maths. There are several methods by which succession is controlled in the various maths. I do not find any provision made here for the purpose. The Government only refer to disputes about succession but whether the normal succession is to be left to the present usage and the present methods or whether they propose anything else, it is not quite clear. Therefore in this alternative amendment, we were obliged to put something about succession also.

“The other clauses of the amendment deal practically with the same things with which the Government also have dealt with

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appointed by the trustee. The amendment of hon. Sri Viswanatham says that in relation to every matter concerning maths the sishyas who may form a council of sishyas may move the judicial tribunal. Only in very very limited cases the disciples will have power to make suggestions to the head of the math. Hon. Sri Viswanatham's amendment also says that only when a vacancy occurs in the office of the matadhipathi and there is a dispute respecting the right of succession to such office the judicial tribunal may be moved in the matter. Otherwise the normal course will be followed. That is also what clause 58 of the Bill says. It only operates when there is a dispute. It does not in any way give more power of supervision or control than what exists now. I do not see what hon. Sri Viswanatham wanted to convey when he said that they had compromised to such an extent as to satisfy the Government and that the Government might therefore accept his amendment. Sir, hon. Sri Bhashyam's amendment which has now been taken up by hon. Sri Viswanatham is absolutely a camouflage for showing that maths are included in the Bill while as a matter of fact they would be in no different position than what they are in now. Of course that may be their intention, because both hon. Members Sri Viswanatham and Sri Bhashyam are of the view that maths should be excluded altogether from the Bill. If they cannot be excluded they want that the control over them should be as little as possible. The Government policy also is that the control in regard to the maths need not be the same as the control in regard to temples and charities. That is why a specific chapter on maths has been provided here. In important matters the Commissioner has power only to move the court. Only in the matter of the dittam, if he finds that the scale of expenditure or any item in the scale of expenditure is at variance with the established usage of the institution, or is not justified by its financial position, he can move the Government and obtain their orders. In other secular matters like the appointment of the manager, the trustee has got the power. The Commissioner need only be consulted. The provisions here and the provisions in hon. Sri Viswanatham's amendment differ so fundamentally that the Government cannot agree to it.

"Then Sir, certain things were read out by hon. Sri Viswanatham. I find from the evidence printed at page 28 of the book of one Sri P. K. Subramaniam, Perambur, a Saivite and hereditary disciple of the Tiruvaduthurai math, this is what he says—

"The witness's experience was confined to the Tiruvaduthurai mutt and the Dharmapuram mutt. He was in the service of Tiruvaduthurai mutt and was suspended. He knew the details of the maladministration, personally in some cases and through the records in others. Though the facts of maladministration were known to the other sishyas and had been public property, no sishya other than him had come forward to give evidence before the Select Committee like him, as they should have done if they were interested, and therefore, all mutts should be taken over by the Government. He was giving evidence as a sishya and according to his conscience.

He did not favour the appointment of committees of sishyas, for, from his experience of Tiruvaduthurai mutt, disciples were tools in the hands of the

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matadhipathi and maladministration of mutts could not be remedied by them. In Tiruvaduthurai mutt, only tambirans were entitled to take legal action; they were treated as sons of the mutt. The other disciples were not so treated. The sanctity and devotion to the mutt would not be lost if executive officers were appointed and provision was made for control over budget and for audit. Committees of sishyas, if at all, should be purely advisory.

From his past experience, he said that any advisory committee if given some powers of control would not work. That applied even to a committee of sishyas who were interested in the mutt and who could be expected to know its spiritual needs better than a Government officer. He pointed out that in the original scheme framed by the sub-court for the Tiruvaduthurai mutt, there was an advisory council of disciples to the Pandarasannadhi, but the latter always rejected their advice. Even if it was now provided that the mutts should have advisory committees of sishyas, those committees could be purely advisory and should not be given any powers. He was of opinion that better administration could be achieved only by an executive officer under the control of the Government. He preferred a Government official because he was bound by Government Servant's Conduct Rules and if he did anything wrong, he would be punished by Government. But a member of the committee could not be punished like that.

There was a belief in South India with some of the devotees that a sishya should surrender every worldly possession to the Guru when he wanted it. Some times the matadhipathi misused this faith even to-day.

That is one evidence, Sir, which however we thought might be going a bit too far. Sri T. Ranga Reddi, a Vakil of Guntur, states, at page 27—

"The witness had no objection to interference with mutts even with regard to spiritual and ritual aspects. There would be no interference if the mutt was properly managed. If the matadhipathi did not teach anything or gather his disciples, the Government must take up the matter. The sanctity and reverence for mutts would not decrease if the Government took over the powers of supervision and control. On the other hand, they decreased now on account of the mismanagement of these institutions. He was of the view that the assumption that the mutt was not a place of public worship like the temple was not correct, because there were also temples there. The mutt's property was public property in the sense that the disciples who enjoyed that right formed part of the public and when it was not properly managed the Government which represented the public, had got a right to interfere."

Then my Friend referred to Sri Kulasekara Doss, an honourable Member of this Assembly. His evidence is at page 30—

"The witness said that the matadhipathis should be treated with the respect due to them. He had no objection however to committees to manage the secular affairs of mutts with an executive officer for each. Such committees should consist partly of sishyas and partly of religious-minded non-sishya Hindus. The sishyas should be in a minority in the committee, for, they generally might not be willing to expose the misbehaviour of their gurus, and if they were in a majority might act as a deterrent to exposing the behaviour."

If a matadhipathi misbehaved, the committee of not less than 20 or 25 people could complain to the Government who could take action through a suitable agency.

Then my Friend referred to Sri V. V. Srinivasa Ayyangar, a very orthodox gentleman, a very old revered gentleman, who cannot according to his own evidence, reconcile himself with certain things. He said that after the passing of the Temple Entry Act—the first thing that the Government did—he had ceased to visit temples because he had lost all faith in temples after the passing of that Act. It is a very honest opinion that he has given. There is nothing absolutely wrong in what he feels and it is not easy for

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us to conceive people of that age to change suddenly their age-old habits. Still, we can only understand and appreciate what such orthodox people say. This is what he says about the maths—

‘If a matadhipathi was guilty of a very serious offence, it could not be said that no steps should be taken against him, as he was an Acharyar. The general law was enough to deal with him. There were sishyas who had been bringing the mismanagement of the mutts to the notice of the proper authorities.’

He said that a Protector of Endowments must be appointed and that the Protector—

‘might be empowered to inspect the accounts of mutts also. In regard to the dismissal of the matadhipathi, the courts were sufficiently empowered to try these cases and pronounce judgment.’

My Friend next referred to Sri V. Bhashyam Ayyangar’s evidence. He said—

‘The mutts should be treated on a separate footing. The Government might take powers to notify such of the mutts as were being mismanaged and bring them under the control of the Commissioner. Each mutt should be dealt with individually and not as a class. . . . The present provisions regarding mutts might be retained. . . . When there was a complaint about the mismanagement by the matadhipathi in regard to the administration of funds, etc., the Government authority should go into it and make a judicial enquiry and hear both the parties. The notification should be as a result of Government decision after hearing both the parties. The provisions of sections 15 to 19 and 39 to 42 would then apply’

He was against the removal of the matadhipathi without further application to the court, even in cases where the matadhipathi was convicted, of a crime for moral turpitude. To a question whether the witness would favour the automatic forfeiture of the office of the matadhipathi after his conviction for a crime involving moral turpitude, the witness said that conviction for an offence involving moral turpitude might, by itself, amount to the removal of a trustee. No further judicial action was necessary.

Then about the Council of Sishyas—

‘Asked whether the witness would like a small body, say, a council of about a dozen sishyas to be appointed to advise the Government officers in the preparation of the budget, etc., of the mutts, the witness stated that a better body to advise the Government officer would be about a dozen persons selected from the district as a whole with the matadhipathi as the head and if the majority passed the budget, the Commissioner should not interfere. The final authority must be vested in such a committee presided over by the matadhipathi.’

(Interruption by Sri Viswanatham.) If the hon. Member can read some portion of Sri Bhashyam Ayyangar’s evidence, I can also read some other portions, Sir, of the same evidence.

‘I shall now take up the evidence of Sri Surya Rao, an ex-President of the Hindu Religious Endowments Board. He says—

‘A committee of sishyas might be appointed for the management of the affairs. As there might be difficulty in giving effect to election by sishyas immediately, the committee might be nominated by the Government in the first instance. Committees should consist also of the grahastas of the community who held the matadhipathi as the Guru and not merely those who lived inside the mutt premises.’

He says a committee may be appointed and that the matadhipathi may be the chairman of the committee and that the Government may appoint an executive officer for the mutt in consultation with the committee—

‘Civil matters might be referred to the Commissioner for decision with appeal to civil courts. The court would have to decide whether a matter is civil or religious.’

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The executive officer should be responsible for the proper management of the properties. In case of mismanagement, it might be referred to the Government or the Commissioner. The decision of the appointing authority should be final. So far as religious matters were concerned, the matadhipathi was the head and nobody could question his right. He might occupy the position of a president of the district board.’

So, his opinion is that the matadhipathi should occupy the position of a president of the district board. Sir, I do not want to quote more. Certainly, there were more witnesses who gave evidence on behalf of matams and matadhipathis than others who were comparatively poor people, poor worshippers. The evidence is there both ways, and all that we have provided in Chapter V is only very limited power of superintendence and control in the matter of the administration of maths. To me it appears to be a very, very modest provision, not in any way going more than what is necessary and is in no way derogatory to the matadhipathis or those who have faith in these maths. This amendment now proposed, completely changes the very nature and idea underlying the scheme of the Bill itself, and Government cannot accept it.

‘I forgot to refer to the evidence of Mr. Sachidanandam Pillai, the Registrar of the Annamalai University, a very devout person. He approved of Government interference in maths subject to the safeguards suggested in his memorandum. He would not, however, give the Commissioner the power to dismiss a matadhipathi. He should only go to a court of law to get the matadhipathi dismissed. He proposed an Advisory Council for maths consisting of sishyas and followers of the tenets of the math. The Commissioner might interfere in case there is difference of opinion between the matadhipathi and the committee. If a matadhipathi misbehaved, the committee of sishyas could give him a warning and allow him time to improve. If still he did not mend himself, then the court could take cognizance of it either on a complaint by the committee of sishyas or by not less than twenty sishyas, as the case may be. He had no objection to retaining Clause 39 of the original Bill with the amendment he had suggested.’ And Clause 39 of the original Bill is put here as Clause 57, with the amendments that he has suggested.”

SRI K. BHASHYAM:—“Sir,”

MR. SPEAKER:—“No, I cannot allow the hon. Member to speak now.”

SRI K. BHASHYAM:—“Please hear me, Sir; I only want to make a special request to the Speaker to allow me to speak at this stage; I know I have not been present here all through, but I do think I can really contribute usefully to the discussions in the House if you will kindly allow me to speak now.”

MR. SPEAKER:—“I cannot; it is against the Rules.”

SRI K. BHASHYAM:—“If you think you cannot allow me, Sir, then I can only say it is my misfortune.”

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MR. SPEAKER:—"I cannot go against the Rules. The hon. Member Mr. Viswanatham will now speak."

SRI T. VISWANATHAM:—"Sir, the Hon. Mr. Madhava Menon used the word 'camouflage' in connexion with this amendment. Sir, I did not use a single hard or harsh word, and yet he was good enough to hurl the word 'camouflage' against me because somebody else used that word against him the day before yesterday, and he now after 48 hours, hurls it on an innocent fragile young man like myself. (Laughter.) The line which the Hon. Mr. Madhava Menon has taken is not surprising; but I thought after what I said in language which was sufficiently clear, he would not raise the very same objections which he raised at the first stage of the introduction of the Bill and at the opening stages of the Bill. I thought he was hearing whatever I was saying. Except with regard to the names of a few witnesses, he was not good enough to reply to anything that I have said, but simply repeated the arguments which he might have repeated on an amendment for the deletion of this Clause. If I moved for the deletion of this Clause, then his arguments would have been quite valid; but it was not for the deletion of the Clause that I have moved. I have also given an alternative amendment in which there is even a specific declaration made that the matadhipathi will not be the beneficiary but the math alone will be the beneficiary of the entire math endowment. The Hon. Minister referred to the arguments used in the evidence of witnesses. I am very sorry. I said that there were 28 opinions embodied in this book and excepting one, almost all were in favour of a council of sishyas to advise the matadhipathi. Am I wrong? He has quoted certain people's opinions, but not one of them says that he is against this council of sishyas, except for one gentleman whose opinion I did not read out for this reason: he is a dismissed servant of the Tiruvaduthurai math. So, I did not want to weigh his opinion either for me or against me, but I quoted the opinion of another disciple, Sri M. C. S. Ratnasabhapathi Chettiyar, who is a Saivite disciple of the same math and the Chairman of the Municipal Council, Kumbakonam. I read out almost everything and not omitted anything, but the Hon. Minister was reading and almost underlining them as if they were a great discovery. The fact is, that except one opinion which was against it, I said that every other opinion was in favour of my amendment. And, what is the essence of the scheme we have presented? Apart from the length of the amendment, there is a declaration in it that the math is the beneficiary and not the matadhipathi. Is it wrong, Sir? We have gone to the utmost lengths we could go in saying that it is not the 'matadhipathi' that has the beneficial interest but it is the math that has the beneficial interest? Does the Hon. Minister understand the implications of the amendment when he says that my amendment is a camouflage? Is it a camouflage, especially when on a previous occasion I was quoting extensively from the opinions of learned Judges to show that beneficial interest

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lay in the matadhipathi? Even though the Government may not accept it, I will agree to it and in fact in my amendment I have declared that the math shall have the beneficial interest and not the matadhipathi. Is it right then for the word 'camouflage' to be used when I switch over from the beneficial interest of the matadhipathi to that of the math? Particularly when it is in favour or in line with the opinion of the Government it was not fair on the part of the Hon. Minister to use the word 'camouflage' in that connexion. I say, Sir, we are satisfying the progressive opinion of so many persons who are in favour of the proposal that the matadhipathi should be controlled by a council of sishyas. Then again, Sir, the Hon. Minister read out opinions that sishyas would not raise their voice. I made this point quite clear even in my opening speech on my amendment. I never intended it to mean an exclusive council of these few people who resided inside a math and necessarily therefore they would not be able to do anything. He quoted Mr. Kulasekhara Das; but that is not only his opinion, that was the opinion of the Select Committee also and that is the opinion I am adumbrating in my amendment. I said that the sishyas might be anywhere from Cape Comorin to Kashmir. I said that the matadhipathi should prepare a register of sishyas and also how he should prepare it. Did I say, Sir, that they would be under the thumb or heel of the matadhipathi? I never said it. What I said was that the matadhipathi should prepare a register of sishyas spread throughout the State and it might even be they were spread throughout the country, for some of the important maths are held in high esteem throughout the country. I therefore, submit, Sir, that if the Government are not prepared to accept my amendment, I do not mind it, but let them not misunderstand the implications of my amendment and let them not mis-state facts. After all with the majority which the Government have, they can throw it out, but let them not mis-state what I have said. I have understood their position; they are not agreeable to the amendment, but I have the satisfaction of having done my duty. But, to say what I have said, is a camouflage, I submit, is not right, because my amendment is not such. It may be that some time ago we were arguing that the Government did not accept our position, but when the House accepted certain provisions, we only suggesting an alternative to the Government amendment, but we did not say that the Government should not have control over the accounts of the maths. In fact, my amendment goes further and because it is an alternative amendment, it is a bit long and it is all necessary for the proper running of the various maths and safeguards that are necessary for their proper administration, in order to keep the maths above suspicion and in a position in which they can command respect not only of the sishyas but even outsiders not only in this country but in every other country. So, Sir, I submit, that the provisions we have made in the amendment are in line with the progressive judicial thought in the country

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and also in line with the spirit and letter of the Constitution. I only ask the Hon. Minister to look at the matter from that point of view and have no misconceptions about the matter. Let him reject it if he wants, but not mis-state facts."

THE HON. SRI K. MADHAVA MENON:—"Sir, I have not mis-stated facts. If I had said that the effect of Mr. Viswanatham's amendment would be to put the position exactly as it was without any material change, I might have used the word 'camouflage'."

MR. SPEAKER:—"It is not unparliamentary."

THE HON. SRI K. MADHAVA MENON:—"I still maintain that, if my friend objects to the word 'camouflage' it covers the position as it was before and there is no difference. It covers in a certain language, the result of which will be that the maths will be as they were before the introduction of the Bill. If that will satisfy my hon. Friend, I may withdraw the word 'camouflage'."

"Then, Sir, he raised the same objections in three or four cases where the definition of maths came and on every occasion he moved for the deletion of 'maths' on identical grounds and nothing more. My friend says that his amendment represents progressive judicial thought in the country. But I can say that advanced progressive judicial thought in the country, according to justice and evidence given is represented in the amendment proposed by the Government, and it represents also the progressive thought of the ordinary man who has faith in temples and maths. That is what is represented in the Government amendment, Sir."

The amendment was put and lost.

Clause 57.

SRI T. VISWANATHAM:—"Sir, I move—

"Delete the words "and having obtained the consent in writing of the Commissioner."

Sir, the existing Clause in the Bill says—

"The Commissioner, or any two or more persons having interest and having obtained the consent in writing of the Commissioner, may institute a suit in the court to obtain a decree for removing the trustee of a math or a specific endowment attached to a math, for any one or more of the following reasons, namely,

"Sir, a healthy provision is made here with regard to certain aspects in regard to certain matters where the Commissioner should go to the court to get redress against matadhipathis. Here, any two or more persons are given the right, but I do not understand why the Commissioner should give his seal of approval for instituting a suit in court. That means the right given to two or more persons is practically denied by saying that the Commissioner should give his consent for going to court. The effect of it will be that if the Commissioner does not give his consent, the two or more persons cannot go to a court of law, and so the effect of the right given to

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two or more persons to go to court will be nullified by the provision that they should obtain the consent of the Commissioner. What I say is, if the Commissioner is given the right, it is good he exercises that right, but persons having interest also must have the same right and that right must not be stifled by an unwilling Commissioner. That is the object of my amendment, Sir."

SRI K. BHASHYAM:—"Sir, I second the amendment moved by my hon. Friend, Mr. Viswanatham. Complaints have been made from time to time by the Government that persons are indifferent to mismanagements in temples and maths and people do not come forward or take the trouble to bring it to the notice of the courts and therefore it has become necessary that an officer should be appointed for the purpose of taking up the matter and that is the justification for all the provisions in the Bill. That was the thing that was stated originally when the Bill was introduced.

"Now, what happens is, if two or more people come forward and say, 'we have special interest; we want to take up the matter to the court and we are prepared to bear all the expenditure,' why should the Commissioner be given a say in the matter? Of course, the Commissioner is there when the public are indifferent to the matter, but if the public are vigilant and want to take up the matter to court, why should the Commissioner come in at all? I cannot understand it. The whole argument of the Treasury Bench was that the people were indifferent and they did not take interest in respect of such matters. Perhaps the Government are to-day stimulated with the idea that they find there is so much breach of trust or mismanagement and that a duty has devolved upon them for the purpose of taking all these things on their heads and therefore they are making this provision. I wonder why when two or more persons come forward and are willing to expend all the money for the purpose, should the Government put a spoke in the way of getting the consent of the Commissioner. Perhaps there may be a Commissioner who has 'dhakshanyam' for certain people and for that reason he may not be willing to give his sanction. Of course, they may be justified in saying—the Hon. Law Minister may say—'under section 92, you have got to obtain the consent of the Advocate-General and therefore we put in a similar provision here and whether you approve it or not, we reproduce it here.' But, I ask, 'why do you reproduce this provision alone and not all the other things and why do you reproduce only a bad thing and justify it?' It is really wrong to reproduce bad provisions and not the good provisions. When you are taking a thousand and one good things, and along with that you are taking a bad thing also, now, why should you take a bad thing and rule out the other good things. This is what the position of the Government comes to. Therefore I say the consent of the Commissioner need not be obtained to institute a suit for removing a trustee of a math. I strongly support the amendment."

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THE HON. SRI K. MADHAVA MENON :—“ Mr. Speaker, Sir, I thank my hon. Friend, Mr. Bhashyam for the compliment he has paid to my legal knowledge. It is a very proud thing for me to get such a compliment from one like Mr. Bhashyam.”

SRI K. BHASHYAM :—“ Then follow the master closely. That is the reason for this amendment! ”

THE HON. SRI K. MADHAVA MENON :—“ Regarding this Clause, the disciples may follow the master too much. Sir, hon. Mr. Bhashyam said that the Hon. Law Minister with his legal knowledge might as well say, ‘ there is the section 92 of the Civil Procedure Code.’ Sir, I tender my thanks to him for reminding me of that section. But, Sir, may I tell him there are various provisions in the Criminal Procedure Code, where, even in big cases, prosecution should not be launched before a court without the previous sanction of the Government? What is the reason for that? It is because we want to see that blackmail should not be done. Otherwise, Sir, for flippant reasons anybody and everybody may rush to court. So, to prevent all that, a *prima facie* case should be established, before a suit is proposed to be filed for dismissing a matadhipathi. It should not be done light-heartedly. Mr. Bhashyam asked, ‘ why should Government take the responsibility on their head for this? ’ It is not a question of our anxiety. It is the duty of the public to see that blackmail should not be done. So, what is the provision to prevent that blackmail? So, the words, ‘ any two or more persons having interest and having obtained the consent in writing of the Commissioner ’ are necessary. Argument was advanced for keeping the pristine glory of the matadhipathi, and the respect and dignity that he should command. Now, where is all that gone, when my friends say, now, that every citizen should be given the right to file a suit for his removal? I have greater respect, if not equal respect, as my friends do have, for the matadhipathi, and I say, it is in their interest that such a right, as is sought to be given to the ordinary citizen by my friends to be flippantly allowed to be used by them, should not be allowed.”

SRI T. VISWANATHAM :—“ Mr. Speaker, Sir, I entirely disagree with the Hon. Sri K. Madhava Menon. He has been saying all this while that it is in the interests of the good administration of the Hindu religious endowments, charitable trusts and maths that we are coming forward with the present legislation. But, here, what is it that is sought to be done? It appears, Government want to have their finger on every detail of administration. If really, they are interested or anxious to see that the properties of the math are to be properly managed, let them declare that any person who has an interest in the math property should have the right to bring a suit for the better management of that property. Instead of doing that, by the present Clause, Government seek to have under their thumb the entire administration of the math

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property. They wish to have all the thirty thousand religious institutions and seven hundred matadhipathis in the State at their beck and call. This is, at least, what the Clause would amount to in practice. Now, if that is not the idea of Government they should give the right to every citizen in the country who is interested in the math property to bring a suit for the better administration of that property, instead of asking him to approach the Commissioner for leave to institute a suit. I know for the last fifteen or twenty years, though people were trying to go to a court of law for this purpose, it was not possible, because of the Hindu Religious Endowments Act. Sir, some of these matadhipathis are very influential and they have got moneys at their disposal, and they have rich sishyas, and so, it is not possible to control them, unless we give power here to every citizen who has an interest in the management of the institution. Why am I saying that? Because certain things have come to my notice of what has happened. So, it is not to my benefit or any particular man's benefit, that I want that the Commissioner should not be approached to obtain consent to institute a suit. Sir, these Commissioners will have a hierarchy of high officials, and they may be anxious in seeing that certain matters are not brought to light. Therefore, I say, it is in the public interest that an ordinary citizen should be given the right to go to a court of law and not be asked to approach the Commissioner for consent to institute a suit. So, if the object of the Government is to see that these maths are properly administered, let them not deprive the ordinary man of his ordinary right, and that is why I want the Hon. Minister for Law to reconsider the matter.”

MR. SPEAKER :—“ The question is—

‘ In sub-clause (1), delete the words “ and having obtained the consent in writing of the Commissioner ”.’ ”

The amendment was lost.

MR. SPEAKER :—“ I rule the other amendment of Mr. Viswanatham, as out of order, and so, he cannot move it.”

Sub-clause (1) (b).

SRI L. N. GOPALASWAMI :—“ Mr. Speaker, Sir, I beg to move the amendment which stands in my name; and that is, to—

‘ Delete sub-clause (1) (b).’

Sir, my arguments are as follows: The Hon. Sri Madhava Menon, while opposing Mr. Viswanatham's amendment spoke very much, saying that these trustees should be dealt with not lightheartedly. Sir, we have got the greatest regard for the matadhipathis, and we agree that all persons should not be allowed to file suits against them. But his reasoning falls to the ground when we look at sub-clause (1) (b). It is all vague there. It says a trustee may be removed if he is suffering from any physical or mental defect or

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infirmity which renders him unfit to be a trustee. Sir, I am not able to understand how these descriptions of infirmity can render him unfit for his work. Sir, is this not treating him lightheartedly, I ask? Perhaps the Hon. Minister is thinking of certain imaginary defects, mental, physical or otherwise, which should entitle two persons to approach a Commissioner to give consent to file a suit for the removal of the trustee. I wonder how any of these defects can be made a ground. This provision becomes all the more important when we keep in mind the importance and the reverence with which a matadhipathi is held in his locality. That being so, under Clause 57, such a person is sought to be removed lightheartedly, on the ground that he is suffering from any physical or mental defect or infirmity. Now, on these self-same grounds, in another Clause, the Deputy Commissioner is entitled to remove him from his office and place his property in some other's possession or deal with the property in the way he likes. For, look at Clause 58. There, you will see, that when a trustee is by reason of unsoundness of mind or other mental or physical defect or infirmity unable to discharge the functions of the trustee, the Assistant Commissioner may take such steps and pass such order as he thinks proper for the temporary custody and protection of the endowments of the math. Now, I ask, Sir, is this all not treating the matadhipathi lightheartedly? It may be, there may be men who have got an old grievance against the head of the math, and there is nothing in the Bill which prevents such persons from proceeding to institute a suit to remove the head of the math. Is this not treating the head of the math lightheartedly, once again, I ask? Nobody knows what sort of suffering or infirmity is contemplated in this sub-clause. So, Sir, I request the Hon. Minister to reconsider the matter. Apart from the legal aspect of it, even the administrative difficulty that may be felt in carrying out this sub-clause, may be looked into. So, Sir, I ask the Hon. Law Minister whether what is contemplated in this sub-clause is not treating the matadhipathi lightheartedly?"

SRI K. VARADACHARI:—"I second the amendment."

SRI K. BHASHYAM:—"Mr. Speaker, Sir, the difficulty in accepting this Clause is because the implications of it are not seriously appreciated by the Government. That is my view, at any rate. Because the sub-clause says—

his suffering from any physical or mental defect or infirmity which renders him unfit to be a trustee.

Is it the case of the Hon. Minister that if a person suffers from these infirmities or any one of them he becomes unfit to be a trustee, and thereby becomes unfit to manage the property of the math or becomes unfit to render the spiritual service for which he is there as the head of the math? The difficulty in this case will be this: though he may be old, he may not be so old as to manage the property, or not so old as to be in a capacity not to give the necessary initiative to his disciples. I think, the older he is,

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the wiser he will be; because as one grows old, he becomes mature minded to give spiritual advice, and so, he may still be competent to occupy the position as head of the math. Now, the clause, as it stands, looks as if, in case he is not fit to be the head of the math for the purpose of giving ministerial or spiritual advice, you may dismiss him, on the ground that he will not be able to do anything else also. This is a thing which should not be done so lightheartedly. It will work very great hardship in actual practice. Then, Sir, the Hon. Minister for Law may say that the Commissioner will not be so unreasonable as to do anything like that. But, Sir, sometimes we may get unreasonable Commissioners; for, do we not get unreasonable Government officers sometimes? And have not Government punished them for their action? Therefore, Sir, we should provide for all kinds of men, as it is not always do we get men of high quality, integrity, knowledge and intelligence. So, I am asking the Hon. Minister for Law to understand the implications of this sub-clause and see whether he cannot change the words to suit my point. If he says that the trustee in spite of the infirmity may continue to manage the property and not as the spiritual head, at least, let him put the sub-clause in that way. The sub-clause, as it is, is defective, I mean, defective in drafting, and I hope the Hon. Minister will meet my point."

RAJA MUTHIAH CHETTIYAR OF CHETTINAD:—"Mr. Speaker, Sir, I am not a friend of matadhipatis at all at this stage of the Bill, though I had some sympathy with them at the Select Committee stage. Yet I feel that some change is called for in Clause 57 (1) (a) and (b)."

MR. SPEAKER:—"We are now dealing with item (b)."

RAJA MUTHIAH CHETTIYAR OF CHETTINAD:—"In dealing with item (b), I am referring to clause (a) for comparison. I agree that a person who is of unsound mind should be removed from office. Even there, the learned Doctor, under whose portfolio this Bill comes, knows more than anyone of us that a person of unsound mind may become all right after some treatment. The 'mental defect' referred to in item (b) may include the unsoundness of mind referred to in item (a). I request the Government to combine (a) and (b) under one item. The usual language employed in legislation is leprosy, insolvency or unsound mind. These are the three things to which we are generally accustomed. I find for the first time the inclusion of physical defect in this clause. Physically a person may be unfit. For example, if a person is suffering from paralysis of one of the legs, he can be moved in a chair. He may be perfectly all right for carrying the religious affairs and his disciples would like to hear his teachings, and also the secular affairs. For what kind of physical infirmity is a matadhipati to be removed? A person who is over seventy years of age may be infirm according to some of us. But there are persons who are physically and mentally

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fit even up to eighty years. Expressions like old or infirm are vague and very difficult of interpretation. As the hon. Member Sri Bashyam said, the Government can always reply *bona fide* that the Commissioner is expected to be reasonable and that every Commissioner is not likely to issue perverse orders. In legislation we must use as clear a language as possible, especially when defect or vagueness is pointed out by hon. Members. The duties of a matadhipati are classified under two main headings—secular and religious. In the administration of secular affairs, he is assisted by a manager according to a provision in this Bill. I shall speak about it when the relevant clause is taken up. When the secular part of the work is separated, a matadhipati is expected to do only the religious part. If the physical defect is of such a nature as not to require removal from office or as can be cured within six months or so, a matadhipati need not be removed. A matadhipati is learned and respected, unlike many matadhipatis with whom we are familiar and about whom we have natural prejudices and rightly so. Those prejudices should not cloud our vision and prevent us from taking a judicious view of how this provision will affect a really good matadhipati. Even a slightly infirm person may be all right otherwise. Therefore I appeal to the Hon. Minister who is now in charge of the Bill to recast items (a) and (b) suitably and move an amendment at a later stage at least."

SRI P. KANDASWAMI PILLAI:—"I oppose the amendment, Sir. Just before, the Raja of Chettinad was asking what physical defect a matadhipati will have. I have great regard and respect for all spiritual heads. But I presume matadhipatis also are human beings, and therefore subject to all the weaknesses and ailments of ordinary human beings. Doctors tell us that when a consumptive patient coughs, he spreads contagion to a distance of twenty-three feet. Suppose the head of a math is a consumptive patient. Who is to decide whether he is a consumptive patient or not? He may not be willing to reveal it because he will have to lose his position. I do not say that every head of a math will do like that. But when such cases do occur, under what provision of this Bill can he be asked to undergo treatment or kept away from spreading contagion if item (b) is deleted? A person is heir to so many physical complaints. He may become deaf or as the Raja of Chettinad said, get paralysis of the leg or tongue. Because he cannot talk, he may be keeping quiet inside the math. Because such amendments are moved, we have to analyse and discuss threadbare all aspects on the floor of the House. It is not as if every Commissioner will pounce upon a matadhipati and remove him from office. It is provided that the Commissioner, or two or more persons having interest with the consent of the Commissioner, can file a suit for removing a matadhipati. A court of law will try the case and give its verdict as to whether the matadhipati is suffering from any physical or

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mental defect or not. Therefore where is the room for fear? Unnecessary fear need not be entertained. No harm will result from this clause and the clause should remain as it is."

SRI N. S. VARADACHARI:—"Mr. Speaker, Sir, I have refrained so far from participating in the discussion of this chapter. I want to draw the Hon. Minister's attention to one aspect. As a person with some little culture, I would suggest that this whole chapter be recast. It begins with a provision for the removal of a matadhipati and then deals with the filling up of vacancies and so on. Why should we not begin the chapter with some decent clauses and consign dismissal or removal to later clauses? If I had been in the Select Committee, I would have suggested this order. I do not like the very set-up of the chapter or the language employed. It ought to have begun by saying that the trustee shall ordinarily be the head of the math with complete charge of the religious portion of the duties there. Then secular matters may be dealt with and the Government can provide for whatever control they want. My sense of culture revolts against the whole arrangement."

"Coming to the amendment before the House, it is very right that item (b) should be deleted. Ordinarily no person with a physical or mental defect will aspire to the office of a matadhipati. I will give a cultured example. Suppose a person suffers from loss of memory because of old age. Normally he will say: 'I have lost my memory. I do not want to continue any longer!'

"I still feel that all of them are good honourable and respectable people. If the trustee is of unsound mind, he must cease to be a trustee and the Government have a perfect right to move the court to see that he vacates his office. Nobody desires to stick to his office as was alleged by the hon. Member who preceded me. What is there in that office to covet? The office is not usually sought after by many people. Nowadays it is very difficult to get persons to take up the headship of maths. I know that even deserving people have rejected the offer. The responsibilities of the office only dissuade and do not persuade people to accept it. I am talking only about the two maths within my knowledge and I know that they have had a distinguished succession of scholars as their heads. If a matadhipati is found to be suffering from any physical defect or infirmity, the Commissioner can ask him to appoint a competent person as manager to look after the secular administration. The Raja of Chettinad assumed that a manager would be appointed in every case. If a trustee looks after the secular as well as religious affairs properly, I think the provision relating to the appointment of a manager will not apply to him automatically. Only when the Commissioner is satisfied that a trustee is incapable of discharging his secular duties properly, he will move for the

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appointment of a manager. In regard to purely religious observances, I do not think there is any case for retaining sub-clause (1) (b)."

THE HON. SRI K. MADHAVA MENON:—"When we passed clause 49 relating to the trustee of a religious institution, there was no difficulty in understanding the words 'unsoundness of mind or other mental or physical defect or infirmity'. But difficulty has been expressed in understanding similar words when applied to maths! If similar wording is adopted by Sri K. Bhashyam in his amendment, it will be acceptable to Sri L. N. Gopalaswami. There will be no difficulty in understanding it because it was used by Sri Bhashyam. (Interruption by Sri K. Bhashyam.) In the amendment proposed by Sri Bhashyam, the language adopted is: 'when a matadhipati is by reason of unsoundness of mind or other physical infirmity unable to discharge his functions'. If this wording is right in Sri Bhashyam's amendment, the wording used in this clause is also right."

SRI L. N. GOPALASWAMI:—"Mr. Speaker, Sir. I still maintain that it is ununderstandable that in spite of what Sri Bhashyam has said in his amendment, why this clause should be retained. I want to point out to the Hon. Minister for Law that my hon. Friend Sri K. Bhashyam has used the words 'infirmity' along with 'physical', but in this clause there is nothing of it at all. The Hon. Minister has misread the amendment altogether. His amendment says 'by reason of other physical infirmity unable to discharge his functions'. There is a vast difference between this and the sub-clause 57 (1) (t) as it is."

THE HON. SRI K. MADHAVA MENON:—"On a point of order, Mr. Speaker, may I know whether an hon. Member has a right to say, which I have not said or that I have misread. The sub-clause (b) says 'any physical or mental defect or infirmity which renders him unfit to be a trustee' and I quoted Sri Bhashyam's amendment exactly from the Chapter which he wants to be substituted instead, namely 'by reason of other physical infirmity unable to discharge his functions' and I submit there is no difference at all, and the hon. Member cannot say that I have misread the amendment of Sri K. Bhashyam."

SRI L. N. GOPALASWAMI:—"It is the mere reading of the clause and the understanding of the English language that is required here. It is perhaps not a misstatement or misreading of the clause. I still maintain, Sir, that what I have said is correct. What is stated in the sub-clause is 'his suffering from any physical or mental defect or infirmity which renders him unfit to be a trustee'. There is no such qualification as physical or mental and the word 'infirmity' is used in a separate sense,

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while the Hon. Minister wants to make it synonymous with physical or mental defect. Therefore there is no such thing as mis-statement which I have made.

"But, Sir, I am very glad that it has been possible at least for some of the hon. Members like the Raja of Chettinad to understand that this is a very vague clause and is likely to be misunderstood not only by the Commissioner, but it will also be made use of as a weapon by some people who make it their business to dethrone the matadhipathis on some pretext or other, to be always threatening them. So far as my point is concerned, I still maintain that the Hon. Minister has not answered it and if he does not answer, the House will take note of it.

"So far as the other provision is concerned, I think it is not desirable to retain in the hands of the Commissioner the power to institute a suit or of giving his consent in writing to other persons who want to dethrone a matadhipathi by instituting legal proceedings on some vague pretext or other. There should not be any vagueness in any of these provisions."

SRI K. BRAHMANANDAM REDDI:—"May I know, Sir, whether it is the Commissioner's opinion that the trustee of a math is unfit for service that is enough or it is the court that is to decide the fitness or otherwise of the trustee? Suppose the Commissioner thinks that a particular trustee is unfit for service by reason of his physical or mental defect, it will only be a ground for him to approach the court to declare him to be unfit for service as trustee, is it not?"

SRI K. BHASHYAM:—"Sir, my name has been dragged in and my amendment was really referred to in the course of the reply of the Hon. Minister for Law as an argument against his accepting the amendment of my hon. Friend Sri L. N. Gopalaswami. Sir, I am not able to repeat the exact words that he used, but I think there is a great deal of difference in what I have said in my amendment, and what the Hon. Minister has taken it to mean. The expression which I have used, namely, 'that a matadhipathi by reason of unsoundness of mind or of physical infirmity unable to discharge his functions' is quite different and conveys a different meaning from the expression used in this sub-clause, namely, 'his suffering from any physical or mental defect or infirmity which renders him unfit to be a trustee', because 'unfit to be a trustee' conveys a different meaning from 'unable to discharge the functions of a trustee'. If my Hon. Friend the Law Minister wants to make a capital out of my amendment, then all I can say is, that he has not really understood my amendment."

THE HON. SRI K. MADHAVA MENON:—"Sir, I cannot really understand the difference for myself between the expression 'physical infirmity unable to discharge the functions as trustee', and 'suffering from any physical or mental defect or

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infirmary which renders him unfit to be a trustee'. I think that the difference, if there is any, will be the difference between tweedledum and tweedledee.

"Sir, my hon. Friend Sri K. Brahmanandam Reddy asked whether it is the Commissioner's opinion that the person is of a mental or physical infirmity that would make him unfit to be a trustee or whether it is the court that should be satisfied with it. The object is that the Commissioner, if he thinks that the trustee is mentally defective, may institute a suit in the court and obtain a decree for removing him from his office. It is the court that must decide the issue and not the opinion alone of the Commissioner, Sir."

SRI L. N. GOPALASWAMI:—"On a point of personal explanation, Sir, it is not merely with reference to this clause where a court's reference has been provided for, but also with reference to the other clause 58, where there is no mention of interference by court, that I have spoken, Sir."

MR. SPEAKER:—"The amendment is—

'Delete sub-clause (1) (b) of clause 57.'"

The amendment was lost.

Sub-clause (1) (d).

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I move the amendment standing in my name, namely—

'In clause 57, sub-clause (1) (d), add at the end the words, "or for leading an immoral life and bringing the institution into contempt".'

"Sir, I want to add these words at the end of the sub-clause (1) (d) in order that this may serve as a ground on which a trustee or matadhipathi can be removed from his office. It is most necessary, Sir, that the trustee or the head of a math must be a person leading a moral life and it is not enough to say that his conviction for any offence involving moral turpitude should alone be a ground for instituting proceedings to remove him from office. Because we are dealing with religious institutions and because the whole Act deals with objects of spiritual elevation, namely temples and maths, I submit that there must be some relation between the person who is the trustee of the institution and his private morality and life to make him fit to hold the post of the spiritual head of that institution. To enlighten the House about the necessity to keep the trustee above reproach with regard to his personal morality, I shall read an extract from the Judgments of Madras and Calcutta High Courts. I am reading

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from this book, entitled, 'The Law, relating to Hindu and Muhammadan Religious Endowments, with commentaries', by P. R. Ganapathi Ayyar.

There can be no doubt that a charge of immoral conduct subsequent to the appointment will be a valid ground for dismissing the head of a mutt who is required to be an ascetic. So it was held in one case that the Swamis of the mutts at Udipi with their disciple had the right to inquire into the immorality of one of the eight Swamis and on proof of the same to outcaste him when he ceases to be the head. Even where the head of a mutt is not required to be an ascetic but is permitted to marry, the leading of an immoral and a vicious course of life ought to be a sufficient ground for dismissal as the duty of the head is to impart spiritual instruction and to propagate the Hindu Religion and he is expected to lead a chaste and an austere life."

SRI V. RAGHAVAYYA:—"Mr. Speaker, Sir, I second the amendment of my hon. Friend Sri T. Viswanatham. Of all the amendments that have been moved so far, I have no doubt that this is the best one and if anybody should try to oppose it, I will have no hesitation in saying that his position will be the worst. The hon. Mover of this amendment said that an immoral man shall not continue to be the trustee of a religious institution or the head of a math. If a trustee could be sent out for being deaf, or if he can be removed from service for having lost an arm, or if he is debarred to hold the post if he has lost his memory, there is no reason why he should not be sent out if he leads a notoriously immoral life. The question arises as to how a person should be declared to have been leading an immoral life. Sir, the world is not so blind to know that, nor can the Government be. It is an easy matter to find out whether a man is immoral or not. Even the Indian Penal Code has tried to catch man and punish him for immorality. It has laid down that if a person entices a married woman or is guilty of adultery, etc., he is punishable by law. But these are compoundable offences. It can be argued that even though these are provable offences, they are not enough, but that the person must have been convicted for such an offence in a court of law. Sir, the term moral turpitude is so very vague that it is doubtful whether it will cover such offences. There are two sections in the Indian Penal Code defining what is immorality and I daresay that the Government should be able to assess whether a trustee is immoral or not by applying these definitions.

"As regards the general test of how immorality could be assessed, suppose a trustee has been leading an immoral life, keeping a permanent concubine or suppose a lady who is not in wedlock with any other person is living with the trustee, then there is absolutely no law which could punish him in a criminal Court. But so far as this sub-clause is concerned, that should be an enough ground for the Commissioner to take action to remove him from his office. The clause as it stands at present, does not make any such provision. It need not be proved that they were living as husband and wife in a Court of Law. The very fact that he is leading an immoral life must be enough to move the

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court to remove him from his office. That is the purpose of this amendment and I see no difficulty which would stand in the way of Government accepting this very reasonable amendment."

SRI K. BHASHYAM:—"Sir, I must confess that I have certain doubts so far as this amendment is concerned, before I could fully subscribe to it. If a *matadhipathi* is immoral, certainly he should not be continued in office. There is no doubt about that and I entirely agree with the first portion of the amendment. But there is also the addition of the words, 'bringing the institution into contempt' in the amendment. It is so general and a little bit vague and I am afraid that it would be used as a weapon in the hands of the Commissioner or any person who is against the *matadhipathi* to bring any matter to the Court, saying that it would bring the institution into contempt, and therefore it is rather dangerous to add that portion. That is why I slightly hesitate to support the amendment.

"Sir, while perhaps the question of immorality is provable in a Court of Law, the latter portion, 'bringing the institution into contempt' is more difficult of definition. But, it is the Court's decision that will prevail ultimately, I think, one may support this amendment with some hesitation."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, this is the third or fourth occasion on which my hon. Friend Sri T. Viswanatham has raised objection to morality clauses. He moved certain identical amendments once in connection with the trustees and religious institutions, hereditary and non-hereditary, and then in connection with the trustees of area committees, etc. My hon. Friend wants to add the words 'that a person leading an immoral life and bringing the institution into contempt' at the end of the sub-clause (d). Nobody will raise any objection to the propriety of a *matadhipathi* being removed because of his immoral conduct, or conduct which would bring the institution into contempt, because the sacredness and sanctity of the institution depends upon the integrity and morality of the head of the institution. So, I do not think anybody will object to the object of the amendment. But at the same time, it is difficult to prove what a moral life is, and to define the term 'bringing an institution into contempt.' These should not be left so vague. A person may have a very bad reputation of leading an immoral life, though as a matter of fact, he may be leading quite a moral life. It is easy to spread scandals against persons occupying such positions, but they may or may not be true or capable of being proved in a Court of Law. In this clause we have provided that his conviction for any offence involving moral turpitude should be a ground for moving the Court to removing him from his office. I think that is enough and will cover this intention also. It is not possible to add these words, because they are very vague and uncertain. That is why I cannot accept the amendment."

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SRI T. VISWANATHAM:—"Sir, the clause is a masterpiece of uncertainties when it refers to neglect of duty and physical or mental defect or infirmity rendering him unfit to be a trustee. All these the Hon. the Minister considers clear and precise, but he considers 'leading an immoral life and bringing the institution into contempt' as too vague. That is an argument which passes the understanding of any man of good reason and sound judgment. I submit that it is not so vague. I have quoted seven decisions in this regard, where persons have been dismissed from the office of *matadhipatis* on account of their immoral life. I gave the decisions of the High Court. It is not anybody's opinion. They are not the decisions of District Munsifs or District Judges. They are the decisions of the Calcutta and Madras High Courts. The Commissioner is not going to dismiss him, but he will only take the matter to the Court. The Court will decide whether the person is leading an immoral life or not. There is nothing uncertain in the amendment. Let the Hon. the Minister reject it if he wants to but not on the ground of uncertainty."

MR. SPEAKER:—"The question is—

'In sub-clause (1) (d) add at the end the words "or for leading an immoral life and bringing the institution into contempt".'

The amendment was lost.

Sub-clause (2).

SRI T. VISWANATHAM:—"This is a very troublesome sub-clause, Sir. It involves an important principle. Just as in a nursery song—

'Simple Simon met a pie-man. He put his thumb in the plum
. . . . And said what a good boy am I?'

the Government here have removed the word 'subject to the control of the Government', etc., in the other provisions but here they say that two gentlemen having an interest may appeal to the Government against the refusal of the Commissioner to give his consent. In the other place they have stated that any two persons having interest could go to the Court only after they had obtained in writing the consent of the Commissioner. It looks the Government want to reserve the power to themselves. When the Commissioner refuses to give his consent, these persons have to go to the corridors of the Secretariat. Where is the necessity to do so? Persons having interest in the matter will not have the heart to go to the corridors of Fort St. George and hang on the Government's coat tails. In respect of their own institutions, in their own local areas, and maintained by their own denomination in proper condition, should they not be given the right of going to the Court of Law praying that this *matadhipati* is leading an immoral life? From the beginning the Government

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THE HON. SRI K. MADHAVA MENON:—“ Mr. Speaker, Sir, when the hon. Member supported hon. Mr. Viswanatham's amendment 'or for leading an immoral life and bringing the institution into contempt', he stated that he was supporting the amendment, because it was the court that would decide the question. My answer to his argument is that sub-clause (1) gives the reasons on which a *matadhipati* can be removed by a court. He cannot be removed by the Commissioner's whims and fancies. The Commissioner only initiates the proceedings, and the court will decide the case. The hon. Member Mr. Bhashyam said that under sub-clause (1) (c) a man might not be willing to exhibit his profession of the Hindu religion, but he will be giving instruction in any particular tenet or philosophy of Hinduism. When it can be a tenet of Hinduism or tenet of philosophy, tenet of math also has got a meaning. That is all I can say, Sir.”

Clause 57 was put and carried.

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It is quite essential that we should take note of all these things. We should not ignore the existence of these differences in our religion.

“ I then wish to point out that what is stated to be a salient improvement in the present Bill is not really an improvement. I refer to what is called the third salient improvement, that is, the restriction of the scope for litigation and the consequent wastage of the funds of religious institutions. In this connexion the Hon. Minister has stated in his speech as follows:—

‘ We have removed the right to go to Courts in the following matters, which are all allowed under the present Act :—

- (i) Appointment and removal of hereditary trustees ;
- (ii) Fixing of dittams, or standard scales of expenditure in temples ;
- (iii) Utilization of surplus funds of religious institutions ;

“ With regard to item (i) above, that is, appointment and removal of trustees, a point made by some of the speakers including the Leader of one of the Opposition Parties is worthy of being taken into consideration. We should be very careful in this matter and we cannot leave it in the hands of a Government servant.

“ With regard to item (ii), that is, fixing of dittams, or standard scales of expenditure in temples, will the Commissioners be people who have studied the rituals of Panchathantra, etc., systems? Will the study of these texts be prescribed as qualification for a Commissioner? If this is done and if the Members of the Area Committees are tested in this respect, I have no objection to the present provision.

“ Coming to the question of utilization of surplus funds of religious institutions, they may be utilized for purposes which are not diametrically opposed to the spirit and intention of the original donor. It is, of course, open to the Government to enact any legislation they like but it should be seen that those laws do not go against the moral laws prevalent in the land. Therefore, I consider this change is not at all an improvement in this Bill. I hope suitable amendments will be brought forward and the Bill will be made more acceptable to the people.

“ With these words, I welcome the Bill as modified by the Select Committee, Sir.”

SRI S. K. PALAIYA KUDUMBAR :—“ கனம் சபாநாயகர் அவர்களே. இப்பொழுது விவாதத்திலிருக்கும் ‘பில்’ லே சுதரித்து சில வார்த்தைகளை தெரிவித்துக் கொள்ள விரும்புகிறேன். இந்த ‘பில்’ சம்பந்தமாக பேசும்பொழுது சட்ட வியாக்யானம் செய்யக் கூடியவனும் அதில் புரண்டியதையும் பெற்றவனும் நான் அல்ல. சட்டத்தைப் பற்றி பேசுவதற்கு நான் தகுந்தவனல்ல. சட்டத்தைப்பற்றி அனேகமேயான சொல்லிவிட்டார்கள். சட்டத்தைப் புரிந்துகொண்டு அதை ஏற்றுக்கொள்ளக்கூடிய சக்தியற்றவன் நான். இப்பொழுது பரம் பகர்ப்பாக பலகாலமாக பலவிதத்திலும் இன்னல்களும் இடஞ்சுள்களும் துன்பங்களும் துயரங்களும் அடைந்து பலவிதத்திலும் தாழ்த்தப்பட்டு, அங்கு வரக்கூடாது இங்கு வரக்கூடாது என்று ஒதுக்கப்பட்டு இப்பொழுது நான் மூலக்கவர் வேண்டுமென்று எண்ணக்கொண்டுள்ள ஒரு ஹிந்து என்ற நிலைமையில் இந்த சட்டத்தை ஆதரிக்கிறேன். ஒன்றாய் செய்தால்தான் ஒன்றாகும், இப்பொழுது செய்யதான் என்பது உண்மை. அப்படிதான் நான்

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Sub-clause (1).

SRI T. VISWANATHAM:—Mr. Speaker, Sir. I beg to move—

'That in sub-clause (1), for the words "the Assistant Commissioner may take such steps and pass such orders as he thinks proper for", substitute the words "the Commissioner may apply to the Court for orders regarding".'

This is a proposition which I have been pressing and I cannot, of course, advance any new arguments in support of it nor can the Hon. Minister advance any new arguments to reject it. But, anyway I move it, Sir, and he may oppose it."

SRI K. BHASHYAM:—Mr. Speaker, Sir. I second the amendment. This is a matter which affects the religious institutions most intimately. With regard to the succession to the trusteeship, while the section does not make any arrangements for filling up vacancies, it does say, when there is a dispute, what the Commissioner or Assistant Commissioner can or cannot do. When a vacancy occurs, it has to be filled up. If, according to the Government or the Commissioner, the person in charge of an institution is unable to discharge his functions properly, I think the word 'functions' is properly used in this section as it was used in section 57, what are the arrangements to be made in respect of this matter? If it is an urgent matter, I can understand some step being taken by the Commissioner or Assistant Commissioner or other officer, for getting things done for the purpose of carrying on the business. But, the question arises when it is a permanent vacancy, in case a person is mentally unsound or physically defective, etc., what should be done, for his removal. He cannot be removed because the Court has to give an order whether he should be removed or not. Therefore, the question in all these cases is that one has to go to a Court of law regarding what steps should be taken. Supposing that a person is not discharging his functions properly, or that he is a minor or that there is a dispute respecting the person who is entitled to act as such guardian, or for other reasons, the matter has got to go to a court of law for the purpose of fixing a successor unless the community or the denomination as such according to the custom or usage appoint the successor. So, if the head of a math has made a nomination, the question is whether the nominated person can be appointed because there are cases where nominations are made, such nominations are disputed and the question is before a court of law.

"Next is the question of election by the sishyas. There also it is a question of nomination because the sishyas have to agree and make a nomination and this is again difficult. Therefore, in all these matters, when the matter is before the court pending final orders, to say that the Commissioner may take upon himself and make temporary orders seems to be wholly bad.

THE MADRAS LEGISLATIVE ASSEMBLY.

Saturday, the 25th November 1950.

The House met in the Assembly Chamber, Fort St. George, at ten of the clock, Mr. Speaker (THE HON. SRI J. SIVAMUGAM PILLAI) in the Chair.

MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
BILL, 1949 (L.A. BILL NO. 10 OF 1949)—cont.

Clause 58.

SPEAKER:—"The motion is—
That clause 58 do stand part of the Bill."

[Sri. V. Raghavayya] [24th November 1950]

court to remove him from his office. That is the purpose of this amendment and I see no difficulty which would stand in the way of Government accepting this very reasonable amendment."

SRI K. BHASHYAM:—"Sir, I must confess that I have certain doubts so far as this amendment is concerned, before I could fully subscribe to it. If a *matadhipathi* is immoral, certainly he should not be continued in office. There is no doubt about that and I entirely agree with the first portion of the amendment. But there is also the addition of the words, 'bringing the institution into contempt' in the amendment. It is so general and a little bit vague and I am afraid that it would be used as a weapon in the hands of the Commissioner or any person who is against the *matadhipathi* to bring any matter to the Court, saying that it would bring the institution into contempt, and therefore it is rather dangerous to add that portion. That is why I slightly hesitate to support the amendment.

"Sir, while perhaps the question of immorality is provable in a Court of Law, the latter portion, 'bringing the institution into contempt' is more difficult of definition. But, it is the Court's decision that will prevail ultimately, I think, one may support this amendment with some hesitation."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker. Sir, this is the third or fourth occasion on which my hon. Friend Sri T. Viswanatham has raised objection to morality clauses. He moved certain identical amendments once in connection with the trustees and religious institutions, hereditary and non-hereditary, and then in connection with the trustees of area committees, etc. My hon. Friend wants to add the words 'that a person leading an immoral life and bringing the institution into contempt' at the end of the sub-clause (d). Nobody will raise any objection to the propriety of a *matadhipathi* being removed because of his immoral conduct, or conduct which would bring the institution into contempt, because the sacredness and sanctity of the institution depends upon the integrity and morality of the head of the institution. So, I do not think anybody will object to the object of the amendment. But at the same time, it is difficult to prove what a moral life is, and to define the term 'bringing an institution into contempt.' These should not be left so vague. A person may have a very bad reputation of leading an immoral life, though as a matter of fact, he may be leading quite a moral life. It is easy to spread scandals against persons occupying such positions, but they may or may not be true or capable of being proved in a Court of Law. In this clause we have provided that his conviction for any offence involving moral turpitude should be a ground for moving the Court to removing him from his office. I think that is enough and will cover this intention also. It is not possible to add these words, because they are very vague and uncertain. That is why I cannot accept the amendment."

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SRI T. VISWANATHAM:—"Sir, the clause is a masterpiece of uncertainties when it refers to neglect of duty and physical or mental defect or infirmity rendering him unfit to be a trustee. All these the Hon. the Minister considers clear and precise, but he considers 'leading an immoral life and bringing the institution into contempt' as too vague. That is an argument which passes the understanding of any man of good reason and sound judgment. I submit that it is not so vague. I have quoted seven decisions in this regard, where persons have been dismissed from the office of *matadhipatis* on account of their immoral life. I gave the decisions of the High Court. It is not anybody's opinion. They are not the decisions of District Munsifs or District Judges. They are the decisions of the Calcutta and Madras High Courts. The Commissioner is not going to dismiss him, but he will only take the matter to the Court. The Court will decide whether the person is leading an immoral life or not. There is nothing uncertain in the amendment. Let the Hon. the Minister reject it if he wants to but not on the ground of uncertainty."

MR. SPEAKER:—"The question is—

'In sub-clause (1) (d) add at the end the words "or for leading an immoral life and bringing the institution into contempt".'

The amendment was lost.

Sub-clause (2).

SRI T. VISWANATHAM:—"This is a very troublesome sub-clause, Sir. It involves an important principle. Just as in a nursery song—

"Simple Simon met a pie-man. He put his thumb in the plum
. . . . And said what a good boy am I?"

the Government here have removed the word 'subject to the control of the Government', etc., in the other provisions but here they say that two gentlemen having an interest may appeal to the Government against the refusal of the Commissioner to give his consent. In the other place they have stated that any two persons having interest could go to the Court only after they had obtained in writing the consent of the Commissioner. It looks the Government want to reserve the power to themselves. When the Commissioner refuses to give his consent, these persons have to go to the corridors of the Secretariat. Where is the necessity to do so? Persons having interest in the matter will not have the heart to go to the corridors of Fort St. George and hang on the Government's coat tails. In respect of their own institutions, in their own local areas, and maintained by their own denomination in proper condition, should they not be given the right of going to the Court of Law praying that this *matadhipati* is 'leading an immoral life? From the beginning the Government

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have had always this view that they must exercise patronage at every stage from morning till evening. Therefore, this proposition which is based upon that idea, should go. This sub-clause should go root and branch. That is why, Sir, I move—

'Delete sub-clause (2).'

SRI K. BHASHYAM:—"I second the amendment, Sir. I oppose this sub-clause on a different ground altogether. I put it on the ground that the Government have washed their hands of any superintendence or supervision of the religious institutions where any scheme for the religious institution is settled. When they really abjure all interests in the religious institutions, why this power over small matters? When the Commissioner finds it not possible to give the necessary consent, let the Government leave the matter at that. The Commissioner is the Government's own trusted man. They have confidence in him. Why should the Government say, 'no, no; the Commissioner may not have examined the case fully; he may not act correctly'. Let the Commissioner have the final say in the matter. The Government have not accepted our amendment to the effect that the Commissioner shall not interfere. But the Government say that the Commissioner should have powers of interference. If the Commissioner should have that power, why should the Government again say that the matter may be taken to Government if the Commissioner refuses to give his consent. This only betrays want of confidence in their own Commissioner. This is wholly bad from many points of view, and, therefore, this sub-clause should go. Let the Government throw the whole responsibility on the Commissioner and let not the Government at every stage obstruct the good administration of the maths."

THE HON. SRI K. MADHAVA MENON:—"Sir, both the hon. Members Mr. Bhashyam and Mr. Viswanatham are contradicting absolutely what they said previously. Memories are short, Sir. The hon. Member Mr. Viswanatham moved an amendment to sub-clause (1). The amendment is to delete the words 'and having obtained the consent in writing of the Commissioner'. He asked why should two persons take the consent of the Commissioner and why not they go direct to the court. He stated that the consent of the Commissioner was not at all necessary, and that the Commissioner would only be fettering the persons thereby. The amendment was not accepted, and that sub-clause was passed. We want this sub-clause to remain so that any improper refusal by the Commissioner to give his consent to the persons to appeal to the court may be set right by the Government. Both the hon. Members oppose this sub-clause also. It is a very curious argument, which I cannot understand. I oppose the amendment."

SRI T. VISWANATHAM:—"Sir, my argument is supposed to be curious. With all the clarity of expression I possible I

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have put my argument. If my argument is considered curious, I cannot any more help it or make it less curious. I leave it to the vote of the House."

MR. SPEAKER:—"The question is—

'Delete sub-clause (2).'

The amendment was lost.

SRI K. BHASHYAM:—"Sir, so far as the main clause 57 is concerned, I say that it really gives power to persons to take the matter to a court of law. The items mentioned in (a) and (b) of sub-clause (1) are very difficult of being worked out. Sub-clause (1) (c) says 'his having ceased to profess the Hindu religion or the tenets of the math'. Having ceased to profess the Hindu religion and converted himself to the Christian faith, he may say that he is professing the tenets of the math. Who is to decide whether he is professing the tenets of the math? I can understand if he practises. For instance, if a Vaishnavaita *matadhipati* ceases to put on *namam*, when as a matter of fact, he is practising the Hindu religion, how are the Government going to dive into the mind of that *matadhipati* and say whether he is professing the religion of the institution over which he is presiding? This is wholly unworkable. This item is very difficult of being put into force. Sub-clause (1) (f) says 'persistent and wilful default by him in discharging his duties or functions' under this Act or any other law'. This is so wide, vague and indefinite. Any Commissioner can come and haul up any *matadhipati* for persistent and wilful default by him in the discharge of his duties. Sir, I am a Vaishnavaita. I go to a *Vaishnava matadhipati* and ask him to give me *Mudradaranam*. I complain that he has not performed his function well, and that he merely passed the *mudra* instrument by my shoulders. How is this to be decided? The words 'in discharging his duties or functions' are indefinite and will place the *matadhipati* at the tender mercies of the Commissioner. Instead of respecting *matadhipatis*, the Government are treating them as their own servants. The Commissioner will put on the regalia and he will be the presiding deity over the *matadhipati*. All his orders will have to be carried out, and if he does not obey the orders, he will be guilty of wilful default. This sub-clause (1) (f) is a very mischievous clause. I myself would have moved amendments to this sub-clause. But I gave notice of an amendment to omit the very chapter on maths, and, therefore, I did not give notice of any amendment to this sub-clause. If the Commissioner is not inclined in favour of the *matadhipati*, or if the *matadhipati* does not appoint any of the nominees of the Commissioner, the *matadhipati* will be charged with persistent and wilful default in discharging his duties. All these things will certainly come under this sub-clause. It leaves such large room for mischief to be done by the Commissioners, even if they are the best of men. So, I oppose clause 57."

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THE HON. SRI K. MADHAVA MENON:—“ Mr. Speaker, Sir, when the hon. Member supported hon. Mr. Viswanatham's amendment ‘ or for leading an immoral life and bringing the institution into contempt ’, he stated that he was supporting the amendment, because it was the court that would decide the question. My answer to his argument is that sub-clause (1) gives the reasons on which a *matadhipati* can be removed by a court. He cannot be removed by the Commissioner's whims and fancies. The Commissioner only initiates the proceedings, and the court will decide the case. The hon. Member Mr. Bhashyam said that under sub-clause (1) (c) a man might not be willing to exhibit his profession of the Hindu religion, but he will be giving instruction in any particular tenet or philosophy of Hinduism. When it can be a tenet of Hinduism or tenet of philosophy, tenet of math also has got a meaning. That is all I can say, Sir.”

Clause 57 was put and carried.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS BILL, 1949 (L.A. BILL
No. 10 OF 1949)—cont.

25th November 1950]

Sub-clause (1).

SRI T. VISWANATHAM :—“ Mr. Speaker, Sir. I beg to move—

‘ That in sub-clause (1), for the words “ the Assistant Commissioner may take such steps and pass such orders as he thinks proper for ”, substitute the words “ the Commissioner may apply to the Court for orders regarding ”.’

This is a proposition which I have been pressing and I cannot, of course, advance any new arguments in support of it nor can the Hon. Minister advance any new arguments to reject it. But, anyway I move it, Sir, and he may oppose it.”

SRI K. BHASHYAM :—“ Mr. Speaker, Sir. I second the amendment. This is a matter which affects the religious institutions most intimately. With regard to the succession to the trusteeship, while the section does not make any arrangements for filling up vacancies, it does say, when there is a dispute, what the Commissioner or Assistant Commissioner can or cannot do. When a vacancy occurs, it has to be filled up. If, according to the Government or the Commissioner, the person in charge of an institution is unable to discharge his functions properly, I think the word ‘ functions ’ is properly used in this section as it was used in section 57, what are the arrangements to be made in respect of this matter? If it is an urgent matter, I can understand some step being taken by the Commissioner or Assistant Commissioner or other officer, for getting things done for the purpose of carrying on the business. But, the question arises when it is a permanent vacancy, in case a person is mentally unsound or physically defective, etc., what should be done, for his removal. He cannot be removed because the Court has to give an order whether he should be removed or not. Therefore, the question in all these cases is that one has to go to a Court of law regarding what steps should be taken. Supposing that a person is not discharging his functions properly, or that he is a minor or that there is a dispute respecting the person who is entitled to act as such guardian, or for other reasons, the matter has got to go to a court of law for the purpose of fixing a successor unless the community or the denomination as such according to the custom or usage appoint the successor. So, if the head of a math has made a nomination, the question is whether the nominated person can be appointed because there are cases where nominations are made, such nominations are disputed and the question is before a court of law.

“ Next is the question of election by the sishyas. There also it is a question of nomination because the sishyas have to agree and make a nomination and this is again difficult. Therefore, in all these matters, when the matter is before the court pending final orders, to say that the Commissioner may take upon himself and make temporary orders seems to be wholly bad.

THE MADRAS LEGISLATIVE ASSEMBLY.

Saturday, the 25th November 1950.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr Speaker (THE HON. SRI J. SIVASHANMUGAM PILLAI) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
BILL, 1949 (L.A. BILL NO. 10 OF 1949)—cont.

Clause 58.

MR. SPEAKER :—“ The motion is—

‘ That clause 58 do stand part of the Bill.’ ”

[Sri K. Bhashyam] [25th November 1950]

"I therefore submit, Sir, that in the present case it is much better if resort is had to a court of law. The Commissioner is after all a political animal. Because he is controlled by a political body he is a political animal. Therefore, in these cases it is necessary that one should be able to go to a court of law. The amendment of Sri Viswanatham is very reasonable. Therefore, I second it and it may be accepted."

SRI V. M. RAMASWAMI MUDALIYAR:—"Mr. Speaker, Sir. Mr. Bhashyam and Mr. Viswanatham have advanced very plausible arguments. The hon. Sri Bhashyam in his argument said where a court is seized of the matter, how can the Commissioner interfere. I believe reading clause 58 as it stands, it contemplates a case where the court is not seized of the matter. I will give an illustration. Suppose a trustee is a minor or there is no legally constituted guardian or by reason of unsoundness of mind, the head of a math has to take some action. You cannot imagine that these will be taken to a court of law without delay. Nobody takes them to a court of law without consultation. Then what is to happen during the interval? Are these to be in the air all the time in an unsettled condition. Therefore, some action has to be taken as a temporary measure to vest some power with the Commissioner."

"With regard to the line of succession and so on, I am sure, Sir, this clause does not provide for or interfere with the line of succession that may be in vogue or in force in any particular math. Therefore, the line of succession is not interfered at all. For example, in a particular math the line of succession is by nomination. In some cases it is by election amongst the disciples. Therefore, the succession of matadhipathi is not interfered at all."

"So, as a temporary measure some provision must be there. And if the court is seized of the matter, this cannot be left in the vacuum as I said and some provision must be made by somebody for the administration of the math during the interval. If the question regarding line of succession is before a court and there is some representation to the court that the Commissioner's order is not proper, the Court may give directions to the Commissioner that those things are not proper. I do not think that there is anything which cannot be remedied by a court even if the Commissioner acts upon this provision."

SRI T. K. T. N. R. TATACHARI:—"Mr. Speaker, Sir, in opposing this amendment, I should like to point out that the clause as it stands does not interfere as my hon. Friend Sri V. M. Ramaswami Mudaliar has said, with any dispute as to succession being taken to a court of law. It only provides for the temporary custody and safeguarding of the properties of the institution as well as its endowments. It does not seek to install the Assistant Commissioner as matadhipathi as my hon. Friend Sri K. Bhashyam hurled across the table. I will give you an instance very much nearer home to me. I can cite the case of the Hathiramji

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math where the Mahanth died a few years back and where there has been a dispute as to succession; agreement was reached between two persons that one should be the senior Mahanth and the other junior Mahanth. The Board had appointed a certain person to act as a temporary trustee of the math till the question of succession was settled. It having been settled this way there were about Rs. 2½ lakhs in the personal chest of the deceased Mahanth and the Board said that they had no other option under the Act but to hand over the amount to one of the heirs, and so it was handed over to the senior Mahanth, but because they had not come to any terms and there was a lot of dispute in the math the money is alleged to have been frittered away and still the question of succession has not yet been settled."

SRI K. BHASHYAM:—"On a point of Order, Mr. Speaker, that matter is still *sub judice*, and I may say that I am appearing in that case for one of the parties, and therefore, the hon. Member need not cite it as a case in point."

SRI T. K. T. N. R. TATACHARI:—"I may submit, Sir, that it is not *sub judice*. I am not speaking about the question of succession at all. I am only speaking about what has happened to the property of the math, when the Board was not having the power to deal with the question and to make some immediate arrangements for the temporary custody of the property. But if the Commissioner had the power to make such arrangements immediately after the old Mahanth's death, there would have been no dispute at all. That is the point that I am trying to make out."

SRI K. BHASHYAM:—"It is not the question of succession that is in dispute in court, but it is only about the right to the amount of Rs. 2½ lakhs that is supposed to have been frittered away, that is a matter under adjudication before the Court, and I am only saying that my hon. Friend without knowing the actual facts is referring to it and saying that somebody has frittered it away, and all that. Let him take the information from me that it is *sub judice* and stop referring to it."

SRI T. K. T. N. R. TATACHARI:—"On a point of personal explanation, Sir, I have not referred as to who has frittered it away and how. All I said was that there is a dispute about the property and that one party was saying that it was frittered away by the other while the other was saying that it was not frittered away. My point was that there would have been no chance for any such dispute if power had been given to the Assistant Commissioner to make immediate arrangements for the temporary custody and safeguarding of the property. That was all the point that I was trying to make out."

THE HON. SRI K. MADHAVA MENON:—"Sir, I have only to re-read the clause to show whether all the fears which are anticipated by my hon. Friend Sri K. Bhashyam are justified."

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My hon. Friend Sri T. Viswanatham said that he did not want to say anything more as he had already made his argument in this matter so many times and that there was nothing more for him to say by way of reply to my reply. But my hon. Friend Sri K. Bhashyam kicked up a ghost and expressed with so much force what the consequences would be if this clause is allowed to remain in the Bill as it is without the amendment being accepted. Sir, this is what the clause says—

‘When there is a vacancy in the office of a trustee, and there is a dispute respecting the right of succession to such office, or when the trustee is a minor and has no legally constituted guardian fit and willing to act as such, or when the trustee is by reason of unsoundness of mind or other mental or physical defect or infirmity unable to discharge the functions of the trustee, the Assistant Commissioner may take such steps and pass such order as he thinks proper for the temporary custody and protection of the endowments of the math or of the specific endowment, as the case may be and shall report the matter forthwith to the Commissioner.’

“Mr. Bhashyam fears that in that case the Assistant Commissioner will be the matadhipathi for all practical purposes. When it has been specifically said that it is only for the temporary custody and protection of the endowment of the math that the Assistant Commissioner will take such steps or pass such order as he thinks proper, I do not think that he need entertain any such fears that the Assistant Commissioner would become the matadhipathi himself. If there is a dispute, the Commissioner has got the right to move the court to settle the dispute. Suppose there is a minor, who is entitled to become a trustee, certainly if there is a legally constituted guardian, he will be appointed to the post. But if there is a dispute respecting the person who is entitled to act as such guardian or when the trustee is, by reason of unsoundness of mind or other mental or physical defect or infirmity unable to discharge the functions of the trustee, then there must necessarily be an interregnum till the suit is decided and a legally constituted guardian or another trustee takes the place of the original trustee, and it is for this interregnum; that we are giving the necessary power to the Assistant Commissioner to make arrangements for the temporary custody and safeguarding of the endowments of the math. There is absolutely no fear that the Assistant Commissioner would get into the shoes of the matadhipathi himself. In the instance cited by my hon. Friend, Sri Tatachari, it was stated that after the death of the former Mahanth, there was some cash left by him, and if there had been some machinery provided in the Act to take charge of the property under temporary custody and protection, the dispute would not have arisen at all. Here we have also provided that the Assistant Commissioner shall report the matter forthwith to the Commissioner and that upon the receipt of that report, the Commissioner, after making such inquiry as he deems necessary is satisfied that an arrangement for the administration of the math and its endowments or of the specific endowment, as the case may be, is necessary, he shall make such appointment and arrangements as he thinks fit until the disability of the trustee ceases or another

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trustee succeeds to the office, as the case may be.’ My hon. Friend Sri T. Viswanatham wants that instead of the Commissioner making the temporary appointment of a trustee, he should apply to the Court for orders regarding the temporary custody and protection of the endowments and that it is the Court that should be asked to appoint a Receiver to look after the administration of the math and its endowments. I submit, Sir, that this will entail unnecessary delay and there will be nobody who will be in charge of the endowments during the interregnum that I have pointed out. The next clause says that in making the appointment, the Commissioner shall have due regard to the claims of the disciples of the math. Nobody can say how the disciples will view, if a Receiver is appointed by the court.”

SRI T. VISWANATHAM:—“I am sorry, Sir, I am not able to follow the line of reasoning of the Hon. Minister for Law. If you refer to clause 57, which we have already passed, you will understand why it is that I want the amendment here.

“One of the grounds on which the Commissioner can go to a court for the removal of a trustee from office, is that he must be of unsound mind or that he must be suffering from any physical or mental defect or infirmity which renders him unfit to be a trustee. In such a case, you will see that the court is already in possession of the matter, because the Commissioner is compelled to go before a court for the removal of the trustee under clause 57. Now in the next succeeding clause, namely clause 58, you provide the very same ground, for the Commissioner to make interim arrangement for custody of the properties and for the appointment of a temporary trustee to look after the administration of the math. I therefore submit that this clause conflicts with clause 57 which we have already passed. Sir, we are aware of some of the practices in courts. When the court is in possession of all these facts, and is seized of the matter, how can the Commissioner make arrangements for the custody and protection of the endowments, and appoint a temporary trustee, without the orders of the court. The court is the statutory authority in this matter. So when we are drafting these clauses, we must see that there is no mutual conflict between one clause and another. If it is really the intention of the Government that the Commissioner should take direct control of the maths without reference to the court, then they must say so. As a matter of fact, this clause is quite unnecessary, in my opinion. A person who goes to the court knows that it is the duty of the court to pass interim orders, before the final appointment of the trustee takes place. Here, in these clauses, the Commissioner is not in a position to follow these suits. It may be that the Assistant Commissioner may not be aware that there is a suit pending in the court for the removal of a trustee under clause 57 (1) (b), and under clause 58, the Commissioner may catch hold of the Assistant Commissioner and ask him ‘Why have you not taken action earlier? This clause says that you must make temporary arrangements for

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the custody and protection of the property of the math. What arrangements have you made for that?'. Why create all these difficulties unnecessarily? There is no use saying that these are unreasonable things and will not happen at all, and that we are simply kicking up a ghost. Now sir, let me read clause 58. It says—

'When a vacancy occurs in the office of the trustee of a math . . . and there is a dispute respecting the right of succession to such office, or

when the trustee is a minor, etc., etc., or when the trustee is by reason of unsoundness of mind or other mental or physical defect or infirmity unable to discharge the functions of the trustee, the Assistant Commissioner may take such steps and pass such order as he thinks proper for the temporary custody and protection of the endowments of the math, etc.'

"In clause 57 (1) (b) for exactly the same reason, the Commissioner is asked to go to the court for removal of the trustee, and in this clause, the Commissioner is asked to make temporary arrangements to fill up the vacancy. If any amendment is accepted, the conflict goes. If it is not accepted, I would at least request the Hon. Minister to drop clause 58 altogether, because when the court is already seized of the matter it would be its duty to make interim arrangements."

THE HON. SRI K. MADHAVA MENON :—"Sir, I think the amendment is absolutely unnecessary and in my opinion, it is wrong. There is no inconsistency between clause 57 and clause 58. I would once again request my hon. Friend to take up clauses 57 and 58 and read them very carefully. Clause 58 says—

'When a vacancy occurs in the office of the trustee of a math or specific endowment attached to a math and there is a dispute respecting the right of succession to such office . . .'

Therefore, this clause postulates two conditions, namely, that there should be a vacancy in the post of a trustee and also that there should be a dispute as to who is to be the successor. But that is not so in clause 57. I would request my hon. Friend to re-read clause 57. It says—

'The Commissioner, or any two or more persons having interest and having obtained the consent in writing of the Commissioner may institute a suit in the court to obtain a decree for removing the trustee of a math or a specific endowment attached to a math, for any one or more of the following reasons, namely :—

(b) his suffering from any physical or mental defect or infirmity which renders him unfit to be a trustee.'

"Here, there is already a trustee in office, and clause 57 provides some of the grounds on which the Commissioner can file a suit to remove the trustee and one of the grounds is that he is suffering from any physical or mental defect or infirmity which renders him unfit to be a trustee. The dispute is not as to the succession of a trustee to a place which has been vacant, but to the removal of a trustee who is already in office. In clause 58, the matter is already before the court, while clause 57 furnishes one of the grounds for taking the matter to a court. Clause 58 provides for arrangements to be made during the interim period

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to safeguard the property and to carry on the administration of the math, till the question of final succession is decided by the court. Even otherwise, the same contingency might occur, namely, when the court closes for the summer vacation, the trustee's place cannot be left unfilled as the math has got to be administered and its properties safeguarded. Therefore, I cannot accept the suggestion of my hon. Friend Sri T. Viswanatham to drop this clause altogether or to accept his amendment, because it is absolutely unnecessary."

MR. SPEAKER :—"The amendment is—

'In clause 58, sub-clause (1), for the words "the Assistant Commissioner may take such steps and pass such order as he thinks proper for", substitute the words, "the Commissioner may apply to the court for orders regarding".'

The amendment was lost.

[25th November 1950]

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
BILL, 1949 (L.A. BILL NO. 10 OF 1949)—DISCUSSION—cont.

MR. SPEAKER:—"The hon. Member Mr. Viswanatham will now move his amendment to clause 58."

SRI T. VISWANATHAM:—"Sir, I am not moving my amendments to sub-clauses (1), (2) and (3)."

Sub-clause (2).

SRI K. R. KARANTH:—"Sir, I move—

'In sub-clause (2), delete the words "appointment and".'

While I am prepared to agree with the Hon. the Minister that some temporary arrangement has to be made—till the court might appoint somebody as receiver unfortunately the wording here does not help us in that respect. The wording is defective. There may be cases of death or insanity of the trustee, and there must be some temporary arrangement. But there must be something to show when this temporary arrangement must come to an end. I am pointing out the defect of the wording here. Even though it may be a case of minor, which will run on for 15 years to come, the question is whether the Commissioner, without any appeal against his order, should have the right of appointing anybody for 15 years? I say it should not be. I can understand some temporary arrangement till the parties establish their claims in a court of law. The other defective wording in this sub-clause is 'or another trustee succeeds to the office'. The appointment of a receiver will not arise if it had been stated 'he shall make such arrangements as he thinks fit'. The word 'appointment' is likely to be misunderstood. It may mean the appointment not merely of an interim trustee. If it had been stated that an interim trustee may be appointed, I have no objection. I can understand that in cases where there are deaths, the Deputy Commissioner makes some temporary arrangement. There will also be cases where fights will be going on for succession to that office. Some temporary arrangement will have to be made. But it is not a thing to be given to the Commissioner finally. In this sub-clause it is stated 'he shall make such appointment and arrangements as he thinks fit'. I do not know whether appointment of a permanent nature will be made. The language is again defective when the sub-clause says 'until the disability of the trustee ceases'. The trustee may be one year old, and for 17 years to come, there is no power of appeal under the whole sub-clause against what the Commissioner does. Then

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the next wording is still more defective. It is 'or another trustee succeeds to the office'. My suggestion to the Government is this. I quite agree with the Government that the Commissioner shall make such arrangements as he thinks fit until the disability of the trustee ceases or a proper appointment or provision is made by a court of law. If the sub-clause says so, I do not have the least objection. But it is not clear, whether the Commissioner can make an appointment for 15 or 20 years. If by law we give the Commissioner power to make an appointment as he thinks fit, until the disability ceases or another trustee succeeds, even the court will be precluded."

SRI T. VISWANATHAM:—"I second the amendment, Sir."

THE HON. SRI K. MADHAVA MENON:—"I am prepared to accept the amendment, Sir. The sub-clause, as amended, will read—

'... he shall make such arrangements as he thinks fit until the disability of the trustee ceases or another trustee succeeds to the office, as the case may be.'

SRI K. R. KARANTH:—"Even as it is, Sir, a further amendment is necessary to provide for cases of 'another trustee succeeds to the office'. A sub-clause may be necessary to provide for arrangements made by a court. I have given the substance of that clause now."

SRI K. BHASHYAM:—"Are the Government accepting the amendment, Sir?"

SRI K. R. KARANTH:—"The amendment, Sir, is this—

'In sub-clause (2), delete the words "appointment and".'

In the printed list of amendments it is given as 'such appointment and'. The word, 'such' is a mistake, and, therefore, I seek to remove that word by my amendment."

THE HON. SRI K. MADHAVA MENON:—"The Government are accepting the amendment, Sir. The sub-clause will now read as follows:—

'... he shall make such arrangements ... as the case may be.'

SRI V. M. RAMASWAMI MUDALIYAR:—"Sir, the addition of the word 'interim' after the word 'such' may probably clear up the difficulties. The word 'interim' may be put there."

THE HON. SRI K. MADHAVA MENON:—"The word 'interim' need not be there. I cannot accept that."

SRI V. M. RAMASWAMI MUDALIYAR:—"The addition of the word 'interim' is necessary, because the courts may intervene."

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SRI K. BHASHYAM:—"Sir, I was trying to understand what the understanding between Mr. Karanth and the Hon. the Law Minister was. There was some discussion and the Hon. the Law Minister stated that he was accepting the amendment. The Hon. the Law Minister was not clear enough that he was accepting the amendment. We understand the amendment now."

MR. SPEAKER:—"The question is—

'In sub-clause (2) delete the words "appointment and".'

The amendment was carried.

Sub-clause (3).

SRI K. R. KARANTH:—"Sir, I move—

'In sub-clause (3), substitute the word "arrangement" for the word "appointment".'

"This is only a consequential amendment."

The amendment was duly seconded.

THE HON. SRI K. MADHAVA MENON:—"We accept the amendment, Sir."

MR. SPEAKER:—"The question is—

'In sub-clause (3), substitute the word "arrangement" for the word "appointment".'

The amendment was carried.

SRI N. S. VARADACHARI:—"Sir, the Government have accepted the amendment to sub-clause (3). The sub-clause will now read as follows: 'In making any arrangement under sub-section (2) . . . if any.' In sub-clause (3), the wording is not all-right. Let Government put in some other wording at the third-reading stage. I think the language employed is very bad."

THE HON. SRI K. MADHAVA MENON:—"My point in accepting the amendment is this. There is sentimental objection to the use of the word 'appointment'. (Sri T. Viswanatham: 'There is no sentimental objection.') It may not be sentimental to the hon. Member Mr. Viswanatham. The sentiment is that *matadhipathis* should not be appointed. To avoid that misunderstanding I agreed that the word 'appointment' should go and 'arrangement' should be substituted."

SRI K. BHASHYAM:—"Sir, this clause is intended to make temporary or interim arrangement pending the rightful person being put in charge. Though it is stated so, it does not achieve the purpose because it does not compel the Commissioner to go to a court of law for getting a guardian appointed in one case or getting a person appointed in the place of a disabled person, or getting a person appointed till the claims of parties are settled. These three are referred to in this clause. Who is to

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go to the court of law? Is it the guardian or the person who really claims the property? If for any reason there is no claim and nobody comes forward for the purpose, because there is not enough property to go round, who is to go to the court of law? Only when there is property people come forward, and in other cases they do not. In such cases is it to be a dead weight on the Commissioner for all time? Should there not be some power for compelling the Commissioner to go to a court of law and get directions in this matter? "Till the legal successor is appointed, the Commissioner will make arrangements for the appointment of a trustee. During that period, if anybody wants, should he go to the Commissioner for *mudhradharanam*? Therefore, I would like the Government to reconsider the matter. The Hon. Law Minister thinks that I am against him on every matter and if I say anything which he thinks offensive to him, I withdraw those words and I ask him to consider this suggestion which I make, unaffected by any of those things. At some stage or other, I would like the matter to be placed before the court and if nobody else goes, at least the Commissioner should go to the Court of Law. Sir, suppose there is a minor *matadhipathi* and nobody cares for that *matadhipathi*ship in view of the number of difficulties in respect of that. (Raja Muthiah Chettiyar of Chettinad: 'Then the Government will take it over.') The Commissioner should take possession of all the properties. There may be a few disciples attached to the math. For a long period they may have to go without and spiritual help. This may go on for a number of years without anybody being in charge of the math except that the properties will be managed by the Commissioner. Therefore, is it not necessary that there should be some provision inserted in the clause itself that the Commissioner shall, within three months, six months or even one year, go to a Court of Law to get the necessary orders for the purpose of either getting a guardian appointed or the dispute about succession being settled, or if a person is disabled, for getting another person appointed in his place? If this is not provided for, this clause will be lopsided and it will be very difficult to work it. I think the Government also will get into difficulties in this matter."

SRI T. VISWANATHAM:—"Sir, the clause says, 'when such vacancy cannot be filled up immediately. . . .'. The Hon. Minister says that the clause means that the proper claimants can go to the court of law and settle their claims. I will be very glad if he makes a specific provision that in these cases they may go to a court of law. It must be specifically provided or indicated here. It cannot be implied. No person can get any legal rights by mere implication. This is especially important when we are codifying the law with regard to religious endowments."

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"Sir, there are several contingencies that may arise out of a vacancy occurring in the office of the trustee of a math or specific endowment attached to a math. One such is a dispute respecting the right of succession to such office. That means to say the dispute is before somebody. It should be before a court; it cannot be anywhere else. It must be settled by the court. Therefore, at the first stage we said that the court must pass interim orders. The second contingency is when the vacancy cannot be filled up immediately. It is really a master-piece of vagueness. The third contingency arises when the trustee is a minor. In all these cases the Commissioner can make arrangements until the disability of the trustee ceases. Suppose the person is only two or three years old. Does it mean that that arrangement should continue for fifteen years? The Hon. Minister said in his reply that it was not the intention but that the matter would be decided by the court. I want that he should make a specific provision that in these cases the court is empowered to issue interim orders. Otherwise, there will be a lot of difficulty. Sir, you must be aware of the decision of the High Court with regard to the appointment of a trustee. In 1946 the Religious Endowments Act was amended. Under the amended Act the Religious Endowments Board thought that the court was deprived of the power to appoint a trustee. The matter went up to the High Court. Notwithstanding the amendment of the Act by the insertion of section 75-A vesting that power of administration in the Board, the High Court decided that the Board had not the power to appoint the trustee but that it was the High Court that had the power of appointing him, trustee. Who will do it now? The Board in its administration reports also referred to this. Therefore, I think the word 'appoint' is a result of the matter having been taken up by the Board with the Government that this section should be amended and that the Board should be given the power of appointment. However, the Hon. Minister has, in my opinion, rightly accepted our amendment that the Commissioner should not have the power. Then somebody else must have the power. Who is that somebody else? It should be the court in our opinion, because notwithstanding any assertion, it is not merely when there is a dispute about the right of succession but when three other contingencies arise as envisaged in the clause that the matter goes to the court. The court must be seized of the matter and the Hon. Minister does not deny it. The Hon. Minister says that they have not ousted the jurisdiction of the court. My hon. Friend Sri V. M. Ramaswami Mudaliyar was good enough to suggest the words 'interim arrangements'. It would then be at least suggestive that there is some competent authority to make the final arrangements. But as promptly as it was suggested the Hon. Minister disagreed with it and did not accept it. I submit that it would be alright if it is said, 'interim arrangements pending orders to be issued by a court'. This must be done at one stage or

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other; otherwise there will be some conflict and we cannot simply say that by implication these powers will be exercised and that the Commissioner will obey the orders of the court. Now it is said that there will be arrangements. This arrangement may have sometimes to continue for 16 or 17 years under this amended clause, in the case of a minor. If it is the case of a man who is unable to discharge the functions of the trustee by reason of unsoundness of mind or other mental or physical defect or infirmity, then it will continue for 40 years or 50 years in some cases. Nobody knows how long it will continue. His unsoundness may increase in the meanwhile and this arrangement will continue. Under these circumstances, the Commissioner is not here compelled to go to a court of law. If the Commissioner is so inclined, he may make his own arrangements under clause 58 and never go to the court to remove this unsound man. There the difficulty arises. Of course, Hon. Sri Madhava Menon said that absolutely there was no conflict. Anyway let him think about it."

Clause 58, as amended, was put and carried.

Clause 59.

MR. SPEAKER :—"The motion is—

'That clause 59 do stand part of the Bill.'

Sub-clause (1).

SRI T. VISWANATHAM :—"Sir, I move—

'That sub-clause (1) be deleted.'

"Sir, the question is who is to manage the properties of the math. On this point we have again and again referred to the fundamental rights. Here who is to manage? Of course, the word 'trustee' is mentioned. But what is he to do? He cannot do anything by himself. If there is a board of trustees, even that board cannot do anything. They can simply submit proposals for fixing the *dittam* or scale of expenditure. With regard to these things, maths or specific endowments attached to them may be of a varied nature; sometimes they may be secular or religious in nature, and the inter-relation is not easily to be ascertained. Under this clause, all the things must be done by the Commissioner himself. Therefore, I submit the trustees are practically ousted of their functions. Therefore, I move that this sub-clause be deleted."

SRI N. S. VARADACHARI :—"Sir, in seconding the amendment, I wish to say that the Hon. Minister should note this. The language of this clause is highly objectionable. The trustee is not a head clerk. It is said that the trustee of every math may submit proposals. Will it not be dignified if it is said, 'The trustee of a math shall publish proposals fixing the *dittam*, etc.', or 'The trustee of a math shall be responsible for fixing the *dittam* and publish proposals . . . ? If we look at sub-clause (3), we shall see that absolute Secretariat language is employed. It is said

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that on a scrutiny of such proposals, the Commissioner may call for the remarks of the trustee as if he were a ten-rupee clerk in the office. At least it ought to be said in proper good language considering courtesy and culture. Firstly, this chapter begins with the trustee who is unsound in mind and then it reduces the trustee to the position of a clerk by saying that he shall submit proposals. I suggest the whole thing is against the dignity and culture of the House. If we really attach any value to Hindu culture, the whole of this must go. It is not as if Ministers write on a file and some other people use the language. Have they taken the Church of England Act for comparison of language? They do not use the very disrespectful language employed in this clause. I can understand this kind of language in any other matter. Even in the matter of Members of Parliament, the Constitution provides for very dignified language. Are not these people to be treated at least on our level? At least rearrange the whole thing; begin with something that will bless them and not kill them at the beginning. Do not think of vacancies on account of unsoundness of mind. (Laughter.)

MR. SPEAKER:—"The hon. Member is speaking on the whole Chapter."

SRI N. S. VARADACHARI:—"After having made clear how unsuitable the whole thing is, I come to the point, Sir. 'The trustee of a math or a specific endowment . . . may . . . submit to the Commissioner proposals . . . I object to it. Sir, it may be recast somewhat like this: 'The trustee of a math . . . may fix the *dittam* or scale of expenditure and then communicate to the Commissioner his proposals and may also publish them in the premises of the math.' Instead of that, why do they simply adopt the procedure as if he were a clerk or a routine secretary in regard to the heads of maths. This is what I object to."

MR. SPEAKER:—"Amendment moved—

'That sub-clause (1) be deleted.'"

SRI R. V. SWAMINATHAN:—"Sir, I entirely agree with the sentiment expressed by my hon. Friend Sri Varadachari that a matadhipathi should not be reduced to the level of a clerk. No doubt everybody will agree with it. It is true that the matadhipathi must be respected as much as an Archbishop of a Christian missionary. At the same time, we have to expect the same thing from the matadhipathi. He should also behave in a proper manner. According to the clause also, I do not think that a matadhipathi is to be treated as if he is a clerk. Here I do not know whether there is any clerk on a salary of Rs. 10.

"Now, the Commissioner will only scrutinize the procedure adopted with regard to fixation of *dittam*. The matadhipathi will have his clerks working under him. He is the head of the math. So, the clerks will only submit proposals to him. But as he is the

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head of the math, communications will ordinarily be addressed to him. That is all. For instance, we write a letter to the Hon. Speaker. That means the Hon. Speaker will open it and pass it on to the clerk for necessary action. Finally the Hon. Speaker will pass the draft or order.

"Suppose I want some papers, some literature or some extracts of statements from the Hon. Speaker and I apply to him for the same. The Hon. Speaker will not himself take the book, copy out the portion that I want and paste it and then go to the post office and post it to me. All this work will be done by his clerk. Immediately the Hon. Speaker receives my request, he will pass it on to the clerk who will attend to my request. Similarly, the matadhipathi himself is not going to attend to the administrative matters and somebody else will be attending to them. So I do not think that the matadhipathi will be reduced to the level of clerks by this clause. I therefore feel that this clause is absolutely necessary."

SRI K. BHASHYAM:—"Mr. Speaker, Sir, I do not propose to speak upon the refinement of language or indecency of expression and all that. We have become accustomed to such things and we have found that nothing is held sacred and everything which is sacred is sought to be brought into contempt in the market places and even in Legislative Councils and Legislative Halls. Therefore I am not surprised at the language used. But we are only pained to see that such things are taking place. Moreover the atmosphere is also filled with all sorts of discussions about the behaviour of trustees and heads of maths and other things. It is also filled with disrespect towards things which are considered to be very sacred. Coming to the point, so far as this clause is concerned, I can understand the *dittam* of a temple which is fairly well-known. In the case of a temple, everybody knows what the *dittam* is on festival and other important days. This *dittam* used to be followed for centuries now according to the established usage and custom. So everybody knows what the scale of expenditure is with regard to a temple. That is why we have already passed clause 56, relating to the fixation of scales of expenditure for temples. But with regard to a math, I would like to know what a *dittam* means. I do not understand how we can fix the scale of expenditure in the case of a math. It has been held that the income from the properties of a math can be disposed of by the matadhipathi for purposes connected with the math. Suppose a learned Pandit visits the math, and the head of the math presents a shawl or a silver vessel. This may not be found in the *dittam*. There are various other similar things also. The head of a math may wish to hold a conference of Pandits at any time. It is not as if he is going to hold this conference every year. So far as the *dittam* of a math is concerned, it is something which is very different from the *dittam* of a temple and absolutely new. Because everybody is conversant with the *dittam* of a temple, it should not be taken to mean that the *dittam* of a math is also the same. The *dittam* of a temple is a thing which

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might have been fixed by our forefathers centuries back. But I cannot understand the fixing of the *dittam* in the case of a math. In the old Act, there was appeal to courts provided when there was dispute with regard to the *dittam* of a temple. But that has been taken away. What usually happens in a math is this. The disciples of a math visit the math in large numbers in some months and in less numbers in some other months and may not visit at all in other months. Especially in auspicious months they visit the math in large numbers. So I am unable to understand how we can fix the *dittam* of a math which is contradictory to the principles of the maths. I can only say that the fixing of *dittam* in respect of maths betrays ignorance about these maths which cannot be easily excused. The trustee of a math has to submit to the Commissioner proposals for fixing the *dittam*. Further if the Commissioner was not satisfied with the *dittam* proposed by the trustee, he has to submit the proposals with his remarks to the Government and their orders will be final in respect of this matter. So the Government want to take powers to finalise the *dittam* amount in respect of the maths and fix the scale of expenditure in respect of the maths. Is it the way to treat the matadhipatis? Is it the way to deal with the properties of the maths which are intended for the purpose of imparting religious instruction? It is not like the worshippers going to a temple throughout the year. The maths are merely colleges of learning. There may be five students, six students, or ten students or even 600 students in a year. Therefore the Government cannot with any justification fix the *dittam* in respect of a math and I say it will be impossible to do so. Therefore, the Government should not take power to fix the *dittam* in respect of a math. They have already very many powers. If there is to be a regular budget, all these can be done. They can anticipate some expenditure and provide for it. If there were more visitors, they can provide for them. Persons who are conversant with the working of these maths will really be unable to understand the fixing of *dittam* for maths. When the old Act was passed, the Rajah of Panagal who was a clever and wise man in his wisdom exempted the maths from the fixation of *dittam*, etc., thereby avoiding the inconvenience and disputes in fixing the same. Fixing the scale of expenditure for educational purposes for a definite number and similar other things. I can understand. But I am unable to understand the fixing of a *dittam* in respect of a math."

SRI P. KANDASWAMI PILLAI:—"What is a *dittam* and what is a budget?"

SRI K. BHASHYAM:—"I am surprised that Sri Kandaswami Pillai who wants to be an acharya of acharyas should ask what is a *dittam*. (Interruption.) But all the same I can clarify the position. I think I should explain that a *dittam* is a thing which has been established by usage in respect of a temple or other institution concerned, as to what amount of expenditure should be incurred on each particular occasion. We know that in temples

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we have *mahotsavams*, *brahmotsavams* and other *utsavams*. We have also various *mandahappadis* and other things. What should be the amount that is to be spent on such occasions in a temple and other particulars with regard to these festivals are prescribed in a book or register, and one can easily find out these things. So far as these maths are concerned—I can only say with regard to the maths which I know and there may be persons who may know about all things—there is no question of any *dittam*. The properties and monies belonging to the maths are now in the hands of the matadhipathis who used to spend the income from the properties for purposes connected with the maths, and on anything which they may think proper. For example, he may hold conference of Pandits and he may present some valuables to Pandits or he may contribute something to Veda Patasalas. There are so many other things on which a matadhipati may wish to spend and which cannot be covered by the fixation of any specific *dittam*. Therefore the fixing of any *dittam* in respect of a math seems to be most incongruous to me and will not easily work."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, *dittam* is explained in the clause itself as the scale of expenditure in the institution and the amounts which should be allotted to the various objects connected with the institution. *Dittam* is the common language of the place. The amendment is to delete sub-clause (1). I think there is another amendment to delete sub-clause (2) also. There is no amendment to delete sub-clause (3). When sub-clauses (1) and (2) are deleted, sub-clause (3) will be hanging somewhere."

SRI T. VISWANATHAM:—"It is a clerical omission. You can take it that sub-clause (3) may also be omitted."

THE HON. SRI K. MADHAVA MENON:—"I was wondering myself what is to happen for sub-clause (3) when sub-clauses (1) and (2) are deleted. The objection of hon. Sri Varadachari is about the language. He was mainly complaining about the language and was asking, 'How will you ask a matadhipati to submit proposals to the Commissioner?'. I don't think we need read so much into the word 'submit'. After all, we are copying from the existing Act. It is not the first time when Sri Bhashyam sang the glory of the Rajah of Panagal. When the Rajah of Panagal passed that Act, I do not think he made any objection to the trustee's submitting proposals to the Commissioner. Even in the old Act, the word 'submit' has been used and we have only taken it from the old Act. Sir, there is no particular purposeful insult there. Sri Bhashyam referred to indecency of expression and all that. I do not know whether the hon. Member referred to the expression in this House or outside. He said that he was surprised at the attempts made to bring everything that is held sacred into contempt and all that. Why should he presume that there was any purposeful disrespect towards a matadhipati and all that? I can only say that it is nothing but an innocent following of the old Act. We are now amending the old Act, and are bringing certain provisions for certain purposes. In the new Act we have used certain identical

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words and phrases that are used in the existing Act. We can say that the trustee shall forward to the Commissioner proposals and there is nothing wrong in it. After all, we need not unnecessarily read into the meaning of the word 'submit'. When I address the hon. Members I use to say 'I submit'. Similarly, when the hon. Members address the House, they use the words 'I submit'. This cannot be taken to mean as submission in slavery and all that. 'Submit' is a word which is very commonly used and nobody need read too deep into it. As it is, the clause does not give any power to a trustee to alter anything arbitrarily. He has to send the proposals to the Commissioner. Again, it has been provided that the trustee should publish such proposals. This is very necessary as the public and others who have got an interest in the affairs of the maths should be in the know of things. After all, it is said that the trustees and the matadhipatis are ascetics and are supposed to be detached from the worldly affairs. That being the case, the properties attached to the maths will be managed by some manager or somebody in the name of the matadhipati. Let those people who manage these properties send proposals to the Commissioner and let those proposals be published so that people may know what exactly is the object of these proposals and also scrutinise the proposals and offer any suggestions that they may like to give to the Commissioner. That is why it has been provided that if any item in the scale of expenditure was at variance with the established usage of the institution, or was not justified by its financial position, then the Commissioner may refer the matter to the Government. Sir, we have to be very careful when large amounts and extensive properties are involved. The matadhipatis in their detachment may not be very careful about the management of these properties. (Sri V. M. Ramaswami Mudaliyar: Other people may get attached to these properties.) As hon. Sri Ramaswami Mudaliyar says, other people may get attached to these properties because of the detachment of the matadhipatis. This should be checked by having suitable provisions for adequate scrutiny of the proposals. So I cannot accept the deletion of sub-clause (1)."

SRI T. VISWANATHAM:—"Sir, the Hon. Minister referred to the old Act. There it is said . . ."

MR. SPEAKER:—"The Hon. Minister referred to it in respect of the word 'submit'."

SRI T. VISWANATHAM:—"I am referring it for some other reason. The Hon. Minister drew the attention of the House to that Act. I would also like to draw the attention of the House to the old Act for some other reason as I want to enlighten myself if not others. In the old Act it is said—

"The trustee of every math and excepted temple shall, in each year, submit to the Board before such date and in such form as the Board may require—

(a) a budget showing the probable receipts and disbursements of the following year, and

(b) a statement of the actual receipts and disbursements of the previous

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That is all what is said in the old Act, and there is nothing else so far as the maths are concerned. I was always propounding that the Commissioner should have the power of getting statutory information as to what is happening throughout the State. But here the tail is added and the sting is in the tail as in the case of the scorpion; it compels the trustee to submit proposals to the Commissioner for fixing the dittam or scale of expenditure under sub-clause (1) which is under discussion.

"The second sub-clause relates to the publication of the proposals and inviting objections. In the third sub-clause, the Commissioner sends his modifications to the Government and the Government pass their orders thereon which are final. We have gone two steps in advance of what is happening now under the existing Act. Under the existing Act, so far as the scale of expenditure of the maths is concerned, the interference by Government is not contemplated. But here it is not so. As my hon. Friend, Sri Bhasyam has explained, this dittam deals with almost the daily management of the math. If is expenditure incurred in the daily life of the institution. The trustees send his proposals to the Commissioner, the Commissioner sends them on to the Government with his objections or modifications, and the Government pass the final orders. I am asking, Sir, is this not management by the Government of the daily routine of the maths? Is it the matadhipati that is doing all this? This is the simple question, I put to the House. The Government will fix the budget for each of the 700 maths in this State and according to this clause, the Government will manage the daily routine of the maths. It is not the matadhipati that is expected to manage the properties of the math under this clause but it is the Government that seek to manage them. Sir, I submit this *ultra vires* of the Constitution. It is better, therefore, that all the three sub-clauses are omitted. Of course I have given notice of amendments to delete sub-clauses 1 and 2 only. But if they go, sub-clause 3 also goes automatically. Therefore, I press my amendment."

MR. SPEAKER:—"The question is—
'Delete sub-clause (1).'"

The amendment was lost.

SRI T. VISWANATHAM:—"I am not moving my amendment to sub-clause (2), Sir."

SRI P. KANDASWAMI PILLAI:—"Mr. Speaker, Sir, it has been said that if clause 59 is retained, then all the maths in this State will be run by the Government. It is not a fact. It is a highly exaggerated fact, Sir. Just now, my hon. Friend Sri Viswanatham was saying that the trustee must submit the dittam to the Commissioner, that the Commissioner would scrutinise it and send it to the Government, that the Government would approve of it and that all this meant that the Government were running the

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maths themselves. Sir, it is not so. The chief object of the Bill is to prevent the several matadhipatis, who in the name of usage and custom squander money as they like, from misusing the funds, so that they may be useful to the society. The object is to ensure that the funds are spent in a proper way. Such being the case, Sir, we have naturally to control the expenditure incurred by the maths. We must know whether it is reasonable or bogus. I am openly using this word 'bogus' because there are very many people who say, 'we are spending two lakhs of rupees for feeding' and whom they feed, how they feed or do they really feed, no one knows. This is a matter for very serious consideration by every one in this House. We have achieved independence now and we must have control over all aspects of human life as far as possible. The Government must know how much they spend and whether they spend that amount according to established usage and custom. There is the Guru Pooja, i.e., the celebration of the birth day of the matadhipati according to the position of stars and they may have to spend a certain amount for it. There are like items of expenditure. All that I say is let the public know whether the matadhipatis are using the charities in the rightful way. Otherwise, the fair name that they have now (laughter) will go. The Commissioner is not given full powers in this matter. If the Commissioner feels that a particular item of expenditure is not justifiable, he has to write to the Government. Thus there is a second check. The Government will go through the proposals with an unbiassed mind and find out whether the expenditure is essential or not essential. Therefore, Sir, this clause is very important in the interests of the charities themselves. Some people think that it is only their monopoly to know everything about the maths. They think others know nothing about maths. They think 'what does Kandasami Pillai know about maths? We are Swayamacharya Purushas.' (Laughter.) Sir, they must take it that everybody knows something about maths. I am a Hindu. I have been brought up in a religious atmosphere right from my boyhood. I cannot simply swallow what others say because they are eminent lawyers. The Government simply say that they will set right matters where they are wrong. I do not talk with a biassed outlook. When I say this, I do so honestly and sincerely. I honestly feel that this clause must be in the Bill. It only says that the trustee should submit—if he does not want to submit, let him send (laughter)—his proposals and the Government will approve of them. Then the trustee is free to spend the money as he likes. There is nothing wrong in this position. The position of the matadhipatis will not be affected by any such provision. I look at the maths with as much reverence and respect with which I look at other religious institutions. Just like other institutions are under the control of the Government, so also will be the maths. The matadhipatis will have to send up their proposals just like the Collectors of districts or any other heads of

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departments send their reports to the Government. I say this only in the public interests and not with any personal end in view. This provision is included in the Bill with the best of intentions and no motives need be attributed to the Government in this matter."

SRI K. R. KARANTH :—" Sir, this seems to me to be a case for the Government to. Save me from my Friends. (Laughter.) I dissent from the previous speaker. With the achievement of Swaraj, our independence should be consistent with that of others also. It does not mean that merely because we have got independence we must interfere with the lives, properties and work of everybody. I do not think that any particular set of people have got a monopoly of the knowledge of maths. But all the same, we cannot forget the Constitution which gives certain rights to the people. That says that we cannot interfere with their fundamental rights. I for one have said more than once that the matadhipatis have no right to misappropriate. But they have got a right to spend the money according to usage and customs of the institution. If the clause has said that the proposals should be published by the matadhipati and the people can put in objections, it is all right. But it says that the Government shall finally give a decision. This seems to be the most objectionable feature of the clause from the Fundamental Rights point of view. In a secular State, I do not know how the Government can pass final orders in matters like this. And what is more, there is no provision that even the trustee will be heard by the Government. You will be pleased to see that in sub-clause 3 of clause 59 that the Government shall pass orders on the Commissioner's modified proposals and such orders shall be final. Not even the words 'after the trustee is heard' are there. I take it, however, Sir, that this is not the intention of the Government and that they will fill it up later. But what I object to is this. The usage and customs of the institution, are things to be left to the decision of Courts of law and not for the Government to decide? My hon. Friend, Sri Bhashyam, was perfectly right in saying that such things should be decided by Courts. Courts hear both the sides and decide them. Dittam is not a thing which can be easily stated so far as maths are concerned. In the case of temples it is different. There are regular ceremonies going on there from morning till evening, which have gone on and which are definite. But so far as the math is concerned, dittam is very difficult to state. My hon Friend, Sri Kandaswami Pillai asked what was dittam and what was budget. If he is pleased to see clause 75, he will understand what budget is. There, there is a provision that the matadhipati must give his budget. In my humble view, that would have been quite sufficient. There it says—

'The trustee of every religious institution shall before the end of March in each year, submit, in such form as may be fixed by the Commissioner, a budget showing the probable receipts and disbursements of the institution'

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That will quite suffice for the purpose. Whereas it is possible for a temple to say what its expenditure would be on the ceremonies, etc., in the case of a math it is not. That is the initial difficulty and my hon. Friend, Sri Bhashyam, was right in saying that there was no such thing known as dittam in maths. There is no such thing as daily expenditure there. In some months, there may be no expenditure. Only in certain months, when a lot of disciples come, they may incur some expenditure. My hon. Friend, Sri Kandaswami Pillai doubted whether people were really fed at all. If Government were to manage the maths, they may have to employ inspectors also to verify whether people have actually been fed. A Government agent will become necessary to see how many were fed and how many ration cards obtained. This is the sort of interference I am against.

"Then, Sir, my second point is that under this clause the proposals are not to be made every year or for a particular year but for some time. If the finality in such matters should vest in the Government then it is certainly an interference which is rather too much. What I would say is, if, supposing the income of a math is Rs. 10,000 and if the matadhipati says, 'I shall spend Rs. 2,000 on certain ceremonies, Rs. 2,000 on feeding disciples and the rest on certain other things', he must be allowed to do so so long as he spends the money within the four corners of the usage of the institution. As the Constitution puts it, it is not open to the Government or the Commissioner under them to say to the matadhipati, 'you shall spend only so much'. It is not open to any person, for that matter, to say, 'you shall buy sugar, you shall not buy jag-gery'. This interference with every detail of administration is not good. Whether there is a minor difference or there is a serious difference of opinion between the trustee and the Commissioner, the matter must be left to Court of law to decide. Where a person for instance really feeds only 2,000 persons but puts the figure at 10,000, then certainly I would have no objection to that person being surcharged and sent to jail for two or three years. In certain months he feeds and in certain others he does not and the discretion must vest in him to do as he likes. Sir, in a secular State, there is no obligation that the Minister for Hindu Religious Endowments Board should be a Hindu. Under the Constitution, there is no obligation to this effect. According to the provisions of the Bill before us, it is only the Department that is to be created that should be manned by Hindu officers. So far as my knowledge goes, let me inform the Hon. Minister, there is no obligation under the Bill that the Minister holding this portfolio should be a Hindu. There is not one clause which says like so. If my Hon. Friend, Sri Roche Victoria, who is the Minister for Food, becomes the Minister for Hindu Religious Endowments tomorrow, there is nothing preventing him from becoming so either in the Bill or in the Constitution. If he become a Minister, is he to decide what

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shall be done and what shall not be done by a trustee? Will any other religion allow such a thing to happen? Merely because we are in this position and talk loosely sometimes, the Government cannot do like this. I do not say all the matadhipatis are good. A few may be bad. There are about 120 big maths in this State and I would like to know from hon. Member, how many of them are bad.

"It may be half-a-dozen or at the most ten. Is it more? Or I would like to know whether the whole body of them are rogues and rascals as it is supposed to be? I don't think so. For the sake of the few you cannot condemn the entire lot. By all means have a law and say that they should have correct accounts. If the accounts are false they would be punished. But it should not be said that the dittam which they prepare should be subject to the final decision of a Minister of the Government. Where there is difference of opinion, if that is a minor matter, let it be left to the discretion of the matadhipati."

MR. SPEAKER:—"I shall adjourn the House"

SRI K. R. KARANTH:—"I shall finish in a minute, Sir. If it is a major thing it should be left to a third party who could take into account the usages of the institution, the needs of the math and all these things. A Court can take a better decision than the Minister concerned. I am therefore opposed to the clause as it stands."

MR. SPEAKER:—"I adjourn the House now to meet again at 2-30 p.m."

The House then adjourned for lunch.

(After lunch—2-30 p.m.)

SRI K. BHASHYAM:—"Sir, I have already referred to the undesirability of having this clause as one of the clauses of the Bill. It says that the trustee should in the first instance draw up the dittam. It has to be scrutinised by the Commissioner and any objections and suggestions received by him have also to be considered by him. The objections and suggestions have to come from 'any person having interest'. It is very difficult to decide who is 'a person having interest' it is a very wide definition.

"Then it is said that an order shall be passed having regard to the established usage of the institution and its financial position. So far as maths are concerned, there is no such thing as established usage of the institution in respect of this matter. Practically the income is spent at the discretion of the matadhipati. Therefore we cannot say that anything is 'at variance with the established usage of the institution'. Then the next thing is, 'is not justified by the financial position'. This is a matter which cannot be left to the Commissioner. I may tell you one case, Sir, and I

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hope my hon. Friend Sri Karanth will correct me if I am wrong. There are eight maths in Udipi and there is a pariyayam every two years. One of these maths is to be in charge of the pariyayam that year. Pariyayam means a large number of persons have to be fed and other ceremonies have to be gone through. It means a lot of expenditure. In fact every math prepares for the pariyayam for years prior to that. They gather firewood, rice and other grains necessary. In fact, in spite of the utmost care, the math is likely to borrow large sums of money for getting through the pariyayam period, that is the period during which the math is in charge of the Krishna math in Udipi. Thus the math has to incur debts. These debts are being wiped out during the period when the math is not in charge of the pariyayam. The matter came to a court of law and even went up to the Privy Council. The question arose whether the math can incur large expenditure beyond what may be called its budgetary income. It was held that the usage sanctioned such a thing and therefore the matadhipati was right in incurring such expenditure and that the creditors who advanced the money were entitled to be repaid. In regard to these matters the usage of the institution is the primary thing and not the opinion of the Commissioner or the Government as regards the financial position of the math. I have tried to show that there is no such thing as 'the established usage of the institution in respect of maths and even so far as established usages are concerned, they are not limited by the financial position'. It may be asked, what will happen if the math gets into debts. Generally an appeal goes forward from the matadhipati to the disciples of the math and they make the necessary contributions for wiping out the debts. Therefore the question of financial position of the math with reference to which the Commissioner is asked to decide the dittam will be practically impossible in these matters. It will be an impracticable thing to do. It will be a very difficult thing to put into force and implement fully. It is much better that the Government do not interfere with this at all. I was glad that the secular Government had washed its hands clean of the clauses 7 and 8 relating to the superintendence of these maths. When they did so, I thought it would logically follow that they would not have any further interference. But strangely enough in this portion of the Bill, they want the whole thing to be done by the Government. That, I submit, is wrong.

"Sir, in regard to the dittam, it has been pointed out more than once that it is a matter affecting the daily life and the daily ceremonies of the matadhipati concerned. The matadhipati gets up in the morning, performs the aradhana to his personal God and then instructs his disciples, decides the number of persons to be fed that day, then receives visitors and disciples, perhaps eats at 3 o'clock in the afternoon and so on. These things are regulated according to the usage of the institution. One must know how many persons come for initiation and so on and the dittam depends

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upon that. Now when the Government try to interfere with the dittam, they will be really interfering with the day-to-day life of the swami. Is that to be done? Should a secular government which had washed its hands clean of superintending these maths take upon themselves this more arduous task? I feel the Government had rather taken upon themselves the superintendence of these institutions than trying to interfere with the day-to-day life of the swamis. It is against the Constitution, if I may say so. I do not want to make it a point of order. I wish only to point out that interested persons can take the matter to a court of law. I wish to point out to the Government that they should act constitutionally. If they say that in spite of the fact that what they do may not be in accordance with the Constitution they would take the risk of being dragged before a court of law, and it is not for me to stand in their way. Therefore I think that it is much better that this clause is omitted. It would be much better for the institutions concerned."

SRI R. V. SWAMINATHAN :—"Sir, this clause regarding the fixing of the dittam was one of the clauses to which the Select Committee gave a prolonged consideration and came to this decision. Sri K. R. Karanth said that simply because out of 100 maths a few maths—5 or 6 or 10 maths—were bad, we should not say that all the maths were bad. Even assuming that only 5 or 6 or 10 maths are bad and the rest are well-managed, how are we to check the few maths which are bad and prevent them from spending the money without any proper accounts and so on? Charges have been levelled against some of the matadhipatis and their officers that they spend some money for some purpose and show it in the accounts as having been spent for some other purpose. Suppose there is a gurupuja and usually 1,000 to 2,000 persons are fed every day. If there is no such restriction as proposed here, the matadhipati will say that he fed 10,000 people every day and spend the balance for some other purpose. To check all these things this clause is inserted. Then, suppose the Commissioner fixes a dittam which is not agreeable to the matadhipati; for instance, suppose for a gurupuja the matadhipati wants to feed thousand people and the Commissioner says that only hundred people should be fed, then the trustee has a right to represent this matter to the Government. We discussed as to what should be done in such a case and we decided that it was better to provide that the trustee may represent the matter to the Government. That is the safeguard clause. It was asked why the trustee should not refer the matter to a court. But the difficulty is, the court will take a long time to decide the matter. Suppose the gurupuja is only 4 or 5 days or a week ahead, if the matadhipati is to go to the court and take the permission of the court, it will take a long time and by the time the court's decision is given the gurupuja day might have passed off. But if it is with the Government, the matadhipati may immediately approach the Government and have the matter settled. That is why a provision like that has been inserted in sub-clause (3) of this clause."

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"Sir, some hon. Members said that if the Commissioner was a pious man and one who respected the religious institutions he would do the proper thing but if he happened to be one who always attacked Hindu religion, if he happened to be a gentleman like Mr. Annadurai or Mr. E. V. Ramaswami Naicker, what would happen? There is no doubt there is a fear like that in the minds of some people. Therefore the Government should see that not only in this clause but also in every other clause where power is given to the Government, they should appoint as Commissioner or Deputy Commissioners only proper persons, those who will respect the religion and the customs and the usages. It is the duty of the Government to appoint only proper persons as officers.

"Then Sir, another doubt was expressed by the hon. Member Mr. Karanth: Suppose the portfolio of Hindu Religious Endowments is taken up by a Muslim or a Christian who may happen to be a Minister tomorrow, what will happen? Sir, we are passing this Bill only for the Madras State and not for all India. The Hindus are in a majority in this State and in any cabinet of 10 or 15 or 20 Ministers, the majority of the Ministers will be Hindus. There is no fear that any Chief Minister will hand over this portfolio to a non-Hindu. I do not think that any sane person who will be the head of the Cabinet will like to hand over this portfolio to a non-Hindu. Even assuming that a Chief Minister wanted to hand over this portfolio to a non-Hindu, I do not think that so far as Madras State is concerned, any non-Hindu—a Muslim or Christian—would agree to take over this portfolio. Therefore nobody need have any fear on that score. Anyhow I request that the Government should be very very careful when they make appointments of Commissioners and Deputy Commissioners. With these remarks, I appeal to the hon. Members not to oppose this clause but support it. So far as we are here, we will see that the thing is properly done."

SRI N. S. VARADACHARI:—"Mr. Speaker, Sir, we are now on clause 59 and it has been debated. Now I wish to submit that the hon. Minister may be pleased to recast the clause as follows—I am only making a suggestion to him, and he may or not accept it. I shall first take the matter about 'dittam' and say a few words; it is only about the 'dittam' that there should be some modification, the other portions may remain as they are. Again in clause (2), "in such other manner as the Commissioner may direct"; you need not always have the Commissioner for this purpose; you may say 'in such manner as the law may prescribe'. Clause (3) says that only 'if the scale of expenditure is at variance with the established usage' or 'of it is not justified by its financial position' the Commissioner may call for the remarks of the trustee and if any modification is required in his opinion, he should submit the case to the Government. So, if it is not at variance why should the proposal be submitted? The scheme of the whole Bill is this: the trustee who is the head of the institution has got two kinds of money according to the Bill.

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One is personal gifts made to him for which a very highly objectionable procedure is contemplated, i.e., if he can spend it at his discretion, he must also grant receipts, keep accounts, etc. The head of the math will sit in a particular place, somebody will come and give him money, and he must get a receipt for the money given; suppose a man by name Srinivasa Ayyangar gives him Rs. 10 or Rs. 5, the trustee will have to give him a receipt for it. That is not the way to deal with trustees. I shall have something to say about it under clause 60. But as regards the trustee being asked to prepare a budget, I submit there is no such thing as dittam in respect of the maths, unlike temples. What is it that happens in a math? It is the personal life of the swami, it is the imparting of religious instruction to his disciples holding kalakshepas and the like and making enquiries of the various guests that are introduced to him during the day and also looking after the patasalas and schools established by the math in connection with the work of the math. What is it that he can give as 'dittam'? Much stress was laid on feeding. It is good that some people are fed in these days of starvation; but even these maths do not feed many. Let me tell you, Sir, and through you, the Government that very unjustly some of the maths who have the duty of feeding guests at Tirupathi have been stopped from feeding them, because the authorities have not allowed the quantity of rice that the Tirumalai-Tirupati Devasthanam has allotted to these maths under ancient usage. I know that last year for the Brahmotsavam, the quantity of rice used to be allowed was reduced and when I came to know of it, I grew paddy on my own land and offered to submit that paddy and take it to the hills to feed a limited number of people considering the number of pilgrims that go to the hills. That is what an honest trustee would do; he would strive to make the best of a bad situation. Is it possible in such cases to make out an advance budget in the manner in which a temple trustee can make out? There is no obligation on the part of the temple trustee to feed people. There is only a dittam saying so much for the naivedyam in the temple, so much for the Brahmotsavam and for the other utsavams. But there is no such obligation caste on the head of a math. In fact, this should be gently dealt with. It should not be regular scrutiny. And what is the scrutiny we are going to effect in this case? I am sure no Commissioner who is to be appointed will be able to scrutinise effectively. We will only have the satisfaction of passing a law and seeing that even an honoured trustee is to be subjected to this kind of scrutiny. I agree that he must keep accounts, that there should be proper management, and all that. As a matter of fact, most of these maths are already keeping accounts and have a council to assist them, consisting of very learned men. In such cases, I am sure the Commissioner can have no difficulty. I want the whole of this clause to be recast. There is no use telling me 'take the old Act, you will find it there'. It is like saying that you use some language because

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your father also used it. Why not we improve upon it, why not we use better language; why not we make it presentable and agreeable to the party concerned? There is nothing wrong. Suppose a foreign visitor comes here and reads this Chapter; the frightful feeling that will overtake him is: are all these people such bad people, are the common people struggling against this tyranny? And are you trying to get rid of this scourge? And even there, I think, Sir, you must have a pleasant way of doing it."

SRI D. V. RAMASWAMI :—" Mr. Speaker, from the speeches made so far on this clause, I am sure the Hon. Minister will see the extreme anxiety which the Members feel and express in order to assist the Government to come to the right view and the manner of expressing that view through this clause. The main intention of Government in omitting Chapter II was really very commendable. The object of Mr. Karanth and others is to see that the legislation is framed in such a way that there is no inconsistency here which will bring it under the mischief of the Constitution Act. The budget proposals by the trustee and the matadhipathi may be scrutinised and there may be the necessary control and supervision. At the same time, the object of the Government is to see that the ideals for which the maths were established, i.e., the spiritual advancement of the people, should be subserved. I therefore feel that necessary alteration should be made in the language of the clause. I feel, Sir, this is a very important matter and the Hon. the Minister for Law will do well to take these suggestions in the best spirit and see if it is not possible to revise the wording of the clause so as not to infringe on the language of the Constitution Act."

SRI M. S. PATTABHIRAMIAH :—" Mr. Speaker, Sir, I am one of those people who believe that however good-intentioned the Government may be, they have no right to interfere with the daily observances in religious institutions. I said so at the time we discussed generally the report of the Select Committee. I referred then to this 'dittam'. Strictly speaking, the Government should not interfere with the 'dittam' of any religious institution. Government have seen their way to delete clause 7. So far as temples are concerned, the dittams are well-known and they can be controlled, though in a lenient manner. But I am really surprised to find 'dittam' being used with reference to maths. Historically, maths have no dittams at all and there is no religious ritual to be performed by any matadhipati. As has been pointed out by many Members and as I also pointed out in my previous speeches, it is simply a college of learning; they give instructions in religious matters, they teach the Poorvaminimsa only for dialectical training and other doctrines of uttaramimamsa which we can call in English, 'metaphysical doctrines'. There may be some gifts for feeding certain people, but there are no gurupoojas in every math. Unfortunately some

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of the supporters of Government are obsessed with the position in certain maths in the Tanjore district which are different from other historical maths. Some of my friends seem to be thinking of annakavadi matams and ganja matams. They must know there are maths which are doing much work for the benefit of humanity which, if we are really going to continue as a democratic Government and unless we are preparing the way for a totalitarian government, should continue to exist and continue to carry on their work in their own way. If a dittam is to be brought into this clause in the case of a math also, I am afraid it may be held *ultra vires* in a court of law."

THE HON. SRI K. MADHAVA MENON :—" Sir, Mr. Viswanatham was saying more than once that there are about 700 maths. I may give the correct figure, so that hereafter at least he may refer to the correct figure."

SRI T. VISWANATHAM :—" On a point of personal explanation, Sir. There are also specific endowments which I am adding to this number."

THE HON. SRI K. MADHAVA MENON :—" Anyhow, let the House know the correct figures. There are only 300 maths, of which 41 are maths getting an income of over Rs. 5,000 and only 21 maths are getting over Rs. 10,000 per year. (Interruption.) The hon. Mr. Bhashyam asks: 'Is the Bill intended for these?' I may make it clear that the Bill is for these 300 maths also. I have nothing more to say against the general demand made by Mr. Bhashyam and others that maths should not be included at all in this Bill."

"As regards 'dittam', Messrs. Bhashyam and Pattabhiramiah said that there are no dittams at all for the maths. If that is so, clause 59 cannot apply. That clause says—

"The trustee of every math or specific endowment attached to a math may from time to time, submit to the Commissioner proposals for fixing the dittam," and if there is no dittam, he need not send any proposals at all. I may tell Mr. Kandaswami Pillai, as Mr. Karanth said, let us not confuse between a budget and a dittam. Clause 75 says in sub-clause (2)—

"Every such budget shall make adequate provision for—

- (a) the dittam or scale of expenditure for the time being in force;
- (b) the due discharge of all liabilities binding on the institution."

Sub-clause (1) refers to the budget. So, a budget may include dittam, but dittam is not a budget at all. As I said, if there is no dittam in a math, then this clause 59 will not apply at all. Mr. Karanth said that so long as it conforms to the usage, nobody can interfere. I agree; that is exactly what the clause also says."

"Now, Sir, the objection of Mr. Karanth is that as long as the dittam or everything conforms to custom and usage nobody could interfere. Sub-clause (1) of clause 59 says that the trustee may from time to time submit to the Commissioner proposals for fixing the dittam; sub-clause (2) says that it shall be published and

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sub-clause (3) says, if on scrutiny of such proposals and any suggestions made by persons having interest, it appears to the Commissioner that the scale of expenditure or any item in the scale of expenditure is at variance with the established usage of the institution. Mr. Karanth says that as long as it conforms to usage, nobody can question it. So, if it does not conform to usage somebody can question it. What the clause provides is, the Commissioner can think of doing anything only if it is at variance with the established usage or custom of the institution or is not justified by its financial position.

"Hon. Mr. N. S. Varadachari says, why are you concerned with the financial position of the institution?"

SRI N. S. VARADACHARI:—"I never said that."

THE HON. SRI K. MADHAVA MENON:—"If it is not he, one Member said, why should you care for the financial position of the math and if the matadhipati gets into debts the disciples will pay. We cannot say, let the matadhipati get into debts and ruin the math. The State has definitely to prevent a man from attempting to commit suicide. If the fundamental right of a man to commit suicide is not permitted, we cannot permit the matadhipathi to destroy the math. So, we do take into account the financial position of the math, see whether the expenditure is within the financial capacity of the math and whether the matadhipathi is not running into debts. So, what we have provided in this clause is, the Government or the Commissioner does not interfere, but we say that the trustee must prepare the dittam and publish it and invite objections and if the Commissioner finds that the dittam goes against custom and usage and the financial position of the math, the Commissioner gives an opportunity to the trustee and if the Commissioner is of the opinion that it requires modification, he shall submit the case to the Government for orders. (Interruption.) Hon. Mr. Karanth says that he is not given an opportunity. If the hon. Member reads sub-clause (3), he will find provision made that 'the Commissioner may call for the remarks of the trustee and if after considering the same, the Commissioner is of opinion that any modification is required in the scale of expenditure or any item in the scale of expenditure, he shall submit the same to Government.' That is only after obtaining the remarks of the trustee. But, if there are certain things which are against custom and usage and against the financial position of the math, it is for the Government to decide. Mr. Karanth says, you will have to go to court and take the chance; perhaps he thinks if the Hon. Minister, Mr. Roche Victoria, is put in charge of Endowments, he is a non-Hindu, being a Christian. But, how are you sure about the case in court, where the Judge may as well be a Muslim or a Christian? (Sri K. R. Karanth: 'No objection.') My hon. Friend says he has no objection to the judge being a non-Hindu, but his objection is only to the Minister being a non-Hindu. The sanctity of the

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position of a judge is attached to the office of judge and not to the particular person. If that is what hon. Mr. Karanth means I can understand. So, is the case with the Government and that is why an appeal by the Commissioner to the Government is provided. It is not Dr. Rajan or Madhava Menon or any other Minister that is in charge of the religious endowments but the Government and so that objection about a non-Hindu being a Minister does not apply to the Minister that is referred to here. What is stated in the clause is, the Commissioner shall refer cases to the Government only in such cases where the scale of expenditure goes against the custom or usage or goes against the financial position of the institution. It is only then that the Commissioner will make a reference to the Government and so there is nothing wrong in it and it cannot also be said that it is an interference with the administration of the math.

"Hon. Mr. Bhashyam said that you are interfering with the day to day affairs of the institution. For instance, dittam is not a day to day matter and dittam is prescribed for the whole year and so the Commission is not going to ask the trustee every time whether custom or usage is violated or not. So, I do not see anything which goes against the Constitution or there is anything even derogatory to the position of the matadhipati.

"Then, Sir, hon. Mr. N. S. Varadachari wants certain verbal changes to be made in the clause. Let not any hon. Member think that the wording of it offends in any way the sentiments of matadhipatis or for offending anybody we have put it in. Of course, we shall examine it again as to whether any better wording would be more acceptable and consider hon. Mr. Varadachari's suggestions. That is all I have to say in respect of the matter. The clause as it is should stand."

Clause 59 was put and carried.

Clause 60.

MR. SPEAKER:—"The motion is—

'That clause 60 do stand part of the Bill.'

MR. SPEAKER:—"Before I call upon hon. Mr. Viswanatham to move his amendment for the deletion of the whole clause, I would like to point out that hon. Mr. Karanth has given notice of another amendment for the deletion of sub-clause (2). So, I would suggest that instead of hon. Mr. Karanth moving his amendment, hon. Mr. Viswanatham may move his amendment and hon. Mr. Karanth may speak on it."

SRI T. VISWANATHAM:—"But, I would suggest, Sir, hon. Mr. Karanth may move his amendment and I will not move my amendment, but I will second his amendment."

MR. SPEAKER:—"I have no objection to it."

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SRI K. R. KARANTH :—“ Sir, I shall take only very little time. I move that—

‘ Sub-clause (2) of clause 60 be deleted.’

“ Sir, sub-clause (1) is very clear. It says—

‘ The trustee of a math shall be entitled to spend at his discretion for purposes connected with the math any ‘pathakanika’ that is to say, any gift of property or money made as a personal gift to him as the head of the math.’

I have no quarrel with that sub-clause. But, clause (2) says—

‘ The trustee shall keep regular accounts of all receipts and disbursements of the nature referred to in sub-section (1), and shall cause such accounts to be produced before the Commissioner or any person authorised by him in this behalf, whenever so required.’

It is to this clause that I object, because even such small harassments of this type should not be allowed. When it is conceded in sub-clause (1) that these personal gifts or offerings made to the matadhipathi can be spent by the matadhipathi at his discretion, now this sub-clause (2) says that the day-to-day offering of a silver cup or a copper or brass vessel, the moment they come in should be entered in the accounts. I think this is a little too much to expect of the matadhipathi and unnecessary. Of course, I agree with the Hon. Minister when he said that matadhipathi should eat the corpus of the property. If they are immovable property, it is but right, because, it is not his own acquisition, but several ‘matadhipathis’ before him acquired that property and therefore unless for very grave necessity that property should not in any way be destroyed or mortgaged or that he should incur debts. I perfectly agree with that position. But, here no distinction has been made between small and costly presents. It is merely stated that every gift, even if it is worth five annas, should be entered, as if the Commissioner is expected to check it every day and say whether the account is kept properly or not. It is not proper, especially when we are giving the trustee discretion to do as he likes with these ‘pathakanikas’. These ‘pathakanikas’ are given to him because of the respect due to him. So, it is too much to expect of him to keep regular accounts of such things. For instance, even in our day to day work we are finding it difficult to keep regular accounts. So, when such presents are offered to him, he is at liberty to do what he likes with them. That is what is provided in sub-clause (1). But, to say that small and big presents are all to be entered and for any slightest default he becomes liable to be removed under clause 57 if anybody chooses to do so, is not fair to the ‘matadhipathi’. Therefore, Sir, without taking more of the time of the House, I submit that sub-clause (2) may be deleted, while sub-clause (1) may remain as it is.”

SRI T. VISWANATHAM :—“ Sir, in seconding this amendment, I submit that unless the Government are anxious that the whole clause should be declared *ultra vires*, they must agree to this amendment. If sub-clause (2) is to be retained, then sub-clause (1) will go in effect. Therefore, I do not like to attack the entire section, because in sub-clause (1) the Government have

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conceded with an amount of commendable good grace that gifts of money made as personal gifts to the head of the math shall be his own property and that the trustee of the math shall be at liberty to utilize them (Interruption) for purposes connected with the math. I am sorry, it is graceful, but not so commendable as I thought. But, what happens is, sub-clause (2) will virtually negative the right given to the matadhipathi under sub-clause (1). As you were pleased several times to say an amendment shall not merely have the effect of negating an existing clause. So, sub-clause (2) is nothing but negating the effect of sub-clause (1) and it should not be there. Do the Government want ‘pathakanikas’ or not? If they want, then I understand that the trustee shall be entitled under the existing system of usage to spend it at his discretion. But ‘pathakanikas’ may be for purposes not directly associated with the math but on account of his relationship with the math the matadhipathi cannot spend the money which he has received for purposes which are not connected either with himself or the math or shisyas or disciples. Here, it is restricted for purposes connected with the math. That is a wide expression and it has got to be looked into and decided. But, even that little right given under sub-clause (1) is taken away under sub-clause (2). If once the gift is declared the absolute property of the matadhipathi he should be allowed to spend at his discretion. I therefore second the amendment.”

SRI S. CHIDAMBARA AYYAR :—“ Mr. Speaker, Sir, I fully endorse what hon. Members Mr. Karanth and Mr. Viswanatham have said. The effect of sub-clause (2) is that the Government have no confidence in the matadhipathis in the matter of spending money at their discretion for purposes connected with the maths. I do not see any reason why they should submit accounts to the Commissioner in regard to the matter. It is highly derogatory of the matadhipathis that they should submit accounts to the Commissioner even in matters of gifts given as personal ‘pathakanikas’, which amounts to something like private property, even now the matadhipathis being sanyasins or persons having no connection with worldly affairs, they are spending those moneys in matters relating to their maths and they are doing their best. Such being the case, why should the Government ask them to submit accounts. More often it has been said on the floor of this House by the Hon. Minister that the Commissioner and others are persons who are expected to do things properly. I ask the Hon. Minister why not they have as much confidence in the matadhipathis as they want people to have confidence in the Commissioner. I only want to submit that the confidence expected is mutual and the matadhipathis can be credited with a certain amount of good sense that they are bound to spend the money in a proper manner. Therefore, I think this provision is unnecessary besides being highly revolting to the good sense of the matadhipathis. With these few words, Sir, I support the amendment.”

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SRI N. S. VARADACHARI :—“ Mr. Speaker, Sir, I want to add a few words to reinforce the very able arguments of my predecessors. If the trustee of a math shall be entitled to spend at his discretion any gift of property received by him as the head of a math, it is certainly wrong to ask him to keep accounts of receipts and disbursements and submit them to the Commissioner whenever so required, or, in the words of the sub-clause to be produced before the Commissioner or any person authorized by him in this behalf, whenever so required. Sir, this is nothing but harassment. Sub-clause (1) may remain, as it is; I am not concerned with the grace of it. But, if it is once granted to the trustee as a personal gift for people do so, because people hold him in reverence and esteem and they respect him and it is because of that, they give him personal gift. Let me take an example prevalent among the Vaishnava people, of what is called, Samasrayanam. At the time of Mudradanam, people tell the Acharya, ‘I do hereby submit everything I have and myself to you.’ But he does not renounce everything; he does not renounce himself from the world. He only says that he pledges himself to lead a life of purity and then says, ‘I make a complete surrender to God, through you, Oh, Acharya, and may God save me from all calamities and keep me in proper conduct and help me to lead a life of rectitude.’ That is a grand ceremony, and in the course of that ceremony, each man gives what he is able to give. Sir, the Speaker must have heard that when people go to Benares, they are asked to give up something which they like very much. A man may like mangoes very much; and one would expect him to give that up. But what do people generally do? They give up koyyapazham and seethapazham, and then satisfy themselves that they have abided by the rites. Now, to come to my point. In the course of these ceremonies, disciples make a gift to the Acharya. What happens to those gifts? He does not pocket them. He, being a Sanyasi, he does not enjoy the fruits of his position; he distributes them to the beneficiaries of the math. In such cases, where is the necessity for keeping accounts? Suppose I propose to lead the life of a Sanyasi, and in doing so I have with me a small number of disciples; I preach to them the doctrines of religion and so on. Those disciples are true disciples, and very much we like the swollen-headed disciple who approached the master in the Upanishad. People go and make gifts and presents to the Sanyasi. The Sanyasi does not make them his personal property; he distributes the gift among his Sishyas. Suppose, I make a gift of five rupees and Mr. Bhashyam makes a gift of fifty rupees. Should the trustee engage a clerk to keep an account of these gifts? Why should a clerk write in my presence in the accounts, ‘received five rupees from N. S. Varadachari; received fifty rupees from Mr. K. Bhashyam’. Sir, all this introduces a certain amount of embarrassing pettiness. I use these words deliberately. My second reason is if the trustee is entitled to spend the gift at his discretion for the purpose of the

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math, clause 60 should stop with the sub-clause (1). Why should the conditions stated in sub-clause (2) be attached. Even if the Hon. Minister wants to retain sub-clause (2), let him, instead of the latter half of the sub-clause, say, ‘shall make available such accounts to the Commissioner or any other person authorised by him.’ I am against having the words ‘whenever required’. Under that phrase, every minute in the months of January, February and March the Commissioner’s servant will come and demand accounts and declare that the matter is urgent as they have to be submitted to the Endowments Board. Sir, all this is wrong, undignified and does no justice to a legislature which is enacting this piece of legislation. So, I hope Government will drop sub-clause (2) and be content with sub-clause (1), as it satisfies their object.”

SRI M. R. APPA RAO :—“ Mr. Speaker, Sir, the pathakanikai is given to the matadhipathi on account of the great respect which the Sishyas have for him. In the first sub-clause Government have accepted that it is a personal property of the matadhipathi. If a matadhipathi is otherwise bad, I think, there are several other clauses, plenty of them, I fear, to remove him. So, this second sub-clause is unwarranted because the pathakanikai is his personal property. I feel this submitting of accounts is unnecessary; it is not very dignified condition to be attached to a person who holds a sacred place in society. So I request Government to delete the sub-clause. I support the amendment.”

SRI M. S. PATTABHIRAMIAH :—“ Whatever may be the fate of the other amendments brought forward in this House . . . ”

MR. SPEAKER :—“ The hon. Member should first address the Chair and then begin his speech.”

SRI M. S. PATTABHIRAMIAH :—“ Mr. Speaker, Sir, we have seen a very large number of non-official amendments brought forward and been lost. I am not very much concerned with them. But I wish this amendment at least is accepted by Government. The clause, as it stands, is really objectionable. As I pointed out, on a former occasion, about the pathakanikais, the term itself denotes that it is a personal gift by a devotee to a person whom he holds in worshipful reverence, and it is absolutely given over to him to do as he likes. He may even throw away that amount, if he so wishes; because it is not intended for the institution at all over which he presides. In this connection I wish to narrate a small personal experience which I had while I was with the Sringeri Math Swamiji, while he was touring in my district. That Swamiji was on his way to make a prathish-tai in Kaladi. This happened in my early years, about forty-five years back. I was with him in the math; I was a young man then; and I have had personal experience of that math. In a

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certain place in Ramnad district, he was camping for a long time. He was entertained by the Kovilur matadhipathi. He had regal honours and had a large paraphernalia; and it was one of his ancestors who established the Vizianagaram empire. That Swamiji was the thirty-third successor. He was a saint; he was an absolute saint and a hermit; he lived the real life of an Acharya; people invited him to their house; that Swamiji got pathakanikai. Usually when he went round on tour people invited him to their residence for pathakanikai; people worshipped him like a deity. I want this House to remember that many people put money at his feet. In this connection I want to say that hon. Mr. N. S. Varadachari confused many things in his speech about these maths. Because there are so many varieties of maths, as we have so many doctrines; as I told the House, the other day, there are the Annakavadi maths and sombachhavadi maths (Laughter); we do not know the historical origin of these maths, except they are survivals of maths, which once did great service in the cause of spreading of Hindu religion. Now, coming to the point. While the great Swamiji of Sringeri math was, one day, coming out of the house of a rich man, after receiving pathakanikai, the pathakanikai in this case was Rs. 108 or Rs. 1,008, I do not remember exactly what the amount really was, he was met on the threshold of that rich man's house by a very lean man, a living skeleton itself; he was expecting every minute his death; he approached the Swamiji and asked for alms. That man, who was gasping for breath, when he came face to face with the Swamiji burst out chanting verses. The great Swamiji stood there, listened to the man. How did that dying man begin to recite verses is a mystery. He was on the verge of death; he was in financial distress; and so he sought the help of the Swamiji. The great Swamiji beckoned to one of his disciples, who was following him with the pathakanikai given by the rich man, to bring it; he took all the silver coins and handed them over to that poor man! The poor man said, he was happy to die, but was anxious about his family and children, who would become orphans after his death. Do you know what the Acharya said: 'there is God to protect the orphans; you may die in peace; take this money?' Sir, this is a typical instance of what Sringeri Math Swamis have been doing about pathakanikais. Not only this sort of thing. Suppose a poor woman goes to him; she would get some clothing, some silk clothing. Now, would any officer of the endowments board would agree to this? No, he would say, it is wrong to do so. So, I say, Sir, this sub-clause (2) should be deleted. I want Government to understand that the pathakanikais are never intended to become part of the property of the math, and no one can have any interest in it, not even the devotee nor anybody else. They are intended to belong solely to the head of the math. As was pointed out by Mr. Appa Rao, people give pathakanikai only when they find one worthy to receive it. To an unworthy matadhipathi no pathakanikai is

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given. So it should be left entirely to the discretion of the matadhipathi to do as he likes with it. There should not be any interference with it. Any interference in this matter will be only ruining the whole structure of these maths. With these words I oppose the whole of the sub-clause (2). I want it to be deleted from the Bill."

SRI V. I. MUNISWAMI PILLAY:—"Mr. Speaker, Sir, I rise to support the amendment moved by my hon. Friend Mr. Karanth. As was said by Sri M. S. Pattabhiramiah, I honestly feel that pathakanika cannot form part of the asset of the math. A matadhipathi has attained a certain spiritual advancement and he feels sincerely that he should impart that knowledge to his disciples and students. Ordinarily a matadhipathi does not select everybody for initiation. He only chooses such disciples and students as are prepared and ripe to receive initiation. That being the case, it is not at all advisable to ask a matadhipathi to render accounts to the Commissioner. Sub-clause (2) says that the trustee shall keep regular accounts. That means the trustee will interfere with the matadhipathi or Guru in his right work of imparting religious instruction to his students and disciples. Such interference will only hamper the growth of Hindu philosophy. If a Guru is asked to render accounts to the trustee about pathakanika, the trustee may not care to divulge all the amounts that he has been receiving from the disciples and students as he will be unconcerned as to what money comes and goes. The disciples and students also may not offer pathakanika but do something else to please the Guru. Pathakanika is not given as a bonus or asset to the Guru. It is given out of love and for the benefit that the disciples derive. As I said, a Guru is a person who has attained a high standard in the religious sphere. The provision in sub-clause (2) will really cut at the very root of religious training and hamper the promotion and spread of Hindu philosophy. So I request the Government to consider the matter and accept the amendment."

SRIMATHI V. LAKSHMI AMMAL:—"கனம் அக்கிராசனாதிபதி அவர்களே, இந்த 60-வது clause லுள்ள இரண்டாவது paragraph யை எடுத்து விடவேண்டுமென்று கனம் Karanth அவர்கள் கொண்டுவந்துள்ள திருத்தபிரேரணையை நிரூபித்து நான் பேசுகிறேன். இந்த clause-ல் முதல் முதலில் 'power to spend "Pathakanika"' என்று மாதிரிப் போடப் பட்டிருக்கிறது. அதுவும் முதல் பாராவிஷ் ரொம்பவும் அழகாகப் போடப் பட்டிருக்கிறது. அவர்கள் இஷ்டம் போல் சிலவு செய்துகொள்ளலாம் என்பதாகவும் இருக்கிறது. அடுத்தாற்போல் கவர்ன்மெண்டினுடைய வழக்கமான ஒரு விஷயத்தை மாலையை அதில் புருத்தப்பட்டிருக்கிறது. எப்பொழுது மடாதிபதிகள் அவர்கள் இஷ்டப்பிரகாரம் பாதகக் கணிக்களை சிலவழித்துக் கொள்ளலாம் என்பதாக சொல்லப்பட்டிருக்கிறதோ பிற்பட்டு இரண்டாவது பாரா இருக்கவேண்டியதவசியமில்லை. இதை எடுத்துவிடவேண்டியதவசியம். விசேஷமான காலங்களில் பக்தர்கள் பாதகாணிக்கைகள் கொடுப்பதை இன்னதிற்குத்தான் சிலவு செய்யவேண்டும்: இன்னமாதிரிதான் சிலவு செய்யவேண்டும், இந்த உபயோகத்திற்குத்தான் சிலவு செய்யவேண்டும் என்று மனதிலவைத்துக்கொண்டு அவர்கள் கொடுப்பதில்லை. இம்மாதிரி யான காரியங்களை கட்டுப்படுத்துவது சரியல்ல. ஆச்சாரியர்களுக்கு பாதகாணிக்கைக் கொடுப்பது பக்தர்கள் தாங்கள் இருதார்த்தர்களாக

[Srimathi V. Lakshmi Ammal] [25th November 1950]

வேண்டுமென்பதற்கு தவிர வேறில்லை. மடத்திற்குள் அவைகளை எவ்விதம் செலவு செய்தாலும் அக்கரையில்லை. பாதகாணிக்கை கொடுத்தால் அதை கணக்கு வைத்துக்கொள்ளவேண்டுமென்று சொல்வது நல்லது அல்ல. அவர்கள் பக்தர்கள், தங்களுக்குள் கணக்கு வைத்துக்கொள்வார்கள். எனக்கு முன் பேசிய கணம் பட்டாபிராமய்யா சொன்னமாதிரி சங்கராச்சாரியார் ஊர்களை சுற்றிவரும்பொழுது ஒவ்வொரு இடத்திலும் தங்கும்காலத்தில் ஒவ்வொரு வீடுகளிலும் அவரை வரவழைத்து அவருக்கு அர்ச்சனை செய்து பாதகாணிக்கை கொடுப்பது வழக்கம். அஷ்டோத்திரமாக இருந்தால் ரூ. 108-ம், சகஸ்ரநாமமாக செய்தால் ரூ. 1,008-ம் கொடுப்பது வழக்கம். இம்மாதிரி அவருடன் வருகிறவர்களுக்கு சாப்பாடு போடுவதும் வழக்கம். இவ்விதம் மடத்திற்குள் ஊரார்வர்களுக்கும் பக்தர்களுக்கும் சாப்பாடு போடுவார்கள், சன்மானமும் கொடுப்பார்கள். இவ்விதம் தென்னிந்தியா பூராவிலும் நடந்து வருகிறது. கணம் மெம்பர் குறிப்பிட்ட சங்கராச்சாரியார் வந்த காலத்தில் நான் ரொம்பவும் சின்ன வயதாக இருந்தாலும் எனக்கும் அதைப் பற்றி ஒரு மாதிரியான ரூபகமிருக்கிறது. கும்பகோணம், சங்கராச்சாரியார் வந்தாலும் அம்மாதிரிதான் நடக்கும். காமகோடி மடத்திலும் வந்தாலும் அம்மாதிரிதான் நடக்கும். சந்தாரணமாக நம்முடைய வீடுகளில கலியாணம் செய்தாலோ அல்லது பிள்ளைகளுக்கு பூனூல் போட்டாலோ அவரவர்கள் தம்பதிகளுக்கும், குழந்தைகளுக்கும் presents அல்லது சன்மானம் கொடுப்பார்கள். அவ்விதம் கொடுத்து வரும்பொழுது யார்யார் என்ன கொடுத்தார்கள் என்று தெரிந்துகொள்ள மற்றொருவர் பக்கத்திலிருந்துகொண்டு அவ்விதம் கொடுக்கப்பட்ட பணத்தைப்பற்றி கணக்கு எழுதிக்கொண்டிருவார். அவ்விதம் ஏன் அப்படி எழுதிவருகிறார்களென்றால் மறுபடியும் அவர்களுக்கு தாங்களும் கொடுக்கவேண்டுமென்பதற்கத்தான் அவ்விதம் எழுதிவருகிறார். இம்மாதிரியான ஒரு லெளகிக முறை நம் நாட்டில் வழக்கமாக இருக்கிறது. அத்தமாதிரி சங்கராச்சாரியார் மடத்திற்குள் அவர்களுக்கு அர்ச்சனை செய்து பாதகாணிக்கை கொடுத்து தாங்கள் சிலை செய்ததை கணக்கு வைத்துக்கொள்வது சாத்தியமா? சில சமயம் வந்தவர்களுக்கு இல்லை என்று சொல்லாமல் சாப்பாடுபோடுவது மடத்திற்குள் வழக்கம். அந்த சமயம் அன்னக்கொடி கட்டுவதும் வழக்கம். இம்மாதிரியான சிலைகளை கணக்குவைத்து காணிக்கவேண்டுமென்றால் தாங்கள் இஷ்டப்படி செலவு செய்வதாகுமா? பக்தர்கள் அவர்களுக்கு பாதகாணிக்கை கொடுப்பதை இம்மாதிரி செலவு செய்வார்கள். இதை யெல்லாம் இஷ்டப்படி செலவு செய்துவிடலாமென்று முதலில் சொல்லிவிட்டு பிறகு கணக்கு வைத்துக்கொள்ளவேண்டுமென்று சொன்னால் அதன் முக்கியம் போய்விடுகிறது. பொது ஜனங்களுக்கும், பக்தர்களுக்கும் பக்திசூறாந்து போய்விடும். ஆகையினால் இந்த இரண்டாவது பாராளை எடுத்துவிடவேண்டுமென்று கொண்டுவந்த திருத்த பிரேரேபிணை நான் ஆதரிக்கிறேன்.

THE HON. SRI K. MADHAVA MENON :—" Sir, this provision was not there in the original Bill. While we were discussing in the Select Committee clause 75 relating to the budget of religious institutions, it was said that all the income and expenditure should be included in it. Sri Bhashyam himself pointed out that maths possessed two kinds of property, one the endowments and the other the personal property of the matadhipathi. He further said that Pathakanika was a personal gift and that a matadhipathi should have the power to spend it as he liked. The Committee came to the conclusion that pathakanika need not be treated as the property of the math, but that a specific provision should be made making it obligatory that a matadhipathi should spend the pathakanika only for purposes connected with the math. This was one of the recommendations of the Select Committee, but no vote was taken on it. (Interruption by Sri K. Bhashyam.) Hon. Sri

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Bhashyam says that we did not think of the provision in sub-clause (2) then. I entirely agree with hon. Sri N. S. Varadachari and certain other hon. Members that pathakanika is something placed at the feet of the master for his blessing and grace and as a sign of the giver surrendering himself. But the Select Committee decided as per the provision embodied in this sub-clause. To get the blessing of hon. Sri T. Viswantham in respect of any clause in this Bill is something which I prize. He has blessed by saying that the clause is graceful though not sufficiently graceful. He admitted that there was some grace already. Hon. Sri N. S. Varadachari took objection to the words 'shall cause such accounts to be produced' and suggested the use of a more respectable language. My submission is that sub-clause (1) becomes impossible of performance unless there is this sub-clause. Sub-Clause (2) which is a corollary to sub-clause (1). Sub-clause (1) says—

'The trustee of a math shall be entitled to spend at his discretion for purposes connected with the math . . .'

Nobody restricts a matadhipathi in spending according to his discretion. All of us including hon. Sri Karanth are agreed that pathakanika should be spent only for purposes connected with the math. We have seen huge plates full of sovereigns placed at the feet of the matadhipathi as pathakanika. A huge amount is realized. The ascetic does not want it at all. It is other people who take and spend it according to his orders. If accounts are not maintained, how are we or even the matadhipathi himself to know the amount realized and whether the whole of it has been spent according to his orders? If sub-clause (1) is right, sub-clause (2) necessarily follows and we cannot object to it. Whether the amount realized has been spent for purposes connected with the math cannot be verified unless an account is maintained. It is certainly unnecessary that this money should be accounted for in the manner in which trust properties are to be accounted for under clause 57 of the Bill. There can be no misappropriation or breach of trust in respect of the properties of religious institutions, because sub-clause (1) of clause 60 says that it is not the property of the institution but only property belonging to him personally as a matadhipathi. The matadhipathi has certainly got the discretion to spend it as he likes; but what we have said in sub-clause (2) is that any moneys received as pathakanika and spent at his discretion for purposes connected with the math should be properly accounted for and for that purpose, he should keep accounts in order that people may know how much is received and disbursed, and in case, the Commissioner wants, these accounts can be produced before him. That is all that is required of him, Sir, for that purpose he must keep accounts. Nowhere has it been said that the Commissioner will come and check the accounts or that these accounts should be submitted for audit. All that is meant is, that it is better for the matadhipathi to keep accounts of the amounts received by him, even though they are his personal property, so that it may not give rise to any unnecessary suspicion in people that they are not properly used, because as Caesar's wife he must be above suspicion."

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SRI K. R. KARANTH :—“ Sir, after I heard the speech of the Hon. Minister, I feel more than ever convinced that the position I have taken is correct. It may be correct, no doubt, that no court will hold him responsible, if he spends it as he likes, because it is the personal gift to the matadhipathi. But, if the Hon. Minister will be pleased to refer to clause 57 (f) wherein it is stated, that ‘persistent and wilful default by the matadhipathi in discharging his duties or functions under this Act or any other law’ will be one of the grounds for the Commissioner to move the court to remove him from his office, he will find that if a matadhipathi does not keep accounts as is prescribed in clause 60 (2), he can be charged under clause 57 (f) for persistent and wilful default in discharging his functions under this Bill. He is certainly liable to be removed from his office by the Commissioner if he does not keep accounts under this clause, whatever may be the intention of my Hon. Friend, the Minister for Law. Perhaps I can take the Hon. Minister at his word, but unfortunately that is not the case here. If it was not there before the Bill was referred to the Select Committee and if the Select Committee had introduced this new clause, then it means that the Government had changed their original intention and my hon. Friend Sri K. Bhashyam was perfectly right in saying that the Bill has assumed an entirely new aspect, after it had emerged from the Select Committee, even though we spent months over it. Sir, my hon. Friend Sri M. S. Pattabhiramiah said certain things about this pathakanika and he also gave certain instances. Suppose a Swami is so good that whatever he gets as he goes out, he gives out in charity to the first person he meets on the road, and thus wants to unburden himself before that evening, I do not think anybody can object to it. Is it the intention of the Government that whatever presents he gets on his way, should be noted down in an account book then and there for being produced before the Commissioner? I submit, that such a person must be highly respected because he is so unworldly. If he wants to give any charity from out of his pathakanika, which is stated to be a personal property and which he could spend at his discretion, the words in clause 60 (1), ‘for purposes connected with the math’ fetter his discretion, and in fact prevent him from making any charity at all, because any charity he wants to do would not come as one of the purposes connected with the math. I did not see this aspect of the clause, at the beginning, but now I find that a matadhipathi cannot give any charity or gifts out of his pathakanika, for the reason mentioned just now. Suppose for instance, there is a great leader like our Prime Minister of India, Pandit Nehru, who whenever he gets anything during his tours simply gives it away for some public cause or charity; is it said anywhere that he should give an account of it to the Government of India? This is also something like that. Strictly speaking, according to this clause, if a matadhipathi or a head of a math or religious institution wants to give charity, he cannot do so even out of his pathakanika, unless it is for a purpose connected with the math or unless it is included anywhere in the definition that the giving of charity will be one of the purposes connected with a math. I once again

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submit, Sir, that this clause fetters the discretion of the matadhipathi. It appears that the matadhipathi should go every evening to his accountant and render his accounts, just like a grocer giving his accounts to his clerk at the end of every day, stating, ‘at such and such a place, I got Rs. 5 and in another place I got a broken brass vessel, etc.’ I submit, Sir, it is most humiliating on the part of a matadhipathi to be rendering his accounts daily and it would be insulting them if the Government insist upon them, who are very respectable and revered people, to do so. I am not very particular that my amendment should be accepted, I do not want to stand on prestige—in fact I have no such prestige for the matter of that. But I would only submit, that just as the Government in their wisdom did not think it necessary to include this clause in the original Bill, and because it is the Select Committee that have included it in the Bill, even so, let them drop this sub-clause altogether. After all this is not the last word on the subject. Both the Hon. Minister and I do not stand on prestige and so let us do the just, right and the proper thing and not inflict these pin-pricks on the matadhipathis. It is not fair that for every little thing, they should go on accounting. If a person is a fraud, or if he misappropriates the funds of a math, certainly nobody will come forward to give him any pathakanika. If a matadhipathi is a great man and a good man, and a man revered and respected by his disciples, and if people are willing to give him any pathakanika voluntarily, for obtaining his divine grace, then let us not humiliate him in this manner, by asking him to render accounts of his receipts. I would even ask the Government to amplify the definition of the term ‘for purposes connected with the math’ to include charities also. If he gets a present of a silver cup worth Rs. 5 from a person, and if he gives it to his next disciple for his use, it is not proper on the part of the Commissioner to call him into question and ask, ‘You got a silver cup and you presented it to your disciples; it is not a purpose connected with a math and so you must get it back and give it to the math.’ Even at this last stage, let the Government be liberal and show their nobility by sticking to their original intention and dropping this clause altogether. Otherwise, it would mean that the Swami must be carrying an account book with him wherever he goes for biksha and be writing the receipts then and there or constantly reminding himself them, like reciting some manthras, and when he returns home in the evening must render accounts to his accountant. I would once again beg of the Government, let us not humiliate these matadhipathis further and let us delete this clause at least at the last stage and also include charity as one of the purposes connected with the math, at the appropriate place in the Bill. Otherwise these people will not be able to spend anything on charity, even from out of the pathakanika, which is given to them as personal gift.”

THE HON. SRI K. MADHAVA MENON :—“ Mr. Speaker, Sir, the complaint is that the Bill as it has emerged from the Select Committee, has included pathakanikas in one of its provisions, while originally, the Government had no intention of doing

[Raja Muthiah Chettiyar of Chettinad] [25th November 1950]

that there is nothing wrong in the matadhipathi having gone to an educational institution. But there are 99 out of 100 in this part of the country who feel that the action of the matadhipathi in having gone inside the precincts of a Catholic institution at Tiruchirappalli is atrocious and should not be permitted and he should be immediately removed. Feelings can run to that extent also though I do not share this view. It is a good act on the part of the matadhipathi in having gone there and also given educational facilities. But as I have said these and similar acts may be questioned. I would therefore appeal to the Hon. the Law Minister to suitably amend Clause 60 to this extent so that the words 'for the purposes of the math' may include charity or connected with charity or something like that.

"But I strongly take objection to the wording of my hon. Friend Mr. Schamnad's amendment as it stands, namely, the creation of absolute property rights, in favour of the matadhipathi which is not the intention of the Select Committee."

SRI A. KALESWARA RAO :—"I am very glad and thankful that the hon. Gentleman Mr. Schamnad has taken interest in this Bill and has moved a very important amendment. But the question is whether we should accept the amendment as my hon. Friend Sri Bhashyam has recommended. There are judicial decisions and the courts have held that apart from managing the properties of the math, the matadhipathis can have their own private absolute property. The object of this Bill is to restrict the management of even this private property to a certain extent and probably to a great extent. The income hereafter cannot be used by him at his discretion for any purposes he likes but everything that comes into his hands should be utilized only for the purposes of the institution. With regard to amounts to be spent and with regard to details and the way in which it is to be spent there may be a lot of discretion. That is what the first portion of this clause says. With regard to pathakanika which these Ethis or sanyasis or the matadhipathis receive from the public there may be much to be said in favour of vesting greater discretion in the matadhipathis themselves but we have passed that stage of vesting discretion in the matadhipathis themselves to spend the money, utensils or the movable properties. The amendment of our hon. Friend Sri Karanth has been negatived by the House. There is no use of reopening the question though as the hon. Gentleman the Raja of Chettinad said the Hon. the Law Minister might make some suitable amendment with regard to some amount of the pathakanikas that the Ethis receive to be used at their own discretion, in their own way whatever may be the purpose for which they use it. The Ethis are expected to use these gifts for good purposes. If the purposes are bad, the springs of the gift will be dried and nobody will be giving them anything. But the amendment goes counter to the principles. How can we accept the amendment which says that the property purchased out of such incomes should become the absolute property, private property of the matadhipathi? It is a dangerous thing and therefore I oppose it."

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THE HON. SRI K. MADHAVA MENON :—"I have very little to add to what was stated by the hon. Member Sri Kaleswara Rao. The hon. Member Sri Bhashyam in seconding the amendment of the hon. Gentleman Mr. Schamnad was very vehement at the laughter of some hon. Members and said that it was not a matter for laughter. I only wish, Sir, that the same consideration is extended to others also who feel equally serious on the matter. Even if I had laughed when the amendment was seconded by my hon. Friend Sri Bhashyam it might have been simply at the idea that 'misfortune finds strange bed fellows' and nothing more. It does not mean I was not serious on the question. We need not be very much uneasy about laughter."

SRI K. BHASHYAM :—"The Hon. Minister did not laugh at all."

THE HON. SRI K. MADHAVA MENON :—"I did also laugh. I thought the hon. Member was meaning me when he said it was not a matter for laughter, as I had a guilty conscience that he was referring to me."

"That apart, I concede the principle of the hon. Member Sri Bhashyam that pathakanika is a thing which is excluded and anything coming out of the pathakanika will be exempt. The clause only demands that he must give a statement of income and expenditure from that source, even though it may be his property. So I cannot accept the principle of the amendment of the hon. Gentleman Mr. Schamnad for the very same reasons as were pointed out by my hon. Friend Sri A. Kaleswara Rao. The matadhipathi is an 'aparigraha'. He cannot own property. The very word sanyasi indicates that he has renounced everything and so he cannot own property even on that account. So I cannot accept the amendment which suggests that any property purchased out of these incomes should become the absolute private property of the matadhipathi."

MR. SPEAKER :—"The question is—

For sub-clause (2) of Clause 60, substitute the following :—

"Any immovable property purchased by the trustee of a math out of the money or other properties gifted to him as a head of the math shall be considered as his absolute personal private property and as such shall not be liable to be accounted for by him to the Commissioner or any other officer of Government."

The amendment was lost.

MR. SPEAKER :—"I am now going to put Clause 60 to the vote of the House."

SRI K. BHASHYAM :—"Sir, I am one of those persons who have objected to this clause entirely. My view in the Select Committee was made known and read to the House. My contention in the Select Committee was that these are personal properties as they were personal gifts and that they should not be interfered

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with. I stand by it and fight for it. Of course, in the Committee even my hon. Friend the Raja of Chettinad was pleased to agree with that to this extent that it must be at the discretion of mata-dhipathi. His proposition was accepted though not in the form in which he put it. The Committee came to a conclusion and it was defined as something given to the head of the math to be spent at his discretion for advancing the objects connected with the math. That was the position taken. But what the Bill says is 'for the purposes of the math'. There is an essential difference between them. Let me illustrate the absurdity of it. There is the Sankaracharya Swamigal advocating the adwaitha philosophy. Suppose a great pandit, revered all over the country, one who belongs to the visishtadwaithic school of thought, goes and pays obeisance to Sankaracharya. In view of his learning, in view of the fact that he is a great man and well-versed in all sastras, Sankaracharya makes him a present of a thousand or a few hundred rupees, whatever it may be. If you say, for the purposes of the math, the presentation in the case cited is not for the purposes of the math. The math is for the purpose of advancing the tenets of that math, that is adwaitha philosophy. But if the head of the math tries to make a present to a person who is supposed to be a learned man and all that, of another philosophy, the Government would say at once that it is not for the purposes connected with the math. Therefore I am trying to point out that while we came to one conclusion in the Select Committee, the Government have not put the decision of the Committee in the form in which it ought to be put. Therefore I am objecting to the clause altogether. 'For advancing the object connected with the math' was the decision of the Committee. This is much wider than what is stated in the clause, namely, 'for the purposes of the math'. Circumscribed as it is in the matter of pathakanika, the clause as it stands is not acceptable to us."

(At this stage the Hon. Speaker sounded the gong.)

SRI K. BHASHYAM:—"What time are you allowing me, Sir, two minutes or three minutes? How many minutes have I taken, Sir?"

MR. SPEAKER:—"The hon. Member has taken four minutes."

SRI K. BHASHYAM:—"I want five minutes more, Sir, and I will finish."

MR. SPEAKER:—"The hon. Member may take five more minutes."

SRI K. BHASHYAM:—"Thank you, Sir. So far as this clause is concerned, I have shown the absurdity of sub-clause (1) as it stands. The second sub-clause has been discussed and there is going to be no discussion of that clause on my part because the time given is so limited. But I want to say one thing. It is a matter of contract between two persons. A person gives money

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to 'A' to be used for his own personal benefits. It becomes the private property of the man who receives the gift. No power on earth, not even the legislature which is all powerful as it is, can say that it is not his personal property for the Constitution says that every man is entitled to acquire property and deal with it as he pleases. On account of the fact that I have great regard for a person, he may be a head of the math, and make him a gift there is the contract. And what happens, this sub-clause says that the property is not his private property and cannot be disposed of as he pleases or do whatever he likes with it. My respectful submission is that this is unconstitutional, illegal and *ultra vires*.

"After all in these matters of gifts, the donors are mostly dominated by the desire to give something to the Swami. You cannot really say that, because he is a Swami, he must put all his personal gifts also into the math. This is the second point I would like to make, Sir.

"The third point I would like to put before the House for consideration is this. If you are going to make these matadhipathis liable to account and if he disobeys by persistent and wilful default the orders of the Commissioner, it will be ground for his removal under clause 57. Therefore, it has material bearing upon his own status and his own position. If really he makes some expenditure out of the *pathakanika* and if it is said that he is disregarding the directions of the Commissioner and that such an expenditure is not proper for the purposes of the math, it will be a difficult position. Who is to decide the purpose of the math? Is it the court? Is it the Commissioner? Is it the matadhipathi? What is the purpose of the math? As I told you originally, Sir, the origin of these maths seems to be this. A few friends come together and really seek a teacher and ask him, 'please teach us something'. It is how the maths started. They may belong to one particular philosophy. I would like to know what is the object of a math. Of course, you may say, 'oh, it is for the propagation of religion' as if the math is for the propagation of religion. What is the object of a math? It is only to instruct, if he cares, such persons as he cares to instruct in the tenets of a religion. It is not as if the head of a math is bound to teach. It is not like a Professor of the Presidency College who gets about Rs. 1,000 per month and who is bound to attend classes from 10 a.m. to 5 p.m. and teach to whatever persons are put before him, dunces or no dunces. Unless the acharya is sure that the sishyas are prepared to receive the instruction, he is not bound to give instructions at all. Therefore, all these difficulties are there. There will be a sort of friction between the matadhipathi and the Commissioner and it will lead to a lot of heart-burning amongst the disciples. After all it is the disciples that present the money. What will happen hereafter is: If I were a matadhipathi and somebody wants to give a 'pathakanika'. I will say, 'don't give me any pathakanika. If you want to give, please give it to charity so and so.' That is sure to happen and

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one can really escape all the trammels and difficulties that these articles are making. Thus, pathakanika will go out of the math. Therefore, Sir, I would ask that this clause may be dropped altogether."

SRI N. S. VARADACHARI:—"Mr. Speaker, Sir. My objection is not so much to the whole clause as to sub-clause (2) of clause 60. As I said at the outset, it is very ungracious to say that the head of a math cannot spend at his discretion what he gets as personal gifts. Unfortunately, 'pathakanika' has been defined in a peculiar manner. It may be a personal gift given in a nice plate with beetle-leaves and a number of fruits and at the same time it may be a gift of Rs. 5 or Rs. 10 or Rs. 100 and so on. Now, Sir, it is only that such gifts are sought to be kept out of the range of control. The Hon. Minister gave a very unhappy illustration of Mahatma Gandhi collecting for the Harijan Fund. It is most insulting. We revered our great leader. He instructed us always to keep accounts of all collections at the wayside stations. If we had made any such rule for him, he would have resented this bitterly. He expected of us a better standard and he would have liked us to keep a higher standard. The whole of this clause and the whole of this chapter are only according to the standard of Sri Kandaswami Pillai. I quite see that there is no other higher standard observed here. It is most disgusting for a Legislature to tell the matadhipathis that they must keep accounts of their personal gifts. I have never come across such an outrageous proposition as this. I know they will keep accounts. But, it may not always be possible. If really a rupee is given by a poor man to a Swami when he visits his village, he is not to be told 'please give him a receipt for one rupee' because the poor man thinks that that one rupee is one thousand. So, my objection is from the point of view of the man who gives.

"I like the standards of Mahatma Gandhi in these matters and I would like the Government also to observe his standards. We have come to such a sorry state as to ask the matadhipathis to keep accounts of their personal gifts. What a tragedy! What a shame! Our religion has produced Ascetic after Ascetic and Teacher after Teacher and is still producing hundreds of teachers and it will continue to produce for centuries to come. Is this the way, Sir, we give a lead in this matter? I would like to understand your asking the matadhipathi to keep account of the grain that he receives from the landed property of the math. Even in his budget he may not say it is so much grain. The grain will have to be used for feeding and he may have to convert it into cash by selling it at controlled rates or at black-market rates. Is this the way the matadhipathi has to behave? We are reducing everything to mockery. My objection is on the ground of good manners and good taste. That is why I ask and I beg of Government to drop sub-clause (2) and trust to the good sense of these great people who conduct these maths."

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SRI T. VISWANATHAM:—"Mr. Speaker, Sir, it is a great sin nowadays to be a great man or a learned man or a religious man. Is it the sin of the man because he is learned and because he preaches the doctrines of our philosophy to the people who gather round him? Is it his sin that wherever he is invited, people give him some money as pathakanika? I submit, Sir, that, if this is the kind of treatment we give to these persons who have no other interest in the world excepting the propagation of the doctrines of our great and ancient religion Hinduism, we are coming to a very sorry state of things. I submit, Sir, that we should not ask them to keep accounts of their personal gifts. It is their lookout to maintain or not to maintain. We are not asking account of even Rs. 150 which the Government are giving to the Members of this Assembly. (Laughter.) Is the Congress asking? Are the Government asking account for all these amounts? No.

"My hon. Friend Sri N. S. Varadachari was right in explaining the difference between what Mahatma Gandhi did and what these matadhipathis are expected to do. Sir, I have had the privilege of going along with Mahatma Gandhi for collections on two different occasions even as the Hon. Sri K. Madhava Menon did. But, everytime he came, he announced the purpose of collections. He used to conduct All-India tours which extended from 12 to 15 months. He used to say 'I am coming to make collections for Harijan Fund'. That was why he was very particular that, as soon as the day's work was over, to ask those of us around him or his private secretaries to count every pie that had been collected the whole day. Of course, he did compel us to count till late in the night and make an account. Is that, Sir, what is contemplated in this? Matadhipathis do not make similar collections at all. I wonder how the Hon. Sri Madhava Menon compared that example with this.

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'Religious endowment or 'Endowment' means all property belonging to or given or endowed for the support of, maths or temples or for the performance of any service or charity connected therewith and includes the premises of maths or temples but does not include gifts of property made as personal gifts or offerings to the head of a math or to the archaka or other employee of a temple.'

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"Sir, in spite of all the explanations given by the other side, the fact remains that these provisions dwell only on the duties of these matadhipathis. In this connexion the Hon. Minister remarked that the sum of Rs. 150 paid to the legislators as salary is not meant for renunciation by them of their worldly possessions as in the case of the matadhipathis."

MR. SPEAKER:—"Hon. Minister said that if you were a sanyasin and if you were paid Rs. 150 per mensem, then you would be asked to account for it."

SRI L. N. GOPALASWAMI:—"In a way, Sir, all my friends here have been dwelling only on the duties of the matadhipathis. One of the arguments advanced by my friend Mr. Kandaswami Pillai was that, as we have achieved independence, we should teach them their duties. He forgot, Sir, that however humble an individual matadhipathi may be, he is also a citizen of this land and that if he has duties to perform, he has also got rights under the Constitution. Such being the case, what is it now that we have done to this class of persons whom,—in spite of the fact that many things were said against them,—lakhs of people outside this House hold in reverence. We have humiliated them and have tightened our control over them, and over their religious and secular duties."

THE HON. SRI K. MADHAVA MENON:—"The hon. Member said, *we* have humiliated them? May I know for whom does the 'we' stand?"

SRI L. N. GOPALASWAMI:—"The Members of this House. The various provisions you have already passed have humiliated them. I doubt very much whether this Bill will ever become an Act and deprive these people of their rights under the Constitution. Now, Sir, this clause 61 entitles the commissioner to pass an order asking the matadhipathi to appoint a manager, a 'competent' manager. 'Competent' in what sense I do not know. This clause has not made it clear. The commissioner, under this clause, gets the power to tell the matadhipathi to appoint a competent manager. If the matadhipathi fails to get a 'competent' manager, it is open to the commissioner to appoint a man of his own choice. It is the duty of this manager to submit accounts to the commissioner and manage the secular properties of the matadhipathi himself. Is this not an interference with the right of management which the matadhipathis possess, Sir? Again, even if the matadhipathi appoints a person according to the directions of the commissioner, this authority can still give other directions under this Act. When already you have power to compel the matadhipathi to submit his accounts to the commissioner, this additional power to him to direct the matadhipathi to do this and that is adding insult to injury. Let us not therefore claim that this chapter has been added as a concession to the matadhipathis. This chapter will only further tighten your control over the matadhipathis and bring them more and more under your clutches of iron, if not steel."

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"We know, Sir, that these managers are not only to be appointed at the discretion of the commissioner, but that, even if the matadhipathi is willing to shoulder the responsibility of managing his religious and secular activities, this commissioner has the right to insist that a manager of his choice should be appointed. It has been alleged that the matadhipathis are wasting money, but nobody has said that there is no matadhipathi who is capable of taking charge of the religious and secular activities of the math. Under these circumstances I cannot agree to this provision which is the crowning act in this attempt at humiliation of the matadhipathis. Sir, I move—

'That clause 61 be deleted.'"

SRI T. VISWANATHAM:—"I second this amendment. In many cases the matadhipathis are themselves the trustees of the math. The great matadhipathis of the well-known maths have managers for the secular affairs of the math. Although we have been for sometime referring to 'secular affairs', I have been unable to find any definition for this term. There is no definition in the Bill for 'secular affairs'. The object of this Bill is to control the secular management of religious institutions: That is its declared intention and purpose, but 'secular affairs' have not been defined, though we make frequent reference to 'secular affairs'. All the other obstacles placed before the matadhipathi are not adequate in the opinion of the Hon. Minister for Law. He thinks that another gentleman called the manager must also be brought in. He should sit in the camp always so as to be able to tell tales against the matadhipathi and the math. This manager will have a double responsibility. He will be like a wife having two husbands—the trustee and the commissioner."

SRIMATHI AMMANNA RAJA:—"It is a bad example."

SRI T. VISWANATHAM:—"I will draw the example. Whatever is bad in what I say I will withdraw. Sir, this manager is a subordinate of the trustee, but responsible also to the commissioner. Therefore, how will he discharge his duties? He will be simply reduced to the position of a tale-bearer carrying tales to the commissioner. If he is a man with an easy conscience, the matadhipathi might reverse the position. His very presence in such circumstances will have a demoralizing effect. This gentleman who is asked to be subordinate to the matadhipathi on the one side and the commissioner on the other will demoralize the administration. I submit therefore that this provision should not be there. Either you trust the matadhipathi or you don't trust him. If you don't trust him, make statutory rules for the maintenance of the maths and ask the matadhipathi to follow them? What is the use of putting in the manager, here who, as the hon. Member Mr. Bhashyam said, will be obliged to act like a spy in the camp? This is a very bad clause and one of the worst clauses in the Bill. As the mover of the amendment said, it would have been much better if the maths had not been put in a separate chapter at all."

[Rajah Muthiah Chettiyar of Chettinad] [25th November 1950]

Article 26 of the Fundamental Rights mentioned in the Constitution of India. Clause (d) of the article says that every religious denomination or any section thereof shall have the right to administer such property in accordance with law. I am not a lawyer, Sir, but I have been sufficiently long in the legislature to understand the language of the article. What is meant by 'law' here? Does it mean only the Constitution of India? Does it exclude any legislative enactment that may be made by the legislature here? I think, Sir, there is nothing to prohibit the legislature of this State from passing a law insisting on the appointment of a manager by the matadhipathi for the management of the secular affairs of the math. Hon. Members may think that these are small affairs, but I may tell them that the income ranges from Rs. 5 lakhs to Rs. 10 lakhs in some cases, that hundreds of villages are involved and it is necessary to have a responsible officer to look after the affairs. It is a notorious fact and it has been brought to the knowledge of the public that during the last few years, lands have been leased for very low figures in the case of these maths. Why should the spiritual head of the math, one who is supposed to be concentrating on the spiritual work, on the work of spreading Saiva Siddhantha, trouble himself with the income and expenditure side of the work? His concern is not with how the money is realized. Let a retired Collector, or a Deputy Collector look after the work and let the matadhipathi concern himself with how many times a day puja should be performed, how many people should be fed on the various occasions, what books should be placed in the library and so on. Let him suggest all these things and let the manager carry them out as far as possible. The activities of the matadhipathi should be confined to spiritual affairs of the math. I would have been happy if the Government had gone to the extent of saying that the manager should be appointed by the Government. Anyhow I hope that the matadhipathis will take note of the present clause and of the feelings in the country and in the House, and in the larger interests and better administration of the maths, themselves, with a view to see that no further legislation comes on top of this, appoint a responsible person as manager who, in the opinion of the Board and the Government, will be able to administer the secular affairs of the math properly. I am not mentioning this as a threat. But I hope that the matadhipathi will take note of modern trends and see that proper officers are appointed. For these reasons I strongly oppose the amendment for removing the clause from the Bill."

SRI K. R. KARANTH:—"Sir, I shall be quite short. The hon. Member who has just now referred to clause (d) of article 26 of the Constitution is misled by reading clause (d) alone. Article 26 says that every religious denomination or any section thereof (which includes the head of a math) shall have the right (1) to manage its own affairs in matters of religion and (2) to administer such property in accordance with law. The two things have to be read together. Therefore the management cannot be divested

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from them by saying that somebody else may be appointed as manager. It is not correct to say that the matadhipathi should look after only the spiritual affairs of the math, as the hon. Member the Raja of Chettinad said. It is not so easy in Hindu religion to divorce the religious from the secular affairs so absolutely. It is a wrong thing to say that the matadhipathi should confine himself to saying how many people should be fed and what ceremonies should be performed. Is it quite so easy to separate the two? It is not so easy, Sir. Secondly, Sir, my submission is this: that it is not possible, under Article 26, to say that you can force a manager upon him if he does not want one. I quite agree we have already passed clause 57 under which where a man is not doing the right thing and is unfit and persistently defaulting, he can be removed—I have no objection to that. But to have this sort of dual control, of forcing a manager upon him, is something like the health officers in municipalities now. The health officers in the municipalities do not care at all for the Municipal Councils; they look up to the Director of Public Health for his instructions. Similarly, a sort of dual control will be established here. I know of instances where the manager does not care at all for the person who is the swamiyar, but looks up to the Board. Any moment he is ready to come here and get his orders within twenty-four hours; he does not care to show his accounts even to the swami himself. Therefore, my submission is: if the man is bad and is persistently defaulting, by all means file a suit and remove him under clause 57; that is much better than forcing a manager upon him. My friend who spoke before me said there are other persons who are appointed by the swamiyar and so the manager also can be appointed. Sir, the swamiyar cannot do the work of collecting rents or attend to the little things, and, therefore, he must have some establishment. But it is one thing for him to appoint his establishment and it is quite a different thing to force a manager upon him. Therefore, I object to this clause because it is fundamentally opposed to Article 26 of the Constitution."

SRI R. V. SWAMINATHAN:—"Sir, the Raja of Chettinad opposed the amendment and he gave out his reasons; in addition to those reasons, I want to say this: under this clause, it is not necessary that every math should have a manager. It is only when the Commissioner thinks that a particular math should have a manager that he will call upon the matadhipathi to appoint a manager, and it is only in default of such appointment, the Commissioner will appoint one. Moreover, even now the choice of appointment is given to the matadhipathi and the Commissioner does not make the appointment in the first instance. Mr. Viswanatham said that the manager will have two masters; it is not correct; he will be subordinate only to the matadhipathi. He may of course be asked by the Commissioner to produce the registers, accounts and all that. It is a very modest clause, Sir. As a matter of fact, we may even insist on having a stronger provision that all the maths should have managers, but we don't ask for

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it. It is after all a compromise between the two views, and so I do not think there can be any objection to this clause being accepted, Sir."

Sri T. Viswanatham rose to speak.

MR. SPEAKER:—"When the amendment is put to the vote of the House, the hon. Member cannot speak again on the main motion, whether for or against."

SRI T. VISWANATHAM:—"May I know when we rise, Sir?"

MR. SPEAKER:—"As soon as this clause is over, we shall disperse."

THE HON. SRI K. MADHAVA MENON:—"Sir, I oppose the amendment to delete the clause. The hon. Member Mr. Gopalaswami who moved the amendment, said that the Government have made a concession: but all his arguments were to the effect: you have put him under your clutches, and this will be the crowning act by which you are putting him under your clutches for all time. Whatever some hon. Members may feel, Sir, I do not at all think this House has heaped any insults on the matadhipathi: on the other hand, insults have been heaped on matadhipathis by others outside the House; and if such insults came from outsiders, I am not concerned with them here. My hon. Friends know that this House has not in any way insulted any matadhipathi, and I must certainly protest against the remark made that this House has been insulting matadhipathis."

"Sri Viswanatham and Sri Bhashyam said that the manager will be a tale-bearer, a spy in the camp; I can also say so many things like that, but they will not be quite relevant to the issue here. But Mr. Bhashyam himself has given notice of an amendment . . ."

MR. SPEAKER:—"That is to add a new clause 61-A."

THE HON. SRI K. MADHAVA MENON:—"I refer to another amendment which he gave notice of but which was not accepted by the House. There he said—

"Every math having an income not more than Rs. 10,000 a year, shall appoint a manager for the management of the properties of the math. Such an officer shall be approved by the Judicial Tribunal . . ."

This Tribunal which he suggested, Sir, is as much extraneous to the math as the Commissioner: the Tribunal itself was to consist of three persons who all of them would be as extraneous to the math as the Commissioner, if not more. As stated by my friends, the Commissioner may be a servant of Government; but the principle involved here is whether an outside authority can approve or compel the appointment of a manager. The Judicial

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Tribunal which Mr. Bhashyam contemplated was a Tribunal to be appointed by the Government even as the Commissioner is to be appointed by them. Mr. Bhashyam's amendment stated—

"Such a manager shall be whole-time officer of the math . . . He shall be in office for a period of five years in the first instance and the Council"—that is, Council of Sishyas—"is entitled to extend the term of office . . . The manager shall be in custody of all the properties and records of the math and be responsible for the maintenance of true and correct accounts of the receipts and disbursements."

So, the manager contemplated in this clause 61, is no more than that. He has to do the same duties, be in charge of records and keep correct accounts, etc. As regards reference by Mr. Karanth, to the Constitution, clause (b) under Article 26 says that every religious denomination shall have the right 'to manage its own affairs in matters of religion'. In this clause 61 also, we have specifically said that a manager shall be appointed 'for the administration of the secular affairs of a math'. And we have also said that 'the manager appointed . . . shall be subordinate to the trustee of the math and shall, in addition to the trustee, be responsible for the due submission to the Commissioner of the registers, accounts and budgets of the math'. So that, this is quite consistent with what Mr. Bhashyam has stated in his amendment. There are no insults there, there is no spying there or tale-bearing there: but when it comes to the question of a clause, including all these, moved by the Government, it becomes tell-tale, spying, insult and all that and he makes anything out of it. Sir, the manager may be good or bad; only he will not be Mr. Bhashyam's manager."

SRI K. BHASHYAM:—"I want to make a few remarks, Sir. It is hardly fair for a responsible Member of Government to take a portion of what I have given as an amendment out of the setting altogether and compare it with the present provision in this clause and say that it precludes me from stating what I have said. He might not have said so in so many words, but he implied it, I know. What I want to point out is this: the whole setting of my amendment was that there should be a Judicial Tribunal consisting of three persons, one a High Court Judge or a retired High Court Judge and two others who are District Judges or retired District Judges. I said they were to be nominated no doubt; but they were to be an independent judicial body; they will not look at Government for promotion and they will be quite independent of Government and Government control. Then again, under my amendment, there is to be a Council of Sishyas and if under them there is to be a manager, it will be perfectly alright, because they are all interested in the math. But here you have got a hierarchy of officers, persons who will pounce on any slightest pretext—if I may say so—who, if they see there is really anything wrong with the math; will be anxious to get the properties into their own hands and the whole management into their own hands. I know it myself, and I can give you any number of instances to prove this; and that is why I wanted

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to have a Judicial Tribunal consisting of High Court Judges and District Judges. So, Sir, I submit this reference to my amendment ought not to have been made and it is not at all fair on the part of the Hon. Minister to make the comparison in the way in which he did."

SRI L. N. GOPALASWAMI:—"Sir, Mr. Bhashyam has made my work easy so far as the allegations against him are concerned. So far as I am able to perceive the position of the manager, it only reminds me of the Government's Agents General in the so-called sovereign States of India in the old days ruled by the Maharajas. We knew what these Agents were, what they were doing in the so-called sovereign States of our country, of what use they were to the Imperial Government in discharging their duties. There is no difference between those Agents and these managers here whom the Government are going to appoint. It only serves to emphasize my argument that the Government want not only to interfere with the secular affairs of the math, but they want to know the intricacies of the math, as my hon. friend Mr. Viswanatham put it, so that they can blame him for anything and everything, with the help of some secret information which the so-called manager may give them. That is the very reason why I say this is the greatest insult we can offer to the matadhipathi. This Act on the part of the Government in introducing a manager . . ."

MR. SPEAKER:—"The hon. Member seems to have misunderstood the position. Government do not want to appoint the manager; the trustee will appoint the manager."

SRI L. N. GOPALASWAMI:—"If the trustee refuses or if he is not willing, the Government will appoint him. It is definitely put in here: 'in default of such appointment, the Commissioner may himself make the appointment.'"

"Then again, Sir, the hon. Raja of Chettinad, though he said he was not well-versed in law, pointed out that we can make provision under clause (d) of Article 26. That has also been the view of Government all along, from the time they sought to introduce this Bill up to now. Though I do not claim to have legal knowledge to contradict the Government, I can respectfully draw their attention to the recent judgment of Justice Pathanjali Sastri in what is known as A. K. Gopalan's case where the subject-matter of the question that came up for decision was whether when there is a provision in the Constitution regarding certain fundamental rights of an individual, a State can make laws over-riding that provision, and according to Justice Pathanjali Sastri, it is absolutely unwarranted on the part of the State Government. I should like to place before the House the following few sentences occurring in that judgment:—

"The Constitution assures to the citizen the dignity of the individual and other cherished human values as a means to the full evolution and expression of his personality and in delegating to the Legislature the executive and the judiciary, their respective powers in the Constitution reserved to themselves,

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certain fundamental rights, so-called, I apprehend because they have been retained by the people and made paramount to the delegated powers as in the American Model." And those of the American Judges quoted therein, that "The great and essential rights of the people are secured not by laws paramount to prerogative, but by constitutions paramount to laws." "You shall not take away life or personal freedom unless you choose to take it away."

In the light of these remarks of the learned Judge of the Supreme Court, I hope, Sir, even now it is not too late for the Government to decide on this matter and not interfere with religion."

THE HON. SRI K. MADHAVA MENON:—"Only one word, Sir. I have nothing to say in reply to Mr. Gopalaswami. I have read the judgment sufficiently well and also the fundamentals of law and I also realize what it is in regard to the matter. I have no quarrel with what he has said. But, Mr. Bhashyam in his personal explanation said, that there is a world of difference between the Manager to be appointed according to his conception and the Manager to be appointed by the Government. I would only say this, that the principle involved is the same. The principle was whether an outside authority has any right to insist on the appointment of a manager. You may call it an entirely judicial body or anything. There are three persons appointed to look after the thing. They may be High Court Judges or Advocates. It does not make them any less extraneous than the Commissioner. They will be members of the Board, instead of one Commissioner. Mr. Bhashyam wants the Board. The qualifications of a member of the Board will be an Advocate of 20 years standing or a retired Judge of the High Court. He calls that Board a Judicial Tribunal and I call it an individual Commissioner. The question is whether the Commissioner can appoint the Manager or the Board. What I said was, the Manager shall be appointed by the matadhipathi and it is only in his default the Commissioner may appoint a manager, but Mr. Bhashyam says, it shall have the approval of the Judicial Tribunal. The principle is after all the same. That is what I said . . ."

SRI K. BHASHYAM:—"Then, Sir, if he accepts the principle of my amendment, it will be all right."

MR. SPEAKER:—"The question is—

'That clause 61 be deleted.'"

The amendment was lost.

Clause 61 was put and carried.

THE MADRAS LEGISLATIVE ASSEMBLY.

Monday, the 4th December 1950.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVA SHANMUGAM PILLAI) in the Chair.

[4th December 1950]

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
BILL, 1949 (L.A. BILL NO. 10 OF 1949) *discussion—cont.*

New clause 61-A.

SRI T. VISWANATHAM :—“ Mr. Speaker, Sir, I move—

‘ After clause 61, add a new clause 61-A as follows :—

“ 61-A. The Provincial Government may exempt any mutt and institutions connected therewith from the operation of all or any of the provisions of this Act ”.’

In moving this amendment, I am not suggesting any great departure from the existing position. If you refer to section 3 (a) of the Madras Hindu Religious Endowments Act, 1926, you will find that it reads as follows :—

‘ The local Government may, after consulting the Board, exempt any such endowment from the operation of all or any of the provisions of this Act or vary, alter or cancel such exemption.’

If the Government feel that the management of certain maths is all right and that they need not step in, I suggest that the power of exempting such maths be reserved to the Government. You are aware that in the course of the discussion some of us made out that maths and matadhipathis should not have been brought within the purview of this Bill at all. That has not been agreed to and certain clauses relating to them have already been passed and included in the Bill. On the showing of the Hon. Minister piloting this Bill, they have been given special treatment inasmuch as they have been given a special chapter. The Government having conceded that maths and matadhipathis require special treatment, it will be in the fitness of things if they accede to the popular opinion that the Government should exempt such maths with respect to which they are satisfied that they are properly managed and that they need not step in. The amendment is a very modest one. It vests complete discretion to exempt or not to exempt in the Government. It does not say that the Government should exempt from the operation of all the clauses of the Bill. It only says that the Government can exempt from the operation of all or any of the provisions. The idea is that if, and in so far as, the Government are satisfied, they may exempt from all or particular clauses of the Bill. In accepting the amendment, the Hon. Minister will not be departing from the existing position. As I have already drawn your attention in the beginning, the Government have the power of exemption under the existing Act and I only want it to be carried forward in this Bill.”

SRI V. RAGHAVAYYA :—“ Mr. Speaker, Sir, I second the amendment and do so with pleasure. Hon. Friend Sri T. Viswanatham has been very considerate to the Government in this matter. Of his own accord he has hedged in his amendment with several safeguards. Some of the maths may be conducting their business on perfectly good lines. The good sense of the Government must make them understand that it is not everybody that

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can be trudged upon. There are certain persons and certain institutions which cannot be brought into the general line of treatment. All that the Mover of the amendment asks for is that, on account of the holiness attached to particular maths and the satisfaction of the Government about their proper management, the Government need not unnecessarily provoke, or create annoyance to the matadhipathis. Matadhipathis are really great men and they cannot be provoked.

“ Sir, let me give an illustration of what I mean. Take for instance the Sri Sankara Math. Any Sankara Math, wherever it has been established is being conducted and administered on ideological lines. Not one worshipper could say any word against that math. When there is such a universal chorus of praise with regard to the reputation of that math and its administration, why should the Government think that they must have their say on its management? But it might be argued that when once this Bill is made applicable to all maths, how can we make a distinction between one math and another. I ask, are you not making a distinction between one great leader and another? Are you not making a distinction between the sons of a same father? Perhaps, there is no distinction made in the case of a daughter, because, immediately there is resentment and we have also made laws about it. But, what I want to say is, just as there are several things in the world which are held in great esteem and respect, by reason of their virtue and reputation, equally so, there are certain maths which are held in high esteem and respect, because of the greatness of the matadhipathi and the manner in which the affairs of the maths are conducted and managed. Therefore it is but just and proper that they should be given the respect due to them and treated on a separate footing and not be brought on the same basis as so many other ordinary maths by applying the principle of democracy, equality, fraternity and brotherhood. Such an argument need not be adduced in regard to this matter. I therefore support the amendment of my hon. Friend Sri T. Viswanatham which is a very modest and a very reasonable one, namely, that in certain cases where the Government have reason to believe and are satisfied that the affairs of the maths are carried on in a very satisfactory way, they should hold up their hands from any uncanny interference in them. Not only that, but the Government should also aid them in preserving their dignity by showing the respect due to them.”

SRI R. V. SWAMINATHAN :—“ Mr. Speaker, Sir, I oppose this amendment of my hon. Friend Sri T. Viswanatham. I am however glad that he wants to give power to the Government at least in this respect, though he was all along opposing the Government wherever they wanted to take powers under this Bill. Now, here he wants to give power to the Government, not to apply the provisions of this Bill in certain cases. Both my hon. Friends Sri T. Viswanatham and Sri V. Raghavayya said that this amendment is a very modest and a very mild and a very reasonable

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one. It is modest in this sense, that they wanted originally that all the maths should be excluded from the operation of this Bill, but now they want that certain maths might be exempted from this Bill, if the Government so wish. Perhaps they think that if this new clause is accepted, they might convince the Hon. Minister to exclude certain particular maths from the operation of this Bill, and it is in that view that this is a modest amendment. But so far as I am concerned, I have no doubt, that this amendment is not at all a modest one, but on the other hand, it is worse even in a certain sense, because it is discriminatory and wants to exempt certain maths from the operations of this Bill. We do not want to give the Government that power and we do not want to give room to anybody to think that they can approach the Government or the Minister-in-charge and get exemption in regard to certain maths. If they want certain maths to be exempted from this Bill, let them bring in a separate Bill or a separate amendment to that effect. It is open to them to do so. But the Government and the House as at present constituted should not exempt any maths from the provisions of this Bill, because that is the view of the majority of the members of this House and I therefore oppose this amendment, Sir."

L. N. GOPALASWAMI:—"Mr. Speaker, Sir, I rise to support this amendment. I would only plead with the Government that they would be putting their professions into practice if they accept this amendment, because they have been good enough to say, 'We are aware that there are certain maths which are doing excellent work and the matadhipathis of which are certainly very great and respected people, and they will not be interfered with'. They have also been saying all along that there are only certain people who are bad and certain maths that are not managed properly and that it is only to bring those people and those maths under the clutches of the law, that they are enacting this Bill. That being the case, does it not stand to reason that they must accept this amendment, which only gives them the power to exempt any maths or such of the maths which they think are properly managed, from the operation of this Bill or of any of the provisions of this Bill? Sir, in spite of what my hon. Friend Sri R. V. Swaminathan has said, I cannot agree with him that the Bill should be made applicable to all the maths without any distinction or that a new Bill should be brought for that purpose. If the Government think that there are certain well-managed maths, and their management should not be interfered with, I do not see any reason why such a provision as this should not be made in this very clause itself."

SRI V. M. RAMASWAMI MUDALIYAR:—"Mr. Speaker, Sir, the hon. Mover of this amendment said that this is a very modest amendment. The only modesty that I can see in this amendment is in the very modest and persuasive speech that he made in support of the amendment. Sir, it has been agreed by the House after a very long and argumentative debate, that maths

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should be brought within the purview of this legislation, and I think that much of the wind has been taken off the sails. If this amendment is accepted, it will mean we are giving a discriminatory power to Government to enable them to exempt certain maths if they want, and not others. Such a power, I submit, cannot be given to the Government. The law, as far as it is possible, should be administered uniformly and without any discrimination, and a discriminatory power like this to be vested in the hands of the Minister in charge of this particular department is not very healthy, and even in many of the speeches made by my hon. Friend Sri T. Viswanatham himself, in this House before, he has stressed this point of view on many an occasion. For that reason alone, I am inclined to oppose this amendment.

"Sir, the other argument that has been advanced is, that the Government, even on their own showing, have admitted that there are certain good maths and good matadhipathis. Certainly so. I am aware that there are certain good matadhipathis just as there are bad ones. But, it may also happen that a matadhipathi may be very good to-day, but may become very bad in course of time. Or it may happen, that a good matadhipathi might be succeeded by a bad person, and he might mismanage the affairs of the math, just as a good king is succeeded by a bad king. One instance is prominently in my mind and I believe it may be in the minds of some of my hon. Friends also. In a certain math, there was once a very great, learned and pious matadhipathi who was looking after the affairs of the math very well and was greatly respected by all the disciples, but he was succeeded by another matadhipathi who wasted away most of the property of the math in the course of a few months and was leading a life, about which, the less said, the better. So, if the Government should exempt one math, because it is administered properly by the present matadhipathi, the successor to him may squander away its property and the Government may have to take power to cancel that notification. An enquiry and re-enquiry will be the order of the day. On the other hand, it is better that we have a uniform law. So far as the provisions relating to the matadhipathi under Chapter V are concerned, the Government have taken care to see that none of them shall infringe or impair the spiritual dignity of the head of the math. The honour and the respect due to him are safeguarded in that chapter. Even with regard to the appointment of a manager to be in charge of the secular affairs of the math, the matadhipathi has full powers under this Bill and the Government can do so only in consultation with him. Therefore, what I am saying is, that this House and the Government, have, as far as possible, taken care to see that the spiritual dignity of the matadhipathi is not in any way affected by any undue interference in the affairs of the math. To that extent it is correct. The majority of the members in this House have agreed to the various provisions contained in Chapter V of this Bill relating to maths. Some of the members, including myself wanted that the matadhipathi should have an advisory committee

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to advise and assist him in administering the affairs of the math, but the Hon. Minister who is piloting this Bill in this House, had his own arguments to adduce, why an advisory committee is unnecessary and should not be constituted. So far as the dignity of the matadhipathi is concerned, the House is one with the hon. Members who have sponsored this amendment in safeguarding the dignity due to the matadhipathi as the spiritual head. So far as the secular administration of the math is concerned, I submit it is not proper that this discriminatory power should vest with the Government or the Minister-in-charge; there should be one uniform law for all the maths and religious institutions."

SRI S. CHIDAMBARA AYYAR:—Mr. Speaker, Sir, I support this amendment. When certain hon. Friends urged that maths should be excluded from the provisions of this Bill, the Hon. Minister said that in the prior Act itself there was an exemption provision with regard to the inclusion of maths in the said Act which also contains a provision for exemption clause in appropriate cases. It is, therefore, my hon. Friend, Sri T. Viswanatham, has moved this amendment introducing this exemption clause. It is necessary that the Government should give exemption to such of those maths which are working properly and not apply these provisions to them. From that point of view, I really think that this is a modest amendment.

"Another point that I want to submit is this. My hon. Friend, Sri V. Raghavayya, referred to Sri Sankara Math. Even in the opening speech made by the hon. ex-Premier Sri O. P. Ramaswami Reddiar when he introduced this Bill before a large number of members of this assembly he admitted frankly that the Sankara Math was being administered properly and well. There are other maths also like that, as for instance, the Singeri Math, which is doing very good work. It is desirable that such maths should be exempted from the operations of this Bill and it is only for that purpose, necessary power is sought to be given to the Government under this exemption clause. My hon. Friend, Sri V. M. Ramaswami Mudaliyar, said that if exemption is given to a math where there is a good matadhipathi, a bad person might succeed him and squander away the property of the math and hence this power should not vest with the Government. I submit, Sir, that if there is a bad matadhipathi who mismanages the affairs of a math, the Government have enough powers under the various other provisions of this Bill to take the necessary action to remove that person. Therefore, I submit, there is not much point in that argument. With these words, I support the amendment moved by my hon. Friend, Sri T. Viswanatham."

SRI N. S. VARADACHARI:—Mr. Speaker, Sir, I am sorry I am not able to support the amendment of my hon. Friend, Sri T. Viswanatham. But in saying that, I want to draw the attention of the Government to the clause itself, and to the working of this clause, when actually controls are sought to be imposed. If

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the desire is to treat maths on a special footing, it can be done under clause 61 itself. It may not be necessary even to compel these trustees to appoint managers, because the clause, though it uses the word 'shall' is immediately followed by the saving clause 'when so required by the Commissioner' which gives them the necessary authority. The heads of maths will not place themselves in the position of having to be advised by the Commissioner to appoint a manager for the administration of the secular affairs of the math. In fact, as experience has shown, good matadhipathis have already appointed managers in their institutions to look after their secular affairs. They are now in charge of the secular affairs of those maths. It would be unwise for any Commissioner who comes hereafter to seek to appoint a new manager by ousting the present one.

"The appointment will always be made by the trustee according to the provisions in this Bill. But, as you are aware, Sir, there are many ways of making these people act. It would be most unwise—and perhaps I may use the word 'reprehensible'—to compel a matadhipathi to act against his wishes and appoint a man who may be *persona grata* with the Commissioner, but who may not be liked by the matadhipathi, in which case there will be an unfortunate conflict in the management. Clause 61 makes it clear that he will deal only with the secular affairs. In sub-clause (b) it is stated that he will be responsible for the due submission of the accounts, etc., as required by the statute. It will be so done even without his being asked to do so. That would be the line all good people will take. I do not like this talk about good and bad people always coming up before this House. Let there be, even for the purpose of argument, an assumption that there is lot of good in these institutions. It may be that some of them are mismanaged. Just as my predecessor spoke, there is an instance or two now before the public eye, where the matadhipathi, having been succeeded by one of his disciples, has been helped deliberately to squander away lot of money by his advisers—and some of his advisers have been friends in the bar. This is most unfortunate. I also know the instance in point, and I have been trying to reach these people not to mislead this poor man, who has been put to heavy loss by being drawn into case after case and by being led into a life of vulgar race-going and even debaucherous conduct. This is a very unfortunate case. But it is not such cases that should enable us to promote legislation. Legislation should be on the general basis that a certain amount of control is required for all people both for good and for bad. Legislation should be so enforced as not to put every man to the test, so to say. We must believe in their *bona fides*. Some of them are eminent scholars. We must trust to their good sense, and nothing should be done from here to make them choose this or that particular person. That is the contingency of which I am most afraid. I have voiced this feeling long before this morning. I certainly do want a certain amount of control over the secular affairs of the math which will be enforced not by the

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Government or by the officers appointed by the Government but by the wise trustee himself in his own interests and in the interests of the math."

SRI P. KANDASWAMI PILLAI :—" Mr. Speaker, Sir, I oppose the amendment. All along, my hon. Friend, Mr. Viswanatham, tried his level best to oppose almost all the proposals of the Government. He could not succeed in his attempts. Now he wants to place the Government at least in the wrong by introducing this new clause. The Government always want to be fair to one and all, and they do not want to show any distinction between matadhipathis. Of course there are good matadhipathis. Here and there there may be bad people also. But when we enforce certain laws for all the maths and matadhipathis, we cannot make any differences. That will not be fair. If we do so, motive will be attributed to the person in charge of this portfolio. Therefore it is a very dangerous thing. This amendment must not be accepted. My hon. Friend, Mr. Varadachari, feared very much that the matadhipathis would be compelled to appoint some men whom the Commissioner liked. It is not at all the case. The Commissioner will only ask the matadhipathi to appoint a manager. Further, the clause emphasises that the manager shall be responsible for the submission of the budget and other required particulars. This does not mean that the Commissioner will take the law into his own hands and ask the matadhipathi to appoint any person whomsoever the Commissioner likes. There is, therefore, no cause for fear. I oppose the amendment, Sir."

SRI K. BRAHMANANDAM REDDI :—" Mr. Speaker, Sir, I am opposed to this dangerous amendment. The reasons are obvious. The fair name of any Government requires that we should not arm the Government with such a very extraordinary power. Further, the amendment is advanced and argued upon on a wrong assumption, namely, the hon. Member, Mr. Viswanatham, in moving his amendment, stated that the Government themselves had admitted that there were good matadhipathis, and therefore, they should not interfere with good maths. But, I say there is no interference at all with the matadhipathis. The chapter on maths does not give the Commissioner or the Government any power to unduly interfere with any matadhipathi or math. That is why, I say, Sir, that the amendment is argued on a wrong premises. 'Unduly' means that if the math and the matadhipathi conduct themselves well, no power is given under this clause for the Government or the Commissioner to interfere with them. Another more dangerous point that I wish to say in this connexion is that the Chief Secretariat will become a *matam* itself where the votaries that hover about will be the matadhipathis themselves. This is very dangerous and should be avoided. That is why, Sir, I am opposed to this amendment."

SRI M. S. PATTABHIRAMIAH :—" Sir, I have great pleasure in supporting this amendment. While doing so, I wish to protest

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emphatically against the insinuations made by certain hon. Members—especially my hon. Friend, Mr. R. V. Swaminatham—who stated that the Minister would be influenced to exempt some maths."

SRI R. V. SWAMINATHAN :—" Sir, I rise on a point of personal explanation. I never said that the Minister would be influenced. My point was that they might try to convince the Minister, and they might convince him."

SRI M. S. PATTABHIRAMIAH :—" Sir, the hon. Member's explanation makes my point clearer. He believes that the hon. Minister might be made to exempt certain maths wrongfully. That is what he meant. Sir, we have got a democratic Constitution. Every voter has a right to become a Minister. When we expect that the Minister is the paragon of virtue and efficiency, to cast such an aspersion upon him is really not good. Further, I wish to say that this amendment is a good one. However, it is not an apt one. I do not believe it is really a dangerous one, because the Government are reserving power to themselves. Reserving powers to the Government can never be dangerous. Here we are only reserving certain powers to the Government. It is left to the Government to use or not to use those powers. As was pointed out by some hon. Members some matadhipathis may be good and some others may be bad. Here I wish to mention the Rajatharangani by Kalhana, written in Sanskrit, of the Kashmir Kings. One or two great kings of Kashmir in the middle ages, the men who built temples and endowed maths in Kashmir, themselves took over the riches and jewels from the maths and temples. But they left out some of the maths. They interfered with the monasteries and maths, which were built and endowed by other kings. Some temples and maths were not interfered with by the kings. I am only giving a historical instance. Therefore, I say, the Government can reserve that right to themselves. We do find that the same good person becomes a bad man. Some of the historic persons have been good, have been efficient, and have become bad. They have been virtuous and also vicious in their lives. Whenever the Government think it necessary they may exercise all or any provisions of this Bill over all or any maths. Here I want to point out that my hon. Friend, Mr. Varadachari, while opposing this amendment, was obsessed by the provisions in clause 61. He was explaining and interpreting the text of clause 61. That was not quite relevant to the amendment. This amendment wants that any math which is properly administered may be left to itself, and the Government need not apply the provisions of this Bill. That is all that is intended. I wish the Government accept the amendment."

SRI D. V. RAMASWAMI :—" Mr. Speaker, Sir, it looks to me rather unfortunate that the wording of the amendment proposed by the hon. Member, Mr. Viswanatham, has not properly been understood by hon. Friends who opposed the amendment. Particularly after the hon. Minister, Mr. Viswanatham, pointed out the existence of such a provision in the original Act itself, the

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Government could certainly accept the amendment. The Government now are much more democratic than they were twenty years ago. It is quite reasonable and fair that nobody should suspect any trouble by such reservation of powers. The Government are democratic and they are dependent upon the consent of the people. This is a very important matter concerning both religious and secular matters. The acceptance of this amendment does not take away the provisions already passed in respect of maths. The Government themselves have got great respect for and faith in the proper administration of certain maths at least. They do not have anything bad to say against those maths as such. I feel that this amendment ought to have been moved by the Government themselves inasmuch as it only reserves powers to the Government to exempt any math from the operations of all or any of the provisions of this Bill. This amendment is proper and should be accepted by the Government."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, indeed it is a very welcome relief that this amendment shows a little bit of confidence in the Government—not that there was want of confidence at any time. I say that because this is a very great power offered to the Government to exempt any math, without even assigning any reasons, from the operation of all or any of the provisions of this Bill. This is a very great patronage and power offered to the Government. This is a great temptation for the Government. But the Government want to make a great act of renunciation in not accepting this temptation offered to them."

SRI L. N. GOPALASWAMI:—"Please do not become mata-
dhipathis!"

THE HON. SRI K. MADHAVA MENON:—"My hon. Friend, Mr. Gopalaswami, asks whether the Government would become matadhipathis. We do not want this power patronage. At least in this matter we are prepared to renounce that power. Sir, the hon. Member, Mr. Viswanatham, in moving his amendment to some other clause passed already was saying that the Government shall not have the power of doing this or that regarding the appointment of the Commissioner or Deputy Commissioner, etc."

"I casually remarked that powers of reservation may be necessary. Then, Sri Viswanatham said that party considerations and group considerations will come in. This morning when I was correcting the proof of my speech I noticed that instances were not wanting where powers have been unconsciously used for a particular purpose of a party or group and things like that. So we do not want to take more powers than necessary. This Bill will be passed this year. Next year there will be general elections and we may not be here and somebody else may be here. We do not want the temptation to be there. Hon. Sri Viswanatham says that he did not mean this particular Government. I say that I do not want this

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temptation for any Government that may come in future. The exemption of some of the maths is a temptation and I do not want the House to give us this temptation. I find that in the amendment provision is made only to exempt any math whenever the Government may want and there is no mention of cancellation by notification when necessary. So it is an absolute power of exemption that is offered. We have discussed at great length the question whether these maths should be included in this Bill or not. According to section 3 of the old Act it was said that 'the Local Government may after consulting the Board, exempt any such endowment from the operation of all or any of the provisions of this Act or vary alter or cancel such exemption.' Such exemptions included not only maths, but temples, special endowments and everything. Powers to cancel the exemptions was also provided according to the old Act. The present amendment deals with only maths. If this question of exemption had come before the House much earlier, that is, before we discussed the question of the inclusion of maths in this Bill, I can understand it. Now we have disposed of everything in relation to maths in general. At this stage the hon. Member comes and says, 'Here it is. You take the power to exempt any one of the maths that you may consider necessary.' I feel that such a provision is not necessary. I entirely agree with hon. Member Sri Munagala Pattabhiramayya that we do not want to cast aspersions on any person. But at the same time, we have to say as the Lord said, 'Stand thee behind the Devil.' Similarly I have to observe at this temptation; 'Stand thee behind. We do not want the power that you offer.' If, however, an occasion arose necessitating our having this power, we will certainly come before the House. We are interested as much as anybody in the proper administration and management of these religious institutions. We will come before this House when we find that such a provision for the exemption of certain maths is necessary. For the time being, we do not feel that such a provision is necessary."

SRI T. VISWANATHAM:—"Sir, I am surprised, or I should say that I am not surprised at the line of argument adopted first by hon. Sri R. V. Swaminathan who was ably followed by hon. Sri Ramaswamy Mudaliar and also at the Hon. Minister falling into that line completely. That line of argument consists only in twitting and not considering the merits of the amendment. In political and legislative debates, it has become a habit to be exchanging words a little with each other. Therefore he has fallen into that temptation. He said that he will stand back from the devil. I would like to ask who is it that stands from the devil. I say that the whole Bill is based upon the devil. The whole Bill is based upon the temptation of taking about 30,000 institutions into Government administration. Irrespective of the language of the Constitution, regardless of the promises made by the constitution-makers to the owners of these endowments and maths and other charitable trusts in this State, with utter and deliberate disregard of all these, the Government have fallen into

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this temptation and have put their finger on the properties of every institution. To-day I have tried to lead them away from that temptation. But the Government have taken powers to control and manage the properties and affairs of these institutions. So, when they have taken such powers, I only say that they must at least have the power to exempt certain religious institutions. This is not at all a contradiction. What I say is this. Let the Government have powers of exemption. Of course, I am opposed to the Government having any sort of administrative control over these religious institutions in the manner in which they are doing. However, if they have power to exercise control over these institutions, my point is that they must also have power to exempt. At a latter date, they may get cases where it would be necessary for them to exempt certain institutions from the operation of this Act. This is not at all a contradiction. It is only supplementary argument to what I have been saying in the past. This follows logically if only the Hon. Minister is good enough to follow the line of argument and reasoning advanced by me. I am not going to go through the various positions raised by the Hon. Minister. They have been torn from the context. I know very well when the Government is to be given power and when they should not be given powers. The entire Bill is based upon temptation. If the Government sincerely want to stand away from temptation, and if only they want to stand also away from other men's properties, let them drop this Bill altogether and let them frame a different Bill having a different language, different sections and different objects and reasons, and also a different temper. They are standing on the very brim of temptation and say: 'Oh! You are the devil offering temptation. We do not want it.' Of course, I am not at all offended, and that does not matter. However, I do submit that when we are dealing with certain clauses under which the Government have taken ample powers and when the trustees, Area Committees, Commissioner, Deputy Commissioner and Assistant Commissioners are sought to be appointed and given certain powers, it only follows logically that the Government should also have the power of exemption. In this connexion, I wish to draw your attention to another Act in which the Government took power to notify and did not take power of cancellation. There they have brought themselves into a big mess. I refer to the legislation relating to the abolition of zamindaries. With regard to certain inams, Settlement Officers have been appointed under the Act. In spite of our opposition on the floor of the House, the Government said that these officers will decide various cases. When these officers gave their decision in respect of any particular inam, the Government turn round and say now that they are not bound by the decision of these officers. When many people approached the Government and requested for the cancellation of their previous notification, the Government's reply was, 'Well, we have not taken powers of cancellation'. So they have brought themselves into a big mess. This is a very important piece of legislation. According to my

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humble opinion, whenever the Government take powers of control, power of exemption should also follow suit in the natural course of things. I only submit that this amendment is given only from that point of view. Some of the hon. Members said that it is dangerous to accept the amendment. I do not know how it is dangerous. It is not a question of confidence or no confidence. I have always been explaining the juristic principle that the executive should not be allowed to have too much power. The Government should have power to retract a step. Whenever they make two steps, I mean two wrong steps, they must retrace one of the steps immediately they come to know that it was a wrong step. That is the reason and rationale with which I have moved my amendment and I request the Hon. Minister to reconsider the matter."

THE HON. SRI K. MADHAVA MENON :—"Sir, hon. Member Sri Viswanatham said that he knew when the Government should be given power and when they should not be given power, and that the Government have taken powers to deal with other men's properties which itself was a great temptation and all that. I entirely disagree with him when he says that we are dealing with other men's properties. We are dealing with trustees of temples and maths. Matadhipathis are also trustees in a sense. We are therefore dealing with trustees and properties that are in their hands. So we are not dealing with other men's properties; we are dealing with the properties of those people who have entrusted them to certain persons to see that the trustees perform their functions and manage the properties according to the intention of the persons who might have given the donations or according to the intentions for which the properties might have been given. I certainly do not agree that they are other men's properties. We are as much interested as anybody else in these properties and I should say that the people as a whole have a right to see that the trust property is properly managed and administered and that they were not misappropriated and mismanaged and also to see that nothing was done which was against the wishes and intentions of the donors. It is not a case of taking other men's properties. Very great powers are sought to be offered under the amendment under discussion. We feel that it is not necessary that we should have such powers now. Hon. Sri Viswanatham prophesies that a day will come when we will regret for not having the powers of exemption. If, however, such a day were to come, I am sure we are not going to stand on the question of prestige. We will certainly refer the matter back to this House and say 'We are sorry we did not accept your advice. We have found out the difficulties for want of such powers. So please give us the powers of exemption'. Now for the present, let us wait without such powers."

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MR. SPEAKER:—"The question is—

After clause 61, add a new clause 61-A as follows:—

"61-A. The Provincial Government may exempt any mutt and institutions connected therewith from the operation of all or any of the provisions of this Act."

The amendment was lost.

Clause 62.

MR. SPEAKER:—"The motion is—

'That clause 62 do stand part of the Bill.'

SRI T. VISWANATHAM:—"Sir, I beg to move the following amendment:—

For the words "Subject to the rights of suit or appeal hereinafter provided, the Deputy Commissioner shall have power to inquire into and decide the following disputes and matters", substitute the following:—

"The Commissioner suo moto or on the application of any person having interest, may apply to a Court for a decision on the following disputes and matters."

Sir, here again we have come to the fundamental aspect of the question. Just now the Hon. Minister said that the Government shall not have temptation. Clause 62 is the biggest temptation for the Government and its officers. Let them avoid that temptation and accept my amendment instead of being influenced by the Commissioner or Deputy Commissioner appointed by the Government. The Hon. Minister was making a general remark that I was not interested in the proper management and administration of these institutions. (The Hon. Sri K. Madhava Menon: 'No, no. I did not say like that.') Well, he says that he did not say like that. I am sorry then. Anyway, I thought I heard him say that the Government alone were interested in the proper management and administration of the religious institutions and others were not interested. (The Hon. Sri K. Madhava Menon: 'I meant the House.') Sometimes it is this House, sometimes it will be the Government and sometimes it will be hon. Sri R. V. Swaminathan himself. (Laughter.) It is very necessary that the matter should go to a Court and it should not be decided by the Deputy Commissioner, whether it is a religious institution or not. This goes to the very fundamental position on which the entire jurisdiction of the officer himself and the Government themselves is founded. It is not proper to ask the Deputy Commissioner to decide such matters.

"It is the Deputy Commissioner that would take possession of all these endowments on the ground that they are religious endowments and it would be the height of absurdity, I would say, to allow him to do so. Suppose a doubt arises. Suppose a person

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denies that a particular endowment is a religious endowment within the meaning of the Act and the Deputy Commissioner says that it is not so. In such cases, there must be somebody else to decide the matter. No man can be a judge in his own case and this is a proposition which will not be denied by anybody.

"Secondly, Sir, he is asked to decide whether a trustee holds or held office as a hereditary trustee. These Deputy Commissioners are persons for whom, no qualifications have been prescribed in the Bill. Anybody can be appointed as Deputy Commissioner and the Government strongly opposed the amendment moved by some of us seeking to prescribe legal qualifications for these venerable gentlemen. This again is a matter which has to be decided by a tribunal from a purely judicial and legal standpoint.

"Then again, Sir, he is the person who should decide whether any property or money is a religious endowment or a specific endowment. It is not easy immediately for anybody to say—at any rate, for me to say—whether it forms part of the trust at all. Great evidence has sometimes to be let in and it is only after considering the facts of the case, the history, practice, environments and surroundings of the institution that a decision can be arrived at in such matters.

"Similarly, sub-clause (e) deals with important—even more important, I may say—matters such as—

'Whether any person is entitled, by custom or otherwise, to any honour, emolument or perquisite in any religious institution; and what the established usage of a religious institution is in regard to any other matter.'

You will see, Sir, that this sub-clause deals with matters which are directly, which are positively, excluded from the scope of any State legislation by the Constitution. The Constitution puts these matters on a different level altogether in Articles 25 and 26. Yet, here the State Legislature would take power and entrust this work, which goes into the custom, honour, emolument and perquisite attaching to an office and the established usage of the religious institution, to a Deputy Commissioner. At the end of the sub-clause it is stated 'in regard to any other matter.' This, I submit, is a very general and very wide expression which will involve great many matters of difficulty, doubt and dispute.

"Coming to sub-clause (f), we find that the Deputy Commissioner has powers to decide—

'Whether any institution or endowment is wholly or partly of a religious or secular character; and whether any property or money has been given wholly or partly for religious or secular uses.'

These are again matters which require a great judicial mind being brought to bear upon the question. The Deputy Commissioner, being an executive officer, will not be able to exercise any judicial mind over these matters.

"Then, let us see the sub-clause (g) which deals with property and money given for the support of an institution which is partly of a religious and partly of a secular character. These are equally

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important matters which require examination at a judicial level. You will find, Sir, that all the sub-clauses, from (a) to (g), rope in very difficult matters on which the foundation of jurisdiction of the Deputy Commissioner is laid so far as taking possession of properties is concerned. Clause 62 deals with such arbitrary powers as taking possession of properties, their management, issue of orders, etc. I submit that the Deputy Commissioner should not be asked to clutch the jurisdiction of others by passing an order in his own favour, then asking the party aggrieved to go to the Commissioner and finally driving him to a court of law at a very late stage; to what kind of court is a matter which I shall speak about when we come to clause 67 which envisages it. This clause suggests a delayed process when the questions involved are of great importance, dealing, as they do, with the character of the institution, character of the endowment and the character of the funds. It is proper that in the first stage itself, the persons concerned should get the decision of a judicial tribunal. I am sure that my amendment should be acceptable to the Government. The Government themselves do not deny that at one stage the matter may have to go before a court. But I submit, Sir, that under the machinery now provided, much mischief will have been done by the time the matter is taken to a court. It is absolutely necessary, therefore, that these matters should be decided by a court of law rather than by the Deputy Commissioner, who initiates the proceedings."

SRI V. RAGHAVAYYA :—" Sir, I rise to second the amendment. I appeal to the Government to appreciate one point in this amendment. That is, by declaring in advance that a particular institution is a religious institution, by declaring in advance that a particular property is a religious endowment and by making so many other declarations about the nature of the endowments, the Government are driving the innocent and religious-minded public to courts of law and incur heavy expenditure. If this is not done, let us see what will happen. A right of suit will obtain for every member of the public. I shall explain it this way. Take, for instance, the trustee of a temple already existing or somebody who is managing it. He can incur expenditure from out of the funds of the temple in prosecuting a case. On the other hand, by making such a declaration, the Government are making the public bear the expenses themselves and fight out the litigation at their cost. It may be said that the Government are out to discourage litigious tendency in the matter of religion. But in this case, they are not discouraging it. By making such declarations, litigation will not cease. The cost is also shifted to somebody else. There are several persons who are so religious minded as to think that particular encroachment on the liberties of the worshippers is bad. Why should they not use the temple funds for instituting a case? It may be the manager of the temple or some member of the public who would like to go to

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a court. Why should he not have the cost defrayed from the temple funds or from the Government? Now the Government are compelling several people to make them a party to the suit by making the declaration in advance. The Government need not be a party at all, because in most cases, it would be a dispute between two worshippers, one worshipper saying that a particular property is a religious endowment—he may be a trustee or a third party—and the other worshipper contending it. Why should the Government be dragged into a series of such suits by making advance declarations which are not at all necessary?

"There is one more point which I would like to make here. The Deputy Commissioner has got the power to allow a suit to be filed or refuse permission. Suppose a trustee asks the Deputy Commissioner for permission to go to a court of law on a genuine point of doubt. What will happen to him, if the Deputy Commissioner refuses permission? It may be stated in defence of the order issued by the Deputy Commissioner that law suits may take a long time to be disposed of and the property should not be allowed to rot and ruin. In such cases, Sir, let the subordinate judge having jurisdiction over a particular area be declared as the final tribunal where these can be taken and a decision obtained thereon. That will simplify matters. That will end litigation and that will avoid much unnecessary waste of time. I think that there is no harm in accepting my hon. Friend, Sri Viswanatham's amendment."

SRI M. S. PATTABHIRAMIAH :—" Mr. Speaker, Sir, I rise to support the amendment before the House. This is really a very important amendment. The title of the chapter is 'Enquiries.' Under this chapter, power is given to a Government servant, however highly placed he may be, to decide many vital and fundamental issues. It is not fair. As was pointed out by the hon. the Mover of the amendment, no legal qualifications are prescribed for this officer. Any layman like me will take things only as they appear and not as they are. You will be surprised to know, Sir, that in 'Narada Smrithi'—I do not know whether it was written by Narada himself or someone else has written it in his name—which is very interesting to read and which I came across sometime back, there is a reference to common men as distinct from judicial men. The whole book is about folks, lawyers and judges and I refer to these old things now because a reference will be apt here. In the preface to the book, it is said that a common man, that is, one who is not judicially trained, one who does not know law and one who has not conducted proper investigations, will think that the sky is a roof of the world and that it is only by investigation, we will find that the blue sky is nothing, that there is no roof and that the blue horizon is nothing. To day, after proper investigation, we pride ourselves upon saying to our children that the blue sky is nothing and that it is not the roof of the world. In the same manner, Sir,

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a layman cannot distinguish between endowment and endowment. I will give certain instances in this connexion. Some families very well known to me set apart a part of their properties for charities when they made a partition among themselves. In certain cases temples are built. I know of a temple built under such conditions—though I will not mention its name—and it will be taken over by the Government and the Commissioner will take possession of all the properties. Probably, even now, the temple is under the control of the Board but the present Bill seeks to give the Commissioner much more drastic powers than are enjoyed by the Board now. I know of another instance, where in the same manner, when partition was made, a large part of the property was set apart for the feeding of certain people on a particular day. If that is made a specific endowment now, the whole thing will be taken over by the Commissioner, which is otherwise managed by a member of the family. I can give yet another instance where a person has endowed some property for the performance of services in a particular temple. It is religious service that is done there and some food is prepared for being given to any paradesi or any other religious-minded person who visits the temple. The man who has endowed the property has not written anything. He is a rich man and is managing it himself. He told me once, 'this Congress Government is nowadays taking over the religious institutions also; I am not willing to give away any property which may be called a charitable endowment and taken over by the Government'. Probably if this clause is not there, if the whole matter is left to be decided by a court of law, he may leave properties about twenty to thirty thousand rupees worth for charities. I say this not because I feel that the Government are losing something. I am pointing out that we are losing the confidence of some of the sober and charitable-minded people who want to give liberally for charities. We are creating suspicion in their minds. If the courts are given power, to decide the issue, it will be very good. The Government will, therefore, be fair in accepting this amendment."

SRI N. S. VARADACHARI:—"Mr. Speaker, Sir, I rise to support the amendment before the House. What this amendment seems to me to do is to further the very purpose which the Government have said they have in view. The clause according to the Government, is intended to minimise litigation, to save time and to prevent procrastination in matters whether a particular institution is to be decided as a religious institution or not and whether particular properties are meant for purposes connected with religion or not. If this is the real object of the clause, then the purpose is best served by accepting my hon. Friend Sri Viswanatham's amendment."

"It is not everybody who prefers the disputes or initiates the disputes. It is obvious that only persons having interest in the

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institution will initiate enquiries on which decisions will have to be taken. This clause says that the Deputy Commissioners, subject of course to right of appeal hereinafter provided, shall be empowered to enquire into and decide matters referred to in the clause. I doubt very much in the first instance whether it would be perfectly lawful for him to do so under sub-clause (e) which covers purely religious matters and especially the usage in an institution or for that matter as to how certain ceremonies are performed, or as to what honours are due to particular individuals when they attend any worship in temples or any other institution. These are wholly religious matters outside the purview of Government legislation. This matter will have to be looked into. I know the Hon. Minister is having expert advice but experts may sometimes commit mistakes and great mistakes at that. I want the Government to realise that this is a great mistake which they are doing, that is, entrusting power to the Deputy Commissioners to decide upon purely religious matters which are outside the scope of legislation and which we cannot undertake in this House.

"Now, I shall go further into the matter and point out what will follow if this clause is adopted. Somebody will initiate or perhaps the Deputy Commissioner himself will open a particular subject and decide, as he is directed to do under this clause. It is not the status of the Officer about which hon. Members here are worried. Even if it was the Commissioner he should not have the power to enquire into and decide on the matters mentioned here, though it is understandable as in my hon. Friend Sri Viswanatham's amendment that the Commissioner may initiate and then go to court to get decisions on these matters. What will happen if the procedure laid down under this clause is to be followed? It will only increase litigation. It will involve time and increase scope for litigation and also give rise to divergent judgments, one by the Deputy Commissioner and another by the court to which an appeal lies from the order of the Deputy Commissioner and finally the decision of the High Court which is the final court of appeal in these matters. What is the time taken for all these? Government want to save time. On the other hand this would add to the time taken; the same witnesses, the same parties will have to go and appear before the Deputy Commissioner who is not really a court constituted for the purpose. He has other functions to perform. He has to decide on surpluses and decide on various matters under this Bill. He has not the sole duties to merely enquire into these matters and decide them. Now I can envisage only this result if this clause is passed. The Deputy Commissioner will be going from camp to camp, he will be calling parties to this and that camp and finally much precious time will be wasted in obtaining a decision. Perhaps months and years of litigation will be the result. Then, these very parties are driven to courts in appeal over the decision of the Deputy Commissioner. Of course, Government hope, I suppose, that they, the parties won't be so persistent as to go to court after having gone through

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the expense and worry of litigation with the subordinate officer. If that was the object, I can well understand the clause. But I suppose that is not the object of the Government, because Government want to respect rights under the Constitution and leave it open to courts of law in the country to decide on matters mentioned in this clause. Then why not allow the parties to straight away go to courts and get a decision which would be right and proper instead of making the party to go to the Deputy Commissioner with the same case, the same pleadings and the same witnesses and then go to the court of law after having incurred the cost and all these litigations and vexation some times, and finally to the court of appeal. If Government want to save time let them have only two courts, the first court and finally the High Court and not a court which is not a court but which is still made a court under the law; to other courts which are really courts which will have jurisdiction above the court sought to be created under this clause but which is not a court. I trust that the Government would see that there would be delays and for that matter considerable delays. The very object they have in introducing this clause will be defeated and there will be unnecessary bickerings among persons having interest as defined under the clause.

"Now, it is not clear how these disputes will get initiated. Will they be initiated by the Deputy Commissioner himself when he finds some dispute in the order or when a litigant takes advantage of it, though he may be a person without interest, and sends a petition, to decide on such matters? Then the scope of the clause will be very wide and sub-clause (e) is certainly contrary to the provisions of the legislative powers which we have where a decision, for instance, has to be taken whether a property is to be used for partly secular and partly religious purposes. I certainly feel that the Deputy Commissioner is not the person who should enquire into or decide these matters. They should be left to courts. It would be a wise policy both in the interest of preventing unnecessary litigation and saving time and getting speedy decisions to leave the whole matter to courts and make the Commissioner merely a person who initiates these matters. Decisions are to be given only by courts."

SRI V. M. RAMASWAMI MUDALIYAR:—"I think the fears of the sponsor of the amendment are not well founded and my reasons for opposing the amendment are as follows. Clause 62 should be read along with clauses 66 and 67. Clause 66 provides for an appeal against the orders of the Deputy Commissioner to the Commissioner. Clause 67 says that anybody aggrieved by an order passed by the Commissioner can go to court within 90 days from the date of receipt of such order by him and anybody aggrieved with the orders of the appeal court has got a further right to go to the High Court. I think these stages are very necessary because the enquiries which are envisaged under this clause are of very great importance, for instance, to decide

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whether an institution is a religious institution or not, to decide to whom all, honours and what honours should go in particular temples, to decide whether an institution is a specific endowment or partly religious or partly secular in character. These are very important enquiries and parties who have a right in such enquiries should have various rights of appeal. I see that three rights of appeal are provided, first to the Commissioner under clause 66, then to the court under clause 67 and finally to the High Court. Sir, it is said that the Deputy Commissioner should not have powers to start enquiries or decide on important matters: Having taken powers under this Bill for the purposes of administering properly the religious institutions and endowments I think this clause is necessary. One of the parties in the disputes will be virtually the Government, in some sense or other though in certain cases private parties may be interested in having the question decided. Government may say that a particular institution is a religious institution, or that certain properties are religious properties and the parties interested may say that it is not so. In ninety-nine cases out of a hundred it is the Government that will have to come forward and have the question decided. Therefore some officer authorized by the Government should have the power to make the necessary enquiries envisaged under this clause and the enquiries envisaged under this clause are all of that character."

SRI V. RAGHAVAYYA:—"Why not file a suit?"

SRI V. M. RAMASWAMI MUDALIYAR:—"I will come to that. So it will be the Government that will be treated as one of the parties to the dispute. The Government should therefore have some machinery for coming to a preliminary conclusion whether a particular endowment is a religious endowment or not and that is what according to my interpretation, the clause seeks to do. If the Government want to do anything in the direction of the proper management of the endowments, this is an essential procedure and a very necessary procedure.

"Now, if any enquiry is conducted and the Government take a particular decision, the party who is aggrieved by this decision of the Government has got certain safeguards. He can go to the Commissioner and thereafter to the Court of the Principal Subordinate Judge. It is not clearly stated so. But I believe in some cases it is said that the aggrieved parties may go to the Subordinate Judge's Court in the mufassal. I think I have tabled an amendment saying that it should be the Principal Subordinate Judge because there are two courts in many districts. If the party is still aggrieved, he has a right to go to the High Court. As this clause deals with very valuable and important rights, these stages are necessary though it may seem to prolong litigation in one sense. Reading the clause as a whole, I do not think there is scope for mischief being done in the enquiries to be conducted by the Deputy Commissioners. I think the clause is absolutely necessary."

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THE HON. SRI K. MADHAVA MENON :—" Sir, most of the points have been answered by my hon. Friend Sri Ramaswami Mudaliyar. There was no right of suit at all in the clause originally introduced before the House. 'Subject to the right of suit' was added by the Select Committee. There was no question of 'enquiry' before. 'Enquiry' was added by the Select Committee. Sir, it has been said that these are very serious matters which a Deputy Commissioner shall not decide, and it must be decided by a court. The Select Committee tried its best to leave the final voice to the Civil Courts where the question of dispute as to right of property was involved, and not leave it to the Commissioner. That was the principle on which the Select Committee worked. But it is not over small matters that people want to go to court or should be allowed to go to court. One of the main principles of the former Act as also the present Bill before the House is that we must reduce litigation to the minimum if it is possible without impairing the right to property. So to the extent it is possible we must reduce litigation and unnecessary burden on the religious institutions. We know to our cost that trustees fight with each other as to who should have the right and finally come to a compromise and at the end the costs of both the trustees are dumped on the institution. In the result the institution suffers because of the quarrel between the trustees. Such things should be avoided if possible.

"It was suggested by my hon. Friends Sri Varadachari and Sri Raghavayya and others that all these were very serious matters and the Deputy Commissioner would be a party in all matters and also the person who initiated, such cases and decided, it is not correct to say so in all cases. Suppose there is a religious institution or a temple with a number of trustees. There is another institution which has property. The trustees know which of the properties belong to the institution or the temple. In such a case the dispute may be between the persons in possession of the properties and the trustees. Here instead of going to the court, perhaps, it is quite possible that the parties concerned may be satisfied with the decision of the Deputy Commissioner. In such cases where the parties concerned are perfectly satisfied with the decision of the Deputy Commissioner, it is unnecessary to ask the parties to go to court.

"So, Sir, the Government want to avoid parties going to a court and unnecessarily litigate the matters, spend money and prolong the litigation for an indefinite period. The Government propose that such matters be conducted by the Deputy Commissioner and that the Deputy Commissioner shall have power to give a decision in the matter. Then, if a party is not satisfied with the decision of the Deputy Commissioner, he can appeal to the Commissioner. And if still he is not satisfied with the decision of the Commissioner, he is at liberty to go to a court or to appeal to the High Court under sub-clauses (a) to (g) of clause 62 and under clause 67. And even where the rights to properties

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are concerned, the Government want to try to avoid going to court and reduce the litigation. That is the object. The Government have not barred anybody from going to court. But, before going to court, the Government want to see if that could be settled by the Deputy Commissioner.

"The present amendment of Sri Viswanatham is exactly a copy of his amendment which he moved to clause 10 (as new clause 10-A) about the powers of Commissioners and Deputy Commissioners. Here, the Government want to save litigation as far as possible. But, if the parties are not satisfied with the decision of the Deputy Commissioner or the Commissioner, the whole clause provides right to go to a Civil Court or to the Appellate Court. It is not a case where any Civil Court is being ousted of its jurisdiction."

SRI T. VISWANATHAM :—" Mr. Speaker, Sir, the Hon. Minister was good enough to take into account realms which were not covered by the provisions of this Bill. It has been my misfortune always to speak upon a point which is covered by the provisions of the Bill and it has been always my fate to receive an answer upon something that is not covered by the language of the Bill. What the Hon. Minister wants is not in this clause. If the amendment covers disputes between two parties, I would withdraw my amendment. The Hon. Minister does not see the implications of the provisions or the language of the Bill. Sir, if we go clause by clause we see that it is not a question of dispute between parties. This covers cases which give the foundation of jurisdiction to the Government to take hold of property. This has nothing to do with disputes between two parties and I do not know why the Hon. Minister goes on dilating upon that proposition. I thought I was at great pains. That was why I was taking you through the whole clause so that that kind of argument might not come up. What the Hon. Minister wants is different. I shall substantiate my argument.

"The clause says: 'subject to the rights of suit or appeal hereinafter provided, the Deputy Commissioner shall have power to inquire into and decide the following disputes and matters:—'. What are these disputes? They are whether the institution is a religious institution or not. Surely, it cannot be a dispute between two other parties in which the Deputy Commissioner is asked to intervene. It is not that at all.

"The clause further says—

- (a) whether an institution is a religious institution;
- (b) whether a trustee holds or held office as a hereditary trustee;
- (c) whether any property or money is a religious endowment;
- (d) whether any property or money is a specific endowment;

These are also matters which give powers to the Deputy Commissioner to go and take possession or to entrust the management of the religious institution to somebody.

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"It further says—

(e) whether any person is entitled, by custom or otherwise, to any honour, emolument or perquisite in any religious institution; and what the established usage of a religious institution is in regard to any other matter;

(f) whether any institution or endowment is wholly or partly of a religious or secular character; and whether any property or money has been given wholly or partly for religious or secular uses; and

I submit, Sir, that these are matters which relate to the character of property and the institution. It is not as if it is a dispute between two parties, one party claiming one thing and the other party claiming another, and the Deputy Commissioner making intercession. That is not the point at all. These relate to matters which give the essential foundations of jurisdiction to the Government to step into the management or make arrangements for the management of these institutions. I am not able to understand how the argument which the Hon. Sri Madhava Menon has addressed himself before that this is provided for by some other clause, etc., etc., would fit in. This has nothing to do with the disputes between two parties. As my hon. Friend Sri V. M. Ramaswami Mudaliyar said, it is a dispute between the Government and the institution, and the Government have got to decide it. But, my hon. Friend Sri V. M. Ramaswami Mudaliyar has asked whether it is not necessary for the Government to enquire. Let them enquire. But, the clause does not stop with enquiry. It goes to a decision when once a matter is decided by small officers under the seal of the Government, it would really disable the resources of these institutions and the parties concerned to go to courts at later stages. I, therefore, submit, Sir, that this is unnecessary and would ask the Government to accept my amendment."

THE HON. SRI K. MADHAVA MENON :—"I have nothing further to say, Sir."

MR. SPEAKER :—"The question is—

That in clause 62, for the words "Subject to the rights of suit or appeal hereinafter provided, the Deputy Commissioner shall have power to inquire into and decide the following disputes and matters"; substitute the following :—

"The Commissioner *suo moto*, or on the application of any person having interest, may apply to a court for a decision on the following disputes and matters."

The amendment was lost.

Clause 62 was put and carried.

Clause 63.

MR. SPEAKER :—"The motion is—

That clause 63 do stand part of the Bill."

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Sub-clause (1).

SRI T. VISWANATHAM :—"Mr. Speaker, Sir, I do not move amendments (a) and (b) to sub-clause (1) standing in my name as I see in the Government amendment that they give some sort of support.

"I beg to move—

"That in sub-clause (1), for the words from "the Deputy Commissioner shall consult in the prescribed manner" to the end of the sub-clause, substitute the words—

"The Commissioner may apply to the Principal Civil Court of original jurisdiction for the settlement and framing of a scheme for the administration of the institution."

I move this for the same reasons I put forth before. I suggest that, in this case, the Government should seek the advantage of the Principal Civil Court of original jurisdiction for the settlement and framing of schemes for the administration of the institution. We were dealing with the character and nature of the fund or the properties belonging to the institution in clause 62. Here we deal not with the character of the institution but with the management and framing of schemes. Here again, it is the Deputy Commissioner that frames the scheme. All these years, framing of good schemes in a large number of cases was left to the Civil Court with the permission of the Advocate-General and in some cases by a Board which is managed by persons having some legal experience. In the present scheme of things, it is not known whether the Government are going to appoint persons with legal training or not. I submit, Sir, that, as the wording of the Bill goes, it is necessary that the schemes should be framed by Civil Courts and not by these Commissioners who have got executive functions and superior administrative powers over all these institutions. I submit that the Commissioners are not the proper persons to frame schemes and it must be left to the Civil Courts. That is my amendment, Sir."

SRI V. RAGHAVAYYA :—"Mr. Speaker, Sir, I second this amendment and wish to add just one word."

THE HON. SRI K. MADHAVA MENON :—"On a point of order, Sir. The amendment now moved by the hon. Member Sri Viswanatham is identical with his amendment to clause 10 new sub-clause 10-A which he moved and which was lost. In sub-clause (3) to new clause 10-A which he moved, he said 'The Commissioner shall have power to apply to the Civil Court for the framing of a scheme of administration for such an institution where such one is lacking or is not sufficient or to settle any dispute as regards the succession to the office of a trustee'. In this, he says: 'The Commissioner may apply to the Principal Civil

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Court of original jurisdiction for the settlement and framing of a scheme for the administration of the institution'. Both are identical, Sir."

SRI T. VISWANATHAM :—" If it is a point of order, does it mean that I cannot move any amendment on the floor of the House."

THE HON. SRI K. MADHAVA MENON :—" I am only saying that this is identical with his amendment to clause 10 which he moved and which was rejected by the House."

SRI T. VISWANATHAM :—" I am trying to explain, Sir. If the new clause 10-A, which I moved, dealt with the question of framing of schemes, this amendment would be out of order. But, that deals with the creation of the post of and powers of Commissioner. Here, we have come specifically with regard to schemes for working religious institutions. The two are totally different, Sir."

MR. SPEAKER :—" In his amendment to clause 10 (new clause 10-A) the hon. Member has given the powers of the Commissioner."

SRI T. VISWANATHAM :—" It is true, Sir. There we were dealing with the creation of Commissioners and Deputy Commissioners and their powers. Here, the subject matter is different. Here, we are dealing with the framing of schemes for the administration of religious institutions. There it was the question of Commissioners and Deputy Commissioners, and what should be their powers and sphere of activities. That was the point at issue then. And how can this be out of order. Here, the question is as to who is to frame the scheme with regard to the institutions and it is a part of the entire scheme of this Bill. I therefore submit, Sir, that my amendment is in order and hope that the Hon. Minister agrees with my view. If the Hon. Minister wishes to say anything, I would like to further explain, Sir."

SRI V. RAGHAVAYYA :—" Sir, the previous amendment of the hon. Member Sri Viswanatham was never a part of the general scope of clause 63. Here, definite procedure is outlined for the framing of a scheme, . . . when not less than five persons having interest make an application in writing . . . and 'the Deputy Commissioner shall consult in the prescribed manner the trustee and the persons having interest and the Area Committee, . . . This detailed procedure is not covered by the previous amendment moved by the hon. Member Sri T. Viswanatham and what is vetoed there cannot be taken as vetoing this."

MR. SPEAKER :—" The House will now rise and meet again at 2-30 p.m."

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(After lunch—2-30 p.m.)

MR. SPEAKER :—" As regards the amendment moved by the hon. Member Sri Viswanatham before the House adjourned for lunch, I find it is out of order. An identical amendment moved by the hon. Member on an earlier occasion has been vetoed down by the House."

Sub-clause (2).

THE HON. SRI K. MADHAVA MENON :—" Sir, with your permission, I shall move only amendment No. 31 (1) and not (2) and (3). I move—

'In sub-clause (2) (b), after the words "in the place of", insert the words "or in addition to".'

This involves only a verbal alteration. This is necessary because on occasions we may have to appoint trustees in addition to the existing trustees."

The amendment was put and carried.

SRI T. VISWANATHAM :—" May I know, Sir, why the Hon. Minister is not moving amendment No. 31 (2)?"

THE HON. SRI K. MADHAVA MENON :—" It is not necessary in view of certain amendments we have already accepted."

SRI T. VISWANATHAM :—" Sir, I am not moving my amendments to sub-clauses (2) and (3)."

Sub-clauses (4) to (8).

MR. SPEAKER :—" The hon. Member may then move together all his amendments to the other sub-clauses of this clause 68."

SRI T. VISWANATHAM :—" I was once told that I could not move one common amendment to delete a number of sub-clauses together and that is why I took the trouble of writing out separately my amendments to these sub-clauses. I move—

'Delete sub-clauses (4), (5), (6), (7) and (8).'

THE HON. SRI K. MADHAVA MENON :—" May I point out, Sir, that these amendments are consequential to his first amendment? He wanted that instead of the Deputy Commissioner framing a scheme, the Commissioner should move the court for the purpose. When that has not been moved, I am unable to appreciate the effect of these amendments."

SRI T. VISWANATHAM :—" The advantage is this: Even without my other amendments, if these are accepted, the party concerned will have the right to go to court immediately, instead of going through all the other formalities and delaying processes which are described in the various sub-clauses. This idea of mine has been explained by Sri Varadachari. The object is to expedite

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the process of the settlement of disputes by a competent body. From the very framework of this clause you will see that it is ultimately the court that decides these matters and not the Deputy Commissioner or the Commissioner, although in the initial stages they initiate the enquiry and make decisions. These decisions it should be noted will have the effect of crippling the parties concerned, because the right to go to court has been crippled by these provisions. So, my amendment is to the effect that the party may go directly to the court without the intervention of the Commissioner or others."

SRI M. S. PATTABHIRAMIAH:—"I do not want to make any speech, Sir. I simply second the amendment."

THE HON. SRI K. MADHAVA MENON:—"Sir, I must express my surprise at these amendments being moved to delete sub-clauses (3) to (8). They would perfectly fit in if the hon. Member had moved the earlier amendment. Now look at the position we will be driven to. Sub-clause (2) relates to suits, and sub-clause (1) concerns temples other than those attached to maths. My hon. friend has declined to move the deletion of the other sub-clause. Sub-clause (2) will therefore apply only to institutions other than maths. What about the institutions attached to maths? Are they to be left suspended in the air?"

"Again, Sir, sub-clause (3) relates to schemes settled under sub-clause (1) which includes those excluded under sub-clause (2)."

MR. SPEAKER:—"He has not moved for the deletion of sub-clause (3)."

THE HON. SRI K. MADHAVA MENON:—"Then it becomes all the more difficult to accept the amendment. Sub-clauses (4) to (7) deal with the way in which the Deputy Commissioner should do the work under sub-clauses (1) and (2). If any particular action of the Deputy Commissioner is delayed pending the framing of a scheme he may appoint any person to discharge certain duties. All these are interim arrangements necessary to be provided for."

SRI T. VISWANATHAM:—"That is why I want these amendments. I do not want the Deputy Commissioner to make his own interim arrangements. Once the party goes to court, the court having been seized of the matter, will make the interim arrangements. After the Hon. Minister's explanation, my reasons for these amendments are obvious. All the acts, enquiries and decisions are made under clause 62 and the first three sub-clauses of clause 63. You begin clause 62 by saying—

"Subject to the rights of suit or appeal hereinafter provided, the Deputy Commissioner shall have power to inquire into . . ."

When a decision has been made by the Deputy Commissioner and he is authorized to make further amendments, I suggest that the party affected should be allowed to go to a court of law. Some interim arrangements will have always to be made. But who is

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the person to make them? If the decision of the Deputy Commissioner is appealable, it is the court that should have the power to make such interim arrangements. Having given the right to the party to go to a court you must fully follow it up and give the power to the court to make the interim arrangements."

THE HON. SRI K. MADHAVA MENON:—"I am sorry I perhaps failed to make myself clear. Under clause 62 already passed we have decided that the Deputy Commissioner shall have power to enquire and decide whether an institution is a religious institution and under sub-clause (d) whether any property or money is a specific endowment and so on. He has the power to append a schedule. Again, under clause 63 (6) the Deputy Commissioner has the power to modify or cancel any scheme settled under sub-clause (1). My hon. friend wants to drop this also. Sub-clause (7) relates to publication of the order of the Deputy Commissioner. If these provisions are sought to be omitted, the object would seem to be to make the work of the Deputy Commissioner impossible."

The amendment was put and lost.

Clause 63, as amended, was put and carried.

Clause 64.

MR. SPEAKER:—"The motion is—

'That clause 64 do stand part of the Bill.'

SRI N. S. VARADACHARI:—"Mr. Speaker, Sir, I move the amendment standing in my name, namely—

'For existing sub-clause (1) of clause 64, substitute the following:—

"64 (1) The Deputy Commissioner may, on being satisfied that the purpose of a religious institution has from the beginning been or has subsequently become, impossible of realization, or that the machinery for effectuating such purpose has failed or no longer exists, or that after providing adequately for the purposes of the institution and after setting apart a sufficient sum for the repair and renovation of the buildings connected therewith, there is a surplus, by order, direct that the endowments of the institution or such surplus as is declared to be available, as the case may be, be appropriated to the following purposes, in the order of priority, namely:—

- (a) the propagation of the religious tenets of the institution;
- (b) the establishment and maintenance of educational institutions where instruction in the Hindu religion is also imparted to Hindu students thereof;
- (c) promoting the study of Indian languages including Sanskrit;

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- (d) the establishment and maintenance of a University or college or other institution in which special provision is made for the study of Hindu religion, philosophy or sastras or for imparting instruction in Hindu temple architecture;
- (e) promotion of the cultivation of Indian arts and architecture;
- (f) the establishment and maintenance of orphanages for Hindu children;
- (g) the establishment and maintenance of asylums for Hindus suffering from leprosy;
- (h) the establishment and maintenance of poor homes for destitute Hindus who are physically disabled and helpless;
- (i) the establishment and maintenance of hospitals and dispensaries for the benefit of Hindus; and
- (j) cow protection.

Provided that, in the case of a temple founded and maintained by a community or a specific endowment attached to such a temple, the endowments or surplus shall, as far as possible be utilized for the benefit of the community for the purposes mentioned above."

Sir, my amendment is very simple. My amendment does not change the clause very much except that I have prescribed an order of priority for the purposes I have mentioned. I have added one more object which I trust the Hon. the Minister will be kind enough to accept. That is item (j). This clause, I would not say the most contentious, as the hon. Member Mr. Viswanatham stated, but this certainly is the most important clause in the Bill. The contention arises because of the importance of this clause. The whole object of this clause is that when once a surplus is declared, what ought to be done with that surplus and how is that surplus to be utilized. That is the main thing in the whole clause. Who is declaring the surplus? The clause as it is worded at present says—

"The Deputy Commissioner may, on being satisfied that the purpose of a religious institution has from the beginning been, or has subsequently become, impossible of realization, or that the machinery for effectuating such purpose has failed or no longer exists, or that after providing adequately for the purposes of the institution and after setting apart a sufficient sum for the repair and renovation of the buildings connected therewith, there is a surplus, by order, direct that the endowments of the institution or such surplus as is declared to be available as the case may be, be appropriated to all or any of the following purposes, namely :—

I have given notice of a small amendment. I say that even if the Deputy Commissioner is to be empowered in this behalf, there must be some order of priority. It should not be left to him to say 'I will choose this for the particular object and then spend the surplus money on this.' On the other hand, the Legislature should be able to say in what order it should be spent. The

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difference between the Government's proposal and mine is that if the temple has only a small surplus; the order of priority which I have prescribed makes it obligatory on whichever authority is legally entrusted with this task to make it usable for the propagation of the tenets of that institution. If there is anything over and above still remaining, then that would go for the second purpose, namely, the establishment of educational institutions. Ordinarily it is expected that not much surplus will remain. For, the very idea of surplus is now restricted and controlled by another clause previously introduced. As I pointed out some days earlier in the course of the discussion on this Bill, the trustee will have power to spend money in addition to what is required for maintaining the scale of *dittam* of the temple or of the institution. Over and above that the trustee is given some discretion. Beyond that arises the surplus. The Hon. the Minister was kind enough to agree when I pointed this out on an earlier occasion. Why should this surplus, if it is there at all, not be declared by the trustee to be surplus, is a question which has still to be considered. Why should the surplus be declared by a Government officer? It is just possible that the officer may not be able to appreciate the needs of the temple, or may not be able to appreciate the additional allotments that will be made by the trustee under the previous clause referred to by me. It is only then that the question of surplus will arise. The determination of the surplus by the Government officer is a question with which I shall not deal at present. I shall take it up later. Sir, I want to follow the line of least resistance, and convince the Government that there must be some method in distributing this surplus. Let me be optimistic as I always am, and I wish we are all optimistic so that the whole thing could be debated in a spirit of give and take, of compromise, of goodwill and of concord. Under the present scheme, the Deputy Commissioner may allot it for any of the purposes mentioned in the clause. He is given a certain amount of discretion in regard to that. It is left to him to say 'all right; I will overlook purpose (a) and go to purpose (f), (g) or (h). That is exactly what I do not want. I say, Sir, that there must be some connexion between the expenditure of what was declared to be the surplus and the original purpose of the institution. The purpose nearest to the beneficiaries or to those persons having interest in the institution should take priority amongst all other purposes. That is the object of my amendment. It should be realised that if we give wholesale authority to the Government officer without prescribing any statutory limits, it is just possible that in a small temple, which may have only a very small surplus, an unnecessary burden may eventually be thrown. It is not easy to start an institution and then close it altogether. Suppose for instance, a small institution with only a surplus of say Rs. 20,000 or Rs. 30,000 is suddenly called upon, in a year of prosperity when the surplus may go up to a lakh of rupees, to start an educational institution, and then be compelled to maintain it. When once it becomes

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part of the scheme, it is not easy to get out of it. There will be so much pressure from the public, from the Government, from the trustee himself and from various other sources. It will be very difficult to take it out of the regular routine when once the surplus gets into it. That is why I want that some order should be maintained in this behalf. It is just possible that a temple may have a large surplus. Even then the declaration of the surplus, left to the Government officer as it is in this amendment, should be carefully made. The worshippers will possibly agree to the order which I have prescribed rather than leave the discretion to the officer concerned. That is the main point of my amendment. Hon. Members will find that the order I have prescribed in which the money is to be spent is the order nearest to the purposes of the institution. The idea of applying the Cypres doctrine is only this. If there is more than the institution can usefully take in to preserve its dignity, order, and the worship therein, it should be spent as far as possible for the establishment or for the maintenance or for the propaganda of the tenets of the institution. The object certainly is the one nearest to the scheme of things in that institution. Otherwise, it is just possible that things wholly alien to the spirit of the institution may be thought of, and the surplus unnecessarily spent on them.

"The second point that I wish to make is this. I have briefly mentioned at the outset that it is better if this order of priority is maintained there is a certain element of consultation. Of course, I do not presume that the Deputy Commissioner will merely act, even though he is empowered under this clause, without any consultation with the trustee or with the leading worshippers in that area. It must be understood that even if the law gives wholesale power, he will certainly prefer to consult, having taken upon himself the discretionary authority to use the surplus funds. In the case of such consultation, the thing that would occur to the trustees or to the persons having an interest or to those generally connected with the religious institution, would necessarily be the purposes which are as near as possible, or will be nearest, to the institution itself. That is why I have mentioned the order in which the surplus is to be spent. I do not insist on any particular order. I have found that the order in which it is put down in this clause will practically fulfil all the purposes I have in view. I may have changed it here and there a little bit. If this order is maintained, then the public will be able to throw a lot of light on the Deputy Commissioner himself or whomsoever is interested ultimately in this task. They will be able to write to him, call on him, and wait in deputation on him, and then convince him that the money should not be spent for purposes other than those nearer to the institution. When I come to the chapter on the Tirumalai-Tirupati Devasthanam, I will have to say a lot about the use of the surplus money in recent months from the devasthanam

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funds. It is a matter in which I have taken a lot of interest. I think it is wholly wrong to invest the money of the devasthanam on purposes alien to the institution itself. There are 108 devasthanams attached to the Tirumalai-Tirupati Devasthanam. Most of them are in the Karvetnagar Zamindari. While many of them remain dilapidated and without proper service even to-day, to divert the funds of the institution outside these institutions is not correct. Take the famous Srinivasa Temple in Narayanavaram."

MR. SPEAKER:—"When we come to that clause, the hon. Member may speak on it."

SRI N. S. VARADACHARI:—"I say this, Sir, because it is concerned with this clause. Suppose there is surplus money in the Tirumalai-Tirupati Devasthanam. What is to happen to that and how is it to be distributed? If we prescribe an order, it will be easier for us to fix the amount of such expenditure. That is why I am moving my amendment, and I hope the Government will consider the amendment, and then deal with it on its merits."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I second the amendment. The theory of the utilization of surplus funds is generally applicable to charitable trusts and not to temples and maths. It is only by an extension of the idea, I suppose, the Government are able to find, having taken a leaf from the old Act, the theory of the utilization of surplus funds in regard to temples. Sir, if you are pleased to look at the language, you will find 'The Deputy Commissioner may, on being satisfied that the purpose of a religious institution has from the beginning been, or has subsequently become, impossible of realization. . . . The draftsman of this clause copied the wording of the application of Cypres doctrine in the case of charitable endowments and trusts, and bodily transferred it to religious institutions and *matams*. I would like to draw the attention of hon. Members to the essential difference between temples and *matams* on the one hand and charitable trusts on the other. The purpose of charity might fail, because the donor had in his view certain objects which had either become impossible or impracticable, after a certain time, of realization. Or, the purpose of the charity being over, there is nothing more to be done in connexion with that or with any identical charity thought of or indicated by the donor, and therefore it is only subsequently that the Cypres doctrine is applied. But, with regard to a temple, how is it possible for us to say that a religious institution or a temple or a *matam* has from the beginning itself become impossible of realization? This clause deals with existing institutions, with *matams*, temples and specific endowments attached to these institutions. They are there already and we are now devising some more machinery, and a better machinery perhaps, to deal with those properties. As I said, it is inconceivable that the purpose of the religious institution has from the

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beginning become impossible of realization or has even subsequently become impossible of realization. Let us assume that certain endowments are made to a temple like Srirangam or Tirupati; is it conceivable in their case that the objects have become impossible of realization? As I have already submitted, Sir, the provision relating to charitable trusts has been bodily taken over and applied to the temples and *matams*, and we are told that what applies to the surplus funds of charitable trusts must apply equally to the surplus funds of temples and *matams*. For instance, the Deputy Commissioner can never say that the doctrines of Visishtadwaita are impossible of realization. If so, no trusts would have been necessary at all; and the mighty structures that stand and gaze into Godhood would not have been there attracting millions and millions of devotees, if it were possible for a person like the Deputy Commissioner or the Commissioner to come to the conclusion that the temples and *matams* had become impossible of realization. I submit, Sir, that the theory of the utilization of surplus funds need not have been brought in in connexion with these religious institutions.

"Then again, Sir, the doctrine of utilization of surplus funds is not what you can apply under the statute because we are trustees. The Government themselves admit we are trustees, and those whom you have appointed for the management of these institutions are there as your agents. One of their fundamental duties is to give effect to the objects of the trust, the wishes of the donor, the terms of the document if it is available or the terms of the donation as gathered from longstanding practice and surrounding circumstances or other available unimpeachable evidence. No question of surplus funds can arise in the case of the temples and *matams*; and if there are funds over the immediate needs, they are meant only for the purpose of improving the institutions and spreading the doctrines of the denomination to which they belong. There can be no such thing as surplus funds in their case in the sense in which this Bill provides. It cannot be gained that you have mighty structures at Srirangam, Tirupati and Tanjore; and you cannot say in their case that their funds have become surplus, because you have got to improve them, rebuild them and renovate them and you have got to continue to fulfil the very objects for which the trusts were originally founded. The theory of surplus funds in its application to temples and *matams* is, in my humble opinion, very wrong. One important doctrine of the Visishtadwaita, the eternality of Purusha and Prakriti, has been pursued and practised for ever so many generations and will continue for eternality; can a Veerasaivite come and say 'Oh, this is duality, it is almost impossible of realisation; therefore, let us do away with these temples?' Is that the object of this clause, I ask? Suppose the Commissioner is a Madhwa and is a staunch believer in Dwaita doctrine; is it open to him to say 'I am satisfied that the purposes of the Vaishnavite institution have from the beginning been impossible of realization?'

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The realization of Godhood and of the oneness of God cannot really be impossible. Is it open to a Visishtadwaita to say that the temple of Sri Brahadeeswara may go because the doctrine of absolute oneness of God and man is impossible of realization? I want to draw pointed attention, Sir, to the fact that in this clause 64, there is no provision for the party even to go to Court. As it is, very grudgingly some right has been given to the parties to go to Court, but that is under clause 67, and that clause has no reference to this clause 64. As I submitted in the beginning, this provision is inapt here. There is no such thing as 'impossible of realisation,' so far as temples and maths are concerned. If on the other hand the Government were thinking of charitable trusts and their failure and the subsequent impossibility of realisation of their objects, the utilization of their surplus funds stands altogether on a different footing. In the case of a temple, however, there is no such thing as surplus fund, and it cannot be spent on any other purpose. If you want to respect our religious feelings, if you want to respect our philosophic doctrines on which our various religious practices are based throughout the length and breadth of our country, I submit you cannot use those funds for any object other than the intended object, however laudable that other object may be. On the theory of the *Cypres* doctrine, Halsbury says that in the case of charitable trusts, the trustees of charity cannot apply the principle of *Cypres* on their own authority, without the consent of the charity commissioners. Assuming for instance, there was a charge on it in connexion with an organization for statutory removal of untouchability. Now that untouchability is made an offence both under the Constitution and under our laws, the objects with which the charity might have been originally started have ceased to exist. It is then and only then that that fund can be utilized for some other purpose. But with regard to temples and *matams*, they are symbols of eternal continuity of faith; there is no beginning and no end to that faith; where it began and where it ends, nobody knows; we are living now only in the middle period of its existence; we do not know what is going to happen to it, as we are only in the transitional stage of our personal existence and of our present bodies. So, Sir, there is no such thing as an end of our faith; and if there is no end to our faith, there cannot be an end to our religious institutions; and if there is no end to our religious institutions, there can be no 'surplus funds' as such. Whatever funds there are, they belong to the institution and they must be utilized for the maintenance and upkeep of the institution and the propagation of the doctrines of that particular institution and nothing else. Therefore, Sir, I have great pleasure in seconding the amendment of my hon. friend."

SRI R. V. SWAMINATHAN :—"Sir, I am very surprised to hear the speech made by my hon. Friend Mr. Viswanatham. While seconding the amendment, I found he was entirely opposing the whole idea underlying the clause. He was taking objection to the

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sentence found here 'has from the beginning been, or has subsequently become, impossible of realization.' Mr. Varadachari's amendment contains the same language. I do not know why Mr. Varadachari wants to substitute the whole clause when he agrees with seven or eight items mentioned in the clause and adds only one more item to it. That shows that he is prepared to agree to the spending of funds on some other purpose also not mentioned in the clause."

SRI N. S. VARADACHARI:—"On a point of explanation, Sir. The hon. Member Mr. Swaminathan has wholly misunderstood the scope of my amendment. The purposes are practically the same; the distribution of the surplus is practically the same but . . ."

MR. SPEAKER:—"The hon. Member wants to add one more item to the list."

SRI R. V. SWAMINATHAN:—"That one makes no difference whatsoever. But he wants to introduce priority."

SRI N. S. VARADACHARI:—"I am glad he has understood my intention, Sir."

SRI R. V. SWAMINATHAN:—"I have noted his idea; he wants to spend the money according to his priority list; he gives his first preference to one item and second preference to another and so on. But on the whole, he is prepared to spend the surplus funds, if any, over those items. The seconder of the amendment, however, as I understood him, is not prepared to spend even a single pie on any of the many items that are mentioned in the clause. Mr. Viswanatham was saying that if there were any surplus funds, they must spend them only for improving the building, renovating the temple, etc. Both the clause and the amendment of Mr. Varadachari specifically say 'after setting apart a sufficient sum for the repair and renovation of the buildings' if there is any surplus left over, it may be spent over the items mentioned there, and so, I cannot understand Mr. Viswanatham's speech in seconding the amendment."

"As regards the question of priority introduced by Mr. Varadachari, Sir, suppose there is a temple in the Ramanathapuram district and there is surplus there, the people in the area, the trustees and those in charge of the temple would naturally like to spend that surplus in that area itself. Suppose the Rameswaram Devasthanam has got some surplus funds, the trustees and the people of the locality may feel that a hospital may be established there since the educational institutions are being maintained either by the Government or by the district board, and the necessity for a hospital is more keenly felt there. Similarly, in Tirupati there is already a high school and the devasthanam is spending some money on education in that place and they may also feel the necessity for a hospital there. In such cases, priority should be given to the people

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in the locality and the trustees to decide as to what they should have and how the surplus should be spent. Even an Act should not say that the money should be spent for such and such a purpose; that will be improper. Therefore, Sir, I submit this priority question introduced by Mr. Varadachari cannot arise, as the people of the locality and the trustees alone should decide the priority. I, therefore, oppose the amendment and I am really surprised at the speech made by Mr. Viswanatham in regard to the amendment which he was seconding."

BEGUM SULTAN-MIR AMIRUDDIN:—"May I point out, Mr. Speaker, that the House is very thin; there does not seem to be even quorum."

MR. SPEAKER:—"Twenty-two is the quorum; and I think we have the required number of Members here."

THE HON. SRI K. MADHAVA MENON:—"Sir, the hon. Member, Mr. R. V. Swaminathan, has made my work very easy. The wording of Mr. Varadachari's amendment, is in fact, exactly the same as the wording of clause 64 (1) of the Bill. Mr. Viswanatham has entirely forgotten that he was seconding the amendment of Varadachari."

SRI T. VISWANATHAM:—"Shall I explain, Sir, I have not forgotten. I knew my job, but because Mr. Varadachari asked for two things in his amendment, namely, first the utilization of the money for the purposes of the institution for renovation, etc., and then for propagation of the particular tenets of the institution—both of which are there—I spoke. So, when once the money is spent in the order priority, namely, items 1 and 2, there is nothing else to be done and therefore I supported the amendment. I have not forgotten it, Sir."

THE HON. SRI K. MADHAVA MENON:—"Sir, even if my hon. Friend is becoming wiser after the event, it does not help him in any way. Mr. Viswanatham objects to the use of the words in clause 64 (1), namely: 'The Deputy Commissioner may, on being satisfied that the purpose of a religious institution has from the beginning been, or has subsequently become, impossible of realisation . . .'. He asks 'How can a thing become impossible of realisation; Can a Virasaiva say that God is one; How can God be impossible of realisation; What does the draftsman mean by putting in a sentence like that; You cannot say about 'God becoming impossible of realisation'. Then he said 'the wording "becoming impossible of realisation," is a misnomer, and it can never be'. Then, Sir, Mr. Viswanatham has been arguing all through that there cannot be a surplus at all for temples, because that must be used for the purposes of the temple itself. He said that the question of Cypres doctrine would not apply to surplus in temples and so the Government were unnecessarily bringing in Cypres principles into temples and so the whole

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thing was wrong. Secondly he said that the wording itself was wrong, because the expression 'impossible of realisation' was unthinkable. I do not think that any devotee of God will agree with him when he said that oneness with God is impossible of realisation. So, Sir, I am perfectly right in saying that he forgot that, when he was seconding the amendment of Mr. Varadachariar, he was really opposing the principle of utilizing the surplus. It is a fundamental thing on which his other amendments are coming in and so I need not answer him here.

"Then, Sir, in regard to the amendment of Mr. Varadachariar, he has no objection to the use of surplus funds. In fact, the Government are bringing in an amendment to clause 64 (1) to omit the portion beginning with the words 'or that the machinery for effecting such purposes' and ending with the words 'there is a surplus' and the words 'or such surplus as is declared to be available, as the case may be'. The effect of it is, and that is also the principle of Mr. Varadachariar's amendment, how to use the surplus properly. He says, let there be a sort of priority and he has given his order of priority in his amendment. Mr. Varadachariar has taken almost all the items which the Select Committee has suggested, but he has added one other item, namely, cow protection. Of course, I do not see any objection to the order of priority mentioned by Mr. Varadachariar. First, he wants the application of the surplus to the propagation of religious tenets of the religious institution. That also the Select Committee has suggested. But the only difference is, he has altered the arrangement in respect of items in clauses (b), (c) and (d) and clauses (e) and (d) have been given priority over them. I do not see any objection to the principle of priority for the use of surplus funds. But, I think there is a very serious difficulty in that. For instance, the surplus of temples vary from each other; in one temple there may be a small amount and in another a big amount of surplus, and in such cases, which should be given first priority is impossible to decide. Suppose the surplus of a particular institution is only Rs. 500. This may not permit of being utilized for the religious tenets of the institution, but there may also be an educational institution—which is also permitted—for which those funds will be of considerable use. Why should you fetter the discretion of the trustee in such cases to decide for which purpose the funds may be utilized? As Mr. Karanth pointed out the other day, the Sarada Vidyalaya applied to the Udupi math for some contribution and of course some contribution was given—a very laudable thing. But the objection was that the Udupi college asked for contribution, but it was not given. What I say is, certain institutions may apply that the funds available in a particular institution may be sanctioned for their purposes, but it may not be sufficient for the other purposes mentioned. So, Sir, if a hard and fast priority list is put in, the surplus must first be used according to the order mentioned in the list.

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Suppose there is not sufficient money available for the purposes, it cannot be used. It will thus be nothing less than a 'dog in the manger policy' if such a priority list is put in. There may, for instance, be a good purpose for which money is asked, and you cannot use it for that purpose if you have to follow that order of priority. So, the sort of cast-iron priority that is proposed by Mr. Varadachariar cannot be accepted in entirety. There is a difference between the principle regarding the purposes for which the surplus should be spent according to the report of the Select Committee and the order of priority proposed by Mr. Varadachariar. Whereas the Select Committee says 'it may be appropriated to all or any of the following purposes, namely . . .' Mr. Varadachariar says it should be utilized according to a certain priority. For instance, for clause (b) 'the establishment and maintenance of a university or college or other institution in which special provision is made for the study of Hindu religion, philosophy or sastras or for imparting instruction in Hindu temple architecture', Mr. Varadachariar wants to give priority to 'promoting the study of Indian languages including Sanskrit'. Of course, the idea may be quite all right, but the difficulty is, it depends upon the amount of surplus available with each religious institution.

"Further, Sir, suppose the trustee of a particular institution in a particular area wants to give the money to the items mentioned. We are also going to have Area Committees. It is open to the trustee to ask the Commissioner or the Deputy Commissioner whether he can use the surplus to the purposes mentioned and he can also give directions. What I say is, we will be fettering the discretion of the localities, the Area Committees, and the trustees also if the priority should be according to the amendment proposed by Mr. Varadachariar. That is my only objection to accepting the priority.

"Moreover, Sir, in the amendment proposed by the Government we are making a distinction between funds for the purposes of an institution having become impossible of realisation and funds of an institution which have existing surplus, so that priority in both should not be the same. There may be institutions which have become non-existent and the endowment of which may be available, and there may be institutions which are going on and there are still surpluses. Two distinctions are made in the amendment proposed by the Government. But Mr. Varadachariar has not taken that into consideration when he suggested the question of priority. Of course, the Deputy Commissioner or the trustee will try as much as possible to give priority to the better of the things mentioned in the 8 or 9 items, but if you put a hard and fast rule like that, I am afraid, it may fetter the discretion of the trustee or the Deputy Commissioner or the Area Committee. It may also be very difficult to work it when the income of each institution may be different from the other. For instance, the income of one institution may be a little and in the case of the other it may be more. That is the real difficulty in accepting the amendment."

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SRI N. S. VARADACHARI :—" Mr. Speaker, Sir, I accept the very kind words from the Hon. Minister when he said that the purpose of my amendment was all right. But he said that it would fetter the discretion of the authority to whom we are going to entrust the distribution of the surplus by such cast-iron priority.

" Now, Sir, let me deal with a few arguments from the other members. Sir, when I put the case for the distribution of the surplus, I pointed out that it was fundamental to any institution, whether charitable or religious, whether it is a math or a temple, that whatever remained over, after the ordinary purposes of the institution had been fulfilled and after the special purposes of the institution had been served by the initiative of the trustee who had different powers to make allotments of money, subject, of course, to consultation with the Commissioner—I would not call it approval even now on principle, further surplus remaining over should be subjected to an order of priority. The very reason given by hon. Members who have spoken before me, justify my amendment.

" Mr. Swaminathan has his own way of dealing with things and when he came to the point he almost blundered into my argument. He said local people must have voice—I agree, the Ramanathapuram people must have voice in determining what should be done with the Rameswaram Devasthanam funds—in the utilization of the surplus and that is all I wanted. In fact that will not happen according to the present law if it is enacted as such. Of course, Mr. Swaminathan instinctively does the right thing, but thinks he must oppose it because he neither understands the object that is proposed in the amendment nor would he care to go through the order of priority which I have given. He has only made a cursory glance at the items of priority and thinks that whatever comes from this member must be had and must be opposed. (Interruption by Sri R. V. Swaminathan.) I know he will oppose anything, even a good thing.

(At this stage, the Deputy Speaker occupied the chair.)

" Now, Madam, I come to the Hon. Minister's arguments as to why priority is needed. It is for this reason, which is the very reason he gave. Suppose a temple has only a small surplus of Rs. 500. It would be better serving the purposes of the institution by not merely throwing it away to some educational institution or other with which it has no connexion whatever. There are so many people competing for the crumbs of bread, as I may call them, and 30 or 40 people come forward and compete for this small crumb. That is not the way of distributing the surplus of a temple. That is highly objectionable from the point of view of the application of the Cypres principle. What should be done is, if the surplus is small and it can only be devoted for the purposes nearest to the objects of the institution, in fact, the endeavour should be to stick to such fulfilment, but if, on the other hand, the surplus is large, as was pointed out by the Hon. Minister, my priority will help. So, if there is a large amount of money as surplus, for instance, you can

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take items (a), (b), (c) and (d), in the order in which I have given and then spend the amount on those objects, subject, of course, to the condition that the local people, the trustees and the worshippers in general will give their consent, if not in writing, at least tacitly, for the arrangements made by the Deputy Commissioner.

(At this stage Mr. Speaker occupied the chair.)

" Now, Sir, this clause does not say anything about it. Even the Hon. Sri Madhava Menon, a good democrat he is, concedes that the trustee must initiate these things, that the local people must have a voice and so on. The very object will be defeated by merely empowering 'so and so' to utilize the surplus without an order of priority. Suppose there is a small surplus and the Deputy Commissioner says that the money should be given to a leper asylum and not for any other purpose which is nearest to the purposes of the institution, I can understand it if it is for a leper asylum in Tirupati because a body of lepers are thronging the steps and it is but right that they should be segregated, put into a proper place, fed, treated gently and nicely and looked after by doctors. If that is done, I am satisfied. If that is not done and the promotion of the study of Indian languages or the imparting of instruction in Hindu religion are not dealt with at all and some one takes it into his head to divert the entire funds for this one purpose, then, Sir, I take exception to it. It is then that priority will save all kinds of disorders setting in and that is why I want that priority should be there; it is not to tie down the hands of the officer concerned; on the other hand, it is to save him from public criticism that all the moneys, that he declared as surplus and not the public have declared through their own trustees or the worshippers, have been spent in a particular manner upon some institution somewhere. Not only will it save the officers concerned, it will also adjust itself to the varying surplus funds in small or big institutions. The Hon. Minister said that it might not be possible to utilize a surplus of Rs. 500 for the propagation of religious tenets of the institution. In fact, Sir, I am greatly concerned at this illustration that the Hon. Minister has given. We will create artificial surpluses or we will burrow out of the temple funds and try to make out surpluses in a way surpluses are not made; surpluses must be real and must be arrived at after the purposes of the institution are fully met, after the repair and renovation have been fully done and after the reserves have been employed for the purposes of worshippers. Even in a big temple like Tirupati temple, the Government have cut down all that is necessary for the *uthsavam*; the feeding of the public is cut down very much and the thittam maintained in the temple is cut down and if after all that there is surplus money, do we call that surplus and is that the real way of determining the surplus? There is great indignation at the declaration of surplus in this manner. In fact, Sir, it is very unjust to make large gatherings of people assembled starved during festivals. What was the ration that they were getting and what was it that the temple could do to relieve the suffering for want of food of the tens of

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thousands of people who came to the Brahmotsavam last year? God was kind and merciful in that there was no rain to add to the trouble and perhaps He intended to punish us because we were behaving in a very unreasonable manner. I submit, Sir, that the idea of priority would save the Government from reproach and the idea is that if a small temple has a small surplus, first priority should be given to the purposes nearest to the objects of the institution and if there is a big surplus by all means divert it to the hundred other purposes which we have in view and which may also be incidentally related to the main objects of the institution. I must also in this connexion say this, Sir; it is very unreasonable for the Hon. Minister to begin his arguments by attacking the speeches made in support of my amendment by some other hon. Member; I submit, Sir, it is a very unreasonable way of handling my amendments. He hunts for something else and finally gets a hare out of the bush and runs after it. I submit, Sir, that the objections to priority which I have answered should be fully met."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I submit that I am entitled to point out that the support given by hon. Members to the proposition of hon. Sri Varadachari, which to my thinking is intrinsically not bad, was no support at all and they were inconsistent in what they did. As a matter of fact, there is no difference in the objects mentioned from (a) to (j) of hon. Sri Varadachari's amendment and (a) to (i) of the Government's. Hon. Sri Varadachari has put 'propagation of the religious tenets of the institution' as the first. Supposing that is the position, what would be the result? 'Propagation of the religious tenets of the institution' is such a wide term that you can spend any amount and the entire surplus of any temple can be spent for this one item. It will be obligatory to spend the entire surplus funds of an institution on this purpose alone and it will be compelling the institution to spend the entire surplus on one item while, as a matter of fact, there are other items also. For propaganda of religious tenets of the institution, thousands of people can be sent about and any amount could be spent. I am unable to see what particular purpose is served by this priority question."

SRI T. VISWANATHAM:—"The Hon. Minister has not explained to me how the purposes of a religious institution can become impossible of realization; I want to have some enlightenment about that."

THE HON. SRI K. MADHAVA MENON:—"The temple itself may be destroyed."

MR. SPEAKER:—"The question is—

'For existing sub-clause (1) of clause 64, substitute the following:—

"64. (1) The Deputy Commissioner may, on being satisfied that the purpose of a religious institution has, from the beginning, been or has subsequently become impossible of realisation, or that

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the machinery for effectuating such purpose has failed or no longer exists, or that after providing adequately for the purposes of the institution and after setting apart a sufficient sum for the repair and renovation of the buildings connected therewith, there is a surplus, by order, direct that the endowments of the institution or such surplus as is declared to be available, as the case may be, be appropriated to the following purposes, in the order of priority, namely:—

- (a) the propagation of the religious tenets of the institution;
- (b) the establishment and maintenance of educational institutions where instruction in the Hindu religion is also imparted to Hindu students thereof;
- (c) promoting the study of Indian languages including Sanskrit;
- (d) the establishment and maintenance of a university or college or other institution in which special provision is made for the study of Hindu religion, philosophy or sastras or for imparting instruction in Hindu temple architecture;
- (e) promotion of the cultivation of Indian arts and architecture;
- (f) the establishment and maintenance of orphanages for Hindu children;
- (g) the establishment and maintenance of asylums for Hindus suffering from leprosy;
- (h) the establishment and maintenance of poor homes for destitute Hindus who are physically disabled and helpless;
- (i) the establishment and maintenance of hospitals and dispensaries for the benefit of Hindus; and
- (j) cow protection.

Provided that, in the case of a temple founded and maintained by a community or specific endowment attached to such a temple the endowments or surplus shall, as far as possible, be utilized for the benefit of the community for the purposes mentioned above."

The amendment was lost.

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I move—
'In line 2, after the word "religious", insert the words "or charitable".'

Even if the clause should remain, I want the words 'charitable institution' also to be there."

MR. SPEAKER:—"The hon. Member can also move the next amendment standing in his name."

[4th December 1950]

SRI T. VISWANATHAM:—"So that it may be easier for you to rule it out of order, Sir! It is perfectly in order, Sir, and I move that also, namely—

"For the words 'by order direct', substitute the words 'apply to the court praying for order'."

I submit, Sir, it is a very serious point and I am sorry that the Hon. Sri Madhava Menon backed by his majority is not able to realize what he is doing and I want him to address himself to what I am submitting. There are certain powers given to the Commissioner and the Deputy Commissioner and there is no check over them and they are expected to satisfy themselves about particular points and when once they are satisfied about them, there is an end of the matter. It is said: Why not the surplus funds be utilized by them in a certain manner? If I keep in view the purposes of the institution—he instanced a surplus of Rs. 500—I will go on accumulating and when it becomes a respectable amount I will use it for the purposes of the institution. I may have to extend the buildings for the comforts of the pilgrims from whom we derive the money. I am asking, Sir, what is the difference between the Government who want to bleed the pilgrims without giving them comforts and the ex-zamindars who were bleeding the tenants without giving them any conveniences and amenities or security of tenure? I wish to know what is the great difference? Year after year, money is coming from them and immediately there is a so-called surplus, it is proposed to give it away to some institution. Will that temple in that case have any respectable amount sufficient for the purposes of renovating or extending the buildings or create comforts for the pilgrims? This is a very important matter and my submission is that it should not be left in the hands of executive officers. Whether there are surplus funds or not and whether the purposes of the institution have been adequately provided or not are matters of great doubt and it is only a court with a judicial frame of mind that must look into these matters. There must be a long range view of things and it is not as if the executive officer can say. Here is a surplus and I shall send it away to some institution in the Punjab and it may be a laudable institution. But in that connexion, the question arises: What about the pilgrims who come there and what about the donors who make their donations; what about their comforts, about their quarters, about water-supply and their convenience and their happiness? Even after the people's Government has come into power, should the pilgrims go without any comforts, should they walk in jungles on roads which are mere footpaths and are bad and are they to stay in houses which are leaky and dirty and should they not have comforts and shelters? As one of the pilgrims when I did not make myself known when I went to a temple, I know pretty well the difficulties of pilgrims; it is only when I am personally known to the Commissioner or to the executive officer that some comfort is given to me. I go there and give my little mite to the temple and in the same manner pilgrims give what they can. It is the ordinary pilgrim who has no voice from whom money flows to the temple.

4th December 1950] [Sri T. Viswanatham]

Does it lie in the mouth of a Deputy Commissioner to say that out of the surplus of such funds of the temple, a Rs. 10,000 shall be given to a hostel in the Punjab as its objects are very laudable? I am submitting that the power of the court must not be taken away. The objects of the institution must be taken note of and a long range view must be taken in that behalf and money should not be merely frittered away on the ostensible ground that there is a surplus and therefore, it should be utilized according to the discretion of the executive officers. If this is not done, my fear is that money would be declared surplus without regard to the provision for renovation and repairs of temples, extension or comforts to the pilgrims who are the ultimate givers of the money. That is why, Sir, I want that a long range view of things should be taken and it should not be left into the hands of an executive officer but let it go to a court of law to be decided as is done in every civilized country in the world."

SRI M. S. PATTABHIRAMIAH:—"Mr. Speaker, Sir, while seconding the amendment I wish to speak in Tamil. நான் தமிழில் பேசுகிறேன். இது ஒரு சிறு வெளியீடு. திரு நெறி தொண்டிர் கழக சார்பில் மதுரையில் இவ்வாண்டு நடைபெற்ற மகாநாட்டின் நிகழ்ச்சி இது. அவர்கள் இப்போது சர்க்கார் கொண்டு வந்திருக்கும் இந்த அற நிலைய பாதுகாப்பு மசோதாவை முற்றிலும் எதிர்ப்பவர்கள் அல்ல. ஆனாலும் இதில் சில குறைபாடுகள் இருக்கின்றன என்று கூறியிருக்கிறார்கள். சென்னை சமய அற நிலைய பாதுகாப்பு மசோதாவின் ஆராய்ச்சி என்ற வெளியீட்டில் அம்மசோதாவின் குறைபாடுகள் என்பதில் ஐந்தாவது பிரிவை வாசிக்கிறேன். 'இச்சட்டத்தின் நோக்கம் உறிந்து சமய அற நிலையங்களின் நிர்வாகமும், ஆசனமும் செம்மையாக நடைபெறப் பண்ணுவது என்பதை நோக்கத்தில் கூறிவிட்டு இடையில் பிரிவு 64-ல் இன்னன்ன வகையில்தான் அந்த ஸ்தாபனங்கள் செலவு செய்ய வேண்டுமென திட்டமிடுவது முன்னுக்குப் பின் முரணாக இருக்கிறது', என்று அதில் கூறியிருக்கிறது.

"இந்தக் கூற்றானது மிகவும் சரியாக இருக்கிறது என்றே நான் கருதுகிறேன். ஆதலால் இந்த 64 கிளாசுக்கு உரிய திருத்தத்தை சர்க்கார் தானேயோ அல்லது அங்கத்தினர்களிடமிருந்து வரும் சரியான திருத்தத்தையோ ஏற்றுக்கொண்டு இந்த அபவாதத்திற்கு இடமில்லாமல் நமது சர்க்கார் செய்து கொள்ளவேண்டுமென்று நான் கேட்டுக்கொண்டு இந்த திருத்தத்தை நான் ஆமோதிக்கிறேன்."

SRI V. M. RAMASWAMI MUDALIYAR:—"Sir, I want some enlightenment from the Hon. Minister. Sir, while the Hon. Minister was speaking on hon. Sri Varadachari's amendment, he said that in utilizing the surplus funds, the local area committee or the trustees would be generally consulted. Sir, I feel to see any such provision in the whole of clause 64. Sir, I read the whole of clause 64 from beginning to end once, twice and thrice; I do not find anywhere any provision for such consultation. As a matter of fact, clause 64 (4) says only this—

"(4) The order of the Deputy Commissioner under this section shall be published in the prescribed manner and on such publication shall, subject to the provisions of section 68, be binding on the trustee, the executive officer and all persons having interest."

Now, the words 'prescribed manner' will mean only pasting the notice on the notice board of the office of the Deputy Commissioner.

[4th December 1950]

SRI T. VISWANATHAM:—"So that it may be easier for you to rule it out of order, Sir! It is perfectly in order, Sir, and move that also, namely—

"For the words 'by order direct', substitute the words 'apply to the court praying for order'."

I submit, Sir, it is a very serious point and I am sorry that the Hon. Sri Madhava Menon backed by his majority is not able to realize what he is doing and I want him to address himself to what I am submitting. There are certain powers given to the Commissioner and the Deputy Commissioner and there is no check over them and they are expected to satisfy themselves about particular points and when once they are satisfied about them, there is an end to the matter. It is said: Why not the surplus funds be utilized by them in a certain manner? If I keep in view the purposes of the institution—he instanced a surplus of Rs. 500—I will go on accumulating and when it becomes a respectable amount I will use for the purposes of the institution. I may have to extend the buildings for the comforts of the pilgrims from whom we derive the money. I am asking, Sir, what is the difference between the Government who want to bleed the pilgrims without giving them comforts and the ex-zamindars who were bleeding the tenants without giving them any conveniences and amenities or security of tenure? I wish to know what is the great difference? Year after year, money is coming from them and immediately there is a so-called surplus, it is proposed to give it away to some institution. Will that temple in that case have any respectable amount sufficient for the purposes of renovating or extending the buildings and create comforts for the pilgrims? This is a very important matter and my submission is that it should not be left in the hands of executive officers. Whether there are surplus funds or not and whether the purposes of the institution have been adequately provided or not are matters of great doubt and it is only a court with a judicial frame of mind that must look into these matters. There must be a long range view of things and it is not as if the executive officer can say. Here is a surplus and I shall send it away to some institution in the Punjab and it may be a laudable institution. But in that connexion, the question arises: What about the pilgrims who come there and what about the donors who make their donations; what about their comforts, about their quarters, about water-supply and their convenience and their happiness? Even after the people's Government has come into power, should the pilgrims go without any comforts, should they walk in jungles on roads which are mere footpaths and are bad and are they to stay in houses which are leaky and dirty and should they not have comforts and shelters? As one of the pilgrims when I did not make myself known when I went to a temple, I know pretty well the difficulties of pilgrims; it is only when I am personally known to the Commissioner or to the executive officer that some comfort is given to me. I go there and give my little mite to the temple and in the same manner pilgrims give what they can. It is the ordinary pilgrim who has no voice from whom money flows to the temple.

4th December 1950] [Sri T. Viswanatham]

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SRI M. S. PATTABHIRAMIAH:—"Mr. Speaker, Sir, while seconding the amendment I wish to speak in Tamil. நான் தமிழில் பேசுகிறேன். இது ஒரு சிறு வெளியீடு. திரு நெறி தொண்டிர் கழக சார்பில் மதுரையில் இவ்வாண்டு நடைபெற்ற மகாநாட்டின் நிகழ்ச்சி இது. அவர்கள் இப்போது சர்க்கார் கொண்டுவந்திருக்கும் இந்த அற நிலைய பாதுகாப்பு மசோதாவை முற்றிலும் எதிர்ப்பவர்கள் அல்ல. ஆனாலும் இதில் சில குறைபாடுகள் இருக்கின்றன என்று கூறியிருக்கிறார்கள். சென்னை சமய அற நிலைய பாதுகாப்பு மசோதாவின் ஆராய்ச்சி என்ற வெளியீட்டில் அம்மசோதாவின் குறைபாடுகள் என்பதில் ஐந்தாவது பிரிவை வாசிக்கிறேன். 'இச்சட்டத்தின் நோக்கம் உறிந்து சமய அற நிலையங்களின் நிர்வாகமும், ஆகியும் செம்மையாக நடைபெறப் பண்ணுவது என்பதை நோக்கத்தில் கூறிவிட்டு இடையில் பிரிவு 64-ல் இன்னன்ன வகையில் தான் அந்த ஸ்தாபனங்கள் செலவு செய்ய வேண்டுமென திட்டமிடுவது முன்னுக்குப் பின் முரணாக இருக்கிறது', என்று அதில் கூறியிருக்கிறது.

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SRI V. M. RAMASWAMI MUDALIYAR:—"Sir, I want some enlightenment from the Hon. Minister. Sir, while the Hon. Minister was speaking on hon. Sri Varadachari's amendment, he said that in utilizing the surplus funds, the local area committee or the trustees would be generally consulted. Sir, I feel to see any such provision in the whole of clause 64. Sir, I read the whole of clause 64 from beginning to end once, twice and thrice; I do not find anywhere any provision for such consultation. As a matter of fact, clause 64 (4) says only this—

"(4) The order of the Deputy Commissioner under this section shall be published in the prescribed manner and on such publication shall, subject to the provisions of section 66, be binding on the trustee, the executive officer and all persons having interest."

Now, the words 'prescribed manner' will mean only pasting the notice on the notice board of the office of the Deputy Commissioner.

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"I want, Sir, some machinery, I hope the Hon. Minister will agree with me, should be provided for the Deputy Commissioner to consult or ascertain the local wish as to how the surplus should be utilized. For, surely, the wishes of the people who contributed to that should be ascertained."

MR. SPEAKER:—"I suppose the hon. Member is not speaking on the amendment now."

SRI N. S. VARADACHARI:—"No, Sir. I fail to see any machinery provided in the Bill to ascertain the wish of the people as to how the surplus fund should be utilized. Though the Hon. Minister in opposing the amendment said that the local people would be consulted, I see no machinery for that. So I want a machinery should be created to ascertain the local wish on the proper utilization of the surplus fund."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I have not been able to follow the connexion between hon. Sri Viswanatham's speech and the amendment he moved. Of course, he did not move his first amendment. The second amendment is clearly out of order. It is the third amendment he has moved. Under that he wants to substitute the words 'apply to the court praying for order' for the words 'by order direct'. Now the clause as amended, as per his amendment, would read thus—

The Deputy Commissioner may, on being satisfied that the purpose of a religious institution has from the beginning been, or has subsequently become, impossible of realisation . . . apply to the Court praying for order that the endowments of the institution or such surplus as is declared to be available . . . be appropriated to all or any of the following purposes, namely

So that what his amendment means is that the Deputy Commissioner must apply for an order from the court for the proper utilization of the surplus fund, for any of the purposes mentioned in the sub-clauses that follow in the clause. But what he argued was that it should not be used for any of the purposes mentioned there. That is what I understood from his speech; or to put it in another way, that is what he heard him to say. While supporting hon. Sri Varadachari's amendment he argued that any surplus that was left of the funds should not be used for any purpose other than that for which the institution was founded, and finally he said that the Deputy Commissioner should ask the Court for an order as to how the surplus fund should be utilized. Sir, that is not the way in which the surplus fund should be used. So I cannot accept his amendment.

"Then, Sir, as regards hon. Sri Ramaswami Mudaliyar's point of inquiry, it is true, the clause reads, 'The Deputy Commissioner may . . . by order direct that the endowment, etc.' Sir, we have the same wording in the existing Act. I am not able readily now to place my hand on the exact section. What has actually been happening till now is, the Board has permitted diversion of funds very rarely on its own motion; it has been mostly doing it on the recommendation of the trustees asking for permission to

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divert the fund. Where they wanted permission, that was given. So, even when there was no provision, the practice was to consult the trustees. Therefore, what the clause means is, the Deputy Commissioner, if the trustee asked for it, may order, etc."

SRI V. M. RAMASWAMI MUDALIYAR:—"I wish rules are made in that behalf under this measure."

THE HON. SRI K. MADHAVA MENON:—"There is provision for that in the Bill; but I am not able readily to lay my finger on the particular clause. Anyway, this clause does not prevent the normal course of a trustee taking the initiative or an area committee taking the initiative in the matter."

MR. SPEAKER:—"The question is—

In line 2, after the words "religious", insert the words "or charitable".

For the words "by order direct", substitute the words "apply to the Court praying for order".

The amendments were lost.

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I beg to move—

In sub-clause (1)—

in the opening paragraph, omit

(a) the portion beginning with the words "or that the machinery for effectuating such purpose" and ending with the words "there is a surplus", and

(b) the words "or such surplus as is declared to be available, as the case may be,".

Sir, what the meaning of the words now sought to be omitted, is, when the machinery for effectuating such purpose has failed or no longer exists; that, we are advised is wrong, because if the machinery has failed, the business of the Government would be to create a machinery and not use the funds of the institution for any other purpose; so, a sentence like that in the clause is wrong; for, the business of the Government is, if a particular endowment has failed to fulfil its purpose, its funds should be utilized for any other purposes specified in the present clause. Therefore, Sir, we are advised to omit those words.

"Then, Sir, we are advised that the expenses for the normal functioning of an institution, for the repair and renovation of the building and so on, need not be specifically mentioned in the clause. For, we are advised that these are parts of the normal expenditure for running any institution, and so, it is wrong to have these words in the clause."

MR. SPEAKER:—"Government amendment moved. Hon. Sri Viswanatham has given notice of an amendment to omit Government Amendment No. 32. The hon. Member, instead of moving his amendment, may it oppose."

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SRI T. VISWANATHAM :—" Sir, I did not hear the Hon. Minister when he moved his amendment, as he turned himself away very much to the other side and also spoke away from the mike. I oppose the motion for all the reasons I have already given in my previous speech, but more vehemently than last time."

SRI N. S. VARADACHARI :—" Sir, I wish to say just a few words in clarification. The Hon. Minister read out the clause as amended as per his amendment. It will run thus—

"The Deputy Commissioner may, on being satisfied that the purpose of a religious institution has from the beginning been or has subsequently become, impossible of realization, by order, direct that the endowments of the institution, etc."

Suppose there was a temple and it got ruined; naturally one cannot fulfil the purpose of the institution unless he rebuilds it. But for rebuilding it, there may not be anything in the funds of the temple. Then, the question under this clause arises. But under clause 32 a wise trustee has powers to allot funds for the repair, for securing the health, safety or convenience of pilgrims and worshippers and for purposes of sanitation and so on. In all these things, the Deputy Commissioner has no say in the matter. It is good so far as it goes. It is only after the ordinary purpose of the institution is served, which purpose includes repair and renovation of the building, the surplus should be suitably utilized. Now in the accounts, there would be a reserve fund created generally. Now, one cannot repair or renovate a building except when it has gone out of repair; and it is not every year that such a thing would take place, or a necessity for it would arise. So, generally a reserve fund in the budget is created, called repair reserve or renovation reserved fund, and then, there will be a certain amount set apart for that purpose in that fund. That cannot be said to be surplus. Then every trustee has to spend money for the fulfilment of the purpose of the institution and certain moneys for the safety, health and comfort of the worshippers. That also is outside the scope of this clause 64. So, in all these abovementioned matters the trustee has an initiative and has got control. The whole Bill is wisely framed in that regard. Now, what is the surplus that remains over?

"I do admit that there may be a surplus sometimes. It is not as if there will not be a surplus. The clause says that the Deputy Commissioner may, by order, direct. The Hon. Minister agrees that there may be some machinery for consulting, and ascertaining the opinion of, the persons having interest. A provision to that effect is not found in the Bill. He said that he would look into this matter. Saying that the Board's procedure up till now has been that and that it will be continued hereafter is a mere *obiter dicta*. That will not do. The Government must make some provision in the rules. As I understand the sub-clause there is no provision for making rule. Specific provision must be made in the rules for consultation with the trustees or persons having interest in regard to utilization of surplus funds."

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"Sub-clause (4) reads—

"The order of the Deputy Commissioner under this section shall be published in the prescribed manner and on such publication shall, subject to the provisions of section 66, be binding on the trustee, the executive officer and all persons having interest."

The order is binding on all persons concerned whether they like it or not. The persons concerned have no voice either in the declaration of the surplus or in the manner of utilizing that surplus. Is it fair to make the order binding when they had not been consulted and they had no voice in the matter? This is a very serious breach of etiquette. We should not make things binding without giving an opportunity to a section of the world, however small it may be, to make representation which may be heeded to in time. I would like that some method should be prescribed for ascertaining the wishes of the local people through the Area Committee or the trustees and then it will be wise to make the order of the Deputy Commissioner binding on all the persons concerned.

"The proviso to sub-clause (1) says 'that the endowments or surplus of a temple founded and maintained by a community shall be utilized for the benefit of that community on any or all of the purposes specified.' It is a good safeguard. It fulfils the object of my previous amendment which was rejected. When endowments are created for the fulfilment of certain purposes, the funds should not be spent on other than the original purposes. The proviso will be operative in most cases except in the case of temples in which the whole of the general public may be said to have an interest or leading temples."

THE HON. SRI K. MADHAVA MENON :—" The hon. Member did not raise any objection to the amendment that I have proposed. Even after my amendment is accepted, provision for ascertaining the opinion of persons having interest remains an open question. I will examine the matter."

MR. SPEAKER :—" The question is—

"In sub-clause (1)—

in the opening paragraph, omit

(a) the portion beginning with the words "or that the machinery for effectuating such purpose" and ending with the words "there is a surplus", and

(b) the words "or such surplus as is declared to be available, as the case may be,"."

The amendment was carried.

SRI T. VISWANATHAM :—" Sir, I move—

"Delete sub-clause (1) (b)."

This is a very simple amendment. As I have already said in speaking on hon. Sri N. S. Varadachari's amendment, I want these religious institutions to be centres of attraction not only for the pilgrims of this country but also for the visitors coming from the other parts of the world. People from far-off countries visit

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our temples. I want these institutions to be renovated and maintained in such a way that they shall be a wonder of the world. The Commissioner or Deputy Commissioner may save a thousand rupees here and a thousand rupees there and spend it for other purposes according to his pleasure and discretion. If I am asked to utilize the funds of the Tirupati temple, I shall renovate the temple and improve the surroundings in such a way as to make connoisseurs of art say 'Here is a beautiful place which everybody should visit.'

Whether as a shelter from the din and noise of the world for souls that seek the place of God or as a work of art, the institution must be kept in an ideal condition. This cannot be done if the funds are frittered away. In this country, which is noted for the great religious light and lustre which it has shed on the world, people will be surprised to find the deplorable condition in which the flooring, entrances, steps, corridors, stands and the surroundings of temples are kept. Surely the available surplus must be utilized on improving the upkeep of the institution. It may be very good to start a university. It is the duty of the Government who collect taxes from everybody and not only from the pilgrims to start as many universities as are necessary. They do not give even paltry sums to local bodies for opening elementary schools. They do not allow the Corporation and the municipal councils to increase the salary of the teachers even if they are prepared to pay from their own funds. But they are ready to pounce upon the funds of a temple or an endowment and utilize them for starting universities. The Government shirk their responsibility and divert the attention of the public by this method. A university may be manned by professors who may differ from the tenets of the institution to which the funds belong, and subjects unconnected with those tenets may also be taught there. Temples which have been built thousands of years ago require lakhs of rupees to expend along the lines intended by the founders. The real surplus if any must be kept as a reserve fund and used as and when necessary for improving the temple and keeping the surroundings in a neat and beautiful condition. Only then the pilgrims who go there with devotion will find a haven of peace, a shelter for afflicted souls and an attraction for the connoisseurs of art. Ancient temples built by the skill of the fingers of the sculptor and the architect are the pride of our country and they stand with great sublimity and majesty defying the onslaughts of modern civilization. As children of that faith, it is our duty to renovate and keep the temples and their surroundings in a neat condition. One technique of the modern governments is to take hold of a laudable object like the founding and maintenance of a university and use it as a handle for diverting temple funds. The Government should start universities with public funds and not pounce upon temple funds for the purpose. In the great temples which have been under the direct superintendence and management of the Endowments Board for the last twenty years, one finds that the walls and the idols are not kept in a good condition. Generally walls are given a thick coating of chunam plaster and whitewashed. That is the way in which these temples

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are maintained. Is that the purpose for which the sculptors and architects of old built those temples? It is our duty to keep the temples and the idols in them in a good condition. These idols are life-giving and sustain the faith of millions and millions of people. For what better purposes can the surplus funds be utilized than the renovation and proper maintenance of temples? Just above the basement in the great temple at Simhachalam, some inscriptions of a most important historical event are engraved and nobody takes care of them. The trustee does not take any interest. Because the temple belongs to a hereditary trustee, the Board does not have an effective voice and does not take any interest. Coco-nuts are dashed on the inscription and over the inscription stone. Luckily some thirty years ago, Government Archaeologists went and copied those inscriptions, and but for this there would have been no trace left. Several letters are now wiped out; they are not to be seen. Once I went to the Madhurai temple. There is the one-thousand pillared mantapam which is a wonder of the world. The top of it was kept in a dilapidated condition and several lakhs of rupees would be required to renovate it. When that is the state of affairs, should it be left to the discretion of the Deputy Commissioner to say that here is a surplus and that he will give it for this or that university? I have great objection to temple funds being utilized for other purposes, however laudable they may be. The Government cannot fail in their duty of starting universities and throw the burden upon temple funds."

SRI L. N. GOPALASWAMI:—"Sir, I second the amendment."

MR. SPEAKER:—"The hon. Member himself has given notice of a similar amendment."

SRI L. N. GOPALASWAMI:—"If this amendment is rejected, then I will move my amendment."

"I want the Government to realize the vital argument of hon. Sri T. Viswanatham. In dealing with the institutions themselves, we should not be carried away by the objects to which their surplus funds are to be diverted. These institutions were founded and are being maintained by pious and devout Hindus. We are proposing to divert the surplus funds of Hindu religious institutions to purposes like the maintenance of universities and similar institutions in whose syllabus there is some provision, however inadequate it may be, for the teaching of Hindu religion. Here I am reminded of the story of Ramadas. Perhaps it is the nemesis that we are now having. When Ramadas was in the employ of the Moghul Badhusha, he diverted all the State funds for building the Sri Rama's temple at Bhadrachalam. He thought that building of Rama's temple was very good and that State funds could easily be diverted to that."

"It is quite the reverse process that we are now doing. We think that it was never the intention of the donors of these religious institutions that any of their surplus funds should not be utilized for the maintenance of universities. Universities should be maintained

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out of other funds and grants by the Government. We should have in a university provision not only for all the Indian languages, but also for the French, English and other foreign languages also. They should not be taught at the cost of the Hindu religious and charitable endowments. Therefore I want the Government to bear in mind what my hon. Friend Sri T. Viswanatham has pointed out, namely, that there is ample scope for spending some lakhs and crores of rupees from our religious institutions for the renovation of these temples themselves and making them as glorious as they were in the past. But under the pretext of maintaining universities, which have now become a glamour with some set of people in these days; and by tacking on to it certain other things as mentioned in this provision, such as provision for the study of Hindu religion, philosophy or sastras, etc., let not the Government divert the surplus funds of temples and other Hindu religious endowments to them. It is not right and proper to divert these surpluses of religious funds which are intended exclusively for being utilized for Hindu religious purposes to other public and non-religious purposes and the Government must bear this point in mind before making such diversion."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, my hon. Friend Sri T. Viswanatham just a few minutes ago said that we must be serious in these matters. I entirely agree with him that we should be serious in this matter and not simply treat these things in a lighthearted fashion. I would therefore appeal to my hon. Friend also to be serious in these matters."

"Sir, only a few minutes ago, my hon. Friend Sri N. S. Varadachari moved an amendment for the substitution of the present clause 64 by a new one and my hon. Friend Sri T. Viswanatham, with all the eloquence at his command seconded that amendment. That amendment reads as follows:—

"For the existing sub-clause (1) of clause 64, substitute the following:—

"64 (1) The Deputy Commissioner may, on being satisfied that the purpose of a religious institution has from the beginning been or has subsequently become, impossible of realisation, or that the machinery for effectuating such purpose has failed or no longer exists, or that after providing adequately for the purposes of the institution and after setting apart a sufficient sum for the repair and renovation of the building connected therewith, there is a surplus, by order, direct that the endowments of the institution or such surplus as is declared to be available, as the case may be, be appropriated to the following purposes, in the order of priority, namely:—

(d) the establishment and maintenance of a university or college or other institution in which special provision is made for the study of Hindu religion, philosophy or sastras or for imparting instruction in Hindu temple architecture."

The amendment which he has now moved is for the deletion of the very same sub-clause, which was inserted by the Select Committee. For the benefit of the House, let me here read what the sub-clause says—

"64 (1)(b) the establishment and maintenance of a university or college or other institution in which special provision is made for the study of Hindu religion, philosophy or sastras or for imparting instruction in Hindu temple architecture."

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Now you will find, Sir, that this sub-clause is the same, word for word, as the one that was sought to be substituted by the amendment of my hon. Friend Sri N. S. Varadachari, and that was vehemently supported by my hon. Friend Sri T. Viswanatham. Is it because it has been recommended by the Select Committee that it must be deleted or is it any want of seriousness in my or on the part of my hon. Friend Sri Viswanatham, who is now opposing this sub-clause, which is identically the same as the one which he seconded a minute ago? Sir, it is really very difficult for me to follow his line of reasoning, because in one breath he spent all his eloquence in supporting the amendment, while at the next moment, with the same eloquence he has opposed the exactly identical clause, by asking us, 'What have you done for the Simhachalam temple or the Madhurai temple for its thousand-pillared mantapam? Why should you not renovate those things?'

"Sir, let me, in this connexion, request hon. Members of the House to read clause 75 of the Bill as recommended by the Select Committee. There they will find that the Select Committee has been very careful about the repair and renovation of the buildings connected with the religious institutions. We have particularly retained sub-clause (c) of clause 75 (1) (2) which states that every budget prepared by the trustee of every religious institution shall make adequate provision for—

'the repair and renovation of the buildings connected with the institution the provision made under this clause not being less than ten per centum of its income in the case of an institution assessed to contribution under section 81 for the previous fasli year on an income not exceeding three thousand rupees, and not being less than 25 per centum of its income, or 10 per centum of its income up to three thousand rupees and the whole of the excess of its income over that amount whichever is less, in the case of any other institution;'

So that, Sir, you will see that we have fixed what the minimum budget provision should be for the renovation and repair of the buildings connected with the temples and religious institutions.

"Again, Sir, in clause 32 which we have already passed, we have said—

'(1) The trustee of a religious institution may, out of the funds in his charge, after satisfying adequately the purposes of the institution, incur expenditure on arrangements for securing the health, safety or convenience of disciples, pilgrims or worshippers resorting to the institution.

(2) In incurring such expenditure, the trustee shall be guided by such general or special instruction as may be given by the Commissioner or in the case of an institution over which an Area Committee has jurisdiction, also by such Committee.'

Therefore, Sir, we have already made provision for all these things and we have also definitely made provision in clause 75 for the renovation of temples, like Simhachalam or the Madhurai Aiyarakal Mantapam which my hon. Friend Sri T. Viswanatham wants. But because of the accident of the circumstances that the Select Committee has chosen to include the establishment and maintenance of universities as one of the items to which the surplus funds of religious institutions can be diverted, my hon. Friend Sri T. Viswanatham has wasted so much of his eloquence for the deletion of this sub-clause while, as I have already pointed out,

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he has supported an identically same amendment with the same amount of eloquence. That is my answer to my hon. Friend Sri T. Viswanatham, Sir."

SRI T. VISWANATHAM :—" Mr. Speaker, Sir, I am very sorry that my hon. Friend the Minister for Law, Sri K. Madhava Menon, has not understood the purpose of my alternative amendment at all. No doubt, we propose a number of amendments, and in case they are not accepted, we have every right to propose alternative amendments. What is wrong in it? Now, I move a proposition for the deletion of this clause, and that is defeated. Is it not open to me to amend a particular phrase in that clause, even when my previous amendment for the deletion of the entire clause has fallen through? This is only an alternative amendment. Then, what is the use of rising up like a hero and saying, 'I can say there is no seriousness in this amendment at all.' I can tell my hon. Friend, the Law Minister, that my alternative amendment is perfectly in order. It is not that I am not serious over it. It is because I am so serious that I am standing up here from morning till evening proposing amendments, speaking on the amendments and opposing the clauses, whenever I feel I should do so. I think the purpose of the opposition has been served, because the Government have come forward with so many amendments in a line with my reasoning still, after the Select Committee has reported on the Bill. I still believe that the Government will take advantage of some of these amendments even at this late stage, in order to make the Bill a little more satisfactory and a little more acceptable. Or, the Government will themselves have to bring amendments of their own at a later stage, even as they have been doing in respect of every other piece of legislation.

" But that apart, Sir, I must submit that the remarks that he has made of me, in regard to my alternative amendment are not at all charitable, and I can only say that he did not do justice to himself, that is because he is a lawyer. But surely, I can tell my hon. Friend that alternative amendments can always be moved when there is no chance of the original amendments being accepted and we are perfectly in order in doing so. But simply because the Government are not prepared to accept the alternative amendments, it does not mean that I cannot move them, or support that amendment, which we think, is an improvement on the original provision of the Bill. The object of the alternative amendment is this, that if the Government do not accept the whole of it, they may at least accept a portion of it. That is why I have been urging that the surplus funds of the temples should be utilized only for purposes connected with the temple, either for the convenience of the pilgrims or for the renovation of the buildings and not for other objects, unconnected with the temples. I know that renovation cannot be done with Rs. 500 or even with Rs. 5,000. You have to accumulate all the available funds from year to year. You may require crores of rupees if you want to carry out the entire renovation of all temples. Since that is not possible, you can at

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least see that the temples are kept in a neat condition, that the gopurams are restored that the corridors are repaired, that the tanks are cleaned and that the temples are made to give presentable appearance, with the available surplus. And my own opinion is that the Deputy Commissioner and the Commissioner will be well-advised to accumulate these surpluses from year to year and utilize such accumulations for the purpose of the institutions themselves so as to make them centres of attraction for the people of the country as a whole."

THE HON. SRI K. MADHAVA MENON :—" Sir, my hon. Friend Sri T. Viswanatham asked me, 'Is it not open to me to move an amendment for the deletion of this clause and if that is not accepted, to move an alternative amendment to it?' I never said that it was not open to the hon. Member to do either, but I simply wanted to point out the logic and consistency of his action in supporting the amendment of my hon. Friend, Sri N. S. Varadachari, for the substitution of the present clause 64 by a new clause which contained a provision which was identically the same as the present sub-clause, and a minute later, in moving an amendment for the deletion of the same sub-clause. That is all what I wanted to do and I said that it was difficult for me to understand the purpose of my hon. Friend in moving this amendment."

MR. SPEAKER :—" The amendment is—

'Delete sub-clause (1) (b) of clause 64.'"

The amendment was lost.

SRI L. N. GOPALASWAMI :—" Mr. Speaker, Sir, I move the amendment standing in my name, namely—

'In sub-clause (1) (b), for the words "in which special provision is made", substitute the words "specially intended".'

" Here again, Sir, there is another instance where I have had an occasion to support the proposition for the deletion of the entire clause, but that amendment having been rejected, I have now sought to move an amendment for the substitution of certain words in it. If my present amendment is accepted, the sub-clause would read thus—

'the establishment and maintenance of a university or college or other institution specially intended for the study of Hindu religion, philosophy or sastras or for imparting instruction in Hindu temple architecture.'

The object of the amendment is to make the position clearer that the surplus temple funds should be utilized for the Hindu religious purposes only and not for non-Hindu religious purposes. If the Government accept the position that there is ample scope and that nothing has till now been done for the propagation of the Hindu religion, then this amendment only seeks to facilitate the Government to devote the surplus temple funds available solely for that purpose, and on institutions specially intended for the study and propagation of Hindu religion, philosophy and sastras.

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As I have already pointed out, the present provision in this clause appears to be simply a cloak for diverting the surplus funds of religious institutions for the maintenance of universities, which have only to make a special provision for the study of Hindu religion. It may be that this provision for the study of Hindu religion is an one-hundredth part of the activities of the university or it is one of the several subjects taken up by the university. Merely the mention of a special provision for the study of Hindu religion is not, in my opinion, enough to enable the Government to utilize the surplus funds for the general object of the university. The university should be specially intended for the study of Hindu religion, philosophy and sastras and that is the point that should be made clear, and that is the object of my amendment.

"Sir, another point that I want the Hon. Minister to clarify in the course of his reply is this, whether this surplus may be diverted to the institutions that are established and run and maintained for the study of Hindu religion, by the institutions themselves, or whether they can be given over as grants to other institutions or other persons who run such institutions for study of religion, because I feel that the wording is very vague. I, therefore, want a categorical statement from the Hon. Minister that these funds would be given to such institutions run by religious institutions themselves and not to institutions run by other agencies."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I second the amendment moved by my hon. Friend, Sri L. N. Gopalaswami. The Hon. Minister will kindly see that there is no conflict between what I have said and what I am going to say. Now at least I hope that I may be able to get some favourable reply from the Hon. Minister, because he has not been able to agree to my original amendment for the deletion of this clause altogether. Sir, we have always been saying the surplus funds of these religious institutions should be utilized mainly in the interests of and solely for the purpose of the religious institutions themselves. That is what the amendment of my hon. Friend, Sri L. N. Gopalaswami means and that comes into line with what I have in mind. That is the reason why I have stood up to second the amendment. As I have already observed, there is no use spending the surplus funds of the temples on any university. The Government can help universities out of their general funds. These surplus funds should not be treated as part of the consolidated funds of the State. What I suggest is that these moneys, having come from Hindu religious institutions should be spent on universities which are specially intended for the propagation of the Hindu religion, Hindu sastras and tenets of the Hindu sastras. That is the simple purpose of this amendment. I hope that the Hon. Minister will be good enough to accept at least this amendment."

SRI N. S. VARADACHARI:—"Mr. Speaker, Sir, I should like to say just a word on this amendment. The Hon. Minister

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will see that 'the establishment and maintenance of a university or college or other institutions in which special provision is made for the study of Hindu religion, etc.' will not fulfil the object which my hon. Friend, Sri L. N. Gopalaswami, has in view. The idea is that even if a special provision for the study of Hindu religion is not made at present, the university can, at some future date, ask for the surplus funds of the temples, after making such a provision in its curricula. That is to say, the university may not have any provision at present for the teaching of Hindu religion. But simply for the purpose of grabbing at a grant, later on it may make some provision merely to satisfy the requirements of clause 64. It is just to avoid that I think that my hon. Friend has moved this amendment. If so, I think it is a very reasonable amendment and it may be accepted."

(At this stage several hon. Members rose in their seats to speak.)

MR. SPEAKER:—"We have got thirty amendments and so I cannot allow more than three Members to speak on each."

THE HON. SRI K. MADHAVA MENON:—"Sir, if the amendment of hon. Sri Gopalaswami is made, the clause would read—

'(b) the establishment and maintenance of a university or college or other institution specially intended for the study of Hindu religion, philosophy or sastras or for imparting instruction in Hindu temple architecture;'

That means the institution must be solely intended for the study of Hindu religion, philosophy or sastras, or for imparting instruction in Hindu temple architecture. Then the university should not have any science or literature taught there. The present Tirumalai-Tirupati Devasthanam Act contains an identical provision that we have here. The devasthanam is running a college though not a university. If Sri Gopalaswami's amendment is to be accepted, that college should be closed. The funds of that devasthanam cannot be utilized for that college, because they must be used only for institutions solely intended for the study of Hindu religion, etc."

SRI L. N. GOPALASWAMI:—"It is 'specially intended' and not 'solely intended'."

THE HON. SRI K. MADHAVA MENON:—"The establishment and maintenance of a university or college or other institution which is specially intended for this purpose means that it can be intended only for that purpose and nothing else. The maintenance of an institution specially intended for a particular purpose means that you cannot have any purpose other than the purpose for which it is specially intended. Therefore, I cannot accept the amendment."

SRI V. RAGHAVAYYA:—"Suppose we use the words, 'primarily intended'."

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THE HON. SRI K. MADHAVA MENON :—" If, as hon. Sri Raghavayya says, it means 'primarily intended' then it is quite different. As it is, I am afraid I cannot accept the amendment."

SRI L. N. GOPALASWAMI :—" Sir, if the use of the words 'specially intended' will, according to the Hon. Minister, preclude the teaching of other subjects like science and arts in the college, then even the clause as it stands, with the words, 'in which special provision is made' will preclude that. Because when you say that special provision is made for something, it means no other provision can be made. I can only meet the Hon. Minister's argument by using his own argument against him. Sir, it is sometimes said when objection is raised to any provision, that it is found in the old Act and that it may be continued. Whenever the Government want to have a thing they say that it is found in the old enactment. Anyhow, Sir, I do not see any reason why the money of the Hindu disciples and worshippers should be diverted to other objects like university education, however laudable they may be."

THE HON. SRI K. MADHAVA MENON :—" Sir, if the hon. Member cannot understand the difference between the words 'institution in which special provision is made' and 'institution specially intended for', I cannot help it."

The amendment was put and lost.

Sub-clause (1) (c).

SRI L. N. GOPALASWAMI :—" Sir, I move the following amendment—

'In sub-clause (1) (c), for the word "also", substitute the word "alone".'

Sir, this provision, if I may say so, is a very dangerous one. It says—

'(c) the establishment and maintenance of educational institutions where instruction in the Hindu religion is also imparted to Hindu students thereof.'

The Hon. Minister cannot say now that this will not include Christian institutions and Muslim institutions. The very clause says that. It comes to this that the money of the Hindu worshippers can be utilized for the purposes of propagating Muslim religion and Christian religion in their own institutions provided there is some provision made in those institutions for teaching Hindu religion also to the Hindu students in those institutions. It is a thing which is unheard of. I am not able to comprehend it. It is really distressing to Hindus like me who feel that the Government are not only attempting to take control of Hindu religious institutions by this Bill, but they are also trying to appropriate the properties belonging to Hindu religious institutions to institutions of other religions like the Muslim and Christian institutions provided the Hindu section of the students

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"Sir, there is also another point. According to the present Constitution of India, educational institutions are prohibited from teaching religion in any shape or form. I want to know, therefore, how the Government can reconcile a provision like this for the spending of funds of Hindu religious institutions on educational institutions which are prohibited by the Constitution from imparting religious instruction, with the provision in the Constitution. I, therefore, strongly object to this clause. I press my amendment seeking to provide that the funds should be spent on the establishment and maintenance of educational institutions where instruction in the Hindu religion alone is imparted to students thereof."

SRI M. S. PATTABHIRAMIAH :—" I second the amendment. Though it is only a small verbal amendment, it is a very important amendment. In this connexion I wish to draw your attention to the incidents which happened in the Venkateswara Arts College, Tirupati, on the Deepavali day. It is an institution managed by the Tirupati Devasthanam. But the picture of God Venkateswara was burnt by the students on that day. It is an institution where instruction in Hindu religion is given. But any Charvaka may call himself a Hindu, enter these institutions and destroy the idol or the ideal or the sentimental object of worship so openly and blatantly and insult our religion. But if it is provided here that the funds should be used only on educational institutions where instruction in Hindu religion only or alone is imparted, such students who though they are born Hindus are not really Hindus will not enter those institutions and destroy Hindu religion, Hindu observances and traditions. As the object of the Bill is to safeguard and protect the interests of these religious institutions which are being mismanaged and whose funds are not properly spent, it is necessary that the funds should not be used for such educational institutions; where the students, though it may be unconsciously or unintentionally, are trained to destroy the object of worship in the temple or the religious institution to which the educational institution is attached. If such a thing is done, it will be really disastrous to the Hindu religion. The Government should take note of this and only religiously-minded people should be admitted to these colleges. We have to see that people who are not devotees or devout Hindus are prevented from taking advantage of such institutions maintained from temple funds."

THE HON. SRI K. MADHAVA MENON :—" Sir, the incident at Tirupati in which some students burnt or destroyed the portrait of God Venkateswara has nothing to do with this clause. These are acts of vandalism. Many acts of vandalism are done even inside temples not to speak of colleges. They are all bad. Some very bad people did it in the college. I find from the papers that they have been dismissed from the college. When some misguided students do some indecent or improper or really

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outrageous thing, proper action should be taken under the rules. But that is no ground for supporting this amendment. Sri Gopalaswami wants that the word 'also' should be omitted and the word 'alone' should be substituted in its place. That means that the money should be spent for institutions where nothing else than instruction in Hindu religion is imparted. That will be the result of the amendment. But the Select Committee decided that the surplus funds of religious institutions, if there are really surplus funds, can be used for imparting secular instruction also. But as these funds belong to religious institutions, we must see that Hindu religion also is taught to the students. My hon. Friend has referred to the Constitution. There are certain rules issued by the Education Department which prohibit religious instruction being imposed upon students who do not follow that particular religion. Even in the case of aided institutions, if they want to teach a religion to the students who do not follow that particular religion, the consent of the parents has to be obtained. If the hon. Member says that instruction in Hindu religion alone is to be imparted compulsorily, it must be only to the Hindu students of those institutions. We cannot impose such instruction upon students of other religions. These being secular institutions aided by Government, admissions cannot be confined to Hindu students only. Other students also will have to be admitted, in which case Hindu religion is to be taught to the Hindu students alone. Therefore, Sir, Sri Gopalaswami's amendment cannot be accepted."

SRI V. RAGHAVAYYA :—" Sir, I want the Hon. Minister to explain to me what is the difference between having 'also' and having 'alone' in this clause. If you say Hindu religion alone is taught, you cannot teach Christianity, Jainism and so on. If religious instruction in general is to be imparted, then you may say that instruction in Hindu religion 'also' is imparted. The Hon. Minister's objection to Sri Gopalaswami's amendment is that it would make religious instruction in Hindu religion compulsory in those institutions. The amendment of Sri Gopalaswami does not make it compulsory. It only says that instruction in Hindu religion alone is imparted to the students. I do not know what is the difference in practice between the two words and why the Hon. Minister is fighting shy of accepting the amendment."

THE HON. SRI K. MADHAVA MENON :—" It is not a question of fighting shy. If the word 'also' is there, it means that Hindu students are given instruction in all other subjects and they are also given instruction in Hindu religion. But if the amendment is accepted, it will mean that Hindu students can be imparted instruction in Hindu religion 'only' and nothing else. The one says that you should teach religion to Hindu students while the other says that you should teach Hindu religion alone and nothing else."

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SRI T. VISWANATHAM :—" Sir, sub-clauses (b) and (c) should be read together. There are so many objects. The Government have made provision for other institutions where other subjects will also be taught. The acceptance of the amendment of Sri Gopalaswami will not mean any conflict. On the other hand, it will help the Government."

SRI L. N. GOPALASWAMI :—" Mr. Speaker, Sir, this sub-clause can admit of only two interpretations. As my hon. Friend Sri Viswanatham said, this will be a complement to sub-clause (b). Sub-clause (b) provides for the establishment and maintenance of a university or college or other institution in which special provision is made for the study of Hindu religion, philosophy or sastras, etc. Sub-clause (c) provides for the establishment and maintenance of educational institutions where instruction in the Hindu religion is imparted. This can be interpreted to mean that it can go to the help of educational institutions where besides Hindu religion, other subjects and religions can also be taught. The Hon. Minister's objection to my amendment was this. If my amendment is to be accepted, then, nothing else than Hindu religion can be taught. The purpose of sub-clause (c) so far as I am able to understand, is to help such institutions only that impart education in religion. Because in view of the Constitution, no other public educational institution can impart education in religion. Sub-clause (c) should be a complement to sub-clause (b) and should help such of the institutions that are interested in teaching people in religion. If that be so, according to my interpretation, it can benefit and help the teaching of Hindu religious education and not any other education as may be suggested by sub-clause (c). My second point is, that even if we say that Hindu religion alone will be imparted, there will be no bar to other subjects being taught if that is possible. My amendment only makes this point clear. It will be compulsory so far as Hindu students are concerned that Hindu religion alone should be taught; but there is absolutely no objection for any other subject being taught. Of course, this will be subject to the Constitution and has to be examined whether the Constitution will allow that or not. As the money comes from Hindu worshippers, I want that Hindu religion alone should be imparted and not any other religion."

THE HON. SRI K. MADHAVA MENON :—" Sir, there is no connection between sub-clauses (b) and (c), and sub-clause (c) is not a complement to sub-clause (b). Sub-clause (b) deals with the establishment and maintenance of a university or college or other institutions similar to them. There are educational institutions which are neither universities nor colleges. There may be a high school. In sub-clause (c), the wording is 'the establishment and maintenance of educational institutions where instruction in the Hindu religion is also imparted to Hindu students thereof.' If Sri Gopalaswami's amendment is accepted, the result will be that in a particular institution nothing else can be taught to the Hindu

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students other than Hindu religion: Hindu religion alone can be taught to the students. Therefore, we cannot accept this amendment."

MR. SPEAKER:—"The question is—

In sub-clause (1) (c), for the word "also", substitute the word "alone"."

The amendment was lost.

Sub-clauses (1) (f), (g), (h) and (i).

SRI T. VISWANATHAM:—"Sir, if you will allow me, I will move all my amendments to sub-clauses (f), (g), (h) and (i) together as they relate to the deletion of one word, viz., 'Hindu'."

MR. SPEAKER:—"The hon. Member can do so as it will save the time of the House also."

SRI T. VISWANATHAM:—"I move—

"That in sub-clause (1) (f) the words "for Hindu children", in sub-clause (1) (h) the words "Hindus" and in sub-clause (1) (i) the words "for the benefit of Hindus" be deleted, and that in sub-clause (1) (g) for the word "Hindus" the word "persons" be substituted."

When we come to these sub-clauses, we come to a different sphere of thought; a different plane of consideration. It is not a question of culture, it is not a question of religion. My amendment with respect to these clauses relate to the dropping of the word 'Hindus', from these clauses. These four sub-clauses relate to a process of thought which is not connected with merely religion or religious observance. The Commissioners are authorised to distribute what are called surplus funds. They have got under the clause different objects for which they can make their grants. Suppose they have ten thousand rupees. In their discretion, the authorities can choose to give grants from out of this ten thousand rupees to any institution they may like. They may give a thousand rupees for the propagation of religion, they may give another thousand to some university fund and they may give a thousand rupees to an institution where merely veda is taught. When the Hon. Minister said that it would be impossible to think of any institution where Hindu religion alone will be taught, I was not able to understand him. There are so many institutions even now where only vedas and sastras are being taught. These are not Government institutions governed by secular rules and other rules. The Commissioner can very well be authorised to give ten rupees or hundred rupees to such institutions and there will not be any difficulty. I was not able to understand why the educational rules and other similar arguments were advanced by the Hon. Minister. So the amendment of Sri Gopalaswami could have been accepted and I don't know why the Hon. Minister could not accept it. But when

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we come to sub-clauses (f), (g), (h) and (i), we come to a different plane of thought. Here, we leave philosophy, we leave specialized religious observance and we come to the humanitarian level. We come to a humanitarian plane, a different one altogether. When we deal with orphanages, destitutes and poor people suffering from leprosy, and poor homes for destitutes who are physically disabled and helpless and when we deal with hospitals and dispensaries, I submit that we come to a different plane of thought. Here let us not make any distinction between Hindus and non-Hindus. It may be that the money for these institutions might have come from Hindu worshippers. My submission is that these surplus moneys should go to the help of destitutes, whether they be Hindu destitutes or non-Hindu destitutes. It should not matter whether he is a Hindu leper or non-Hindu leper. When a man is suffering from any disease and goes to a hospital, let it not be scrutinized whether he is a Hindu or not. Wherever there are orphanages or leper asylums or homes for the poor destitutes and disabled and helpless destitutes and wherever there are hospitals which give free medicine to the hundreds of suffering men and women of this State, I submit that grants from this surplus fund may also be made to such institutions also without making any distinction between one religion and another. The previous sub-clauses deal with religion and philosophy. The last four sub-clauses deal with humanitarianism. I ask the Hon. Minister to look at these amendments from a humanitarian point of view and accept them. These have nothing to do with Hindu religious endowments, they have nothing to do with the tenets and philosophy of Hindu religion. Our aim should be to help the destitutes, whatever may be their religion. I hope the Hon. Minister will be able to accept these amendments."

SRI V. RAGHAVAYYA:—"Sir, I rise to support this amendment unhesitatingly. I believe that it does not lie in the mouth of the Government, which swears by the secular rules and all that, to raise objection to the amendments just now moved by my hon. Friend Sri Viswanatham. If the present clause was allowed to stand as it is, then there will be administrative and practical difficulties in its enforcement. Suppose there are 20 Christians and 20 Hindus, making a total of 40, in an orphanage. Are we going to deny help to the non-Hindus of this orphanage? Similarly, are we going to deny medical aid and medicines in a hospital to those who are not Hindus? Are we going to refuse help to a few patients who may not be Hindus? If we do that, I am sure it will land us in a quandary, and we will have to face awkward positions. It will present Hinduism in a very grotesque manner to the outside world. Hinduism has never stood for narrow sectarianism in the matter of humanitarian principles. The word 'Hindu' in its correct sense never applied to a section of the people, but applied to a set of principles which are ruling the ideas and ideals in this country. I think it will be very awkward for any Charity or institution to expect that their funds should be

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utilized for only a section of the people and it will be very cruel. So far as this purpose is concerned, we have to be liberal-minded. While we are on this subject, I would like to refer to the scholarships that are granted by the Government to the Harijans. In the case of the Harijan-converts, the Government have not granted scholarships and have withdrawn the concession, and we have witnessed a lot of hue and cry against the same. I for my part will not countenance that Hinduism as a whole will permit of this perverted grant. In the matter of affording relief and help to these poor people, their backwardness alone should be taken into account and persons should not be tabooed simply because they were converted to Christianity. So far as the four sub-clauses are concerned, they say that help should be given to the poor people and destitutes irrespective of the religion to which they may belong. I hope the Government will accept the amendments."

SRI L. N. GOPALASWAMI :—" Mr. Speaker, Sir, I oppose these amendments. Though the object underlying these amendments may be quite good and laudable, we must remember that these Hindu religious institutions get money from Hindu disciples. It may be quite good to say that all are poor and we should help them irrespective of their religion and all that. In such a case, the proper thing for the Government is to say that all these moneys will go into the coffers of the Government and the Government being a secular Government can make no distinction between one asylum, hospital or destitute home and another and spend the money in the manner they may like. I can understand that position. But to ask these religious institutions to set apart moneys for the purpose of helping all people is something to which I am unable to subscribe. Because, it will breed anti-Hindus with the help of that money. Therefore I oppose this amendment in spite of the fact that the object is quite laudable. In this case, we cannot be merely guided by the objects of philanthropy and all that; but we should take into account the very foundation from which the moneys are received by these religious institutions."

THE HON. SRI K. MADHAVA MENON :—" Sir, so far as these amendments are concerned, I do not wish to say anything more than what hon. Member Sri Gopalaswami has said. The amendment suggested for the previous sub-clauses is one extreme and the one suggested for the last four sub-clauses is another extreme. However, I want to answer one remark made by hon. Member Sri Raghavayya, which is quite irrelevant to the issue. I feel I cannot leave that unanswered. He said "

SRI T. VISWANATHAM :—" If it is irrelevant, why should the Hon. Minister reply to it at all? "

THE HON. SRI K. MADHAVA MENON :—" Because hon. Sri Raghavayya raised that point, I must answer that point. He said that concessions were withdrawn in respect of those Harijans who have converted to Christianity. I must point out that it is

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wrong to say like that. No concession has been withdrawn from any Christian because he was a Harijan convert. All the concessions that he might have been enjoying when he was a Harijan, were also enjoyed by him even after his conversion into Christianity. Harijans are getting a particular concession and certain backward communities also are getting concession. However, I cannot agree to the principle of Harijan-Christian. There can be no Harijan-Christian just as there can be no Brahman-Christian. If there can be a Brahman-Christian, then there can be a Harijan-Christian. There is no meaning in saying that concessions were refused to Harijan-converts. As a matter of fact nothing has been refused to them and whatever they were getting before conversion, they used to get even after conversion. It is really very unfortunate that Sri Raghavayya should have brought in this question at all. As he chose to bring in this question, I had to answer it."

SRI T. VISWANATHAM :—" Mr. Speaker, Sir, I am sorry to hear the Hon. Minister say that he had nothing to reply to my amendments except referring to Sri Gopalaswami's speech.

" With regard to the other thing, Sir, he was very accommodating. He took over a few arguments advanced by the hon. Member, Sri Gopalaswami. But all this will not help. I am very serious on this point. The question of religion is different from the question of helping the destitutes and the helpless. We are not looking to the Hindu tenets or the Hindu ideals, or temples or architecture. When I see the festering sore of the leper at my door, when I see the hungry man going in the streets with a begging bowl groaning for a morsel of food, when I see the crippled beggar, with a hand or a leg cut off, shall I say that the surplus which I am going to utilise should not be spent on them because they are non-Hindus? I beg of the Hon. the Minister to reconsider the question. I beg of hon. Members who oppose my amendment to reconsider the question. This is purely a humanitarian business. Let us have breadth of vision for which Hinduism has all along been noted."

THE HON. SRI K. MADHAVA MENON :—" Sir, I am also very serious on this question. (Laughter.) I also see the festering sore of the leper. I also see the hungry beggar. I also see the crippled man with hands and legs cut off. I have every sense of humanity. But, all the same, Sir, there is distinction between educational institutions and orphanages or maintenance of asylum and poor men's homes for the crippled and the disabled. There are very big temples in our State. There are a large number of lepers, physically disabled men and others who live near these temples and who have faith in them. To them, to live near the temples is a sort of solace. In such cases, the Hindu religious institutions would like the lepers, the disabled and the orphan to be looked after by them. The Government are running and giving aid to so many orphanages. But that is a different thing and the Government do not intend to utilise the temple surplus

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for these purposes. That is not the intention of the Government; that was not the intention of the Select Committee. If the amendment is accepted, that will render the object of the Bill infructuous."

MR. SPEAKER :—" The question is—

' That in sub-clause (1) (f) the words " for Hindu children ", in sub-clause (1) (h) the word " Hindus ", and in sub-clause (1) (i) the words " for the benefit of Hindus " be deleted; and that in sub-clause (1) (g) for the word " Hindus " the word " persons " be substituted.' "

The amendment was lost.

MR. SPEAKER :—" I must inform the House that hon. Sri T. Prakasam's motion will be taken up on Wednesday, the 6th December 1950. If discussion is not concluded that day, it will be continued on Thursday, the 7th December 1950."

THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS BILL, 1949 (L.A. BILL
No. 10 OF 1949) —DISCUSSION—cont.

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Sub-clause (1) (f) and (g).

SRI L. N. GOPALASWAMI :—" Mr. Speaker, I move my amendment to sub-clause (1) (f)—

' After the word " orphanages " , insert the word " solely " .

With my amendment the sub-clause will read thus : ' the establishment and maintenance of orphanages solely for Hindu children ; ' .

MR. SPEAKER :—" The hon. Member may move his next amendment also now . "

SRI L. N. GOPALASWAMI :—" Yes, Sir. I move—

' In sub-clause (1) (g), after the word " asylums " , insert the word " solely " .

The reasons for these amendments are identical. My task in the matter of these amendments is made easy by the fact that the Hon. Minister was pleased to agree with me when I opposed the amendment of hon. Sri Viswanatham. He made it very clear then that any money spent out of these trusts and temples should be solely for Hindus and cannot be used for other purposes. I only want to make that position clear by inserting the word ' solely ' after ' orphanages ' in sub-clause (1) (f) and also after the word ' asylums ' in sub-clause (1) (g). Without this amendment, it may not mean that it is intended to help only Hindus. As this money belongs to the Hindus and Hindu worshippers, I say we should see to it that it is made to benefit only the Hindus . "

SRI P. VENKATARAMA AYYAR :—" I second the amendment . "

THE HON. SRI K. MADHAVA MENON :—" The addition of this word ' solely ' in both the sub-clauses (f) and (g) is absolutely unnecessary and redundant. We have mentioned there already that these are for Hindu children and for Hindus . "

SRI L. N. GOPALASWAMI :—" My comment on that reply is that it may be made to mean that it includes orphanages which are not mainly intended for Hindus. It may include orphanages where there are others who are not Hindus. As it is, the sub-clause does not prevent the grant being made for the maintenance of such orphanages. If the Hon. Minister can give us an assurance here that it is only the orphanages of Hindus that will get grants from these funds, I have no objection to withdraw my amendments. Sir, as it is, the Government are to-day giving help to orphanages where there are Harijans along with others in Christian Mission hostels, etc., which, according to our Minister, are entitled to these grants. Such things should be prevented by closing all possible loopholes. I therefore want the Hon. Minister to see that the grants from these funds contributed by the Hindus are made solely for the benefit of the Hindus . "

THE HON. SRI K. MADHAVA MENON :—" Sir, no particular assurance is necessary with reference to a clause like this

THE MADRAS LEGISLATIVE ASSEMBLY.

Tuesday, the 5th December 1950.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVA. SHANMUGAM PILLAI) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BILL, 1949 (L.A. BILL No. 10 OF 1949)—DISCUSSION—cont.

MR. SPEAKER :—" Clause 64 is now for consideration . "

(SRI V. RAGHAVAYYA rose.)

MR. SPEAKER :—" Hon. Members should be aware that when the Speaker is on his legs, they should resume their seats. Only when an hon. Member is called by name, he should speak. We are now taking up the consideration of clause 64. Hon. Member Sri Gopalaswami may move his amendment . "

[Sri K. Madhava Menon] [5th December 1950]

where you say that the surplus funds if any can be used for the establishment and maintenance of orphanages for Hindu children. If such orphanages are established and maintained they can only be for Hindu children. It is not only clear but it is also obvious."

The amendment was put and lost.

SRI T. VISWANATHAM:—"Sir, I move the following amendment:—

'Add at the end of sub-clause (1) (g), the words "or tuberculosis or cancer."

The incidence of cancer and tuberculosis is very high. If we take the moneys of the temples and spend them for purposes outside the purposes of the temples, I submit that if they are spent for the treatment of tuberculosis or cancer, it will be one of the most laudable objects, as laudable as the maintenance of the temples themselves. This Bill is in charge of the Hon. Minister for Public Health and I hope he will put in a word gently in the ear of the Hon. the Law Minister to accept this amendment."

SRI V. RAGHAVAYYA:—"Sir, I second the amendment. Particularly the salubrious climate of the various hills on which the temples are situated, just like the Tirupati temple, can be taken advantage of for the establishment of tuberculosis sanatoria. They will be of great help to the people. The generosity of the donors and the divine purposes of the endowments will be amply fulfilled. These sanatoria also will be very useful to the pilgrims. Therefore I hope that the reasonable and the modest amendment will be accepted."

THE HON. SRI K. MADHAVA MENON:—"Sir, the amendment cannot be accepted. Hon. Sri Viswanatham says that this is a very laudable object because these diseases are very common. Tuberculosis and cancer are not exhaustive; we may add typhoid fever and other diseases also. There are certain principles involved in this. The Select Committee wanted that the funds might be utilized for—

'(g) the establishment and maintenance of asylums for Hindus suffering from leprosy;

(h) the establishment and maintenance of poor homes for destitute Hindus who are physically disabled and helpless; and

(i) the establishment and maintenance of hospitals and dispensaries for the benefit of Hindus."

It is quite open to any religious institution which has got a surplus to open a hospital where they may treat tuberculosis, cancer or any other disease. Hon. Sri Raghavayya suggested that the surplus funds of these institutions might be utilized for the purpose of starting sanatoria on the hills where the temples are situated and which have a salubrious climate. But the purpose of the clause is different. In various Hindu temples people suffering from leprosy flock there, but not people suffering from cancer or tuberculosis. The people suffering from leprosy flock there either for begging or out of devotion and a belief that they would get cured. To prevent these people thronging round the temples, it is suggested that a

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leper asylum may be opened as was done in Tirupati, where these leper devotees may be specifically housed and treated. If a hospital for the treatment of cancer or tuberculosis is necessary, it can be opened under sub-clause (i). Then there are a number of disabled persons who exhibit themselves near the temples. We want to have an asylum for them. Asylum has a different meaning. We cannot have an asylum for the treatment of tuberculosis and cancer. Tuberculosis is not a disease which is not curable. There need not therefore be an asylum for tuberculosis people. There may be a hospital for the treatment of tuberculosis. It does not fit in properly to say that we should have an asylum for people suffering from tuberculosis and cancer. The temple funds cannot be used for having asylums for these people. There may be provision for hospitals."

SRI T. VISWANATHAM:—"Sir, the Hon. Minister has successfully argued against the retention of the whole clause 64. If his argument is right, then all the sub-clauses (1) (b) to (1) (i) have no place here at all. He has argued against the whole clause. Apparently it is not his purpose. His purpose is only to argue against me, but he has argued against himself. He has raised the argument that lepers flock to Tirupati while tuberculosis and cancer patients do not flock there. If these people know that the surplus funds of the institution will be utilized for their benefit also, I can assure him that more tuberculosis and cancer patients will flock near the temple gates. Therefore I do not think it is a real argument. The Hon. Minister has also argued as though we are compelling these institutions to open and maintain tuberculosis and cancer clinics. It is not so, Sir. It is only if and when the Commissioner or the Deputy Commissioner is satisfied that there are surplus funds after the funds are utilized for so many purposes connected with the temple, that it is suggested that an asylum may be opened for tuberculosis and cancer patients in addition to leprosy patients, as tuberculosis and cancer are very prevalent now. I only wanted that this should be included as one of the many objects on which the surplus funds could be used, if and when they are available. It is not as if I am asking that the funds should be spent on them now. In fact my object is that the money should be spent for the temple purposes only, but the Hon. Minister is unwilling. He says he will give power to the Commissioner to spend the money on so many objects. If the treatment of leprosy is a good thing, treatment of tuberculosis or cancer is a much better thing and needed more urgently. I therefore ask the Hon. Minister to accept the amendment instead of simply opposing it."

The amendment was put and lost.

THE HON. SRI K. MADHAVA MENON:—"Sir, I beg to move the following amendment:—

'(i) in sub-clause (1) (h), omit the word "and" at the end;

(ii) in sub-clause (1) (i), add the word "and" at the end;

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(iii) add the following as a new sub-clause (1) (j) :—

"(1) (j) the grant of aid to any other religious institution which is poor or in needy circumstances." "

MR. SPEAKER :—“ Shall we take (h) and (i) first and (j) afterwards because there is an amendment to (j) in the name of hon. Sri V. M. Ramaswami Mudaliyar? ”

THE HON. SRI K. MADHAVA MENON :—“ I do not think hon. Sri Ramaswami Mudaliyar will move his amendment. He gave notice of his amendment before he saw the Government amendment. Now that the Government have given notice of an amendment as new sub-clause (j) I do not think hon. Sri Ramaswami Mudaliyar will move his amendment.”

MR. SPEAKER :—“ Amendment moved—

(i) in sub-clause (1) (h), omit the word “ and ” at the end;

(ii) in sub-clause (1) (i), add the words “ and ” at the end;

(iii) add the following as a new sub-clause (1) (j) :—

"(1) (j) the grant of aid to any other religious institution which is poor or in needy circumstances." "

RAJA MUTHIAH CHETTIYAR OF CHETTINAD :—“ Sir, I may be allowed to say that the whole clause has been wrongly put into this Bill. Though I was a member of the Select Committee, we were helpless in persuading the Government to change their provision with regard to the objects for which the money given by the devotees has to be spent. It is entirely foreign to the intentions of the devotees that their moneys should be spent for purposes other than that of the religious institution. I will reserve my remarks regarding the main sub-clause when the whole clause is put to the House. I am glad to find that in this new sub-clause (1) (j) the Hon. Minister has added ‘ the grant of aid to any other religious institution which is poor or in needy circumstances.’ In supporting the amendment, I wish to point out that this sub-clause will be merely an empty one and none of these institutions will be given any assistance as money will be spent for hospitals and dispensaries which are not the concern of the temple but of the State. It is the duty of the State to come forward and finance these institutions. There is no priority given for this sub-clause. I can understand if it is mentioned as the first sub-clause of clause 64. After meeting the necessities of the temple, the renovation and repairs of the temple and so on, they should divide the remaining into two parts, one part relating to the moneys to be spent for religious purposes, and after that, if there is any money remaining it may be spent on other purposes, though I would take objection even to that. While supporting the amendment, I wish to draw the attention of the Government that their hope that moneys will be spent for such purposes will be merely on paper and cannot be realized in practice. We are now accustomed to heavy canvassing by persons in charge

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of medical institutions. They wait at the door of members of advisory committees attached to the temples and get the money diverted for such purposes. I would therefore entreat the Hon. Minister to consider the broad division of the sub-clause into two parts so that the Government can give effect to what is stated here.

There is one other thing in this new sub-clause which requires clarification if not amendment. I can understand the word ‘ poor ’ put in here, but as regards the words ‘ in needy circumstances ’ I have to point out that there may be deserving institutions though they may not be in needy circumstances. I would like to remove the word ‘ needy ’ and use instead the words ‘ which they may be in need of ’ or some such words. It is very difficult to understand the word ‘ needy ’. If an institution deserves help, we should be able to give it. The word ‘ poor ’ may be there, but the words ‘ in needy circumstances ’ may be removed. I hope the Hon. Minister will consider the advisability of making a provision whereby an institution which deserves support can get it.”

SRI T. VISWANATHAM :—“ Sir, I want to offer a few remarks on this. If yesterday the hon. Gentleman Raja of Chettinad was present here, he would have been a tower of strength to me when I was fighting hard against the diversion of the so-called surplus funds. Anyway, he has come to-day and I am glad he has also put forth his views which in course of time, let me hope, will bear sufficient fruit. Having given the power for the declaration of surplus funds, I would also suggest to the Government that, instead of leaving these gifts to be given by the Deputy Commissioner in a haphazard manner to this or that institution, the surplus funds of all institutions each year may be pooled at one source; of course personally I do not like the whole thing, but when once the clause is passed I am sure we will find a lot of surplus funds in various institutions—and my submission is : ‘ the surplus funds of the temples may be kept separate, the surplus funds of matams may be kept separate and the surplus funds of charitable institutions may also be kept separate, and in this way, as the hon. Gentleman Mr. Muthiah Chettiyar said, the purposes also may be pooled.’ You may remember, Mr. Speaker, that yesterday we were fighting for priority in the diversion of funds. Therefore I suggest that both the objects may be kept in view by the Government; I trust they will evolve a plan by which the resources can be pooled and divided into three separate categories to be utilized on the three separate purposes, as I have suggested, in the order of priority. I once again hope, Sir, the Government will consider this suggestion.”

SRI N. S. VARADACHARI :—“ Sir, I strongly oppose this amendment and my reasons are these : this amendment seems to have been necessitated by the recent strong criticism that was made, about certain grants that were given away from the Tirupati Devasthanam funds to other religious institutions. The

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amendment is not so innocent as it looks; in fact it is the public anger that was exhibited over that question that has made Government cautious in introducing an amendment in this shape. I think it is totally wrong to give away the funds of one institution to another institution even if it happens to be needy or poor, unless that institution can establish a historical and continuous relationship with the parent institution. In other cases, there is absolutely no justification for the help such as is sought to be given under the new clause that is added. I was referring to this matter yesterday, but my task is made easy to-day by the introduction of this amendment. While devasthanam after devasthanam is crumbling into ruins right at the doors of the Tirupati temple—as for instance the famous Narayanavaram temple of Sri Srinivasa, not a pie has been thought fit to be sanctioned to that sacred institution which is bound every inch of its life by tradition, usage and all that, with the great temple on the hills—large sums of money have been sought to be diverted to other temples, no doubt by themselves great, but which have no direct connexion with the temple on the hills. It is a most reprehensible practice to divert the funds of one institution to another, advisedly by canvassing, as was stated by an hon. Member. In this unfortunate case, the trustees happen to be the same persons; and so they invented some history; they said this institution has old connexions with that and got the funds diverted. I submit they are not the judges in this matter; there are other people who are competent to judge about it. While many temples attached to Tirupati need urgent repair and urgent renovation much valuable money is sought to be given away to other institutions and this has naturally evoked criticism in that little town. I submit there is much force in that criticism. While it is laudable object to help other institutions, that help should be given independently of the funds of other religious institutions. Simply because I happen to be in charge of one institution, I should not take it into my head to put my hands into the funds of that institution and somehow manoeuvre a resolution by the Board to hand over the funds to some other institution which historically has no connexion whatsoever with the temple on the hills. Barring the fact that one great man commonly worshipped at both these places and perhaps learned for two years the Ramayanam at the other place under his own great uncle who was one of the greatest Vaishnavite devotees of the time, there has been no connexion between the two temples, so far as I know. I submit therefore the grant was wholly wrong. It is perhaps out of this that wisdom has prevailed and caution has dictated that we should have a specific provision empowering the transfer of surplus funds from one religious institution to another. Sir, I strongly object to this clause; it is bound to give rise to a lot of bitter feelings amongst the worshippers. It may be they are not as broad-minded as the Hon. Ministers are, or it may be they have wrong notions about the philosophic or ritualistic routine. It is certainly

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understandable if a religious institution is to help an allied institution in the locality which needs urgent help because it is poor and really destitute; but it is very wrong, Sir, to divert the funds for use in institutions a long distance away which have no kind of historic or traditional connexion established altogether with the first institution. I hope, Sir, the Government will reconsider this matter."

SRI V. RAGHAVAYYA :—" Sir, while seemingly innocent, this amendment seems to be the most mischievous of the amendments, moved till now. It is bristling with difficulties which Government, I think, would rather not like to foment. What is the point in trying to divert funds of one temple to another on the pretext of maintaining all the temples in this world? Apart from the clash which would be created by the diversion of funds of one faith to another faith, there are other strong differences which have to be taken into account. For instance, as a general rule, Saivite temples are poor and have not got much of funds; but Vaishnavite temples have enough funds—because probably they say Lord Shiva is always for equality and he is the gentleman who thinks of the ultimate end, while Lord Vishnu always wants to propagate wealth. The immediate result of an amendment such as this will be a clash between one set of temples and another set of temples and endless litigation is bound to grow on that account. Really for God's sake, let not this amendment go into law.

" Another point is that the religious feelings of our people are not so dry as the Government seem to imagine. The amendment does not take into account the feelings of the worshippers in the locality or in the neighbourhood of the temple. Except Tirupati, in the whole of South India, every temple has local affiliations and affinities. For instance, the local people may like to spend some money on vahanams or on facilities to be created for pilgrims; if they once come to know that surplus funds are going to be diverted to some other temple far away, say from Tanjore to Nellore and *vice versa*, I am sure it will dry up the sources of charity and generosity which are ever flowing in this part of the country. I submit it is a suicidal step; it will be a slur upon the worshippers of the locality that they allow a particular temple to go into ruin and waste by not trying to meet its needs, and at the same time find that the surplus funds are being diverted to other institutions far away from their place. In our experience, such a thing could not be even thought of. Unless the idea of the Government is to regularise or militarise these institutions as if they were a set of co-operative societies or other associations which the Government are anxious to set up now and then but spoil later on, the Government, I submit, will be well-advised to withdraw this amendment in the interests of the temples themselves."

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SRI N. ANNAMALAI PILLAI:—“கனம் தலைவர் அவர்களே, இப்பொழுது கொண்டு வரப்பட்டிருக்கும் திருத்தப் பிரேரேபேணையை நான் எதிர்த்துப் பேசுவதற்கு வருத்தப்படுகிறேன். இவ்வித நிலைமை இப்பொழுது ஏற்பட்டிருக்கிறது. தேவாலயங்களிலுள்ள குறைபாடுகளை நிவர்த்தி செய்ய வேண்டுமென்று இந்த சட்டம் புதுபிக்கப்படுகிறது. சில தேவாலயங்கள் மிகவும் பெரியதாகவும், சில தேவாலயங்கள் மிகவும் சிறியதாகவும், சில தேவாலயங்களுக்கு வருமானம் அதிகமாகவும் சில தேவாலயங்களுக்கு வருமானம் குறைவாகவும் இருந்து கொண்டிருக்கின்றன. வருமானம் குறைவாக இருக்கின்ற தேவாலயங்களெல்லாம் காலக் கிரமத்தில் சுடினித்துப் போய்க்கொண்டிருக்கின்றன. இவ்விதம் சுடினிக்கப்பட்ட தேவாலயங்களில் அப்பர், சுந்தரர், மாணிக்கவாசகர், சம்பந்தர் போன்ற நால்வர்களால் பாடப் பட்ட தேவாலயங்கள் இன்று மண்ணோடு மண்ணாகி மறைந்து கொண்டிருப்பதை லிங்கிரக ஆராதனையில் நம்பிக்கையுள்ள ஹிந்துவானவன் அவை களைப் பார்த்து சகித்துக் கொண்டிருக்க முடியாது.”

MR. SPEAKER:—“நீங்கள் இப்பொழுது பேசுவதிலிருந்து கவர்ன்மென்டின் திருத்தத்தை ஆமோதித்துப் பேசுவதாக இருக்கிறது. ஆரம்பத்தில் நீங்கள் எதிர்த்துப் பேசுகிறேன் என்று பேச ஆரம்பித்தீர்கள். கவர்ன்மென்டின் பிரேரேபேணை ஆதரித்துப் பேசுகிறேன் என்று பேச ஆரம்பித்திருக்கவேண்டும்.”

SRI N. ANNAMALAI PILLAI:—“நான் கவர்ன்மென்டின் பிரேரேபேணையை ஆதரித்தும், அதற்குக் கொண்டுவந்த திருத்தப் பிரேரேபேணையை எதிர்த்தும் பேசுகின்றேன்.”

“இப்பொழுது பெரிய மக்களால் பாடப்பட்ட கேஷத்திரங்கள் பல நசித்துப் போய்க்கொண்டிருப்பதை யாரும் பார்த்துக்கொண்டிருக்க முடியாது. இன்று தேவாலயங்களைப் பார்த்துக் கொள்வதற்கு ஜவாப்தாரியான அரசாங்கம் சும்மா இருப்பார்களேயானால் அது ரொம்பவும் அநீதமாகும். நம் முடைய பெரியோர்கள் பல ஆயுதங்களைக் கட்டி வைத்தார்கள். ஆலாபி பாட்டிற்கும், மக்கள் நல் வாழ்க்கையடைந்து சுகவாழ்வு பெற வேண்டுமென்ப தற்காகவும், வாழ்க்கையில் நல்ல அறிவு பெற்று மனிதன் மனிதனாக வாழ வேண்டுமென்பதற்காகவும் தான் இந்த ஆலயங்களை ஏற்படுத்தினார்கள். ஏதோ கோவிலைக் கட்டிவைத்து அங்கு கூட்டம் போடுவதற்காக அவை கள் கட்டப்பட்டன. மனிதன் சுகவாழ்வடைவதற்காகத்தான் தேவாலயங்கள் ஏற்பட்டன. நம்முடைய மூதாதையர்களும் பழைய காலத்திலிருந்த தாத்தாக்களும், தனவந்தர்களும், அரசர்களும் ஆலயங்கள் கட்டி வைத்தார்கள். ஜனங்களால் கொடுக்கப்பட்ட வரிப் பணத்தில் மிச்சமிருந்ததைப் போட்டுதான் இந்த தேவாலயங்களை அவர்கள் கட்டி வைத்தார்கள். தனவந்தர்களும் பழைய காலத்தில் சிவன் தங்களுடைய சொத்தைக் கொண்டு வந்து ஆலயங்களைக் கட்டி வைத்தார்கள். ஒரு தேவாலயத்திற்கு அதிகமான பணம் வருகிறது. அதை எடுத்து அந்த தேவாலயத்திற்கே எடுத்து திரும்பத் திரும்ப அதே தேவாலயத்திற்கு சிலவிடுவதைவிட பணமில்லாமல் அழிந்து போகின்ற சிறிய தேவாலயங்களை அழிந்து போகாமல் அவைகளுக்கு புனரூபணம் செய்யும் வகையால் சிலவு செய்வதுதான் நல்லது. அவ்விதம் ஜனங்கள் நல்வழி படுவதற்கு அந்த சிறிய தேவாலயங்களை புதுப்பிக்கவேண்டும். இதுதான் என்னுடைய கோரிக்கை. இதைச் செய்ய இந்த சர்க்கார் தவறினால் இதைவிட தப்பிதான் காரியம் வேறு ஒன்று மில்லை. இவ்விதம் செய்யாவிட்டால் மனிதனை மனிதனாகச் செய்வதற்கு செய்ய வேண்டியதைச் செய்யாவிட்டால் அதைவிட தவறு வேறு ஒன்று மிருக்காது. ஆகையினால் திருப்பதி தேவாலயம், மதுரை தேவஸ்தானம் அல்லது மூலங்கம் தேவஸ்தானம் முதலிய பல தேவாலயங்களிலிருந்து வரும் பெரிய வருமானத்தை எடுத்து சிறிய தேவாலயங்களுக்கு சிலவிட வேண்டியது அவசியம் என்று என்னுடைய குரல்கத்திற்கு வருகிறது. இதற்குக்காடு ஜில்லா, மணலூர் பேட்டைக்கு சமீபத்தில் பெண்ணையாற்றம் என்ற இடம் இருவாங்கம் என்ற ஒரு வைஷ்ணவ ஆலயம் இருக்கிறது. இப்பொழுது அந்தக் கோவில் சுடினித்துப் போய் மதில் சுவர்களெல்லாம் சீதது

[5th December 1950] [Sri N. Annamalai Pillai]

வீழ்ந்து போய்விட்டன. மற்றும் ஆலயத்தினுடைய சுவர்களெல்லாம் கொஞ்சம் கொஞ்சமாக வீழ்ந்து கொண்டிருக்கின்றன. இதைப் போலவே நான் பல கோவில்களைப் பார்த்திருக்கிறேன். தென்காசியில் போய் பார்த்தேன். அங்கேயுள்ள கோவில்களின் கோபுரங்கள் இடிந்து வீழ்ந்து கிடக்கின்றன. வட ஆற்காடில் பல கோவில்கள் இந்த நிலைமையிலிருக்கின்றன. அரசுகொணத்தருகில் அப்பர், சுந்தரர், ஞானசம்பந்தர் முதலியவர்களால் பாடப்பட்ட கோவிலானது மண்ணோடு மண்ணாகி மறைந்து போய்விட்டது. இதைப்பற்றி சமீபத்தில் ஒரு சாஸ்திரியாருக்குக் கனவில் கடவுள் தோன்றி பாழ்ப்பட்ட கோவிலை புதுப்பிக்கச் சொன்னதாகவும் அவர் உடனே அங்கு சென்று தோண்டிப் பார்த்ததில் விகரங்களும் கோவிலுக்கு வேண்டிய சாமான்களும் பொருள்களும் அகப்பட்டதாகவும் கிடைத்த விகிரங்களை எடுத்து ஒரு நாட்டுக்கோட்டை செட்டியாருடைய உதவியைக் கொண்டு அந்தக் கோவிலைக் கட்டி முடித்தார். இன்றைக்கு அது பெரிய கேஷத்திரமாக விளங்கி வருகிறது. இந்த நிலைமையில் பெரிய கோவில்களின் பணத்தை எடுத்து சிறிய கோவில்களுக்கு சிலவு செய்வது ஹிந்து மதத்தில் பற்றுள்ளவர்களுடைய கடைமையாக இருக்கிறது. பெரிய கோவிலின் பணத்தை எடுத்து சிறிய கோவிலுக்கு சிலவு செய்வதனால் தவறு ஒன்றுமில்லை என்பதாக தெரிவித்துக்கொண்டு இன்னு மொரு வார்த்தையை மட்டும் சொல்லிக் கொண்டு முடித்துக் கொள்ளுகிறேன்.

“இப்பொழுது திருப்பதி தேவஸ்தானத்திற்கு ஏராளமான பணம் இருக்கிறது. அதை எடுத்து திருவண்ணாமலை தேவாலயத்திற்கு சிலவு செய்தால் என்ன நஷ்டம் ஏற்படப் போகிறது. மனிதன் மனிதனை மனிதனென்று உணர்ச்சி செய்யவே தேவாலயங்கள் ஏற்பட்டன. திருப்பதி தேவஸ்தானத்தையும் பக்தர்கள்தான் கட்டி வைத்தார்கள். ஆகவே எந்தக் கோவிலாக இருந்தாலும் பத்தியை வளர்க்கத்தானே கோவில் கட்டுகின்றார்கள். அதனால் கடவுளும் திருப்பதியடைவார். ஒரு தேவாலயத்தின் பணத்தை எடுத்து மற்றொரு தேவாலயத்திற்கு சிலவு செய்வது தவறு என்று சொல்வது தவறு. அவ்விதம் சொல்வது ஹிந்து மதத்திற்கு பொருத்தமில்லாதது என்பதாகத் தெரிவித்துக்கொண்டு கவர்ன்மென்டார் கொண்டு வந்திருக்கும் இந்த திருத்தத்தை நான் முழு மனதுடன் ஆதரிக்கிறேன்.”

* **SRI P. KANDASWAMI PILLAI:**—“கனம் தலைவர் அவர்களே, நண்பர் அண்ணாமலை பிள்ளையைத் தொடர்ந்து நான் தமிழிலேயே பேச விரும்புகிறேன். நண்பர் அண்ணாமலை பிள்ளை அவர்கள் ரொம்ப நன்றாக அந்த திருத்தத்தினுடைய தாதுபாயத்தை எடுத்து விளக்கினார்கள். மகாத்மா காந்தி அவர்களுடைய பக்தர்களாகவும், தொண்டர்களாகவும் இவ்வளவு நாளாக பணியாற்றிவந்த காங்கிரஸ் நண்பர்களே இப்பொழுது வந்திருக்கும் திருத்தத்தை எதிர்த்திருக்கின்றனரால் அவர்கள் மகாத்மா காந்தி அவர்களுடைய கொள்கையை அறிந்து கொள்ளவில்லையென்றே நான் சொல்லுவேன்.

“கோவில்களெல்லாம் மனிதனைத் தூய்மைப்படுத்துவதற்காகவும், புனிதப்படுத்துவதற்காகவும், நாகரீகமுள்ளவர்களாக்குவதற்காகவும் ஏற்படுத்தப்பட்ட ஸ்தாபனங்கள். அந்த ஆலயங்களில் வைஷ்ணவ கோவில்களாக இருந்தாலும் சரி, சிவாலயங்களாக இருந்தாலும் சரி, அவைகள் என்னென்ன தர்மங்களைச் செய்து வரவேண்டுமென்று குறிப்பிடப்பட்டு இருக்கிறதோ அவைகளை செய்து வருவதற்காக சொத்துக்கள் வைக்கப்பட்டு இருக்கின்றன. கனம் வரதாச்சாரி அவர்கள் சொல்லும்போது இம்மாதிரி ஞான ஸ்தாபனங்களின் உரிப் பணத்தைக்கொண்டு பாழான ஜோனமான தேவாலயங்கள் வேறு எதையும் புதுப்பிக்க உபயோகப்படுத்தக் கூடாது என்றார்கள். ஒரு கோவிலிலுள்ள பணத்தைக்கொண்டு அந்த கோவில்களுக்கு என்ன செய்யவேண்டுமோ அவைகள் யாவையும் செய்துவிட்டு, கோவில் என்ன செலவுக்கு வேண்டியவைகளை செய்தான் பிறகு பூக்கி உபரியாக இணம் மீதி இருந்தால் அவையையெடுத்து பாடல் பெற்ற பெரிய எழும்பு கோவில்களுக்கும், சொம்பவும் அவசியமாய் உள்ள கோவில்களுக்கும் சிலவு செய்வதில் என்ன குற்றம் இருக்கிறது என்ன என்னுக்குத் தெரியவில்லை.”

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SRI N. ANNAMALAI PILLAI :—“ சில கோவில்களுக்கு அதிகப் படியான வருமானம் இருக்கிறது.”

SRI P. KANDASWAMI PILLAI :—“ அதனால்தான் அண்ணாமலைப் பிள்ளை அவர்கள் இன்னும் உற்சாகமாகவே சொல்ல வருகிறார்! அம்மாதிரியாக அதிக வருமானமுள்ள கோவில்களின் உயிர்ப் பணத்தைக்கொண்டு மற்ற ஏழை கோவில்களின் நிர்வாகத்திற்கு செலவு செய்வதில் தவறு ஒன்றுமில்லை என்பதுதான் அவருடைய அபிப்பிராயம். அதையே தான் நானும் வற்புறுத்த விரும்புகிறேன்.”

“ எதற்காக இதை அழுத்திச் சொல்லுகிறேன் என்றால், இதை எதிர்க்கிறவர்கள் சில பேர்கள் எப்போதும் வேண்டுமென்றே மணிக்கணக்காகப் பேசிக் கொண்டிருக்கிறார்கள். அவர்களுடைய முக்கியமான எண்ணம் வேண்டிய நேரத்தை எடுத்துக்கொண்டு காலத்தைப் போக்குவதுதான். நான் அம்மாதிரியான நோக்கத்துடன் பேசவில்லை. உண்மையாகவே சொல்லுகிறேன். இப்போது வேண்டுமானாலும் எடுத்துக்கொள்ளுங்கள். ஹிமாலயத்தில் கூட நம்மதமிழ் நாட்டு பக்தர்கள் சென்று கோவில்கள்கட்டி வைத்திருக்கிறார்கள். தமிழ் நாட்டின் பணம் பத்திராசலத்தில் ஆலயம் எழுப்பும் திருப்பணியில் செலவிடப்பட்டுக்கிறது. இப்படியெல்லாம் செய்யப்பட்டிருப்பதிலிருந்து தெளிவுபடும் உண்மை என்னவென்றால் பக்தர்கள் மனம் ஆண்டவனுக்கு பல இடங்களிலும் ஆலயம் எழுப்புவதிலேயேதான் சந்தேகம் அடைந்திருக்கிறது. பல இடங்களிலும் தேவாலயங்கள் எழுப்பி மக்கள் மனம் தூய்மையுடையவர்களாகவும், ஒழுக்கம் தவறாத சேலர்களாகவும் வாழ்வதற்கு வழிகாட்டியாக இருப்பதற்கு தான் பாடுபட்டார்கள். அப்படி காலப்போக்கின் சரித்திரமே நமக்கு உண்மையைச் சொல்லும் போது இன்று ஒரு கோவிலினுடைய பணத்தை எடுத்து வேறொரு ஆலயத் திருப்பணி செய்யக்கூடாது என்றும், அப்படிச் செய்தால் பக்தர்கள் மனம் ரொம்பவும் வருத்தம் அடையுமென்றும் சொல்வது சத்த தவறாகும். அது உண்மையுமல்ல. அந்த பக்தர்களுடைய புனித எண்ணப்படியே நாம் அம்மாதிரியான கைங்கர்யங்களைச் செய்வோமானால் அதனால் பக்தர்கள் எல்லாம் ஆனந்தம்தான் அடைவார்கள். உதாரணமாக இப்போது இங்கிலாந்திலுள்ள கிருஸ்துவ குருமார்கள் அந்த நாட்டினுடைய பணத்தையெடுத்து வந்து நமது நாட்டிலே பல சர்ச்சகளை கட்டி தங்கள் மதத்தைப் பரப்ப பாடுபடவில்லையா? அப்படி அவர்கள் எல்லாம் செய்து கொண்டிருக்கும்போது நாம் மாதிரம் ஒரு தேவாலயப் பணத்தையெடுத்து வேறு ஒரு இடத்தில் மற்றொரு வரிந்து கோவிலை சீர்படுத்தக்கூடாது என்று கூறுவது நம்முடைய பாரந்த நோக்கத்திற்கு கெஞ்சமும் பொருந்தாது. ஆகையால் இந்த திருத்தத்தை எல்லோரும் ஆதரிக்கும்படியும் நண்பர்கள் எதிர்ப்பதை வாய்ப்பு வாய்க்க கொள்ளும்படியும் கேட்டுக்கொண்டு இத்துடன் முடித்துக் கொள்ளுகிறேன்.”

SRI R. V. SWAMINATHAN :—“ Mr. Speaker, Sir, I rise to support the amendment moved by the Government. In this connexion I would like to say that I am unable to understand the arguments advanced by my hon. Friend Mr. Varadachariar, while he was opposing the amendment. He said that in the Tirupati Devasthanam there are many small temples and though there are large funds at the disposal of the Tirupati Devasthanam, they are not using any amount either for the renovation or repairs of those small temples and that it was all wrong. That was his argument while he opposed the amendment. Sometimes in his over-enthusiasm Mr. Varadachari used to forget what he speaks and that is what I have found in him in this House. In fact, the Government gives what he wants. The new clause (1) (i) says, ‘the grant of aid to any other religious institution which

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is poor or in needy circumstances.’ According to this amendment, the idea is, if at all there is any surplus in any temple or religious institution, it may be diverted, or a portion of it may be diverted, to the renovation of certain other temples or religious institutions. This clause gives a definition to that effect. Therefore, I cannot understand Mr. Varadachari's opposition to the amendment.

“ Then, Sir, my hon. Friend Mr. Viswanatham, asks in such a case, why should not the amendment be added at the Select Committee stage. But, the Bill as amended by the Select Committee was drafted by the Legal Department and because they found certain defects they wanted to put it in. It is but natural that members of the Select Committee have made some mistakes and therefore the department has pointed out the defect and now the amendment has been brought forward.

“ In regard to the necessity for the amendment, I would like to point out that the Members who supported or those who opposed it, came to the conclusion that there is necessity for this new clause. I am only pointing this out to my hon. Friend Mr. Varadachari. I can quote a number of examples where temples are really in need of such help, but I need not refer to them now. I strongly support the amendment moved by the Government.”

SRI N. S. VARADACHARI :—“ On a matter of personal explanation, Sir. Hon. Mr. Swaminathan has unfortunately always a knack of misunderstanding people. What I said was other religious institutions allied to the original temple may be helped. It is wrong to throw away the funds of one religious institution indiscriminately all over the State where no historical or traditional connexion can be established between the two. Hon. Mr. Annamalai Pillai suggested, why not the funds of the Tirupati Devasthanam be used for some other temple, even though it has absolutely no connexion whatever with the philosophy or ritual that is undertaken in Tirupati. He has counselled that. I say it is better to restrict the scope of such aid, not merely to scores of institutions, but to allied institutions. So, Sir, hon. Mr. Swaminathan has never understood my argument, but has been talking off his hat.”

MR. SPEAKER :—“ Hon. Mr. Bhashyam has given notice of an amendment, to the Government amendment but he is not present here.”

T. VISWANATHAM :—“ I have also given notice of an amendment to the clause, Sir.”

MR. SPEAKER :—“ No, he has not given notice of it.”

SRI T. VISWANATHAM :—“ I think I have given notice, Sir. Perhaps it is a clerical mistake.”

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THE HON. SRI K. MADHAVA MENON :—" Sir, the opposition is to the amendment that has been proposed by the Government, namely, to add as new sub-clause (1) (j) for the purposes for which the surplus funds, if any, can be used, namely—

'the grant of aid to any other religious institution which is poor or in needy circumstances.'

"Hon. Mr. Viswanatham was glad that the Raja Sahab of Chettinad supported his view. The hon. Raja Sahab was not particularly opposing this clause, but he said that the whole clause was wrong; why not use the surplus for any other purposes of the institution and so on. But, whatever it is, that is not the answer to the particular clause. Hon. Mr. Viswanatham was against the entire clause, that the use of the surplus itself is wrong, and if at all, you are going to use it, you shall have a pooling of the resources of all the temples. But, hon. Mr. Varadachariar has answered that point. According to hon. Mr. Varadachariar, you should not use it for any other temple than the one connected with the particular institution that has the surplus."

SRI T. VISWANATHAM :—" He was only suggesting it, but he has not laboured over that."

THE HON. SRI K. MADHAVA MENON :—" On the question of pooling, I think it is not possible."

"Then, Sir, hon. Mr. Raghavayya spoke about nationalisation or militarisation. I do not know where exactly nationalisation or militarisation comes in under this clause and so I cannot answer a thing which I do not understand. The question here is, where there are surplus funds, they may be used for the purposes of similar institutions which may be in need of funds and I do not know where militarisation comes in here."

"I find, Sir, several amendments have been given notice of in respect of this clause, but I find among them, there is an amendment of hon. Mr. V. M. Ramaswami Mudaliyar to the Government amendment, to add the following to the end—

'or the repair and preservation of other ancient Hindu shrines in the locality'

The idea of hon. Mr. Varadachariar is, why not the Tirupathi Devasthanam or some other institution which has a surplus, use that surplus, or even a portion of that surplus for renovating or improving the condition of a good institution which is attached to it or which is similar to it? That is what hon. Mr. Varadachariar asked. Hon. Mr. Swaminathan thought that hon. Mr. Varadachariar was supporting the purpose of the Government amendment. That apart, hon. Mr. Varadachariar had evidently in mind that instead of using it for that particular institution, you are using the surplus for other institutions which will be outside the scope.

That is exactly in the amendment to the proviso that we are making, namely :

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'Provided that in the case of a religious institution founded and maintained by a religious denomination or any section thereof the endowment or surplus shall, as far as possible, be utilized for the benefit of the denomination or section concerned for the purposes mentioned above.'

So that this will satisfy the objection raised by my hon. Friend. This clause is as good or as bad as any other clause. Where there are a number of temples in a very bad condition, it may be attached to one denomination or be a part of a bigger temple and if there is any surplus, why not renovate and improve them if there is necessity and the need for it? Why should not there be a condition that the trustee with the permission of the Deputy Commissioner might use a portion of the endowments wherever possible for the purposes of improving them? I do not find, Sir, any particular objection raised to say that the using of the surplus for such purposes is bad."

SRI T. VISWANATHAM :—" Mr. Speaker, Sir, on a point of personal explanation, might I draw the attention of the Hon. Minister to the fact that on page 95 a number of temples have been brought under one group and my hon. Friend Sri Varadachari was suggesting that the surplus funds of Tirupathi should be utilized for those particular temples and not for some other temples unconnected with them as hon. Mr. Swaminathan thought. Am I right in assuming that it is so, Sir?"

SRI N. S. VARADACHARI :—" Mr. Speaker, Sir, I wish to ask the Hon. Minister whether I am correct in assuming that the proviso would cover that and that is why I referred to the case of assistance to institutions connected either historically or traditionally with the original institution. That is my point, Sir."

THE HON. SRI K. MADHAVA MENON :—" I understand the point, it covers cases of the same denomination."

MR. SPEAKER :—" The question is—

(i) in sub-clause 1.(h), omit the word " and " at the end :

(ii) in sub-clause (1) (i), add the word " and " at the end

and

(iii) add the following as new sub-clause (1) (j) :—

"(j) the grant of aid to any other religious institution which is poor or in needy circumstances."

The amendment was carried.

MR. SPEAKER :—" Mr. Gopalaswami will move his amendment and the Government can then move the proviso."

SRI L. N. GOPALASWAMI :—" Mr. Speaker, Sir, I want to bring in the question of training centres for archakas and I am not moving it because the Government have in the new clause 32

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made provision for the training of archakas, adhyapakas, vedaparayanikas and othuvans; therefore, I am not moving the amendment."

THE HON. SRI K. MADHAVA MENON :—" Mr. Speaker Sir, I move—

"For the proviso to sub-clause (1), substitute the following proviso :—

" Provided that in the case of a religious institution founded and maintained by a religious denomination or any section thereof the endowments shall, as far as possible, be utilized for the benefit of the denomination or section concerned for the purpose mentioned above "

The omission of ' or surplus ' is a clerical error and it was in the original proviso also. This is more or less identical with the original proviso to sub-clause (1), except we had stated there ' Provided that in the case of a temple founded . . . ' and instead of ' temple ' we are putting in the words ' religious institution ' because it must apply to them also."

SRI T. VISWANATHAM :—" Mr. Speaker, Sir, I move—

" In the proviso to sub-clause (1), in line 3, delete the words " as far as possible " "

The explanation of the Hon. Mr. Madhava Menon was that this proviso answers all the objections raised by my hon. Friend Sri Varadachari and most of us. We are of the opinion that funds belonging to particular institutions shall not be diverted for purposes foreign to the original intentions of the founders of the endowment and the Hon. Minister gave the House the assurance that that was why he was moving the proviso. But here there are the words ' as far as possible '. I submit, Sir, that these words will destroy what is sought to be assured by the Hon. Minister. As I submitted already, Sir, clause 64 has got a conclusiveness about it and the action of the Commissioner is final and there is nobody to question it; neither the Government nor the Court can question his action. It takes them out of the purview of superior executive authority and also judicial control. If a Commissioner avails himself of the loop-hole provided by the words ' as far as possible ' and makes diversion of moneys to some other denomination, and gradually makes it the general rule, there is no method to check him or correct him. While the object of the Government is that the surpluses or the endowment shall be utilized for the benefit of the community the wording employed here in the proviso does not support it. Practically, it looks as though, while we give certain things the Hon. Minister wants a little more but the executive takes something more than what the Hon. Minister himself intended to give. The Minister wants that the funds shall be utilized for the particular denomination but the executive wants to work the Act by having the words ' as far as possible ' there and asking for something more than what the Hon. Minister says

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on the floor of the House he intends to give. I, therefore, move, Sir, that in the interests of the proper utilization of the surplus funds and the canalization indicated in the clause, the words ' as far as possible ' should be omitted."

RAJA MUTHIAH CHETTIYAR OF CHETTINAD :—" Mr. Speaker, Sir, incidentally I support one of the numerous amendments moved by the hon. Gentleman Mr. Viswanatham whose patience and tenacity, we should appreciate though we may not be able to agree with many of them. First of all, I did not intend to second this amendment. But in the alternative proviso suggested by the Hon. Minister himself, I did not notice the words ' as far as possible ' and the hon. Gentleman Mr. Viswanatham explained the import of those words. The intention of the proviso is that mostly they want to do it but if in certain cases, it is not for the benefit of the denomination, it should be tolerated. I wish to suggest that the proviso is contradictory in terms to the three or four sub-clauses that have already been passed by the House and if they intend really to translate the proviso into action, they should straightway remove the three or four sub-clauses passed earlier by the House relating to hospitals, dispensaries and leper asylums. Not that I am against the starting of dispensaries or leper asylums; that is a different question. If the matter were to be brought forward by the Minister in charge of Medical portfolio, I shall give it my wholehearted support. It is not the duty of the temple authorities to do it unless a devotee wants a leper asylum or a medical institution to be started; it is open to him to give a separate amount but it should not be open for the Advisory Committee or the Government to spend it when it has not been so earmarked. The proviso shows the intention of the Government that mostly they want to pay for the same denominations. But how can the Government ensure that the work done in the hospital and asylums refers to persons belonging to that particular denomination? Therefore, I would request the Hon. Minister to look into the matter closely. I am not supporting the amendment merely for giving support to it and opposing the Government's view. With my limited knowledge of the reading of the sub-clauses I have mentioned, I feel they are contradictory to this proviso and so, I entreat the Government, if they want the alternative proviso, to remove the three or four sub-clauses. Even if the Hon. Minister is not now able to consider it fully, I think he will take into consideration the suggestions made now and at a later stage of consideration, he would come forward with the necessary amendments to the sub-clauses that have already been passed."

SRI N. S. VARADACHARI :—" Mr. Speaker, Sir, I support this amendment. In the first place, it is admitted by the Hon. Minister that the idea is to use the surplus funds to help educational institutions, maintenance of Universities, propaganda for the tenets of the Hindu religion and so on. But the words ' as far as possible ' means so much and if it is there, the whole proviso will have a very uncertain meaning. Now the Government have

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enlarged the scope of the proviso; it has first referred to temples and now it refers to religious institutions which include temples and even specific endowments. So in the case of religious institutions they will have to be more careful than with regard to temples which were governed by the original proviso. Now, Sir, I wish to draw the pointed attention of the Hon. Minister to this point. Having given the assurance to all the holders of maths and of specific endowments that their moneys would not be disturbed and in case there is a surplus, which is doubtful, it would not be taken away for purposes alien to the institution, there should be no difficulty in accepting the amendment that has been proposed by my hon. Friend. In connexion with the priorities that I suggested, the Hon. Minister replied that it would not be correct to tie down the hands of the Commissioner and the executive officers. I am submitting, Sir, that if the order of priority is there, disturbances in the social atmosphere would not arise. In answer to that the Hon. Minister could only say that you can spend the whole thing for propaganda for the tenets of the Hindu religion. I am sorry, Sir, he has forgotten his experience of administration; any Deputy Commissioner who makes such a proposal will have the scheme before him and it must be suitable to the surplus and it must show the income and expenditure; and all these would be considered by him. It is not as if the whole thing would be spent as a lump sum grant just as even in this House it happens sometimes, to which I have taken the strongest exception. I hope the devasthanams will not make lump sum grants as it would be wrong and unjust not only to this House but to the entire body of worshipers.

"In fact the purpose for which an endowment has been made should be fulfilled. People should know, how the scheme is to be put into effect; otherwise there would be no progress in the institution. So, Sir, if there is no proviso, the Deputy Commissioner may have a free hand in utilizing the fund on any Hindu religious or charitable institution he likes. So, the proviso is necessary, but the words 'as far as possible' may be omitted."

SRI D. V. RAMASWAMI:—"Mr. Speaker, Sir, I am quite aware that the arguments advanced by hon. Mr. Varadachari ought to be convincing. I am only surprised that while hon. Mr. Viswanatham moved his amendment, he did not move that—

'in the case of a religious institution founded and maintained by a religious denomination or any section thereof the endowments shall be utilized *only* for the benefit of the denomination or section concerned for the purposes mentioned above.'

If the wording of the proviso was like that, that would have made the position quite clear. I therefore feel in view of the support that is being given to Government to rationalize the expenditure of any surplus that may be found for the management of property, Government would be well advised to accept this amendment."

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SRI T. S. PATTABHIRAMAN:—"Mr. Speaker, Sir, I was rather surprised at the amendment moved by my hon. and learned Friend, Mr. Viswanatham. The question to-day is, 'are you going to purify Hinduism; or are you going to allow Hinduism to deteriorate and continue the deterioration process by this Bill. I can agree with the hon. Gentleman Raja of Chettinad when he said that there should be no proviso. But Government think it is necessary and that they should take steps to see that as far as possible the endowments should be utilized for the benefit of particular religious denominations only. I want to know whether we are going to perpetuate narrow ideas of sectarianism and narrow religious ideas, with all its innumerable sub-sects by giving legal recognition to them in this proviso? Sir, Hinduism should be taken as a whole unit, and there is only one philosophy expounded by it. To-day by passing this proviso we are perpetuating for generations to come, all the sects and sub-sects that exist among Hindus to-day. There are several sects and sub-sects among Vaishnavites and there are several sects and sub-sects among the Saivites. Now, by this proviso, is this House going to perpetuate all those sects? Whatever may be the funds that are available, they should be spent in the cause of Hinduism. To-day we have in the Centre, a Bill for the unification of the Hindu Code. There, they want a unified Hindu Code for the whole of India. Therefore, my humble submission is the proviso is itself bad; but if the proviso is deemed necessary, the words 'as far as possible' should be deleted."

SRI L. N. GOPALASWAMI:—"Mr. Speaker, Sir, I rise to support this amendment. If my hon. Friend, Mr. Pattabhiraman is surprised at hon. Mr. Viswanatham moving his amendment, I am still more surprised . . ."

SRI T. S. PATTABHIRAMAN:—"At your supporting the amendment!" (Laughter.)

SRI L. N. GOPALASWAMI:—"At hon. Mr. Pattabhiraman's ignorance of the provisions of the Constitution. It is not as if this Bill is intended to have one unified Hindu religion. The Constitution Act says that every religious denomination or any section thereof shall have the right to establish and maintain institutions for religious and charitable purposes and to manage its own affairs in matters of religion. So, it is for that purpose those provisions are included in this Act itself. But I fail to see why this proviso has been brought forward with this wording. Sub-clause (1) says: 'that the endowments of the institutions, on the purpose becoming impossible of realization, be appropriated to all or any of the following purposes, etc.' That is all right. We approve it, and we have approved also of the several purposes for which the endowments may be utilized. So, now, why should there be this proviso stating that the endowments of particular religious denominations should be utilized only for the benefit of an institution of the same religious denomination. This is a thing which I cannot understand."

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"Then, Sir, the hon. Gentleman, the Raja of Chettinad, argued as though this proviso applies to the whole of the sub-clause (1). To me it seems this proviso applies only to item (i) of sub-clause (1). It does not refer to the whole of the sub-clause (1). I do not think even the Government intend it to refer it to the sub-clause (1) as a whole." (Laughter.)

THE HON. SRI K. MADHAVA MENON:—"May I inform the hon. Member that the proviso applies to the whole of the sub-clause (1). He is confusing between item (i) and sub-clause (1)."

SRI L. N. GOPALASWAMI:—"I am really sorry that I have misread the sub-clause. I mistook 1 for (i). I support the amendment moved and I want Government to tell us why they cannot allow the endowment, whose purpose being rendered impossible of realization, to be utilized for any Hindu religious institution irrespective of any particular denomination to which it belongs."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I did a mistake in telling the House that there was a printing mistake, in that the word 'surplus' has crept in there. That word should not be there. I am sorry for the mistake."

SRI T. VISWANATHAM:—"Then we shall re-open discussion on the clause."

THE HON. SRI K. MADHAVA MENON:—"Let him have his say after I have spoken; nothing prevents that. Sir, in moving the proviso I said:

'Provided that in the case of a religious institution founded and maintained by a religious denomination or any section thereof the endowments or surplus shall

The word 'surplus' is a mistake; it ought not to be there. Sir, in a criminal case, if a charge is changed or altered at any time after the commencement of the case, the accused has a right to ask for a fresh cross-examination or a fresh trial, and a *de novo* trial if the judge is changed." (Laughter.)

SRI T. VISWANATHAM:—"I am not a practising lawyer, Sir!" (Laughter.)

THE HON. SRI K. MADHAVA MENON:—"Anyhow I want to make myself clear now. We have all been labouring under the misapprehension, including myself, that clause 64 relates to surplus funds and utilization of surplus funds. The marginal heading 'Utilization of surplus funds' is a mistake. The whole clause does not apply to surplus funds. So the words 'as far as possible' do not refer to surplus funds at all. Surplus funds are dealt with in clause 32. The present clause 64 relates to the fund or funds of an institution which has become impossible of

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performance from the beginning or has become impossible of realization subsequently. So that it is such funds that are sought to be diverted.

"Then, Sir, if a temple in a district or an institution is destroyed, say, by an act of God, and if nobody of that denomination exists in that district, then, what is to be done to that endowment. Hence to divert the fund, the words 'as far as possible' is necessary. We are providing for a case where the very existence of the institution becomes an impossibility. So, Sir, the word 'surplus' has been removed from the entire clause. The sub-clause (1) as amended would read thus—

(1) The Deputy Commissioner may, on being satisfied that the purpose of a religious institution has from the beginning been, or has subsequently become impossible of realization, by order, direct that the endowments of the institution be appropriated to all or any of the following purposes, namely:

So, Sir the question of surplus does not arise in the present clause. The words 'as far as possible' are necessary, because a contingency may arise when the institution itself may not exist."

SRI T. VISWANATHAM:—"Sir, we have been sufficiently confused and confounded. (Laughter). When dealing with clause 32, I then suggested to the Hon. Minister that this question of utilization of surplus funds may be taken up even then and not along with clause 64. That suggestion he did not accept. Now, Sir, what is the position? The whole of yesterday we were fighting a battle like the three Musketeers over the surplus fund, and to-day, at 1-15 p.m. the Hon. Minister says that this clause does not deal with surplus funds, that the marginal note is a mistake and it will be changed. It is a welcome correction. There is nothing wrong in correcting ourselves. Even if the surplus fund is omitted, the position remains the same. Sir the proviso reads as follows:—

'Provided that in the case of a religious institution founded and maintained by a religious denomination or any section thereof the endowments shall, as far as possible, be utilized for the benefit of the denomination or section concerned for the purposes mentioned above.'

Now, Sir, I want to know how this proviso comes in here at all. Because the Hon. Minister says, where a religious institution has from the beginning been, or has subsequently become, impossible of realization, where is the endowment, I ask? I am going step after step, because there is a lot of confusion. When does the Deputy Commissioner get jurisdiction? On two possible occasions. The first possibility is when he is satisfied that the purpose of a religious institution has from the beginning been impossible of realization. There is no question of endowment here at all because its purpose became impossible of realization from the beginning. Only when the purpose becomes impossible of realization that this proviso comes into operation and not otherwise. The next possibility is when the purpose of a religious institution has subsequently become impossible of realization. I pointed out that the purpose of a religious institution could not become impossible of realization. It is physical, psychological and every kind of

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impossibility, because the institution is there. What is there to be unrealizable or impossible of realization? There again this proviso does not apply. Only after satisfying adequately the purposes of the institution, the question of surplus arises. What is the meaning of the Hon. Minister asking to drop the word 'surplus'?

THE HON. SRI K. MADHAVA MENON:—"My amendment moved and passed yesterday has omitted that word."

SRI T. VISWANATHAM:—"If that is so, I beg your pardon. Let the Hon. Minister read out what is left finally in the clause."

THE HON. SRI K. MADHAVA MENON:—"The clause reads as follows:—

'The Deputy Commissioner may, on being satisfied that the purpose of a religious institution has from the beginning been, or has subsequently become, impossible of realization, by order, direct that the endowments of the institution be appropriated to all or any of the following purposes

SRI T. VISWANATHAM:—"If that is so, it makes matters very easy and the words 'as far as possible' should definitely go. There is absolutely no doubt about it at all. When the purpose has become impossible of realization, the endowment must be utilized for some other purpose. Herein arises the application of cypres doctrine. Cypres doctrine cannot be lightly tampered with by saying that the Deputy Commissioner shall have the power to appropriate the endowments to all or any of the specified purposes. It is an old doctrine applicable to every faith not only in this country but to every faith in the rest of the world. When the original object of an endowment has failed, it stands to reason, justice and every notion of fairplay, that the endowment should be utilized only for purposes closely related to the object of the endowment. 'As far as possible' should not come there at all. These words make room for doubt and dispute. That was why yesterday I was arguing that this point must be settled by a court of law and not by an executive officer like the Deputy Commissioner. Nowhere in the history of jurisprudence in any part of the world is the cypres doctrine applied by an executive officer. Look at the Charity Commissioners Act. The cypres doctrine is not applied by the executive officers or even by the Charity Commissioners solely on their own responsibility in all cases. Yesterday I read out to the House a passage in which it was said that however laudable an object might be, the Charity Commissioners had no power in many cases without the sanction of courts to utilize the funds for other purposes. The other purposes must be determined by a court. Now it becomes more clear that the words 'as far as possible' should not be there. When the original object has failed, the endowment should be utilized for a similar purpose, a purpose which is not alien to, and which can be construed as having been in, the view of the original object. There is great reason both on merits and from the point

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of view of law that 'as far as possible' must go and go without any compunction. Otherwise the whole clause will be nullified by a court of law."

THE HON. SRI K. MADHAVA MENON:—"As far as possible" must remain and remain in any case. The hon. Member has been kind enough to explain to us the fundamentals of cypres doctrine. His argument was that the other purposes must be settled by a court of law. That is what the Charity Commissioner Act says, that is what the Halbury's Law says, and that is what cypres doctrine means. The Deputy Commissioner could not be invested with the power of deciding the other purposes. That is an argument against the whole clause and not merely for removing the words 'as far as possible'. Removing the words 'as far as possible' does not cure the defect pointed out by my hon. Friend. According to me, the Deputy Commissioner can certainly order the appropriation to other purposes of endowments of a religious institution which has gone out of existence and could not be revived or whose purpose becomes impossible of realization. If there is not that saving provision 'as far as possible', the proviso will become impossible of operation."

MR. SPEAKER:—"The question is—

'In the proviso to sub-clause (1), omit the words "as far as possible".'

The amendment was lost.

MR. SPEAKER:—"I am going to put the Government amendment to vote."

SRI N. S. VARADACHARI:—"Sir, the whole thing is now simplified. When clause 32 was taken up, I pointed out that that was the real clause dealing with surplus funds. Clause 64 deals with institutions which have fallen into desuetude or which have been destroyed and cannot be rebuilt by any means whatsoever. Suppose there is an endowment for a choultry. The choultry is not used by anybody or has been destroyed by fire and the income from the endowment is so small that the choultry cannot be rebuilt. The Deputy Commissioner may by order direct the utilization of the money realized from the endowments of such an institution for purposes nearest to the objects of the founder of that institution. Clause 64 deals only with such cases and not with surplus funds. It is now clear that the Government never intended this clause to deal with surplus funds though they have been arguing the contra all the time."

THE HON. SRI K. MADHAVA MENON:—"Sir, I want to clear a misunderstanding arising from the speech of hon. Sri N. S. Varadachari. It is true that this clause does not deal with surplus funds, and that it only deals with the endowments of institutions whose purpose has become impossible of realization. It is said in clause 32, which this House has already approved,

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that if there is a surplus after providing adequately for the purposes mentioned in clause 75, the surplus may be used for the purposes specified in this clause. In that sense, this clause may affect clause 32."

MR. SPEAKER :—" The question is—

'For the proviso to sub-clause (1), substitute the following :—

" Provided that in the case of a religious institution founded and maintained by a religious denomination or any section thereof the endowments shall, as far as possible, be utilized for the benefit of the denomination or section concerned for the purposes mentioned above " "

The amendment was carried.

Sub-clause (2).

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

'Omit sub-clause (2).'

We have been advised that any direction by the Deputy Commissioner in the manner indicated in the sub-clause may not be quite proper according to the present Constitution. So we want to omit the sub-clause."

SRI T. VISWANATHAM :—" I also gave notice of a similar amendment. I am very glad that the Government have taken it into their head to accept such a position."

MR. SPEAKER :—" The question is—

'Omit sub-clause (2).'

The amendment was carried.

Sub-clause (3).

SRI T. VISWANATHAM :—" Sir, I move—

'Delete sub-clause (3).'

If there is reason for accepting the deletion of sub-clause (2) and the sub-clause goes, sub-clause (3) also should go. When the Deputy Commissioner has no power to give directions, he has no power to modify or cancel orders already passed. I hope the Government will accept this amendment."

SRI V. RAGHAVAYYA :—" I second the amendment."

THE HON. SRI K. MADHAVA MENON :—" This is one way of nullifying the whole clause. When the Deputy Commissioner is given the power of issuing an order under sub-clause (1), he must also have the power of modifying or cancelling it. I oppose the amendment."

SRI T. VISWANATHAM :—" Only yesterday speaking on another amendment I suggested that the Government should also

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have the power of cancellation. The Hon. Minister said that the Government wanted only the power to issue orders and not the power to cancel them." But to-day he wants to have the power of cancellation."

THE HON. SRI K. MADHAVA MENON :—" That was not what I said. I said that my hon. Friend was generous enough to give the power of exemption but not the power of cancelling the exemption already granted."

MR. SPEAKER :—" The question is—

'Delete sub-clause (3).'

The amendment was lost.

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

'In sub-clause (3), omit the words, figures and brackets " or an order made by the Board under section 67, sub-section (1) or sub-section (3), of the Madras Hindu Religious Endowments Act, 1926 " "

These words were inserted to provide for the continuance of orders passed under sub-sections (1) and (3) of the Act of 1926. As provision to that effect is made in clause 103 in the chapter relating to transitional provisions, these words are not necessary here."

MR. SPEAKER :—" The question is—

'In sub-clause (3), omit the words, figures and brackets " or an order made by the Board under section 67, sub-section (1) or sub-section (3), of the Madras Hindu Religious Endowments Act, 1926 " "

The amendment was carried.

Sub-clause (4).

SRI T. VISWANATHAM :—" Sir, I move—

'Delete sub-clause (4).'

This sub-clause need not be there. If there is a direction to the Deputy Commissioner to publish his order in such and such a manner, he will do it. There is no need for a statutory provision."

SRI V. RAGHAVAYYA :—" I second the amendment. This provision may involve the Government in some trouble later on. Differences may arise about the adequacy and the manner of publication. The Government may not like to invite upon themselves all these troubles. By omitting the sub-clause, the interests of the Government are not injured in any way. Even without this sub-section, the Act resulting from this Bill will run smoothly like the chariot of Jagannath. To avoid future difficulties, the Government are well-advised to omit this sub-clause."

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THE HON. SRI K. MADHAVA MENON :—" The chariot of Jagannath is a thing to be respected and not a thing to be condemned.

" Publication of the order is a thing which is absolutely necessary."

SRI T. VISWANATHAM :—" This is a very important amendment. The funds of nearly 30,000 religious institutions are involved. Yesterday Sri N. S. Varadachari complained that the orders of the Deputy Commissioner passed without consulting the persons having interest and without being subject to review by any court of law were made binding on the trustee, the executive officer and all persons having interest. This sub-clause gives too wide a power and as such will probably not be upheld by any court of law. In the interests of the Act resulting from this Bill, I think it is better that this sub-clause goes."

THE HON. SRI K. MADHAVA MENON :—" I have nothing to say."

MR. SPEAKER :—" The question is—

' Delete sub-clause (4) '."

The amendment was lost.

The House then rose for lunch to meet again at 2-30 p.m.

(After lunch—2-30 p.m.)

Clause 64—cont.

SRI T. VISWANATHAM :—" Mr. Speaker, Sir, I move—

' After sub-clause (4) of clause 64, add a new sub-clause (5) as follows :—

" (5) Any person feeling himself aggrieved with any of the orders made under sub-clauses (2) and (3) may apply to the court in whose jurisdiction the institutions are situate for cancellation or modification of such order."

Sir, this is a very important amendment. I have not moved a single amendment which is not important, but this, Sir, is a very important one. Sir, if you refer to the scheme of suits and appeals provided in this Bill against the various clauses, you will find that orders under clause 64 is omitted from the purview of such suits and appeals. I think there is also no Government amendment to this clause in regard to this matter. This is the one supreme clause which gives supreme powers to the Commissioner to deal in his own way all religious institutions which have from the beginning been or have subsequently become impossible of realization. About 30,000 religious institutions could be brought under his control by his powers of notification and he could also extend the provisions of this Bill to all charitable endowments as well. At present we have no statistics with regard to the

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charitable endowments in the State, but I submit that if schools, colleges, dispensaries and other charitable endowments which may comprise about 20,000 in all, are included, the Commissioner will have power of control over institutions ranging between 30,000 and 50,000. It may be said that this clause 64 deals only with institutions which have become impossible of realization. But who is to decide that they have become impossible of realization? It is the Deputy Commissioner. Who is to deal with these endowments? It is again the Deputy Commissioner. Who is to check the Deputy Commissioner? It is the Commissioner. Who is the Commissioner? He is an officer of the Government. And so, for all practical purposes, all these various religious bodies and institutions will come under the control and supervision of the Government and the Government officials. The entire object of the Constitution in framing articles 25 and 26, giving fundamental rights to the religious denominations to establish, maintain and manage religious institutions has been rendered nugatory by the powers given to the Commissioner and the Deputy Commissioner in this clause. Now the religious denominations will have no voice in the management of the affairs of these religious institutions. This Bill has stifled the religious denominations, has ignored the pilgrims, and devotees and has paid no respect to the feelings and sentiments of people, by whose faith and by whose endowments, these institutions had been built and brought into existence. Now all these endowments are to be dealt with by the Commissioner appointed by the Government, in his own way and according as it suits him. He will have a number of deputies under him who will carry out his orders. I have no desire to make any uncharitable remarks about any Commissioner or his deputies. I do not say that a Commissioner would do things with any malicious intention. It does not mean that he would do things without understanding their repercussions or that he would disregard the wishes and desires of the devotees and worshippers, but I do submit that to vest all these powers to manage and control thousands and tens of thousands of these religious and charitable institutions and to give discretion to decide certain matters to one single officer of the State in utter disregard of the fundamental rights guaranteed under the Constitution for religious denominations to manage and administer their own institutions, and without any safeguard or provision for an appeal against his orders under this clause, is very strange indeed. I am not saying that this clause must go. That stage has passed and this clause has been accepted. But I am only suggesting that while you give such vast powers to an officer of the Government, it would be in the fitness of things if some other independent person or judicial body is given the power to review and revise the orders of the Commissioner. Sir, you are aware that in England, from whose laws we have copied many of our own laws and jurisprudence, whatever powers might be given to the executive officers, at some stage, or other, there is a judicial control and a judicial review provided in their laws. That was one of the recommendations of the

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Donoughmore Committee which they have adopted. It was a Committee specially appointed by the Government of England consisting of great jurists to go into the extent of executive and judicial powers to be vested in the executive officers of the Government, because at that time, eminent jurists in England were attacking the tendency of the bureaucracy to concentrate power in their own hands. The report made by that Committee is called the 'Report of the Committee on powers of Ministers.' There, they have said that while it may be necessary in some cases to carry on the administration by giving certain quasi-judicial powers to the executive, at one stage or other, provision should be made for a judicial review over such decisions and orders. No powers vested in the executive shall remain hidden from the light of public criticism or from the review of an impartial tribunal. It is exactly with that end in view, I have moved this amendment. I need not labour hard to suggest to the Government that they should accept this very reasonable amendment, because, the Hon. Minister for Law, who is a trained lawyer himself, knows that in these matters where extreme judicial and quasi-judicial powers are given to a single executive officer throughout the State, there should be a judicial review at least at one stage. That is the reason why I have moved this new clause, by which any person feeling himself aggrieved with any of the orders made under sub-clauses (2) and (3) of clause 64 may apply to the court in whose jurisdiction the institutions are situate for cancellation or modification of such order. Unless a sub-clause like this is added on to this clause, I am afraid, the whole clause 64 might become altogether invalid."

SRI V. RAGHAVAYYA :—" Mr. Speaker, Sir, I second the amendment moved by my hon. Friend Sri T. Viswanatham. I feel, Sir, that where an injury is likely to be done, there should be some sense of fairness and justice. There are rules even amongst adversaries who enter into a duel in order to injure each other. For instance if one person in the duel has no sword, or has dropped his sword, the other person will also drop his own and fight without any additional safeguard. Here also, there is an injury sought to be caused to the temples and religious institutions by empowering one officer with all the powers and with such powers, he can do great good as well as great mischief. Properties of temples, however holy they might be, are sought to be distributed among various institutions and for various purposes which are the legitimate charge of the Government. Why should temple funds be used in order to encourage arts and architecture or to support orphanages and asylums. There is a legitimate charge on the general coffers of the State. Already the Government are trying to shift their legitimate duties upon the local bodies in order to get rid of a number of nuisances. The Government cannot, in the name of this legislation, ask these religious organizations to shoulder these burdens. But having resolved to do so, they must provide some safeguard, so that much mischief might not be done by any person in whom too much power is vested. The Deputy Commissioner has been given

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too much powers under this Bill and he is an all-powerful person and can do anything in any religious institution as he likes. That being the case, unless he has got a judicial bent of mind and unless he has got the capacity to judge matters aright without being swayed by personal prejudices and favouritism, it may not be possible for him to carry out the objects of this clause to the satisfaction of the devotees and religious denominations. Therefore, Sir, there is ample justification and reason that there should be a provision in the Bill for taking his decisions before a judicial body for review and revision, if necessary. That is the purpose of the amendment of my hon. Friend Sri T. Viswanatham. This Deputy Commissioner is no doubt all-powerful, but he may not be all-knowing and all-justice. In such a case, there must be a reference to the Civil Courts and whatever be the position of these Civil Courts, rightly or wrongly, we have come to believe that they are somewhat independent and would bring to bear a certain balanced frame of mind and exhibit a sense of fairness and impartiality, which cannot be rivalled by any other bodies. I therefore think that there can be no difficulty on the part of the Hon. Minister in accepting this very modest amendment of my hon. Friend Sri T. Viswanatham, because he has always been moving modest amendments of late."

SRI N. S. VARADACHARI :—" Mr. Speaker, Sir, I am sorry that discussion is not confined to the particular amendment. Now this clause 64 is supposed to invest the Commissioner with powers which are more imaginary than real. There will be a few cases where institutions have ceased to fulfil their functions or have from the start been incapable of functioning. That is what it will come to by the clause as amended finally by the Hon. Minister. A number of grandiose purposes are set forth. If only the Government had thought of the amendments a little more carefully, they would have found there will be very few instances where the Deputy Commissioner would have to exercise his power. The Hon. Minister on a previous amendment has given us an assurance that there will be some method of consultation with the persons having interest or the trustees who are members of the Area Committee. Though it is not there, I keep that assurance in mind. He said that the matter would be considered if there was a chapter providing for rules. Certainly rules will be provided for such things or I hope that the Government themselves would propose some amendments at a later stage. I would only ask, 'Why not the Government give this power to the Courts in the interests of the Officer himself, to scrutinize and see whether he was right in declaring an institution as having become incapable of functioning.' This is a very serious thing. Suppose an institution has not really done so. The clause says that after satisfying himself that it is so the officer concerned will then declare by an order setting forth the properties and funds of that institution. Of course, it will be very grand to talk of unification of Hindu religion and all that. It has been attempted by many teachers before. But some of us, inexperienced and sophisticated as we are, think that it is capable

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of fulfilment immediately by decorative speeches on the floor of the House. It is not like that. The other day, I was reminded of the beautiful story in the Upanishads. A disciple, after twelve years of learning came to his master. The first question put to him by the master was, "Well, you seem to be proud of your learning, you swollen head! Do you know everything?" That is the spirit in which humility is to be taught and in which we have to seek solutions. Now in the interests of the very officer in whom you are vesting this power the right of suit should be given. This is very important, proper and legitimate, in view of the fact that the Government have now dropped proposals with regard to surplus funds and we are beginning from the corpus itself. Whether an institution has ceased to function or whether an institution having functioned for sometime ceases to function, I can understand such a provision. But I feel that it is good to hedge it in with this safeguard. I would like the Hon. Minister to accept this and state his reasons if he cannot accept the same."

SRI K. BRAHMANANDAM REDDI:—"Mr. Speaker, Sir, I oppose this amendment, but agree fully with the reasoning given by hon. Friend Sri Viswanatham. Hear, hear.) I shall state my reasons why I agree with his reasoning, but oppose his amendment. Clause 67 provides for appeals against all orders passed under clause 62 (a), (c), (d), (f) or (g), clause 63, or clause 65 or 66. I request Sri Viswanatham to see clause 65, sub-clause (1) (d) as well as sub-clause (2). It will be seen that an appeal is provided under clause 67. If a Deputy Commissioner passes any order under clause 64 (1), there is an appeal to the Commissioner and later any party aggrieved by an order by the Commissioner can go and file a suit before a regular Court and if he fails in a suit, regular appeal is also provided. So it is not as if no appeal is provided. I was wondering why in respect of an important clause like this where the Deputy Commissioner is given ample powers, no check has been provided. I was enlightened by the Hon. Minister that clause 67 (1) and (2) clearly provide for an appeal and suit against any one of the orders passed under clause 64 by the Deputy Commissioner. I hope hon. Member Sri Viswanatham will be convinced of my argument and will withdraw his amendment."

THE HON. SRI K. MADHAVA MENON:—"Sir, hon. Sri Brahmanandam Reddi has put the position correctly. I did not want to interrupt Sri Viswanatham when he was speaking. Clause 64 also deals with religious institutions which have become impossible of realization. However, clause 65 is the operating clause, which says that the Deputy Commissioner may, on being satisfied that a religious institution has, whether before or after the commencement of this Act, ceased to exist, hold an inquiry in the prescribed manner to ascertain its properties and after doing so shall pass an order. In sub-clause (d) of this clause it is said that the properties and funds so specified shall be applied or utilized for maintaining the institution or be appropriated to any one or more of the purposes specified in clause 64, sub-clause (b). If we read

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sub-clause (2) of clause 67, we find that the language used there is exactly in identical terms with the language used in Sri Viswanatham's amendment. The order passed by the Commissioner or Deputy Commissioner after enquiry is under clause 65. I think, therefore, there is already the right of appeal provided in the subsequent clauses. Provision for appeal to the Commissioner by any person aggrieved by any order passed by the Deputy Commissioner has also been made under clause 66. Thus it will be noticed that all orders are made appealable. . . . I am sorry, Sir, I find that there is some slight difference between clauses 64 and 65. In clause 64, it is said that the Deputy Commissioner may on being satisfied that the purpose of a religious institution has from the beginning been, or has subsequently become impossible or realization . . . etc. In clause 65, it is said that the Deputy Commissioner may on being satisfied that a religious institution has, whether before or after the commencement of this Act, ceased to exist . . . etc. So, there is no appeal provided for orders passed under clause 64. There is some difference in the wording of these two clauses. In the one, we find the term 'impossible of realization' and in the other the term used is 'ceased to exist'. So, it may be that there is no appeal as such in respect of clause 64. I did not look into it so much and there is no appeal as such provided under clause 64. In fact, Sri Bhashyam moved for such a provision in the Select Committee stage, but the Select Committee negatived his proposal. Clause 64 (1) deals with properties of an institution which has become impossible of realization from the beginning or subsequently. About this, I think we need not provide for suits. Our main purpose is to reduce the number of suits as much as possible. Hence, we do not want to accept the amendment."

SRI T. VISWANATHAM:—"Sir, all the reasoning advanced by the Hon. Minister is in my favour. The Hon. Minister said that the right of appeal has been provided. Of course everybody is liable to commit mistakes and the Hon. Minister immediately corrected the mistake and said that clauses 66 and 65 are very different from clause 64 and that appeal or right of suit has not been provided under clause 64. In the light of that I wonder why he could not accept my amendment for the addition of a new sub-clause and provide for suits and appeals. If he rejects the amendment, he will be rejecting his own good sense. Regarding Sri Brahmanandam Reddi's arguments, I can only say that he is perfectly right and I am not surprised at all at his arguments as I know that he is one who says 'I have voted at my party's call, I have never thought of thinking for myself at all.' (Laughter.)

THE HON. SRI K. MADHAVA MENON:—"Sir, in the first instance I spoke under some misapprehension that clauses 64 and 65 were really the same. Subsequently, I realized that clause 65 refers to a different thing altogether, and the right of appeal provided in respect of this clause related to an institution which has ceased

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"to exist whereas clause 64 relates to an institution which has become from the beginning or subsequently impossible of realization. The Select Committee deliberately did not provide for appeals in respect of clause 64. That is why I am unable to accept the amendment moved by Sri Viswanatham."

MR. SPEAKER:—"The question is—

'After sub-clause (4), add a new sub-clause (5) as follows:—

"(5) Any person feeling himself aggrieved with any of the orders made under sub-clauses (2) and (3) may apply to the Court in whose jurisdiction the institutions are situate for cancellation or modification of such orders."

The amendment was lost.

MR. SPEAKER:—"The motion is—

'That clause 64, as amended, do stand part of the Bill.'

SRI T. VISWANATHAM:—"Sir, I do not want to make any long speech at this stage on this clause. I have already given my reasons for objecting to this clause and I will only recapitulate them briefly here. This clause gives enormous powers to a single officer. No provision for a judicial review of his orders has been made. The Religious denomination is entirely ignored and the worshipper is absolutely out of the picture. The taking over of the administration of these endowments is against the Constitution and against the wishes of the worshippers and also those of the original founders of these endowments. I submit, therefore, that on merits, it is not good that the funds belonging to certain endowments should be utilized for some other purpose. Supposing a temple is destroyed as the Hon. Minister said yesterday or a temple was submerged under the sea as at Visakhapatnam. I shall instance a case in my town.

"Then, what had happened? Immediately with the remnants and with the money that was available and the money that was collected, another temple in dedication of the same God was built on the site near the submerged place. That is the only method and it would not be proper to utilize the money for this institution or that institution. Therefore, both on merits and also from the constitutional point of view, I submit that this clause should not find a place in the Bill."

SRI K. BRAHMANANDAM REDDI:—"Sir, the reasoning holds good even now and it must be agreed to by anybody because the vesting of a large power like this in the Deputy Commissioner under clause 64 and not hedged in by any appellate authority is not rather good. I would only plead with the Government that though my hon. Friend, Sri Viswanatham's amendment has been lost and no appeal has been provided for cases dealt with in clause 64, at least under clause 67 provision for appeal may be made. I would also request the Government meanwhile before we go to clause 67, to examine whether clauses 64 and 65 are really

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different from each other. Of course, there is some doubt in the matter but even that can be examined by the Legal Department. If there is really some difference, then I would like the Government to accept an amendment to provide for appeals against cases disposed of under clause 64 when we come to clause 67 which deals with appeals."

SRI R. V. SWAMINATHAN:—"Sir, I am very glad that clause 64 is going to be adopted by the House. I say so because I anticipate it will be passed. This is one of the vital provisions some of us have been craving for under this Bill. In fact, the provision in this clause alone constitutes the main cause of strong support of the Bill. We know that there are certain institutions and certain temples which have enormous funds and there are certain others which have no funds at all. In most of the temples and institutions which have surplus funds, money is being misused and the institutions are uncared for and left to be ruined. In several maths and other places, there are enormous funds which are not properly used. If we care to visit some of the other religious institutions like the Christian missionaries for instance, we will find that they have got funds, large funds—the heads of those institutions also collect more funds—for the performance of functions which we have stipulated in items (a) to (i) in clause 64(1). In many cases our institutions do not spend money even on education. They never do any good to the public. They do not spend money for the propagation of the tenets of the Hindu religion. Therefore, what is sought to be done by the Government is that the surpluses, if any, will be spent on every important item that is contained in clause 64(1). The objection was raised by certain hon. Members, 'how can we spend an amount that has been set apart for a particular purpose?' I want to ask those hon. Members, 'what was the object with which a math was created; is that object being fulfilled by the matadhipathi now; what is he doing?' The matadhipathis do nothing. There may be some who may be doing some real spiritual work. But they are not at all doing anything that will be of use to the Hindu public. Therefore, I support this clause and I request those hon. Members who are raising objection to this to withdraw it and allow this clause to be passed unanimously."

SRI N. S. VARADACHARI:—"Sir, I am glad to support this clause because it has really lost its sting. The hon. Member, who preceded me, indulged in a lot of loose thinking. There is no surplus at all now; it is only a dream that he is dreaming. No money can be spent. With all the great efforts that have been put forth, no unification of Hindu religion is forthcoming. And, here we have got one who would achieve unification! However, I may state one thing here. Hinduism is like an ocean with the confluence of so many rivers, each river so majestic and grand. Like the sea, it never moves and yet it is full of waves rolling over and with their beautiful music on the sea shore. That is how we look at the Hindu religion, a grand religion that it is. I am glad,

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Sir, that the Government have reduced the scope of this clause. I want to make it clear that this clause applies only in a case where the institution has either ceased to function or has failed to fulfil its purpose.

"Then, Sir, much of the objection is very much taken away from the whole of the clause as it originally stood. It does not require even the order of priority which I prescribed for it. The grandiose purposes will remain and I do not mind, if there is surplus, money being utilized for those purposes. All that I want is the right of suit. A good illustration was given in this connexion by my hon. Friend, Sri Viswanatham. I will follow it up by another. In building the Kannambadi Dam, a beautiful temple of Krishna was submerged and even to day we find that one little idol—the Baby who rocked the world. It can still be seen on the banks of the Kannambadi. A new temple has been built there but nothing so glorious as the original one built by that great architect of all time, Dathanacharya. He was a great artist who designed three great temples, the Kannambadi, the Halebead and the Belur temples. Never again, never in our lives, not all the Deputy Commissioners in the world, can restore the beauty of that temple. But when such a thing happens and when the hand of God himself decreed that the beautiful temple should perish, I do not grudge giving power to the Deputy Commissioner. Is there any need to say that a particular amount which was endowed for the temple can be spent for the purpose for which it was so endowed or for the objects nearest to the institution and that after a consultation with the worshipping public? I stick to this point, Sir. The Hon. the Minister has already conceded it and the clause is passed along with that concession. It has already been made in this House. Now the only thing that is lacking is when we want to bind persons having interest, when we want to bind trustees and when we want to bind everybody else concerned with the institution, there is no opportunity given to them, though it would be good to consult them, to test the validity of such orders. I know they will not be passed indiscriminately without care but after duly taking all the circumstances into account. All the same, they must have an opportunity to test them.

"With these words, I support clause 64."

THE HON. SRI K. MADHAVA MENON:—"Sir, I cannot appreciate the opposition to this clause as it is now. The clause says that only when the purposes of an institution have from the beginning been found impossible of realization and subject to certain other conditions, the surplus funds, if any, may be utilized for certain purposes. I cannot understand why when the purposes of the institution have become impossible of realization, the funds should not be used for some other purpose. Otherwise, what will happen to these funds? The endowment may be in the possession of certain people who are not entitled to it and who may misappropriate and misuse the funds. When an institution fails to fulfil

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the purposes for which it was founded, it is necessary that something must be done and that is what is provided for in this clause. I cannot, as such, understand the objection to it as a whole."

Clause 64 as amended was put and carried.

Clause 65.

MR. SPEAKER:—"The Motion is—

'That clause 65 do stand part of the Bill.'

SRI T. VISWANATHAM:—"Sir, my amendment to this clause is an important one. It is a modest one also . . ."

MR. SPEAKER:—"There are three amendments to sub-clause (1) standing in the name of the hon. Member. I want to know whether he is moving all the three."

SRI T. VISWANATHAM:—"I am not moving the first two. I am moving only the third amendment . . ."

THE HON. SRI K. MADHAVA MENON:—"In that case, he may move the other amendment also to sub-clause (2) which is identical to this."

MR. SPEAKER:—"There is a Government amendment to that. The hon. Member may move his amendment to sub-clause (1)."

Sub-clause (1).

SRI T. VISWANATHAM:—"Sir, I move—

'In lines 4 and 5, for the words "and after doing so, shall pass an order", substitute the words "and after doing so shall apply to a court for framing a scheme for renovating the institution if possible, or in case it is not so possible to utilize the surplus funds as under section 64 (1) "'.

If my amendment is adopted, the sub-clause will read—

'The Deputy Commissioner may, on being satisfied that a religious institution has, whether before or after the commencement of this Act, ceased to exist, hold an enquiry in the prescribed manner to ascertain its properties and funds; and after doing so, shall apply to a Court for framing a scheme for renovating the institution if possible, or in case it is not so possible to utilize the surplus funds as under Section 64 (1).'

Sir, the object is very clear. Now when an institution has ceased to exist altogether, we come to the application of the Cyprus Doctrine. I have already advanced arguments why such an application should be made at the instance of a court and not *suo moto* by an officer of the Government. If not, it would amount to taking over and managing all the property by the Government themselves. Then, Sir, in the matter of application suggested in the clause, the voice of the denomination is absent, the voice of men who gave such large sums of money is absent and, therefore, if the matter goes to a court, all claims made by the Deputy Commissioner, objections that may possibly be raised

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by others thereto and all suggestions from the public who are interested in the institution or those persons who have an interest in them, will be openly enquired into. The court is the most proper body to frame such schemes. I have advanced this point on the floor of the House on a number of occasions and my present argument is only in line with it. So, Sir, there is a clear case for the application of this doctrine and I submit that the court is the custodian which should administer it."

SRI V. RAGHAVAYYA :—" Mr. Speaker, Sir, I rise to second the amendment moved by my hon. Friend, Sri Viswanatham. I would request him, however, to amplify this point, when he replies, with reference to a possible danger that may result from the provisions of this clause. His amendment says that where an institution has ceased to exist, the Deputy Commissioner should apply to a court for framing a scheme. What will happen to a case like this? Suppose an attempt is made by the erstwhile managers, donors and trustees of the defunct temple to devour the properties, to destroy and appropriate the money, particularly when they come to know that the Government are extending their hands to the temple properties. It is possible they may try to secrete the funds. By the time, the Deputy Commissioner goes to a court of law and gets an order for framing a scheme—which case will naturally be contended by the public—it will be a few months from the date of publication and it is quite probable that the funds may have been misappropriated by them. There must therefore, be some arrangement by which the properties can be prevented from being secreted or destroyed during this interregnum.

"I think sub-clause (c) makes provision for that and directs the recovery of property and funds from any person who may be in possession thereof. The only explanation my hon. Friend Sri Viswanatham may be pleased to give is the case of a temple which has ceased to exist, where the administration ceased to exist long ago. When an important institution ceases to exist, the act of ceasing to exist spreads over a number of years and not a few months. Nobody would think a temple has ceased to exist by lapse of worship for a few months or years. So it may be said by my hon. Friend Sri Viswanatham 'where is the hurry for making an interim provision about it.' I think, Sir, alienations are controlled by law. If a provision is made by this Government in this Bill later on that alienations made within the previous so many years, previous to the application of the clause, such alienations, even for consideration, may not be valid or some such thing. Unless some such provision is made the interest of the temple is not properly safeguarded."

THE HON. SRI K. MADHAVA MENON :—" Sir, a suit before the Civil Court and an appeal to the High Court is provided under clause 67 for any orders passed under clause 65. We are dealing with institutions which have ceased to exist. Certain orders are passed by the Commissioner to deal with the properties and funds

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of those institutions. Under clause 67, any party who is aggrieved by such orders, is given the right of suit. My hon. Friend Sri Viswanatham does not want that the Commissioner or the Deputy Commissioner should pass any orders at all. Since the institution ceased to exist, he wants that the Commissioner should apply to the court for framing a scheme for renovating the institution. The clause as it is gives power to the Commissioner or the Deputy Commissioner to issue orders in regard to the matters specified therein. If any party is aggrieved by these orders, he is given the right of suit. Therefore, the amendment of my hon. Friend is unnecessary."

SRI T. VISWANATHAM :—" Sir, the argument of the Hon. Minister is that my amendment is not necessary. I believe that it is very necessary, for the right of suit is unnecessarily postponed in this clause. I am aware that clause 67 gives the right of suit but it is postponed to two intermediate transactions which are quite unnecessary and expensive. As a matter of fact, Sir, not only the Deputy Commissioner, I think any person having interest should also be given the right to go to a court. I don't know why it is omitted here. When a religious institution has ceased to exist, any person interested in the institution must have a right to go to court. There is no purpose served in burdening the office of the Deputy Commissioner or the Commissioner obliging them to pass so many orders which are going any way to be ultimately questioned in a court of law. Nor would this impose due sense of responsibility on the officer concerned for he well knows that this matter would at any rate go to a court of law. Thus officers would not be enthused to go deeply into the question. I do not say that the Commissioner or the Deputy Commissioner will do it to delay matters, but the process involves unnecessary amount of delay and burden on the Commissioner and the Deputy Commissioners. The statute itself says that whatever their order might be any person aggrieved may go to a court of law. Therefore the officers can be spared the work and the parties given the right to go to a court of law, because other evidence may come and the decisions may take their own course in courts."

THE HON. SRI K. MADHAVA MENON :—" Sir, it is not the idea of Government in appointing officers that no work should be given to them. Officers are appointed and paid for the work they have to do. Therefore, there is no question of burdening the officers with work. It is contended that the right of suit is postponed. It is not so, Sir. As far as possible, the necessity for filing a suit is avoided. We first try to avoid a suit by asking persons like the Commissioner or the Deputy Commissioners to go into these cases. In many cases the parties may be satisfied with the decision of the Commissioner or the Deputy Commissioner. Where a cantankerous individual is not satisfied or if there is a real grievance against the order of the Commissioner or the Deputy Commissioner, it may go to the court. But those satisfied with the order may not go to court. The idea is to avoid the suit and

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Mr. SPEAKER:—"The question is—

'In sub-clause (1) of clause 65 in lines 4 and 5, for the words "and after doing so, shall pass an order", substitute the words "and after doing so shall apply to a court for framing a scheme for renovating the institution if possible, or in case it is not so possible to utilize the surplus funds as under section 64 (1)".'

The amendment was lost.

THE HON. SRI K. MADHAVA MENON:—"Sir, I move—

'That in sub-clause (1) (d) of clause 65, before the words "be appropriated to", insert the words "if such renovation is not possible".'

The object of the amendment is that the appropriation of the funds to any one or more of the purposes specified in clause 64 should be after satisfying that renovation is impossible."

Mr. SPEAKER:—"The question is—

'That in sub-clause (1) (d) of clause 65, before the words "be appropriated to", insert the words "if such renovation is not possible".'

The amendment was carried.

Sub-clause (2).

SRI T. VISWANATHAM:—"Sir, I am not moving my amendment to sub-clause (2)."

THE HON. SRI K. MADHAVA MENON:—"Sir, I move—

'That in sub-clause (2) (b) before the words "be utilized", insert the words "if such use is not possible".'

Mr. SPEAKER:—"The question is—

'That in sub-clause (2) (b), before the words "be utilized", insert the words "if such use is not possible".'

The amendment was carried.

Sub-clause (3).

SRI T. VISWANATHAM:—"Sir, I move—

'Delete sub-clause (3).'

In view of the proposed Government amendment, Sir, my amendment has become all the more necessary. The second day of April 1946 has been chosen for some reason or another. Certain transactions might have taken place and I think parties were guided by that date. I don't know why this date was originally fixed. It may be because the idea of taking up consolidation and amendment of the Hindu Religious Endowments Act was taken up somewhere during that period. Now the Government come forward and say that nothing contained in sub-section (1) or sub-section (2) shall be deemed to authorize the Deputy Commissioner to pass an order in respect of any property or funds which vested in any person before the commencement of this Act. I submit,

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Sir, it won't be fair because during these four years several other transactions might have taken place particularly in view of the Zamindari Abolition Act and several transactions took place in regard to inams attached to temples. Some people might have come into possession by lease or by some other arrangements and therefore some of them are likely to get title under the Zamindari Abolition Act itself by a process of interpretation of some of the sections of that Act. I therefore submit that if the property belonged to an institution which has ceased to exist, it is only right that at any time the Government must be able to, or any person having interest in the institution must be able to, bring it back as public property. There is no limitation so far as trust properties go. So far as trust properties are concerned whenever it is known that a particular property is a trust property, the trust follows the property wherever it goes. It is for this reason, I submit that the sub-clause should be deleted, whether it is 1942, 1946 or 1950. As a matter of fact 1950 makes it much more objectionable. 1946 was sufficiently objectionable. If it is the intention of the Government to restore back the properties to the trust or to see that the properties are not misappropriated or utilized or claimed by the law of limitation or expropriated by private persons, it is only necessary, reasonable and just that this clause should go. The trust properties must be recovered and whosoever might have been in possession so far, must yield the property."

SRI L. N. GOPALASWAMI:—"I rise to second the amendment, Sir. I have had occasion to point out, Sir, that a provision like this has no place in a statute like this. If property is vested in a person by law of limitation then by our making a provision in this Bill that it will apply only from such and such a date, it cannot take away the right of the individual, simply because we insert a clause here. The meaninglessness of it will be brought to light when I place before you this instance. It is stated here that nothing contained in sub-clauses (1) and (2) shall be deemed to authorize the Deputy Commissioner to pass an order in respect of any property or funds which are vested in a person before the 2nd day of April, I do not know what sanctity is attached to the 2nd day of April 1946—is it the birthday of any saint or any such thing—by the operation of the law of limitation. If the law of limitation can act and prevent the court or the Commissioner from passing any order on any property, by merely saying in a statute that it shall operate only on the 2nd day of April 1946, it carries us no further. Supposing by law of limitation the property is vested in that particular individual after the 2nd day of April 1946, does the statute mean to say that you can override the law of limitation and say irrespective of the law of limitation having come into force after 2nd April 1946, it cannot take effect or will not take effect? I am not able to understand why such a date has been fixed for the purpose of the law of limitation. I therefore second the amendment, Sir."

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SRI K. R. KARANTH :—" I had something to do, Sir, with this matter in the Select Committee stage and therefore I think the amendment is not a wise one. Sir, it is not a correct proposition of law that was stated by my hon. Friend, Sri Viswanatham, that is, that there is no law of limitation for trust property. It is not so. If for fifty or a hundred years properties of a certain temple had been alienated by the then trustees and have been enjoyed as private properties for that period certainly there is the law of limitation and the trustee now appointed to that temple cannot go and pounce upon the properties. Therefore it was thought right in the Select Committee to say that where the law of limitation has operated then it should not be open to get at the properties now irrespective of the law of limitation. In the case of temple properties, for instance, alienation will be valid only during the lifetime or period of the then trustees. If it happens that after three or five years another set of trustees come then the law says, the moment new trustees are appointed they are entitled to sue to set aside the alienation of the previous trustees. Similarly in regard to maths what has been alienated during the lifetime of a matadhipati will be valid only till his lifetime. But the moment the new matadhipati comes on the scene he gets a right to set aside the alienation. If he does not do it the alienee will get a good title. We do not therefore want to reopen in this Bill transactions of fifty years, sixty years, hundred years or two hundred years, irrespective of the past.

" The 2nd of April 1946, I think, was the date when a clause similar to this was introduced and therefore I think it was that that date was fixed. It is going to be amended by the Government as 'from the date of commencement of the Act' which I think is more correct because it may be that between the particular date that we mentioned in the Bill, namely, the 2nd day of April 1946 and the date of commencement of the Act, several other cases might have been covered by the law of limitation and complete title would have vested. Therefore, the Government amendment which is to be moved would be a proper one. My hon. Friend, Sri Gopalaswami is not right in saying that we cannot alter by a Bill what has happened by the law of limitation. If ten years ago or twenty years ago complete title was got by a certain person by the law of limitation, it is open at any time for this House to alter that. It is open to the House to say that irrespective of the law of limitation we are going to allow the Government and the trustees to get back the properties. We have got the right.

" It may be that under the Constitution where a complete title was vested fifty years ago, we cannot get back the property without paying any compensation. But, this House should have the right to say that the law of limitation will not have any effect. Therefore, it is possible to do so. But, in the Select Committee we thought, where a title has been completed by the law of limitation, it should be respected. That was the object. I, therefore, regret I cannot agree to the amendment."

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THE HON. SRI K. MADHAVA MENON :—" Sir, in the Select Committee it was decided that titles to properties which were completed before the commencement of the Act should be protected. We want to extend that protection to *bona fide* transactions which have taken place before the 2nd April 1946. Here we only say that the Commissioner or the Deputy Commissioner shall not pass any order on transactions which have taken place before the commencement of the Act. Sri Viswanatham says that there is no law of limitation. If there is no law of limitation, no order can be passed on property transactions which have been completed already."

SRI T. VISWANATHAM :—" Sir, I think there was some mixing up of the position of vesting of property by operation of law and vesting of property by operation of the law of limitation. There is a great difference between the two if my hon. Friends would only care to see. I also said that the Government should not go to property although it is a trust property. Trust property can go and vest in somebody else under defined conditions by law and I said that there is no law of limitation for such trust properties. What I advanced is this. If a particular transaction is completed and is good for the lifetime of the trustee, what does it show? It shows that there is no such thing as law of limitation to trust property. When a property was alienated under circumstances which are approved by law, then the alienee gets the title and that is vesting of property by law. I do not say that the Government or the Commissioner should go and try to get back the properties which are vested by law in another man. I am not suggesting it. When they are vested by the operation of law of limitation which may be 10 or 12 years, the trust property goes away and is sequestered by some people after 12 years and then they say 'we have been in possession of the property for 12 years before the commencement of the Act and we are adversely holding the possession of the property. Your religious institution ceases to exist and the property has come to us'. I want to avoid these conditions so far as the trust property is concerned. I still maintain that law of limitation does not affect it. Wherever the trust property follows, the trust also follows. We must make a distinction between a property vesting by law and a property vesting by merely adverse possession."

THE HON. SRI K. MADHAVA MENON :—" Sir, I do not subscribe to the views of Sri T. Viswanatham that there is no law of limitation to trust property. What we are saying in this sub-clause is this. The Commissioner or the Deputy Commissioner is not given the right to pass any order. Parties interested in the property or the Commissioner from going to the court if they are entitled to go to court. This is only limiting the power of the Commissioner or the Deputy Commissioner to pass any orders with regard to properties which have been vested in other persons by the law of limitation before the commencement of the Act."

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construction of a building, the institution cannot afford. Under the fundamental rights of the Constitution, the trustees have got absolute power and unless they abuse their power, the Commissioner cannot interfere. That has been my view all along. The Commissioner may decide it some way and there will be a serious difference of opinion and so I submit, Sir, that under clause 32 (2) a right to appeal should be provided.

"The next amendment which I introduce is clause 32-A (2). This is one of the most important clauses in which surely the discretion of departmental heads should not be made to override the existing practices and usages.

"If the trustees or the persons affected want to take the matter to a court they should be at liberty to do so. That is my object in including clause 32-A (2). Then I have included clause 33 which relates to the enforcement of service in regard to certain properties. The provision as it stands will mean that if a decision is given by the Commissioner, *ipso facto*, it is given effect to and the amount is treated by the Collector as an arrear of land revenue and collected. This results in the infringement of property rights. It is not fair. The court should have power to look into the matter and the parties affected should have the satisfaction that their rights are being properly safeguarded. Therefore under sub-clauses (3) and (4) of clause 33 there should be the right of appeal to court. The other three clauses are 36, 59 and 64. Clause 36 relates to exchange, gift or sale of properties. Here also there must be some right conferred. My hon. Friend, Sri Gopala-swami, brought to the notice of the House how, after the old Act has been in force, certain valuable properties of temples in his district have been alienated by collusion to certain persons to the detriment of the interests of the temples without the knowledge of the public concerned. I know in my own district there are instances where the interim trustee of an institution and his relations have been able to get permanent leases of math properties. In all such cases the final decision should not be that of the Commissioner. The party must have the right to go to a court and have the matter finally settled.

"Then, Sir, I come to clause 59 where, in regard to fixing of dittams in the case of maths, no appeal has been provided. This is not fair. Though there is nothing like a dittam in the case of maths, the order of the Commissioner under sub-clause (3) of clause 59 is made final. I do not know whether a matadhipathi or others can function at all if these executive orders of the Government or of their subordinates are to be final in all matters of expenditure in regard to maths. Surely the matadhipathi must have the right to take this matter to the court and have it decided because it affects the math for all time.

"Sir, the other clause to which I have to refer is 64. This concerns the utilization of surplus funds. These are matters of importance. There would have been schemes already framed. In

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infringement of such schemes, provision has been made in this Bill that the Commissioner can pass any order as he likes. I want that for these orders to be final, the party should have the right to go to a court of law. That is all my submission, Sir."

SRI T. VISWANATHAM :—"Sir, I am very glad to second this amendment. There is another amendment of hon. Sri Karanth. Will it be taken up separately?"

MR. SPEAKER :—"Probably he is not moving it. It relates to sub-clause (1) (i)."

SRI K. R. KARANTH :—"I have another amendment to sub-clause (1) (ii) as in the printed list. I will move it later on."

SRI T. VISWANATHAM :—"This is a point on which I have been hoping to plead successfully with the Hon. Minister as a member of the legal profession. I hope he will agree that judicial control must be provided over executive acts. My friend, Mr. Karanth, has been very patient—and he advised me also not to move the amendments to other clauses and waited till this clause was reached to urge the need for his amendment hoping to persuade the Government to accept it. I strongly support this amendment as in very many places in this Bill the executive has been given power of making final decisions. Here at least I desire that power for judicial review must be provided. This is a fundamental principle of law and of public life and legislation and administration. The Hon. Minister will be doing justice to himself if he accepts this amendment."

SRI D. V. RAMASWAMI :—"Sir, I am supporting this very important amendment. The clauses sought to be included by the Mover, Mr. Karanth, give, as it were, a resume of all the arguments in favour of giving the right to litigate. Such an amendment is absolutely necessary in order to bring out the spirit of the new outlook on the proper administration of our maths and religious institutions. This Bill places extraordinary powers in the hands of the executive. The Government as now constituted are very jealous about the rights of the people and have accepted the necessity for the separation of the judiciary and the executive. They could not be oblivious to the fact that placing of extraordinary powers in the hands of executive may not work satisfactorily immediately. This is a very big experiment and a new Act which we are trying to bring into force. I, therefore, plead that a healthy check over such executive powers will be most welcome. This is very necessary and Government must accept it."

THE HON. SRI K. MADHAVA MENON :—"Sir, I am sorry I cannot accept the amendment. The House may remember that here was no clause 67 at all in the Bill as it was referred to the Select Committee. Also in the original Bill, there was no appeal in respect of most of the orders or provision permitting going to court of law. This clause 67 is therefore a new clause giving the

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right of suit in any matter where the orders of the Commissioner or the Deputy Commissioner are in dispute. The principle which weighed with the Select Committee in making this provision to go to the court was this: where a question regarding title to property is involved, it is better to give the final settlement to the civil court than to an executive officer. This has been done to the extent possible.

"Sir, my hon. Friend said that as I belong to the profession of lawyers I would appreciate his idea in this matter. However much I like my profession and the honour of it, I cannot go to the extent of allowing unnecessary and wasteful litigation at the expense of our religious institutions and endowments. As I said, wherever it is possible to avoid wasteful litigation in a matter which does not affect the question of right or title or ownership of property, it is only part of wisdom not to allow people to indulge in wasteful litigation. One main principle of this Bill is avoidance of litigation as far as possible without affecting property rights in order that the available funds of the religious endowments are conserved and not wasted on litigation.

"Sir, hon. Mr. Karanth wanted to include the orders under 32 (2) which gives the right to a trustee to incur expenditure for securing the health of the disciples. The amount required is to be determined in consultation with the Area Committee. In this case there is no right to property involved. Further there is no order of the Deputy Commissioner involved. There are to be only instructions for the guidance of the trustee in relation to the expenditure for securing the health and convenience of the disciples, etc. This, therefore, is not a matter in regard to which the right to suit should be given. The trustee is not allowed unfettered discretion in regard to this expenditure.

"Now I come to clause 32 (2). This relates to surplus funds. We have provided there that, after meeting the necessary expenditure required for the usual normal maintenance of health and other conveniences, if there is any surplus in the property, it shall be utilized as in clause 64. In clause 64 we have only provided a number of purposes for which this surplus may be utilized. I do not see any reason why the right to suit should be given in a case of this kind. This kind of unnecessary litigation should be avoided.

"Clauses 33 (3) and (4) relate to resumption of inams where an archaka, etc., is not performing the service. The provision here is that where this is the case the Collector must resume the property and give it to the person who is performing the duty. This again is not a case where there should be provision for a suit.

"Clause 36 relates to re-grant of inams and clause 59 relates to fixing of dittams of expenditure. Here again there is no question of right to property involved. We were told by my hon. Friends, Messrs. Viswanatham and Bhashyam, that in the case

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of maths there are no dittams at all. From this amendment, however, I see that there is provision for dittam in maths also. Dittam is only a list of the scale or items of expenditure for particular purposes. We have provided that any order should not go against the usage or custom or financial capacity of the institution concerned. It is only when the dittam goes against these two points, the Deputy Commissioner reports the matter to the Commissioner who then gives an opportunity to the trustee concerned to have his say and sends the papers to the Government for final orders. This, Sir, again is not a case where the right for suit is necessary.

"We have already dealt with clause 64 relating to institutions which have ceased to exist and whose purpose has become impossible of realization. There is nobody practically in charge of these institutions and if there is anybody there, he is there as a trespasser. Therefore the Commissioner has got a right to pass an order as to how the funds should be used. These are not matters where other people's property rights are involved. If there is any litigation, it would only be unnecessary and wasteful litigation. One of the basic principles of this Bill is to prevent such litigation."

SRI K. R. KARANTH:—"Sir, I regret I cannot agree with the arguments of the Hon. Minister. It is true that in the Select Committee the original provisions were liberalized and in regard to several important matters appeals to court have been provided. To that extent the measure has been improved. But I want to bring to the notice of the House and the Government that the Select Committee considered this Bill before the Constitution of India was passed and since then article 26 has conferred the right on every religious denomination or any section thereof to manage its own affairs in matters of religion in its own way and to administer such property in accordance with law. My hon. Friend says that he has provided for appeals wherever property is concerned, and in regard to other matters he has thought fit not to provide for appeals to courts, because people are likely to waste their money in litigation and he wants to save them from themselves. Sir, the argument is a very plausible one, but it is not correct. I feel very strongly about this thing. On the one hand the Constitution says 'You can manage your property in your own way. A matadhipathi can manage his property in his own way', provided, as I understand it that he does not misappropriate the funds. If a matadhipathi's income is Rs. 10,000 and he wants to spend Rs. 1,000 on feeding persons who come to his math and Rs. 5,000 or Rs. 6,000 on the propagation of his religion and philosophy, the Constitution gives him absolute discretion and perfect freedom to arrange these matters as he likes, whereas this Bill gives the discretion and the final decision in the matter to the Commissioner and the Government. Clause 59 deals with the dittam or the scale of expenditure. The hon. Member Mr. Bhashyam in one of his amendments regarding the dittam clause said that there is really no dittam as

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"Sir, my hon. Friend said that as I belong to the profession of lawyers I would appreciate his idea in this matter. However much I like my profession and the honour of it, I cannot go to the extent of allowing unnecessary and wasteful litigation at the expense of our religious institutions and endowments. As I said, wherever it is possible to avoid wasteful litigation in a matter which does not affect the question of right or title or ownership of property, it is only part of wisdom not to allow people to indulge in wasteful litigation. One main principle of this Bill is avoidance of litigation as far as possible without affecting property rights in order that the available funds of the religious endowments are conserved and not wasted on litigation.

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of maths there are no dittams at all. From this amendment, however, I see that there is provision for dittam in maths also. Dittam is only a list of the scale or items of expenditure for particular purposes. We have provided that any order should not go against the usage or custom or financial capacity of the institution concerned. It is only when the dittam goes against these two points, the Deputy Commissioner reports the matter to the Commissioner who then gives an opportunity to the trustee concerned to have his say and sends the papers to the Government for final orders. This, Sir, again is not a case where the right for suit is necessary.

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SRI K. R. KARANTH:—"Sir, I regret I cannot agree with the arguments of the Hon. Minister. It is true that in the Select Committee the original provisions were liberalized and in regard to several important matters appeals to court have been provided. To that extent the measure has been improved. But I want to bring to the notice of the House and the Government that the Select Committee considered this Bill before the Constitution of India was passed and since then article 26 has conferred the right on every religious denomination or any section thereof to manage its own affairs in matters of religion in its own way and to administer such property in accordance with laws. My hon. Friend says that he has provided for appeals wherever property is concerned, and in regard to other matters he has thought fit not to provide for appeals to courts, because people are likely to waste their money in litigation and he wants to save them from themselves. Sir, the argument is a very plausible one, but it is not correct. I feel very strongly about this thing. On the one hand the Constitution says 'You can manage your property in your own way. A matadhipathi can manage his property in his own way', provided, as I understand it that he does not misappropriate the funds. If a matadhipathi's income is Rs. 10,000 and he wants to spend Rs. 1,000 on feeding persons who come to his math and Rs. 5,000 or Rs. 6,000 on the propagation of his religion and philosophy, the Constitution gives him absolute discretion and perfect freedom to arrange these matters as he likes, whereas this Bill gives the discretion and the final decision in the matter to the Commissioner and the Government. Clause 59 deals with the dittam or the scale of expenditure. The hon. Member Mr. Bhashyam in one of his amendments regarding the dittam clause said that there is really no dittam as

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such for a matter and he is right. The amount spent for purposes of puja and ceremonies, unlike in a temple, may not be much and more may be spent on uncertain items such as the feeding of disciples or the maintenance of certain institutions.

"Now, Sir, my point is this. The Constitution guarantees to the matadhipathi subject only to his not misappropriating the funds, as I understand it, absolute discretion in the matter. I have no objection if the accounts are audited and if there is misappropriation or falsification of accounts the matadhipathi is surcharged, or otherwise punished. I have not the least objection to such action, but the discretion, the right to spend the money in his own way, not on wasteful purposes of course, but on proper purposes should be his and his alone. That discretion has been left to him by the Constitution, whereas what my hon. Friend and the Government would tell the matadhipathi is this: 'You tell us what the usage is and what your requirements and income are. The absolute discretion to decide the expenditure will be of the Commissioner in the first instance and of the Government in the final instance.' They are given the power to tell the matadhipathi, 'No, we do not agree with your proposals. Your income is not sufficient. You shall not spend so much on this and so much on that.' The final voice rests with the Commissioner and then with the Government. This is not a small matter at all. My hon. Friend says that where property worth Rs. 10 is involved he has provided relief for an appeal to a Court. But this is a far more important matter. The matadhipathi says, 'according to the usage of my institution, my programme of expenditure is this. I am going to spend Rs. 1,000 on this matter and Rs. 2,000 on another matter.' Let us agree that this money is going to be spent and not misappropriated. The final voice and discretion and freedom have been guaranteed to him under the Constitution. But the Government now say, 'No, no. We shall look into a matter and we are the final authority. We consider that spending Rs. 2,000 on feeding is wrong. You may spend only so much on this and no more.' To say like that, under clause 59 of the Bill, is according to my humble understanding, an interference with a vested right which the Constitution has conferred. But the Government have not agreed with my view and they have got passed clause 59. Is it a small matter or a frivolous matter to say like that? In clause 59 there is not even a provision included to the effect that the matadhipathi shall be heard after the Commissioner has made his report to the Government and before the Government pass final orders. It is not there. My hon. Friend would say that the matadhipathi would have had his say before and that the whole file would come before the Government. Now, Sir, it is wrong to interfere in this matter and say, 'Do something according to my view of affairs, my view of the usage of the institution and my view of your resources.' The Government have no right to do that under the Fundamental Rights articles of the Constitution, as I understand them. But, even after doing that, shall not this matadhipathi have a right to appeal to an independent authority? The Government are not an independent tribunal; they

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are only an executive authority. The dittam is not a thing which will be fixed from day to day but fairly for a good length of time and it is only where a substantial difference of view arises that this interference will be made. Therefore, I want that the matadhipathi must have the right to go to a court. If Government are anxious that he should not spend much on such litigation let them provide a cheap remedy by means of a petition and let a Subordinate Judge or some other judge dispose of such petitions expeditiously.

"Sir, two points have been put forward by my hon. Friend: regard must be had to the usages of the math and secondly to the resources of the math. The matadhipathi takes one view in regard to these matters whereas the Commissioner and the Government take a different view. That is why a difference will arise. Otherwise there is no difference and there is no need for an order. I do not know why the Government do not allow the matadhipathi to place these matters before a court and let it decide whatever it thinks just regard being had to both these criteria. I think, it is lesser of the two evils. It is wrong to interfere with his discretion which the Constitution has given him. But having interfered with it, it is not proper that we should not even give him the right to appeal to a court of law. I do not want that he should have the right of so many appeals in a court of law and so on. That was why in the Select Committee stage, most of the witnesses who appeared before the Committee on behalf of the maths wanted the establishment of a judicial tribunal—the two are not the same—consisting of a retired High Court Judge and one or two more members who will not be guided merely by the executive and by the reports which are made behind the backs of others. If these people who are independent decide the matter after hearing both sides, there will be some satisfaction at least. But it is not there in the Bill. The Government want to pass orders in an executive manner and as they please."

"The same is the case with regard to several other things which my hon. Friend mentioned. Under clause 33, certain moneys can be collected as if they are arrears of land revenue and under clause 36 certain service inam lands can be resumed. Who is to decide whether there has been failure of service or not? The executive decides if here. The man who has got a grievance cannot go to a third party, a disinterested party and have his case decided. Similarly with regard to the application of the *Cypres* doctrine. Who is to decide how the surplus funds should be utilized? These are all far too important matters to be decided by the executive alone. But the Government are prepared to provide a right of appeal where a property worth Rs. 10 is involved, but where important matters like these are involved, they say, 'No, no, Do not go to litigation. Do not waste money. Our discretion and our voice are final.' Sir, I submit, that it goes against the very fundamental rights guaranteed by the Constitution. That is why I have provided that these matters should be decided by the court which is independent, so that the parties interested may have satisfaction. Therefore, I beg to press my amendment."

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THE HON. SRI K. MADHAVA MENON :—" Sir, it seems that we are arguing in a circle, the identical questions being raised and the same answers being given. Under clause 59, the hon. Member Sri Karanth says that the matadhipathi is not given an opportunity to be heard. The Commissioner is not given the power to pass final orders. The clause reads—

'59 (3). If on a scrutiny of such proposals, and any suggestions made by persons having interest, it appears to the Commissioner that the scale of expenditure or any item in the scale of expenditure is at variance with the established usage of the institution, or is not justified by its financial position, the Commissioner may call for the remarks of the trustee . . .'

The trustee is given a voice. And then the clause reads—

' . . . and if after considering the same, the Commissioner is of opinion that any modification is required in the scale of expenditure, he shall submit the case to the Government who shall pass orders thereon, and such orders shall be final.'

The remarks of the trustee are taken into consideration. Suppose the trustee wants to feed 1,000 people. If feeding 1,000 people and doing religious propaganda are the usages of the institution, the Commissioner cannot take any objection. He will object only if there is variation. Suppose the usage is to feed people and the institution cannot afford to feed 10,000 people but can feed only 1,000 people. But the matadhipathi says that there should be no limit. There must be somebody who must decide whether a limitation like this is against the usage of the institution. We say that the Government must decide the question and that it should not go to a court. That is the fundamental principle involved here. Suppose the matadhipathi or a trustee takes it into his head to open a cinema hall or form a dramatic party, should he be allowed the discretion to do so? These are obviously wrong things for a trustee of a religious endowment to do and in such cases should absolute discretion be given to him? Does the Constitution say that discretion should be given to him in matters like that? The Constitution gives him the right only to manage the institution and not mismanage the affairs of the institution. As this question does not involve any right to property, I am afraid, the Government cannot accept the amendment."

The amendment was put and lost.

THE HON. SRI K. MADHAVA MENON :—" Sir, I move the following amendment :—

'In sub-clause (1) (i), for the words, figures, brackets and letters "section 62, clauses (a), (c), (d), (f) and (g)", substitute "section 62".'

Originally the Select Committee provided appeals only for clauses (a), (c), (d), (f) and (g). No appeal was provided with reference to other clauses. We want to provide for an appeal with reference to all the clauses. That is why I want to simply say 'section 62'."

Amendment was put and carried.

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SRI K. R. KARANTH :—" Sir, I had given an amendment regarding the modification of the sub-clauses under clause 62; the Government, however, have rectified the clause in the manner I wanted. Therefore, there is no need for me now to move that portion of my amendment which relates to the sub-clauses under clause 62. As regards the other two amendments which I have given notice of, viz., (b) and (c), this is the first of the amendments—

'In sub-clause (1) (ii)—

'After the words "section 85", add the words "or under section 69 (3) or section 75 (3) and (4) or section 83 (2) (b) or section 92 (1) " . . .'

MR. SPEAKER :—" I am afraid that will have to come later. The Government amendment should now be moved."

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

'In sub-clause (1) (ii), for the words, figures, brackets and letters, "section 62, clauses (a), (c), (d), (f) or (g)", substitute "section 62", and for the brackets, figures, word and letter "(3) or (4) (a)", substitute "or (4) (a)".'

For the reasons I have already explained, namely, for providing a right of appeal, I move this amendment."

The amendment was put and carried.

SRI K. R. KARANTH :—" As I said, I propose to move only parts (b) and (c) of my amendment, Sir . . ."

MR. SPEAKER :—" In that case, hon. Mr. Viswanatham will first move his amendment and then hon. Mr. Karanth may move his."

SRI T. VISWANATHAM :—" Sir, I move—

'In sub-clause (1) (ii), omit the words "read with sub-section (1) (a), (2) or (4) (a) of section 21 or with sub-section (3) or (4) of section 85".'

The effect of it would be this, that the clause would read thus—

'(ii) under section 62, section 63 or section 65.'

The Government themselves have removed some of the sub-clauses under 'section 62' and I do not know why this 'section 62' should be read with 'section 21'. As the hon. Mr. Karanth has explained, we should get a right of appeal on a clean slate as it were, on all matters, wherever there is an executive decision—not alone on any one or two particular matters. My amendment, if accepted, will serve that object."

SRI L. N. GOPALASWAMI :—" I second the amendment, Sir."

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THE HON. SRI K. MADHAVA MENON :—" Sir, this amendment has been moved under a misapprehension. Clause 21, sub-clauses (1) (a), (2) and (4) (a) deal with the power given to the Commissioner 'to transfer any proceeding pending before a Deputy or an Assistant Commissioner to his own file', 'to exercise such power or discharge such duty'—that is, the power and duty of the Deputy or Assistant Commissioner, and also to 'himself exercise the powers and discharge the duties assigned to the Deputy or Assistant Commissioner'. The Government want to give a right of appeal over the orders passed by the Commissioner in respect of these transfers. For instance, suppose in one place we have said that the order of the Deputy Commissioner is liable to be settled in a court of law, and the Commissioner has transferred that case to his own file, in that case, there must be an appeal from the Commissioner's order. So, 'read with sub-section (1) (a), (2) or (4) (a)' means that even in cases where the Commissioner has transferred the pending cases to his own file, there must be a right of appeal to go to court.

"Then again, Sir, clause 85 refers to the Tirumalai-Tirupati Devasthanams and the special endowments attached thereto and sub-clause (3) (c) of that clause says that—

'All powers and duties assigned by the provisions aforesaid to a Deputy or an Assistant Commissioner shall be deemed to have been assigned to the Commissioner instead; and

The provisions of this Act shall apply to every specific endowment attached either to the Devasthanams as a whole or to any temple or any institution thereof as if all powers and duties assigned therein to a Deputy or an Assistant Commissioner had been assigned to the Commissioner instead.'

If hon. Mr. Viswanatham's amendment is accepted, there will be no right of a suit against the Commissioner's order, and it is provide for a suit that this provision is introduced in the clause. There is no other purpose served by including this 'section 85' in the sub-clause, Sir. Therefore, I am sorry I cannot accept hon. Mr. Viswanatham's amendment."

SRI T. VISWANATHAM :—" I submit, Sir, why this clubbing of clause 21 with clauses 63 and 65 should be there, has not been explained or made clear. The whole trouble would have been avoided if the clauses dealing with suits and appeals were given a separate chapter by itself. This clause 67 comes under the chapter 'Inquiries'. Naturally, therefore, one's attention is confined to clauses 62, 63, 64, 65 and 66 which are included in this chapter. Nowhere in clause 62 is there any reference to any action to be taken by the Commissioner under clause 21. If the Commissioner does any particular act under clause 21, that is a matter requiring separate investigation. We are now dealing with a chapter regarding 'Inquiries' and we are providing for suits and appeals in that connexion. I submit that is also the reason why I think clause 85 should not be brought in here. In the matter of the Tirupati Devasthanam also, we can provide for a right of appeal under Chapter X relating to it. If this was a separate chapter dealing with appeals, it would have been all

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right, but it is not so. Therefore, Sir, I submit, that clause 21 need not be read with clause 62 nor with clause 85. I should like the Hon. Minister to read it again."

THE HON. SRI K. MADHAVA MENON :—" That is the very thing which I ask my hon. Friend to do. In clause 67 which we are now discussing, what my hon. Friend wants to omit is this: 'read with sub-section (1) (a), (2) or (4) (a) of section 21'. Now, clause 21 says that the Commissioner shall have power at any stage to transfer proceedings pending before a Deputy or Assistant Commissioner to his own file, to transfer it to another Deputy or Assistant Commissioner, and if either of them has failed to exercise any power, to exercise such power himself. So, all orders under clauses 63 and 65 can be passed not only by the persons referred to in those clauses, but by persons to whom the files have been transferred by the Commissioner under clause 21. Consequently, not only is there to be an appeal over orders under clauses 63 and 65 but there must be an appeal to the court against orders passed by persons to whom the cases have been transferred. That is the reason why power is taken in this clause 67 to go to a court on appeal. I am sure if my Friend reads the implications of clause 21 which authorizes the Commissioner to transfer pending cases either to his own file or to other officers, he will agree that this inclusion of clause 21 in this clause is necessary."

SRI T. VISWANATHAM :—" May I ask for some little information, Sir? Clause 62, if read with clause 21 does not expand the power under clause 65, but circumscribes it. You will get a right of appeal only in respect of matters defined in clause 21 in relation to inquiries and so it only circumscribes the power under clause 62. Will the Hon. Minister kindly explain this point, Sir?"

THE HON. SRI K. MADHAVA MENON :—" It is not a question of expanding any power. Clause 65 refers to the Deputy Commissioner holding enquiries and there is provision for an appeal over his orders under that clause to the Commissioner and also an appeal to the court. And in cases where the Commissioner transfers the files to another Deputy or Assistant Commissioner or to his own file also, there must be a similar appeal to the court. The Commissioner, when he makes the transfer, makes it under clause 21; and 'read with section 21' in clause 67 will mean that where an enquiry has been transferred to another officer under clause 21, there is still a right of appeal. I am sorry, Sir. I cannot agree to the amendment."

MR. SPEAKER :—" The question is—

'In sub-clause (1) (ii), omit the words "read with sub-section (1) (a), (2) or (4) (a) of section 21 or with sub-section (3) or (4) of section 85."'

The amendment was lost.

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SRI T. VISWANATHAM :—“ Sir, I move—

‘ In sub-clause (1), (i) and (ii), after the words “ section 63 ”, insert the words “ section 64 ”.’

Sir, I move it with all the force at my command.”

SRI L. N. GOPALASWAMI :—“ I second it.”

THE HON. SRI K. MADHAVA MENON :—“ I oppose it, Sir.”

The amendment was put and lost.

SRI K. R. KARANTH :—“ We now come to clause (b) and (c) of my amendment, Sir. In my amendment, I want to provide for an appeal under certain clauses which are yet to be discussed by the House. We are now on clause 67, but as I want to provide for appeals also under clauses 69, 75, 83 and 92 which are yet to be discussed, I submit that unless these clauses are passed by the House, the House will not be in a position to appreciate my amendment. I may therefore be permitted to move this amendment afterwards.”

MR. SPEAKER :—“ Afterwards, at what stage? ”

SRI K. R. KARANTH :—“ At any stage you fix, Sir.”

MR. SPEAKER :—“ Then, we will take it up after we have passed clause 92.”

MR. SPEAKER :—“ I am now going to put clause 67 as amended to the vote of the House.”

SRI K. R. KARANTH :—“ I shall move my next amendment, Sir, to sub-clause (1) (ii), viz., to ‘ delete the words “ but it shall have no power to stay the Commissioner’s order pending the disposal of the suit ” ’. But it may take some time, Sir, as it is important, because the right to go to the court is being taken away.”

MR. SPEAKER :—“ In that case, we shall adjourn now.”

THE MADRAS LEGISLATIVE ASSEMBLY.

Monday, the 11th December 1950.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock. Mr. Speaker (THE HON. SRI J. SIVASUBRAMUGAM PILLAI) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
BILL, 1949 (L.A. BILL NO. 10 OF 1949)—DISCUSSION—cont.

Clause 67.

Sub-clause (1).

MR. SPEAKER :—“ Discussion on clause 67 will be resumed. We shall now take up sub-clause (1). The hon. Member Sri Viswanatham will move his amendment to sub-clause (1).”

SRI T. VISWANATHAM :—“ I move, Sir, the following amendment:—

“ In sub-clause (1) (ii), delete the words “ but it shall have no power to stay the Commissioner’s order pending the disposal of the suit ”.’

Sir, the clause relates to suits and appeals arising out of certain decisions under clauses 62, 63, 65 and 66. A right is given to any aggrieved party, within ninety days from the date of the receipt of the order by him, to institute a suit in the court against such order. The court may modify or cancel such order, but it shall have no power to stay the Commissioner’s order pending the disposal of the suit. That is what the clause says. This clause has been inserted after the Select Committee deliberated on the subject. The Government have been pleased to give a right of suit or appeal against the orders, but they have hedged in this provision with a ‘ but ’ in the end, and this word ‘ but ’ is the most destructive of all

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the words which have ever been used in any clause in this Bill. The Government have negatived practically the unimpeded right of the parties to properly agitate their rights in a civil court.

"This is not the first time that I have been obliged to raise my strong protest against the Government taking away the powers of courts. Here, having conceded the right, the Government try to clip that right. I had a friend in the Amaravathi (Amrooti) jail and my Hon. Friend Mr. Madhava Menon also was there. That friend wanted to rear a pigeon; he brought a pigeon and he wanted to domesticate it. He clipped its wings and in a few days the wretched thing died. My friend reminds me it was caught by a cat. I am glad he reminds me. If you clip the natural wings of a bird, what happens? Because it could not fly away, it was caught by a cat. Here also, the Hon. Mr. Madhava Menon wants to clip the powers of the court. I submit on more than one ground, it is objectionable, and it is also *ultra vires* of the Constitution. If you refer to Article 225 of the Constitution, Sir, you will find this:—it is an important Article—

'Subject to the provisions of this Constitution and to the provisions of any law of the appropriate Legislature made by virtue of powers conferred on that Legislature by this Constitution, the jurisdiction of, and the law administered in, any existing High Court, and the respective powers of the Judges thereof, in relation to the administration of justice in the Court, including any power to make rules of Court and to regulate the sittings of the Court and of members thereof sitting alone or in Division Courts, shall be the same as immediately before the commencement of this Constitution.'

Then again, if you refer to Article 375, we find the following:—

'All courts of civil, criminal and revenue jurisdiction, all authorities and all officers, judicial, executive and ministerial, throughout the territory of India, shall continue to exercise their respective functions subject to the provisions of this Constitution.'

Along with these two Articles, I would take you to sections 115 and 151 of the Civil Procedure Code. In section 115, which deals with the High Court's powers, this is what we find—

'The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such Subordinate Court appears . . . (c) to have acted in the exercise of its jurisdiction illegally or with material irregularity, the High Court may make such order in the case as it thinks fit.'

Then, section 151 is even more important. It says—

'Nothing in this Code shall be deemed to limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.'

The wording in this section 151 is very important. It says that 'nothing shall be deemed to limit or affect the inherent power of the court to make such orders as may be necessary'. I submit the civil courts have been recognized to have certain inherent powers, and under section 151 those inherent powers referred to in the Code which is intended to regulate the procedure in courts, have been given a statutory recognition and authority now under Article 375 of the Constitution. Therefore, I submit the inherent powers of

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the court cannot be touched in a legislation of this type. Now, Sir, in 33 (I.L.R.), Calcutta, 927, Their Lordships of the Calcutta High Court, Woodroffe J. and Mookerjee J., have stated in a case where the party attempted to argue that the Court could not do certain things at the stage of execution thus—

'It has thus been held (in a number of cases) that, although the Code contains no express provision on the matters hereinafter mentioned, the Court has an inherent power *ex debito justitiae* to consolidate; postpone pending the decision of a selected action; and to advance the hearing of suits; to stay on the ground of convenience cross-suits; to ascertain whether the proper parties are before it; to enquire whether a plaintiff is entitled to sue as an adult; to entertain the application of a third person to be made a party; to add a party; to allow a defence *in forma pauperis*; to decide one question and to reserve another for investigation . . . to remand a suit; . . . to stay the drawing up of the Court's own orders or to suspend their operation, if the necessities of justice so require; to stay, apart from the question whether the case falls within section 515, the carrying out of a preliminary order pending appeal; to stay proceedings in a lower Court pending appeal and to appoint a temporary guardian of a minor upon such stay; to apply the principles of *res judicata* to cases not falling within sections 13 and 14 of the Code.'

I submit, Sir, that the court has got these inherent powers, and unless the court is given these inherent powers, it cannot exercise its functions, it cannot effectually carry out its own functions and do justice. It is the fundamental right of the court and its most pre-eminent duty to do justice. I submit, that taking all these things into consideration, the proposal of the Government to remove the power of the court to stay the Commissioner's order pending the disposal of the suit is not merely bad on merits, but it is also bad in law and against the Constitution. I submit, therefore, that the words 'but it shall have no power to stay the Commissioner's order pending the disposal of the suit' in sub-clause (1) (ii) should be deleted."

RAJA MUTHIAH CHETTIAR OF CHETTINAD:—"Sir, I second the amendment. I was doubtful as to what the amendment was about, as I came a bit late; but when I saw my hon. Friend Mr. Viswanatham speaking, I noticed the amendment which asks for the deletion of the words mentioned, which try to take away the power of the court to stay the proceedings. Sir, I submit I am very heartily seconding this amendment moved by Mr. Viswanatham. I am one of those who feel that when we try to legislate for the better administration of any institution, we must try to do our best when it is in the Assembly stage. There have been occasions in the past when, however well-intentioned and however well-thought out the legislation was, because of the fact that it was an administrative machinery that was sought to be imposed by the legislation, because sometimes some important point was overlooked or because some new circumstances that might arise in the future could not be envisaged in the Bill itself, some matters had to be left to somebody for decision. Every time the Legislature cannot be moved; amendments cannot be made every month or even every third month; and matters have therefore to be left for decision to courts. Besides,

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Sir, the court is there to look into the cases of aggrieved persons. Persons may be aggrieved in regard to several matters, and all matters cannot be envisaged at the time of passing the legislation. The provision in this clause is that the court should not have the power to give a stay, though the court may dispose of the suit. I submit that the question whether a stay is justified or is not justified may be left to the court for decision. Arguments may be placed before the court by both the parties—one of the two parties may be the Hindu Religious Endowments or the Commissioner on behalf of the Government and the other party may be a private party; or in certain cases, both the parties may be private parties—and in such cases, both the parties may be enabled to place their arguments before the court and the decision may be left to the court, as to whether a stay, if given, would be injurious to the administration of the institution during the period the stay is there, or whether the stay would not in any way affect the affairs of the institution or to say that, irrespective of a decision in the suit, nothing would go wrong during the period of the stay, if given. The court may be satisfied with an assurance from the trustee or with his personal guarantee or with any other proposals made before it, to see that nothing would go wrong. Again, if the court feels that in a particular case it will be advantageous to the institution if a stay is given, the court should not be prevented from doing it. We are leaving several things to be decided by courts in respect of many matters relating to justiciable rights. The discretion vested in the court to give a stay or not should not therefore be fettered by legislative enactment. It is in that feeling that I would entreat the Government to accept the amendment. This is an amendment which should be agreed to in all justice. I don't think it will in any way affect the intentions, the Government and the public have got in regard to this Bill which seeks to regulate the administration of religious institutions."

SRI R. RAGHAVA MENON:—"Mr. Speaker, I am very much surprised to hear the Hon. Minister who is piloting this Bill saying that he is going to vehemently oppose this amendment. That ought not to be the policy of the Government. The Assembly is now discussing a very important question, whether the court to which a suit is provided for in respect of a number of clauses relating to various matters pertaining to the administration of religious institutions where orders have been passed by the Commissioner or the Deputy Commissioner, should have the power to pass stay orders. A right of suit is given in many cases to the court within 90 days. There is already a view that this legislation itself is one which ought not to be put on the Statute Book; but that the Government may have some sort of supervision or control over the management of the religious institutions; that is the general opinion. But when the Government have thought it fit to bring forward such legislation and when they have introduced a number of provisions whereby certain rights now enjoyed by certain persons to

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go to a court have already been curtailed, and when in regard to a few of the provisions only, a right to suit is being given, there is no grace in giving the right to go to the court and saying at the same time that the court has no power to give stay. The hon. Raja Muthiah Chettiar has already pleaded that the power to give stay should be left to the court; the court has got the right to entertain a suit against the order passed by the Commissioner or the Deputy Commissioner; but if it has not got the right to stay the order so passed, circumstances may arise later on where the court will not be able by its decree to unmake things when it gives a decision one way or the other. A stay therefore is one of the most important things in law. An order passed by an officer may be unjust, may be unsuitable or may be illiberal; and if there is to be no stay, those orders will be worked out or carried out, and after the decision of court is given, it may be found that the order of the Commissioner already executed cannot be undone and the court's decision itself cannot be executed. In such a case, what is the purpose of giving the right to sue when circumstances may come into existence which cannot be unmade when the decision of the court is given. After all, Sir, I ask: do you expect that suits will be decided by courts soon? We know that there are many cases where suits have been prolonged and decisions by courts have been long delayed. As a general rule, suits are not easily disposed of; they may take one, two or even three years in some cases. The officer concerned who passes the order will naturally try his best to see that the suits are prolonged as much as possible and that the orders he has passed are executed. So, Sir, when the final decree is passed by the court it will be worthless; it may not be worth a court decree or it will not be worth the paper on which it is written. Is that what you want or do you want ordinary rights to be conceded to the courts by allowing them ordinary powers to pass stay orders?

"Then, Sir, my hon. Friend, Mr. Viswanatham referred to section 151 of the Civil Procedure Code where courts have got certain inherent jurisdiction and they cannot be specifically taken away. The court has this inherent power to grant stay where necessary. In fact, this Act ought to provide for stay and the courts must be given discretion to use the power when necessary. If the court thinks that an order is such that if it is carried out or is enforced before the disposal of the suit, prejudice will be created, there should be discretion given to the court in such cases to grant stay. Here that power is sought to be taken away. I must submit that the provision made in this clause is bound to nullify the effect of giving the right of suit to parties. Why should we legislate like that? If it is a matter of clever arguing in court, then I can understand. But, here we are legislating with regard to institutions which have been endowed by others. So, legitimately the Government ought not to interfere in such matters. On the other hand, Government may claim a right to see that everything under the sun goes all right. But, you should not interfere with the management of an institution and use the power without any reference to capacity or without any reference to the predilections of people.

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So, Sir, when you are giving the institutions certain rights of suit, I submit, this provision taking the power of courts in granting stay ought not to be there and the words in the clause 'but it shall have no power to stay the Commissioner's order pending the disposal of the suit' ought to go. The right of suit is one of the most important things and I hope the Hon. Minister in charge, instead of vehemently opposing the amendment as he said, will, I hope, see that course of justice are trusted to use their discretion in this matter."

SRI K. T. KOSALRAM:—"Mr. Speaker, Sir, கனம் நண்பர் விஸ்வ நாதம் அவர்கள் கொண்டு வந்துள்ள திருத்தத்தை நான் அழுத்தம் திருத்தமாக எதிர்க்கிறேன்."

SRI T. VISWANATHAM:—"May I know, Sir, whether the hon. Member is supporting or opposing my amendment?"

MR. SPEAKER:—"The hon. Member is vehemently opposing the amendment."

SRI K. T. KOSALRAM:—"Not only vehemently, Sir, but clearly opposing my hon. Friend, Viswanatham's amendment. It is no wonder, we know now-a-days what lawyers do in courts."

SRI T. VISWANATHAM:—"Let the hon. Member speak in English, Sir."

SRI K. T. KOSALRAM:—"இப்பொழுது இந்த க்ளாஸ் மூலமாக இந்த 'பில்' லில் கோர்ட்டுகளுக்கு அதிகாரம் கொடுக்கப்பட்டிருக்கிறது. முதன் முதலில் இந்த மசோதாவை கொண்டுவரப்பட்டபொழுது இந்த 67-வது க்ளாஸே இல்லாமலிருந்தது. 66-வது க்ளாஸ் சம்மந்தமாக கோர்ட்டுகளில் அப்பீல் போடுவதற்கு அதிகாரமிருக்கவேண்டுமென்று நண்பர் கரந்த் அவர்கள் Select Committee-ல் ஒரு amendment கொடுத்திருந்தார். அதை நானும் ஸ்ரீமான் O. P. இராமசாமி ரெட்டியார் அவர்களும் இந்த section கூடவே கூடாது என்று சொன்னோம். அதன்படியே நானும் அவரும் அதை எதிர்த்தோம். 'No wonder, we know the lawyers.' இப்பொழுது ஒரு institution mismanage-ஆக நடத்தப்படுகிறது. அதாவது அதற்குள்ள லட்சக்கணக்கான சொத்தை mismanage செய்யப் பட்டுவருகிறது. அதைத் தடுக்கவேண்டுமென்றும், அது பொது சொத்தை எடுத்துத் தவறுதலாக துர்விநியோகம் செய்கிறதென்றும் அதை கமிஷனர் நிறுத்தி உத்தரவுசெய்தால் அந்த உத்தரவை நிறுத்திவைப்பதென்று தன்னிடம் பணமிருக்கிறது என்பதற்காக கோர்ட்டுக்குப்போவார்கள். இன்னும் suits file பண்ணுவார்கள். Injunction order-ம் வாங்கிவிடுவார்கள் அவ்விதம் file செய்யப்பட்ட suits முடிவதற்கு 10, 15 வருஷங்களாகும். இதை நாம் இப்பொழுது அனுபவத்தில் பார்த்துவருகின்றோம். உதாரணமாக இப்பொழுது எங்களுடைய ஊரில் ஆயிரம் தொழிலாளர்களுக்கும் முதலாளிக்கும் தகராறு நடந்து அரசாங்கத்தார் அந்த தொழிலாளர்களின் சார்பாக உத்தரவு போட்டார்கள். அந்த உத்தரவின்பேரில் அங்குள்ள முன்சீப் கோர்ட்டில் தாவாபோட்டு அந்த petition-க்கு stay-ம் injunction-ம் கொடுத்துவிட்டார்கள். வருஷம் மூன்றுகிறது. இன்னும் அந்த கேஸ் கோர்ட்டில் pending-ஆகத்தானிருக்கிறது. அதனால் சுமார் ஆயிரம் தொழிலாளர்கள் இன்னும் கஷ்டப்பட்டுக்கொண்டிருக்கிறார்கள், ஆனால் முதலாளிகள் இன்னும் சந்தோஷமாகத்தானிருக்கிறார்கள். இந்த சட்டத்தின் மூலம் கோர்ட்டிற்கு போவதென்று ஒரு provision கொண்டுவந்தது, இப்போது கனம் மாதவமேனன் அவர்கள் தான். கோர்ட்டிற்கு அதிகாரம் கொடுத்த விஷயங்களை, நீங்களும் வக்கீல் என்ற முறையில் அவ்விதம்

[11th December 1950] [Sri K. T. Kosalram]

அதிகாரம் கொடுக்கிறா, உங்களுக்கும் கோர்ட்டுகளுக்குப் போகவேண்டுமென்று தோன்றுகிறதா, இந்த அதிகாரத்தைக் கொடுக்கிறீர்களே என்று கேட்டோம். இன்று நாட்டில் என்ன நடக்கிறது என்பதை நீங்கள் இன்னும் உணரவில்லையா என்றும் கேட்டோம். கோர்ட்டுக்குப்போவதற்கு அதிகாரமே இருக்கக்கூடாது என்றுதான் நாவர்கள் சொன்னோம். ஆகையால் இந்த clause அனாவசியம் என்றும் சொன்னோம். திருவாடுதுறை மடத்தில் mismanage பண்ணுகிறார்கள் என்று அங்கே suit போட்டிருந்தார்கள். அது சுமார் ஐம்பது வருஷமாக நடந்துவந்தது. இந்த suit-ஐ வைத்துக் கொண்டே காலம் கழித்துக்கொண்டுவருகிறார்கள். கோர்ட்டிலும் திரும்பத் திரும்ப வாய்தா கொடுத்துக்கொண்டே போகிறார்கள். இவ்விதம் போனால் பொது சொத்துக்களின் நிலைமை என்னவாகும் என்று கேட்கிறேன். இந்த நிலைமையில் இந்த 67-வது clause-ஐ கொண்டுவந்ததே தப்பிதம் என்று நாங்கள் கனம் மாதவமேனன் அவர்களோடு சண்டை போட்டுக் கொண்டேயிருந்தோம். அதன்மேல் இன்னும் இந்த amendment-ஐ ஒப்புக்கொண்டு இன்னும் கோர்ட்டுகளுக்கு stay கொடுக்கும் அதிகாரம் கொடுத்தால் அப்பறம் சொல்லவேண்டியதவசியமேயில்லை. இந்த மசோதாவே செத்துப்போனது போலாகிவிடும். இந்த மசோதாவைக் கொண்டு வந்ததன் நோக்கமே போய்விடும். இந்த amendment-ஐ ஒப்புக்கொண்டால் mismanage பண்ணுகிறவர்கள் தப்பிப்பதற்கு இடம் ஏற்படும். ஆகவே கோர்ட்டுகளுக்கு அதிகாரமே கொடுக்கக்கூடாது. இப்பொழுது நாம் பார்த்து வருகிறோம் fundamental rights-ப்பற்றி கோர்ட்டுகளில் பண்ணும் அக்கிரமம் எல்லோருக்கும் தெரியவரும். அதன்படி மனிதன் விபசாரம் செய்யலாம், கொலைசெய்

SRI V. S. SANKARA SUBRAHMANYA MUDALIYAR:—"On a point of order Sir, is it right on the part of the hon. Member to say 'கோர்ட்டு பண்ணும் அக்கிரமங்கள்'? கோர்ட்டுகள் அக்கிரமம் பண்ணுகிறார்கள் என்று சொல்லலாமா?"

SRI K. T. KOSALRAM:—"அவர்கள் சட்டத்தை interpret பண்ணுவதைப்பற்றி சொல்லுகிறேன்."

MR. SPEAKER:—"The hon. member should not use the word 'அக்கிரமம்' with reference to the courts. நீங்கள் அவ்விதம் கோர்ட்டுகள் அக்கிரமம் செய்கிறார்கள் என்று சொல்லவேண்டாது."

SRI K. T. KOSALRAM:—"நான் வாயில் வாங்கிக்கொள்ளுகிறேன். இப்படிப்பட்ட திருத்தங்களை ஒப்புக்கொண்டால் முடிவில் எந்தநிலைமையில் கொண்டுவரப்படுகிறது என்பதை யோசிக்கவேண்டும். ஆகவே கோர்ட்டுகளுக்கு அதிகாரத்தைக்கொடுப்பதே தப்பிதம்: அதற்காகவே ஒரு amendment-ஐக் கொண்டுவந்து இந்த 67-வது clause-ஐ எடுத்துவிட்டாலே மிகவும் சந்தோஷம் என்று நினைக்கிறேன். கனம் மந்திரி மாதவமேனன் அவர்களும் கனம் விஸ்வநாதம் அவர்களும் amendment-ஐ ஒப்புக்கொள்ளாமல் இந்த 67-வது clause-ஐ எடுத்து விடும்படியான ஒரு amendment-ஐக் கொண்டுவரவேண்டுமென்று கேட்டுக்கொள்ளுகிறேன்."

SRI S. CHIDAMBARAM AYYAR:—"Mr. Speaker, Sir, I support the amendment moved by my hon. Friend, Mr. Viswanatham and oppose Mr. Kosalram's view point. Sir, if courts are not given powers under the Act, my hon. Friend may be right in what he said. But when once the courts are given power to deal with this question, whether it is the court of original jurisdiction or the court of appeal, then in the ordinary course of events the courts have jurisdiction over the matter and rules under the Civil Procedure Code must govern. Now if you say that the procedure under the Civil Procedure Code should not be followed, I say it is invalid and cannot be countenanced."

[Sri S. Chidambaram Ayyar] [11th December 1950]

"Now, Sir, hon. Mr. Viswanatham quoted the Calcutta case which was followed by the Madras High Court also in a number of cases. I shall point out one or two instances. In the case of *Maruthamuthu v. the Hindu Religious Endowments Board, Madras* (45 Law Weekly, 522), it is said 'once a matter comes before a regular civil court, its further course will be governed by the Civil Procedure Code'. Similarly under the Madras Buildings (Lease and Rent Control) Act, so far as decisions of tribunals are concerned, in the matter of execution, the law says it should be treated as one coming under the Civil Procedure Code and the provisions of the Civil Procedure Code will apply to execution proceedings. Therefore, Sir, if the provisions of the clause as they stand in the Bill are passed, the Bill itself will be against the law, it will be illegal and ultra vires of the Constitution. With these few words, I support the amendment of hon. Mr. Viswanatham."

SRI M. KANNIYAPPAN :—"கனம் சபாநாயகர் அவர்களே, தோழர் விஸ்வநாதம் அவர்கள் கொண்டு வந்திருக்கும் திருத்தத்தை நான் எதிர்த்தேன். ஏன் என்றால் இன்றைய நிலையில் ஒரு புரக்கிரமான பில்லை காலம் கடந்துகொண்டு வந்திருக்கிறோம். இந்த பில்லைக் குறித்து மக்களும் புகழ்ந்துகொண்டிருக்கிறார்கள். அப்படிப்பட்ட இந்த பில்லிற்கு உண்மையில் உயிர் இல்லாமற் செய்யவேண்டுமென்ற காரணத்தினாலேயே சிலர் இந்தச் சபையிலே வேண்டுமென்றே இந்தச் சட்டத்துக்கு பல திருத்தங்களைக் கொடுத்துக்கொண்டிருக்கிறார்கள். அந்த திருத்தங்களை நாம் ஏற்றுக் கொள்வோமென்றால் நிச்சயமாக இந்த பில்லை நாம் கொண்டு வர வேண்டிய அவசியமே இடையாகு. கனம் மாதவமேனன் அவர்களுக்கு நான் தெரிவிக்கின்றேன், 'எந்தவிதமான திருத்தத்திற்கும் இந்த பில்லிலே இடமில்லையென்று.' அப்படி திருத்தம் செய்வோமானால் இது குறித்து மடாதிபதிகள் தான் அதிகம் சந்தோஷம் அடைவார்கள். அதன் மூலம் பல இன்னல்களையும் தவிராமல் விளைவிப்பார்கள். ஒரு நாள் நான் பத்திரிகையொன்றைப் பார்த்தேன்."

MR. SPEAKER :—"இந்தக் களாசைப்பற்றிப் பேசுங்கள்."

SRI M. KANNIYAPPAN :—"கனம் தலைவர் அவர்களே, இந்த பில்லின் 67-வது பிரிவைக் குறித்துத் தான் சில விஷயங்களைச் சொல்லுகிறேன். ஒருநாள் பத்திரிகையொன்றைப் பார்த்தேன். அதிலே மடாதிபதி ஒருவரிடம் கனம் மாதவமேனன் அவர்கள் இந்தச் சட்டத்தைக் கொண்டு போவது போலவும், மடாதிபதி அவரிடம் அந்தச் சட்டத்தால் என் விஷயங்களில் தலையிட உணக்கு அதிகாரமே இல்லையென்று கூறுவது போலவும் ஒரு சித்திரம் தீட்டப்பட்டு இருந்தது. நமது அரசாங்கம் இந்தச் சட்டத்தைச் செய்கிற காலத்தில் ஒரு மடாதிபதி உணக்கு அதிகாரம் இல்லையென்று சொல்லுகிறபோது நமக்கு அதிகாரம் இருக்கிறதா, இல்லையா என்பதை நாம் தெளிவுபடுத்த வேண்டும். மடங்கள் ஊழல் மலிந்து கிடக்கின்றன. அவைகளை ஒழுங்கு படுத்து வேண்டுமென்று ஒரு புரக்கிரமான பில்லைக் கொண்டு வருவதுபோது அவர்கள் இன்னமும் அம்மாதிரியே ஒழுங்கீனமாக நடப்பதைப் பார்த்துக்கொண்டு இந்நாட்டவர் யாரும் சும்மாய் இருக்க மாட்டார்கள். ஆகையால் தோழர் விஸ்வநாதம் அவர்கள் கொண்டுவந்த திருத்தம் திருத்தத்தை யாரும் அனுமதிக்க மாட்டார்கள். வோட்டும் கொடுக்க மாட்டார்கள். இந்த திருத்தத்தையும் ஏற்றுக்கொள்ள வேண்டாமென்று கனம் மந்திரி மாதவமேனன் அவர்களையும் நான் கேட்டுக்கொள்கிறேன்."

SRI D. V. RAMASWAMI :—"Mr. Speaker, Sir, I am not at all surprised that my hon. Friends Kanniyappan and Kosalram are fighting shy of anything which will protect the just rights of

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petitioners who resort to civil courts. If they had power, they would even advise the omission altogether of the right of appeal even to the High Court. They are made that way. The Hon. Law Minister is a lawyer and he knows that in almost every important matter the aggrieved party has a right to put in an appeal or a suit praying for an interim order to stay certain proceedings, which is an inherent right of the party. It is not only inherent but it is also natural and it will go a long way to protect the rights of parties, however long the proceedings may be delayed in a law suit, because they will be adjusted when the court comes to a final decision in the matter. Then these interim orders will not affect the merits of any case, but they only protect the existing rights of parties, so that when the decree is passed by the court, the actual position of the parties with regard to the point mooted will be known. Therefore, I feel, that the provision in the clause to the effect that the court shall have no power to stay the Commissioner's order pending disposal of the suit, should not be there. There may be so many cases like that coming under clauses 62, 63, 65, etc. So, I feel sure that after careful consideration the Hon. Minister will concede the justness of the amendment and accept it."

SRI M. S. PATTABHIRAMAYYA :—"Mr. Speaker, Sir, I think this is a right and proper amendment for this Bill, which I consider to be a salutary Bill for our State. This amendment was so ably moved and the Raja of Chettinad strengthened and reinforced it by making certain practical observations while he was seconding the amendment. When the Hon. Sri Madhava Menon said that he would vehemently oppose it, I thought he was saying so rather hastily, but later on I found there has been a tendency that has been developed by the so-called supporters of the Bill, which I might call by a new English phraseology which I came across recently, namely, 'paranoid tendency'. Though I am also a supporter of the Bill (interruption) some hon. Members seem to claim to be exclusive supporters of the Bill. I am not one of such supporters! I confess I am not uncritical. I cannot say 'Aye' to any and every clause of the Bill before the House."

"You will please permit me, Sir, to explain this paranoid tendency. It is found written by a psychologist in the latest issue of the 'Fortnightly Review' and I noted it because it was so topical. It is a general disposition to misjudge people, become suspicious without adequate grounds, to feel that people are working against one when they are not really doing so; the main psychological mechanism involved is that of projection, projecting of the person's aggressiveness and hostility upon others. I think, Sir, some people think that the courts and some lawyers who are arguing against this Bill are the same and therefore, they project upon them the aggressiveness of their own; it is the aggressiveness of their own selves that they see in others. The deletion of the few words namely, 'but it shall have no power to stay the Commissioner's order pending disposal of the suit' will make this clause a very good

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clause. If there is no clause, there is no quarrel at all. I do not see why this should not be accepted; the interim order may be reversed by the court and it may itself decide in favour of the scheme of the Commissioner. I do not know why they should look awkward or inferior when the court is investigating into the matter; this I submit, Sir, is taking up real executive power while paying lip service to courts and to the Constitution; the Government are simply nullifying what they are saying. Therefore, my submission is that either the clause should go or if it is to stand and if they want that the courts should be given some powers and they will abide by their decision, then the amendment is necessary and it will be according to the Constitution. I feel, Sir, that these words should go so that the Bill will become a good Bill and will be welcomed by many people."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I oppose the amendment in spite of the view put forward by some hon. Members that it goes against all fundamental rights. It is a very necessary safeguard. When the hon. Member Sri Kosalram was saying that the whole clause must go, my hon. Friend Sri Viswanatham said: 'Yes, the whole Act will go and that is what I want.' Even if it is said in joke, I do not want that under the pretext of going to the court in respect of certain orders issued to cover a certain contingency of misappropriation or mismanagement, time should be allowed to the party who wants to mismanage or misappropriate to complete his nefarious transaction. Though the hon. Member, Sri Ramaswami did not approve of the support of hon. Member Sri Kosalram to the clause, I think hon. Member Sri Kosalram, though he is not a lawyer, has put the case very forcibly why the amendment should be opposed. As hon. Members will notice, the whole of this clause is a new clause and it is why it is put in clarendon type. There was no provision to go to court at all and the sponsors of the original Bill were particular that we should not waste time or allow things to drift by allowing unnecessary suits. In the Select Committee, we devoted considerable time to this matter and I shall just refer to the discussions on clause 39 in the Select Committee:

"Sri K. Bhashyam moved the insertion of a new clause 39-A as follows:—

"39-A. (1) Where the Commissioner thinks that in the interest of the math, a scheme has to be framed, he may himself file a suit before the court or authorize two disciples of the math interested in the math for a scheme being framed for the proper administration of the math and its properties.

(2) Pending the settlement of a scheme, the Court may make all orders or give direction for the proper administration of the math."

Sri Bhashyam felt that in the case of maths, it was the court that should frame schemes. In the alternative, he had no objection to schemes being framed by the Commissioner in the first instance, with an appeal provided to a Court.

"Sri K. R. Karanth agreed with the alternative suggestion of Sri K. Bhashyam. He observed that in the scheme as envisaged in the Bill, the Deputy Commissioner had the right to frame

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schemes and the Commissioner was the final appellate authority. He thought it was all wrong. He said that the scheme should be framed by the Commissioner, that there should be an appeal to a court, and there might be another appeal to the High Court as *persona designata* whose decision should be final.

"The Hon. Sri K. Madhava Menon was of the opinion that since large properties were involved, the court should have jurisdiction. He agreed with the suggestion of Sri Karanth that the Commissioner should frame the scheme in the first instance but added that a definite provision should be made that no injunction or stay would be allowed in respect of such schemes until the court decided. The Commissioner's scheme should remain in force till the suit was disposed of.

"Hon. Sri K. T. Kosalram did not see why the court should come in at all, as that meant delay.

"It was agreed that the Commissioner or the Deputy Commissioner, if deputed by the Commissioner, should have a right to frame a scheme for a math. Such scheme should remain in force from the date of its passing till the suit was disposed of, in case a suit was filed against such a scheme. The scheme should not be allowed to be stayed by any court. There should be an appeal to the Sub-Court, and from the Sub-Court to a divisional bench of the High Court, whose decision should be final.

"So, Sir, this is what happened in the Select Committee. Supposing there are large properties and the trustee claims that the properties belong to him and the scheme is framed, he goes to court and finally the decision goes against him. What will be the position if the amendment is accepted? That man will continue in possession of those properties till the suit is finally decided as by reason of the injunction orders, he would continue in possession. From my experience as a lawyer, I can tell you, Sir, that a suit can be dragged on for a minimum period of one year at least and it is only after one year that there is difficulty. If anybody wants that it should be dragged on, there will be no difficulty and there are suits which last for six, eight and ten years also; and these are not uncommon. The Civil Procedure Code and the Rules of Practice are such that suits can be very easily prolonged for one reason or other. If there is a provision for injunction and an application for injunction is filed, the general tendency in civil courts is, of course on the general principle that the *status quo ante* should be maintained, the moment the suit is filed, the injunction is granted, which means the evil which you want to prevent by the framing of the scheme can be successfully perpetuated. It is only for that, Sir, that we want that the scheme should be in force till a decision is given by the court. Let them agitate to their heart's content if they feel that they are aggrieved and the final orders of the civil court will certainly prevail but till then the Commissioner's scheme, because it is intended to cure mismanagement, must stand because his orders arise only because

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there has been mismanagement. Sri Viswanatham quoted the Constitution; certainly, Sir, we cannot go against the Constitution. But the question is the right to sue is given under the Civil Procedure Code and in certain cases, the Specific Relief Act. Sri Viswanatham quoted Section 151 of the Code of Civil Procedure which gives powers to the court to meet the ends of justice, or for the sake of good conscience and equity. But, let me remind him, Sir, that it is a subject in the concurrent list and it is within the competence of this Legislature to amend in spite of Article 375 of the Constitution.

"Further, Sir, this is not a strange thing. Let me in this connexion read Section 351 B of the District Municipalities Act—

"Notwithstanding anything contained in the Code of Civil Procedure or in any other law for the time being in force, no court shall grant any permanent or temporary injunction or make any interim order restraining any proceedings which is being or about to be taken under this Act for the preparation or publication of electoral rolls or for the conduct of any election."

Sri Raghava Menon observed that it is a thing of which nobody has heard. There are, as hon. Members would see, identical provisions in the District Municipalities Act. It is not as if this is a strange thing and a thing unknown. Supposing a person's name is not on the electoral rolls; if such a provision were not there, he can on that ground move the court that other proceedings in the elections be stayed. But such a thing is not allowed. There is also section 17 of the Presidency Small Causes Court Act:

"The procedure prescribed in the Code of Civil Procedure shall, save in so far as is otherwise provided by that Code or by this Act be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all cases arising out of such suits:

Provided that an applicant for an order to set aside a decree passed ex parte or for review of a judgment shall at the time of presenting his application either deposit in the court the amount due from him under the decree or in pursuance of the judgment or give such security for the performance of the decree or compliance of the judgment as the court may on a previous application made by him in this behalf have directed."

You cannot make an application to set aside an order passed ex parte unless the entire amount involved is deposited in court. So, also there is the provision in the District Municipalities Act. They do not issue any injunction such as is sought to be provided here. So, Sir, this was deliberately done to prevent people who have mismanaged or misappropriated from continuing their practice though the Commissioner has framed a scheme, by just making an application for injunction. Then the whole scheme will be frustrated. It is not a casual thing and it was done after considerable deliberation. So, Sir, the amendment cannot be accepted."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I am surprised at the line of argument taken by the Hon. Sri Madhava Menon. He says it is deliberately done and the greater is the surprise. He has said that the Government have very carefully considered the question. What have they considered? Nothing. He

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is apparently canvassing opinion in favour of the clause upon the materials which he has now presented to the House. He has been saying that the Commissioner passes the orders and immediately the parties go to the court and an injunction is granted and the whole purpose of the Act is frustrated. A lawyer like the Hon. Mr. Madhava Menon has got a greater responsibility in advancing such an argument because he is able to influence some of those friends who do not know the provisions of law. He knows that a court does not immediately pass an injunction order; there is no court and no judge who will, immediately the application is made, pass the injunction immediately. He has been arguing as if the moment the injunction application is filed, it will be granted and all mismanagement and misappropriation will continue.

"Sir, I submit you will give me a few minutes, because I want to explain myself, so that I may convince Members, not upon party basis but upon the merits of the case. The Commissioner passes an order; the aggrieved party goes to court. It is not on filing a suit, any judge will pass an injunction order. He has no right to do so, he can pass an injunction order only on a petition filed praying for injunction or after taking notice a petition may be filed by the Commissioner for restraining a party from doing certain things. So hon. Members Messrs. Kanniyappan and Kosalam must realize that when a suit is filed, an injunction is never automatically granted. Supposing the Commissioner, as representative of the Government, has information that a particular management should not continue in office, then he can file a petition under Order XXXIX, Rule 1 for an injunction. This is what the rule says—

"1 Where in any suit it is proved by affidavit or otherwise—
(a) that any property in dispute is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree,

the Court may by order grant a temporary injunction to restrain such act, or make such other order for the purpose of staying and preventing the wasting, damaging alienation, sale, removal or disposition of the property as the Court thinks, until the disposal of the suit or until further orders."

Or, supposing the trustee takes time by the forelock and files the suit against the Commissioner, in which case, what is the Commissioner to do? He can under Order XL file a petition for the appointment of a receiver. So, in either case the Civil Procedure Code provides a remedy for the Commissioner. Thus if the trustee files a suit first, then, the Commissioner can claim for the appointment of a receiver; he can prove to the court that the trustee should not be in the management of the property, because there will be scope for mismanagement and so ask for the appointment of a receiver. The only thing required is that the court should be satisfied. But the Hon. Minister, by his provision, does not want the court to be satisfied. I therefore submit, the argument based on the question of mismanagement should not have been brought forward. Because it is open to the Government immediately to get a receiver appointed, if it anticipates that if the property is allowed

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in the hands of the trustee, it would be mismanaged. Neither under section 151 nor under Order XXXIX and Order XL of the Civil Procedure Code, the court is not an automaton to pass an order. It has to hear both sides, it has to see what is the nature of the injunction asked for; it has to see whether it is a case for the appointment of a receiver or a case for the passing of an injunction order. Therefore, I submit, the argument that immediately a suit is filed there will be an injunction granted will not hold scrutiny.

"Now, what are the matters which can be brought before a court under this right of suit? Clause 62 deals with inquiries, that, is, about the nature of the properties. It has nothing to do with possession. That clause deals with the power to decide whether an institution is a religious institution or not, whether a trustee holds his office as a hereditary trustee or not, whether any property or money is a religious endowment or not, whether any property is a specific endowment, whether any emolument is one established by custom or otherwise, whether any institution or endowment is partly religious in character and partly secular and so on. These are questions which do not deal with management. Then, the next clause deals with the schemes framed by the Deputy Commissioner, and if the party is not satisfied with it, he has got a right to sue. Now, if a party feels that the Commissioner should not take possession of the property it is open to him to file a petition, and then it is open to the Government to prove before the court that there would be mismanagement if the property is allowed to continue in the hands of the plaintiff. Now, Sir, nothing prevents Government from doing that. But Government wants to avoid that, that is, avoid court, and it wants everybody to believe that its own belief is right and should be upheld!

"Now, even if we go to clause 65, what do we see there. It deals only with the properties of non-existing trusts or religious institutions. Supposing the trustee is in possession of the non-existing trust, it is open to the Commissioner to satisfy the court that the property should not be allowed in the hands of the trustee. Thus both parties are given an opportunity to represent their case. Suppose a suit is filed by the trustee, Government even then have got an opportunity to satisfy the court that the party should not hold the property. Even if interim injunction and notice are ordered, it would be only for a few days. But what the Government wants really is, without going to court, they want to take away the property from a person. I submit, therefore, this inherent right of a citizen can never be altered, nor can the inherent right of courts be cut down. Then, Sir, the Hon. Mr. Madhava Menon also said that it is open to him to repeal section 151 of the Civil Procedure Code. Let him do it if he can. As was said by an eminent lawyer with regard to the House of Commons, the House of Commons could do anything except make a man a woman, or a woman a man. Now, the Hon. Sri Madhava Menon can take away any section, because we are a sovereign body. But I would only ask

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him whether he would get any support from any of his legal counsel if he should suggest that he would repeal section 151 of the Civil Procedure Code. I submit his arguments are wrong."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I did not say I can remove section 151 of the Civil Procedure Code. I only said this House has got jurisdiction even to remove section 151. I never said I would even ask this House to remove section 151. I only said this House has got jurisdiction to amend the Civil Procedure Code. My hon. Friend read section 151 and said it is a very good and convenient section. Yes, it is good, for in the name of justice, equity and good conscience, the court can do many things. So, I said, we can even amend the Civil Procedure Code. Then, Sir, he referred to the power of the House of Commons and the legislature in general; that it can make any laws except make a man a woman or a woman a man! Sir, I do not want to make a man a woman or a woman a man. For, then, the world would not be worth living.

"Then, Sir, my hon. Friend postulates a dictum of law, which is not correct. I must claim a little more of practice in civil courts in connexion with the granting of injunctions and the appointment of receivers. A suit should be filed first and then only the petition for injunction should be filed. As soon as the plaint is presented, the petition is also presented before the court for an *ad interim* injunction. Notice of the *ad interim* injunction goes to the defendant even before the notice of the suit. Both notices do not go to him together, or, the suit notice does not go to him first. Under clause 67 the Commissioner is always a defendant. Why should he be a plaintiff? It is the aggrieved party that goes to court. Who is the aggrieved party? It is the trustee; so, he is the plaintiff and the Commissioner is the defendant. So, there is nothing in these simple words to mislead hon. Members like Mr. Kosalram and Mr. Kanniyappan. They are not such simple people as can be won over by Madhava Menon or misled by him. That is giving me too great a compliment."

MR. SPEAKER:—"The question is—

'In sub-clause (1) (ii), *delete* the words "but it shall have no power to stay . . . the suit".'

The amendment was lost.

SRI T. VISWANATHAM:—"Sir, I am not moving my amendment under sub-clause (2)."

MR. SPEAKER:—"Then, I shall put clause 67 as amended to the vote of the House. The question is—

'Clause 67 as amended do form part of the Bill.'

The motion was carried.

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CHAPTER VII.

MR. SPEAKER:—"We will now take up Chapter VII."

SRI K. BHASHYAM:—"Sir, I move—

Omit Chapter VII."

If there is one portion which is the most objectionable portion in the Bill, it is this Notification Chapter. It is objectionable not only from the point of view of propriety but also from the point of view constitutional law and the proper management of religious institutions. I am speaking not on the Chapter as it is but as is proposed to be amended by the Government. What does this Chapter provide? When a religious institution is said to be mismanaged, a notification shall issue. On the issue of a notification, the scheme of administration settled for the institution, all rules, the Area Committee and everything else relating to that institution stand abolished altogether. The Government start with a clean slate as if the institution had come into being on the date of the notification. The institution is given a new birth by the Government. The persons for whose benefit the institution exists have no voice. It looks as if the only party is the Government and they deal with the institution as if it is their private property. As I said in the beginning, it is wrong from the point of view of propriety. The Government should have nothing to do with religious institutions and especially their taking over the entire management is absolutely improper. There is no doubt about it. If there are people who believe that the Government will do better than what the others are doing, I refuse to accept their view. When the Government take over the management, the administration becomes a Government department. The institution will not receive as much attention from a Government department as it will receive from other persons. Mismanagement must be stopped. Management must be improved. All those things are right. But there are many other ways of doing it. There are provisions under which a scheme of administration can be framed or modified, trustees may be dismissed and other trustees appointed, and the Area Committee reconstituted. A notification will work havoc. That is my humble opinion from my experience of the notifications issued in respect of various religious institutions. The Government may say that they have improved finances, i.e., they have leased the property for higher rent and increased the revenue. We are not so much concerned with the material management as with improving the religious tone. As soon as the Government take over the management, there is a lethargy. Local people do not take any interest. There is a feeling of frustration and disappointment that they have nothing to do with the institution, that the executive officer is supreme, and that anything that they suggest will have to go through a hierarchy of Government officers.

"The second thing is that the Government may put aside the wishes of the founder, the rights of the trustees and the rights of the community; it is not proper or lawful. If I say that it is not

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lawful, the Government say, that you can try it in a court of law. They have got their own view in the matter. I can only express in this House my humble opinion however worthless it may be. Notification is not proper and it hurts the institution itself. Therefore I say that the Chapter should go. As I said before, the Commissioner and the Deputy and Assistant Commissioners are vested with several powers under which they can rectify mistakes. The implication of this chapter is that the Government distrust the efficiency of, and the proper management by, their own officers. That is why the Government want the power to take over the entire management upon themselves. It is a confession of weakness all round which should not be there. Therefore I want the chapter to be omitted."

SRI T. VISWANATHAM:—"Sir, I second the amendment.

Provisions similar to those in this chapter exist in the existing Act. Clause 68 says—

"Notwithstanding that a religious institution is governed by a scheme settled or deemed to be settled under this Act, the Commissioner may, by notice published in the prescribed manner, call upon the trustee

The corresponding provision in the Act, section 65-A says—

"The Board may by notice published, in the prescribed manner, call upon the trustee

The language of the Bill and the Act is practically the same. The *intra vires* or *ultra vires* nature of this section of the Act is the subject-matter of writ proceedings in the High Court of Madras. I do not know how far we will be justified in discussing the clause. May I have your ruling on this point?"

MR. SPEAKER:—"Only a section of the old Act is before the High Court."

THE HON. SRI K. MADHAVA MENON:—"A writ has been prayed for on the ground that the Madras Hindu Bigamous Marriages Prohibition and Divorce Act is discriminatory as it applies only to Hindus. At this rate no legislation will be possible."

SRI T. VISWANATHAM:—"I wanted to be supported by the Hon. Speaker and the Hon. Law Minister. The point is now very clear that this Notification Chapter is an old evil transferred into this new Bill, notwithstanding the fact that this Bill gives several more powers than the previous Act. Apparently the draftsmen of the Bill forgot that this chapter was not necessary at all. All the powers contemplated in this chapter are conferred by the other clauses of the Bill. The Commissioner has got ample powers to call for records, pass orders and take over the religious institutions and their properties. Under clause 63, the Deputy Commissioner can frame a scheme of administration and modify or cancel a scheme already framed. Under clause 67, the Government have very graciously given to an aggrieved party the right to file a suit in a

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District Court against the order of the Commissioner and the right of appeal to the High Court against the decree of the District Court. The court may vary the scheme altogether. The Commissioner will be frustrated the moment power is given to the court to alter any scheme. The Government see some danger in it. So in the very next clause, clause 68, they say that notwithstanding any scheme which may have been approved by a court, the Commissioner shall have the power to notify and take over a religious institution. Thereby the right given under clause 67 is nullified. It is no doubt provided that the Commissioner shall state the reasons when he wants to notify a religious institution. But where does the question of mismanagement arise, when a scheme is framed under clause 63 and approved by a court under clause 67?

"I submit that this is in line with the other legislation sponsored by this Government. Whenever the High Court gives a decision, immediately they pass a legislation saying that notwithstanding any decree or decision of any court, the law will be like this and this hereafter. Not only hereafter but they say that it shall be deemed to have come into force even before the birth of any legislation in this State of Madras! I submit this is not right, this is not proper. I believe this chapter was there in the original Bill because clause 67 was not there. After the insertion of clause 67, this chapter has no place. With these words, I gladly support the amendment."

RAJA MUTHIAH CHETTIAR OF CHETTINAD:—"Sir, I am afraid I cannot support the amendment. If this amendment is to be accepted, the whole Bill may be dropped. Whether the temples which are already governed by certain schemes should not be brought within the scope of this Bill for the purpose of better administration and stricter supervision by some governmental machinery was engaging the attention of the Government and the people connected with the administration of temples for a long time. When smaller temples are brought under control, why should not bigger temples which are governed by certain schemes also be brought under control? My view is that these bigger temples are already under some sort of control. A manager is appointed with the concurrence of the District Court or some such machinery. Why should we object to bringing them under this Bill? If the institutions conform to the principles of good management, the Commissioner will not notify them. If they do not conform to those principles, there is a justifiable case for notifying them. In notification, the Commissioner is not the sole authority. The Government also are a party. An aggrieved party may come to the Government, make representations, arrive at a compromise and avoid notification. The trustees can abide by the compromise. If the trustee is not reasonable, there is no harm in the Commissioner appointing an executive officer. I fully support this chapter, as it will be conducive to the good administration of Hindu Religious Institutions.

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"Sir, there is one little doubt which I want the Hon. Minister to make clear. In the new sub-clause (4) of clause 69, as introduced by the Select Committee, which is printed in clarendon type, it is said—

'Every notification published under this section shall remain for a period of five years from the date of its publication; but the Government may, at any time, on an application made to them, cancel the notification.'

No doubt this is clear enough. But immediately afterwards, in clause 70 under the same clarendon type, it has been put that—

'Such scheme and rules shall not be deemed to be revived by reason of the cancellation of the notification or by reason of its having ceased to be in force by efflux of time.'

Sir, it is because that the old scheme is not satisfactory that the Government have come forward to notify the institution. And on the publication of the notification, the old scheme shall cease to apply to the institution. What is to happen then to the institution? I have not looked into the Bill completely, but I do not know whether there is any provision in the Bill as to how to carry on the affairs of the temple after notification. I should like the Hon. Minister to tell me what would happen in that case. There should be some provision somewhere in this Bill as to what should be done during the period of notification. Here it is said, that the old arrangements will not be revived after the institution is notified and a new scheme acceptable to the trustees will have to be worked out afterwards. What would happen in the meanwhile? If there is any lacuna in the Bill in respect of this provision, I would only request the Hon. Minister to look into it, and if necessary, to introduce some proper provision in the appropriate place in the Bill.

"There is another matter which is of some consequence which I want the Hon. Minister to consider. It is envisaged in this Bill that after a temple is notified, the old scheme of things will go, that is to say, the existing trustees will go out of office and an executive officer will be appointed by the Commissioner, who will take the place of the trustee and conduct the affairs of the temple. It is also stated that this notification will be in force for a period of five years. Suppose there is already a trustee under a scheme, who for some reason or other cannot be removed for a period of five years, what will the Government do? Will they appoint a successor to him or will they consider the question of appointing an advisory committee in the place of the previous trustee, as has been done in the case of the Meenakshi temple in Mathurai? I am not suggesting for a movement that the existing trustees should be removed. If such a contingency arises, and if there is a possibility of the Government not filling up the post of a regular trustee—I use the words 'if there is a possibility' advisedly, necessarily they must appoint an advisory committee, like that in the Mathurai temple. So long as such a provision is not made in this chapter, it will not be proper to carry on the affairs of the temple with an executive officer. There should be an enabling provision somewhere for the

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Commissioner to appoint an advisory committee. I hope the Hon. Minister will consider these two points and make suitable provision in the Bill."

THE HON. SRI K. MADHAVA MENON:—"Sir, I cannot accept the amendment of the hon. Member for the deletion of Chapter VII altogether. This power to notify a religious institution is very necessary. We may frame a scheme but for various reasons it may prove infructuous. The scheme may not be as successful as it was intended to be or the parties who might have been appointed to work out the scheme may not be using their powers properly. In such circumstances, it is necessary for the Government to notify the temple. The Government are also going to move an amendment to clause 68 (1) to the following effect:—

"Notwithstanding that a religious institution is governed by a scheme settled or deemed to have been settled under this Act, where the Commissioner has reason to believe that such institution is mismanaged and is satisfied that in the interests of its administration, it is necessary to take proceedings under this chapter, the Commissioner, may by notice published in the prescribed manner, call upon the trustee and all other persons having interest to show cause why such institution should not be notified to be subject to the provisions of this Chapter."

So that, Sir, we are proposing to have this power in case there is any definite mismanagement in the institution. Of course, the Commissioner must be satisfied that there is mismanagement and in the interests of the proper administration of the affairs of the temple, it is necessary that he must have the power to notify it. This is only a saving clause in contingencies where there is mismanagement in any schemes that might have been recently settled in respect of any religious institution. That is the object of the various provisions in this chapter and it is not therefore possible for me to accept the amendment to delete this clause, or the whole chapter, Sir.

"The other points raised by the hon. Raja Sahib will be answered at a later stage, Sir."

SRI K. BHASHYAM:—"Sir, I knew what the answer of the Hon. Minister would be. The Government want to have complete control over the religious institutions, although they do admit it. It is the greed for power, which grows more, the more it has got it. Already there are enough powers given to Government to control every aspect of temple administration, in the various clauses that we have passed. In the case of mismanagement of a trustee, there is already power to remove him from his office. If there is a default on his part, he can be removed. In case he refuses to carry out the orders of the Commissioner, there is power to take action against him. Almost every power that is thought necessary has been given to the Commissioner in the various previous clauses which have been passed. Such being the case, I cannot understand why this further residuary power should vest with the Government under this clause, which gives them power to notify any institution is which they consider there is some mismanagement. I think, Sir, it is quite unnecessary. The Government have got enough powers already under the previous clauses

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check mismanagement or misappropriation of funds of a religious institution. My respectful submission is therefore, this clause is quite unnecessary and these powers are also superfluous.

"As regards the point raised by the Raja Sahib of Chettinad—I am sorry, he is not here—that there should be some provision for the constitution of an advisory council, even after notification, and that the Government should not take upon themselves the entire management of the temples, I think that there is certainly some weight in his suggestion. But, by supporting the clause, he wants to give entire powers to the Government although he has qualified his statement, by pleading for the constitution of an advisory council. Because he has found that in certain temples the advisory councils have been doing good work, he wants to give only a qualified support to this clause. Although, as a matter of fact, he has supported the whole of this chapter, he wanted certain modifications in some of these clauses and therefore it is not that he had given his unqualified support to this clause. Whatever that be, Sir, I do feel, that in spite of what the Hon. Minister has said, there is no need for this chapter at all and it is quite unnecessary for the Government to have these powers, because they are already there. There is also this question, whether these clauses are legal or not. That is a matter for the courts to decide, but all the same I press my amendment, Sir."

THE HON. SRI K. MADHAVA MENON:—"Sir, my hon. Friend Mr. Bhashyam says that the Rajah Sahib has, in fact, argued in favour of his amendment, although he said that he was going to oppose the amendment. I am not sure, Sir, whether Mr. Bhashyam has followed his point correctly. He asked me, 'You have provided in sub-clause (4) of clause 69, that every notification published under this clause shall remain in force for a period of five years, and that if an application is made to Government, you can cancel the notification. At the same time you have provided that on such cancellation, you will not revive the old scheme of things, which had been in existence before. Then what will be the position of the temple?' Sir, in the Select Committee, an identical amendment for the deletion of Chapter VII was moved by my hon. Friend Sri K. Bhashyam. The Select Committee did not agree, but as a matter of compromise, they agreed to the notification being in force for a period of five years. But the Government have also taken power to cancel it in between. Then the position of the temple will be, that the scheme that existed immediately prior to the notification will not be revived, but it will be as it was before the scheme was formed. That is to say, it will be in the position of any other temple, without a scheme and without the notification. Then the other sections of this Act will be applied. That is the point that was raised by the hon. Rajah Sahib and he did not say anything in support of the amendment, Sir."

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in the interests of the people. When the Government have got all the powers necessary, why should they want the powers not only to set aside their own schemes but also schemes framed by the courts? This is a very difficult position to accept. I say that in the interests of good administration in the country and out of deference to the courts of the land, the Government should accept my amendment."

SRI T. VISWANATHAM:—"Sir, I second the amendment. I think the Government have got large powers in the various clauses already passed for dismissing a trustee, for appointing a new trustee, and for making any interim arrangements. As I submitted already, this chapter is the survival of the olden days when there was no Board and when there were no powers for the Government to control all these institutions. First of all came this question of notification. But in the context of the present provisions of this Bill, I say, Sir, that the Government already possess great many powers to manage, to appoint trustees, to remove trustees, and to make interim arrangements. Therefore, I submit this further clause is not necessary. But whether it is necessary or not, this clause does one mischief. It simply says: 'Notwithstanding that a religious institution is governed by a scheme settled or deemed to have been settled under this Act . . . This is the offending portion of the clause. The matter goes to the High Court, and the High Court modifies the scheme or approves of it. Under this clause, if the Commissioner or Deputy Commissioner do not do their duties properly, one fine morning they may turn round on the trustee and say that there is mismanagement and remove him. The Commissioner or Deputy Commissioner may say that the institution may be under the control of his officers. That is not a good position. It does not reflect well on the management of the Deputy Commissioner. Therefore, it is right that the Government accept the amendment of the hon. Member Mr. Bhashyam."

THE HON. SRI K. MADHAVA MENON:—"Sir, before replying to the hon. Member Mr. Bhashyam as to how mismanagement comes in, I shall reply to the hon. Member Mr. Viswanatham. The hon. Member Mr. Viswanatham said that this chapter was a survival of olden times when we had no powers, and now that we had powers, we should not have this extra power under this clause. In the Act of 1926 there was no power of notification. There were powers for various other things. It was found impossible with those powers to manage things properly or to stop mismanagement. So, in Act X of 1946, this provision was introduced in section 65-A, namely—

'Notwithstanding that a temple or specific endowment attached to a temple is governed by a scheme previously framed by the Board or settled by a court, where the Board has reason to believe that the temple or endowment is being mismanaged,

This procedure of notifying temples was introduced by the Advisory Regime in 1946, because it was found not possible to

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carry on the work with the then existing provisions. That Act is being extended year after year, and at present it is extended up to 1st April 1951. So, it is not a survival of the mediaeval time. It is a new provision brought into force in 1946. In the Government amendment to clause 68, even though the words 'settled by a court are not there, the hon. Member Mr. Bhashyam has moved his amendment because he knows the law very well and he knows that though the words are not there they are implied there. The hon. Member Mr. Bhashyam wants to know what the nature of the mismanagement is. I shall give a concrete example. I entirely agree with him that courts are less likely to make mistakes than we mortals. I have the highest regard for the schemes framed by the courts. But with all that, I can say that courts are not infallible. Courts can commit mistakes or schemes framed by them may perhaps be not workable. That is what is happening in Guruvayur temple. The court framed a scheme for that temple. There were two hereditary trustees. The court said that the two trustees should work together. But these trustees will never work together. A number of suits were filed. One trustee filed a suit against the other trustee saying that he has not consulted him and *vice versa*. Ever since the scheme was sanctioned by the court, there were suits going on by one trustee or the other. At the end of the suit or before the suit came for final hearing, the trustees agreed with each other, and the costs of the suit were charged to the institution. Like this, mismanagement has been going on. Every time some modification is attempted. For a time there is some settlement, and after some time we again find there is some difficulty. So, the power is vested in the Government. Objection is not based on the merits of the question but on the question that the Constitution does not permit notification and that this notification would mean discrimination against Hindus alone. I have given a concrete example to the hon. Member Mr. Bhashyam where a scheme framed by the court led to innumerable suits every year, and management of the temple became impossible."

SRI K. BHASHYAM:—"Sir, the Hon. the Law Minister has demolished my argument by referring to suits between two trustees in the Guruvayur temple. The simple answer to that is to go to a court of law and say 'please modify the scheme suitably.' What is wrong with that procedure? It is only a two-rupee application. Why should there be this notification? Going to the court is really much easier than calling all the people to consider their objections and then notifying, etc. There is also the question of incurring the odium of the people in the area. Therefore, Sir, I cannot accept the Hon. Minister's argument, and I press my amendment."

THE HON. SRI K. MADHAVA MENON:—"Besides the one case mentioned, there were a number of suits filed by worshippers, and it was found impossible to manage."

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MR. SPEAKER:—“The question is—

‘In clause 68, for the words “notwithstanding that a religious institution is governed by a scheme settled or deemed to be settled under this Act,” substitute the words “except in cases where a scheme has been settled by a civil court”.’”

The amendment was lost.

MR. SPEAKER:—“I now put the Government amendment to the vote of the House. The question is—

‘For sub-clause (1), substitute the following sub-clause:—

“(1) Notwithstanding that a religious institution is governed by a scheme settled or deemed to have been settled under this Act, where the Commissioner has reason to believe that such institution is being mismanaged and is satisfied that in the interests of its administration, it is necessary to take proceedings under this chapter, the Commissioner may, by notice published in the prescribed manner, call upon the trustee and all other persons having interest to show cause why such institution should not be notified to be subject to the provisions of this chapter.”’

The amendment was carried.

MR. SPEAKER:—“The motion is—

‘That clause 68, as amended, do stand part of the Bill.’”

SRI T. VISWANATHAM:—“Mr. Speaker, Sir, as the hon. Member Mr. Bhashyam stated, the Government are wise enough to amend the clause and put it in a better form. The offending portion that I have stated is ‘Notwithstanding that a religious institution is governed by a scheme settled or deemed to have been settled under this Act’. The Hon. the Minister gave the instance of two trustees filing suits. The Government have the power to get rid of those people. The remedy is not to notify the temple and bring it under the Government for five years. There is the scheme framed by the court. The matter can be taken to the court direct if there is any quarrel. The Government have already taken powers to make interim arrangements. But to poke the finger into the eye of the court, as it were, and say ‘notwithstanding anything . . . under this Act’ is not in keeping with the dignity of the Legislature.”

THE HON. SRI K. MADHAVA MENON:—“Sir, I strongly protest against the unnecessary use of the words ‘poking the finger into the eye of the court’. My hon. Friend is imagining unnecessary poking of the finger into the High Court. No such poking is intended at all. The clause is very clear. I do not see how it is intended against the court. It is not fair to say so.”

Clause 68, as amended, was put and carried.

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Clause 69.

MR. SPEAKER:—“The motion is—

‘That clause 69 do stand part of the Bill.’”

SRI K. BHASHYAM:—“Sir, I move the amendment I have given notice of, namely—

Add a new sub-clause (5) as follows:—

“(5) Any person aggrieved by such notification shall be entitled to file an application before the District Judge within whose jurisdiction the institution is situate for the cancellation of the notification on the ground that it is without jurisdiction and not properly made and is otherwise unjust or unnecessary.”

The purport of this sub-clause is this. The Commissioner may think that, as was said some time back, a scheme of his has been modified by the High Court. There must be an opportunity for the persons concerned to show that their case is right and the Commissioner's charge is wrong. What the clause provides for in the first instance is to put in an objection to the Commissioner himself. But the Commissioner has already decided in the matter that in the interests of the institution, the institution should be notified. Having come before that conclusion, what is the purpose of putting in an objection to the Commissioner? He has prejudged the question, and has come to the conclusion ‘it ought to be notified’.

“Sir, you know what is meant by ‘notification after enquiry.’ If there are three hereditary trustees or even trustees appointed by the Commissioner under the statute, if there is mismanagement, what does it mean? Does it not go against the persons concerned? Does it not affect their character? Does it not make them unfit for any post of honour afterwards? If a person is dismissed—I call it nothing but dismissal—because his administration is found to amount to mismanagement of the properties of a temple, should he be branded for all his life as a person who cannot manage the properties properly? That is a black mark put upon him. There is no chance of his proving that he does not deserve him. Therefore, I want this to go to a court of law where he can prove that the Commissioner was wrong but he was quite right and that he had done everything only according to the practice and any orders on the matter. He can show that he has really improved the position of the temple. It does not affect the Commissioner or the temple so much as the persons who are in charge of the temple. The Commissioner will, by a mere stroke of the pen, say, ‘You are branded as mismanaging the funds of the temple.’ Suppose he stands for election to a municipal council or to the Legislative Assembly. The trouble will be that he will be spoken of as a person who was in charge of a temple and was found to be unfit to manage the properties properly. Elections

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are coming and we will have to see to this aspect also. Two persons may be quarrelling with each other for a seat. In such conditions, this man will have no opportunity to place his case before anybody. According to my amendment, when such notification is issued, he can go to a court of law, point out that he has not done anything wrong and request that the order might be modified. An opportunity of this kind must be given to the person to clear his character. Otherwise you will be condemning a person unheard. That is wholly wrong."

SRI T. VISWANATHAM:—"I second the amendment, Sir. The argument for the amendment has been put by my hon. Friend Sri K. Bhashyam so ably that I have been wondering whether the Hon. Sri Madhava Menon is just considering to accept the amendment. I really do not want to spoil the case by arguing it myself. But whether I spoil it or not, the Hon. Sri Madhava Menon is now thinking of arguments to contradict what Sri Bhashyam has said, not on the merits of what he has said.

"If the Hon. Minister will be pleased to read clause 68 as amended by the Government, he will find the following words:—

'Where the Commissioner has reason to believe that such institution is being mismanaged and is satisfied that in the interests of its administration, it is necessary to take proceedings under this Chapter

So, the belief and the satisfaction that it is necessary to take proceedings are all over there. Therefore, the succeeding clauses under which he invites objections are merely an eyewash. It deserves the use of a stronger term which I am not willing to use on the floor of the House. When once the Commissioner is satisfied that it is necessary to take proceedings, what is the meaning of raising objections? Therefore, as my hon. Friend Sri K. Bhashyam has already said, a man is branded once for all as mismanaging the property and is removed from service. At least under the original unamended clause, it was said that the man was removed from the office of trustee. Under the amended clause, the publication in the *Port St. George Gazette* will be that the man, the erstwhile trustee, is removed for mismanagement, and the poor man is condemned once for all. He has no right to appear before anyone and put forward his case. The person who initiates the proceedings is the Commissioner; the person who has got reason to believe that it is being mismanaged is the Commissioner; the person who invites objections and also hears and finally decides is the Commissioner. This is a very strange case of the application of justice. It is a case where the Prosecutor and the Judge are one and the same absolutely. It is against all fundamentals of fairplay. When the Commissioner is of one opinion and the affected person is of another opinion and when he raises objections, he should not be asked to go to the very same hangman and make a representation, and then you cannot say that an opportunity has been given to this man. In cases of allegation of mismanagement, because it involves

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moral turpitude and once for all brands the man as regards his character, it is necessary that an important tribunal should have jurisdiction to go into the matter and an opportunity should be given to the man to vindicate his character or to show that the Commissioner was wrong. I second the amendment, Sir."

THE HON. SRI K. MADHAVA MENON:—"Sir, for any scheme framed by the Commissioner, an appeal is provided to the Court in the previous Chapter. If I am not misunderstood, the only redeeming feature of this notification is that there is no provision to go to a Civil Court. In all the other previous Chapters, with regard to a scheme framed or any other orders passed, there was an appeal to the Court and the High Court also. In this case there is no provision to go to a Court of Law for the obvious reason that this is a temporary measure and not a permanent one. This notification shall *ipso facto* end at the end of five years or at any earlier date if the Government cancel the notification. This is a temporary provision to cure a temporary disease.

"My hon. Friend Sri T. Viswanatham used the word 'hangman'; it has no place at all here. (Sri T. Viswanatham: 'It is a pleasant word.') That may be very pleasant for him but not to all. He said that it is pre-decided that there is mismanagement and the Commissioner should interfere. It is not so; that is not the correct interpretation of my amendment. It is only said—

'where the Commissioner has reason to believe that such institution is being mismanaged and is satisfied that in the interests of its administration, it is necessary to take proceedings

We do not say 'to pass orders.' The expression 'that in the interests of its administration, it is necessary to take proceedings' shows that further action is necessary. It is not a case of his coming to a conclusion at once. It is only a question whether there is a *prima facie* case for framing a charge, to use the expression of a Criminal Court. If it is afterwards found necessary to initiate proceedings, he gives notice to the trustee and other persons interested in the property to show cause why the institution should not be notified to be subject to the provisions of this Chapter. On that, the trustee or other persons interested can file their objections. Under clause 69 (2) where any such objections have been received within the time specified or granted, the Commissioner shall hold an inquiry into the objections in the manner prescribed, and decide whether the institution should be notified to be subject to the provisions of this Chapter or not. The decision is given only after the enquiry is over under clause 69. The Commissioner is not the hangman, because the subsequent sub-clause says that the Commissioner after holding the inquiry shall end up the papers to Government who shall thereupon issue the notification. My hon. Friend thinks that it is a question of hanging somebody. It is not so. We do not want the institution itself to be hanged by one set of hangmen. The

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attempt is to prevent the institution being destroyed, for a temporary period, the maximum being five years. In the Act of 1946 there was a definite prohibition that no action taken under the particular section should be questioned in a Court of Law. Here there is prohibition by implication. That is necessary because this is only for a temporary period."

SRI K. BHASHYAM:—"Sir, the expression that the redeeming feature of this provision is that we are not allowed to go to a Court of Law is so staggering that I feel I cannot speak any more on this point. Therefore, I sit down, Sir."

MR. SPEAKER:—"And withdraw the amendment also?"

SRI K. BHASHYAM:—"No, Sir."

MR. SPEAKER:—"The question is—

'Add a new sub-clause (5) as follows:—

"(5) Any person aggrieved by such notification shall be entitled to file an application before the District Judge within whose jurisdiction the institution is situate for the cancellation of the notification on the ground that it is without jurisdiction and not properly made and is otherwise unjust or unnecessary."

The amendment was lost.

Clause 69 was then put and carried.

Clause 70.

MR. SPEAKER:—"The motion is—

'That clause 70 do stand part of the Bill.'

JANAB MAHIN SCHAMNAD:—"Sir, I move the amendment standing in my name, viz.—

'Add the following proviso to clause 70:—

"Provided that the Government shall not deprive for all time a community or group of persons, to which a notified religious institution belongs, of its ownership thereof, either at the time of issuing the notification or after its expiry or cancellation, so as to pass its lawful ownership and control into the hands of persons who have no right thereto. On the expiry or cancellation of the notification or at any time prior to it, the Government shall duly consider whether the affairs of the notified religious institution do not justify the handing back of the same to the concerned community or group of persons from whom it was taken up by Government for proper administration under the notification."

It stands to justice and reason that the communal temples taken over for proper management from the incompetent or untrustworthy trustees of the concerned community have to be handed

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over to that community when the affairs of the temple are set right and when the proper members of the community are available and forthcoming to take up the trusteeship either at the end of the period of five years or at any time before, at the discretion of the Government.

"The Tirumalai Devaswom Temple in Cochin was handed over to the concerned community recently after 35 years of Government's administration. That is the reason for my amendment which is in accord with Article 26 of the Indian Constitution."

SRI T. VISWANATHAM:—"I second the amendment, Sir."

MR. SPEAKER:—"Amendment moved—

'Add the following proviso to clause 70:—

"Provided that the Government shall not deprive for all time a community or group of persons, to which a notified religious institution belongs, of its ownership thereof, either at the time of issuing the notification or after its expiry or cancellation, so as to pass its lawful ownership and control into the hands of persons who have no right thereto. On the expiry or cancellation of the notification or at any time prior to it, the Government shall duly consider whether the affairs of the notified religious institution do not justify the handing back of the same to the concerned community or group of persons from whom it was taken up by Government for proper administration under the notification."

THE HON. SRI K. MADHAVA MENON:—"Sir, what is contemplated in the amendment of the hon. Member is already there under sub-clause (4) of clause 69. The hon. Gentleman's amendment is, 'Provided that the Government shall not deprive for all time a community or group of persons, to which a notified religious institution belongs . . . etc. I must tell the hon. Member that a notified religious institution cannot belong to any particular community or group of persons. It is a public institution. Some persons may be trustees of the same, but they cannot claim any ownership over the institution concerned. The hon. Member's amendment further states, 'On the expiry or cancellation of the notification or at any time prior to it, the Government shall duly consider whether the affairs of the notified religious institution do not justify the handing back of the same to the concerned community. . . etc. I would like to point out that we have gone a step further under clause 69 (4) which states, 'Every notification published under this section shall remain in force for a period of five years from the date of its publication; but the Government may, at any time, on an application made to them, cancel the notification.' So at the end of five years, or at the cancellation of the notification, the institution shall revert to the same person as before. I am afraid that this amendment has been brought forward without a proper appreciation of what the clauses are."

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MR. SPEAKER:—"The question is—

‘Add the following proviso to clause 70:—

“Provided that the Government shall not deprive for all time a community or group of persons, to which a notified religious institution belongs, of its ownership thereof, either at the time of issuing the notification or after its expiry or cancellation, so as to pass its lawful ownership and control into the hands of persons who have no right thereto. On the expiry or cancellation of the notification or at any time prior to it, the Government shall duly consider whether the affairs of the notified religious institution do not justify the handing back of the same to the concerned community or group of persons from whom it was taken up by Government for proper administration under the notification.”

The amendment was lost.

MR. SPEAKER:—"I think the hon. Member Sri Bhashyam has given notice of an amendment to this clause."

THE HON. SRI K. MADHAVA MENON:—"Sir, the hon. Member had also given notice of a similar amendment under clause 68 and that was dropped. So I think the present amendment which is in identical terms with the other amendment, is not necessary."

SRI K. BHASHYAM:—"I do not move the amendment, Sir. I would like to know some information from the Hon. Minister. I find that there is some little confusion. In the latter part of clause 70, it is said, 'and such scheme and rules shall not be deemed to be revived by reason of the cancellation of the notification or by reason of its having ceased to be in force by efflux of time.' I wish to know what will be the effect of this. Does it mean that it will be handed back to the hereditary trustees who were in the management of the institution concerned before it was notified, or does it mean that it will be handed back to a few people appointed by the Government or the Board at that time. What will happen if the institution was without any management at all? If the Government put it in the present form, I am afraid there would be difficulty as to what will happen at the end of the notification. In my amendment, I have sought to set the matter right by introducing the words 'except for the schemes framed and settled by a Civil Court.' I am not going to move this amendment, because I know that it will be lopsided. However, I would like to urge upon the Hon. Law Minister to consider the effect of this clause. That is all what I want."

THE HON. SRI K. MADHAVA MENON:—"Sir, to some extent the hon. Member's surmise is correct. But the position is this. By cancellation of notification or by expiry of time, *ipso facto* the previous scheme does not come into effect. All other

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provisions of this Act except this will come into force; all other clauses relating to the trustees will come into effect as soon as this notification is over."

Clause 70 was put and carried.

Clause 71.

MR. SPEAKER:—"The motion is—

‘That clause 71 do stand part of the Bill.’"

SRI K. BHASHYAM:—"Sir, I do not move the first amendment, but move the following second amendment:—

‘Add at the end of sub-clause (1) the words “for the management of the properties of the institution”’.

My scheme is this. The notification is there and a salaried executive officer is to be appointed. The executive officer may come in to the extent where there is mismanagement of the properties. I can understand his coming in for the purpose of managing the properties. For the purpose of managing other affairs relating to a temple the trustee of the temple may be allowed to continue to look after the same. Why should there be interference with the trustees' management of the internal affairs of a temple? There are various internal affairs to be looked after by a trustee, like utsavams, religious festivals and worships and kala sandhis, etc. Why should there be any restriction at all in respect of these matters? If there was anything wrong in the management of the properties, the executive officer may be asked to take charge of the management. But, if there was anything wrong in the worship or in the system of allowing people to go in and similar other things, such wrong systems can well be rectified by departmental orders and there is no necessity for making the executive officer hold charge of these things because, the trustee may do this job as well. There is no need for interfering with the ceremonies and other utsavams and festivals in the temples. These may be left in the hands of the trustee, who will be of course, subject to the orders of the Commissioner, Deputy Commissioner, Assistant Commissioner and the series of officers who will be sitting over his head and issuing orders. I would only wish to emphasize that there should be no interference in the day-to-day internal affairs of a religious institution and the trustees should be in charge of the same. That is all what I want to submit."

SRI T. VISWANATHAM:—"Sir, I second the amendment. The language is not very clear. I think that after the notification, the trustee is not out of the premises and he seems to continue. The properties might be given to the executive officer for effective management whenever there was mismanagement; but I am unable to understand why other affairs should also be left

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to his care. Moreover, in a later clause, we say that he is being treated as a public servant within the meaning of the Indian Penal Code. The question that might arise will be: whether this executive officer is a servant of the institution, or a servant of the Government. That is all what I want to know."

SRI R. V. SWAMINATHAN:—"Mr. Speaker, Sir, I oppose this amendment. I think the trustees would not be there after the notification and they would be removed. Even assuming that the trustee will be there, I do not see any reason why the executive officer should not have power to look after the properties of the institution as well as other affairs relating to the institution. The officers concerned should have power to find fault with not only the management of the properties, but also other religious affairs relating to the institution concerned so that everything may go well. Therefore I oppose this amendment."

THE HON. SRI K. MADHAVA MENON:—"Sir, hon. Member Sri Bhashyam wants to specify the duties of the executive officer. His amendment is 'Add at the end of sub-clause (1) the words "for the management of the properties of the institution"'. This is already provided in clause 72 (1) which says: 'The executive officer shall hold office for such period as may be fixed by the Commissioner and he shall exercise such powers and perform such duties as may be assigned to him by the Commissioner.' In the proviso of this clause, I am seeking to omit the words 'in the case of a math' and substitute the words 'of the endowments of the religious institution' for the words 'of its endowments'. When the proviso is amended later according to my amendment, it will read thus: 'Provided that only such powers and duties as appertain to the administration of the endowments of the religious institution shall be assigned to the executive officer.' It will thus be seen that the executive officer shall have power only for administration of the endowments of the religious institution. So the duties and functions of the executive officer are already set forth specifically in this clause and hon. Sri Bhashyam's amendment will be absolutely redundant."

SRI K. BHASHYAM:—"Sir, I am afraid that I have not been properly understood. I want that this question of assignment of duties between the trustees and the executive officers should not be left to the Government and the Commissioner. I want this to be defined in the statute itself. So far as the secular affairs of the institution are concerned, the executive officer may be in charge. But in respect of other matters, I think the temple trustee should be in charge. I am sure the object of the Government will certainly be achieved if my amendment is accepted and the duties of the executive officer are confined to the management of the properties only."

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MR. SPEAKER:—"The question is—

'Add at the end of sub-clause (1) the words "for the management of the properties of the institution".'

The amendment was lost.

Clause 71 was put and carried.

Clause 72.

MR. SPEAKER:—"The motion is—

'That clause 72 do stand part of the Bill.'

THE HON. SRI K. MADHAVA MENON:—"Sir, I beg to move—

'In the proviso to sub-clause (1)—

(1) Omit the words "in the case of a math";

(2) For the words "of its endowment", substitute "of the endowments of the religious institution".'

If my amendment is carried, the proviso will read like this: 'Provided that only such powers and duties as appertain to the administration of the endowments of the religious institution shall be assigned to the executive officer.' To make it perfectly clear, I have brought forward this amendment. The duty of the executive officer is to administer the endowments of a religious institution and not the religious institution."

The amendment was put and carried.

Clause 72, as amended, was put and carried.

Clauses 73 and 74 were put and carried.

Clause 75.

MR. SPEAKER:—"The motion is—

'That clause 75 do stand part of the Bill.'

SRI T. VISWANATHAM:—"I thought that we would take up this clause only after lunch. So I am not prepared with my amendments to this clause, Sir."

MR. SPEAKER:—"I have no objection. The House will rise and meet again at 2-30 p.m."

(After lunch—2-30 p.m.)

JANAB MOHAMED ABDUL SALAM:—"On a point of information, Sir, may I know the programme of the House—how long we will be sitting, when we will . . ."

MR. SPEAKER:—"The Leader of the House will give the information to-morrow. If the Hon. the Law Minister wants to say anything, I have no objection."

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THE HON. SRI K. MADHAVA MENON:—“As you have suggested, Sir, it is better that the Leader of the House gives the information. As far as I know, we propose to sit till consideration of this Bill is over.”

JANAB MOHAMED ABDUL SALAM:—“I submit, Sir, that last time when we dispersed . . .”

MR. SPEAKER:—“Let the Leader of the House come. He will answer the query. He will give the information to-morrow. Now, we shall proceed with clause 75.”

Sub-clause (3).

SRI T. VISWANATHAM:—“Mr. Speaker, Sir, I do not propose moving my amendments (a), (b) and (c) to sub-clause (1) and also the two amendments seeking to delete sub-clause (1) (a) and sub-clause (1) (b). I, however, propose to move my amendment to sub-clause (3). Sir, I move—

‘Delete sub-clause (3).’

It is the trustee that has got the power of management according to the Government. He is an appointed trustee. At least to the extent he is trustee, he must be given power to manage the affairs of his trust. Clause 75 deals with the entire scope of the daily secular management of the institution and, therefore, it is his right to frame his budget. Of course, with the superior powers of superintendence and other things that vest in the Commissioner and Deputy Commissioners, they may be statutorily authorized to receive copies of the budget and inform themselves as to how things are going on in the institution. They should not have the further right of altering the budget which the trustee prepares. He being the person in charge of the trust, the trustee is entitled to make his budget providing for repairs and renovation of the buildings connected with the trust, for the daily scale of expenditure, that is, the dittam, for the due discharge of the liabilities of the institution, etc., which all form the secular management. According to me, he is the person that must manage the institution without any outside interference. The Commissioner should have only the right to look into the budgets and see how things are going on. It might be asked then, Sir, ‘when the Commissioner or the Area Committee has no power of revision, has no power to alter the budget, then why have these budgets at all.’ My object is this. Instead of sitting in an office and remaining ignorant of what is happening in the various institutions, the Commissioner and the Area Committees may know under this clause something of these institutions. A statutory right vests in them under this clause to know what is going on there. That is enough. They should not have the right to alter the budget altogether. Then, it might be asked, ‘what is the purpose of their knowing what is going on in the institutions?’ If the Commissioner or the Area Committee suspects on a perusal of the

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various provisions made in the budget that there is mismanagement or maladministration, he or it has got power under certain other clauses of the Bill to take appropriate action against the institution concerned. Only when there is evidence of mismanagement or if the provisions in the budget amount to or border upon mismanagement, he should interfere and not until then. In that case he can take action either under clause 49 or under other clauses which provide even for the removal of a trustee. Until then he should have no right to fetter the discretion of the trustee. Sir, let us take, for instance, dittam. Dittam almost relates to the daily routine of expenditure and not the yearly one, although the budget may provide for it on a yearly basis. It is not, therefore, right either for the Area Committee or the Commissioner to interfere with the provisions of the budget. They can certainly remove the trustee even if they smell or scent any maladministration or unnecessary wasteful expenditure. Even in the case of municipalities, although statutorily power vests in the Government to make any alterations in their budgets, we find that the Government rarely interfere with them.”

THE HON. SRI K. MADHAVA MENON:—“Similarly, here also there will be no interference.”

SRI T. VISWANATHAM:—“I am not supplying an argument for you. What I am submitting is, even in that case, where the municipalities are only the creatures of Statutes and subordinate in a way to the Government, the Government do not normally interfere and should not interfere. All municipalities are resenting even the small interference which the Government make in respect of their budgets and for three years there have been conferences when they all protested against such interference. The Hon. Minister for Local Administration was actually sympathizing with these institutions promising month after month and year after year that he would effect suitable changes in the law so that the municipal life, the local life, might be really local. If in the case of a body which is the creature of a Statute the position is like this, in the case of a trustee, who is his own budget-maker and the dispenser of his own fate and fortune, there is a stronger justification for leaving him to himself. It is not right, therefore, Sir, to encroach on his rights. If there is wasteful expenditure, the Commissioner can proceed with the case under the other provisions of the Bill. The trustee should not be made to lose his initiative. His power to visualize what is wanted and what is not wanted should not be hampered by what the Commissioner or the Area Committee may say to-morrow. He should not live in a state of fear that a particular item may be struck off. He should not be tripped like that. Once the trustees are crippled like that, the management of the religious institution will suffer. In the sphere of activity allowed to the trustee, he must have freedom of action and discretion to act as he chooses in the best interests of the

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institution. The Commissioner can interfere only if there is anything wrong going on there. And the case is worse in the case of *maths*. If you will be pleased to read the relevant portion, you will find, Sir, that in religious institutions, some standardized scale of expenditure is called for. In the case of temples, it may be possible. In the case of *maths*, however, it is almost impossible to fix a standard scale of expenditure. It is like asking the trustee to regulate the number of persons whom he is receiving on a particular day or whom he may be obliged to feed. Sir, the number cannot be constant and it always varies. Of course, the Government might be pleased to state that the number may be given on the basis of an average struck of the persons whom the trustee has been receiving for the last ten or so many non-famine years or on some such fantastic method. But that will work great hardship on the *matadhipathi*. Therefore, Sir, from any point of view, the trustee must be given discretion to frame his own budget. Of course, if he misbehaves, there are other provisions under which action can be taken by the Government. With these words, Sir, I move my amendment."

SRI D. V. RAMASWAMI:—"Sir, I rise to second the amendment so ably moved by my hon. Friend, Sri Viswanatham. In this connexion, I would like to add a word or two to what he has already explained to the House. Under clauses 59 to 61 of the Bill, there are ample powers for the Government to see that proper standards of expenditure are fixed for the institution and also for the appointment of a manager to look after the secular side of the institution's activities. Therefore, Sir, when there are several such safeguards to see that the administration of institutions is carried on on proper lines, it really seems to me superfluous to ask the Commissioner and the Area Committees to examine the budgets of the institutions, and make such alterations, omissions or additions in them as they deem fit."

SRI V. M. RAMASWAMI MUDALIYAR:—"Mr. Speaker, Sir, I am really surprised at the amendment moved by my hon. Friend, Sri Viswanatham. The whole purpose of the Bill is to regulate and control the administration of the *maths* and other religious institutions and endowments, through the Commissioner or the Deputy Commissioner or the Area Committee. I feel that in this amendment, the old battles that hon. Sri Viswanatham waged under clause 32 of the Bill, is again repeated. Clause 32 which has been adopted empowers the trustee of an institution to incur expenditure on arrangements for securing the health, safety or convenience of disciples, pilgrims or worshippers resorting to the institution. When this clause was being discussed, Sri Viswanatham and his Friends wanted that the Commissioner or the Government should not have a hand in the control of such expenditure. If such power does not vest in the Government, the trustee or the person concerned may spend away all the money of the institution and there may be nothing left for other purposes. Now

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if sub-clause (3) is taken away, again the trustee may under the guise of framing a budget, spend away all the money got as income from the endowments without leaving anything for other purposes provided for in clause 64 of the Bill. For instance, *dattam* or the scale of expenditure may be fixed at a very exaggerated figure and he may put the provision for discharging the liabilities of the institution and repairs and renovation—for which a 10 per cent limit is fixed in the Bill—at an inflated figure so that no balance will be left whatsoever. It is for the purpose of controlling expenditure, to see that proper and reasonable provision is made, that the ultimate authority is sought to be vested in the Government, i.e., the Commissioner or the Area Committee. Otherwise the trustees may indulge in wasteful expenditure. My good friend Sri Viswanatham said that there are other clauses under which the Commissioner could exercise proper control over the trustees and even remove them if necessary, probably under clause 49. But there you will see that action could be taken only on definite grounds such as persistent default in the submission of budgets, for wilful disobedience of any lawful order issued under the provisions of the Act, and so on. But where exaggerated amounts are to be spent on the purposes mentioned under this clause there is no control at all. The trustee cannot be removed even if he spends the whole income of say Rs. 32 lakhs on renovation of the temples. There must be a check and control on what the expenditure on, say renovation, etc., must be. My hon. Friend should not base his objections on mere suspicions. After all the Area Committee is there composed of non-officials though nominated by Government. I take it they would be taken from among persons of status. So also is the Commissioner, a responsible officer. What is the objection in scrutinizing the budget? I don't think they would interfere at every stage, such as 'karpoora harathi' should be of so much quantity daily or in like matters. They are not going to interfere like that. My hon. Friend can take it that no reasonable person will do it. The only idea of this sub-clause is that there should not be wasteful expenditure and that there should be some ultimate authority who would keep a check on the expenditure. I do not see anything wrong in having such an ultimate power in the Commissioner in regard to bigger temples and the Area Committee in regard to smaller institutions. The argument that the trustee can be brought to book under other clauses of the Bill and that the Area Committee or the Commissioner should not have power to scrutinize the budget or control is not sound. I personally feel that the amendment must be opposed."

SRI K. BHASHYAM:—"Sir, the question as to what are the requirements of a temple or an institution is a matter of local interest, the interest of the person who is there performing the duties of the trustee. To say that the Commissioner or the Assistant Commissioner, sitting far away from the temples or the institutions must have power to say 'do this or don't do this' is a wholly improper thing. The trustee must have the initiative.

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"Sir, there is one greater danger which I did not notice when this *cypres* doctrine was considered. When it was discussed Government by an amendment said: 'After making provisions in respect of clause 75'. What happens now is this. After providing for the items mentioned under this clause, the rest will be surplus in the hands of the Commissioner for the purpose of being used as he likes. I want my hon. Friend Sri Ramaswami Mudaliyar to note what the reaction of it will be. When the original clause about the *cypres* doctrine was there, the question was to determine the surplus only after providing for the requirements of the institution. But the Government by an amendment made it 'after providing for the things which are really mentioned in clause 75'. They circumscribed what is to be provided for for the temples or the institutions. When you interfere with the budget of the institution or the temple, the Government would try to leave a larger surplus outside. That is why I say, the Government with a view to opening more hospitals or leprosy clinics, making grants for advancing education will leave a large surplus outside out of the trust funds, to meet their commitments. My hon. Friend Sri Ramaswami Mudaliyar does not understand what this clause and the Government amendment mean. I had pointed out, at the time of discussing the Government amendment that while the budget makes provision for some of the things, it did not make provision for the case I had in point. Suppose I give Rs. 50,000 provided they pay Rs. 50,000 (the temple or the institution) for the building of a mandapam for religious purposes, there is no provision under this clause to incur that expenditure. Provision can be made for only such of the things as are mentioned under this clause. If the Commissioner is given power to interfere with the budget prepared by the trustee, the Commissioner will always try to act in such a manner as to get more surpluses. The Commissioner might be a good person not religiously inclined but secularly inclined in the sense as is usually said 'What are these temples for. Are they for the general good? It is for the general good that we must have more surpluses.' What are these temples for except for mere worship? Does the God speak to you and appear before you? What is the use of all this? Social service is the best service. Open more hospitals and more schools. These are the sort of ideas that are developing to-day and in this context, I believe Government would be able to understand my point. Therefore there is danger in saying 'If after making provision for these things', and then allowing the Commissioner or somebody to interfere with the budget of the temple or the institution. This is too much. Perhaps last time when I referred to this point I had not evidently made myself clearly understood."

THE HON. SRI K. MADHAVA MENON:—"What is the danger?"

SRI K. BHASHYAM:—"The danger is this, Sir. The Government have provided that the surpluses should go for definite

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purposes of public utility. The Government have said in an earlier clause that after providing for the things mentioned in clause 75 the surplus shall be at the disposal of the Commissioner. Of course, I know, he is not going to put it into his pocket. If supposing it is required for the construction of a new building for the institution or the temple, the danger is that it will not be available. Further the Commissioner would try to create more and more surplus by his check and scrutiny, the surplus to be spent on what they call general public utility. That was why I objected to it. If the Government give power to these persons it will mean greater danger. I am not against budgeting, I am not against keeping correct accounts and auditing and all that. I want these funds should be utilized properly and not for general public utility purposes. I am really against that. What is the duty of the Government? It is that they should see that the funds are not diverted to other things but are used for the legitimate purposes of the institution or the temple concerned. That is why I say I am objecting on principle to power being given to the Commissioner to interfere with the budget prepared by the trustee. We find provision made in this clause for repair and renovation. What about new construction? There is no provision made for new construction under this clause. Only ten per cent is allowed for repairs and renovation of the whole thing. Supposing it requires more than that, what are they to do? Therefore I see the studied policy of the Government in bringing an amendment at an earlier stage, and allowing only 10 per cent for renewal and repairs and making no provision for new construction, is with the object of making a larger surplus from the trust funds. I may be wrong in my suspecting the Government. But the fact is there. My hon. Friend Sri Ramaswami Mudaliyar said we suspect everything. But I may tell him, when I see the whole scheme, nothing but suspicion arises in my mind. Why should the Government suspect the trustee? He is a good person. Why suspect he would over-estimate the budget and put more money than is actually necessary? I would rather suspect the Government and the Bill, if it is a question of suspicion, rather than the local people. I think, it would be best, if the whole thing is left to the trustees themselves."

SRI R. V. SWAMINATHAN:—"Sir, we trust every one, whether it is the trustee, the Commissioner or the Government or any body else. According to this clause the budget prepared by the trustee will be placed before the Area Committee or the Commissioner, as the case may be. My hon. Friend Sri Bhashyam asked 'why interfere with local interest?' The trustee is a local man, the members of the Area Committee will also consist of people from the area. The preparation of the budget is, therefore, in the hands of the local interest."

"These will go into the question whether the budget has been prepared with reference to local customs that prevail there and so on. My hon. Friend Sri Bhashyam forecasted a danger that

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with a view to create a surplus, the Government have brought forward the amendment and want to have this clause too. I want to be frank, Sir. When we thought of this Bill, the idea was that in many institutions and temples money was being spent indiscriminately without looking into the purpose. We wanted to have a check over this. Without looking into the budget, I ask how are we going to check this? If after providing for the purposes of the running of the institutions and temples, such as those items mentioned under clause 75, what is the objection in utilizing the surplus for other items to which we are committed? It is true we intend utilizing the surplus for other purposes. But my hon. Friend's (Sri Bhashyam's) contention is that there won't be any surplus if provision were made for all the purposes of the institutions or the temples. According to him, there won't be any surplus, rather there might be a deficit also. Even money might be borrowed indiscriminately and spent for the religious institution. We want to put a check over this and find out if a surplus could be secured. But my hon. Friend Sri Bhashyam and others want that there should not be a check over the expenditure. That is why he fears there would be a danger in allowing the budget to be scrutinized. I feel, Sir, this is a very important sub-clause that should be there. I oppose the amendment."

SRI K. BHASHYAM:—"On a point of personal explanation, Sir, I want to say this. I never said there won't be any surplus. I only said that by these various devices the Government want to increase the surplus against the legitimate claims of the temple or the institution concerned."

THE HON. SRI K. MADHAVA MENON:—"I feel the necessity of the sub-clause, Sir. My hon. Friend Sri Bhashyam suspects the whole motive of this scheme under this Bill and of this sub-clause. He says that the object of the Government is to create a surplus so that they may use it for the purposes mentioned in clause 64. He also expressed that the Government might create greater surpluses than are called for in the interest of the institution or the temple concerned. Let us look into the Government amendment that is to be moved to clause 75 (3). I do not know how far it will satisfy my hon. Friends, Sri Bhashyam and Sri Viswanatham. We say in the amendment proposed—

"For the portion beginning with "may make such alterations" and ending with "as it or he may deem fit", substitute "may, after giving notice to the trustee in the prescribed manner and after considering his representations, if any, make such alterations, omissions or additions in the budget as the Area Committee or the Commissioner may deem fit."

It may not probably satisfy them completely."

SRI K. BHASHYAM:—"Six or half-a-dozen does not make a difference."

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THE HON. SRI K. MADHAVA MENON:—"According to him, Sir, there is no difference as in saying tweedledom and tweedledee. Apart from that, let me say how absolutely unfounded these suspicions are. The suspicions are absolutely unfounded. Under clause 32—

(1) The trustee of a religious institution may, out of the funds in his charge, after making adequate provision for the purposes referred to in section 75, sub-section (2), incur expenditure—

(a) on arrangements for securing the health, safety or convenience of disciples, pilgrims or worshippers resorting to the institution; and

(b) for the training of archakas, adhyapakas, vedaparayanikas and others.

etc., etc."

We have already passed an amendment to clause 32 which says—

32-A. (1) If, after making adequate provision for the purposes referred to in section 75, sub-section (2), and also for the arrangements and the training referred to in section 32, sub-section (1), there is a surplus in the income of the institution, the trustee thereof may, with the previous sanction in writing of the Deputy Commissioner, appropriate such surplus or any portion thereof for all or any of the purposes specified in section 64, sub-section (1)

So, the trustee may incur expenditure with the previous sanction of the Deputy Commissioner. It is not the Commissioner, Sir.

"My hon. Friend Mr. Bhashyam's explanation is that the Commissioner or the Deputy Commissioner may alter the arrangements or vary the amounts in such a way that he will reduce the necessary expenditure and increase the surplus so that he may have the right to use the surplus for any purpose he likes. Has the Commissioner got the right to incur expenditure or to use the surplus? The initiative must come only from the trustee. In clause 64, we definitely said that, if there is any surplus, the trustee may use the surplus, but not the Commissioner. Only the trustee will have to get the previous permission of the Commissioner in certain cases. Even then the Commissioner cannot use it for any purpose other than those mentioned in clause 64 (1). The only person that can use the surplus is the trustee. What is the use for the trustee in having surplus? The whole explanation is based upon suspicion and if my hon. Friend Mr. Bhashyam is obsessed with the idea of suspicion nobody can help it. So, in no way clause 32-A gives the Commissioner or the Deputy Commissioner or even the Area Committee, power to use the surplus. The initiative must come from the trustee. And the trustee can never use the surplus for any purposes other than those mentioned in clause 32 or 64. So, I cannot understand how the Commissioner is interested in increasing the surplus or is having interest in making use of the surplus."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I have not been able to resolve my doubts with regard to this clause. My hon. Friend, Mr. Bhashyam, in his speech has emphasized one aspect of the question, and I think there is great loop-hole in the clause. So much so, the Hon. Minister in his reply has addressed

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himself only to that. His reply has not convinced us. What the Hon. Minister says is that, under clause 32-A, it is the trustee that has got the initiative to use the surplus funds and that therefore there is no meaning in emphasizing that the Commissioner wants to create an artificial surplus to be spent for the purpose of his own choice. That is the argument of the Hon. Minister. But, in the scheme of the whole Act, you will find that we are emphasizing that the trustee should have the voice in incurring expenditure. It is true, our argument has been that the trustee who is the choice of the people should have all this power. But why are we accepting an appointed trustee? We are accepting him because there is no alternative for us? We are accepting him not that this trustee satisfies Article 25 or 26 of the Constitution, but because we feel that it is slightly better than leaving the management entirely in the hands of the Commissioner or the Deputy Commissioner. Only to that extent we accepted. Now, give him at least discretion. Make him a real trustee. Don't put him under the threat of alterations to whatever proposals he wants to make—his proposals to improve the institution or manage the institution from day to day, or month to month or year to year. That cannot be taken advantage of by the Hon. Minister to argue that it is that trustee that has got the power to incur expenditure. It is the trustee of this Act that has power to utilize the surplus funds. The whole point of my argument is that the trustee is the creature of the Commissioner. Even in the case of hereditary trustees—about whom the Hon. Sri Madhava Menon was pleased to speak—even they can be rugged with other trustees. The hereditary trustee is not left to himself. Therefore, here again the trustees are the creatures of the Government or their officers, Commissioners and Deputy Commissioners.

"The aim of the Government is to see that the management is really in the hands of the Government, but that it should not appear to be like that—just to satisfy the conscience of the Constitution. Therefore, they have made several amendments. But, all the same we are of the opinion that in substance it has not changed. Because the trustee is the creature of the Government, the Deputy Commissioner, the Commissioner or the Area Committee or the officers of the Government, it cannot be taken as a point of argument to say that the initiative lies with the trustee. It is only to show that, Sir, that I elaborated upon this point. All the same, I say, 'Leave it to the trustee.' The Government say 'The trustee has got the initiative.' I say then, give him the initiative and unhampered discretion. It is no argument, Sir, that the trustee may make wasteful expenditure or there is no way of dealing with him. Sir, from beginning to end, we can see that this trustee is a man who sits and stands according to the word or wink of an eye of the Commissioner or the Deputy Commissioner. And to say that he cannot be controlled under the provisions of this Act if this clause is amended is to tell us something which we do not know at all.

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"Look at clause 56 and clause 75. Even though the nomenclature is different, the Deputy Commissioner or the Commissioner or the Area Committee fix the principles of expenditure. You make rules and you define limits of expenditure. Under clause 75, sub-clause (2) you give limits, 10 per cent for repairs and renovations, etc., and you fix the principles on which he should spend his daily *dittam*, etc. You have already made so many statutory rules under the existing clauses and then having made all these statutory rules, you want to put further limits and also ask him to make any representation in every item of expenditure. I submit, Sir, that it is a wrong move. Although these trustees are the creatures of Government, I want that they should work, as long as they work, unhampered and with discretion. Seventy-five per cent of the trustees I know are reasonable and good and they have interest in the good management of these institutions. There is no use first saying, 'I want him and I want to give him the authority of a trustee,' and then at the same time and in the same breath, saying, 'I don't give him the power to spend the money.' According to the rules framed under this Act, under clauses 56 and 75, you have set the statutory limits and boundaries for his sphere of activities in regard to *dittam*, renovations, repairs, etc. I submit, Sir, that, if you want to treat him as a man, you trust him as a man and make him a decent administrator. Don't hamper his activities, fetter his discretion and alter his figures."

THE HON. SRI K. MADHAVA MENON:—"Sir, the argument of Sri T. Viswanatham is very very inconsistent."

SRI T. VISWANATHAM:—"That is the whole trouble, Sir."

THE HON. SRI K. MADHAVA MENON:—"I think, Sir, Mr. Bhashyam has seconded the amendment. He said that the Commissioner might try to create more surplus. What my hon. Friends say is this: 'You trust the trustee who is your creature.'"

AN HON. MEMBER:—"Why don't you trust?"

THE HON. SRI K. MADHAVA MENON:—"In the first place, it is inconsistent. The Government or the Act do not propose to put any limits even on the hereditary trustees. My friends say that the trustees are the creatures of the Government. If that is so, it is their responsibility to see that they act properly. So, it is absolutely inconsistent.

"My hon. Friend Sri Viswanatham has not moved his amendments to sub-clauses (1) and (2). Here, the trustee is expected to submit a copy of the budget to the Commissioner in certain cases and to the Area Committee if the institution is subject to the jurisdiction of such a Committee. So, when he is sending a copy of the budget to the Commissioner, the Commissioner has to see whether the provisions have been made properly.

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"That is the intention, Sir. It is very necessary that the sub-clause should be retained."

MR. SPEAKER:—"The question is—

'That sub-clause (3) be deleted.'"

The amendment was lost.

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I beg to move—

'For the portion beginning with "may make such alterations" and ending with "as it or he may deem fit", substitute the words "may, after giving notice to the trustee in the prescribed manner and after considering his representations, if any, make such alterations, omissions or additions in the budget as the Area Committee or the Commissioner may deem fit".'

In the clause as it stands, the Area Committee or the Commissioner may make some alterations. It may appear that he may make such alterations without giving an opportunity to the trustee concerned. That is why we propose to make a provision in this amendment to give notice to the trustee in the prescribed manner, invite his objections and consider them before the Commissioner thinks of making any alterations."

The amendment was put and carried.

MR. SPEAKER:—"Clause 75, as amended, is before the House for consideration."

SRI K. BHASHYAM:—"Sir, I feel that one or two points arising from the discussion should be made clear. There was a suggestion made on behalf of the Government that a trustee, hereditary or non-hereditary, will take the initiative in the matter of utilising the surplus. I want, here and now, to know whether there is any trustee who will go against the instructions given by the Commissioner? No. Government give instructions even when there is no provision for doing so. Therefore, the Commissioner will give instructions. I may tell you that when the question as regards the budget comes, the Commissioner will say to the trustee: 'You have got the budget. You do not overestimate on some item.' Suppose the surplus is increased. Who is the trustee that has the initiative in respect of utilising it? Even if the Commissioner is not interested, he is there sitting on top with all the powers of control and dismissal of the trustee. In such cases no trustee can say anything on his own initiative. If the Commissioner, as very often happens, communicates his wishes in regard to the surplus orally, the trustee dare not disobey it. Therefore the plea that the safeguards are there and that the initiative is with the trustee is pure make-believe. In cases like these you cannot say that the trustee has the initiative. Again, suppose the trustee says that he will keep the surplus with him and it goes on accumulating. The amount to be spent under

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clause 32 is limited. The trustee refuses to make proposals for utilising the surplus. He does not like the property or its income being utilised for other than religious purposes. Will he be blamed for it or not? I believe, Sir, one charge against him for dismissal will be that he went on accumulating the surplus for purposes mentioned in Clause 75. That will be the first charge against him. Therefore you cannot say that the safeguards are sufficient. It is no use making counter-arguments of some kind, in respect of these matters. You must deeply consider these things. Under the Cypres doctrine you have provided for utilisation of the surplus for certain purposes. If a man sincerely believes that temple money must be used for temple purposes only and refuses to make proposals for the utilisation of surplus for other than religious purposes, will you deal with him lightly? Will you leave him alone? The Government will say: 'You are not making proposals as regards the surplus funds' and no other charge would be needed for his removal from that office. You may now say that the Government will be generous and that no Commissioner will ever remove him from service for that reason. But I submit that these things are certain to happen. I make this prophecy today. I have experience in these matters. You will then see that what I said proved correct and that you were wrong."

THE HON. SRI K. MADHAVA MENON:—"I am really afraid that what my hon. Friend says may be correct. There is no provision in the Bill to deal with a trustee who refuses to devote the surplus in the manner provided. If what he says is true, we should have a provision to compel a trustee to use the surplus. Sir, there is a temple in this State with a surplus of Rs. 8,00,000 and the men in charge have allowed it to remain idle. The Chairman of the Endowments Board has no power to compel the trustee to utilise that idle money. A provision to compel such trustees seems really necessary. It will be a national sin to let such large sums remain idle.

"Then, Sir, hon. Mr. Bhashyam was saying that the trustee is a creature of the Government. With the Commissioner sitting over him, which trustee, he asked, would disobey the instructions issued by the commissioner. But I may point out to my hon. Friend that there are nine objects mentioned in clause 64 (1), such as the propagation of the religious tenets of the institution, etc., I want to know how is the commissioner more interested in these things than in the welfare of the institution. Sir, there will be surplus in the institution for any of the above only if the institution itself survives and thrives. Unless the institution is kept in proper order and continues to attract pilgrims, it will not survive for any purpose. So I want to know how the Area Committee or the Commissioner would be more interested in the Cypres doctrine than in the proper maintenance of the institution concerned? This, Sir, is beyond my comprehension. The authority concerned will certainly be anxious to maintain the good name of

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the institution in order that the people may continue to have their faith in it. There is no meaning in entertaining suspicions of this kind."

Clause 75, as amended, was put and carried.

Clause 76.

MR. SPEAKER:—"The motion is—

'That clause 76 do stand part of the Bill.'

Sub-clause (4).

SRI T. VISWANATHAM:—"Sir, I move—

'For the existing sub-clause (4), substitute the following:—

"The audit shall be made by a registered auditor, who shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code."

Sir, the need for my amendment arises from the need for having a common type of auditor for both purposes. Whether a religious institution has an income of Rs. 1,000 or more than Rs. 1,000, the principle involved is the same. The audit must be conducted by auditors who are registered auditors. This alone would ensure the confidence of the public."

SRI K. BHASHYAM:—"I beg to second the amendment, for this excellent reason. In the case of audit by subordinates of the Commissioner, the difficulty would arise this way. Supposing the Commissioner issues an unlawful order and it is complied with by the trustee and expenditure is incurred, naturally this auditor who is subordinate to the Commissioner cannot be expected to deal with it suitably. But if the auditor is an independent person, he will say boldly that this expenditure is not authorized by the statute and bring to light this irregularity of the Commissioner. Therefore we should have a registered public auditor well trained in accounts of companies, co-operative societies and the like.

"Sir, I have another argument also in support of this motion. We have in our midst many public auditors. In a matter of this kind where temple funds are involved, many of them would be prepared to make the audit without charging anything. I promise this on behalf of the generous-minded auditors. Very often, Sir, on behalf of the Advocates' Association and other public bodies we approach them for their services and they readily agree to give them free. What is happening today is that in these cases where we appoint our own auditors they charge the regular fees. I believe that there is even a rule that such fees might be paid. When we originally started the co-operative societies, these auditors gave their services free, though now they charge some two and a half per cent or so. If we can get the services of auditors free at least in the case of temples whose income is very little that will be an advantage. At the same time if public auditors are appointed, the commissioner will be rid of the suspicion that he has made any unauthorized expenditure."

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THE HON. SRI K. MADHAVA MENON:—"Sir, for the very reason that we want to ensure confidence in the public, it is certainly necessary that the audit should be done by public auditors and not by private auditors.

"According to this amendment of Sri Viswanatham, the registered auditor who has passed the examination will be a private auditor. The difference between a public auditor and a private auditor is this: A private auditor has not the sanction behind him to ask the trustee, 'why did you make this expenditure?' If a voucher is produced before him and he finds the necessary entry in the register, he gives a tick mark and says or certifies that everything has been explained. That will not be the case in the case of a public auditor or a local fund auditor. He will ask the party concerned, 'Where is the sanction for this expenditure?' If a voucher is produced, he will say: 'Where is the Government order for it?' Or he will ask for the resolution of the trustees. He will have the power to ask for these. But in the case of a private auditor, he will have no sanction behind him. Before 1946, private auditors were allowed to audit the accounts. Then a non-official committee was appointed under the chairmanship of justice Venkataramana Rao to examine the working of the Hindu Religious Endowments Act. This is what they say about this audit—

'The system of audit now obtaining is to have audit of the institutions done by private auditors, no doubt approved by the Government. But it has proved extremely unsatisfactory. The defects of the system are many. In the first place, there is no effective control over such an audit and a prompt audit is not ensured at all. Having regard to the number of institutions, private audit is not readily available; for most of the auditors have other work besides the audit of temples. There is no uniformity and standardization in the method of audit. . . . After a careful consideration, we have come to the conclusion that the present system of audit must be replaced by a departmental audit such as that now obtaining in the Co-operative Department.' (Page 27 of the report.)

The conditions that existed when registered auditors were auditing the accounts of the temples have been described in the report of that non-official committee. Sri K. R. Karanth spoke about the *Japa mala*. How could the case of the *Japa mala* have come to the notice of the Board unless there was an audit objection and explanation was called for regarding it? The official auditor could ask the trustee for explanation and authority for the expenditure; a private auditor appointed by the trustee cannot do it. He has no sanction behind him. Therefore, in order that public confidence may be restored, the audit must be done as provided in the present clause."

SRI T. VISWANATHAM:—"Sir, it is rather unfortunate that the Hon. Mr. Madhava Menon's views always seem to differ from mine. He takes a registered auditor to be a private auditor. It is true that he is a private auditor in the sense that he is not appointed by the Government. He is not a Government servant. But what is the reflection upon the registered auditors? It is nothing but damning the whole class of registered auditors."

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THE HON. SRI K. MADHAVA MENON:—"They have no sanction behind them."

SRI T. VISWANATHAM:—"The registered auditors have the necessary diploma and they have the same authority and the right to call for the papers as an auditor appointed by the Government. I have also got some experience of auditors not merely municipal auditing but also company auditing and auditing of private registered associations. It is nowhere said that the registered auditor cannot ask for explanations. What do the biggest auditors, even do, when a voucher is produced? If there is nothing suspicious on the face of the voucher, they have got to pass it. That is how sometimes fraud also is committed. Whether he is a registered auditor, appointed or elected by the trustees or whether he is an auditor with supreme qualifications appointed in the prescribed manner by the Government under this Act, frauds are always bound to happen, but they will be very few. After all, a registered auditor, notwithstanding what my Hon. Friend says, has got all the powers of an auditor appointed by the Government. Why should the Government take upon themselves the task of appointing auditors for 30,000 institutions? Then, what is the 'prescribed manner'? Why not leave a little power to the people in the locality to appoint the auditors? After all they are not going to appoint unauthorized men to look into the accounts. The registered auditors have got a code of ethics, rules and honour. They have passed high examinations. Then it is not as if the thing stops there. The Government and the Commissioner can look into the audit report and see whether the audit is done properly and whether the objections have been raised properly or not. Whether it is the auditor appointed by the Government or appointed by the trustee, the position is the same. Only in a rare case, the trustee who is managing the institution will have a dog's chance of giving the audit work to a person who is interested in the institution and living in the area where the institution is situated, whereas, if the clause is left as it is, the whole audit will be concentrated unnecessarily and the Government will be burdened and over-burdened with the distribution of patronage. That is all the difference between my proposal and the appointment of auditors in the prescribed manner. The Hon. Minister need not have raised this argument. He might have simply said that he had come to one conclusion and that he would not accept what I said. That would have been quite all right instead of making a distinction which was really not necessary. The arguments do not hold good. He has conceded in principle what I said with only one mistake, namely, that the registered auditor has no sanction. That is a mistake, because the moment he is appointed as an auditor he has got the sanction, particularly when he is appointed under the Act. He has got all the powers to call for the documents. Clause 78 gives him that power. Even without clause 78, the very fact that he is appointed as an auditor gives him certain rights. Auditors have got certain

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well-defined rights and duties. Therefore, the fears expressed by the Hon. Minister are not well-founded. Instead of making a distinction between temples having an income of Rs. 1,000 and more and other temples, the Hon. Minister may accept the suggestion to give the trustees some power. He has removed from them the power of fixing the budget and the *dittam*; let them at least have the power of appointing auditors from men belonging to their own places."

THE HON. SRI K. MADHAVA MENON:—"Sir, my hon. Friend did not hear what I was saying. This system of audit was in vogue from 1926 to 1946 and a non-official committee presided over by a High Court Judge found that the whole thing was most unsatisfactory and ought to be changed. This system has been tried and found wanting and that is why it has been changed."

The amendment of Sri T. Viswanatham was put and lost.

Clause 76 was put and carried.

MR. SPEAKER:—"There are eight clauses in the Bill which have not got any amendments. This is the fifth clause."

∴ Clauses 77, 78 and 79 were put and carried.

Clause 80.

MR. SPEAKER:—"The motion is—

'That clause 80 do stand part of the Bill.'"

SRI T. VISWANATHAM:—"Sir, I move the following amendment:—

'Delete the clause.'

The clause reads—

"80. The provisions of this Chapter shall apply to every religious institution, notwithstanding anything to the contrary contained in any scheme settled or deemed to be settled under this Act."

This relates to budgets and accounts. There may be schemes framed under clause 63 and finalized by the court under clause 67. Suppose in the schemes finalized by the High Court there is something to the contrary. In clause 67 they give power to the High Court to finalize a scheme, but in clause 68 they immediately say that notwithstanding anything contained in the scheme they would notify the temple. Then they say that notwithstanding anything contained in clause 67, the Commissioner can, under clause 75, alter the budget. The scheme may have fixed different scales of expenditure, arrangements for the repair and renovation of the temple, arrangements for the discharge of the liabilities of the temple, but notwithstanding all this, under clause 75, the Commissioner can make whatever alterations he likes. It is very inconsistent and very wrong always to say that whatever may have

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been done by the High Court they would upset the whole arrangement. I submit that this clause should be deleted. The Government would not suffer anything by this. When there is a good scheme finalized by the High Court, then only will it be in operation. The Government would not lose anything by deleting clause 80, while on the other hand if they have this clause in the Bill they would be bringing the High Court into contempt."

SRI K. BHASHYAM:—"Sir, I want to place these facts for the consideration of the Government. Suppose a scheme settled by the High Court provided for the budget being submitted to the court for being looked into by the court itself and for audit and so on. The court may come to the conclusion that the budget is alright, but the Commissioner may come to the conclusion that the budget is wrong. Why should the Commissioner have a finger in the pie even in schemes framed by the High Court? The Government seem to say that the High Court may do anything but they are the masters and therefore they want to have this power. I think it will be another case of injustice if not insult to the court. The Government as a responsible Government ought not to interfere with the authority of the courts. They must respect it and pay due regard to it. They should not every now and then say, 'Notwithstanding anything done by the court, we will do this'. They will be setting a bad example for other people. Then refractory persons may say, when a decree is passed against them that they would not give possession and obey the decree of the court."

THE HON. SRI K. MADHAVA MENON:—"Sir, the whole of this chapter deals with the maintenance of accounts, the audit of accounts of religious institutions and the recoveries of moneys lost owing to mismanagement. Whether it is under a scheme framed already or not, these things are necessary for every institution and the Commissioner should be informed of these. Sri Bhashyam envisages a case where a scheme has been framed by the court. The court says that the accounts must be audited. By whom must the accounts be audited? We say that the accounts must be audited by auditors appointed in the prescribed manner. The budget is framed. It is sent to the court. The court does not scrutinise it. There must be some officer to scrutinise it. Suppose there is some difference of opinion there and the court is not accepting the budget. If a very clever and able lawyer like Sri Bhashyam is able to convince the court that there is a mistake somewhere, why not the Commissioner also be allowed to correct the mistakes if any? Sir, Sri Viswanatham would not mistake me if I say that it is very unfair on his part to suggest that it is contempt of court here. Half a dozen times my hon. Friend has been saying that this is contempt of the High Court. Sir, I should say that it is they who have absolute contempt for the High Court and they want to put it in the minds of the other people. There is absolutely no question of any contempt

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of the High Court when we say what kind of auditors will have to audit the accounts. If a trustee has prepared a budget and sent it to court, the budget will have to be scrutinised. It is not with the idea of doing anything behind the court or over the court. It is imagination running riot and it is done with the particular purpose of creating a prejudice in other people."

SRI T. VISWANATHAM:—"Sir, I am very sorry that the Hon. Minister has worked himself into a fury against me. (Interruption.) He says I have insinuated. Have I insinuated, Sir? Take the clause as it is. I pointed out three instances. I did not simply put forward a blind proposition that it is contempt of the court. I said that under clause 67 you have given power to the court to modify or confirm any scheme; immediately after that, under clause 68 Government say, 'notwithstanding a scheme settled' the Commissioner may notify the institution. Is that not contempt? Again in clause 75, Government say that the Commissioner shall have power to modify or alter the budget and immediately thereafter in clause 80 Government say again 'notwithstanding anything to the contrary contained in any scheme settled' the provisions of the chapter shall apply to every institution. What are the provisions in the chapter; they say that the Commissioner can interfere with the budget portion of the scheme and the arrangement portion of the scheme. Therefore, I said that Government vest power in the High Court in two places, and immediately thereafter Government say that notwithstanding the court schemes, the Commissioner has got the right to alter them. It was the head and front of my offence that I pointed out these things, and the Hon. Minister is very angry that I said, it amounted to contempt of court. It may not be 'contempt of court' under the Contempt of Courts Act, Sir, I agree; but certainly it is a thing for which I could not find an immediate expression. You give power to the court is one clause and in the next clause Government say that notwithstanding that, the Commissioner shall have such and such power. What else does it mean, I ask. I agree to withdraw the words 'contempt of court' but if the Hon. Minister himself has got to describe it, he will have to find, I am sure, a harsher word and a stronger word, Sir."

MR. SPEAKER:—"The question is—

"That clause 80 be deleted."

The amendment was lost.

JANAB MAHIN SCHAMNAD:—"Sir, my amendment to clause 80 is as follows:—

"Add the following proviso to clause 80:—

"Provided that, if the lawful and ancient rights of the community or group of persons to whom a religious

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institution belongs are denied or suppressed, any member of that community or group shall be entitled to file a suit in court to establish such rights on behalf of the community or group."

Sir, at the time of checking the accounts or auditing the accounts, or passing the budget, it is likely to be found that some of the lawful or ancient rights are denied or suppressed. It is necessary that the group of persons who are affected should be entitled to file a suit in any court to establish their rights for the benefit of the community."

MR. SPEAKER:—"For want of a seconder, the amendment falls through."

Clause 80 was put and carried.

Clause 81.

Sub-clause (1).

MR. SPEAKER:—"The motion is—

"That clause 81 do stand part of the Bill."

SRI T. VISWANATHAM:—"Sir, I find that Mr. Bhashyam also has given an amendment as an alternative to my amendment. I think he will move his amendment if my amendment is not accepted. My amendment is this—

"In sub-clause (1), line 4, for the word "five", substitute the words "one and a half"."

I have seen, Sir, from the accounts of the Board that the contributions which they are collecting at present amount to about Rs. 8 lakhs. I find they have got a surplus, because they are not able probably to see how it can be utilized. I do not want so much money to be taken from these institutions. Experience shows that the Board has got surplus funds and that fact itself is proof to show that so much is not needed by the Board and it need not be taken from the institutions. Then, why increase the percentage here, I want to know. What is the object? Then again, judged by the figures of the surplus already with the Board, 5 per cent is somewhat excessive. I submit it may be reduced to $1\frac{1}{2}$ per cent. I have calculated on the basis of the expenditure that $1\frac{1}{2}$ per cent would be quite enough. After all, the expenditure is only in connexion with the pay of the Commissioner, the Deputy Commissioners, the Assistant Commissioners and their staff and their travelling allowance. More than $1\frac{1}{2}$ per cent will be quite unnecessary as shown by experience. If the amount collected at $1\frac{1}{2}$ per cent is found to be not enough, the Government may come forward later on and enhance the percentage."

SRI K. BHASHYAM:—"I second the amendment."

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THE HON. SRI K. MADHAVA MENON:—"Sir, I cannot accept the amendment. What we have provided in the Bill is only the maximum. Clause 81 (1) says—

"In respect of the services rendered by the Government and their officers, every religious institution shall, from the income derived by it, pay to the Government annually such contribution not exceeding five per centum of its income as may be prescribed."

So that, it is open to the Government to charge $\frac{1}{2}$ per cent or even 1 per cent or 2 per cent. It all depends on the necessity and on the requirements of the department. So, we have put in here only the maximum of 5 per cent, and it shall not be more than that. I am sorry, Sir, I cannot accept the amendment."

SRI T. VISWANATHAM:—"Sir, I want to say that the maximum has got a very bad tendency of becoming a normal feature in course of time. That is the trouble; that is why I say you accept a smaller amount now, and if it is not found to be adequate or sufficient, then you can come to the Legislature and also tell us what is happening. The Legislature will then have the right to review the working of the Act and see how much is really needed. There is no use in the first instance itself taking 5 per cent and then seeing to it that we do not have an opportunity of knowing how the administration is being run."

MR. SPEAKER:—"The question is—

"In sub-clause (1), line 4, for the word "five", substitute the words "one and a half"."

The amendment was lost.

SRI K. BHASHYAM:—"Sir, my amendment is—

"For the words "five per centum", substitute the words "three per centum"."

It is a little more reasonable from the Government point of view than Mr. Viswanatham's amendment, and I hope it will not meet with a similar fate. I want to see, Sir, that the maximum rate is not fixed at more than 3 per cent. Small temples make contributions and I know that in some cases they have found it very difficult to pay, because they are not able to meet even their daily expenditure. Very often even for paying their present contribution they have to sell temple property—I am glad they have not come yet to the selling of jewels though we do not know what will happen hereafter if a higher percentage is insisted on. That is why I want the contribution to be as small as possible. I do not want the idea to go about that the Government want to pay their officers and therefore they want 5 per cent. Let us look at the figures. I have the latest report with me, for 1949. It is stated there—

"At the beginning of the fasli, the total arrear contribution to be collected was Rs. 4,54,796. Adding to the said sum, Rs. 9,63,830 claimed as contribution during the fasli, the total demand for fasli 1358 amounted to Rs. 14,18,627. As against this sum of Rs. 14 lakhs and odd, a sum of Rs. 8,51,641 was collected during the fasli."

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'Deducting the collections of Rs. 8,51,641 and a further sum of Rs. 13,299 representing the amounts of demands written off, the balance pending recovery at the end of the fasli was Rs. 5,53,686.' This gives you an idea of what the present position is. They really issued demands for a total of Rs. 14 lakhs, but they were not able to collect more than Rs. 8 lakhs. Why? Because the temples could not pay; and they cannot pay it without interfering with the worship in the temple. The Board do not want to interfere with regular worship, and to that extent they are good and they are pious. If they are not able to collect more than half of what is due, does it not mean that the temples are not able to bear this burden? It may be that you are slack in your collections, but why are you slack? That is because they cannot pay and you want to show some kindness to them. After all, Sir, I know the Board has been very strict and has been collecting to the last pie because I know they have to depend only on this money. I may tell you, Sir, a small story. You know there is the Society for the Prevention of Cruelty to Animals. There are peons employed by the Society for the purpose of detecting cruelties to animals. You know they are paid out of what? Out of the fines collected from such offences. Therefore, the Society for the Prevention of Cruelty to Animals have to find the funds for paying their own people. What happens, therefore, is that they catch a few people, put them up before the court for the purpose of getting some money. That happens, as we all know. What I really want to point out is—I am not saying anything wrong about the Society for the Prevention of Cruelty to Animals—it is human nature. When you find that the Board has to live on the collections made, naturally you have to raise the maximum. That is why, Sir, I want to see that the maximum is not more than 3 per cent. If it is really going to be more costly than that, what is the justification for this wretched Bill. I want to know? If you cannot manage these things within the money you get, why should the contributions from the temples be increased? On the other hand, if you want to see that the temples are not mismanaged, you should take from them the lowest amount possible. This 3 per cent is very reasonable. Besides, they have to pay also $1\frac{1}{2}$ per cent as audit fees, and that comes to a total of $4\frac{1}{2}$ per cent. Then the Commissioner goes to the temple or other dignitaries go there, and temple *mariyathais* have to be shown to them, and all these things taken together, they have already got to spend much; and even temples with Rs. 1,000 income have to pay. So, on this basis, the amount to be collected will be enormous. From that point of view—and you have, I think, about 36,000 temples—a lower percentage is quite enough. And if later on you find it insufficient, you may come before the Legislature and increase the percentage. I would rather start with a small figure and go up to the higher and won't like to give room for people to say that the Commissioner and his subordinates are making their journeys to and fro as costly as possible and thereby the expenditure is going up. If you want really

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to enforce economy in the department, you must start with a less percentage. I also want to point out that so far as the present figures go, they have got about Rs. 11 lakhs put by as a sort of saving during these years. Why should this Rs. 11 lakhs be there? You are not going to apply the *cypres* doctrine here and you are not going to distribute it back to the temples from whom you took it. At least if you promise me now that at the end of the year if there is a surplus left over, you will distribute it among the temples, I shall be most delighted. Further, all these contributions go to the general coffers. Why? Where is it said that there should be a separate fund for this purpose? There is nothing said about it. If you said like that, it would come within the Constitution, because the Constitution provides that no fund should be set apart from the benefit of any community. It is a very clever way of doing things; I am myself a lawyer and therefore I can easily appreciate the point. But you have still kept the sting there for 'services rendered', as if it is a question of master and servant, and as if Government are willing to do service to these temples. It is really not correct to sell your service; and if you want to sell your service, by all means do so for 3 per cent and not for 5 per cent. Therefore, Sir, I move my amendment."

Sri T. VISWANATHAM:—Sir, in seconding this amendment, I would like to ask a few questions if the Hon. Minister has got the information. What is the staff he envisages for this purpose and how many Assistant and Deputy Commissioners he is going to appoint? Has he any idea of the clerical establishment and has he got any idea of the expenditure to be incurred? The Bill has been before the Secretariat for long and surely they must have by now worked out some tentative proposals in this regard. I want to have, if possible, those figures. Even, as it is, Sir, you know in the original Act it was only $1\frac{1}{2}$ per cent and then this was raised to 3 per cent only in 1944 or somewhere during the Advisers' regime, thinking that $1\frac{1}{2}$ per cent was not enough. What has happened? With this 3 per cent there is actually a surplus. That is why I moved an amendment to reduce it to $1\frac{1}{2}$ per cent, because if the $1\frac{1}{2}$ per cent contribution is collected properly and applied, it will set a limit for expenditure, as Mr. Bhashyam has said, which Government can incur upon their establishment and officers in connexion with superintendence and management of the temples. Supposing we put in the contribution as not exceeding 10 per cent, it will have a most reckless reaction upon the spending of money. Because, when money comes and flows into the coffers, not Rs. 7 or 8 lakhs, but Rs. 15 or 20 lakhs, they will get a number of petitions for the appointment of extra staff and immediately they will have to appoint more Assistant Commissioners and then the need for more Deputy Commissioners will arise and there will also be need for extra travelling allowance for these people. So, expenditure will multiply and there will be a tendency to increase expenditure if

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you put not exceeding 10 per cent and so they have put it at 5 per cent. I submit that even this 5 per cent will be too much. So, I want to revert to the original percentage of 3 and as Mr. Bhashyam suggested, he would put it at 3 per cent because that is the existing rate. I think it should be enough unless the Government have got figures to show that this 3 per cent is inadequate."

THE HON. SRI K. MADHAVA MENON:—"Sir, I need not add anything more to what I have said already in reply to the other amendment of hon. Mr. Viswanatham for reducing the contribution to 1½ per cent. As I have said this 5 per cent is only the maximum and it is open to the Government to have it at any figure up to the 5 per cent and so there is no necessity to limit it to 3 per cent. I have not got figures worked out and I do not think we have worked out as to how many Assistant Commissioners or Deputy Commissioners are going to be appointed. Moreover, Sir, the Constitution prevents us from using the money for purposes other than those connected with the institutions. According to sub-clause (4), clause 62 of the original Bill all sums paid under sub-sections (1) and (2) shall form part of the revenues of the State and shall be utilized for the payment of salaries, allowances, pensions and other beneficial remuneration of the Commissioner, Deputy Commissioner, etc. Now that has altogether been omitted. So, this amount cannot form part of the general revenues of the State and cannot form part of a consolidated fund, but it is more or less like a licence fee collected from temples and spent for the purposes of the temples. Mr. Bhashyam wants to know if there is any surplus in the contribution, why should you not distribute it among the temples. If you fix it at 1½ or 2 per cent there cannot be a surplus and if there is a surplus the Commissioner will reduce it and if there is no surplus he cannot do anything. So, there is no particular purpose in the Commissioner amassing a surplus out of this amount."

SRI K. BHASHYAM:—"I am sorry, Sir, that my plea has been of no avail. I find that my figures are incorrect. After thirty years of administration, not of all the temples, but only those taken over by them, the Board has constituted a reserve of Rs. 21,53,310 at the rate of 3 per cent, and in spite of the fact they are able to collect only half the amount, there is yet a surplus every year. Now, you are going to take in more temples and there will certainly be more revenue. Therefore, what is the purpose in putting in 5 per cent and not 3 per cent. I have taken the figures from the Administration Report which I have in my hands and I rely upon it for all these figures. Therefore, Sir, 5 per cent is wholly unjustified and I think 3 per cent should be more than enough. Of course, if the Government feel that at a later stage more is necessary, they can take it later on by bringing in a small amendment and pass it with the majority they have."

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MR. SPEAKER:—"The question is—

'In sub-clause (1), for the words "five per centum", substitute the words "three per centum".'

The amendment was lost.

Sub-clause (2).

SRI T. VISWANATHAM:—"I move the following amendment standing in my name, namely:—

'Delete the sub-clause.'

"Sir, for the simple reason that the Government are taking this extraordinary amount of contribution and are accumulating a surplus, I think, they must be able to bear the expenses of audit and need not again ask for any further amount as audit fees from the institutions."

SRI K. BHASHYAM:—"I second the amendment, Sir. One argument is enough to show that 3 per cent contribution is enough i.e., 1½ per cent for audit and the other 1½ per cent for other purposes. So far as audit fees are concerned, I find from the Administration Report of the Board for the year 1949 the following:—

'During the fasli under report, 4,525 demands were issued claiming a sum of Rs. 3,99,006-4-1 as and for audit cost payable to the Board. Adding to this the sum of Rs. 1,95,484-10-0 being the total arrear demand under audit cost at the beginning of the fasli, the total demand for the fasli under report amounted to Rs. 5,94,490-11-1.'

Let me tell you, Sir, that this refers not to all temples, but only to those taken over by the Board. So, Sir, I ask, is it really necessary to charge audit fees from these institutions at the rate of 1½ per cent, especially when you have raised the contribution from 3 to 5 per cent. At any rate, the trustee is not going to have his own auditor. So, Sir, so far as audit fees are concerned, you may omit it altogether and the Government may be generous enough to bear it themselves out of the amount of contribution."

THE HON. SRI K. MADHAVA MENON:—"Sir, under the existing Act, 1½ per cent is the audit fee. I am sure neither the Commissioner nor the Government will fix any different rates for contribution and audit fees. If there is a surplus, they will reduce the audit fee and if the general contribution is less, they will charge audit fees. In both these cases, only the maximum has been fixed and not the minimum. So, Sir, I cannot accept the amendment."

MR. SPEAKER:—"The question is—

'Delete sub-clause (2) of clause 81.'

The amendment was lost.

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Sub-clause (4):

SRI T. VISWANATHAM:—"Sir, I move the following amendment standing in my name, namely:—

'In sub-clause (4), delete the words "the expenses of Area Committees and".'

"Sir, my idea in moving the amendment is that the Government need not be burdened with the expenses of the Area Committees also. As the Hon. Minister has just now said, the contribution will not form part of the revenues of the State. It is nowhere said where the amount of contribution will be deposited and whether it is going to form a separate fund unconnected with the provincial revenues. If the contributions do not form part of the revenues of the province, I do not know how under sub-clause (4) Government shall pay the salaries, etc., of the Commissioner, Deputy Commissioner; etc. I do not know from what other fund they will pay the salaries. So, readjustment of the language of the clause must be made. I do not know what the Government have in their view. If there is an excess in their hands, it must be deposited somewhere. It is not said anywhere that it ought not to be treated as a separate fund. After all, all these people are servants of the Government. They are not servants of the trustees or Area Committees. Since the Deputy Commissioners and Assistant Commissioners are Government servants the Government must pay them. So necessarily the contribution must form part of the revenues of the Government. Assuming that the contributions do not form part of the revenues of the Government, the Hon. Minister should look into the financial aspect of the matter before he comes to the House for the third reading.

"Now, Sir, incidentally about the amendment itself, the expenses of Area Committees also are to be met by the Government. Why, I cannot understand. Although they may be appointees of the Government, they do not owe their position to the Government and they are not servants of the Government. So, the expenses of the Area Committees need not be paid by the Government. The Area Committees necessarily have some temples under their jurisdiction and whatever legitimate expenses are prescribed to be paid to them by the Government under statutory rules, will have to be paid by that area. I do not see any reason why their expenses should be met from Government revenues. The very existence of the words in the clause will increase the demands of the Government by 3 or 5 or even 10 per cent. Then the trustees also are gentlemen to be appointed by the Government just like the Area Committees and then the demand for the contribution will also increase. Therefore, Sir, the items of expenditure which the Government have to incur from this contribution will have to be curtailed from time to time and that is why we want to do it even now by cutting out the expenses of the Area Committees."

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SRI K. BHASHYAM:—"In supporting the amendment, I would like to say this, Sir. The persons to be appointed to these Area Committees are going to be appointed by the Government, it may be for a district or part of a district. Of course their expenses also have to be met. If they are to be separate from the Government, they may meet their expenses out of their pocket. Evidently, the Government want to make provision for the travelling expenses of the members of the Area Committees. Of course, I can understand the reason for it, because it will stimulate attendance at meetings for one thing and on the other it will also stimulate meetings more often than necessary. In all these matters, if they are public-spirited persons, they will meet their expenses out of their pocket. Suppose a man is appointed as a trustee of a temple in Tanjore and he lives in Tiruchirappalli, he cannot come very often unless his expenses are met. However, Sir, if you start with payment of travelling expenses to honorary officers like this, there will be no limit. I think, honorary officers must be made really honorary in all senses and not only in one sense. That is my submission, Sir."

THE HON. SRI K. MADHAVA MENON:—"Sir, in the original Bill, there was no Area Committee and since the House wanted that Area Committees should be appointed, the Select Committee made provision for the Area Committees. So, when you make provision for Area Committees, you must also contemplate payment of travelling allowances, etc., to the members of the committee. But, what exactly are the expenses of the Area Committees, we cannot say. When once you want to have Area Committees, whether elected or otherwise—even if, they are elected members they must have an office—they must have an establishment and their expenses have to be met. Even if they are elected members, you cannot expect them to meet the expenses out of their pocket. You have therefore to anticipate that when once the Area Committees are there, their expenses also have to be met."

SRI T. VISWANATHAM:—"Sir, what I suggest is, these Area Committees are spread over the entire province, and the temples which are within their jurisdiction will necessarily have to bear their expenses under certain prescribed rules. Whether it is travelling or sitting allowance or some other allowance, I hope the Government will make rules. It is good they have asked for 5 per cent without having even a temporary schedule of the establishment. The Hon. Minister says he has not yet worked out the figures. Has he worked out figures of the possible number of members of the Area Committees and what distances they will have to travel? No one knows about the strength of the Area Committees. Whatever it is, Sir, I submit that it is but reasonable that temples over which the Area Committees have jurisdiction will have to foot the bill if they want the luxury of these appointed Area Committees. If it is a question of elected Area Committees, the situation would have been quite different. Now they are giving them

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the luxury of Area Committees and people will certainly be willing to be members of the Area Committees, because they will have the prospect of having so many temples under their management for the mere asking of it and they will jump at it. Therefore, the temples concerned must meet their expenditure.

"It is the temple that must meet the expenditure and not this fund. There is another thing and that is, if you begin meeting the expenditure for this thing, the demand for maximum contribution under sub-clause (1) will remain or it will even show a tendency to increase."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I must admit I have not been able to follow my hon. Friend. The contribution is to be paid by the temples and it is from that that this expenditure is to be met. If my hon. Friend suggests that the expenses of the Committee must come from the temples within that area, that is a thing which has to be examined. But now, Sir, the general contribution is to be collected from the temples and if any expenses are there for the Committee, it has to be met from that collection."

MR. SPEAKER:—"The question is—

'In sub-clause (4) of clause 81, *delete* the words—

"the expenses of Area Committees and."'"

The amendment was lost.

New sub-clause (5).

SRI V. RAGHAVAYYA:—"Mr. Speaker, Sir, I beg to move the following as new sub-clause (5):—

(5) *All the dues derivable from lands shall be collected as if they were land revenue, on a petition before the Revenue Divisional Officer by the party entitled to the dues.*"

THE HON. SRI K. MADHAVA MENON:—"Dues to the Board?"

SRI V. RAGHAVAYYA:—"To the temple; the Board does not have any dues apart from the temples and the doubt need not have arisen in the mind of the Hon. Minister.

"This will facilitate the collection of arrears. To-day, Sir, it is common knowledge that in several temples arrears by way of paddy due as half share of the land cultivated or *muktha* as it is called or cash revenues are delayed and they are not paid promptly and sufficient guarantee not having been taken by the trustees, they fall into arrears with the result that the temple authorities are obliged to go to the civil courts for recovering them. This takes a long time and the worshippers suffer on account of such delays. The amendment simply suggests that all such arrears shall be collected as arrears of land revenue. Instead of

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entrusting the Tahsildar with the matter as it is on a footing with arrears of land revenue, I suggest that a petition may be filed before a Revenue Divisional Officer so that he may, after taking the written statements of the parties concerned as to what the terms of the lease were, what was the actual due and what are the conditions under which such dues were arranged to be paid, whether the payment is to be made in kind or in cash, if it is in kind, the value will have to be ascertained, after taking the statement and if it is in kind after assessing the value of the amount to be paid with reference to the quality of the paddy that was agreed upon, he will hold an enquiry and a decree will be given by him and that decree can be put into execution by the Revenue authorities as if it were an arrear of revenue. No appeal is provided against such a decree so that the disposal of the application might not be prolonged. If the Government are interested in the collection, there is absolutely no reason why they should not accept my intelligible suggestion."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I beg to second the amendment."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I must oppose this amendment. In the first place, I may point out, Sir, I do not want to raise it as a point of order, it does not fit in with the main clause, which deals with the collection of contributions from religious institutions for the maintenance of the Board but this is for the collection of the rent due from the tenant to the temples. I wish to ask, Sir: How can a provision for making collection of rent from the tenants of temple properties fit in with a clause dealing with collection of contributions from the temple for the maintenance of the Board? Secondly, Sir, the religious institutions stand on the footing of landlords in some sense and can the rent due to a landlord be collected as arrears of land revenue; it is very wrong, Sir. It is as much a landlord as any other landlord, and any other landlord, for collecting such things, must go to a court of law. Supposing, Sir, the Government let out a building, can it be said that the rent due from the tenant can be collected as arrears of land revenue? No, Sir; they must have to file a suit as anybody else and recover what is due to them. (Sri V. Raghavayya: 'Very charitable of you'.) My Friend is very much satisfied with the charity I am showing but let me say, Sir, that I have as much consideration for the tenants as for the religious institutions. Further, Sir, there is provision in clause 100, sub-clause (k), enabling the Government to make rules for the proper collection of the income of, and the incurring of expenditure by, religious institutions; we can make rules also for granting leases and other things and it is not right that the religious institutions should be given greater power than any other landlord in the collection of rents. Therefore, Sir, I oppose the amendment."

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SRI V. RAGHAVAYYA:—"Mr. Speaker, Sir, I suggested the sub-clause here because there is no provision elsewhere for such collection. When provision is made for the Government to receive their contribution from temples, I thought that clause (5) would fit in properly.

"Another small point which I wish to make out is this, Sir. The opposition of the Government reminds me of a story which is very widely known in the Andhra. There were a couple who never agreed with each other. When the husband invited some friend or relative for dinner at his house, she would refuse to co-operate with the husband and there used to be much trouble, because she used to make bad preparations. Therefore, he tried to devise a way how to solve the difficulty. So, whenever he expected any friends or relatives, he told his wife: Prepare some rice and one chutney and that will do and do not prepare sambhar and other side dishes. That woman, because the husband told her like that, used to prepare a number of dishes and she made very decent feasts. In the same way, here, it looks as though reasonable amendments which help the Government are not accepted and are opposed as though it comes from somebody else who are not interested in the efficient administration of temple affairs. My hon. Friend reminded us and waxed eloquent on the fact that after all, the temple and the Government are in the position of landlords and they should not have any preferential treatment over other landlords. But may I remind him, Sir, that for every amendment proposed by Sri Bhashyam and Sri Viswanatham, the Hon. Minister has been *ad nauseum* saying that the income of the Government would suffer and this is not the time when law suits can be indulged in. Why, one reason for one and another for another clause? When the master himself is indifferent, why should others bother? I am not pressing my amendment, Sir."

The amendment was, by leave, withdrawn.

SRI K. BHASHYAM:—"Mr. Speaker, Sir, I want this matter to be examined by the Government because I do not feel it received adequate consideration at the Select Committee. The clause reads as follows:—

'In respect of the services rendered by the Government and their officers, every religious institution shall, from the income derived by it, pay to the Government annually such contribution not exceeding five per centum of its income as may be prescribed.'

The point is, what is the nature of this imposition; is it a tax or not? If it is a tax, then under Article 27 of the Constitution, such a thing is not contemplated. The Article says—

'No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.'

While the Government may use the word 'contribution' and evade the Constitution, all the same it is a tax, a tax on income so to speak. Whether the Government can really levy a tax on

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income is another question and I am not on it now, Sir. That is another difficulty which will have to be answered. Under clause 81 (1), the Government have undertaken the payment of salaries, allowances and pensions and other remuneration of the Commissioner, Deputy Commissioner, Assistant Commissioner and other officers and servants. Where is the money to come from? It is out of the revenues or the contribution? Under Article 266 (2) of the Constitution, all moneys received by or on behalf of the Government of a State shall be credited to the public account of the State. If this comes under public money, it must be credited to the accounts of the State but, if it is not to come out of the consolidated fund, the Government need not put it into the budget account. If it is to be appropriated to a particular fund, we are not entitled to criticize the administration of religious institutions because it will not form part of the budget and there will be no scrutiny by the House in respect of it; that is one difficulty. If it is said that this is a separate Fund and is to be dealt with separately, then it comes under Article 27 of the Constitution. Looked at from any aspect, there is always this difficulty. There is no doubt that this is for the purpose of protection of the interests of certain religious denominations. Therefore, Sir, viewed from whichever point of view, we are faced with constitutional difficulties. Originally they said that it formed part of the general fund. Now they seek to escape from it by saying that is to be met from a specific fund. If that is so, then, it cannot be brought under the consolidated fund. My submission is the whole clause 81 seems to be unconstitutional. I am placing this view only for their consideration. I know they can have their clause forced through this House by their majority strength. But I am submitting this only as a friendly critic of Government. Let them examine it before the third reading stage. I do not wish to say that my opinion is the last word on the subject. More eminent lawyers are there; they can consult them; they have got their own legal experts in the departments well-versed in legal lore; let Government consult them. Therefore I submit, the position may be examined; it is in a friendly way I put it, and not in a spirit of carping criticism. So, I am not opposing Government in this motion. Let them have it examined by eminent lawyers for getting the matter cleared. I do not want any reply from the Hon. Minister because I am not opposing him. Let him have the point looked into. I do not say my interpretation of the law is final. Because it has to be decided by a judge. In law, nobody not even a judge, can give a final decision. If a judge sits in the morning over a case he may give one decision; if he sits in the afternoon he may give another decision and if he quarrels with his wife at home, he may give a third decision." (Laughter.)

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, we have examined the point. There is nothing wrong

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in further examining it. There is nothing in an additional examination. Sir, even if it is out of consolidated fund, what does Article 266 (3) say. It says—

“(3) No moneys out of the Consolidated Fund of India or the consolidated Fund of a State shall be appropriated except in accordance with law

And that law we are providing now.”

Clause 81 was put and carried.

Clause 82.

MR. SPEAKER:—“The motion is—

That clause 82 do stand part of the Bill.”

THE HON. SRI K. MADHAVA MENON:—“Mr. Speaker, Sir, I beg to move—

Omit the words and figures “notwithstanding anything contained in section 91”.

Because those words are superfluous.”

The amendment was put and carried.

SRI K. BHASHYAM:—“Mr. Speaker, Sir, I beg to move—

Add at the end of the clause the words “except where any civil court has in the exercise of its jurisdiction directed the cost to be paid otherwise than out of the funds of the institution”.

Sir, we have seen often on the floor of this House allegations made, that the trustees are wasting the trust moneys by engaging themselves in useless litigation. We know in that way much of the moneys of the trust have gone waste. We also know that on several occasions courts have come to the conclusion and gave the finding that there has been no necessity for a suit, or that the trustee had no reasonable cause to bring the matter before a court of law, and therefore the cost of the suit should not be defrayed from the trust funds but should be recovered from the private purse of the trustee. It may happen on such occasions, on the request of the trustee, Commissioner, the Deputy Commissioner or the Assistant Commissioner, may set aside the order of the court and debit the cost of the suit to the funds of the trust. It is to prevent such a contingency that I want my amendment to be accepted.”

SRI V. RAGHAVAYYA:—“I oppose the amendment.” (Laughter.)

MR. SPEAKER:—“Let the amendment be first seconded and then the hon. Member may oppose the amendment.” (Laughter.)

SRI T. VISWANATHAM:—“Sir, now I am tempted to support the motion more strongly, since I see my hon. Friend opposing it. Hon. Mr. Bhashyam has shown the reason for his

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amendment. Let my friend be not so anxious to oppose the amendment even before it is seconded.

“Sir, under the Civil Procedure Code, there are occasions, when civil courts, in their discretion, order the recovery of costs from somebody else, not necessarily the defendant or the plaintiff as the case may be. Now in the absence of the proposed amendment, we are fettering the discretion of the court in making such cases of recovery. That is why I second this amendment.”

SRI V. RAGHAVAYYA:—“Sir, in opposing this amendment, what I want to say is only this. The Government should not departmentalize temples, having once taken them under their control. Government cannot departmentalize and show at the same time a differential treatment to the expenditure incurred by the trustee of the temples with regard to law suits. Just as there are other departments of the State, so too, hereafter, the temples will form the ecclesiastical department of the Government of Madras. As such, there is absolutely no reason why the expenditure incurred by Government should be debited to temple funds. It would be better if this Government incur such expenditure as they do in the case of other departments from their general revenues. It would be well if that is done instead of mulcting the slender revenues of the temples with this expenditure.”

THE HON. SRI K. MADHAVA MENON:—“Sir, I entirely agree with the principle of what hon. Mr. Bhashyam said, and I would have accepted his amendment but for the fact that it has already been provided in the clause itself. I am afraid Mr. Bhashyam did not read the clause properly. It specifically provides for that. I request him to read the concluding portion of the clause 82. The clause says that all costs, charges . . . shall be payable out of the funds of such institution except in cases where a liability to pay the same has been laid on any party or other person personally. So, that provides for the cases anticipated by hon. Mr. Bhashyam. Therefore this amendment is not necessary.”

SRI K. BHASHYAM:—“Mr. Speaker, Sir, it is not a case where we differ. We have seen cases of orders of court being set at naught. Suppose a court finds that there is no sufficient reason for a trustee going to court and it orders the cost of litigation to be recovered from the private purse of the trustee, in such a case, the trustee may approach the Commissioner or the Deputy Commissioner or the Assistant Commissioner and represent that the amount may be reimbursed from the funds of the institution and the latter may agree to do so. It is to prevent such a contingency that I want the amendment to be accepted. We agree to the principle behind the clause. We want only the position to be made clear by adding the words I suggest. Unless Government wish to stand on prestige, they cannot but agree to my amendment. Therefore I want them to accept my amendment.”

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MR. SPEAKER:—"The question is—

'Add at the end of clause 82 the following words "except where any civil court has in the exercise of its jurisdiction, directed the cost to be paid otherwise than out of the funds of the institutions".'

The amendment was lost.

Clause 82 as amended was put and carried.

Clause 83.

MR. SPEAKER:—"The motion is—

'That clause 83 do stand part of the Bill.'

"Mr. Karanth is not there. Mr. Bhashyam will move his amendment to sub-clause (7)."

SRI K. BHASHYAM:—"Mr. Speaker, Sir, I beg to move—

'Add the following proviso to sub-clause (7):—

"Provided, however, the receiver or person having charge shall be bound to provide funds required for the daily necessary worship in the temple and for the festivals according to custom and the balance that is remaining shall be taken for discharging the duties sought to be done."

Sir, this clause will appeal only to those who have got some interest in temples. There are certain dues to be paid to the Government, and if the temples are not able to pay them, provision is made for appointment of a receiver to take charge of the property, manage the property, and from out of the income of that property pay the dues to the Government by way of contribution. Now, when they take money, they ought not to take the whole of the amount. They must take only the necessary portion of the income, and not that which is not necessary, or the surplus, as it is called. For, I want the daily worship of the temple to be continued, the archanas to be continued, the other daily routine in the temples to be continued. If after making provision for them, there is any surplus, let them take that and appropriate it for the money due to Government. I do not want the dues to be appropriated at the sacrifice of the daily worship and aradhanas in the temple. I am only asking for a small favour. If there is any surplus accumulated, by all means take the dues to the Government from that. Now, in a case which went up from the Calcutta High Court to the Privy Council, where a trustee of an institution had incurred large debts and binding upon the trust, the Privy Council said that they would appoint a receiver to be in possession of the trust property and he would carry on all the various ceremonies connected with the institution, and whatever surplus was left after meeting the expenditure connected with the ceremonies, shall be paid towards the debt. Because, the Privy Council said, they thought the necessities of the temple

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are supreme, and so, they cannot be interfered with. The surplus, if any, after providing for the ceremonies, may be taken by Government for the moneys due to them. Supposing there is nothing left, in such a case, the arrears will accumulate. Personally I feel the spiritual needs should be first satisfied. Suppose Government wish to appoint a receiver, in that case, the remuneration of the receiver also should be met from the income of the property. Why not he be paid out of the three per cent contribution. It is a case where one should be lenient. The interest of the temple is supreme and not the interest of the Government. Sir, I move my amendment."

RAJA MUTHIAH CHETTIYAR OF CHETTINAD:—"Mr. Speaker, Sir, in seconding this amendment, I really want only to reiterate the view I already expressed with regard to the utilization of temple funds for other purposes. I have said already on another occasion when there was an attempt to divert funds for other purposes that the devotees give moneys to be utilized for certain particular purposes. That clause provided for a number of items to which the fund should be diverted. I said that that should be divided into two parts, one relating to the items connected with the temple, and if there is any money left over, that should be utilized only for other purposes. Here, in the present clause, the same principle is involved; the case comes again in a different form. The receiver should take charge of the temple under certain circumstances; it shall be his duty to discharge his duties connected with the temple. Otherwise why should there be a receiver? If he is not to attend to the duties of the temple, why should he be there? The temple could as well be closed and the building auctioned as a stone structure! So, when the whole scheme comes under a receiver, it is his duty to continue the working of the institution in all its glory as before. Therefore I strongly support the amendment with the hope that it would be accepted by Government. If they cannot accept it, at least let them say whether there is any provision in the Bill, which safeguards the continuance of the daily worship of the temples, in spite of the appointment of the receiver."

SRI N. S. VARADACHARI:—"Mr. Speaker, Sir, in connection with this amendment, I am reminded of a recent case in which a receiver was appointed. He did not know the property of the institution to which he was appointed a receiver. I am keeping his name off from the public eye because matters are still being litigated. I am one of the beneficiaries under that trust. After the receiver was appointed, things went from bad to worse. Though the income of the institution perhaps runs into lakhs of rupees, the receiver is not able to pay even a few hundreds. Every time I meet him he says that his salary has not been paid. Every time a registered notice goes from me, the reply comes that there are no funds and that the money will be paid as soon as funds

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are available. The money that is due is intended for the performance of a service. The service suffers greatly as a result of the receiver's neglect. I will not say 'neglect'; things have so happened in the course of litigation that the receiver has found himself in a tight hole and he has not been able to pay even a penny from out of the funds of the institution. There was litigation after litigation, one receiver was appointed after another, and meantime the original receiver was restored. Meanwhile somebody who came in possession of the property walked away with thousands of rupees. Looking at this case, I strongly suggest to the Government to devise ways and means to ensure the performance of the services not only in the institution concerned but also in the institution to which this institution is lending support. I trust that the Hon. Minister will give a complete answer to the position I have stated. That is a real position and not an imaginary or fictitious one."

THE HON. SRI K. MADHAVA MENON:—"Sir, an individual case where the appointment of a receiver has resulted in a disadvantage should not be a consideration for saying that a receiver should not be appointed at all. I may say that the Raja of Chettinad did not quite follow the purpose of this clause. This does not relate to surplus funds at all."

RAJA MUTHIAH CHETTIYAR OF CHETTINAD:—"I never said that the clause related to surplus funds."

THE HON. SRI K. MADHAVA MENON:—"Identical wording exists in the corresponding section of the Act which has been worked for the last twenty-five years. (Sri K. Bhashyam: 'Worked badly.') As far as the Government are concerned, the section has been worked from the very inception of the Act and no difficulty was felt. The contribution payable by a religious institution is assessed and notified to the trustee. After hearing the objection of the trustee, if any, final order about the contribution is passed. If the trustee fails to pay the amount as finally decided, the Collector is authorized to collect the amount as if it were an arrear of land revenue under sub-clauses (3), (4) and (5). In sub-clause (6) it is said—

'Places of worship, including temples and tanks and places where ~~utavams~~ are performed, idols, vahanams, jewels and such vessels and other articles of the religious institution may be necessary in accordance with the usage of the institution for purposes of worship or processions shall not be liable to be proceeded against in pursuance of sub-sections (3), (4) and (5).'

The object of this sub-clause is to see that the performance of the daily ceremonies continues. Instead of selling the corpus of the property, under sub-clause (7) the Collector is empowered to appoint a receiver. As the Raja of Chettinad rightly pointed out, the object of appointing a receiver is to take possession of the property and collect the contribution. It is not said that all the

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properties shall be put in the possession of the receiver. Provision is made for the performance of the daily ceremonies. Only out of the balance of the funds left after meeting the expenses of the daily ceremonies, the contribution will be recovered. The amendment proposed by Sri K. Bhashyam is not necessary."

SRI K. BHASHYAM:—"I am really surprised at the stand taken by the Government. Even if such a reasonable amendment, which has also got the support of the Raja of Chettinad, is not accepted, what is the purpose of this discussion?"

MR. SPEAKER:—"The question is—

'Add the following proviso to sub-clause (7):—

'Provided, however, the receiver or person having charge shall be bound to provide funds required for the daily necessary worship in the temple and for the festivals according to custom and the balance that is remaining shall be taken for discharging the duties sought to be done.'

The amendment was lost.

Clause 83 was put and carried.

Clause 84 was put and carried.

Clause 85.

MR. SPEAKER:—"The motion is—

'That clause 85 do stand part of the Bill.'

THE HON. SRI K. MADHAVA MENON:—"Sir, I move—

'For sub-clauses (3) (a) and (3) (b), substitute the following sub-clauses:—

"(a) There shall be a Board of Trustees constituted for the devasthanams consisting of five persons appointed by the Government; and any person so appointed shall hold office for a term of five years unless in the meanwhile he is removed or his resignation is accepted by the Government or he otherwise ceases to be a trustee.

(b) The Government shall also appoint a salaried executive officer for the devasthanams, and shall have power to suspend, remove or dismiss him from office."

This amendment is consequent upon the omission of clause 40, and to make it clear that only the Government can suspend, remove or dismiss an executive officer for a devasthanam."

MR. SPEAKER:—"The hon. Member (Sri N. S. Varadachari) can move his amendment."

THE HON. SRI K. MADHAVA MENON:—"The amendment stands in the name of Sri K. Varadachari and not Sri N. S. Varadachari."

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are available. The money that is due is intended for the performance of a service. The service suffers greatly as a result of the receiver's neglect. I will not say 'neglect'; things have so happened in the course of litigation that the receiver has found himself in a tight hole and he has not been able to pay even a penny from out of the funds of the institution. There was litigation after litigation, one receiver was appointed after another, and meantime the original receiver was restored. Meanwhile somebody who came in possession of the property walked away with thousands of rupees. Looking at this case, I strongly suggest to the Government to devise ways and means to ensure the performance of the services not only in the institution concerned but also in the institution to which this institution is lending support. I trust that the Hon. Minister will give a complete answer to the position I have stated. That is a real position and not an imaginary or fictitious one."

THE HON. SRI K. MADHAVA MENON:—"Sir, an individual case where the appointment of a receiver has resulted in a disadvantage should not be a consideration for saying that a receiver should not be appointed at all. I may say that the Raja of Chettinad did not quite follow the purpose of this clause. This does not relate to surplus funds at all."

RAJA MUTHIAH CHETTIYAR OF CHETTINAD:—"I never said that the clause related to surplus funds."

THE HON. SRI K. MADHAVA MENON:—"Identical wording exists in the corresponding section of the Act which has been worked for the last twenty-five years. (Sri K. Bhashyam: 'Worked badly.') As far as the Government are concerned, the section has been worked from the very inception of the Act and no difficulty was felt. The contribution payable by a religious institution is assessed and notified to the trustee. After hearing the objection of the trustee, if any, final order about the contribution is passed. If the trustee fails to pay the amount as finally decided, the Collector is authorized to collect the amount as if it were an arrear of land revenue under sub-clauses (3), (4) and (5). In sub-clause (6) it is said—

'Places of worship, including temples and tanks and places where utsavams are performed, idols, vahanams, jewels and such vessels and other articles of the religious institution as may be necessary in accordance with the usage of the institution for purposes of worship or processions shall not be liable to be proceeded against in pursuance of sub-sections (3), (4) and (5).'

The object of this sub-clause is to see that the performance of the daily ceremonies continues. Instead of selling the corpus of the property, under sub-clause (7) the Collector is empowered to appoint a receiver. As the Raja of Chettinad rightly pointed out, the object of appointing a receiver is to take possession of the property and collect the contribution. It is not said that all the

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properties shall be put in the possession of the receiver. Provision is made for the performance of the daily ceremonies. Only out of the balance of the funds left after meeting the expenses of the daily ceremonies, the contribution will be recovered. The amendment proposed by Sri K. Bhashyam is not necessary."

SRI K. BHASHYAM:—"I am really surprised at the stand taken by the Government. Even if such a reasonable amendment, which has also got the support of the Raja of Chettinad, is not accepted, what is the purpose of this discussion?"

MR. SPEAKER:—"The question is—

'Add the following proviso to sub-clause (7):—

"Provided, however, the receiver or person having charge shall be bound to provide funds required for the daily necessary worship in the temple and for the festivals according to custom and the balance that is remaining shall be taken for discharging the duties sought to be done."

The amendment was lost.

Clause 83 was put and carried.

Clause 84 was put and carried.

Clause 85.

MR. SPEAKER:—"The motion is—

'That clause 85 do stand part of the Bill.'

THE HON. SRI K. MADHAVA MENON:—"Sir, I move—
'For sub-clauses (3) (a) and (3) (b), substitute the following sub-clauses:—

"(a) There shall be a Board of Trustees constituted for the devasthanams consisting of five persons appointed by the Government; and any person so appointed shall hold office for a term of five years unless in the meanwhile he is removed or his resignation is accepted by the Government or he otherwise ceases to be a trustee.

(b) The Government shall also appoint a salaried executive officer for the devasthanams, and shall have power to suspend, remove or dismiss him from office."

This amendment is consequent upon the omission of clause 40, and to make it clear that only the Government can suspend, remove or dismiss an executive officer for a devasthanam."

MR. SPEAKER:—"The hon. Member (Sri N. S. Varadachari) can move his amendment."

THE HON. SRI K. MADHAVA MENON:—"The amendment stands in the name of Sri K. Varadachari and not Sri N. S. Varadachari."

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SRI K. BHASHYAM:—"Sir, I oppose the amendment. In the Select Committee there was a good deal of discussion in which many Members including Sri R. V. Swaminathan and Sri K. T. Kosarlam took part. There was a very hot discussion as to why the Tirumalai-Tirupathi Devasthanams should be treated differently from the other devasthanams. We, the Members of the Select Committee, thought that there ought not to be any distinction between the Tirumalai-Tirupathi Devasthanams and the other devasthanams with an income of more than Rs. 20,000."

MR. SPEAKER:—"The hon. Member Sri Bhashyam can move his amendment that in sub-clause (3) (a), for the words 'appointed by the Government', substitute the words 'elected in such manner as may be prescribed by Government'."

SRI K. BHASHYAM:—"Because that is not going to be accepted, I am not interested in moving it. But I am interested in opposing the Government amendment. It is a complete break-away from the decision arrived at by the Select Committee. When the Select Committee wanted that the Tirumalai-Tirupathi Devasthanams should be subjected to the same disabilities as any other devasthanam, the amendment proposes a different treatment."

THE HON. SRI K. MADHAVA MENON:—"The amendment is in accordance with the report of the Select Committee. Because we omitted clause 40, I have moved this amendment."

SRI K. BHASHYAM:—"This amendment goes farther than the change consequent on the omission of clause 40. It says that a trustee shall hold office for five years. The committee never said that. If I remember right, the period of office of a trustee generally is three years and the committee thought that the same term would do to the trustee of the Tirumalai-Tirupathi Devasthanams. The committee only resolved on the Board of Trustees. That the Board shall consist of five persons and that their term shall be five years are matters outside the decision of the committee. As I said, this amendment is a complete breakaway from, and a breach of understanding arrived at in the Select Committee. It should not be accepted at all."

SRI N. S. VARADACHARI:—"Sir, I would like to speak on this amendment tomorrow. I have got a lot to say about the Tirumalai-Tirupathi Devasthanams."

THE MADRAS LEGISLATIVE ASSEMBLY.

Tuesday, the 12th December 1950.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVASHANMUGAM PILLAI) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BILL, 1949 (L.A. BILL NO. 10 OF 1949)—DISCUSSION—cont.

Clause 85.

Sub-clause B (3) (a).

SRI N. S. VARADACHARI:—"Sir, in the first place, I must point out to the Hon. Speaker that I had given notice of amendments besides hon. Sri K. Varadachari. My amendment is to sub-clause (3) (b) of clause 85. Yesterday, the Hon. Minister said that there was only one amendment in the name of hon. Sri K. Varadachari and that no amendment was standing in my name. You will find from the Proceedings that I am amply justified in making this statement."

MR. SPEAKER:—"If I remember right, I think the hon. Member himself said yesterday that it is not N. S. Varadachari, but it is K. Varadachari."

THE HON. SRI K. MADHAVA MENON:—"Sir, there is no harm in my hon. Friend moving the amendment now. He has given notice of an amendment to sub-clause 3 (b). He can move it even now."

SRI N. S. VARADACHARI:—"I have given notice of two amendments. The first one was for sub-clause 3 (a). That amendment was given before the Government gave their amendment, and in substance it considerably differs from the Government amendment."

MR. SPEAKER:—"If the hon. Member wants to move his amendment to sub-clause 3 (b), let him move it."

SRI N. S. VARADACHARI:—"The Hon. Sri Madhava Menon moved only the Government amendment. I would like to speak on that amendment, because its subject-matter is really different

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from the amendment which I have given notice of. The Government amendment is this. They have taken off clause 40 from the Bill and have put it down in clause 85."

MR. SPEAKER:—"May I explain the position? Government have moved an amendment for sub-clauses 3 (a) and 3 (b). Sri Varadachari has given notice of an amendment to Government amendment for sub-clause 3 (b). So he can move his amendment now."

SRI N. S. VARADACHARI:—"All right, Sir. I move the following amendment standing in my name—

For sub-clause (3) (b) of clause 85, substitute the following:—

"(b) The Government shall also appoint more than one executive officer one of whom will be in charge of the purely religious worship in the devasthanam."

I will explain first of all the reason why I wish to move this amendment and also my reason for not accepting the Government's position in respect of the Board of Trustees, to be appointed by them under their own amendment. I am glad that the Tirupati-Tirumalai Devasthanam are treated separately. They are perhaps the most ancient shrines in South India and they merit separate treatment in the opinion of the Government. But the position has very considerably changed during this year. After the devasthanam estates have been handed over to the Government as a result of the recent notification, the work of the devasthanam is really confined to the area of Tirupati and only to making such provision as is ordinarily done in other temples, the only exception being that they manage certain educational institutions which have been run from out of the funds and such institutions have been run only after the authorization of the Legislature has been got for the purpose.

"Before criticising the Government, let me go into the question as to how the administration of the devasthanam is carried on by the Board of Trustees. For the Act which is called the Tirupati-Tirumalai Devasthanam Act, the people of Tirupati were solely responsible. They agitated for it, they framed the Bill and they brought it before the Legislature when the Congress was not in office. They conducted themselves in such convincing manner that the Legislature passed the Bill and made it into an Act. Afterwards, several years have passed. The administration of the devasthanam is in the hands of the Board of Trustees even now; of course they are not called Board of Trustees but are called Tirupati-Tirumalai Devasthanam Committee. What is the treatment that is given to the devasthanam? In the first Board there was some element of local influence sought to be included in the Board. In the subsequent boards, local element has been altogether excluded. I do not know for what reason it was excluded. The Board usually meets once a month and all the members assemble

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at Tirupati after the morning train arrives and dispose of their business and return to Madras by the evening train. Or, their meetings are held in the Cosmopolitan Club, Madras. I have never heard of such an arrangement for any devasthanam. What is the interest, and what is the abiding interest which these gentlemen can be expected to show if the affairs of the devasthanam are dismissed so cursorily in short meetings convened not even in the place where excellent accommodation exists for the purpose of holding meetings? But all the same, meetings are held far away in Madras and sometimes in private clubs and residences. This beats everything on record. Do they administer the Srirangam Devasthanam like that? Do they administer the affairs of the Rameswaram Devasthanam like that? Do they exclude all local considerations and local influence prevailing at least on some issues? Would it not be a better arrangement that after the estates have been taken over, the meetings are entirely confined to the place in which they are situated and would it not be better to treat the Tirupati-Tirumalai Devasthanam almost on the same footing as the other devasthanams for which there is an Area Committee or for which there is the Board of Trustees appointed only from persons having interest? Why should the Tirupati-Tirumalai Devasthanam alone be singled out for this kind of treatment? There is considerable feeling in this matter at Tirupati itself. People have begun asking, 'Don't we have abiding interest in the affairs of the devasthanam? Is it that the Government alone are interested in the affairs of the temple and the devasthanam?'

"Sir, in the interests of good administration and for the purpose of exhibiting continuing interest in the administration, if not from day-to-day, at least from month-to-month, the Board of Trustees should certainly be fully representative of all the persons having interest in the devasthanam and should include some people who can at least be in continuous touch with the affairs of the devasthanam in Tirupati itself. If other big shrines in South India are content with an Area Committee or with a Board of Trustees appointed from among the persons having interest, why should the Tirupati Devasthanam alone be singled out for this treatment and specially after all circumstances have changed and after it has been divested of what I may call its immovable properties? Is it fair to insist on this treatment? The new circumstances should be taken into consideration and new arrangements have to be made accordingly. Do these gentlemen know anything about the custom of the place or the manner of worship or the ancient rules governing temple routine? The Tirupati Devasthanam is one of the few devasthanams in South India which are governed by what are called Vyaghanasa Agamas whilst the rest are governed by what are known as Pancharatra Agamas. Vyaghanasam governs only this great temple and, therefore, I submit that those who know something at least of the worship in the place, if not the entire Agamas, those who know something of the routine, those who have been associated with the temple or at least those

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families who have had something to do with the past glory of the temple should be included in the Board of Trustees. Of course, the Government will straightway answer, 'Even now it is open to them to appoint such persons.' But, Sir, why this treatment in the case of Tirupati alone, I ask, when all other devasthanams similarly situate which have no large estates—now the Tirupati Devasthanam is on a par with them, having been disposed of all the villages—are given local committee. Why should it not be given similar treatment? Why should it be subject to new rules? Why should there be a longer term for these people than for the trustees of other temples or for the members of the Area Committees of other temples? If the Government want to be reasonable, they should be content with a term of three years. The term of five years is too long even for the Government to review and introduce necessary changes from time to time. Now, what is the work of the devasthanam to-day? The work has shrunk a great deal. It has no revenue department hereafter. It has no estate department hereafter. It has only an office which will look after the immediate interests of the devasthanam, that is to say, the management of the devasthanam itself and all the other devasthanams attached to it like the Tiruchanur and Sri Govindarajaswami temple in Tirupati and other small shrines, repairs to which have not been effected for years and years, then guiding the routine of the temple and thirdly the management of a few educational institutions in the place. If the educational institutions in that place can be managed by local people, why should not local people be given an opportunity even to manage these institutions? Sir, one question that is often asked by the people is, 'Tirupati affairs seem to be left to the whole world to decide while people having an abiding interest, while people who are anxious to uphold the honour and dignity and the traditions of the temple are brushed aside in respect of matters concerning the devasthanam.' I do not wish to say anything more on this subject. I only want these facts to be taken note of. My amendment is a substantial one and will help the Government. The Tirupati Devasthanam, as I have said, unlike any other devasthanam, has a peculiar mode of worship and it runs all through the day and sometimes even late into the night. One officer, one executive officer, who is stationed down the Tirupati Hill at the office may not always be able to attend to complaints regarding these matters. But if we have a separate executive officer even on a lower salary for this purpose, he may take note of things from time to time, may find out the lapses and mistakes then and there and correct them. Otherwise, under the present procedure, he has to wait till the complaints reach him. He may not be present at the temple but be away from it when complaints are lodged so that the complainants will have to wait for redress for weeks and months. It is a very convenient arrangement to have two officers, one to look after the secular management and the other to look after the other things like *dittam* and other religious observances of the temple. From

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4 a.m., right up to 12 of the clock in the night, worship goes on. There is only an interval sometimes of one or two hours. It is a very hard job for everyone concerned to do. There must be one officer solely for this purpose. Let the Government have power to appoint two people, one on a higher scale of pay and the other on a lower salary. The lower officer may be made an assistant and to live at the Tirumalai Hills. Sir, all the work connected with the Tirupati Devasthanam is hereafter only on the hills. There is very little that remains to be done down at the Tirupati Town. Excepting decisions on road contracts, excepting decisions that are to be taken in regard to administration of colleges and schools, there are necessarily few decisions left to be taken. The University controls the college and the school is governed by the Code which governs all other schools in Government areas. Now, if this is understood properly, why should not the Government agree to the simple proposal to have one officer on the hill and the other down the hill for general administration? That is all I would say in respect of this matter now and probably I shall have eventually more to submit when the Hon. the Minister has finished his reply to my observations."

Sri T. VISWANATHAM :—" Mr. Speaker, Sir, I have great pleasure in seconding the amendment moved by my hon. Friend, Sri N. S. Varadachari, which in a way, relates to a very abstruse and technical matter. The reason is, for years and years, this temple has been treated as a distinct entity from the category of religious shrines in this State. It has had the good fortune or misfortune of having a separate legislation for itself and it had also, therefore, the misfortune of being treated almost in a separate way. Incidentally, Sir, hon. Sri Varadachari was just good enough to mention how the committee constituted under the existing Act was functioning. I have absolutely no remarks to offer against that committee. But it is a fact that most—at least a good number—of the meetings of the committee are held in the City of Madras on the Mount Road in a social club called the Cosmopolitan Club and naturally, if a person of the type of hon. Sri Varadachari who is very distinctly religious-minded and greatly attached to the particular shrine, not merely because of his residence but also because of the particular religious denomination to which he belongs, feels that the affairs of the institution are not properly attended to and that the attention and regard which are due to them are not paid, there should certainly be a great amount of truth in it. The reason for such a state of affairs is, in my humble opinion, the separate treatment and the exclusively separate attention that is paid to the temple. I have always felt and there is a good number of others who agree with me that the affairs of the Tirupati Devasthanam have been dealt with merely as a source of patronage to the friends of the Government. It may be that things are not done consciously by the Ministry from that point of view. But the provisions of the Act are like that and when persons are put in that position, naturally they are

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obliged to extend such patronage. The constitution of the committee has always been one of patronage. It has always aroused in this State as much interest as the appointment of members to the Board of Revenue or some other high and important positions! I have known persons who, a few months before the due date of constitution of a committee, travel from Chilka Lake down to Madras and people who come from Cape Comorin and Rameswaram to Madras, to interview Ministers, to interview the members of the Board of the Hindu Religious Endowments, to interview the concerned Secretaries to the Government and also to see some of the M.L.As. who can command a friendly hearing with the Ministers. I submit that this should cease. Does it cease now? If it ceases, I would be very glad. The Government amendment also does not show that this patronage has in any way ceased. Although the Act is sought to be repealed, the provisions of that Act are incorporated in the Bill. The Government have now taken power to appoint a Board of Trustees with a life of five years. As my hon. Friend, Sri Varadachari has pointed out and as Sri Bhashyam said yesterday evening, I do not see why the Government should give a five years' lease of life. In the Select Committee, it is understood, a three to five year period was suggested. (The Hon. Sri K. Madhava Menon: 'No, No.') I am sorry. I would like to be wrong always! But the existing Act also puts the life of the Committee between three and five years. Now, when a maximum is fixed like this, it becomes a normal feature and this is the impression that the Committee has created in the mind of the Government. This is how this five year period has come into being. The Board of Trustees is to be appointed by the Government. I have got an amendment, Sir, which I am going to move and which seeks to elect trustees and not appoint them. As I have already pointed out, in an important temple like this, the Government should divest themselves of power of high patronage by appointing trustees for five years. It is one of the biggest shrines in the State and a Board must exist. I certainly agree that there should be one in order to help the Mahant, who, as experience has shown, has not been able to manage the affairs of the great shrine to the satisfaction of the public and to the satisfaction of the worshippers. But they must be elected trustees and on this point I shall speak on another occasion. But to appoint five trustees with a five year lease of life is too much. I suggest that the Government need not exercise such a power of patronage.

"Secondly, Sir, the second Government amendment to clause 85 says—

'The Government shall also appoint a salaried executive officer for the devasthanams, and shall have power to suspend, remove or dismiss him from office.'

Of course, under the new scheme, the designation 'Commissioner' goes and the officer will be called the 'Executive Officer'. Now, what is the position of this officer? He is a person to be

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appointed by the Government and also to be removed or dismissed by the Government. The Board of Trustees is there: but, but for the Board this officer is the person who practically functions there. Of course in a succeeding clause, it is provided that subject to the control of the Government, the executive officer shall exercise such and such powers.

"My experience has been that the executive officers appointed by the Government do not care in the least for the non-official body. They look not merely for their appointment but their very existence and preferment the Government and therefore, however pious the words may be, however sweet the words 'subject to the general control of the trustee, the executive officer shall function,' may be, so long as the power of punishment and dismissal vests in the Government that executive officer will be a perfectly foreign body among the trustees and he would be a source of great trouble crippling all initiative and bringing people always into some kind of trouble. I have known non-officials with a sense of self-respect always finding it difficult to work with the executive officer who is placed in their midst, who is to secure the proper management but who looks to his existence and preferment to the Government. It will be a very difficult thing and it may be after some time the Government will have to change their attitude with regard to the position of these executive officers.

"In respect of the executive officer the Government say—

'The Government shall also appoint a salaried executive officer for the devasthanams, and shall have power to suspend, remove or dismiss him from office.'

Even the power of suspension, Sir, is not given to the trustees. Unless the Government give the power of suspension to the trustees it will be very difficult for the trustees to do anything. I know, Sir, comparing very small things with very big things, even as the Chairman of the Municipality I am finding it absolutely difficult to get on with officers who are appointed by the Government, who can be suspended by somebody and not by the Municipality, who can be punished by somebody and not by the Municipality and who could be transferred to some other place by the Government alone. I am experiencing great difficulty and I have no doubt that non-officials who want to do things sincerely will find that they are in a wrong hole. I therefore submit that the trustees should be given some powers of control over these executive officers, such as suspension and disciplinary control, if this work has to be done successfully by the Board of Trustees."

THE HON. SRI K. MADHAVA MENON:—"Sir, I am labouring under a very great difficulty in this matter because the amendment moved by my hon. Friend, Sri Varadachari is to the effect that—

'The Government shall also appoint more than one executive officer, one of whom will be in charge of the purely religious worship in the Devasthanam.'

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Sir, this amendment is to substitute the Government amendment, which runs as follows:—

‘The Government shall also appoint a salaried executive officer for the devasthanams, and shall have power to suspend, remove or dismiss him from office.’

I understand, Sir, my hon. Friend Sri Varadachari agrees to the principle of appointing executive officers. My hon. Friend Sri Viswanatham also does not object to the appointment of the executive officers but wants that the power of suspension and dismissal should vest in the trustees. But unfortunately I cannot accept the suggestion of my hon. Friend, Sri Varadachari to appoint an executive officer to be purely in charge of religious worship and all that, for the simple reason that Government want under this Bill only to administer the secular aspects of these institutions and temples and we do not want to interfere with the religious aspects. Therefore, to appoint an executive officer to look after purely religious matters might go against the Constitution, may be said to be improper and it may also be said that we are trying to interfere with the religious worship. On the merits of the case, I cannot agree to the appointment of an executive officer purely to look after religious worship in the devasthanam.

“Sir, the other portion of the speech of my hon. Friend, Sri Varadachari and that of my hon. Friend, Sri Viswanatham, were very instructive, in the sense, that they gave us information as to how things are getting on in the administration of the Tirupati Devasthanam under the present conditions, how they are working, what hardships are there because there is not sufficient amount of local connection with the trustees and so on. That was the main topic in the speech of hon. Friend, Sri Varadachari. He may be perfectly true and correct in what he said. But it is not germane to the amendment. It is true that the local element in the Tirupati Devasthanam Board, as it is composed at present, is comparatively meagre. Even in the original amendment he suggested the Board of Trustees should be constituted with five persons unlike Sri Viswanatham who does not want the appointment of any. My difficulty, therefore, is in answering arguments which are not quite germane to the amendment itself. What all they said will be useful as information for future appointments and proper guidance of the work.

“Sir, my hon. Friend, Sri Viswanatham, said that the meeting of the Committee of the devasthanam was held in a social club in Madras. It might have been quite possible that for certain purposes and for the convenience of the Board of Trustees they might have met there. It may also be true that there might have been certain local sentiment against this and excitement also might have prevailed. But there cannot be any objection to the meeting being held in one of the rooms of the Cosmopolitan Club which one of the Members of the Board might have taken on rent. I do not think the Board would have met in the general reading

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room of the Club or things like that. Some of the mufassal members might have taken a room on rent and in that room for the convenience of the members of the Board, the meeting might have been held there. For instance, when Sri Gopathi Narayana-swami Chettiar was the President of the Board, perhaps physical illness might have prevented him from going up the hill, he would have called the meeting for the convenience of himself and others in one or two rooms in the Cosmopolitan Club. Because that Club happens to be a social club it does not mean that all sanctity is spoiled. It is after all a business meeting of the trustees. I do not think very many meetings were held there after the demise of the former President and the appointment of Sri Venkataswami Naidu as the President. These things, that is holding of the meetings in the Cosmopolitan Club, which is, according to my hon. Friend, Sri Viswanatham, improper, will certainly be taken into consideration by the Board hereafter. That is all what I can say with regard to the meetings of the Board held at the Cosmopolitan Club.

“My hon. Friend, Sri Viswanatham, made another statement that the existence of the Board has been a sort of an opportunity for the Government to exercise their patronage for particular purposes. I do not exactly know what he means by this statement. The present Members of the Board are: Sri Venkataswami Naidu, M.L.C., Deputy Chairman of the Council, the second is Sri V. S. Tyagaraja Mudaliar of Tiruvarur, Tanjore district. What is the patronage that we have exercised here I do not know. I do not know to what party this gentleman belongs. The third is Sri V. Bhashyam Ayyangar. I do not think this is a case of patronage extended to Sri V. Bhashyam Ayyangar. On the other hand it is condescension on his part that we obtained his services on the Board. It is a great fortune for the Board that it should have got his services because you cannot think of a person who is more interested, more revered, more respected who would serve the interest of the Tirupati Devasthanam so well as Sri Bhashyam Ayyangar. What sort of patronage have the Government exercised in nominating him? I leave it, Sir, to the public through you to judge what was the patronage involved in this. Let anybody who has any conscience say . . .”

SRI T. VISWANATHAM:—“This kind of personal attack should not be allowed, Sir.”

THE HON. SRI K. MADHAVA MENON:—“I have not made any personal attack, Sir. When I am attacked saying that the Committee exists for the purpose of exercising patronage, I must reply and I must ask the House to judge through you, Sir, whether it is patronage to nominate such men to the Committee. Truth may be unpalatable but I cannot help saying the truth.”

SRI T. VISWANATHAM:—“That is why the Hon. Minister is getting angry.”

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THE HON. SRI K. MADHAVA MENON :—" It is not a question of getting angry. It is a question of feeling a sort of sympathy for the hon. Member.

"Then there are the others, Sir, hon. Sri Venkata Reddi of Nandyal, M.L.A., hon. Sri Kulesekhara Doss, M.L.A., a devout person of this Assembly, hon. Sri Duraikannu, a Harijan Member of this Assembly."

MR. SPEAKER :—" The hon. Member representing Chittoor? "

THE HON. SRI K. MADHAVA MENON :—" Yes, Sir. And lastly the Mahant. What is the patronage that the Government want to exercise? I want the hon. House to judge and through you, Sir, I want the public to judge and know how far the allegation that the appointments are there for the patronage of Government, is true.

"My hon. Friend, Sri Viswanatham, Sir, took objection to the executive officers being Government servants and placed under the control of Government. It is true the name of the Government comes because the executive officers are Government officials and they are governed by the conditions of service of the Government as in most other cases. Till recently the Commissioner used to be an officer of the grade of the Deputy Collector transferred from Government. When he is a servant of the Provincial Government, there is nothing wrong in his continuing under the control of the Government. Again, Sir, this question does not at all arise from the amendment of my hon. Friend, Sri Varadachari.

"Again, Sir, my hon. Friend, Sri Viswanatham, said why have the period of the Board as five, instead of as three years as recommended by the Select Committee. The clause even as it came from the Select Committee says: 'The Board of Trustees constituted for the devasthanams under section 40 shall consist of five persons appointed by the Government'. The Board of Trustees would be governed by clause 41 that we have already passed and that clause says that every trustee appointed under that clause by the Government shall hold office for a term of five years. Even if the Government amendment for this clause were not there, automatically under clause 41 the trustees would be there for a period of five years. To say that the Select Committee decided on three years is wrong. The Select Committee thought and meant only five years, nothing more and nothing less.

"Therefore, Sir, the amendment that if there were more than one executive officer, one of the executive officers can be in charge of purely religious worship in the devasthanam, cannot be accepted."

SRI N. S. VARADACHARI :—" Sir, my task has been made very simple by the Hon. Minister's answer. As I said once before my Hon. Friend, Sri Madhava Menon, answers me through somebody else to the points I raise. He has given straight answers. I

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am glad he has given the assurance that local talent will not be brushed aside and that local interest will not be looked askance in the appointments to be made under the Bill for the Board of Trustees. My plea was that Tirupati should be treated exactly as every other big shrine. It would be considered very wrong for instance to make a gentleman in Chicacole trustee of the Srirangam temple. It is very wrong that persons who cannot attend to the affairs of the devasthanam are to be appointed to the Board. At least persons living within the range of the temple or who are very near to the temple should be appointed to the Board so that they may make frequent visits and exhibit more interest in the administration of the devasthanam. I think, Sir, there is some point in it. I am glad the Hon. Minister has spoken on this. I do not wish to press any more on this.

"The second point I want to place before the Government is this. I pleaded for the appointment of an executive officer considering the special circumstances of the case, who will be in charge of religious worship in the devasthanam. I am glad that the Hon. Minister has spoken at last and said that the Government did not intend nor will it be within their power to take charge of the religious worship, not only in Tirupati but in any other temple.

"It is a good and clear statement. One instance that now comes uppermost to my mind is this. Recently, in the Tirumalai-Tirupati Devasthanam, after the Commissioner had decided on a particular matter—a matter of purely religious worship, which has been referred to him by an archaka as against some other man, the Board of Trustees interfered. The Board has no power and right to do so. But, still the Board insisted on this right and drove the poor archaka, who has already made considerable sacrifice, to go to Court and establish his rights. I hope such things will not happen in future. I think the Government, even according to the Constitution, will not interfere in these ordinary cases relating to the custom of temple.

"Sir, it is said that there may be a conflict between the executive officer and the Board of Trustees. I think that in general there won't arise any such conflict if the Board of Trustees are elected. Conflicts arise because the executive officer now feels that he has to deal with only certain matters and that the members who come by the morning and go off by the evening deal with others. But, that impression will cease to exist when the executive officer is sure that the members take as much interest as himself and exhibit the same continuity of interest also in the affairs of the temple.

"Further, the character of temple administration has changed, as I have already pointed out to the Hon. Minister. It has been totally divested of certain functions. What it has now to do is to attend to the routine of the temples and also to look after the institutions which have been built up. Now that clause 64 has been amended, there would not be any difficulty in regard to renovations,

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repairs and *ancillaries*, if I may use the word, attached to the Tirumalai-Tirupati Devasthanam. There are hundreds of temples which are really in urgent need of help."

MR. SPEAKER:—"The hon. Member has given an amendment."

SRI N. S. VARADACHARI:—"Yes, Sir. I am going to withdraw my amendment because the Hon. Minister has clearly assured me, not only assured me but assured himself, that according to the Constitution the Government have no right to appoint such an officer for the purposes mentioned by him and the Government do not intend to interfere with the course of religious worship not only in Tirumalai-Tirupati, but in all the temples of this State. I, therefore, beg leave of the House to withdraw my amendment."

Sri Varadachari's amendment was, by leave, withdrawn.

MR. SPEAKER:—"The question is—

"For sub-clauses 3 (a) and 3 (b), substitute the following sub-clauses—

"(a) There shall be a Board of Trustees constituted for the devasthanams consisting of five persons appointed by the Government; and any person so appointed shall hold office for a term of five years unless in the meanwhile he is removed or his resignation is accepted by the Government or he otherwise ceases to be a trustee.

(b) The Government shall also appoint a salaried executive officer for the devasthanams, and shall have power to suspend, remove or dismiss him from office." "

SRI T. VISWANATHAM:—"Sir, I beg to move—

"In sub-clause (3) (a), for the words 'appointed by the Government' "

MR. SPEAKER:—"The hon. Mr. Bhashyam told me that he was not moving the amendment. I called Mr. Bhashyam yesterday and he told me that because the Government would not accept it, he would not move it and that was why I passed on to the next one."

SRI T. VISWANATHAM:—"If that is so, I don't move it, Sir."

The Government's amendment was put and carried.

MR. SPEAKER:—"I will put clause 85 as amended to the vote of the House. Sri Viswanatham may speak on this."

SRI T. VISWANATHAM:—"Sir, notwithstanding the anger exhibited by the Hon. the Minister for Law and the words which he should not have used against me, I want to explain why I am against these trustees being appointed. Sir, I never looked at the names of the members and I never meant anything against any

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particular member. But the fact is there, Sir, for all those who have seen the affairs in this State for many years past since this Committee came into existence, that it was certainly a matter of patronage exercise by the Government. There is no use of simply getting angry, Sir. From district after district, people come here upon this particular mission.

"I never wanted to bring any personalities into discussion. It is most unfortunate that the Minister exceeded decorum by bringing personalities into discussion. When he has brought them, I will have also to say something. But that is not my purpose. But, when there is the clause giving the right to Government to appoint trustees, instead of the elected representatives, I can certainly say, whether the Government are conscious or not conscious, that it is a question of exercise of patronage and the clause gives scope for it. I never meant anything against this Minister or that Minister. I never said anything against any particular member of the Board. That was not my purpose. On the other hand, I was talking upon a general proposition. Sir, even now, I affirm that the power to appoint trustees for a five-year period for such a big institution as the Tirumalai-Tirupati Devasthanam, is not good. Therefore, I again affirm that the trustees of this big and ancient shrine should not be the appointees of the Government, but an electoral college should be created and the trustees elected. I think that certain memoranda have been presented to the Select Committee and actually some proposals were made by some witnesses that an electoral college might be instituted and that the trustees should be elected. I was talking upon that general proposition. The Minister can rest himself assured so that he may not bring in either my conscience or his conscience. I only want him to realize that the less a Government is compelled to exercise their patronage the better.

"There is another point on which I want to speak. The period of five years is really too long and the original three years' period of the previous Act should have been struck to."

SRI V. I. MUNISWAMI PILLAY:—"Mr. Speaker, Sir, I rise to support the amendment of the Government to Clause 85. I feel that the procedure that is set by the Government is the proper one. Sir, many communities were unrepresented even in the matter of trusteeship to these various shrines and the Government have found a way out in what they have adopted now.

"I think, Sir, that this is very important in view of the fact that people who are interested in temples may not be living in the same adjoining area, but may belong to different districts, and that, if they are to give their services, it is highly necessary that their place of residence should not be taken into account. My hon. Friend Mr. N. S. Varadachari was telling that a man living in Chicacole may not be representing properly the interests of the shrine at Srirangam. But, I know, Sir, that in practice, and as a

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matter of fact, some of the people who have been drawn from far off distances have given the best service to the institutions that come under the category of the religious endowments.

"My hon. Friend Sri Viswanatham was telling that the period of five years is too long a period. In my experience, Sir, as one of the trustees of Sree Meenakshi Devasthanam and some other temples in the Nilgiris, I think that the period of five years is highly necessary. As soon as a man is chosen to this trusteeship, Sir, it takes at least more than a year for him to understand the various matters connected with the temples, its charities and endowments. So, only after 2 or 3 years he will be in a fit position to give his advice and serve as a best guide in the administration of its charities and endowments. Sir, it will be seen from the report of the Religious Endowment Board which has been furnished to this House, that members chosen for a period of five years have given the best service and those temples have shown remarkable progress in the matter of managing the administration and also the endowments concerned. In these circumstances, Sir, I support the Government amendment."

SRI V. RAGHAVAYYA :—"Mr. Speaker, Sir, judging from the sanctity, the holiness and the greatness of this group of temples, it would have been better if the Government had accepted the system of election by a specially constituted college of voters. It is impossible, no doubt, to expect the worshippers to make any choice or take a referendum. I am not asking for it. But, what prevents the Government from empowering the Madras Bar Council which holds its power throughout this State, to elect one to the Board, despite the fact that some of the Members do not see eye to eye with lawyers. The Hon. the Minister for Law seems to have forgotten this aspect. Equally so, there are three universities in this State and they should have been empowered to elect one. Likewise, there should not have been any difficulty in constituting an electoral unit of the trustees of certain temples of a particular category of this State to elect one as their representative. The Government can certainly have one of the trustees appointed by themselves. I would also suggest that all the maths in this State should have been asked to select one as their representative. The Tirumalai-Tirupati Devasthanam and other allied institutions represent a civilization of nearly 1,000 years and there is no point in treating these institutions on the same footing as other temples. Not that I am saying anything about the sanctity and holiness of those temples, but I think the people far and wide in this country hold that opinion. I do not mind even if the Government of India are to send one representative. When it selects members to several institutions in this country, including those to which funds are contributed by people from all over India, it would have been only right that it should do so in this case. And it would have been pleasing to even Sri Kandaswami if a selection had been made by the Government and he would have accepted it immediately readily. I have not

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however, the slightest hope that Sri Kandaswami Pillai or Sri Annamalai Pillai, who are staunch supporters of the Government measure, would support the forming of an electoral college immediately for electing trustees to these temples."

THE HON. SRI K. MADHAVA MENON :—"My Friend Sri Viswanatham remarked that I exceeded the bounds of decorum in saying what I did. Of course sense of values differs. If in connection with an amendment which merely says that there should be an executive officer . . ."

SRI T. VISWANATHAM :—"I was speaking on both the Government amendment as well as on that of hon. Sri Varadachari."

THE HON. SRI K. MADHAVA MENON :—"My hon. Friend spoke while seconding the amendment and that being the case it was difficult for me to fathom what was in his mind. But the fact is that he was seconding the amendment that there should be election of executive officers and, in doing so, said that the Government are using and have used this power to make the appointment of trustees as patronage in their hands for a particular purpose. To prove that that was not so, I just read out to the House the names of persons who have been appointed as trustees so that the House might see whether in any of those cases exercise of patronage could be suggested. My friend realised when I read out the names that the allegations at least as regards those persons were not right and so he said that I was angry."

SRI T. VISWANATHAM :—"A word of personal explanation, Sir. I was only referring to the general question of patronage during the last so many years. There is no use therefore reading out some names. I am not going to be drawn into a discussion over those names."

THE HON. SRI K. MADHAVA MENON :—"My hon. Friend might have a number of years in his mind, but when he spoke he was referring to the present condition. He was not referring to the generations before I was born when he said that such and such are the conditions. There was no question of my getting angry. I had to state the facts when he said that nomination or appointment by Government was all wrong and that there must be election by an electoral college. Sir, the Select Committee went into this question of the appointment of trustees and Area Committees including the trustees of the Tirumalai-Tirupati Devasthanam and considered also this point about the electoral college. The proceedings will show how long this discussion took place. They found that it would be difficult for an institution like the devasthanams to have such an electoral college. My hon. Friend Mr. Raghavayya realised that difficulty. Who should be constituted into an electoral college? The worshippers of the devasthanams, even if you confine the names to the worshippers of this State, would be found from Visakha-patnam to Cane Comorin, though, as a matter of fact, the temple

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is an all-India one. That being the case the formation of an electoral college for the purpose would be extremely difficult. So hon. Mr. Raghavayya suggested that Bar Associations may select. I have the greatest regard for the Bar. But a Board for the Tirumalai-Tirupati Devasthanam is not a place for lawyers alone. There is of course an advantage in having lawyers on it. The lawyers with their knowledge of law and experience in handling the affairs of all sorts of people may be useful. But the constitution of an electoral college cannot be easily settled. So, for the time being, as there may be very competent men available, but not willing to stand for election, it was considered desirable to enlist their services for institutions of this kind. The Select Committee therefore thought that election is not necessary for trustees of the devasthanams."

Clause 85, as amended, was put and carried.

New Clauses 85 (a), 85 (b) and 85 (c).

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

'New clauses 85 (a), 85 (b) and 85 (c).

After clause 85, insert the following clauses :—

" 85. (a) (1) *The Executive Officer shall be a person professing the Hindu religion;*

(2) *If the executive officer is an officer in the service of the Government, the devasthanams shall pay his salary, allowances and such contributions towards his pension, provident fund and leave allowances as may be required under the rules prescribed by the Government in this behalf.*

85. (b) *Subject to such reservations as may be laid down by the Government and to the general control of the Board of Trustees, the executive officer—*

(a) *shall have power to manage the properties and affairs of the devasthanams;*

(b) *shall be responsible for the proper custody of all the records and of all the jewels, valuables, moneys, funds and other properties of the devasthanams;*

(c) *shall arrange for the proper collection of the income and for the incurring of expenditure; and*

(d) *may, in cases of emergency, direct the execution of any work or the doing of any act which is not provided for in the budget for the year and the immediate execution or the doing of which is, in his opinion, necessary for the preservation of the properties of the devasthanams or for the service or safety of the pilgrims resorting thereto; and may*

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direct that the expenses of the executing such work or the doing of such act shall be paid from the funds of the devasthanams.

The executive officer shall report forthwith to the Board of Trustees any action taken by him under clause (d) and the reasons therefor.

85. (c) (1) *The powers of appointment and punishment conferred on a trustee by sections 52 and 53 shall, in respect of the office-holders and servants of the devasthanams, be exercised by the executive officer subject to such restrictions and conditions, if any, as may be laid down by the Government.*

(2) *Any person affected by an order of the executive officer acting in pursuance of the powers conferred on him by sub-section (1) may, within one month from the date of the receipt of the order by him, appeal to the Board of Trustees.*

(3) *Within one month from the date of the receipt by him of the order of the Board of Trustees, the office-holder or servant may appeal to the Commissioner."*

" Sir, hon. Sri Varadachari has given notice of an amendment to clause 85 (b) to substitute 'Subject to such rules as may be prescribed', for the words 'Subject to such reservation as may be laid down by the Government'."

MR. SPEAKER :—" But the hon. Member is not present in the House."

THE HON. SRI K. MADHAVA MENON :—" I am sorry for that.

" Sir, the necessity for this amendment arose because we omitted clause 40 in which there was a provision for the appointment of executive officers and for laying down their functions. As there was no question of appointing executive officers at all, we omitted it. But now there is need for appointing such officers. Hence these provisions are necessary. There is nothing new in them. They have been merely copied from sections 21 and 23 of the Tirumalai-Tirupathi Devasthanams Act."

MR. SPEAKER :—" I will first put the amendment and then hon. Mr. Viswanatham may speak against it. He need not move for the omission."

(Sri N.S. Varadachari rose . . .)

MR. SPEAKER :—" I will give an opportunity to hon. Sri Varadachari to speak."

SRI T. VISWANATHAM :—" Sir, the Hon. Minister was pleased to say that the clause relating to executive officers was omitted because of a doubt about the constitutionality of such a provision. I just want to know from him how, if it was feared to

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be unconstitutional there, it became constitutional here? The Government removed clause 40 and, in the absence of it, they want this provision here. Did they do so on the ground that the provision for the appointment of executive officers was wide of the Constitution?

THE HON. SRI K. MADHAVA MENON :—“ I did not say that clause 40 was removed because executive officers cannot be appointed under the Constitution. The provision in clause 40 ran thus—

“ For every religious institution included in the list, published under section 39, the Commissioner shall constitute a Board of Trustees and appoint a salaried executive officer, notwithstanding that the institution has a hereditary trustee or trustees . . . ”

There the question whether a Board of Trustees could be appointed was in doubt and hence one could not make the appointment of an executive officer dependent upon them. That is why we omitted it.”

SRI T. VISWANATHAM :—“ Even after his explanation, Sir, the matter is not clear. Even if he had not said it, I would have said that this was wide of the powers. My argument has all along been that a religious denomination is entitled to administer and manage its properties. The executive officer here is entrusted with the management of the properties of the endowments and he is subject to two authorities, namely, the Board of Trustees and the Government. As I have already said in another connection, the executive officer is the appointee of the Government and can be removed by them from office. If he is managing the Devasthanam under this provision, as whose appointee does he do so? My point is, notwithstanding the expression ‘ Subject to the control of the trustees, the real management will be in the hands of the executive officer. That, certainly, is wide of the constitutional provisions. Secondly, on its merits as well, an officer who is appointed by the Government and who looks to his continuance there to the favour of the Government is really not a desirable person to associate himself with the Board of Trustees. The Board of Trustees must be given the power which the executive officer is given here. If on the other hand, as in the case of the matadhipathis, you say that the Board of Trustees must have such and such staff, there will be no objection. Of course we cannot leave everything to their discretion. Supposing there is an electricity concern, we cannot leave everything to the Board of Trustees. The shareholders and the general body would say that for that concern an engineer with proper qualifications must be appointed. The Board of Directors, in order to save some money cannot be allowed to say, ‘ Some of us know engineering ourselves. We do not want to appoint an engineer’. Sir, in order to ensure efficiency we want certain kinds of technical personnel to be appointed. To ensure efficient day-to-day management the Government might insist and make rules that members of a particular designation and qualifications should be appointed by the Board of Trustees. In that case, the executive will be an officer appointed by the Board of Trustees. He

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will be responsible to the Board for his actions and be helpful to them. The Board also might appoint a person who is actually needed and who is competent to discharge the kind of work entrusted to him. But here, there is an anomaly as in the case of municipal councils. The same anomaly is continued here also. You have got trustees here with a certain responsibility and tomorrow, if something goes wrong the people will take the trustees to task and not the executive officer who is in the background. The executive officer is given wide powers; he is given power even to do certain things in an emergency and then only to report the matter at a later stage. Therefore, even at the risk of repetition, I have to say that this will lead to incompatibility resulting in delays and inefficiency also sometimes, as in the case of municipalities. Therefore the Government will do well to prescribe the qualifications necessary for the executive officer and leave him to be appointed by the Board of Trustees and let him be responsible to the Board of Trustees. In that case, the executive officer will be serving only one master, will have a due sense of responsibility and will discharge his duties to the best of his ability. But if he is to look to the Board of Trustees on the one hand and to the Government on the other, he will be placed in a difficult position. It will not conduce to the efficiency of management.”

SRI N. S. VARADACHARI :—“ Sir, I did not intend to speak on this clause, but I heard the Hon. Minister say that this is a mere repetition of the clause in the old Act. I want to make sure about one thing. It is said here—

“ (b) shall be responsible for the proper custody of all the records and of all the jewels, valuables, moneys, funds and other properties of the devasthanams.”

I suppose this means that the existing practice will continue. The jewels of the Tirupathi Devasthanam are in the joint custody of the archakas and the Commissioner. There is double locking. All the jewels are kept inside the sanctum sanctorum. It is a very ancient custom. It is better to have this dual arrangement. I hope there will not be a supersession of the arrangement allowed by custom, a custom based on long experience and knowledge of the practical difficulties. I want an assurance from the Hon. Minister that the present practice will, in all respects, be continued, though for all technical purposes, the executive officer is supposed to be in custody of the jewels and other valuables.”

SRI V. RAGHAVAYYA :—“ Sir, the Government say here in this clause—

“ 85-B. Subject to such reservations as may be laid down by the Government and to the general control of the Board of Trustees, the executive officer”

shall have power to do certain things. I wish the Government were more definite about these reservations. I wish to know what is the nature of the reservations that the Government are going to make in the course of the various rules that will be made by them. The Government have given certain powers to the Board of Trustees ostensibly in the Bill, but they quietly take them away one by

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one by means of various rules that may be made later on. It will be sheer injustice not only to the Board of Trustees but also to the public at large. What do the Government lose by stating even now on the floor of the Assembly what the reservations would be. They need not give a list of the reservations seriatim, but they may definitely say what the nature of the reservations will be. If it is going to be in respect of the general management, I should say there is no necessity for the Government to have any reservation in respect of the actual management of the temple. If it is going to be in respect of accounts and audit, the accounts department will look into that. If it is going to be in respect of law suits, the Government need not think of any reservation at all. I fail to see what is the nature of the thing with regard to which there is any need for reservation of powers. The whole trouble arises evidently from the fact that the Government fear that the nominated members with whom the Government are going to adorn the Board of Trustees may not be competent enough to deal with these matters themselves. Unless there is such a lurking fear in the minds of the Government, there is absolutely no necessity to withhold any power from the Board of Trustees. Certainly there is the Commissioner at the head and he has got power to interfere, call for the records and do the just thing in all matters where the Board of Trustees go wrong. Keeping that reserve power which is always there in view, where is the necessity for the Government taking away even the normal duties and functions of the trustees and have such essential matters reserved for the executive officer? It is unfair. This will lead to dyarchy as in the municipal administration. There will be rub and rupture at every stage between the executive officer and the trustees, on account of the exercise of these conflicting powers. Therefore the Government would do well to take the House into confidence and give us a clear idea of the nature of the reservations they are going to make in the process of making various rules.

"Secondly, Sir, the Government are asking the executive officers to be in charge of the jewels which are valuable not only from the point of view of their cost but also from the point of view of their importance, their holiness and their tradition. Therefore it will not be too much on the part of the House to ask the Government to fix the grade of the officer. An officer not below the rank of a Revenue Divisional Officer should be appointed. It is no good appointing an officer of the Tahsildar's grade. It is a responsible job. The Government should even now fix up the grade of the officer who will be appointed as an executive officer. Then what will happen if the person is a non-official? If the person appointed is a Government officer, there are safeguards against his misbehaviour. But if he is a non-official where is the guarantee that he will be a proper person to take charge of the jewellery? Is he going to be asked to make a deposit of Rs. 10,000 or so? The salary of the officer will be Rs. 1,000 or so, and is it too much on the part of the House to expect the Government to provide for the payment of a deposit by the officer? These are all matters which the Government should take into consideration."

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SRI L. N. GOPALASWAMI :—“ Mr. Speaker, Sir, when one goes through the enormous powers of the executive officer, he finds that it cannot even be imagined especially when the Government themselves have appointed a Board of Trustees consisting of five persons. A comparison was made with the Commissioners of Municipalities, but one can understand it in the case of Commissioners of Municipalities as the Government might not find it possible to agree always with all the views of the elected municipal councillors. But here the Government themselves appoint the trustees. Then why should there be an executive officer with so much powers who will ride rough-shod over them? He will have discretion even to spend anything he likes outside the budget and then simply report the matter to the trustees. This is a thing which I cannot understand. Sir, if the Government do not want to take over the administration but only see that it is carried on properly and if they want only to have some control or check, they should be satisfied with the appointment of trustees. If, as the Hon. Minister says, the trustees that are going to be appointed for these Devasthanams will be big persons, persons of standing, is it worthwhile for them to agree to be appointed trustees when they will have an executive officer who will not care for them and when their powers will be very limited? If the executive officer has got all the powers to manage the properties and affairs of the devasthanams, if he is to be responsible for the proper custody of all the records and the jewels, etc., if he is to arrange for the proper collection of the income and the incurring of the expenditure and if, in the case of an emergency, direct the execution of any work and incur the necessary expenditure for the same without the knowledge of the trustees, then, why on earth have these trustees? If you appoint some trustees, give them some powers. At least make them generally responsible for the administration of the temple. But if it is not so, if you are going to put an executive officer with enormous powers over the head of these trustees, the result will be, the executive officer will not care for the trustees, and from the point of view of the trustees, really capable and self-respecting men will not be forthcoming for the posts of trustees, unless it be they are prepared to submit themselves to anything just for the name of being a trustee. If the Government want people of some status and standing in the locality, they should certainly give them more powers. If, in spite of all that has been said here, it is the intention of the Government to associate local people with the administration of these temples, I think the appointment of such an executive officer with vast powers should be dispensed with. The executive officer should be made subordinate to the trustees.”

SRI D. V. RAMASWAMI :—“ Sir, I am glad that the Hon. Minister in giving the names of the present trustees has given five distinguished names. It is a great satisfaction to us that they are such exceptionally well-known persons of great repute. When such care is being taken in the constitution of the Board of Trustees, one wonders why the executive officers should practically have the

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whole say in the management of the temples. Very wide powers are given and unless a miracle happens there will be great difficulty in so many matters where the Board of Trustees will naturally differ from the views of the Executive Officer. The Executive Officer must be placed under the control of the trustees or the appointment of the Board of Trustees must be subject to election by an electoral college. I am afraid, in trying to purify the administration and have it run on sound lines, there will be points of friction between the Board of Trustees, if they really mean to apply their minds to the task and bring their experience to bear on the management of the institution, and the executive officers. However high-placed the executive officers may be, whatever securities they might have to deposit for efficient management of the temple, there are bound to be points of friction between the executive with such wide powers and the Board of Trustees. If the two are to function well, the point should be looked into. The Hon. Minister should see that the powers of the executive officer are limited and that the Board of Trustees have definite powers of reviewing the actions of the executive officer."

THE HON. SRI K. MADHAVA MENON :—" Sir, hon. Members Messrs. Viswanatham and Gopalaswami were talking that there should be no executive officer at all, especially when there is such a careful selection of members of the Board and so it passed their imagination as to why there should be a definition of the powers of the executive officer. Sir, I want a little imagination in this matter. We have already passed clause 85 which says that the Government shall appoint the salaried executive officer of the Devasthanams. These clauses are only laying down the duties and powers of that executive officer. When once we have passed a clause that there should be an executive officer, it should not be stated that we should have no executive officer at all in connection with a clause which refers to the powers and duties of that executive officer. That is my reply, Sir, to those gentlemen who spoke that there should be no executive officer at all or that the principle of having an executive officer is wrong. Comparison with municipal executive officers, arguing that there is likely to be friction between the executive officer and the trustee as in the case of municipalities, and all that is not relevant here, because, as I have said, we have already passed the clause relating to the appointment of the executive officer.

"With reference to the duties and powers of the executive officer, I may refer hon. Members to clause 48 of the Bill which has been omitted subsequently. Because it has been omitted there, it has become necessary here. I want to tell Mr. Raghavayya that this clause 85-B is identical with clause 48 as it stood before its omission; the entire wording here is as it was in clause 48 as it was passed by the Select Committee and there is nothing new here. When you decide to appoint an executive officer, he must necessarily be given certain powers and duties. Mr. Ramaswami's contention is: 'Why do you want to give him such powers and duties

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when there is the Board of Trustees. I may tell him the trustees are not there in Tirupathi always; the executive officer has to do the day-to-day work and look after the day-to-day administration. The trustees may come from different parts of the State and they may meet only at stated intervals. The day-to-day administration has to go on. Whatever powers and duties we have provided here are only with a view to enable the executive officer to carry on the day-to-day administration. Even there, whatever he does is subject to the general control of the Board of Trustees. One of the powers given to him is that in cases of emergency he may do certain things without even the consent of the trustees, but again in that case, he will have to report forthwith to the Board whatever action he has taken, under sub-clause (d) of clause 85-B. So, under the general directions of the Board of Trustees he is working. Further, under sub-clause (2) of clause 85-C—

'any person affected by an order of the executive officer acting in pursuance of the powers conferred on him by sub-section (1) may, within one month from the date of the receipt of the order by him, appeal to the Board of Trustees.'

So, an appeal also has been provided. As I said, these are only powers given for the day-to-day administration to the executive officer whom we have already appointed under clause 85."

MR. SPEAKER :—" The question is—

'That new clauses 85-A, 85-B and 85-C be inserted after clause 85.'

The amendment was carried.

Clause 86.

MR. SPEAKER :—" The motion is—

'That clause 86 do stand part of the Bill.'

THE HON. SRI K. MADHAVA MENON :—" Sir, I request permission to move—

'That clause 86 be omitted.'

"It may be argued that this will be interfering with the religious worship and religious affairs of the institution. It is our idea that there should not be any such interference. As this clause 86 is likely to be construed like that, we want to omit it, Sir."

SRI N. S. VARADACHARI :—" Mr. Speaker, Sir, it is a good thing that clause 86 is to be omitted. But, as on the last occasion, I would request the Hon. Minister to give an answer to the following question which I put. Now that Government have declared that they have no powers to interfere with or to regulate the purely religious side of worship, the omission of this clause alone would not do at all. No doubt, the retention of this clause may be open to constitutional objections; but at the same time its omission will result in everything being kept indefinite and vague until somebody is driven to a court with his objections. Even now before the

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Bill is passed into law and assented to by the authorities concerned, though the intention of Government is made clear that even if there is such a council as this, it would be difficult to draw the line between purely religious and purely secular administration, the persons mentioned in the clause could be easily consulted before any decisions are taken. It is just possible that a thing may strike the executive officer or the Board of Trustees as purely secular, as having nothing to do with the religious worship, but it may strike others that it is an infringement of the rights they hold by immemorial custom. In such cases, I think at least an informal consultation, if not consultation with a statutory body, should be held before anything is declared as purely secular. Sir, in temple administration especially, it is very difficult to distinguish between the two; certain things may be distinguished as definitely secular and certain other things may be distinguished as purely religious; but there may be still many other things which cannot be declared to be wholly religious or wholly secular. In such cases where things are neither purely religious nor purely secular, the Government will have to make clear their intentions, that they will, before taking any action, either by themselves or through the Board of Trustees, take the advice of persons who are competent to give such advice. I want also an assurance that there would be no supersession of the present custom in respect of jewels, properties, and even the counting of money. Sir, it is a beautiful custom that obtains in Tirupati even to-day; all the money left in the hundi by the worshippers is being counted every night in the presence of various persons—not specified in any document but—who have been authorized by custom to be present at such counting. It is a beautiful ceremony; the amount of rupees, annas and pies and the quantity of gold and silver, are read out every night before worship is closed for the day; every item is counted and read out before the deity."

SRI T. VISWANATHAM:—"Sir, provisions which we consider as wide of the Constitution are propounded by the Government. When we say that every religious denomination should manage its affairs, they appoint the trustee and the executive officer themselves and they want to manage the affairs through them. The only place where the denomination can have a voice, so far as religious affairs are concerned, is the advisory council. That is now sought to be removed on the ground that it may offend the Constitution. There is something peculiar about the whole affair. Sir, often and often we have referred to Article 26 which says—

'Subject to public order, morality and health, every religious denomination or any section thereof shall have the right to manage its own affairs in matters of religion.'

Without reference to this Article, this clause is now being sought to be omitted. In view of the particular and peculiar position of this shrine, even the old Act has provided for an advisory council like this. At the stage of the Select Committee it has been

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included in this Bill. The advisory council is the only place where the jiyengars, the archakas, the acharyapurushas and other mirasdars of the devasthanams can have some slight voice so far as administration of religious affairs is concerned. Now, the Government want to remove that council. I am not satisfied with the reason given by the Hon. Minister. On the other hand, I should think it is the only clause which comes within the terms of the Constitution, while most of the other clauses except those of a routine nature, are of doubtful constitutional value. I sincerely believe this is the only clause which should be allowed to be there."

THE HON. SRI K. MADHAVA MENON:—"Sir, one word. Hon. Mr. Varadachari wanted to have a reply to his question. I can only tell him that according to the Tirumalai-Tirupati Devasthanams Act—

'The Commissioner shall be responsible for the custody of all the records and properties of the devasthanams, and shall arrange for the proper collection of the offerings made in the temples.'

Identical provision has been made here; and whatever implications there are already in that section, must be taken as applying here also and nothing more."

Amendment to omit clause 86 was put and carried.

Clause 87.

MR. SPEAKER:—"The motion is—

'That clause 87 do stand part of the Bill.'

Sub-clause (4).

SRI T. VISWANATHAM:—"Sir, I move that—

'In sub-clause (4) (a), for the words "executive officer", substitute the word "trustee".'

MR. SPEAKER:—"The hon. Member may move both his amendments together."

SRI T. VISWANATHAM:—"I also move that—

'In sub-clause (4) (b), for the words "executive officer", substitute the word "trustee".'

The reason is that in the interests of the smooth working of the administration, the trustee and not the executive officer must have the powers. The Hon. Minister has just said that the executive officer is subject to the general control of the trustees and as they will not be present there every day, the executive officer must have the power. I did not say there should be no executive officer at all: I only wanted that the executive officer who is subordinate in all matters to the trustees may attend to the day-to-day affairs, but the powers referred to in new clause 85-B should not be exercised by him. It must be the duty of the executive officer to

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draw attention to such matters as are referred to in this clause and put up notes for the Board of Trustees, but it must be the right of the trustees to exercise all the powers vested under sub-clauses (4) (a) and (b). Levying of tolls and farming out of collections are important matters, and therefore I submit the Board of Trustees and not an executive officer appointed by Government must be given the right of management."

SRI L. N. GOPALASWAMI:—"I second the amendment. In doing so, I want to plead with the Government to see the justice of it. If according to Government, the executive officer is to do the levying of tolls and placing the collection of such tolls under proper management, subject to the control of the trustees, why not place these powers in the hands of the trustees themselves, so that they, as representatives of public opinion, and as people voicing forth the opinions of various worshippers may feel their responsibility in the management? It will be in the fitness of things if the powers are vested in the trustees instead of in the executive officer, unless the Government think that these trustees are *namke-vaste* people, that real power should only be with the executive officer and they want to deal with the executive officer and not with the trustees."

THE HON. SRI K. MADHAVA MENON:—"Sir, as I have already said previously, the Tirumalai-Tirupathi Devasthanams trustees are not in all cases local people. The entire Tirumalai is practically a panchayat by itself and if we give certain powers to the executive officer, it will be just like giving certain powers to the executive officer of a municipality. The wording here is: 'The Government may by notification authorize the executive officer to levy tolls.' It is only by Government notification that we can authorize anybody, whether it be a trustee or an executive officer. In the case of the Tirumalai-Tirupathi Devasthanams, we have specifically said: 'in the prescribed manner in respect of any road, including the ghat road leading to Tirumalai from Tirupathi'. There is no purpose in saying that we authorize the trustees; because then the trustees will have to authorize the executive officer if the work is to be executed and carried out. I do not think, Sir, any purpose will be served by my accepting this amendment."

SRI T. VISWANATHAM:—"Sir, there is a lot of difference between the Board of Trustees exercising the right and the executive officer exercising it. There is no meaning in saying that the trustees will have to authorize the executive officer. The trustees will see to it that the necessary work is carried out. It is the Board of Trustees that must levy the tolls, and the notification of the Government must ask the Board of Trustees to do that work and not the executive officer. The executive officer himself may have to delegate his powers under sub-clause (4) (b) to other officers, and in such a case, why not the trustees be given these powers. I want to know. The whole thing, Sir, is very anomalous."

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MR. SPEAKER:—"I now put hon. Mr. Viswanatham's amendment to the vote."

"The question is—

'In sub-clause (4) (a), for the words "executive officer", substitute the word "trustee".'

In sub-clause (4) (b), for the words "executive officer", substitute the word "trustee".'

The amendments were lost.

Clause 87 was then put and carried.

MR. SPEAKER:—"The House will now rise and meet again at 2-30 p.m."

(After lunch—2-30 p.m.)

Clause 88.

MR. SPEAKER:—"The motion is—

'That clause 88 do stand part of the Bill.'

SRI N. S. VARADACHARI:—"Sir, I am not moving my amendment, but would like to speak on clause 88."

MR. SPEAKER:—"The hon. Member will be given an opportunity to do so after the Government amendment is disposed of. The Hon. Minister may now move the amendment."

THE HON. SRI K. MADHAVA MENON:—"Sir, I move—

(1) For the opening paragraph of clause 88, substitute the following:—

"The funds of the devasthanams may be utilized for any purpose permitted by any other provision of this Act, and also for all or any of the following purposes:—"

(2) For sub-clause (i), substitute the following sub-clause:—

"(i) the maintenance, management and administration of the devasthanams;"

(3) In sub-clause (iv), for the words "choultries and dispensaries", substitute the words "choultries and rest-houses";

"Sir, clause 32 (1) which we have already passed relates to the incurring of expenditure for certain purposes from the funds of the religious institutions, which will apply to all religious institutions including the Tirumalai-Tirupati Devasthanams also. There are also other similar provisions which are applicable to all religious institutions including the Tirumalai-Tirupati Devasthanams, for instance, clauses 64, 81, 82 and 91. By putting this amendment, it is proposed to make the position clear that those sections will apply to the Tirumalai-Tirupati Devasthanams also."

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"The second amendment is only a verbal change, for the present sub-clause (i) says: 'the administration and management of the devasthanams'. I want to change it into 'the maintenance, management and administration of the devasthanams'. It is only a verbal change.

"Then in sub-clause (iv) as it is we have 'the construction and maintenance of hospitals and dispensaries for the use and accommodation of all classes of pilgrims'. The word 'dispensaries' is a mistake, but it must be 'rest-houses', because we have provided for hospitals and dispensaries in sub-clause (iii). Hence the amendment."

The amendment was put and carried.

Sub-clause (vii).

SRI T. VISWANATHAM:—"I move, Sir—

'In clause 88 (vii), delete the words "provided the acquisition is authorized by the Government".'

I shall also move the other amendment, namely:—

'Delete sub-clause 88 (x).'

"Sir, the two deletions will make it somewhat very useful. The contention of the Government is that the trustees are given powers of management. It is our contention that the management should really be with the denominations. I shall assume for the sake of argument that these trustees are the persons who are having the management of the properties. If they are having the management of the properties and if they feel that certain lands or other immovable properties can be acquired for the purposes of the devasthanam, I do not see any reason why again that acquisition also should be authorized by the Government. In every one of these provisions it is said, the trustee should get the control, should get the permission of the executive officer or the Commissioner or the Government, which really subtract from the powers of these trustees. Whether they are appointed or whether they are elected, it does not matter, they are trustees and as has been pointed out, these are trusted trustees as they are the appointees of the Government and therefore it is only proper, that having installed a Board of Trustees, they should be given as much discretion as possible in respect of these matters. Therefore, Sir, I submit the words 'provided the acquisition is authorized by the Government' must be deleted, so that the trustees may have unhampered discretion. After all the trustees can be expected to work for the interests of the institution.

"Then, Sir, with regard to the deletion of sub-clause (x), the reasons are the same, because, authorized by the Government, is there. On the other hand, it also gives a handle to the Government to dictate from the top 'do this, do that and not this.'

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My point is, the trustees must have some discretion left to themselves and that is why, Sir, these two amendments may be accepted."

* SRI L. N. GOPALASWAMI:—"Sir, I second the amendments moved by hon. Mr. Viswanatham. Here a distinction is sought to be made between properties. If it is the question of land, then the trustee has to go to the Government for sanction; but if it is a question of the construction of a hospital or the provision of water-supply, I do not think this section comes in. If this section only means that so far as the acquisition of any land or other immovable property is concerned, they want the sanction of the Government, then we know the red-tape of the Government and the long time it takes for the execution of any of the works. So, Sir, if the trustees are to execute some works for which they are legally entitled and for which they want to utilize certain funds, then this small provision may work a great handicap. For instance, if they want to put up a building, land has to be purchased and acquired. Then the Government will come forward and ask whether it is necessary or not and all that process has to be gone through. If the trustee can spend a lot of money for other purposes, why alone so far as land and other immovable properties are concerned, he should get the permission of the Government? If, on the other hand, it is a question of selling any devasthanam property, the Government may be anxious not to give permission for such a thing and therefore they may not give sanction. But, in this case where it is only acquisition of immovable property or acquisition of land, I do not think it is fair to fetter the hands of the trustees by saying that so far as acquisition of land is concerned, they must get the permission of the Government. So, Sir, if really you want the work to be done quickly under the direction of the trustees under the powers vested in them under the Act with the money lying in their hands, it stands to reason they should be given unfettered powers in these matters. After all, land and other immovable properties alone cannot cost even a moiety of the great amount they are investing on choultries and all that. If lakhs of rupees can be spent by the trustees for building a choultry or hospital, that the trustee should be asked to get the sanction of the Government for the land the cost of which may only be about Rs. 2,000, does not stand to reason. I, therefore, request the Government to see that this provision is removed from the clause, so that the trustee may be enabled to carry out the work unhampered."

THE HON. SRI K. MADHAVA MENON:—"Sir, I oppose the amendment. The clause as it stands 'the acquisition of any land or other immovable property for the purposes of the devasthanams provided the acquisition is authorized by the Government', is only a repetition of the existing provision in the Tirumalai-Tirupati Devasthanams Act, namely, 'the acquisition of any land or other property which is authorized by the Provincial Government'.

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So, I want hon. Members to make a distinction between 'purchase' and 'acquisition'. Acquisition is made under the Land Acquisition Act. It does not of course prevent the trustees from purchasing any land by private negotiation. If a particular land is required they can purchase by private negotiation and there is no objection to that. But, if they want to acquire land under the Land Acquisition Act, such acquisition should be authorized by the Government.

"Then, Sir, sub-clause (x) is absolutely necessary, because it relates to 'any work or undertaking for the purposes of the devasthanams, authorized by the Government, so long as such authorization subsists.' The Tirumalai-Tirupati Devasthanam has been authorized by the Government to undertake electricity works. That means they may purchase electricity in bulk and undertake distribution themselves. They cannot do it unless they are authorized by the Government to do so. It is not a case of asking for Government authorization before undertaking the work. It only means for certain works like distribution of electricity, authorization of Government is necessary and so long as there is authorization they can do the work, but they can spend the money for such works as are authorized by the Government. So, Sir, sub-clause (x) is absolutely necessary."

SRI T. VISWANATHAM:—"Sir, I do not think the Hon. Minister's explanation is at all convincing. I will tell you why he has not been able to convince me. If he had said, 'I do not have anything to reply' I would have been glad. But, since he has brought in the question of land acquisition proceedings under the Land Acquisition Act, I think he should have mentioned why it has been brought in here. There can be no necessity for that, because under the land acquisition proceedings, any private body which wants to obtain land, has got to obtain the permission of the Government for the purpose. Provision of drainage works, sanitation works or water-supply works, also requires the authority of the Government because they deal with the public. To say that whatever the Tirumalai-Tirupati Devasthanam might do, they will come under the provisions at so many stages of the Act and should obtain the permission of the Government, is not proper. Surely, it does not mean that in other cases the devasthanam will do things without statutory provisions. It looks as if in these two cases alone they want to be careful. There is nothing of the sort. I think the reference to land acquisition without authorization by the Government need not be there, because no private body can acquire land under the Land Acquisition Act unless with the permission of the Government. If the Hon. Minister means that in drafting this clause, the Government had in mind only land acquisition proceedings, they might make it clear. Then I have no objection. If, on the other hand, 'any work or undertaking for the purposes of the devasthanams, authorized by the Government, so long as such authorization subsists', do refer to electricity, I

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should submit that even any private licensee or private corporation cannot undertake electricity distribution except with the permission of the Government.

"Sir, it is capable of being interpreted as any work which the Government direct the devasthanam to undertake. I submit to them: 'Do not have any further power to direct works; you have your own trustees and the executive officers also to take care of them and you have also canalised the expenditure under several items.' Therefore, I am submitting that the Government should allow the trustees to proceed in their own way and the trustees should not be dictated from above. If the Hon. Minister says that 'authorized by the Government' is no dictation from above, it will be very good if he makes it clear by amending the wording."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, the hon. Member would have been right if the word used were 'purchased' instead of 'acquisition'; there is difference between 'purchase' and 'acquisition'."

"Regarding sub-clause (x), there is no difficulty at all; 'so long as such authorization subsists' is quite clear."

SRI T. VISWANATHAM:—"On a point of personal explanation, Sir, the word 'acquisition' has no technical meaning at all as suggested by the Hon. Minister. I want to know from him if the words 'acquire or hold property' used in the Constitution is also acquisition under the Land Acquisition Act. I submit, Sir, it has no such meaning."

MR. SPEAKER:—"The question is—

'(i) In sub-clause (vii), delete the words—

"provided the acquisition is authorized by the Government";

(ii) Delete sub-clause (x).'"

The amendments were lost.

MR. SPEAKER:—"The question is—

'That clause 88 as amended do form part of the Bill.'"

SRI N. S. VARADACHARI:—"Mr. Speaker, Sir, I want to speak on this clause because it is the most important clause in this chapter. Even the first words have been amended; the funds of the devasthanam may be utilized for any purpose specified by any other provision in this Act. I think it was intended to cover cases coming under clause 64 but now it has been amended out of shape; I am glad that the words 'any of the following purposes' are there and the purposes have been mentioned."

"I wish to say a few words on sub-clauses (vii) and (x). The Hon. Minister has hinted that the word 'acquisition' refers only to acquisition under the Land Acquisition Act; I am afraid it is not so. The old Act empowered the Board of Trustees or the

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Tirupati Devasthanams Committee, as it was then called, to acquire property (The Hon. Sri K. Madhava Menon: 'Even immovable property?'), and immovable property also and the Hon. Minister can refer to the old proceedings with which I am familiar and I can tell the Hon. Minister straightway that the Tirupati zamindari, the zamindari brought from the Raja of Karvetnagar or his creditors, would never have been acquired but for the action of the then trustee, I think it was the Mahant who first acted as the trustee. Acquisition of landed properties for devasthanams leads to several very unhealthy transactions and that is why the ancient salutary rule was laid down by Ramanuja that no temple should have a surplus at the end of the year and whatever is earned during the course of the year must be spent and no surplus should be left over. It is a very good rule, a rule which all Governments observe to-day. For instance, if the Government frame a budget and find that it has enough revenue to cover the expenditure, it generally leaves a nominal surplus and does not keep by sums leaving other Governments to spend or sit on the hoard preventing the continuance of good programme of works. It applied in ancient days to temples. Some times, a temple may get a gift of lands by a worshipper; nobody objects to that; the trustees immediately take possession of the lands but the purchase of lands involves greater responsibility. Mr. Speaker, Sir, you know how during the course of the discussions on the Zamindari Abolition Bill, I referred to how the Tirupati Devasthanam had been defrauded of the total of the tasik allowance which is made applicable to inams and not to zamin estates. The trustees first invested the moneys on the orders of the Government and the Government later on come with the legislation practically abolishing property and giving only very little compensation. It is really a fraud on the devasthanam. But we have all gone through that process and I do not propose to re-open that question now but my desire is that such things should not occur again and that is my anxiety and that is why I say, Sir, that not trustee and not even the Board of Trustees, however good and competent it may be, should acquire landed property. If the acquisition is under the Land Acquisition Act, it will be in terms of this very Act and under the previous provision where the executive officer is made the panchayat officer, several things have to be acquired. May I point out that the whole of the precincts of the tank have been made ugly by allowing all sorts of shops and business places; mushroom, barber shops and hotels disfigure the whole place and there is no sense of art or decency shown by us and the worshipping public is very angry in this regard. The whole place is misused for all sorts of purposes under cover of small interspaces left between buildings. The whole of it, I recommend to Government, should be demolished even by acquisition proceedings and the tank should be left unpolluted and the small temple on the tank premises which the Hon. Sri C. Rajagopalachari was kind enough to visit and express great admiration for its architectural qualities, should be put on view; it is not with the main temple but on the

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bund of the tank, the ancient Varahaswami temple is there a beautiful temple and if once the tank is thrown open and all sorts of shops that I referred to are cleared, it would make the place a beauty spot, with deep valleys and green hills allround. Returning to acquisition of property, I must say, Sir, that the acquisition of landed properties even for the benefit of devasthanams is a thing to which I must very strongly object even if the Act permitted such a thing and the Government would do well to make a rule that they will not authorize such purchase by the Board of Trustees.

"The Hon. Minister was kind enough during the course of his reply to refer to its electricity undertaking. I am glad to be able to tell him that the Government have already nationalized this undertaking and it is going to be taken over in a short time; the handling of this undertaking by the devasthanam was such that the taking over of the undertaking had to be deferred for one year because of the utter confusion in the accounts of that particular branch of work; not only the matter of distribution of electricity but anything outside the strict scope of devasthanam work, they should not handle. Government should be very cautious and should not, as a rule, authorize devasthanams to indulge in activities which are foreign to their interests. As the priority proposition was lost and the danger of surpluses being applied to all sorts of purposes is gone, the Board of Trustees will now only apply the funds to the maintenance, repair and renovation of the institution already in existence under the devasthanam and to such purposes as would be wholly within the purview of the devasthanam itself. So, I desire that the Government should really look into the question and even if they can take power, they should not allow the trustees to acquire landed property. They cost in the past lakhs of rupees and as I said, the temple has been defrauded to a very great extent. These things should be taken into consideration and the devasthanams should be left free with their work of making the place beautiful and sacred and attractive for the pilgrims."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, Sri Varadachari complains that I do not answer him: I must submit, Sir, that I have nothing to say with reference to what he said. He referred to improper things that were going on and suggested that they should be rectified. I agree with him and how can I answer him if I agree with him? He is perfectly right and I agree with him and by the way, Sir, that was the best answer that he gave to the points raised by Sri Viswanatham, thought he was not satisfied with my answer. My hon. Friend suggested that the trustees should not be allowed to acquire property and that is the very reason perhaps why acquisition of property is authorized by the Government. I perfectly agree with him, Sir, and I have nothing more to say on this."

Clause 88, as amended, was put and carried.

Clause 89 was put and carried.

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Clause 90.

MR. SPEAKER:—"The motion is—

'That clause 90 do stand part of the Bill.'

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I beg to move—

'In sub-clause (a), delete the words "or executive officer". I am moving only this portion, Sir.'

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I wish to point out that there are temples where there are no trustees but there are only executive officers. If the words 'executive officer' is removed, the clause will become meaningless, Sir."

SRI T. VISWANATHAM:—"But, Sir, under the provisions of the Act, you contemplate having trustees for every temple and you cannot have only executive officers and when you notify it, it is practically under Government management.

"In my opinion, Sir, it is the trustee who must be put in possession of the institution or records; without any offence to friends it is my opinion, Sir, that the executive officer is a new interloper who has been sent out in the first instance and is brought in again under this clause and the word 'executive officer' existed at the time when clause 40 was there and when that clause goes, along with that the executive officer must also go. Therefore, it is the trustee that must be put in possession and he should have a sense of responsibility and the pride of management of the institution. That is the reason why I move this amendment, Sir."

SRI V. RAGHAVAYYA:—"Mr. Speaker, Sir, I second the amendment."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I submit that if the words 'executive officer' are not there, all the clauses that we have passed previously will become meaningless."

The amendment was put and lost.

Sub-clause (c).

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I beg to move the amendment standing in my name. It runs thus—

'(i) In sub-clause (c), delete the words "under section 61 or" and for the words "the Board before the commencement of this Act", substitute the words "the court".'

Sir, I am anxious to protect only such schemes as were framed or approved by the court. That is why I gave notice of this amendment. After all we are now having a new legislation and we are

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giving a new trend to the entire administration of the religious institutions. In the previous Act, most of the schemes were framed by the court, and so let us allow the entire administration to fall in line with the schemes framed or approved by the court."

SRI L. N. GOPALASWAMI:—"Sir, in seconding this amendment, I only wish to point out that we want to take in certain institutions for which schemes have been provided. But we do not want to upset schemes already in existence. Unless it is a scheme approved by the court, we should not take cognizance of it."

THE HON. SRI K. MADHAVA MENON:—"Sir, the amendment if accepted would read thus—

'Where a person has been appointed—

(c) as manager in any scheme framed by the court.'

Sir, this means that my hon. Friend wants that if a manager is appointed under clause 61, he should have no power. I cannot agree to it.'

The amendment was put and lost.

MR. SPEAKER:—"Mr. Karanth is not here. The Hon. Minister will move his amendment."

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I beg to move—

'In the first proviso, for the word "provided", substitute "Provided also" and before that proviso, insert the following proviso:—

"Provided however that before issuing any such certificate in respect of any property, the Commissioner shall give notice to the trustee, office-holder or servant of the religious institution, as the case may be, of his intention to issue the certificate and consider the objections, if any, of such trustee, office-holder or servant."

Sir, in cases where the officers are resisted and where an application has to be made to the magistrate, a certificate from the Commissioner in a prescribed form setting forth that the property in dispute belongs to the religious institution has to be issued so that the magistrate may take cognizance of the case. For the property may be in the possession of somebody and the magistrate will have to issue notice to him. It is for that purpose this proviso is necessary."

• The amendment was put and carried.

SRI T. VISWANATHAM:—"Sir, I beg to move—

'Delete the Explanation.'

Sir, the Explanation reads thus—

• 'A person claiming under an alienation contrary to the provisions of section 31 or 36 shall not be regarded as a person claiming in good faith within the meaning of this section.'

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Now, Sir, clauses 31 and 36 relate to the possession and title of immovable properties. If a person is in possession of a property and claims it under an alienation and is in possession of it, because he claims to be an alienee from a trustee of the property, then under this Explanation his title to the property is disputed. Even though he shows his title-deed, he cannot be claimed to hold his property in good faith. This is what it comes to by reading clauses 31 and 36 together. Then, Sir, clause 36 deals with inams. The same thing that happens to a transaction under clause 31 happens to a transaction under clause 36. Why should Government conclusively presume that the alienee is not holding his property in good faith? Therein, Sir, we are treading on very dangerous grounds of jurisprudence. It is a very extraordinary thing to say, even when a man shows his document of title, that Government should declare him not to possess his property in good faith. Therefore I say, this Explanation should be deleted."

SRI V. RAGHAVAYYA :—" Sir, I second this amendment. If for any reason this Bill may be declared *ultra vires* of this Legislature, if for any reason the Government of India may come down upon this Government to obliterate root and branch the whole framework of this Bill, it is if we adopt this Explanation. Perhaps this Legislature may pass this Bill under the power given to them in the concurrent list of the Constitution. But, Sir, the adoption of this Explanation goes contrary to the fundamental principles of the Evidence Act. What is possession in good faith is a function to be judged by the court. But this Government are prejudging it in this clause. The second proviso says that a certain thing shall be conclusive evidence. This cuts at the legality of any transaction. So, Sir, in the interest of legislation I request Government to withdraw the two provisos."

THE HON. SRI K. MADHAVA MENON :—" Sir, I am very sorry I have to say that we have been talking without understanding exactly the scope of the Explanation. Because this is a case where the trustee or the executive officer sends away or dismisses a temple servant, or a temple servant resigns, but the property of the institution is with that person. The party subsequently appointed should get the property. If he has to say that the property belongs to the institution he should get a certificate from the Commissioner, so that the court may proceed on that certificate declaring that the property belongs to the religious institution. It is only after that certificate is issued that the magistrate may issue notice to the person in possession of the property. Sub-clause (c) specifically says against whom this certificate should be issued. It says, 'in the case of a trustee, office-holder or servant of the religious institution who has been dismissed or suspended from his office or is otherwise not entitled to be in possession of the property or by any person claiming or deriving title from such trustee, office-holder or servant.' I only wish to say, suppose a person is holding a stolen property, knowing it to be stolen. Can it be said

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that he is holding the property in good faith. Similarly, Sir, under clause 31, an alienation of any temple property by a temple servant will not have a valid title unless it is approved by the Commissioner."

SRI V. RAGHAVAYYA :—" What about the third party? "

THE HON. SRI K. MADHAVA MENON :—" There is no question of third party at all here. Clause 31 specifically says, any immovable property belonging to or given or endowed for the purposes of any religious institution shall be null and void unless it is sanctioned by the Commissioner. So that any sale or exchange cannot be said to be done in good faith without the sanction of the Commissioner. Clause 36 relates to inams. Inams cannot be transferred by anybody. So any act done in contravention of clauses 31 and 36 is contrary to good faith."

SRI T. VISWANATHAM :—" Sir, I am very sorry, the Hon. Minister has not caught my point. There is no question of dismissed servant of the religious institution here. That is the red-herring he has brought forward."

THE HON. SRI K. MADHAVA MENON :—" Sir, let us not proceed on wrong principles. I would request my hon. Friend to read clause 30 carefully. Does it not speak of dismissed servant? "

SRI T. VISWANATHAM :—" Sir, the Explanation does not refer to any such man. The Explanation refers to an alienation, in which case the alienee may be a dismissed man, or he may be an undismissed man, or he may be a prospective man to be appointed as trustee. So, where is the question of dismissal in this Explanation? Then, Sir, about the question of certificate. What is the sort of certificate the Commissioner wants to give? The certificate says that the property belongs to the religious institution. But the man will say, 'I have got it by means of a sale or exchange under clause 31 or 36.' So, the question comes to this: The Commissioner becomes a claimant to the property; but it is he who is asked to issue the certificate that the property belongs to the religious institution. When the other man disputes his claim, how is the Commissioner competent to issue the certificate? So, Sir, the Commissioner should not be the judge. When the other man disputes the claim because of legal title vested in him, legally the Commissioner's certificate should not have any operative force at all. His certificate offends against the very fundamentals of jurisprudence. So, I submit, my amendment must be accepted. Otherwise what Mr. Raghavayya says will come to pass."

MR. SPEAKER :—" The question is—
'Delete the Explanation.' "

The amendment was lost.

MR. SPEAKER :—" I am going to put clause 30, as amended, to the vote of the House."

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SRI T. VISWANATHAM :—" Sir, the second proviso to the clause, as amended, reads as follows :—

' Provided also that for the purpose of proceedings under this section, the certificate aforesaid shall be conclusive evidence that the properties to which it relates belong to the religious institution.'

One of the disputants is the Commissioner and the Commissioner's certificate is said to be conclusive evidence! This theory of conclusive evidence was the subject of a great many judicial pronouncements in England and America. I shall refer to one or two sentences from a book called 'Law and the Executive in Britain' by Schwartz. The Committee on Ministers' Powers or the Donoughmore Committee which went into the scope of delegated legislation in England was of the opinion that the 'conclusive evidence' clause 'seems on its face to have been designed with the express purpose of completely and finally excluding all control by the courts.' Again, referring to the conclusive evidence clause, Lord Hewart in his book of 'The New Despotism' asks: Is it or is it not tolerably certain that the majority in Parliament were not aware of such a provision or, being aware, very few realized the effect of the words 'conclusive evidence'? May I also quote a few sentences from the book 'Concerning English Administrative Law' by Sir Cecil Thomas Carr?

'The telephone service in Britain is conducted by the Post Office. A telephone subscriber disputed the number of calls for which he was charged. The Postmaster-General sued him for the few shillings in dispute and put in a certified copy of the account. The Telephone Regulations in force declare that a certified copy shall be conclusive evidence both of the amount and of the subscriber's obligation to pay it. The subscriber's counsel protested that so monstrous a regulation must be *ultra vires*; it made the Postmaster-General judge in his own cause.'

In this Bill also, when the Commissioner is claiming the property, it is not right that his certificate should be treated as conclusive evidence barring all judicial evidence altogether."

SRI D. V. RAMASWAMI :—" Mr. Speaker, Sir, I am afraid I cannot agree with Sri T. Viswanatham. This clause deals with the contingency when a trustee or a manager is resisted in obtaining possession of the properties of a religious institution from one who is not entitled to keep them. In civil and criminal matters, a court alone is competent to issue an order about the title to a property. But in this case the certificate of the Commissioner will be of great help in enabling the magistrate to direct immediate delivery of possession of the properties to the trustee or manager. the *onus probandi* or burden of proof rests with the person who is asked to deliver the properties and he has to prove how he is entitled to be in possession. I think that the clause as amended by the Government amendment is in order."

THE HON. SRI K. MADHAVA MENON :—" Sir, the Commissioner's certificate is not at all a conclusive proof of title to properties in all cases. It is taken as a conclusive proof only for the purposes of proceedings under this clause. Suppose a dismissed

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or suspended trustee or servant of a religious institution is in possession of a house or some other properties of the institution, and he resists the lawfully appointed trustee or manager in taking possession of them. We say that the executive officer or manager may apply to the court of a First-Class Magistrate for possession of those properties. The clause does not at all prevent the person in hostile possession from filing a suit in a court and establishing his title to the properties. Only for the purpose of the proceeding before the Magistrate, the Commissioner's certificate is treated as conclusive evidence that the properties to which it relates belong to the institution, and the Magistrate is asked to direct delivery of the properties to the lawful authority. The certificate is not a conclusive proof of everything in the world."

Clause 90 as amended was put and carried.

Clause 91.

MR. SPEAKER :—" The motion is—
'That clause 91 do stand part of the Bill.'"

SRI T. VISWANATHAM :—" Sir, I move—
'In clause 91, delete sub-clause (2).'

"The first sub-clause respects the discretion of the court in apportioning the cost of proceedings. The second sub-clause is not necessary. It is better to leave the discretion in a matter like this to the court. With regard to appeals and applications before the Commissioner or a Deputy Commissioner, they are merely departmental proceedings and statutory provision for apportioning the cost of such proceedings need not be made. If there is no statutory provision, the conditions may be varied from time to time. So far as the discretion of the court is concerned, it is necessary and we may give statutory recognition to it."

SRI V. RAGHAVAYYA :—" Sir, I second the amendment.

"Sub-clause (1) of clause 91 is only a rehearsal of what is contained in the Civil Procedure Code about the powers of the court. It is not proper for a legislation to repeat what is contained in the general law of the country. It is no good of our telling the court as to what it should do. It has already got the power contemplated by this sub-clause. My view is—this sub-clause is not necessary. The grace of legislation requires that it should go.

"Sub-clause (2) is grotesque because what should be left to the discretion of the court is left to the discretion of the Commissioner or Deputy Commissioner. To say that the cost of a proceeding should be apportioned by the Commissioner or Deputy Commissioner looks to a lawyer at least, if not to anybody else, rather illegal, grotesque and improper."

THE HON. SRI K. MADHAVA MENON :—" Sir, it is the objection that is illegal, grotesque and improper. Sri Raghavayya

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says that sub-clause (1) is not necessary, because the power contemplated by it is already conferred on the courts by the Civil Procedure Code. But when we say that the discretion of the court is subject to the provisions of clause 82, this sub-clause is necessary. Sri Viswanatham has no objection to this sub-clause and he says that it is perfectly right.

"Sub-clause (2) relates to the cost of proceedings before the Commissioner or Deputy Commissioner. Suppose there is a proceeding before a Commissioner in which the claim of the trustees is being resisted by another person. Whether the cost of that proceeding should be met from the trust funds or whether the other person should be asked to pay is left to the discretion of the Commissioner. What power is given to the Magistrate for apportioning the cost of proceedings in a court is given to the Commissioner in respect of proceedings before him."

SRI T. VISWANATHAM :—" Sir, I object to the Commissioner or Deputy Commissioner apportioning the cost of proceedings before him as the matter does not stop there. In a departmental proceeding, he can say as to who should pay and how much he should pay. This provision embodies a curious principle of procedure. It says that the Commissioner can pass an order apportioning the costs and that the court should execute the order as if it had been passed by itself. I have not heard of such a provision at all. (Interruption by the Hon. Sri K. Madhava Menon.) The defence of the Hon. Sri Madhava Menon is that this kind of grotesqueness exists in the existing Act. I did not see it and I plead guilty. If the Commissioner has got to recover anything by way of costs, he can say that such and such a party should pay. But there is no separate provision in which it is said that the Commissioner can recover the costs from any party. That is one thing. The second thing is that he can pass an order and send it to a civil court for execution. What is the earthly connection between the Commissioner who is appointed by the Government and the court? If the Commissioner wants to recover any cost, let him file a suit, get a decree and get it executed. But it is said that the Commissioner's order is to be treated by the civil court as if it is a decree of the court and executed. This is a strange thing. If this is the first precedent to be passed by a democratic Assembly like this, I have nothing to say."

THE HON. SRI K. MADHAVA MENON :—" Sir, the conception of democracy differs, if this provision is objectionable. I will take a concrete instance. In clause 62 which we have already passed, there are several matters which can be decided by a Deputy Commissioner. There is provision for appeal to the Commissioner against the order of the Deputy Commissioner and for instituting a suit in a court against the order of the Commissioner. Suppose the trustees of a religious institution say that such and such a property belongs to the institution, and the person in possession of it disputes that statement. The person goes before the Commissioner.

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After making enquiries the Commissioner says that the property does not belong to the institution, that the trustees were wrong in claiming the property for the institution and that they should pay the cost of the proceedings to the person in whose favour he has passed the order. He may be a stranger and the Commissioner may say that the cost of the proceedings should be met by the trustees and paid out of the trust funds. The party is entitled to get the cost from the trust funds. The Commissioner's order is final, as no appeal to the court is provided for. When the matter stops with the Commissioner, how can a court apportion the costs?

"The Court is not bound to execute the order of the Commissioner in all cases. It is provided that the order shall be executed by the court if and in so far as the court considers it to be a reasonable one. The court can go into the order. Only when it is satisfied about its reasonableness, the court is bound to execute it. This is not against democracy."

SRI V. RAGHAVAYYA :—" On a point of information, Sir, may I know what is the court referred to by the Government in sub-clause (2) of clause 91."

THE HON. SRI K. MADHAVA MENON :—" A court means, a civil court having jurisdiction over the matter. The definition clause may be seen."

MR. SPEAKER :—" The question is—

'Delete sub-clause (2) of clause 91.' "

The amendment was lost.

Clause 91 was put and carried.

Clause 92.

MR. SPEAKER :—" The motion is—

'That clause 92 do stand part of the Bill.' "

THE HON. SRI K. MADHAVA MENON :—" Mr. Speaker, Sir, I move—

'(1) In sub-clause (1) of clause 92, for the paragraph beginning with the words "the trustee, or where there is more than one trustee and ending with the words during which the act or default so continues", substitute the following :—

"the trustee, or where there is more than one trustee, each of the trustee shall be punishable with fine which may extend to two hundred rupees; and in case the act or default complained of continues for more than one month, with a further fine which may extend to one hundred rupees for every week or part thereof during which the act or default so continues."

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"Sir, the object of the amendment is this. Originally the power of punishment was given to the Commissioner and now we are saying that the business of the Commissioner is simply to complain and it is the court that should give the decision and so, the amendment takes away the power from the Commissioner and gives it to the court. It is for that purpose that we have removed the words 'unless he shows reasonable cause to the satisfaction of the Government' from clause 92 (c) and now it means, that where the trustee disobeys or does not comply with any of the things required of him under this Bill, he will be committing an offence under this clause. I hope, Sir, the House will accept the amendment."

SRI V. RAGHAVAYYA :—"Mr. Speaker, Sir, I wish to oppose this amendment. I submit, Sir, that the penalty for the default in such a thing is too drastic and the punishment contemplated is absolutely unwarranted. I do not think that a similar provision exists in any of the Bills hitherto passed in this House. In this clause you are contemplating that the default of any and every action on the part of the trustee to be an offence even though it may simply be one of negligence or delay. Even if there is a delay of more than a month in the submission of a reply or a return, the trustee can be fined to the extent of Rs. 100."

THE HON. SRI K. MADHAVA MENON :—"Sir, the fine of Rs. 100, etc., is provided at the end of the second sub-paragraph of sub-clause 92 (1) (c), but this Government amendment is for the former portion of it, up to the end of the words '... default so continues'. I should like to know whether the hon. Member opposes the original clause or the present amendment of the Government, Sir."

SRI V. RAGHAVAYYA :—"Sir, I am opposing the quantum of fine that is proposed here. For instance, it is said that in case the act or default complained of continues for more than one month, a fine not exceeding one hundred rupees will be imposed, for every week or part thereof during which the act or default continues. There is no Act in the whole world like this. That is why I oppose this, Sir."

SRI T. VISWANATHAM :—"Mr. Speaker, Sir, I must congratulate the Government on the fact that instead of themselves punishing these poor trustees for any of these defaults, which was their original intention, now they have left the matter to a court and to that extent they have changed their ideas, and for that they deserve to be congratulated. The clause says, that the trustee can be fined for any refusal, neglect, or failure to comply with the provisions of section 27 or 28 or any of the various things described in sub-clauses (1) (b) and (1) (c) of clause 92. Clause 27 says that the trustee in every temple shall prepare and maintain a register, showing the names of past and present

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trustees, and particulars as to the custom, if any, regarding succession to the office of trustee, particulars of endowments, title deeds and documents, particulars of *dittams*, the names of offices to which any salary is attached, the particulars about jewels, gold, silver, precious stones, vessels, utensils, etc., and other movables belonging to the temples, particulars of idols and other images and such other particulars as may be required by the Commissioner. Clause 28 says that there shall be an annual verification and scrutiny of these registers and a statement about it shall be submitted to the Commissioner.

"Now, Sir, these are things which, in the ordinary course of official work, all Government servants are enjoined to do, but has it ever been contended that omission or neglect to do any of these things will amount to a criminal offence? The Government can take action against any person for his neglect of duty. They can suspend him or censure and even dismiss him, in case there is any grave default. But it should never be considered as a criminal offence and the person punished for that. Even in our local administration, where a clerk has neglected to do his duty, we simply warn him, or transfer him or supersede him or even suspend him, but we never deem it a criminal offence. I submit, Sir, there should be some ordinary sense of justice in these things and my hon. Friend Sri V. Raghavayya is perfectly right in opposing this clause and I also give my support to him."

The amendment was put and carried.

Sub-clauses (2) and (3).

THE HON. SRI K. MADHAVA MENON :—"Sir, I move—

'For sub-clauses (2) and (3) of clause 92, substitute the following sub-clauses:—

"(2) No court shall take cognizance of an offence punishable under sub-section (1) except on the complaint in writing of the Commissioner.

(3) No offence punishable under sub-section (1) shall be inquired into or tried by any court inferior to that of a Magistrate of the first-class.

(4) The Commissioner may accept from any trustee who has committed or is reasonably suspected of having committed any of the offences referred to in sub-section (1), by way of composition of such offence, a sum of money not exceeding one thousand rupees.

(5) Any fine imposed under sub-section (1) or any money payable by way of composition under sub-section (4) shall be paid by the trustee from his own funds and not from the funds of the religious institution concerned."

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SRI T. VISWANATHAM :—" Sir, these defaults and neglect of duty are treated as criminal offences here, while clauses 27 and 28 do not say that neglect or default of any of the duties mentioned therein would constitute a criminal offence. They are simply certain duties and responsibilities imposed on the trustees and their agents and unless it is declared in clauses 27 and 28 that the default or breach of any of these duties shall be deemed a criminal offence and punishable with a fine, it would not be legal or correct to make them a criminal offence in this clause and punishable with a fine. Let us inform these trustees hereafter, whenever they accept the position of trustees in temples that if they fail to maintain these registers or neglect to do any of the duties enjoined upon them by clauses 27 and 28, they would be committing an offence punishable with a fine up to Rs. 100, and let us see how they react."

THE HON. SRI K. MADHAVA MENON :—" Sir, my only reply to the remarks of my hon. Friend Sri T. Viswanatham is that it is not this clause that makes the default or refusal to do any of the duties mentioned in clauses 27 and 28 as a criminal offence. What we have already passed after a great deal of discussion makes them criminal offences."

MR. SPEAKER :—" The question is—

'For sub-clauses (2) and (3) of clause 92, substitute the following sub-clauses:—

"(2) No Court shall take cognizance of an offence punishable under sub-section (1) except on the complaint in writing of the Commissioner.

(3) No offence punishable under sub-section (1) shall be inquired into or tried by any court inferior to that of a magistrate of the first class.

(4) The Commissioner may accept from any trustee who has committed or is reasonably suspected of having committed any of the offences referred to in sub-section (1), by way of composition of such offence, a sum of money not exceeding one thousand rupees.

(5) Any fine imposed under sub-section (1) or any money payable by way of composition under sub-section (4) shall be paid by the trustee from his own funds and not from the funds of the religious institution concerned."

The amendment was carried.

Clause 92 as amended was put and carried.

Clause 93 was put and carried.

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Clause 94.

MR. SPEAKER :—" The motion is—

'That clause 94 do stand part of the Bill.'

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

'For clause 94, substitute the following clause:—

"94. Nothing contained in this Act shall—

(a) save as otherwise expressly provided in or under this Act, affect any honour, emolument or perquisite to which any person is entitled by custom or otherwise in any religious institution, or its established usage in regard to any other matter; or

(b) authorize any interference with the religious and spiritual functions of the head of a math including those relating to the imparting of religious instruction or the rendering of spiritual service."

"Sir, clause 94 as introduced by the Select Committee runs as follows:—

'Save as otherwise provided in or under this Act, nothing herein contained shall—

(a) affect, etc. . . .

"We have simply changed the order of words in the following manner, in order to make them read better:—

'Nothing contained in this Act shall—

(a) save as otherwise expressly provided in or under this Act, affect, etc., . . .

"Sir, this is only a verbal alteration for this saving clause.

"Sir, my hon. Friend, Sri Appa Rao has also given notice of an amendment to add the following at the end of sub-clause (a) of this clause:—

'provided no distinction is made amongst various castes and sub-castes of Hindus in the matter of worship in a temple.'

Sir, that has already been provided in the Temple Entry Act and therefore it is unnecessary here."

SRI T. VISWANATHAM :—" Sir, I move—

'Add a new sub-clause (c) as follows:—

"(c) affect the right of any religious denomination or trustees of a religious or charitable institution to manage their own affairs or administer their property subject to laws regarding the transfer of property and laws regarding public order, morality and health, or the law of crime."

Sir, if the sub-clauses moved by the Government are going to be accepted, my amendment only falls into line with them. Anything must have a beginning, a middle, and an end. Sub-clause (a)

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is the beginning, sub-clause (b) is the middle, and the new sub-clause (c) that I have moved will be the end. The new sub-clauses are moved by the Hon. the Minister as a saving clause. The idea of those sub-clauses is to see that we shall not trench upon the administration or management of the affairs of an institution by the religious denomination concerned. The first sub-clause deals with emolument or perquisite. The second sub-clause deals with interference. The third sub-clause will naturally flow from the provisions of the Constitution. Therefore, the sub-clause that I have moved should be there."

SRI L. N. GOPALASWAMI:—"Sir, I second the amendment. It is easy for the Government to accept this amendment. It gives only the right that the Government themselves feel that they should give in respect of the first two sub-clauses. They have provided for emoluments, perquisite, honour and interference with the religious and spiritual functions. The new sub-clause moved by the hon. Member, Mr. T. Viswanatham gives the right of management. This is specifically provided for in the Constitution itself. I therefore request the Government to accept this new sub-clause which is quite in consonance with the Constitution, and also the words, I find, have been copied from the Constitution."

THE HON. SRI K. MADHAVA MENON:—"The amendment of the hon. Member, Mr. Viswanatham to add a new sub-clause is nothing more than what is contained in Article 26 of the Constitution which says that nothing shall be done which goes against the provisions of the Constitution. The Government themselves are moving an amendment to that effect. Therefore, there is no necessity for the amendment of the hon. Member, Mr. Viswanatham."

MR. SPEAKER:—"The question is—

'Add a new sub-clause (c) as follows:—

"(c) affect the right of any religious denomination or trustees of a religious or charitable institution to manage their own affairs or administer their property subject to laws regarding the transfer of property and laws regarding public order, morality and health, or the law of crime." "

The amendment was lost.

MR. SPEAKER:—"I now put the Government amendment to the vote of the House. The question is—

'For clause 94, substitute the following clause:—

"94. Nothing contained in this Act shall—

(a) save as otherwise expressly provided in or under this Act, affect any honour, emolument or perquisite to which any person is entitled by custom or otherwise in any religious institution, or its established usage in regard to any other matter; or

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(b) authorize any interference with the religious and spiritual functions of the head of a math including those relating to the imparting of religious instruction or the rendering of spiritual service." "

The amendment was carried.

New Clause 94-A.

THE HON. SRI K. MADHAVA MENON:—"Sir, I move—
'After clause 94, insert the following clause:—

"94-A. Nothing contained in this Act shall be deemed to confer any power or impose any duty in contravention of the rights conferred on any religious denomination or any section thereof by clauses (a), (b) and (c) of Article 26 of the Constitution." "

Sir, this is only a copy of the amendment of the hon. Member, Mr. Viswanatham which he just now moved, and which was lost. The present amendment is identical except in the sense that he did not use the words 'Article 26 of the Constitution.' I say that if there are any clauses in this Bill which can be stated to contravene the provisions of the Constitution, it casts a duty upon the court to find out what portion contravenes the Constitution and what portion does not, and only that portion which contravenes should be declared invalid. Otherwise there is the danger of the whole thing becoming invalid. That is the reason for this amendment."

SRI T. VISWANATHAM:—"Sir, we are in a very curious position. When I moved an amendment, the Hon. the Minister rose and said 'I oppose it as it is superfluous.' But now he himself comes forward with this amendment."

THE HON. SRI K. MADHAVA MENON:—"Sir, I did not say that the amendment of the hon. Member was superfluous. I only said 'I am moving a similar amendment, and, therefore, there is no necessity for hon. Mr. Viswanatham's amendment.' "

SRI T. VISWANATHAM:—"It is easy for the Hon. the Minister to say whatever he likes. The wording of my amendment, which the Hon. the Minister did not like to accept, was substantially different. Actually my amendment related to certain rights of management of properties and other things. That has got a definite meaning and a definite purpose. In the previous clause adopted by the House, the Government wanted to make savings with regard to the honour, emolument or perquisite to which any person was entitled by custom or otherwise and they have provided against any interference with the religious and spiritual functions of the head of a math. I said that the Government must make provision for any rights acquired by the religious denomination with regard to the management. That is the positive way of putting things. But perhaps it did not suit the taste

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of the Hon. the Minister. The Hon. the Minister comes and says that, because we have objected in the beginning to the introduction of the Bill, and then raised objections to the several clauses of the Bill after it came from the Select Committee, he thought that the wind could be taken out of the sails if clause 7 was deleted and this beautiful clause was put at the end of the Bill. Because we have been attacking the several clauses saying that they offend the Constitution, he stated 'all right; why do you bother yourself with the Constitution; I shall introduce a safeguard.' What is that safeguard, Sir? The safeguard is 'Nothing contained in this Act shall be deemed to confer any power or impose any duty in contravention of the rights conferred on any religious denomination or any section thereof by clauses (a), (b) and (c) of Article 26 of the Constitution.' This is only a matter for interpretation. There is no use of saying that nothing which offends Article 26 of the Constitution shall be deemed to have been authorized under this Bill. This is no legislation at all if I may say so. When it offends the Constitution, it becomes illegal, and it becomes *ultra vires*. We need not say that here. I am here reminded of a story, Mr. Speaker. Once upon a time there was a woman (even now there are such women) who wanted to save the coconuts from being stolen from the tree. There was the thief. She did not know how to prevent that thief from getting up the tree and stealing the coconuts. Therefore like a good, orthodox Hindu woman, she brought out a *madi dhoti* (which others should not touch) and tied it round that tree so that this thief might not get up the tree and steal the coconuts and slept secure. But the thief got up the tree and took away both the coconuts and the cloth (laughter). That is the moral of the story which the Hon. the Minister must bear in mind when he moves an amendment like the one that he moved. In every legislation we can have a clause like that. Only that would not be legislation at all. On the other hand the amendment which I moved was a positive one which the Hon. the Minister did not accept. I would request the Hon. the Minister, in the interests of legislative rectitude, not to have such a clause. It is not necessary, because it leaves the matter again for interpretation whether a particular clause offends the Constitution or not. It will always be a matter of dispute. To say that whatever offends the Constitution is not supposed to be authorized by this Bill, is superfluous and is an unnecessary burden to all."

THE HON. SRI K. MADHAVA MENON :—" Mr. Speaker, Sir, it is not so strange as the hon. Member, Mr. Viswanatham says. There are a number of Acts which contain saving clauses like this. After the Adaptation of Laws Order, 1950, in the Specific Relief Act, 1877 (Central Act 1 of 1877), section 50 is the saving clause. It says 'Nothing in this Chapter shall affect the power conferred on a High Court by clause (1) of Article 226 of the Constitution.' Why should the Government of India adopt this saving clause? It is not so absurd, because, in the first place

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the hon. Member, Mr. Viswanatham himself moved an identical amendment to that effect, though he did not mention the relevant clause. In the Madras Electricity Duty Act, 1939 (Act V of 1939), the saving clause is 'This Act shall have effect subject to the provisions of Article 288 of the Constitution.' In the Madras City Municipal Act, 1919 (Act IV of 1919), the saving is 'In the opening paragraph after "the council may" insert "subject to the provisions of clause (1) of Article 20 of the Constitution."' In the Madras District Municipalities Act, 1920 (Act V of 1920), the saving clause is 'In the opening paragraph after "council may", insert "subject to the provisions of clause (1) of Article 20 of the Constitution."' Therefore, the saving clause provided in the Bill is not strange. There is a specific purpose. I am advised if in a clause there are sub-clauses which offend the Constitution they alone will be affected, and that the other sub-clauses will remain. That is the *raison d'être* for the new clause 94-A."

MR. SPEAKER :—" The question is—

'After clause 94, insert the following clause :—

"94-A. Nothing contained in this Act shall be deemed to confer any power or impose any duty in contravention of the rights conferred on any religious denomination or any section thereof by clauses (a), (b) and (c) of Article 26 of the Constitution." "

The amendment was carried.

Clause 95.

MR. SPEAKER :—" The motion is—

'That clause 95 do stand part of the Bill.' "

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—

'(1) In sub-clause (1)—

(a) Omit the brackets and figure "(1)";

(b) For the words "in respect of the administration of a religious institution, or in respect of any other matter or dispute", substitute "in respect of the administration or management of a religious institution or any other matter or dispute".

(2) Omit sub-clause (2).'

"The clause, as amended, will read like this—

'95. No suit or other legal proceeding in respect of the administration or management of a religious institution or any other matter or dispute for determining or deciding which provision is made in this Act, shall be instituted in any court of law, except under, and in conformity with, the provisions of this Act. In the amendment that is moved, the words "or management" have been added.' "

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MR. SPEAKER:—"I will put this amendment to the vote of the House. Then I will put the clause, as amended, to the vote of the House. The hon. Member, Mr. Viswanatham may speak on the clause then."

"The question is—

(1) In sub-clause (1)—

(a) Omit the brackets and figure "(1)";

(b) For the words 'in respect of the administration of a religious institution, or in respect of any other matter or dispute', substitute "in respect of the administration or management of a religious institution or any other matter or dispute".

(2) Omit sub-clause (2)."

The amendment was carried.

MR. SPEAKER:—"The hon. Member, Mr. Viswanatham may speak on the amended clause and oppose it. If he moves his amendment, he will get the right of a second speech. But if he opposes the clause, there is no second speech."

SRI T. VISWANATHAM:—"Not to have the right of a second speech is one of the greatest losses that I am incurring to-day, Sir. This clause comes like a crown. It is not completely the Crown, but it is the crowning piece of the law maker's skill and talent, and it shows the extent to which Government could go. The clause says 'No suit or other legal proceeding in respect of the administration or management of a religious institution or any other matter or dispute for determining or deciding which provision is made in this Act, . . .'. I ask, Sir, where have they made provision? In a few clauses they have provided. They have already clipped the powers of the Court. I think the Government themselves will come forward with an amendment to this clause later. Even in cases where they have provided for access to courts, the courts have been debarred from exercising some of their inherent functions and doing what is necessary to meet the ends of justice or equity or conscience. Not satisfied with all that, the Government again are coming with a comprehensive clause, namely, clause 95. I submit here that the Government are not doing the right thing. The Hon. Minister was responsible for bringing some other pieces of legislation and where such provisions existed, we drew pointed attention to this fact and although he did not accede to our request in some pieces of legislation, I remember in one or two other Bills which he sponsored later, he omitted this clause. On one or two occasions he told me, 'Don't worry, that obnoxious clause is not present in this Bill.' I was so glad then but now what has happened again for the Hon. Sri K. Madhava Menon to turn back the wheel of progress? It is not right, Sir, that this Legislature should take upon itself the power of debarring all judicial control. You may be aware, Sir, that there is a theory

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that the State is a Welfare State, and on the ground that it is a Welfare State we have got to do so many things. One of those several things is the proper management of the property of religious institutions and the Government necessarily should take more powers. You cannot run a Welfare State without taking more powers and 'more powers' means necessarily more executive power. But the greater the power the greater the caution for the citizen and the persons who are affected and when they take more powers, they must be more cautious and therefore, the necessity for judicial review increases. We are on a very important point. I am very earnest about this point and the public also are interested in this. Everywhere we are getting comments that the Legislatures of India are ousting the power or jurisdiction of civil courts and judicial review or cutting down the citizen's rights. Even the Chief Justice of India has remarked very strongly that the Legislatures in this country do not seem to understand exactly what they are doing. At one place during the hearing of some case he made remarks and they were reported . . ."

MR. SPEAKER:—"What remarks has he made?"

SRI T. VISWANATHAM:—"He has remarked that the Legislatures of India in these days should understand fully. . ."

MR. SPEAKER:—"He is preaching to the Legislature. It is very bad of him; he has no business to say that."

SRI T. VISWANATHAM:—"Am I entitled to quote him?"

MR. SPEAKER:—"The hon. Member is entitled to quote him. But it is none of the business of the Chief Justice of India to interfere with our work."

SRI T. VISWANATHAM:—"With great respect to you, Sir, I am entitled to rely upon the opinion of the Chief Justice of India and it must carry weight with all of us . . ."

MR. SPEAKER:—"The Hon. the Chief Justice has no business to interfere with our work."

SRI T. VISWANATHAM:—"Whether he interferes or not, I am not concerned with it. He knows the scope of his duties, but when he makes certain remarks, certainly I am entitled to canvass opinion upon the basis of his remarks."

SRI N. S. VARADACHARI:—"It is just possible hon. Sri Viswanatham quoted from memory. Hon. Speaker is quite right; I am not questioning his remarks. But we should not at once jump to the conclusion that the Chief Justice has said something. . ."

MR. SPEAKER:—"According to hon. Sri Viswanatham."

SRI N. S. VARADACHARI:—"I wish your remarks were prefaced with the words, 'if this was true or if the quotation of the hon. Member is correct.' It is just possible under certain limitations in respect of a particular matter . . ."

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MR. SPEAKER :—" I am judging from what the hon. Member Sri Viswanatham stated. That is why I passed that remark."

SRI T. VISWANATHAM :—" I am quoting from memory but the sum total of the impression which I have gathered from his remarks is that it is the duty of the Legislatures to understand exactly what they are doing in respect of any legislation. I submit he had a right to say that and I have at any rate a right to quote him."

MR. SPEAKER :—" The hon. Member is entitled to quote him."

SRI T. VISWANATHAM :—" Sir, his opinions are entitled to greater respect notwithstanding our disagreement with his views. I submit we ought to know our duty. The Legislature is meant to make laws and laws have got to be interpreted and when laws have got to be interpreted, there is no meaning in saying in every piece of legislation, 'We shall exclude the jurisdiction of the courts; we shall not allow the courts to have this power or that power and the ultimate power of control over executive acts is altogether or partially excluded.' I am perfectly within my bounds when I say that in passing a legislation we must observe certain conditions."

MR. SPEAKER :—" I do not object to the hon. Member saying it. He is at liberty to say that."

SRI T. VISWANATHAM :—" I am sure you will never cut my liberties but on the other hand you will expand my liberties from day to day. In the same way I expect also this Legislature to keep in tact the liberties of the citizens of this State. There are three branches—the Executive, the Legislature and the Judiciary—and although there may be the border line, it is not very clear as in the American Constitution as to which is executive, which is legislative and which is judicial. But still our Constitution is based upon the theory that these three things should flourish together. They are parts of the Constitution and we shall not do anything which subtracts from the spirit of the Constitution. If Bill after Bill is brought forward here and on the floor of the House we seek to oust the jurisdiction of civil courts or impede the access of the ordinary man to ordinary civil courts, I submit we are not doing the right thing, we are not standing by the spirit of the Constitution. I draw your attention to the oath of allegiance which we took when we entered this House and I submit we must stand by its spirit and the more the laws we pass ousting the jurisdiction of civil Courts the more the breaches of our allegiance to the Constitution. Let us not become parties to that. I appeal to the Government that it is not necessary for them to have this clause at all."

MR. SPEAKER :—" I have allowed enough time for the hon. Member."

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SRI T. VISWANATHAM :—" I know I am trespassing upon your indulgence, Sir, but this is a very important thing. The House is thin and matters like ousting the jurisdiction of civil Courts must have even a longer and full-dress debate. I appeal to the Government to remove this clause. Its removal does not harm the purposes of this Bill; on the other hand, it will serve the good conscience of all."

THE HON. SRI K. MADHAVA MENON :—" Sir, we have heard a very learned disquisition about the respective functions of the Executive, the Judiciary and the Legislature. My hon. Friend certainly made up for not having a right of reply, in the speech that he has made. With due deference to you, Sir, most of the things he said are redundant, unnecessary or irrelevant. Regarding the fundamental relation between or the duty of the Executive, the Judiciary and the Legislature, most of us also should be expected to know something about them; we are not children who know nothing about them. He warned that we have taken an oath of allegiance to the Constitution and we must keep to it. That sort of threat . . ."

SRI T. VISWANATHAM :—" That is no threat."

THE HON. SRI K. MADHAVA MENON :—" Whatever it is, it is quite unnecessary. My hon. Friend may have more experience than myself or many of us here. But what is the implication of his saying: 'You are going against the Constitution, this goes against your oath of allegiance.' These things are not necessary."

SRI T. VISWANATHAM :—" I did not point the finger like that, Sir." (Laughter.)

THE HON. SRI K. MADHAVA MENON :—" I only point out what he should have done, Sir. Of course, he stood with folded hands, Sir."

"A reference was made to the observations of the Chief Justice of India. His Lordship in deciding a question with regard to a legislation of the Central Provinces Legislature made a remark that in the wording of certain sections the Legal Department of that Government had not looked into the matter carefully and if it had looked into it carefully the difficulty would not have arisen. So, he said in drafting the legislation . . ."

MR. SPEAKER :—" He has not said what we should do?"

THE HON. SRI K. MADHAVA MENON :—" Never, Sir. He has never trespassed upon us. I remember perfectly well, Sir. He has said that in the matter of drafting of legislation care must be taken so that the time of the court need not be wasted and people need not be put into trouble. That is perfectly right and we all must agree with it."

"My hon. Friend also said in certain pieces of legislation we have not had the clause excluding the right to go to court. But

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here we are dealing with religious institutions and endowments and with trust property. While moving clause 67, I said that wherever there is a dispute as to the title to property, the matter should go to the court and the court's decision should prevail. In other matters where it is sheer wasteful litigation involving the spending of the funds of the religious institution, there must be some restriction. It is because it is the property of the trust, and my religious instincts say that we should not allow our money to be spent upon wasteful, unnecessary and extravagant litigations. It is wrong to say that we are ousting the jurisdiction of civil courts. We are not. Wherever a question of title to property or the exercise of a particular right is concerned, we have not excluded the jurisdiction of the court. Therefore, according to me, there is no question of going against the Constitution or excluding the jurisdiction of courts."

Clause 95 as amended was put and carried.

New clause 95-A.

THE HON. SRI K. MADHAVA MENON :—" Sir, I move --

'That after clause 95, the following clause be inserted :—

"95-A. Nothing contained in any law of limitation for the time being in force shall be deemed to vest in any person the property or funds of any religious institution which had not vested in such person or his predecessor-in-title before the commencement of this Act."

"This clause is intended to ensure that no property of a religious institution vests in any person after the commencement of this Act solely by adverse possession."

The motion was put and carried.

Clause 96 was put and carried.

Clause 97.

MR. SPEAKER :—" The motion is—

'That clause 97 do stand part of the Bill.'"

SRI T. VISWANATHAM :—" Sir, this is a wonderful clause and as a matter of fact, this clause must not be there. (Laughter.) Clause 95 was bad and clause 97 is worse. Let me try to explain to you how. It is good that we go into these things somewhat in a more detailed manner as we will then know where we are. The clause says—

'Save as otherwise expressly provided in this Act, no notification or certificate issued, order passed, decision made, proceedings or action taken, scheme settled, or other thing done under the provisions of this Act by the Government, the Commissioner or a Deputy Commissioner, an Area Committee, or an Assistant Commissioner, shall be liable to be questioned in any court of law.'

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I want that the people of this country should be saved from a clause like this. We have seen the effect of such a saving clause previously, and we have been fighting every clause where such a provision is made. We have seen how far the jurisdiction of the courts has been taken away and how far it has been retained. We have passed the clause relating to the bar of suits in respect of administration of religious institutions over the decision of the Commissioner or the Government. Where do we come now? We stand now on the very brink of the precipice. Please see the wording 'No notification, or certificate issued, order passed, decision made, proceedings or action taken, scheme settled, or other thing done . . .'. Even an Act that is not specified here is included in this clause. So no certificate or notification issued by any one of the venerable gentlemen mentioned in the clause shall be liable to be questioned in any court of law. I want to ask you in all earnestness whether this can be called a legislation at all."

MR. SPEAKER :—" Does the hon. Member want to ask me? "

SRI T. VISWANATHAM :—" I mean the Government, Sir. Moreover, such questions are not put to get an immediate answer. When I say 'I ask you.' I am asking the Government and I am asking the hon. Members of this House to consider whether such a clause is consistent with any notion of fairplay to the persons affected. I submit that clause 95 was bad and it offended my conscience. But when I come to clause 97, it simply takes my breath away. Sir, whatever is done, whether it is right or wrong, whether the due process of law has been observed or not, or whether the prescribed rules have been observed or not, whether it is proper or not, or whether it was a certificate issued or order passed by an Assistant Commissioner, or an Area Committee, the clause says that it shall not be questioned in a court of law. I submit that this is the very limit to which we can go. I ask the Hon. Minister to consider for one moment calmly without thinking that I have been obstructing the early passage of the Bill and have been obstructing the various clauses, the implications of this clause. For heaven's sake, let him agree to the dropping of this clause 97. It will do him good, it will do us good and it will do everybody good."

SRI N. S. YARADACHARI :—" Mr. Speaker, Sir, I just want to get some little information from the Hon. Minister by way of illustration. For instance, in the case of charitable endowments, it is provided that if only mismanagement was proved, there can be a notification of the institution, or of the endowment. Now, the matter whether there has been mismanagement or not is left entirely to the Commissioner or to the Government to decide. I do not exactly remember the relevant clause; but it is either of the two. Suppose the Commissioner or the Government come to the conclusion that mismanagement to their

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SRI V. RAGHAVAYYA :—" Sir, I move—

Delete the first proviso to clause 99.

I do not want this first proviso to clause 99; because, these Area Committees are selected at random. What is in the interests of the temple or the institution might be otherwise better known. Suppose there is a case of emergency. The Area Committee postpones it and does not incur the necessary expenditure. Or, it may be that it fails to afford certain facilities in connexion with a festival. There is an analogous provision in the Local Boards Act, where the Collector is empowered to take action in emergencies when the municipality fails to do a particular thing. Of course, these are extraordinary powers which have to be exercised on extraordinary occasions. The Area Committee consists of people who have not been properly elected. If that Committee fails to do certain things which are absolutely necessary and which are in the best interests of the temple or institution concerned, then the Assistant Commissioner will have to compel them to do those things. I, therefore, feel that this proviso need not be there."

SRI T. VISWANATHAM :—" I second the amendment, Sir."

THE HON. SRI K. MADHAVA MENON :—" Sir, the hon. Member Sri Raghavayya, says that when the Area Committee fails to do a particular thing, the Assistant Commissioner must have power to compel it to do that. I entirely agree with him that in cases of emergency, the Assistant Commissioner must direct the doing of any act which will be necessary in the interests of an institution. That is exactly what has been provided in clause 99. In the first proviso, we have only said that he shall not act in contravention of any order of the Committee prohibiting the doing of any particular act. So, it is not a question of failing to do anything. Sri Raghavayya wants that the Assistant Commissioner must have power to act even against the wishes of the Committee. I may say that it is not the intention in appointing these Area Committees at all."

The amendment of hon. Sri V. Raghavayya was, by leave, withdrawn.

MR. SPEAKER :—" Let the hon. Member, Sri Viswanatham, oppose the clause. He need not move for its deletion."

SRI T. VISWANATHAM :—" Sir, I oppose clause 99. In the case of the trustees, we found that their discretion was hampered. The Government appoint the trustees. They do not want to elect them because they feel that if the trustees are elected, they will destroy the temples. Therefore, they say 'we will have our own trustees'. Then here, there is an Area Committee which will not be elected but will be constituted for certain types of temples

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and certain areas. The Government will put in their own nominees and allow the Assistant Commissioner to lord over them. I cannot really understand such a provision. The Area Committee does not consist of such irresponsible persons as will not do anything even when it is urgently needed for the institution. This distrust on their own men, men who are not even elected but chosen by the Government and appointed by the Government, men who will exercise certain powers practically at the pleasure of the Government, because they can be removed or dismissed in the middle of their term, will not be conducive to good administration. To say that an Assistant Commissioner, one who need not be a person belonging to that area, will in certain emergencies lord over them is something ununderstandable. If we want to have good administration, we should not have such checks and counter-balances at every stage. They will lead to deadlocks. This extra caution, this extra suspicion, will lead to endless delay and absolute inefficiency in administration and will ultimately create a sense of frustration in the trustees, the Area Committee and the officers. They will begin to feel that there is no sole responsibility, no exclusive responsibility, on anybody to anybody. I, therefore, submit that these Area Committees must be trusted to do all that they want to do and the Assistant Commissioners should not be permitted to lord over them. I want the Government to reconsider the matter. Of course, they may say—I see the Hon. the Minister for Law only too ready and too willing to rise immediately and say 'I cannot'—it is not easy to accept such a position. My point may seem absurd to the Government. But I do submit, though I may not have much experience of such bodies, these Area Committees must be left to themselves. I have some knowledge of non-officials who are plugged to such bodies and with that knowledge, I feel they must have some freedom to act by themselves."

SRI M. S. PATTABHIRAMIAH :—" Mr. Speaker, Sir, the Government are under a wrong impression that the Area Committees will be slow in taking action whenever urgent action is called for. I think that the Area Committee will be quicker than the Assistant Commissioner in taking action. The Assistant Commissioner may not be a local man. The idea behind the constitution of Area Committees is that most of the members would be residing in that area and, therefore, would be able to see and act as quickly as possible whenever urgent action is called for. Again, Sir, the two provisos to this clause do not confer any extraordinary powers on the Assistant Commissioner either. His discretion is also fettered. The whole justification for this clause is some unforeseen emergency which the Government presume they can foresee now. If the Government only pause for a while, they will see that there is no possibility of any emergency arising while the Area Committee is functioning. I wish the Hon. the Minister reconsiders the matter and, does not, if I may use the word, persist in having this clause included in the Bill."

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THE HON. SRI K. MADHAVA MENON :—" Sir, I was not so much surprised at the hon. Member, Sri Raghavayya's amendment, as I am now at the opposition to this clause by Sri Viswanatham. The clause says—

'The Assistant Commissioner may, in cases of emergency, direct the doing of any act which would ordinarily have to be done by the Area Committee, if the immediate doing of such act is, in his opinion, necessary in the interests of a religious institution :'

This is hedged in with the proviso :

'that the Assistant Commissioner shall not act under this section in contravention of any order of the Area Committee prohibiting the doing of any particular act :'

Suppose he acts. Then he shall report the action taken under this clause and reasons therefor to the Committee at its next meeting and the Committee may annul, modify or reverse the order passed by the Assistant Commissioner. The Area Committee may meet once or twice a month and an emergency may arise during the interval. In that case the Area Commissioner will act and whatever he has done will be placed before the Area Committee at its next meeting. The Committee will have power then to annul, modify or reverse the order passed by the Assistant Commissioner. The Government are not trying to kick anybody—much less the Area Committee—as was contended by my hon. Friend, Sri Viswanatham. There is no such thing as kicking of the Area Committee except in the imagination of some people."

SRI V. RAGHAVAYYA :—" On a point of information, Sir, I want to know from the Hon. the Minister what will happen in a case where a work costing one thousand or two thousand rupees has been executed which the Area Committee felt reluctant to do and which the Assistant Commissioner forced it to do. I shall explain it more fully. Suppose a work has been carried out in which the Area Committee did not co-operate and suppose when the matter is subsequently placed before the Area Committee for its approval, it refuses to approve of that work. In such a case, is the unfortunate Assistant Commissioner to shell out the cost of such a work?

" Secondly, Sir, suppose an Area Committee wants to put the Assistant Commissioner in the wrong. Suppose it passes a resolution, 'the Assistant Commissioner shall not pass a particular order; he shall not interfere with our affairs'. Is he then to keep quiet? Is there any provision to override the resolution of the Area Committee? I want the Hon. the Minister to clear these points."

THE HON. SRI K. MADHAVA MENON :—" If the action of the Assistant Commissioner is such as will not be approved of by the Area Committee or is not approved of by the Area Committee, then the Assistant Commissioner will have to suffer the consequences of his act. If it involves expenditure, he will have to

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refund the money? He is a Government servant and he has got superior officers above him. Surely he will suffer the consequences of his acts."

Clause 99 was put and carried.

New Clause 99-A.

THE HON. SRI K. MADHAVA MENON :—" Sir, this is a new clause . . ."

SRI L. N. GOPALASWAMI :—" On a point of order, Sir, the proposed new Clause 99-A had been included in the Bill as reported upon by the Joint Select Committee as Clause 8 which was deleted earlier on a Government Motion. Is it open, Sir, to the Government to bring in the same clause here as 99-A, that is, as a new clause? "

MR. SPEAKER :—" Did the House give a verdict on that? "

SRI L. N. GOPALASWAMI :—" As I have already said, Sir, it was deleted on a Motion of the Government which was accepted by the House."

SRI T. VISWANATHAM :—" The Government moved an amendment to clause 8 (for its deletion) and it was carried."

THE HON. SRI K. MADHAVA MENON :—" Sir, the Government did not move for its absolute deletion from the Bill. I made it clear on the occasion that it was sought to be deleted as the proper place for that clause would be under clause 99. I only said that I would not have it there but have it here."

SRI L. N. GOPALASWAMI :—" The proper procedure should have been for the Government to make a Motion seeking to revise the order in which the various clauses are arranged. But it was not so. The Hon. the Minister for Law made a Motion for the deletion of clause 8."

MR. SPEAKER :—" I understand the position now. I quite well remember that the Hon. Minister made the point quite clear that he would reintroduce the same clause as Clause 99-A. He may move the new clause."

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—
"After clause 99, insert the following clause :—

" 99-A. (1) The Government may call for and examine the record of the Commissioner or any Deputy or Assistant Commissioner, of any Area Committee or of any trustee in respect of any proceeding not being a proceeding in respect of which a suit or an appeal to a Court is provided by this Act, to satisfy themselves as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed

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therein; and, if, in any case, it appears to the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, they may pass orders accordingly.

Provided that the Government shall not pass any order prejudicial to any party unless he has had a reasonable opportunity of making his representations.

(2) The Government may stay the execution of any such decision or order, pending the exercise of their powers under sub-section (1) in respect thereof."

Sir, this is nothing but the original Clause 8 as approved of by the Joint Select Committee. We felt that it would not be appropriate to incorporate this clause in Chapter II since the residuary powers of the Government should come only at the end of the Bill. This clause vests certain residuary, certain revisionary powers in the Government. The Government are enabled by this provision to call for and examine certain records to satisfy themselves as to the regularity, legality or propriety of any decision or order passed therein. The Assistant Commissioner, the Deputy Commissioner, the Commissioner and the Area Committees are all appointed by the Government and they should see that there are no irregularities in their orders and if there are any, they should annul, modify or revise the orders suitably."

MR. SPEAKER:—"The motion is—

'That clause 99-A do stand part of the Bill.'"

SRI L. N. GOPALASWAMI:—"Mr. Speaker, Sir, I oppose this clause. While moving for the deletion of Clauses 7 and 8 under Chapter II, the Government were pleased to say that they were advised by their Legal Department or some such authority to omit both of them . . ."

THE HON. SRI K. MADHAVA MENON:—"Both the Clauses? No. I never said that. Do not put into my mouth anything that I have not said."

SRI T. VISWANATHAM:—"Will you please repeat what you said on that occasion?"

THE HON. SRI K. MADHAVA MENON:—"I have already repeated what I said on that occasion."

SRI L. N. GOPALASWAMI:—"Sir, the House was then made to understand that both Clauses 7 and 8 were sought to be deleted since some technical or legal objection existed to their remaining in the Bill. He also referred to the Constitution at that time and he said something to the effect that those clauses offended the provisions of the Constitution. I am not able to recollect what exactly he said on that occasion. In a way, we were

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made to understand that such a provision might offend the provisions of the Constitution. Such being the case, I do not know, Sir, how by renaming Clause 8 as Clause 99-A such an objection is taken away. How a power that could not be taken then can be taken now? How was Clause 8 having a more adverse effect on the Constitution and how does the present one create a lesser effect? I do not know what difference it makes now after being rearranged as Clause 99-A . . ."

THE HON. SRI K. MADHAVA MENON:—"My hon. Friend is imagining something, Sir. I never said that Clause 8 offended the provisions of the Constitution."

SRI L. N. GOPALASWAMI:—"While discussing Chapter II, I remember well that the Hon. the Minister made mention about some legal opinion which went against Clauses 7 and 8. Whether it was out of place there or whether it offends the Constitution, this power which the Government seek to take under Clause 99-A is far-reaching in effect. The Government take into their hands all powers which are not warranted and which the Constitution forbids them to take. This clause says that the Government can call for and examine all records maintained by the Commissioner, Deputy and Assistant Commissioners, Area Committees and Trustees and reverse, annul or modify the orders that they might have passed. They are seeking to possess supreme authority in all matters. I do not see why such vast powers should be given to the Government under the pretext of revising the order in which the various clauses are arranged. Apart from the fact that this provision offends the Constitution, it is too much for the Government to poke their nose into everyone of the thirty or forty thousand endowments that exist in this State to-day and control them."

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I also wish to oppose the insertion of this new Clause 99-A. The Hon. the Minister said on a former occasion that it was out of place under Chapter II. Now I say it is out of place here also. I do not want any hon. Members of this House to confer such all-over-riding, all-embracing powers on the Government. The Government may call for and examine any record of the Commissioner, of any Deputy or Assistant Commissioner, of any Area Committee and of any trustee."

"I submit, Sir, their jurisdiction continues and extends not merely to their officers but also to the records of the trustees and all Area Committees. I submit having hedged in their powers and having provided so many checks and balances, as I have already said in the administration of these temples and institutions, Government now come forward and say whatever might have been done, the Government in the final stage or at any time shall have a reserve power to do whatever they like. It is a general order, it is a very

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tall order. It does not say on what grounds the Government propose to interfere. It only mentions three words 'Correctness', 'Legality' and 'Propriety'. Sir, it comes to this that when a thing is correct, it may not be legal. When it is legal it may not be correct. When it is both, it may not be appropriate. They may interfere on the ground that it is not appropriate. The question of propriety is a very flexible thing. Is it open to the Government to say 'Whatever may have been done on one or other of the grounds, we are going to upset every order, or pass whatever order we like?' The Government is asking for too much power. It is too much of a surrender of the liberty of this House. The Government can certainly ask this Legislature and the Legislature is after all quite willing to give whatever they want. The illegality or otherwise will be decided in a court of law by the parties and if it is an incorrect order, already a superior officer or the court might have looked into it. If the Government want to interfere on the ground of propriety, it is too vague a thing and this House shall not give such a power, at any rate, I shall not be a party to giving such a power and no hon. Member can be a party to giving such vast and overriding power to the Government under the present Bill to pass any order they like."

SRI N. S. VARADACHARI :—" Sir, I do not wish to go into the technical aspect of the question. I only wish to say this. In fact the Government is entitled to reserve such powers having appointed all the trustees, the Area Committees and all that, it stands up to the scheme of centralization of which the scheme is full—in fact I may be allowed to call it over—centralization. My objection to this clause is on the merits. It looks as though the Government want to decentralize by setting up Area Committees and appointing trustees and thus divest themselves of the most part of the responsibility and finally say in one clause: 'All right, this decentralization may not work properly. Let us reserve all the powers.' The very objects that the Hon. Minister said just now, that wasteful litigation should be avoided, trust funds should not be frittered away and so on, all that ceases to be of value as against the scheme of over-centralization. On the one hand Government seem to commit themselves to the policy of decentralization saying 'all right we shall have nothing to do with religious institutions directly. We shall hand them over to trustees and heads of maths and other people subject to the provision of some control'. But the control should not be comprehensive or overriding, especially in view of the fact that the Government are preoccupied too much with the other problems of the State and should not take upon themselves the over centralizing power of interfering in everything and calling for the records in respect of every matter. The Government may keep some power somewhere, but to keep such a sweeping power is certainly out of the scope of the scheme. I can only understand the scheme as decentralization and of entrusting power to decentralized bodies."

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THE HON. SRI K. MADHAVA MENON :—" Sir, I may remind my hon. Friend Sri Gopalaswami as to what I said when moving for the deletion of Clauses 7 and 8. I went into the official report and this is what I said then—

We agree that it is not necessary to have such a wide and all embracing clause and so have brought forward the present amendment for the deletion of that clause. Regarding clause 8, though it is omitted here, it has been inserted at the end as new clause 99-A as that is a more proper place than Chapter II."

"With regard to the condemnation of this new clause by my hon. Friend Sri Viswanatham, I want to point out that the aim of the Government is 'to call for and examine the records of the Commissioner or any Deputy or Assistant Commissioner, of any Area Committee or of any trustee in respect of any proceeding, not being a proceeding in respect of which a suit or an appeal to a Court is provided by this Act'. Where suit or appeal is provided, Government have no jurisdiction. Where discretion is not vested in the officers of the Government,—the Commissioner, the Deputy Commissioners and the Assistant Commissioners are officers of Government,—suit or appeal is provided. But where it is within the discretionary powers of these officers to settle matters, Government say that they must have reserve powers like this which will be necessary in the circumstances of the case. Perhaps the very people who do not want these reserve powers to vest in the Government may later come up to Government and ask them to exercise this provision and assist these institutions and temples. There is nothing improper in this. Such a reserve power is necessary for any Government."

MR. SPEAKER :—" The question is—

'After Clause 99, insert the following clause :—

"99-A. (1) The Government may call for and examine the record of the Commissioner or any Deputy or Assistant Commissioner, of any Area Committee or of any trustee in respect of any proceeding, not being a proceeding in respect of which a suit or an appeal to a court is provided by this Act, to satisfy themselves as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed therein; and if, in any case, it appears to the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, they may pass orders accordingly :

Provided that the Government shall not pass any order prejudicial to any party unless he has had a reasonable opportunity of making his representations.

(2) The Government may stay the execution of any such decision or order, pending the exercise of their powers under sub-section (1) in respect thereof."

Clause 99-A was carried.

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MR. SPEAKER :—" We have five more clauses to be considered. I suggest to the hon. Members that we may sit for some time after 5 o'clock and finish them. (The hon. Member Sri T. Viswanatham stood in his seat.) The hon. Member gave a notice of about 237 amendments and moved about 161 amendments or so. So I think he will have no objection to sit for a little time longer."

SRI T. VISWANATHAM :—" I am glad for the information given to me by the Hon. Speaker. I was myself trying to find this out. I am glad I have omitted to move so many amendments. But to ask us to sit after 5 o'clock will be inconvenient . . ."

Clause 100.

MR. SPEAKER :—" The motion is—

'That clause 100 do stand part of the Bill.'

THE HON. SRI K. MADHAVA MENON :—" I beg to move, Sir—

'That in Clause 100 (2)—

"Omit item (b)''.

"The effectual exercise of the powers of superintendence vested in the Government is to be omitted'. There is no power now vested in the Government. This is a consequential amendment for deleting Clause 7, because general superintendence is taken away from Government and this is unnecessary."

The amendment was put and carried.

THE HON. SRI K. MADHAVA MENON :—" I move, Sir, that—

'in item (i) for the words "the quorum", substitute the words "and the quorum."

for item (k), substitute the following item :—

"(k) the proper collection of the income of and the incurring of expenditure by, religious institutions."

in item (s) for the words "by such persons as the Government may direct, the reports to be submitted by such persons", substitute the words "the reports to be submitted by persons making such inspection and supervision".

These are all only verbal amendments to improve the wording of the Bill."

The amendments were put and carried.

SRI T. VISWANATHAM :—" Sir, I beg to move that—

'In sub-clause (2) (t) to Clause 100, add at the end the words "and property of religious or charitable institutions and the preservation of their architecture and their art".'

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Sir, I am moving this amendment as I consider it is a very important one and because the rule-making power may not be there without the acceptance of this amendment. I submit, Sir, that some provision has to be made with regard to the expenditure to be incurred on preservation of architecture and works of art of the charitable institutions. When once the notification comes charitable institutions will come under the scope of the Government. This preservation of architecture and works of art is one of the subjects for which the funds of the extinct or defunct institutions, or of an institution which was incapable of realizing its objects, are to be utilized. And there may be surplus funds also available for this purpose. When once the Government are going to make rules on some 26 or 27 Clauses why not also make some rules with regard to the preservation of architecture and works of art and other things.

"Sir, when I sent in that amendment I had in my mind the paintings at Lepakshi and some of the remains, Buddhist remains near Anakapalle and some other place in Guntur district, Nagarjunagonda. There are so many things that the Government have to do. It is now the Central Government that is trying to do something to preserve these architecture and works of art. In Lepakshi, when I went there I saw actually boys throwing stones at the majestic stone Bull in front of the temple and the paintings in the famous institution too are in a damaged condition. I want that some rules should be immediately framed so that something could be done immediately to preserve these things. With this Legislation in hand we can induce the Commissioner to find some surplus in the funds of the temples or the religious institutions somewhere to do something for these things. My object is that some funds should be found for attending to these works of art and architecture. In making rules provide rules for these also instead of leaving the matter entirely to the Central Government. That is the reason why I have moved this amendment."

SRI V. RAGHAVAYYA :—" I second the amendment, Sir."

THE HON. SRI K. MADHAVA MENON :—" I oppose the amendment, Sir."

MR. SPEAKER :—" The question is—

'In sub-clause (2) (t) to Clause 100, add at the end the words "and property of religious or charitable institutions and the preservation of their architecture and their art".'

The amendment was lost.

THE HON. SRI K. MADHAVA MENON :—" I beg to move, Sir—

'In item (u), for the words "or to the members of the Board of Trustees or the Advisory Council of the Tirumalai Tirupati Devasthanams", substitute "or to the trustees".'

This is only a verbal amendment to make it better."

The amendment was put and carried.

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THE HON. SRI K. MADHAVA MENON :—" I beg to move, Sir, that—

' In item (y) (ii), for the words and figures " under section 40 or under any other provision ", substitute the words " under any provision " . '

Sir, we have already passed clauses saying that the Government can delegate powers. This is only a consequential amendment which says that rules shall be made for delegation of powers to the executive officers."

The amendment was put and carried.

MR. SPEAKER :—" Is the hon. Member, Sri Viswanatham, moving his amendment to sub-clause (2) (aa) ? "

SRI T. VISWANATHAM :—" It is quite necessary, Sir. I move that—

' For the existing sub-clause (2) (aa), substitute the following :—

" (aa) the grant of pensions or gratuities to executive officers and other servants of the Board who retired before the commencement of this Act or retire after such commencement; and " ;

I think, Sir, quite a good number of persons approached the Hon. Minister and members of the Select Committee in this behalf. Some of them told me that some provision should be made for these persons also. It is true that rules would be made hereafter. But for those who are there already and who are likely to retire before the commencement of this Act some rules ought to be made for the grant of pensions or gratuities. It will be only in the fitness of things when in these days we are trying to give increased dearness allowance, pensions and so on to all officers, the officers of the Board who have just retired or about to retire must have these benefits. If the Government accept the amendment and include this in the sub-clause they can do something for these persons. I plead on their behalf that the Government might be pleased to accept this amendment."

SRI L. N. GOPALASWAMI :—" I second the amendment, Sir."

THE HON. SRI K. MADHAVA MENON :—" The executive officers are not servants of the Government. They are transferred from one trust to another. The trusts contribute to their pensions or gratuities. There is no common fund for this. Hereafter these will be there. It is not possible to accept the amendment as they are not servants of the Government and they are servants of the religious institution or trust."

SRI T. VISWANATHAM :—" It is true, Sir, they are not servants of the Government and that is why we want some provision in the Bill. If the Hon. Minister is not prepared to accept

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the amendment, I am asking him, Sir, to make a statement on the floor of the House now as to what he proposes to do for these persons. I feel that something should be done for them."

THE HON. SRI K. MADHAVA MENON :—" Nothing, Sir."

The amendment was put and lost.

MR. SPEAKER :—" I will put Clause 100 as amended to the vote of the House."

SRI T. VISWANATHAM :—" Mr. Speaker, Sir, when we were discussing Clause 17, I was asking that the rules might be published after previous publication. The Hon. the Minister for Law said that there was provision under Clause 100 and that therefore I need not worry. I was a little off my guard at that time and I just said ' Yes '. But, now the wording of this Clause 100 (3) is ' the power to make rules under this section shall be subject to the condition of previous publication '. So, other rules under this Act will not be subject to previous publication and therefore, Sir, I want the Hon. Minister just to change the word ' section ' into ' Act ' and that will be all right. Will he agree? "

THE HON. SRI K. MADHAVA MENON :—" This amendment has been provided in many rules. Anyhow I shall examine that point also."

Clause 100 as amended was put and carried:

Clause 101.

MR. SPEAKER :—" The motion is—

' That Clause 101 do stand part of the Bill. ' "

SRI T. VISWANATHAM :—" Mr. Speaker, Sir, I beg to move—

' Add the following at the end :—

" and shall be constituted into a fund known as the religious and charitable funds which shall be at the disposal of the Government for all purposes in connexion with the expenditure under section 81 (4) of this Act and such other purposes as are in furtherance of the objects or the working of this Act. " "

" The present clause is this—

' On and from the date on which this Act comes into force, the Board shall cease to exist, and all its assets and liabilities shall devolve on the Government. ' "

You remember, Sir, we had some small discussion whether contributions which are to be collected by the Board form part of public revenue, or Consolidated Fund, etc. I think the Board has now got Rs. 21.00 lakhs and I said that this will devolve on the Government and they must necessarily form part of public revenue of this State. But, what I want is that it ' shall be constituted

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into a fund known as the religious and charitable funds which shall be at the disposal of the Government for all purposes in connexion with the expenditure under section 81 (4) of this Act and such other purposes as are in furtherance of the objects or the working of this Act'. If it is made part of the Consolidated Fund, possibly there will be some legal objection for taking moneys out of it by the officers, i.e., Commissioners, Deputy Commissioners and Assistant Commissioners. Therefore, Sir, I am suggesting that all moneys which are collected may be constituted into a fund known as 'the religious and charitable fund' so that it need not become part of the general revenues of the Government of India or of this State or be part of the Consolidated Fund. It will remain a separate fund so that the possible constitutional objections may not attach to it. It is a fact which we cannot escape that moneys will still go out of the Government Treasury and in which case these moneys cannot be added to the Consolidated Fund. Then, there must be some provision in this Act to deal with this fund. If these moneys are constituted into a separate fund known as 'the religious and charitable funds', they may be administered accordingly for the purposes covered by this Act. That is the purpose of my amendment, Sir."

SRI L. N. GOPALASWAMI:—"Mr. Speaker, Sir, I second this amendment. It will obviate many difficulties in the working of this Act and will also enable the Government just to devote better attention to charitable purposes if only they are willing to lend a helping hand. It will also obviate many difficulties of the general revenues being used for such purposes which the Constitution prevents. All things considered, Sir, I think it is a very good amendment and the Government should be glad to accept this amendment and incorporate it in this Bill so that it will be a separate fund known as 'the religious and charitable fund' to which the Government also may be adding or from which the Government may be spending for good charitable and religious purposes."

SRI N. S. VARADACHARI:—"Mr. Speaker, Sir, I would have supported this amendment. But the whole scheme of this Act as we have passed, prevents it. In fact this affords the only chance for the Legislature to debate on this aspect—to review the work of religious institutions at least once a year. If you remove this clause and accept Mr. Viswanatham's amendment, it will become a separate fund and the Legislature will not have an opportunity of debating on the work of the Hindu Religious Endowments Board. In fact I strongly plead for the retention of this clause as it is, consistent with the scheme of the Act that we have already passed whether we like it or not. In my opinion, the scheme is one of centralization of the whole administration of the religious endowments through Government control. So, Sir, I plead that this amendment may not be accepted and that having

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passed this scheme we may not put ourselves out of Court and not be given even an opportunity to debate on the working of this Act."

THE HON. SRI K. MADHAVA MENON:—"Sir, apart from the objections raised by hon. Sri N. S. Varadachari, the Government are at present advised that such a separate fund cannot be raised. As I have stated already before, that is the policy of the Government and I oppose this amendment. Anyway this will be examined again later. I also said to hon. Sri Bhashyam when we were discussing Clause 85 that I would examine this before the third reading."

SRI T. VISWANATHAM:—"Sir, in the circumstances I beg leave of the House to withdraw my amendment."

The amendment was, by leave, withdrawn.

Clause 101 was put and carried.

Clause 102 was put and carried.

Clause 103.

MR. SPEAKER:—"The motion is—

'That clause 103 do stand part of the Bill.'

SRI T. VISWANATHAM:—"Mr. Speaker, Sir, I beg to move—

'In sub-clause (a), after the words "with this Act" in line 6, insert the words "or the Constitution of India".'

Now that Clause 99-A has been passed, I think the Government can accept this amendment."

THE HON. SRI K. MADHAVA MENON:—"Sir, it is not necessary."

SRI T. VISWANATHAM:—"Sir, he agrees with the argument, but disagrees to accept it. What is this position? I am not pressing it and I beg leave of the House to withdraw my amendment."

The amendment was, by leave, withdrawn.

THE HON. SRI K. MADHAVA MENON:—"Mr. Speaker, Sir, I beg to move—

(1) Omit Explanation (1) below sub-clause (a).

(2) To sub-clause (b), add the following:—

"Provided that before making any such order, the Government shall publish in the Fort St. George Gazette a notice of their intention to do so, fix a period

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which shall not be less than two months from the date of the publication of the notice for the persons affected by the order to show cause against the making thereof and consider their representations, if any."

It is considered desirable that the Government, before publishing in the *Fort St. George Gazette*, should invite objections, hear them and then only pass orders. That is the purpose of this amendment, Sir."

The amendment was put and carried.

SRI T. VISWANATHAM :—" Sir, I submit that we can finish this tomorrow. I am not saying, Sir, that you are hurrying. In fact, I am not able to recollect what I intended to tell. Because it is the fag-end of the day, I am missing the points."

MR. SPEAKER :—" Let us sit and complete."

THE HON. SRI K. MADHAVA MENON :—" Yes, Sir, we shall sit."

SRI T. VISWANATHAM :—" Sir, I have got an engagement and just now two reminders have come. I am missing points."

MR. SPEAKER :—" The hon. Member may take time."

SRI T. VISWANATHAM :—" It is true, Sir. But I am not able to recollect all the points and we can finish it tomorrow."

MR. SPEAKER :—" I will give time to the hon. Member."

SRI T. VISWANATHAM :—" I have no complaint at all. On the other hand, in the third reading I will spend ten minutes for thanking you, Sir."

MR. SPEAKER :—" The hon. Member need not thank me. If he finishes this it is equal to thanking."

SRI T. VISWANATHAM :—" I am not able to recollect anything in this hurry. I thought we can take up tomorrow and continue."

THE HON. SRI K. MADHAVA MENON :—" We shall sit, Sir."

SRI N. S. VARADACHARI :—" The hon. Member is like a person who has run very hard and who is at the end of the race struggling for breath. The hon. Sri Viswanatham has said 5 to 10 times that he was not able to recollect the points. He is a man and not a machine to work all the hours. Even when he tells you Mr. Speaker that he is not able to look into the clauses, should you not allow that, Sir."

MR. SPEAKER :—" I think the hon. Member has given about 230 amendments and moved about 160 amendments. I will give him time."

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SRI T. VISWANATHAM :—" It is very difficult, Sir. I am not able to do anything. If you are pleased to continue, I will be glad. I have no complaint and this is my submission. Sir, I am not moving the second amendment standing in my name."

THE HON. SRI K. MADHAVA MENON :—" Mr. Speaker, Sir, I beg to move—

In sub-clause (3)—

(a) Omit items (i) and (iii);

(b) For item (iv), substitute the following item :—

" (iv) all powers conferred and all duties imposed by such scheme on any Court or Judge or any other person or body of persons not being a trustee or trustees or a paid or an honorary officer or servant of the religious institution, shall be deemed to have been conferred or imposed on the Area Committee if the institution is subject to the jurisdiction of such a Committee and on the Commissioner, in other cases; and the Area Committee or the Commissioner, as the case may be, shall exercise such powers and discharge such duties in accordance with the provisions of the scheme subject to such restrictions and conditions, if any specified in the scheme."

The Government wanted to include the Area Committee also and it is necessary, Sir."

The amendment was put and carried.

THE HON. SRI K. MADHAVA MENON :—" Mr. Speaker, Sir, I beg to move—

For sub-clause (f), substitute the following sub-clause :—

" (f) all orders made under section 67 of the said Act shall, notwithstanding that they are inconsistent with this Act continue in force, but any such order may at any time be modified or cancelled by the Deputy Commissioner if it is an order made under sub-section (1) or sub-section (3) of that section and by the Commissioner if it is an order made under sub-section (4) or sub-section (5) of that section; and any person aggrieved by any modification or cancellation made by the Deputy Commissioner may appeal to the Commissioner within such time as may be prescribed."

Under clause 64 (3) the Deputy Commissioner may at any time modify or cancel any order passed under sub-clause (1). Here, we are providing that any person aggrieved by any modification or cancellation made by the Deputy Commissioner may appeal to the Commissioner within such time as may be prescribed."

The amendment was put and carried.

Clause 103 as amended was put and carried.

Clauses 104 and 105 were put and carried.

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Clause 106.

MR. SPEAKER:—"The motion is—

'That clause 106 do stand part of the Bill.' "

SRI T. VISWANATHAM:—"Sir, I had given an amendment to delete the clause. But I will oppose this clause.

"This clause is no law, brief though it is, I must ask the Hon. Minister to read this clause in conjunction with what they have done, taking into consideration the background of clauses 95, 97 and 99-A which have been passed. The crowning act of this legislation lies in this clause. It says: 'If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require,'—I want hon. Members to note the wording, 'if any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty.' Sir, I hope every Member has understood the implication of these words. It is nothing short of saying, if '106' alone is passed, if from the figures '106', the figures '0' and '6' are removed, and '1' only is left, that is enough for them. No other legislation is necessary. No provisions and no conditions are necessary, and no circumstances or set of circumstances with regard to religious endowments are necessary. 'If any difficulty arises . . . will do everything. What can they do? 'The Government may, as occasion may require' the clause says. It does not say, when they are going to interfere. They simply rely on the words 'as occasion may require'. What kind of occasion, they do not say. If in their mind they are satisfied that an occasion has arisen,—may be at night or may be during day-time and may be in 1961 or in 1962—what kind of occasion is not stated here, they may, by order do anything. This order is one which does not come to the notice of the Legislature and it may not have any publication or reach the party concerned. The Government can pass such an order. And, to do what? Does it say, 'do this or that thing'? Nothing is said. The clause says: 'do anything'. Have you, Mr. Speaker, realised the enormous power which the Government want under this clause, the enormous power which a Government constituted under a Democratic Constitution want to possess?

"Sir, when I was speaking on clause 97, the Hon. Minister twitted me by saying that he also knows something about democracy. I agree, he knows; but what is the use of his knowing? The Department wants something more than what he knows. The Department says what the Minister should want. The Department inserts it and the Minister accepts it, all the while believing he knows democracy as much as I do. I concede quite readily that he knows much more than myself. But I do venture to tell him that this is not a power which a person belonging to the legal profession and occupying the position of a Minister for Law.

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should ever agree to insert in any kind of legislation. The words are not exhaustive. The powers which the Government want under this clause are not explicit. The clause simply says: 'as occasion may require by order do anything . . .'. What kind of thing? 'anything which appears to them necessary'. And, necessary for what? Is the purpose stated? Yes, they say, 'for the purpose of removing the difficulty'. Sir, one difficulty I could contemplate and it is this: Some person who is interested in some matter might for his own purpose bring a 'difficulty' to their notice and then the occasion would arise for them to do anything they like. And yet, the Government ask us to believe that this is legislation. Sir, instead of providing a clause like this in legislation, they could as well have one single piece of legislation for the whole State in a one-clause Bill thus: 'This legislature hereby confers upon the Government power to do as occasion may require, anything which is necessary for them to carry on the administration of this State in every branch or in any branch of their activity'. That would no doubt be a tall order for them, to ask for and for the House to give and to surrender their liberty. In agreeing to such a thing the House will be surrendering also the liberty of 5 crores of people.

"This is a clause which should not be passed. This provision, perhaps found in some old English statute, has been rightly called 'Henry VIII Clause'. It has been naturally condemned by great writers on Jurisprudence and it has been taken into account by the Donoughmore Committee. After the report of this Committee on this Henry VIII Clause, even the English legislature which on a few occasions had this sort of clause in their Bills have not included it in their subsequent legislation. Of course the Hon. Minister might say, 'Here on the floor of this very House, one or two years ago, you passed legislation which contained a clause like this. Why do you object to it now?' My answer to that will be: 'Then also we objected.' But then this clause was not then sponsored by a member who was, like him, 'a member of the legal profession.' We thought therefore that it was a peculiar feature of that legislation only. But now this has become a common feature in all legislation of this Government. Now, the draftsmen and the executive want the Minister to get this kind of clause accepted by the House, and I want him not to have it. He must tell the Departments not to have such a clause, because all the powers that they want have been canalised and provided for. They can have legislation for purposes which are certain and specified, within limitations which are also certain. Sir, though the Hon. Minister does not agree with me, now he will, if he reconsiders the matter, change his opinion. A power like this for the Government to do whatever they like as occasion requires to remove any difficulty should not be included in any legislation. It really is no legislation when it offends the first principles of jurisprudence and I respectfully ask the Minister to agree to its deletion altogether."

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SRI L. N. GOPALASWAMI:—"Sir, in seconding this amendment, I want to enter my emphatic protest on the all-embracing power which the Government want to have under this clause. This clause 106 is really the crowning clause of this piece of legislation which, according to me, interferes with regions which are not in the domain of this Government. I want hon. Members to realise what the provisions of this clause are. It says in so many words that the Government shall be the master of the whole situation. In the face of this provision we need not have passed the 105 clauses. We might as well have said: 'The Government shall, according to their desire, manage all religious institutions in this State and may solve any difficulty in their way.' This would have been much better than debating and discussing 105 clauses and then crown all of them with this clause 106 which says that whenever there is any difficulty the Government shall resolve it in their own way, behind the back of the legislature as it were. Is this legislation Sir, I ask?"

"Sir, serious objection was raised and pertinently raised to the provision prohibiting courts from interfering with these matters. But we reach the climax here when we say that even when there is ambiguity, the Government could say 'this is what we meant', and the courts cannot interfere. If we are to legislate like this after the advent of democracy, if the executive is going to take powers like this and do things as they like without even allowing the legislature to have its say, it will be nothing short of the very negation of democracy."

SRI M. S. VARADACHARI:—"Mr. Speaker, as I was listening to Sri Viswanatham, I was struck with his wonderful clarity and I felt that he has recovered his breath which, a few minutes ago, he said he had lost. I do not wish to make any sweeping statement about this clause, except to say that the Government should note that this is an omnibus clause. This is a motor car without the steering wheel. This has no brakes. The clause says: 'may as occasion requires by order remove any difficulty'. I am unable to understand what this is. In fact even under an over-centralised scheme it should not be part of an arrangement of this kind. The ifs and buts are numerous, are so many 'as occasions may require'. These will give rise to great difficulties. Sir, we know the history of the Rent Control Bill. Government have often been tempted to use the power conferred by it and they have availed of its provisions when it was utterly wrong to do so. Then they have tried to resolve difficulties where there were none. I would illustrate my meaning by taking an extreme case as an example. Government may, as occasions require, pass contradictory orders. There is no *res judicata* on this. Government may, to get over some difficulty, provide one solution at one time and a succeeding Government perhaps, may provide a different solution altogether for the same kind of difficulty. It is very unwise to acquire such sweeping powers. It is in the interests of democracy not to use such power, even if they want to possess such power."

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"Another point on which I wish to offer my remarks is about the absence of a provision to bring certain things as the subject matter of debate in the Legislature. Supposing there is real difficulty in enforcing a particular provision and the Government have to deal with it, they do not even have to come with it before the Legislature and take its opinion on it. Even if their act or decision in any particular matters is final and there is a remote chance of the Legislature accepting or approving their decision, they are not obliged to bring it before the Legislature. I think on the whole the clause requires modification even under an over-centralised scheme. The Government should therefore come forward and say, 'We will not use this power, because we know that though there will be temptation to use it, the public will find fault with us'."

SRI V. RAGHAVAYYA:—"Sir, is it the object of the Government, I suspect and ask, to get over a later pronouncement in a court of law that any particular section of this Act is ultra vires? Does this clause empower the Government even in such circumstances to make the necessary legislation without coming to this Assembly, to pass an ordinance, or a rule or order and say that clause 106 enables the Government to get over the difficulty? Can the Government say under such circumstances, 'The High Court says that the Government cannot do these things; the Government hereby enact a rule that they can do such and such a thing.' It is too much to expect the Government to be empowered like that."

"Suppose certain provisions of the Act are found to be unworkable later on. Suppose the Government want to suspend the operation of certain sections in the Act. Are they empowered to do so?"

"Thirdly, Sir, if the Government provide a saving clause to the effect 'in so far as these acts are not inconsistent with the provisions of the Act', I can understand the meaning of it. But as it is this clause does not prevent the Government from doing anything or enacting any rule which is inconsistent with the provisions of this Act, if only the enactment of the rules helps the removal of the difficulties. I suppose, Sir, the Bill is bristling with difficulties, apart from the fact that this is a most lawless piece of legislation, a most ill-thought out legislation which may evoke the derision of various courts of law. Should we give another occasion to a court to pronounce strongly about this piece of ill-thought out legislation? Even without clause 106, they may be able to carry out the purposes of this Act. The rules are wide enough and if necessary an ordinance may be promulgated. Then why should we besmear and blot this Bill by some of the clauses which are going to add to the difficulties?"

SRI M. S. PATTABHIRAMIAH:—"Sir, this last clause is obviously a confession of the weakness of the Bill, not of the

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Government, for they have been strong enough to pilot the Bill through. Why should any difficulty arise at all, Sir. It is because the Bill has been hastily conceived and planned. Therefore the Government expect some difficulties because the Bill was planned long before the Constitution of India was passed. The Government are afraid that it might not be in conformity with the Constitution at all. Therefore they have put clause 99-A and saved themselves in a particular manner. This is something like a black or iron curtain for the actions of the Government which they may do as they like. They are taking extraordinary powers, undreamt of by anybody. As was pointed out by Sri T. Viswanatham, there used to be some Henry VIII clause, but it cannot be a precedent for democracy. It is said here that if any difficulty arises, the Government may do anything to remove the difficulty. But I remember the Hon. Minister saying once or twice that he would, in such circumstances, come to this House with the necessary amending Bill. The Government should be bold and frank and take the House into confidence. Tell them that such and such difficulties have arisen and that such and such amendments are necessary. Sir, this is a very big Bill under which thousands of institutions are taken over and crores of rupees worth of property are vested in the Government. In Clause 100 (2) (b) it is stated that the Government may make rules for the 'effectual exercise of the powers of superintendence vested in the Government.' Therefore this clause is quite unnecessary. Clause 7 was removed simply because there was an objectionable phrase in it. Therefore if the Government find any difficulties in the working of the Act, they may take the House into confidence and pass suitable amendments for the removal of the difficulties. They should not arm themselves with powers which are extraordinary, unnecessary and even dangerous."

THE HON. SRI K. MADHAVA MENON :—"Sir, very many strong things have been said about this clause. I am afraid, Sir, it has been done under a misapprehension of real facts. Sri Viswanatham said that some such Henry VIII clause was put in in another legislation even in this House. He could excuse that, because the persons who were piloting that legislation were not lawyers. But that a person like me who prides himself to be a lawyer or is a lawyer or was a lawyer should have brought forward such a clause, surpasses his imagination. But, Sir, it is because I have had something to do with the practice of law that I have boldly brought forward this clause."

"Sir, I am perfectly aware of the recent decision of the Supreme Court in connection with the Bihar Public Safety Act where they said that delegated legislation is wrong. With regard to the provision that the Government may by notification extend or modify the provisions of this Act, the Supreme Court held that this sort of extension was delegated legislation and could not be done. As regards modifying the Act, it would amount to taking

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up the powers of the Legislature and so it was bad. I am perfectly aware that by this clause, the Government cannot take up the power of legislation and say, 'All right; we legislate that such and such a thing can be done, although it is against the Act or inconsistent with the Act.' Such a thing is impossible, I know. Every hon. Member has been saying that the Government can do anything because it is stated here that if any difficulty arises, the Government may do anything which appears to them necessary. Sir, Sri Gopalaswami's imagination was running riot when he suggested that the Government need not have this Bill at all, that they might have one clause saying that this is a Bill for the better administration of Hindu Religious and Charitable Endowments and that the Government may do anything to achieve that object. That was my hon. Friend's argument."

"Sir, I know that this Bill does not give any power of legislation to the Government. Then what are the difficulties which they want to remove? This is not merely a Hindu Religious Endowments Bill, but this is also a Repealing and Re-enacting Bill. In Clause 5 it is stated that the following enactments are repealed or will not apply to the Hindu Religious Institutions:—

'The Madras Hindu Religious Endowments Act, 1926.

The Madras Endowments and Escheats Regulation, 1817.

The Religious Endowments Act, 1863.

The Charitable Endowments Act, 1890.

The Charitable and Religious Trusts Act, 1920.

'The Tirumalai-Tirupati Devasthanam Act, 1932.'

All these Acts are repealed and certain Acts are re-enacted. Whenever there is a Repealing and Re-enacting legislation various difficulties will arise in dovetailing certain sections of either legislation. In English legislation whenever there is a Repealing and Re-enacting legislation, this clause finds a place. We have tried our best, in Clause 103, dealing with transitory provisions, to put in all that we can possibly conceive of putting in there. Clause 105 is also the same thing. The Tirumalai-Tirupati Devasthanam Act is repealed and we have taken care to save all rules and by-laws made under that Act. The Government can never ignore the Legislature or do anything against the sections of this Act. But whenever a Repealing and Re-enacting legislation is passed, this clause is always there in order to cure the difficulties found in dovetailing the various enactments, the various rules passed under the enactments and so on. It is only to solve such difficulties that this power is taken. All-embracing Henry VIII power, it is not at all intended to be. It has become necessary because we are repealing and re-enacting certain enactments and difficulties are bound to occur and some powers are necessary for the Government to remove those difficulties."

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"Then Sir, there is suspicion that the Government want to do something. Sri Bhasyam said that he was suspicious of the Government, that they want to do something. When there is suspicion, all these bad words and strong words will come. But it is not the intention and it is not possible to go an inch beyond the sections of the Act. The difficulties will arise because this is a Repealing and Re-enacting Bill also."

SRI T. VISWANATHAM :—"Sir, there is one piece of legislation which has come down from the days of the Tudor Dynasty. It is a legislation on treason. In that Act, it is stated at the end that any Act intended to repeal that Act would be utterly void felony and treason. I suggest, Sir, that a similar clause may also be put in here."

Clause 106 was put and carried.

Schedule I.

MR. SPEAKER :—"The motion is—

'That Schedule I do stand part of the Bill.'

THE HON. SRI K. MADHAVA MENON :—"Sir, I move the following amendment:—

'In Schedule I—

(1) Under the heading "IV. Applications to Government, Commissioner or Deputy Commissioner"—

(a) omit the entries relating to section 8;

(b) add the following entries at the end:—

"99-A. Application to Government for revision. 25

103 (f) Application for modification or cancellation of order under section 67 of the Madras Hindu Religious Endowments Act, 1926 ... 25 "

(2) Under the heading "V. Appeals to Government, Commissioner, Deputy Commissioner or trustee"—

(a) after the entries relating to section 31 (4), insert the following entries:—

"32-A. (2) Appeal to Commissioner under the section ... 25 "

(b) omit the entries relating to sections 54 (2) and 54 (3);

(c) omit the figures and brackets "56 (6)" in column (1);

(d) add the following entries at the end:—

"85-C. (2) Appeal to the Board of Trustees by office-holder or servant against order of punishment by executive officer ... 2

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85-C. (3) Appeal to Commissioner office-holder or servant against appellate order of the Board of Trustees ... 2

103 (f) Appeal to Commissioner under the section ... 25 "

"Sir, there is a printer's devil in the amendment. It should be '25' and not '2' against 'Application to Government for revision'. These amendments are consequential on the amendments which we have carried to the various in the Bill."

The amendment was put and carried.

The Schedule I, as amended, was put and carried.

Schedule II.

MR. SPEAKER :—"The motion is—

'That Schedule II do stand part of the Bill.'

SRI N. S. VARADACHARI :—"Sir, I am not moving any amendment. But I think this Schedule must have been copied from the old Act. The language of it can be very much improved. In many places very bald language is used, such as 'Vedanta Desikulu', as though we are referring to some Upper Division Clerk in the Secretariat. It is better we put it as 'Vedanta Desikar'. I am afraid, Sir, that most respected persons are dealt with in an improper manner. I have seen several other names also like this. Even if they have been copied from the old Act, I think they require very drastic amendment. I wish somebody who knows something about these matters is consulted and the names are put properly."

THE HON. SRI K. MADHAVA MENON :—"Yes, Sir, I shall see to it."

Schedule II was put and carried.

Schedule III was put and carried.

MR. SPEAKER :—"There are some verbal amendments."

THE HON. SRI K. MADHAVA MENON :—"Sir, as there are some verbal amendments to be made, I move that clauses 19, 31 and 58 be re-opened."

The motion was put and carried.

Clause 19.

THE HON. SRI K. MADHAVA MENON :—"Sir, many amendments have been accepted by the House and therefore certain consequential verbal amendments have to be made. I therefore move—

'That in clause 19, for the words "of abolition", the words "of its abolition" be substituted.'

"The amendment is necessary to make the language clear."

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MR. SPEAKER :—" The question is to re-open clause 19 and
' For the words " of abolition ", substitute the words " of
its abolition " . ' "

The amendment was carried.

Clause 31.

THE HON. SRI K. MADHAVA MENON :—" Sir, I move that
clause 31 may be re-opened, and that—

' For sub-clause (4), substitute the following sub-clause :—

" (4) The trustee may within three months from the date
of his receipt of a copy of the order, and any person
having interest may within three months from the date
of the publication of the order, appeal to the Govern-
ment to modify the order or set it aside. ' " "

SRI T. VISWANATHAM :—" I do not know, Sir, why these
amendments are moved now. "

MR. SPEAKER :—" Even now amendments can be moved. "

SRI T. VISWANATHAM :—" May I submit, Sir, I have got
an engagement and I want to go early. I have not studied these
amendments; can we not take them up to-morrow, Sir? "

MR. SPEAKER :—" These are all merely formal amend-
ments, mere change of words for improving the language. "

THE HON. SRI K. MADHAVA MENON :—" I have already
moved my amendment, Sir. I only want to add that the House
wanted me to make this change. "

MR. SPEAKER :—" The question is that clause 31 be re-
opened, and

' For sub-clause (4), substitute the following sub-clause :—

" (4) The trustee may within three months from the date
of his receipt of a copy of the order, and any person having interest
may within three months from the date of the publication of the
order, appeal to the Government to modify the order or set it
aside. ' " "

The amendment was carried.

Clause 58.

THE HON. SRI K. MADHAVA MENON :—" Sir, I move that
clause 58 be re-opened and that—

' (a) In sub-clause (1), omit the words " legally constituted "
and the word " such " occurring before the word
" guardian " .

(b) In sub-clause (2), for the word " arrangements " in
lines 5 and 6, substitute the word " arrangement " .

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(c) in sub-clause (3), for the words, brackets and figure
" any arrangement under sub-section (2) ", substitute
" any such arrangement " .

The words ' legally constituted ' in sub-clause (1) are considered
to be unnecessary and therefore they are proposed to be omitted.
The word ' such ' occurring later also goes, as a consequence.
Again, in sub-clause (2), the word ' arrangements ' is to be substi-
tuted by the word ' arrangement ' and it is purely an improve-
ment of the language. As regards sub-clause (3), Mr. Karanth
suggested that the word ' appointment ' should be removed and
the word ' arrangement ' should be there. That suggestion has
been carried out. The amendment now proposed is purely verbal. "

MR. SPEAKER :—" The question is that clause 58 be re-
opened and that—

' In sub-clause (1), omit the words " legally constituted "
and the word " such " occurring before the word " guardian " .

In sub-clause (2), for the word " arrangements " in lines 5
and 6, substitute the word " arrangement " .

In sub-clause (3), for the words, brackets and figure " and
arrangement under sub-section (2) ", substitute " any such arrange-
ment " . ' "

The amendment was carried.

SRI T. VISWANATHAM :—" What about clause 3, Sir? "

MR. SPEAKER :—" It was passed as revised. "

Renumbering and consequential changes.

THE HON. SRI K. MADHAVA MENON :—" I now move,
Sir,—

' Renumber the clauses of the Bill in the numerical order
and make consequential changes in the body of the Bill. '

We have made so many changes in the Bill, Sir, and so renum-
bering of the clauses is necessary and wherever reference is made
in the body of the Bill to the various clauses, the necessary correc-
tion has to be made. That is why this amendment. "

MR. SPEAKER :—" The question is—

' Renumber the clauses of the Bill in the numerical order
and make consequential changes in the body of the Bill. ' "

The amendment was carried.

Preamble.

MR. SPEAKER :—" The question is—

' That the Preamble do stand part of the Bill. ' "

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SRI T. VISWANATHAM :—“ I have great objection
Preamble, Sir.”

The Preamble was put and carried.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS BILL, 1949 (L.A. BILL
No. 10 OF 1949)—*cont.*

THE MADRAS LEGISLATIVE ASSEMBLY.

Monday, the 18th December 1950.

The House met in the Assembly Chamber, Fort St. George, at eleven of the clock, Mr. Speaker (THE HON. SRI J. SIVASHANMUGAM PILLAI) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BILL, 1949 (L.A. BILL NO. 10 OF 1949)—cont.

THE HON. DR. T. S. S. RAJAN :—“ Mr. Speaker, Sir, I move—

‘ That the Madras Hindu Religious and Charitable Endowments Bill, 1949 (L.A. Bill No. 10 of 1949), as amended, be passed into law. ’

“ Since we have had a very thorough and critical examination of the various clauses of the Bill during the Second Reading, I do not think that any lengthy or critical speech is required from me. This is a Bill which vitally affects our people, our culture and our beliefs. It is a measure which affects the feelings and sentiments of people in a way as no other measure has done till now. Ages of habit and practice have more or less transfixed the observances in our shrines and temples and it is no easy task to pass a legislation to control and regulate them without giving careful and anxious consideration for the subject. This Bill has as many as 11 chapters comprising 106 clauses. I thank one and all of the hon. Members, who have sat patiently from day to day during the *seventeen days* on which the Bill was discussed in the course of the Second Reading,

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and have helped the Government with their careful study and helpful criticism of the several provisions of this Bill. I am particularly thankful to my hon. Friends like Sri K. Bhashyam, Sri K. R. Karanth and Sri T. Viswanatham, for their thorough and searching examination of the provisions of the Bill. It has been said that the lack of an intelligent opposition is a serious handicap for a good democratic parliamentary system of Government, and that the Legislatures of the States in India at present have not been able to function at their maximum level of efficiency, for want of such an opposition. But I can emphatically assert, without fear of contradiction, that so far as this Bill is concerned, at any rate, we do not suffer on that account. I think, Sir, I am right in claiming that for no other Bill have so many amendments been tabled. They reached the record figure of 452. I shall show presently how we have profited by the suggestions made in these amendments, and in what cases and why we thought it wise to accept them. I regret I have not been able to accept more of their suggestions. But I would request my hon. Friends not to walk away from this Assembly with the feeling that their views have been ignored, or treated in a cavalier fashion. The fact is that though my hon. Friends and we are animated by the same object, namely the purification and administration of the institutions dedicated to the service of God and Man, our approach to the problem has been different. Hence it is that though we are pursuing the same objective in view, different kinds of remedies have occurred to each of us. I believe in all sincerity that the remedies I have prescribed as a doctor, for the many ills from which our religious and charitable institutions are suffering, will really have a healing effect upon them. It is for posterity to judge whether I have not diagnosed the disease correctly and whether my prescription is not the right one.

“ Let it not be forgotten by any one here that this Bill has been before the public for over three years. It was first published in September 1947, and during this fairly long period, it has been thoroughly scrutinized by the public and the Press and by the various departments of the Government, not once or twice, but on several occasions. Even before the republication of the Bill in January 1949, for its first introduction in the Assembly in February 1949, it was substantially revised by the Secretariat in the light of the memorials and memoranda received spontaneously from the public. After it was referred to the Joint Select Committee, we formally invited the opinions and suggestions of various individuals and public bodies associated with us in regard to this subject, as well as from the general public. All these were carefully studied and certain individuals who offered to give evidence were examined by us at Ootacamund and at Madras on several days.

“ At every stage we had the benefit of the advice and guidance from two eminent lawyers, Sri K. Rajah Ayyar and Sri K. Kutti Krishna Menon, who have been the Advocates-General of Madras during these years. It is not as if these great lawyers have lost all

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faith in law courts, even if the Government is presumed, as it is often accused to be, anxious to avoid law courts. I mention this, because the main criticism levelled against the provisions of the Bill both on the floor of this House and in the Press outside, is that the Bill seeks to vest extraordinary powers in the executive and to limit the jurisdiction of courts. Hon. Members were particularly vehement in their opposition to the provisions of the notification chapter, on the ground that the Commissioner is invested with despotic powers and that he could set at naught schemes settled by courts, and that therefore there should be a provision for resort to law courts against the orders of the Commissioner. If we have not provided for relief through the law courts in this matter, it is not correct, Sir, to charge us with distrust of courts. The truth is that our system of procedure in the law courts has resulted in enormous and sometimes even unconscionable, delays in the disposal of cases, particularly where the party mainly affected, like the deity in a temple, cannot speak for himself. The principal reasons which impelled us to reduce the scope and opportunity for litigation in law courts, are firstly this dread of dilatoriness which fortunately has been receiving the attention of the Government of India as well as of the Chief Justice of India from the day of the attainment of our Independence, and secondly the enormous and often scandalous waste of public funds of which unfortunately I have intimate, if bitter, experience.

"Let us face facts squarely in the face, however unpalatable they might be to us. I claim, Sir, to have an intimate knowledge of some of the famous and ancient temples and their management and administration. I have been born and brought up in my earlier years in the very shadow of the great temple of Sri Ranganatha at Srirangam. What is it, Sir, I found all round? Huge endowments made by pious donors centuries ago, were, and are, being wasted on ruinous litigation. This litigation is the result of the English civilization imposed on us for over a century and a half. It is not unknown to my hon. Friend, Sri K. Bhashyam, that literally lakhs of rupees have been spent, shall I not say wasted, at Srirangam, at Kancheepuram and at Tirupati, to settle the vexed 'Vadagalai—Thengalai' dispute and the question is still exactly where it was, before these costly law suits began. It is this sickening sight, this unedifying and even depressing vision, that haunted me, which made me welcome the opportunity of serving these institutions, when I was offered this portfolio in the first Congress Ministry. I then took up the question of remodelling the law on the subject at once. But for the Second World War and its repercussions on our political life, this Bill, which was substantially ready by the time of our resignation in 1939, would have become law a decade earlier.

"However, I do not altogether regret this delay of ten years. It has resulted in a further and more detailed examination of the provisions of the Bill as I had conceived it during the years 1937-39, in consequence of which some necessary changes were made

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in it even before it was presented to this House in February 1949 and placed before the Joint Select Committee. Again, the Joint Select Committee has suggested several improvements in the scheme of the Bill, which have been accepted by Government. I have referred to them in some detail in my speech on 11th September 1950, while presenting the Report of the Joint Select Committee and moving for the Second Reading of the Bill and I need not repeat them here now. Finally, for the Second Reading, we have sat altogether for seventeen days and spent full 70 working hours in studying the Bill, clause by clause in detail. The Government have now also accepted a number of amendments during the Second Reading. It is unnecessary for me on this occasion to catalogue them in full and deal with each and every one of them at length, as they are all quite fresh in your mind. I think it will suffice to allude here, but briefly, to a few of the more important amendments accepted by the Government, just to illustrate this point. Although the amendments accepted on the floor of this House may not be numerically many, and when actually counted may come only to a small figure, still I must emphasize the fact that even after the Second Reading of the Bill commenced on the 11th September, we had very carefully re-examined the whole Bill, with the assistance of the present Advocate-General, in the light of the general criticism offered here in the House and the amendments given notice of by some of my hon. Friends. As a result, a good number of their amendments have, in substance, been taken up by us as Government amendments and have now been embodied in the Bill, as it has emerged from the Second Reading. For instance, clause 7 conferring on the Government general powers of superintendence over all religious institutions has been taken away altogether, mainly in defence to public criticism. It has now been made crystal clear by clause 23 (3) that the officers authorized to enter religious institutions should be only Hindus. This is because a similar amendment has been given notice of by my hon. Friend, Sri K. Bhashyam. The provision relating to the utilization of surplus funds originally embodied in clause 64 of the Bill has now been removed from it and after considerable modification has been shaped into the present clause 32-A, as passed by the Assembly in the Second Reading. The main change made in respect of this provision is that while the original clause 64 empowered the Deputy Commissioner *inter alia* to direct the appropriation of surplus income of religious institutions for any purposes specified in that clause, that power has now been transferred to the trustee himself.

"On the advice of the Advocate-General that the original clause 64 may lend itself to possible objection that it might be construed as offending Article 26 (d) of the Constitution which entitles every religious denomination, or section thereof, to administer its property according to law, it has been provided in the new clause 32-A that when the trustee of an institution considers that the surplus should be spent on any of the purposes specified in clause 64, he should himself take the initiative and spend it for such purposes, after obtaining the Deputy Commissioner's sanction,

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The element of compulsion has thus been removed and the trustee has been invested with a substantial measure of discretion and autonomy. Likewise in clause 56, amendments have been made giving greater autonomy to the trustees and reducing the scope for interference by the Deputy Commissioner. This was mainly intended to carry out the purpose behind the amendment given notice of by hon. Sri T. Viswanatham. Clause 67 of the Bill has now been substantially modified by providing for the filing of suits in civil courts in all matters dealt with under clause 62. In other words, the right to file suits in courts has now been extended to the following matters also :—

(1) whether the trustee holds, or held, office as a hereditary trustee; and

(2) whether any person is entitled, by custom, or otherwise, to any honour, emolument, or perquisite in any religious institution; and what the established usage of a religious institution is in regard to any other matter.

This again is in accordance with the views underlying the amendments of which my hon. Friend, Sri K. R. Karanth had given notice.

Another very vital amendment which the Government themselves moved is the deletion of clause 10 which empowered the appointment of non-hereditary trustees even in cases where there were only hereditary trustees, and which provided for the compulsory appointment of an executive officer for each institution having an annual income of over Rs. 20,000. The Government have also modified the whole series of clauses dealing with such institutions, in accordance with the views embodied in the amendments given notice of by hon. Friends, Sri K. Bhashyam and Sri T. Viswanatham. The Government held on the advice of the Advocate-General that the appointment of non-hereditary trustees and salaried executive officers in such cases might be construed as offending Article 26 (d) of the Constitution, in so far as those provisions might be regarded as depriving the hereditary trustees of their rights in the day-to-day management of the institutions. Similarly, the Government themselves introduced amendments to clauses 64, 68, 75, 82, 90, 92, 94 and 103. The Government have also deleted clause 86 of the Bill providing for the Constitution of an Advisory Council consisting of the representatives of the jiyengars, the archakas, the acharyapurushas and other mirasdars of the Tirumalai-Tirupati Devasthanams; in order to avoid any argument that the Bill interferes with the religious affairs in contravention of Article 26 (b) of the Constitution. Finally, the Government have themselves moved for the addition of the new clause 94-A which expressly provides that nothing in this Bill shall be deemed to violate the provisions of Article 26 of the Constitution.

Indeed, I doubt whether any Government Bill which had already been considered for such a long period as three years had such a huge list of further amendments covering over ten pages of

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printed matter, to be moved in the Second Reading of the Bill by the Government themselves. All these will clearly show that far from trying to thrust our own views on the public with the aid of a well-drilled steam-roller majority, we have been most responsive to public opinion in the matter, and have tried our best to satisfy public sentiments on the subject to the greatest possible extent, compatible with the preservation and proper utilization of the resources of these institutions for the service of Almighty and His children.

“Before concluding, I would like to meet one other criticism that has been made repeatedly in respect of a number of provisions of the Bill. It is said that the Bill vests too much power in the Commissioner, and that he can interfere even in the daily routine of religious institutions. I would only emphasize once again that, while it is certainly not the intention of the Government to interfere with the rituals or their observance in the daily conduct of the temples, they have certainly a responsibility to see that the affairs of the institutions are conducted properly and that their funds are not wasted on undesirable and on unnecessary purposes. It is to this extent that the Government have conferred power on the Commissioner to control the activities of the institutions. We have done this solely with the idea of safeguarding the interests of the institutions and preserving their sanctity and spiritual vitality.

“Again, it is said that the Bill has drastically reduced the powers of trustees, many of whom are associated for centuries with these institutions. I can only say this in reply. If any of the hon. Members who have criticised these provisions had a fraction of that experience which I have had of one of the biggest institutions from my childhood and of a great many others in the course of my official duties during 1937-39 and again for the last one and a half years, I am almost certain that my hon. Friends like Sri K. Bhashyam, Sri K. R. Karanth and Sri T. Viswanatham, who are now so hearty and enthusiastic in their criticism, would have introduced a more drastic Bill.

“I have no axe to grind. There is no political object behind this Bill. It is not for my personal glory or aggrandizement that I have introduced the several provisions in the Bill which have evoked such vehement protests. I would be divulging no secret, if I say that, on the constitution of the present Ministry, I requested the Hon. the Chief Minister to relieve me from office and allow me to take some well-earned rest in my old age. It was only at the call of public duty, at the earnest request of my esteemed Friend, that I took up office again. And when I was again offered this portfolio I felt it a call from God, from Lord Sri Ranganatha Himself, my family Deity, to do my best for the reform of the religious and charitable institutions and thus serve God and Man.

“As may be well-known to all of you, the State has always exercised this power of supervision and regulation of religious endowments in our land and it was only as a result of the Indian

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War of Independence of 1858 that the British Government in India divested themselves of this responsibility. Even now such provisions exist in the laws of many of our States ruled by Raj-pramukhs. I feel that this Bill is in consonance with the spirit and traditions of our ancient country and is conducive to the better preservation of these holy institutions and their usefulness to the moral and spiritual benefit of the millions of Hindus of this country, besides catering to the material needs of the poor and the lowly.

"Allow me, Sir, to conclude with offering you once again my grateful thanks for the great patience and diligence with which you have scrutinized the several provisions of this Bill during the Second Reading. With these words, Sir, I have great pleasure in moving that this Bill, as amended, be passed into law."

MR. SPEAKER:—"Motion moved—

'That the Madras Hindu Religious and Charitable Endowments Bill, 1949, as amended, be passed into law.'

"As several hon. Members may be participating in the debate on this Motion, I have fixed a time-limit of 15 minutes for each speech."

SRI K. BHASHYAM:—"That is hardly sufficient for me, Sir. I would like to have an hour and a half. The Government have adopted 52 amendments and, between hon. Sri Viswanatham and myself, we have moved about 100 amendments."

MR. SPEAKER:—"The hon. Member may have half an hour."

SRI K. BHASHYAM:—"That is something, at any rate.

"Sir, to begin with, I would like to say that such credit as the Government takes for itself is not due to the Government at all. Let us now examine the position of the Government in respect of this Bill.

"Sir, I congratulate the Hon. Minister and his lieutenant in charge of the Bill on the happy ending of this long-drawn-out agony. It is nothing less than that. It has been an agony to the Members of the Treasury Bench, because we have been plaguing them with amendment after amendment which are massacred on a floor of the House and we the framers of the amendments had a agonised feeling our pretty treasures were thrown out and massacred on the spot. This agony is over; only the funeral obsequies remain to be made. I think we will make them fittingly and properly.

"With reference to the provisions contained in clause 7 they say that they made the change out of respect for public opinion pressed on the floor of the House and elsewhere. They have asserted that they do not want the power of superintendence over religious institutions. But have they done so? If they really do not want this power, have they said so? Can the Hon. Minister

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in charge put his hand upon his heart and say: 'I say so.' No, he cannot say that with any conscience; because, as a matter of fact, every one of the orders passed by the trustee, by the Commissioner or the Deputy Commissioner is subject to the revisionary powers of the Government. While they go on adding power after power in their hands, they at the same time want to claim credit that they do not want this power of superintendence over religious institutions. They call this power revisionary no doubt. Every proceedings instituted or order passed is subject to their revisionary powers. It is certainly superintendence. This being the case, why take credit by saying, we have moved with the times and introduced suitable amendments.

"Now let us examine their claims with reference to clause 74. They say that the trustees have been given the initiative in the matter of the utilization of the surplus funds. I have said several times on the floor of the House that they have not given the initiative to the trustees and yet, the Government want to take credit for it. What is it that they have done? The surplus has to be accumulated and unduly accumulated at the expense of the temple, in spite of the fact that the temple may need extensive repairs and not only renovation but reconstruction. True, the trustee has the initiative, but on paper only. But will he be allowed to take the initiative? He is under the thumb actually of the Deputy Commissioner. As a matter of fact, if he accumulated a large surplus, will he be allowed to go scot-free? Will he not be asked to explain why he did not make proposals for its utilization? If he persisted in not making such proposals, will it not be made the ground for punishing him? Will it not be said that he refused to obey the lawful orders of the Commissioner and therefore should be dismissed on the spot?

"Therefore, Sir, the question of the initiative being with the trustee is merely lip sympathy or lip service to the Constitution which stands in the way of the Government having their own way in the matter. I would ask the House to realize further that the Government have not really done anything willingly or creditably or gracefully in all these matters. In the matter of hereditary trustees also, I do not know how many temples are still left in which there are hereditary trustees only. I do not think a large number has been left after the recent action of the Board appointing a large number of non-hereditary trustees to all temples. Therefore the temples which are in the hands of hereditary trustees altogether without the addition of non-hereditary trustees are only a few. Therefore, if the Government say that they have resolved not to interfere with hereditary trustees, even there credit is not due to them, because the mischief has already been done and there is not much mischief left to do. So far as 'honours' are concerned, it is left to be decided among people themselves and the Government say that they are not interfering with them. It is a very dangerous thing for the Government to do, after grabbing all the powers; why stick at this only? All the disputes in

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the temples, especially the Vaishnavite temples, are disputes between the Vadagalais and the Thengalais regarding temple honours. Witnesses who appeared before the Select Committee were asked to suggest solutions for the difficulty, why not follow the suggestions? Why should we not have a council of persons who know something about these matters and allow them to adjudicate these things instead of allowing the people to have protracted litigation in courts? Therefore, the credit which the Government want, I am not willing to concede to them. I do not know what other hon. Members will do, but I want to expose the hollowness of the pretensions of the Government and expose it to the full. (At this stage Deputy Speaker took the Chair.) Madam, this Bill originally started with departmentalizing and provincialising the whole service—the Commissioner, the Deputy Commissioner, the Assistant Commissioners and the executive officers. All these were to be the servants of the Government. If there were any trustees, their rights were really not to be respected. Of course, there was a hue and cry at the first reading of the Bill. During the Joint Select Committee stage there was some modification on the part of the Government. Even there the change proposed was that we could appoint trustees and area committees, but the executive officers would still be there. The executive officer is the man on the spot and he is a Government servant. That was the only position that the Government could concede at the time. Then when the Bill came before the House for the second reading, they changed their mind and said that they did not want to interfere and thrust executive officers on the various temples unless they were really mismanaged. If the Government thought that a temple was mismanaged, they would notify it and take it in their own hands. Therefore, in respect of the question of the trustees, the question of provincializing and departmentalizing, the whole thing has been given up. The position now is, the servants of the Board and the Members of the Board cease to hold office from to-day. They are to be unemployed. If necessary the Government may re-employ them. That is the position that the Government take to-day. I do not know how many will be re-employed. People will crowd round the Hon. Minister in charge of the department and clamour for employment and re-employment. But that is his funeral and I do not mind it."

DEPUTY SPEAKER :—"What is it that the hon. Member is saying?"

* SRI K. BHASHYAM :—"I am sorry, Madam. It is only an idiomatic way of saying that it is his job and an arduous job. He will find it difficult to make up his mind, to separate the sheep from the goat and the chaff from the grain. The Government have resiled from their original position to a position of not departmentalizing and provincializing the whole thing, but merely taking it up at the level of the Commissionerships. In the case of the Commissioner, I can understand it if he is a person who

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merely supervises and sees that the things are done properly, if he has merely supervisory control, or if he has merely visitorial jurisdiction as in England. But what happens here is, the Commissioner interferes with every aspect of the day-to-day management of the institution. He has the power to interfere with the nomination of the trustees, the leasing of the temple properties, the utilization of the surplus funds and so on. In all these things the Commissioner has a hand. Therefore the claim that initiative is given to the local people is a thing which I am not able to understand. What we have been really pressing for is that these religious institutions should be treated in the same way in which municipalities and panchayat boards are treated. They may be placed under what I may call a Director of Charities who will be charged with the duty of seeing that all the persons concerned with the institutions do their work properly and efficiently. If they do not do so, drastic action may be taken. That is what the Inspector of Municipal Councils and Local Boards does. He does not interfere with the day-to-day administration of the municipalities and panchayat boards which are left to the municipalities and panchayat boards themselves, but he sees to it that they do not transgress the legal limits. In the same way, the Director of Charities and Religious Institutions may be charged with the duty of seeing that the trustees and other persons discharge their duties properly. If this is done, the local people who are really responsible for the efficient management of the institution will have the necessary initiative, enthusiasm and interest and they will take their own share in the management of the temple. What is going to happen to-day is this. Trustees are to be appointed by the Government if they are not hereditary trustees. As I said there are very few temples which have no non-hereditary trustees, very few, so far as I can remember. The trustees are appointed by them, the area committees are appointed by them and the Commissioner, the Deputy Commissioner and the Assistant Commissioners are appointed by them. Then where do the local people come in? Is there any provision for consulting the wishes of the local people at any stage except in a general way when the Government want to utilize the surplus funds of the institution or change the dittam, in which case they may publish their proposal in the gazette and invite objections? Suppose there are difficulties or irregularities in the day-to-day administration of these institutions, will the local people care to come before the Assistant Commissioner and put in a petition for the purpose of having these rectified? No, because it means more trouble for them. Many cases are not reported to the police because of the trouble you get into by reporting to the police. In the same way, if a person puts in a petition before an Assistant Commissioner, he will be summoned before him half a dozen times and if he does not appear before him, he may get into trouble. Therefore, it is necessary that the local people should have some responsibility

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for these and they should be given a definite share in the formulation of the policies and the management of the institutions. We have all been saying that the municipalities and the local boards are the training ground for democracy where people must learn to manage their own secular affairs by persons elected by themselves. Then why not we allow the local people to manage their religious institutions themselves? Why should not they form a council or society or sabha for the purpose of managing the temple? Why should not the Government encourage such things being done? They do nothing like that. They appoint their own trustees, area committees and Commissioners and other officers. I am even extremely doubtful whether the Government can get the co-operation of the local people and rouse the enthusiasm of the local people which is so necessary in making the administration of the temple a success.

“ Madam, one other matter I should like to refer to in this connexion. The Government have so far recognized that they ought not to interfere with the internal management of the institutions in the first instance, but if, in their opinion, any institution is mismanaged and if it is necessary to take it over for the sake of better management, the Government would notify the institution, in which case all the management is taken out of the hands of the trustee and put into the hands of the executive officer. Of course, it is open to the Government or the Commissioner to divide the powers between the trustee and the executive officer, but it means in practice that the trustee will have no power and the executive officer will have all the power. In many of the schemes published by the Board to-day, the trustee is practically left with no powers, he is cipher and the executive officer is supreme in respect of all these matters. Nothing else is going to happen in these cases also. Is it lawful? Is it Constitutional?

“ Then one more thing, Madam. This question of including maths among religious institutions is a very, very serious matter. I should like in the first instance to give one piece of information. I saw in the papers and I also heard on the radio that the Government of India was going to appoint a committee for enquiring into the conduct of the various religious institutions. That is one information. The second information is, that a Bill is being introduced in the Indian Parliament to regulate the conduct and management of maths. If that is so, are the Government going to proceed with the Bill any further? Is it wise to proceed with the Bill till we know where we stand? If my information is correct, I learn that the Bill regarding maths is a private Bill and it has got, at any rate, the approval in principle of some of the Members of the Government. I am not vouching for the correctness of the information, but the information is there. In view of the fact that a Bill is going to be considered by Parliament, are this Government going to proceed with this present

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Bill, which means that, if the Central Bill was passed, our Bill would become practically useless so far as maths are concerned. The Government have considered this Bill for 17 days and 70 hours have been wasted on this. Are we to waste another 17 days and 70 hours in the discussion of the Bill in the Legislative Council? Why should not the Government wait till they know more about the Bill which has been introduced in Parliament? At any rate, so far as the Assembly is concerned, as I said, we are coming to the final stage. So it is only a question of a few days that we may have to spend over it; but when it comes to the question of placing the Bill before the Legislative Council, it may also take a number of days for consideration of the Bill and that may turn out to be a waste of time if, as I said, the other thing at the Centre which I referred to, becomes a fact. That is of course a matter for the Government to consider; I simply gave them a sort of advice that they could certainly wait for some time more.

“ Again, Madam, so far as maths are concerned, the important question to be decided is whether they are to be treated differently or not, from other religious institutions. You may remember that I gave notice of a separate chapter dealing with maths, and in that Chapter, I went very far. In fact, I would not have gone to that extent but for the fact that I hoped and believed sincerely that the Government would accept my chapter on maths, because I have included therein all the provisions that the Government think really necessary. I laid myself open to criticism by the Hon. Law Member who said that in one or two places of my chapter, I had accepted certain things provided for by the Government. He went so far as to twit me by quoting from my amendment, and I had necessarily to reply to it that my provision was for a compromise, that he could not take certain provisions from that chapter, torn from their context and quote them against my friend. I went so far as to include provisions regarding budget, accounts, appointment of manager, etc., so far as secular affairs were concerned. Only I said that the matadhipathi is a person who is looked up to by all the members of the community as a Guru, that he is an exalted person, that he must be treated respectfully; and therefore I suggested that a Council of Sishyas must be appointed who would give advice and wherever there was a difference of opinion, a Tribunal consisting of respectable persons should be appointed to decide. It was after all a very reasonable request; it contained all the necessary provisions which the Government wanted in respect of maths, so as to secure strict accounting, proper budgeting and efficient management. I also suggested the idea of associating elected members from among the Sishyas along with the matadhipathi and the others who were to be in charge of the management. It would have been an excellent thing if the Government had accepted it; but the Government are so much in the hands of the Department that they have not been able to appreciate the idea. So far as my separate chapter was concerned, the Department merely disposed

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of it in the departmental note which was circulated—'Notes on the several amendments proposed by the Firka Development Departments'—at page 11 in the following manner:—

'The Board has however made two suggestions. First, it has no serious objection to the council of sishyas being formed, but desires that such council shall be nominated for purely advisory purposes, as in the case of the advisory councils for the Tirumalai-Tirupati Devasthanams in clause 73 of the Bill, and that their constitution and functions shall be regulated by rules to be made by Government. Secondly, the Board has proposed that, in view of the public opinion, a provision may be made in the Bill that in all matters relating to usages, rituals and honours, an appeal shall lie against the orders of the Commissioner to a High Court Judge nominated by the Chief Justice, such Judge being a Judicial Tribunal.'

Therefore, it is clear that even the Board is prepared to move forward in respect of this matter. I respectfully submit that even though in a very large measure I carried out the idea of the Government in my new chapter, they did not accept it; but on this question of council of sishyas, the Board has also said that it could be there. I may submit, Madam, so far as the sishyas are concerned, it is they who make up practically the whole income of the math. They give money to the head of the math. What do they give it for? You know the nature of these maths; they are merely colleges of learning; and in my earlier speech, I illustrated it. Supposing there is a professor in the Presidency College; he teaches me and he makes me pass my B.A. Because I studied under him and because I have learnt many things from him, at the end of the year I present him with Rs. 1,000. Does it belong to the professor or to the college? That is exactly the position here. The sishyas place themselves under a spiritual teacher, a person who finds for them the spiritual path, a person who throws some light on the many doubts they have, and some light is thrown to them to improve on the spiritual side. As a result of that teaching and in gratitude for that, these sishyas give some money to the matadhipathi. It cannot by any means be said to belong to the math proper, it is purely his personal money, and it is wrong to say it belongs to the math. I may even say it is unconstitutional to treat it as such. And again if such money is not spent by him for the purpose of the math itself, then it is quite a different matter. But where money is paid to these matadhipathis as a return for the spiritual enlightenment that the sishyas receive from him, it is wrong to treat it as belonging to the math. Besides, there are well-managed maths and there are badly managed maths. When a math is not well-managed, there can be no objection to the Government taking up some control over its affairs and all that; but why should they take up all the maths, I want to know. Why should the Government say that they admit certain maths are being administered well enough, but at the same time put them also on the same footing as the other maths and bring them all under statutory control? Why should they be afraid of taking power to exempt from the Bill such maths as are really being managed well? Why not accept my suggestions? Is it because they are afraid of

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being charged with partiality in respect of one or the other of these maths? In such a case, it would be better for them to say 'I do not find this math is bad, I won't interfere with it.' It will be a good thing for them to exempt such a math from certain of the provisions of the Act and make only the other provisions apply to it. I submit, Madam, it is cowardice on the part of the Government to say that they won't take this responsibility in their hands. They may say it will put them in an awkward position; but how can it be awkward, I want to know? Why are the Government afraid of using such a power wisely and do the proper thing? There seems to be dead set in their mind that a hereditary trustee is one who steals the math property, that the matadhipathi has no right to look into all the affairs of the math and therefore everything relating to the math should be controlled. I do not know, as a matter of fact, what is going to happen in respect of these maths in regard to which such wide powers have been taken by the Government. I should have liked that the Government took such exemption powers at least in respect of maths which are really mismanaged. The Hon. Minister in charge of the Bill took occasion to say that he gained his experience in respect of a big temple in the place where he lived and but for that experience, he would not have come forward with this Bill. Unfortunately, he has lived long in a place which is the hot-bed of all kinds of difficulties, where for a long time, the Thengalai and Vadagalai Vaishnavites have been quarrelling with each other. I can, therefore, quite understand his feeling and his bitter experience. But I may point out to him, there are a large number of other large and small temples which have no such difficulties, which are quite unlike what he has seen at Srirangam. Srirangam is a very big temple and two sections have been quarrelling there; and unfortunately the Minister has lived at Srirangam all these years. If, however, he had been living in some other place or in Madras, I am sure he would not have come forward with this Bill. He seems to have had his early impression that temples have been built only for such faction, and therefore it is he has become so narrow-minded that he is unable to know what is happening in other places. He has made it a crusade in his life; it is a part of his joy to see that all these temples and also the religious institutions and maths are put 'on a proper basis' as he put it. But what is the proper basis on which he puts them now, I would like to know. He is simply handing them over to officials; is he going to expect these officials to carry out the improvements in his mind? After all, officials are persons who have been chosen from the common run of the people; they are made of the same mould, not of a different mould. Lots of controls are there; there is the rice control, the dhall control, the steel control; but still we know certain things are happening and people are complaining. All these controls are in the hands of respectable Government servants, who are paid well, who have a status, who are respected. And there is a

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regular hierarchy of smaller officials below them, and still we hear of complaints. Why? Because they are no better than the others. The whole difficulty is that these controls do not always do justice to humanity; they are not conceived on generous, democratic lines, but really conceived in haste and amended from time to time as the Government pleased. Now they want to introduce another kind of control over these religious institutions on the pretext of bringing about an improvement in their management. I submit Government are not doing anything of the kind; on the other hand, for the last thirty years from 1920 onwards, we have been managing these institutions through the Board and the Board has been looking after the management of these institutions, yet at the end of these thirty years' administration, we are told to-day of 'mismanagement' as we were told thirty years ago. In all these matters, the real question is: Is the mismanagement due to the agency, or is it that the persons who are in charge are people who cannot be trusted to do their work? I submit, Madam, trust the people who are on the spot; trust them and make them responsive to public opinion; that will be the best way of ensuring that everything is all right. If you put in a man who knows nothing about the institution, who is not a local man, then naturally difficulties crop up and he will do things which will be against local public opinion. The remedy therefore is whether the question should not be considered if you ought not to devolve more powers on the local people, give them more initiative and make them take more and more interest in the management of these institutions. As I said, this is not a measure brought forward in the large interests of the people or of the temples themselves; I think it is going to be more or less a failure, as much as the Hindu Religious Endowments Act itself has been. After all, we know that the Hindu Religious Endowments Act is a failure, and that is why this Bill has been found to be necessary. (The Hon. Sri K. Madhava Menon: 'Do not curse.') I am not a rishi to curse; I am not even such a good Brahman as to curse with good results. If I was such a Brahman, I ought to have cursed this measure long long ago. Though I call myself a Brahman, I have not got that much of Brahmanhood. Anyhow, I do pay homage to Brahmanhood. I do not disclaim that by saying that these things ought to be preserved in their ancient glory. I do pay homage to Brahmanhood, to our old traditions, to our usages and customs in our own temples and I respect them more than anything else. Unless you pay such homage to our ancient traditions and customs, you will be contributing to the destruction of these maths. Already, Madam, a spirit of vandalism is abroad; atheism is gaining ground; persons are there who want to break idols and destroy temples; and it is they who are profiting by this propaganda that you are making on the floor of this House and they are already saying 'the matadhipathi or the trustee is a blackguard. They cannot be trusted.' They are already making this kind of propaganda, and you are now contributing to that organization which

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is now against religion, against God, against temples and against religious institutions. One thing I want to say: by extending this Bill to charitable institutions, you endanger them far more than you are endangering the religious institutions. Madam, charitable institutions have mostly been in the hands of many big families; they have been managed by the members of the family. They have been doing charities in many ways and they have been doing it for the benefit of humanity. Now you want to extend your control over those charities by saying that they are being mismanaged. So, I submit the Government should bestow deep consideration over this question. I am still hopeful that the Government, before they take a decision on this Bill in the Legislative Assembly, can wait till they know what is going to be done at Delhi about their Bill in regard to the maths and about the committee to be appointed for going into the affairs of the religious institutions; and also, when they go up to the Legislative Council, I hope they will bear the suggestions I have made and even at the last moment, modify the provisions in the Bill to the extent I have indicated. The amendments which I suggested, I may assure the House, were conceived in the best of spirit and were intended to improve the institutions. Though I and the Government have not been able to see eye to eye on many matters, I am glad they have recognized that both of us want only to improve the institutions. The movement for improving these institutions started long ago with Justice Muthuswami Ayyar's minute. Mr. T. R. Ramachandra Ayyar and Mr. Ganapathi of the Dharamarkshana Subha filed a suit under section 92, Civil Procedure Code, about the Rameswaram Devasthanam and thus public spirited men came forward to conduct the case. If the Government at the time had come forward to contest the suit and if an officer had been appointed to conduct the case, it would have been better; but at that time we did not have our own Government; we had an alien Government; we had to appeal to them and in spite of that appeal, they would not come to our help. Therefore nothing happened; the Board has been working for thirty years now and I do not know what success has been achieved so far. Of course, persons in charge of the department will naturally say it has been a success; but still we all know there are lots of complaints about the management of these institutions. If now we own we have not been able to bring about an improvement, that there has been mismanagement all the time and this Bill is the result of deep cogitation on the part of Government, I feel that unless there is a serious modification and necessary amendments are made in the Bill, it will not be in the interests of these institutions, nor will it be to the good name of the Government."

SRI V. M. RAMASWAMI MUDALIYAR:—"Madam, Deputy Speaker, I am glad that this Bill is in charge of the Hon. Minister who hails from Tiruchirappalli and who has been brought up under the shadow of influence of Lord Ranganatha and I hope that with the help of Lord Ranganatha the Hon. Minister will have the courage to survive the strong criticisms that have been levelled

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against him and the Bill. I remember another occasion when the Raja Saheb of Panagal introduced the first Hindu Religious Endowments Bill and successfully piloted it, curses in much stronger terms were hurled against him for having taken the courage to bring in the Bill for the better administration of Hindu religious institutions. I think this occasion is similar to that, but I can assure the Hon. Minister in charge that the curses and criticisms on this occasion against the Bill have been in much milder terms. Madam, it is not possible for me to restrain paying a compliment to the very able manner in which the Hon. Minister, who is in actual charge of piloting the Bill has taken it through during the very long number of days, in spite of the criticisms, condemnation, curses and imprecations that were hurled against him. I must also pay my humble tribute to the very able manner in which he had studied this Bill and the criticisms and how he tried to accommodate as far as possible the various points of view put forward by hon. Members. This occasion is not, as the hon. Member Mr. Bhashyam would like to call it, the funeral oration on this Bill, but I would like to call it a re-birth of the idea contained in the original Act which was put on the Statute Book nearly a quarter of a century ago in 1926. I would, therefore, like to christen this occasion as a rejuvenation of the work which was undertaken nearly 25 years ago. Madam, informed and enlightened Hindu opinion has been for reforming the administration of Hindu religious institutions and I may say that even the original Bill was a creature of that public opinion and that during these many years this public opinion for the better administration of Hindu endowments has gained ground year by year. Why this Bill has been found necessary, in my short experience, is this. Though the Hindu Religious Endowments Board has been in existence for these number of years, still in its actual working, it was found that it did not have sufficient powers to bring under control or proper administration several Hindu religious institutions. In fact, I know of a number of cases where trustees and certain matadhipathis simply twitted the Hindu Religious Endowments Board and snapped their fingers at it and the Board was unable to maintain a proper administration of the religious institutions under its control. Speaking for myself, the one great change that we have found between the time when the original Bill was introduced in 1926 and the present occasion is, the birth of a written Constitution for India and that has been made the occasion for opposing, in my opinion, even the very halting reforms which have been attempted in this Bill. For instance, we find that hereditary trustees of religious institutions go scot-free, in the sense that they cannot have other trustees appointed by the Government as colleagues. It is unfortunately a very retrograde concession. I know there are several temples in which there are hereditary trustees and the administration of those temples would be better carried on if some non-hereditary trustees were also appointed to such temples, but under the present Bill, neither the Commissioner nor the Deputy Commissioner nor the Government can now appoint non-hereditary trustees for such temples.

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I think Article 23 of the Constitution of India does not prevent the Government if they do so. That is my personal opinion. So, Madam, I think the concession is a very retrograde concession.

“ Madam, I personally wish that the matadhipathi had the advice of Advisory Councils consisting of sishyas and members drawn from the locality, but the Government have not conceded in this Bill the appointment of such Advisory Councils, even though my hon. Friend, Mr. Bhashyam and the Hindu Religious Endowments Board did not take serious objection to the appointment of such Advisory Councils to advise the matadhipathis in the governance of the maths.

“ Then again, Madam, I also find that no provision has been made in the Bill for an Advisory Committee for the Commissioner. I wish that even though the Bill does not contain a provision of this nature, the Government will be well-advised in appointing an Advisory Committee on a provincial level to advise the Commissioner with regard to the administration of the Act. I may here point out that while the Government have appointed advisory Committees on the provincial level in respect of Cottage Industries, Food, Co-operation and even in respect of Publicity, I do not see any objection to the appointment of such a Committee on the provincial level for advising the Commissioner. I hope that though it has not been provided in the Bill, the Government will do so at least under the rules or under the inherent powers of the Government, as they have done in the case of the other departments I have just mentioned. And in the appointment of the members of this Advisory Committee on the provincial level for assisting the Commissioner, I hope they will appoint only persons who have great faith and belief in religion, persons who are learned and above all persons of good character, so that they may stand as an inspiring example for the Area Committees, the trustees, the matadhipathis and other persons who are entrusted with the task of performing their respective duties in these religious and charitable institutions, to follow.

“ Again, Madam, I find another retrograde concession that has been made in this Bill with regard to the non-appointment of executive officers. In this Bill the Government have not taken power for the appointment of executive officers, because they stated that it would offend Article 23 of the Constitution. Are not the Government aware that even now in several big temples there are executive officers who are doing their functions. For instance, I know that in the case of the Tiruvannamalai Devasthanam, one of the biggest Saivite temples in the south, there is an executive officer; in the case of the Mathurai temples there is an executive officer; in the case of the Tiruchendur temple there is an executive officer and there are also a number of other temples with executive officers. So far as I can see, the system has worked very well and I do not think there is any ground for the fear expressed by my hon. Friend, Mr. Bhashyam, that no public-spirited person will come forward for

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becoming a trustee. I know as a matter of fact that in the case of Tiruvannamalai, though there was an executive officer, for the vacant post of trustee, many applications came in from public-spirited people of the locality offering themselves for the post. So, I do not think there need be any such fear. So, I personally think that this is a concession made by the Government on a wrong reading of the Constitution.

"Then, Madam, as I said, the general superintendence of the Government has been given up. True section 7 has been altered suitably. It is said that the Commissioner has got too much power and also criticism has been levelled as to how the Act is going to work in future and so on. My hon. Friend, Mr. Bhashyam, says that the whole thing is based upon suspicion. Madam, I may tell the hon. Member that all laws are not made for good people, because good people do not want any law and they do not want the Indian Penal Code or any law of limitation. In the case of a good man, he does not insist on the plea of limitation and say that the claim is barred by limitation, but will give back what he really owes to the other man. So, Madam, laws are made only for people who do not care for the public weal and so they are necessary to bring such people under the arm of the law so that they may go on the right path. Therefore, laws, as they are understood, are based upon that fact and are intended to bring back erring humanity to a proper and social life. So also, this law is necessary and it is not based upon any suspicion against any trustee or matadhipathi, but it is only intended to bring such of those erring trustees and matadhipathis to the path of right conduct.

"Then again, Madam, I do not think there is any justification for the criticism that has been made against the Bill that local opinion will not be taken into account. For instance, under the existing Act, in various districts, what are known as district temple committees, were formed and in certain districts these committees were asked to be elected of persons who were worshippers belonging to the several temples. We know the history of these temple committees. They were torn by factions and cliques with the ultimate result that so many of the district temple committees became the laughing stock of the people. That is why, in this Bill, for the time being the Area Committees to be appointed by the Government have been substituted for temple committees to be selected by the worshippers of the religious institutions of the area. For the time being, I shall be satisfied if the Government take care to see that in appointing members to these Area Committees they appoint persons who have religious faith and good character. With this pious wish, I shall rest satisfied for the present.

"Madam, as I said, this Bill only marks one stride ahead in putting our religious institutions on a proper footing and I congratulate the Hon. Minister who introduced this Bill and the Hon. Law Minister for piloting it through to its successful end."

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SRI T. VISWANATHAM :—“Madam Deputy Speaker, we have come to the first stage of the end of our journey. The Hon. Minister in charge of the Bill in moving for the third reading of the Bill made a speech, which appealed to me very greatly, on account of the sincerity with which he has spoken those words. He told us that it was in deference to the opinions expressed on the floor of this House that several amendments have been made. He also mentioned the great responsiveness the Government have shown to public opinion in this matter. He has told us that the Bill has been before the public for more than three years; and after it was published in the month of January 1949, it was substantially revised again in the next month of the same year, and then it was introduced in this House. Madam, Deputy Speaker, if you remember the occasion when it was introduced, those surcharged feelings, which were roused both in favour and in opposition to the Bill, you will recollect, how vehement speeches were made, and it was said very vehemently on behalf of the Government then, that, if the Bill as introduced then was not supported, they would take it that those that opposed it were supporting corruption and mismanagement of temples. There was no doubt, the Government then, when they introduced the Bill in the condition in which it was introduced and in the language in which it was couched, felt, that those who opposed the several clauses of the Bill on several grounds, were opposing the Bill, because they were in favour of continuing the mismanagement in the temples. But, however, time has elapsed, and since that date, they have not reiterated that kind of sentiment; and to-day the Hon. Dr. Rajan has very refreshingly said that in response to the public opinion and also in response to the amendments moved on the floor of this House and also in great deference to the suggestions made here, he has made a great many changes; and to that extent, although much younger than he, I venture to congratulate him.

"Madam, Deputy Speaker, the Hon. Dr. Rajan said that we have sat for seventeen days over this Bill, a very record sitting no doubt, and we sat for seventy hours in considering the clauses in the second reading stage. I would remind the Hon. Minister that it was not the fault of the few members who moved those amendments that we had to sit for full seventeen days. As I said on another occasion, originally Government had a particular approach, and it was a very dogmatic approach; but it changed later on mature consideration. In the select committee I noted that the Government themselves introduced 37 amendments to the Bill consisting of 106 clauses. And after the second reading began, discussion proceeded up to the clause 6; there, from the sixth clause onwards Government moved more than 52 amendments to the end of the Bill. That only shows, in fact I am recounting these things to show, that those who were moving amendments were not actuated by any bad motives, but that they were equally anxious to make the Bill as good as possible, consistent with the needs of the Constitution and the requirements of the Constitution. Then, Madam,

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in the course of moving these amendments, Government omitted about seven clauses and about sixteen sub-clauses; they substituted 25 clauses, they added six new clauses, and they inserted four new sub-clauses. You should realize, Madam, that it was a very arduous affair, of Government trying on the one hand to push through a measure, which was good from their own point of view, and we on the other hand trying to make it as good as possible from the point of view of the Constitution and the interests involved. But the chief difficulty for us, Madam, is not the management or mismanagement. For we know, human institutions are always liable for mismanagement. Because, all people in the management of public funds are not good. But the question, what to do and how to do it after the promulgation of the Constitution, was a great difficulty for us. The Constitution has said one thing. And whatever may be our inclinations and whatever may be the notions that we have developed, because we have had experience of badly managed institutions, still we have to stick to certain fundamental things. All that the Constitution has said is this. I think those words have been quoted quite a good number of times. But still, I feel I should with your leave, Madam, quote here those words. They are articles 25 and 26 of the Constitution. Article 26 gives the right to establish and maintain institutions for religious and charitable purposes of religious denomination or a section of that denomination. It gives that denomination a right to manage its own affairs of religion; and not only that, but a right to own and acquire movable and immovable property. Surely, these last are not religious matters; they are absolutely secular matters. But still under Article 26 a right is reserved for a religious denomination to acquire movable and immovable property and to administer such property in accordance with law. Thus, that right of administration of properties, which is quite different from matters of religion, which is invested in sub-clause (b) of Article 26 is also reserved in favour of religious denominations. But Government seem to have taken up their stand under sub-clause (a) of Article 25 (2), which says,—

“(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practices.

That seems to have been their case. But in my opinion that clause relates to other matters. Madam, when Government first introduced this Bill and when we took our objection against it, declaring that in view of the provisions of the Constitution, we cannot proceed with the Bill, Government gave as their argument that their law officers have advised them that they are within their right under Article 25 of the Constitution, under which they can regulate or restrict religious activities. Now, I beg to submit that we have to read and understand these articles together, in which the right to own, acquire and administer movable and immovable property is reserved for a religious denomination. However at this

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stage, I do not wish to go into any further disquisition upon this matter, because we have put forward our point of view as each clause came up for discussion. Government also seem to have realized the difficulty, and therefore they have omitted several clauses, particularly clause 7, and clauses 43, 44, 45, 48 and 54, to say that they come within the Constitution. But the real point is, after all this transformation this Bill has undergone, I want to know, whether the Bill as it stands at present, does not offend the Constitution. The Hon. Minister points out that two Advocates-General, Mr. K. Rajah Ayyar in the first stage and now Mr. Kuttikrishna Menon also, have been advising them that they are legislating within the Constitution. It may be, they may have been advised that they are within law. But I want here to make a brief survey of it to see whether the present Bill is still within the Constitution. For, it is a very important point so far as I am concerned at this present stage. As I said, the Constitution reserves to religious denominations the right to acquire, manage and administer movable and immovable properties, which is separate from the management of affairs of religion. Both these rights are expressly reserved to them in the Constitution. Now what has this Bill done? It has first created a hierarchy of officials, Commissioner, Deputy Commissioner and Assistant Commissioner. Now, who are to be in actual management of the property, movable and immovable? Government have taken up the stand (on the ground that they are within the Constitution) that those who are in actual charge of the administration of such property are the trustees. Therefore, they say, the Constitution is satisfied. But take the clauses in the Bill where the position of the trustee is envisaged. There, what do we see? The trustee is to be appointed by the Government and he is to be removed by the Government at their will and pleasure. In some cases, the removal is by the Commissioner; while in some other cases the final orders will be issued by the Government. I submit, when the trustee is to be appointed and removed by the Government or their officers, surely, we cannot say, the trustees represent their denomination, or that the management by them is management by the denomination in any sense of the term. I wish Government clearly realise this difficulty. It may be I am not quite clear; it may be I am not able to express myself clearly; but I am convinced at this stage, when I do say, that the provision, where trustee is appointed by the Government and is removed by the Government of their offices, does not satisfy the Constitution. For they are not in any manner members representing denomination, or any section of the denomination who are put in charge of the property, movable and immovable, and the affairs of the institution. Similarly, for all temples, whose income is less than twenty thousand rupees, Government propose to appoint area committees. And these also are to be manned by persons who are to be appointed by the Government and who can be removed by the Commissioner. Therefore, you will see, Madam, the Commissioner, the Deputy

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Commissioner and the Assistant Commissioner are all paid officers of the Government, and so, members of the area committees and the trustees for various temple scattered over the entire province will be all nominees of the Government; they need have nothing to do with the religious denomination. There is nothing in the Bill to say that the denomination has a voice in the appointment of a trustee. So the trustee holds his office under the control of the area committee, the Commissioner and others, who are all under the control of the Government. So finally it reduces itself to this: it is the Government that rules, it is the Commissioner that rules, and it is not the denomination or any section of it that rules or controls the management or administer the affairs of the denominations. So, I submit the intention of the Constitution has not been in any manner fulfilled. Now, you may ask, 'why do you stress so much on the Constitution aspect?' 'Is it not a matter of mere technique?' 'Has not the State supreme right?' Or as the Hon. Minister said, 'Has not the State always reserve power to manage, power of supervision and regulation of these institutions?'

"I submit that the members who framed the Constitution also had this aspect in view. They also considered whether it was right for the State to interfere in religious matters in this country which is made up of so many religious denominations and with all the different traditions and the different doctrines of philosophy upon which the various denominations have sprung up. They thought that in the best interests of the country the State and even the Central Government should not have anything to do with religious denominations or the maintenance of the institutions run by them, and left these matters to the religious denominations themselves. It is not a technical matter; it is a matter of substance. That is the reason why we were so particular to argue about the constitutional point. I submit that it is on this constitutional point only that this Bill seems to be inviting some danger in future. While the hon. Sri Bashyam was speaking, the Hon. Sri Madhava Menon said just across the table 'Don't pass imprecations'. Madam, as you might have seen during the long discussion, we did not oppose the clauses for opposition's sake. The very fact that the Government themselves have altered certain clauses and the good spirit in which the Hon. Dr. Rajan acknowledged our efforts prove the *bona fides* of our intention. It was not by way of imprecations that we made our suggestions. As intelligent Members of an intelligent Assembly of one of the most important States in India, we are anxious that the measures we pass should satisfy the constitution and the fundamental notions of justice. It may be that we go wrong. But it is our earnest desire and bona fide intention to make the Bill as perfect as possible and it is only in that spirit that we moved the several amendments. Except for one or two occasions, our train did not go off the rails. I have no complaint to make against the Hon. Ministers. They also were in good spirit. I admire the patience with which

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the Hon. Dr. Rajan was sitting throughout every day and keenly observing the discussion. The whole question is whether we have done the right thing or the wrong thing.

"I do not disagree with the Hon. Dr. Rajan when he says that we must restore the temples to their original high level of spiritual tradition. But I submit, as the hon. Sri Bhashyam vehemently submitted already, that even the Government will not be in a position to realize the ambition by adopting this Bill. By appointing Commissioners, Deputy and Assistant Commissioners, Area Committees and trustees of their own choice, will the Government be able to achieve anything? As a student, thirty years ago I travelled all over the State visiting all the important temples. After a period of thirty years, I look round now and see whether any improvement has taken place. I do not want to cast any reflection on the work of the Hindu Religious Endowments Board done during the last twenty-five years. Except for the plastering of sculptural and fresco work, no improvement has been done. I do not see the enhancement or even the retention of the ancient glory in any of these temples under the control of the Board. Even if the Government take more drastic powers as was suggested by Sri V. M. Ramaswami Mudaliyar, centralize the whole administration, remove all the restrictions which we suggested and make the religious institutions completely Government institutions like the General Hospital in Madras, I wonder whether the Government will be able to effect any improvement. Our experience of the past does not justify any such hope. Temples can be improved, new life put in, and made the real abodes of peace for the troubled souls only by those who live around and who have an abiding faith in them and in the religious doctrines for which they stand. Such people should be given sufficient power and unhampered initiative. The Government officers cannot do that. To put the entire organization under Government officers and say that we are doing it only with a view to arrest mismanagement passes my understanding in the light of past experience. Notwithstanding all the sincere motives of the Hon. Dr. Rajan, I submit that this Bill may not achieve the desired object. This Bill has squeezed out all religious denominations and sections thereof. The only clause of this Bill which had something of religion in it providing for the constitution of an advisory council consisting of religious persons, which was introduced at the Select Committee stage, was removed. I submit that the interest of the trustees appointed by the Government will lie more with the Government than with the religious institutions.

"The Government have taken power to extend the Bill to charitable endowments by notification. There are charitable endowments like hospitals, schools, patasalas, etc. Most of the provisions of this Bill will not be applicable to them. There are so many other matters which have got to be dealt with in respect of those institutions for which no provision is at all made in this Bill. This is a point which the Government should not have missed.

"I now come to the ousting of the jurisdiction of the civil court. The Hon. Minister was good enough to say that it was not

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due to want of faith in law courts but because of the dilatory procedure and the scandalous waste of public funds that were inevitable when matters were taken to the court. This remark about the scandalous waste of public funds can be applied to almost every Government organization in this country and probably in every other country also. Let us take the Public Works Department. Are there not people who say that it is a public waste department? Is everything all right in Government hospitals which are manned by officers of the highest qualification? There also there is delay. The suffering patients have to wait not according to their due turn but depending on the whims and fancies of the officer. I was reading the Council debates during the days of Dr. T. M. Nair and Dewana Bahadur K. P. Kesava Pillai, and found them complaining about the delays in the General Hospital at Madras thirty years ago. Delay is inevitable. Simply because there is delay in courts, shall we deny to the citizens access to the courts to seek remedies? The Hon. Minister forgets that the Civil Procedure Code provides also for the quick despatch of business. Is there not red-tapism and delay in Government departments? Resolutions of a municipal council sent to the Government for permission to publish a notification under section 4 of the Land Acquisition Act two years ago are still pending, the papers going up and down. As I said, delay is inevitable. But the Government can also do in two hours what will normally take two days. Notwithstanding the red-tape, they have got the reserve powers. Similarly by getting injunctions and other interlocutory orders from the court, the parties can get immediate remedy. If the complainant says that the properties in dispute are being wasted or mismanaged, the Civil Procedure Code provides for putting them under the management of receivers or other officers appointed by the court. It is wrong to lay the blame for all delays on the courts. In some cases the parties are not ready. I know of several cases in which the Government are a party. The counsel representing the Government says that he is awaiting the orders of the Government or the opinion of the Advocate-General and so on, and asks for an adjournment. The court is helpless and has necessarily to grant the adjournment. Such things happen times without number. Similarly, private parties too are not in a position to produce the required documents in time. Judges have to go into the documents, hear the arguments on both sides and then arrive at the truth to the best of their lights. Somehow the impression has been created in the minds of the people that a court means only dilatoriness. I submit it is doing a great injustice to the courts. Wherever there is delay, certainly steps can be taken to achieve the object immediately by a stay order or by changing the procedure. Delay should not be made an excuse for depriving citizens of their right of seeking redress of their grievances in a court of law, and delay should not embolden the Government to say that they will oust the jurisdiction of the courts. In several clauses of this Bill, the Commissioner is vested with final powers barring the jurisdiction of the courts. I submit that it is not right for the Government to oust the jurisdiction of the courts on some pretext or other. A feeling is gaining ground in the minds

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of the people that not only the Government of this State but also the Central Government want to vest the executive with over-riding powers over the courts. The Governments seem to think that the courts are some extraneous bodies."

DEPUTY SPEAKER :—" The hon. Member has only one more minute."

SRI T. VISWANATHAM :—" I thought I had fifteen minutes more. I have found the Members of this Assembly so good that they have trusted a few of us with all the seventy hours of discussion of this Bill, and left the matter to us. I therefore think that many Members are not likely to participate in this discussion."

DEPUTY SPEAKER :—" Ten more Members want to speak."

SRI T. VISWANATHAM :—" Madam, I thought that I had some more time. But, even if I have exhausted the time allotted to me, I would crave your indulgence to extend a few minutes more to me."

DEPUTY SPEAKER :—" I am sorry, I cannot give any more time. The hon. Member must finish his speech in another minute."

SRI T. VISWANATHAM :—" As I was referring to, Madam, this measure gives the Government an extraordinary power for patronage. The Hon. Minister for Law was in a rage when I said that this Act gave lot of patronage to the Government. The Area Committees which are to be constituted under this Act will have under their jurisdiction and control nearly 28,000 temples. Then the Government have got power to appoint trustees for nearly 30,000 institutions and each institution will have at least three trustees. I ask the Hon. Minister for Law, whether the Government and the Commissioner who is only an officer under the Government, have not got extraordinary scope for showing their patronage in these appointments. Will they not exercise their patronage in making these appointments? When such wide powers are given under this measure, no doubt, it would be a great burden and a responsibility upon their shoulders, and it may not be possible to exercise their discretion with ordinary impartiality. That is why I suggested in one of my amendments that the Government should divest themselves of these powers of showing patronage to their own men, and should not give any impression to the various bodies that they still retain such powers of showing patronage. Madam, I shall end my speech by saying that these Area Committees consisting of Government officials and their nominees and these trustees, who are appointed trustees, will be in charge of these 30,000 Hindu Religious Institutions whose income will be anything over Rs. 4 crores and therefore the Government will be carving out a small kingdom and placing it in the hands of these persons, who are appointed by them and who can be removed at their sweet will and pleasure. I only hope that the Government and the various officers who will be in charge of these religious institutions will exercise all these powers with great caution, so that something

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good may come of this Act, notwithstanding the various defects contained in it. Let me conclude, Madam, by wishing Godspeed for this Bill, so far as we are concerned."

SRI K. T. KOSALRAM:—"Madam Deputy Speaker, இந்த அற நிலைய பாதுகாப்பு மசோதாவை இன்று சட்ட நிபுணர்களுடையவரும், சட்ட அறிஞர் களுடையவருமான நண்பர்கள் கனம் பாஷ்யம், விஸ்வநாதம், கரந்த முதலிய வர்களுடைய எத்தனையோ எதிர்ப்புகளுக்கு மத்தியில் இன்றுவது இந்த மூன்றாவது Reading-க்குக் கொண்டு வந்ததற்காக கனம் டாக்டர் ராஜன் அவர்களையும், அவர்களுக்கு உதவியாக இருந்து வந்த சட்ட மந்திரி கனம் மாதவமேனன் அவர்களையும் நான் முழு மனதுடன் பாராட்டுகிறேன். இந்த அறநிலைய பாதுகாப்பு மசோதாவை கனம் டாக்டர் ராஜன் அவர்கள், கனம் இராஜாஜி அவர்கள் இம் மசோதாவின் பிரதம மந்திரியாக இருந்த காலத் திலேயே கொண்டு வந்தார்கள். அன்றும் இவர்தான் இம் மசோதாவைக் கொண்டு வந்தார். இன்றும் அவர்தான் இம் மசோதாவைக் கொண்டு வந்திருக்கிறார். கனம் இராஜாஜி அவர்கள் பிரதமராக இருந்த 1937-ம் வருஷத்திலிருந்து 1951-ம் ஆண்டு வரையும் (இன்று 1950-ம் வரையும் முடியப்போகிறது) இம் மசோதாவைக் கொண்டுவரக் கூடாது என்று எண்ணு கிறவர்கள் இங்கு இருக்கிறார்கள்; வெளியிலும் இருக்கிறார்கள். அதற்காகவே ஆட்களை வைத்துக்கொண்டு எதிர்த்துக்கொண்டுமிருக்கிறார்கள். இப்பொழுது இந்நுக்கும் எதிர்ப்பு ஒரு புதிதான எதிர்ப்பல்ல. இந்த நிலைமையில் இந்த மசோதா ஓரளவிற்கு கழுதை தேய்ந்து கட்டெடும்பாண் கதைபோன்று, இந் நிலைமையில் வந்திருக்கிறது. அவர்களுடைய எதிர்ப்புகளுக்கு மத்தியில் அதாவது Constitution-க்கு விரோதமாக இருக்கிறது, Fundamental rights-க்கு விரோதமாக இருக்கிறது என்பனபோன்ற எதிர்ப்புகளுக்கு மத்தியில் ஓரளவில் இம் மசோதா வந்திருக்கிறது. Constitution எப்படி இருக்கிறது? Fundamental rights எப்படி இருக்கிறது? ஒரு மனிதன் கொலை செய்வதற்கு உரிமை இருக்கிறது என்ற நிலைமையில் கோர்ட்டுகளில் தீர்ப்புகள் கொடுக்கிறார்கள். இதே மாதிரி Constitution-னுள்ள சில விதிகளைச் சொல்லிச் சொல்லி இந்த மசோதாவின் உயிரில் 50%ஐ அதாவது பாதி உயிரை அதிலிருந்து எடுத்து விட்டார்கள். உண்மையில் இந்த அரசாங்கமே இந்த மசோதாவிற்கு பல திருத்தங்களைக் கொடுத்து நிறைவேற்றியிருக்கிறார்கள். அந்த திருத்தங்களைக் கொடுத்து நிறைவேற்றியதால் அரசாங்கத்தின் அன்றைய நோக்கம் ஈடேறாமல் போகிறது என்பதை அவர்கள் மறுக்க முடியாது. இம் மசோதாவிற்கு கனம் பாஷ்யம் அய்யங்காரும் கனம் விஸ்வநாதம் அவர்களும் சுமார் நூறு திருத்தங்களுக்குமேல் கொடுத்தார்கள். அப்படிக் கொடுக்கப்பட்ட திருத்தங்களில் ஏதாவது ஒன்றையாவது அரசாங்கம் ஒப்புக் கொள்வதாயிருந்தால் இந்த மசோதாவை ஒரு குப்பைத் தொட்டியில் போடவேண்டியவையே தவிர வேறு ஒன்றுக்கும் அவசியமே இரக்காது. அதில் முக்கியமாக கோர்ட்டுகளுக்கு அதிகாரம் கொடுக்கவேண்டும், கொடுக்க வேண்டுமென்று நண்பர் கனம் விஸ்வநாதம் சொல்லுகிறார். அவ்விதம் கோர்ட்டுகளுக்கு அதிகாரம் கொடுத்தால் இந்த தேசம் இப்பொழுது எந்த நிலைமையில் நடந்துகொண்டு வருகிறது என்பதை கனம் விஸ்வநாதம் அவர்கள் தெரிந்து கொள்ளவேண்டும். கோர்ட்டுகளுக்கு அதிகாரத்தைக் கொடுத்தால் இம் மசோதா எவ்விதம் வாழ முடியும் என்பதை கனம் நண்பர் விஸ்வநாதம் தெரிந்து கொள்ளவேண்டும். இப்பொழுது சட்ட சபை என்றும் நீதி ஸ்தலங்கள் என்றும் இரண்டாகப் பிரிக்கப்பட்டிருக்கிறது. இன்று நாம் சட்ட சபையை வைத்துக் கொண்டிருக்கிறோம். அன்று ஆய்றிய சட்டங்களை இன்று நாம் வைத்து நடத்திக்கொண்டு வருகிறோம். இம்மாதிரி யான ஒரு புதிய சட்டத்தைக் கொண்டு வருவதற்கு 17 நாட்கள் கனம் பாஷ்யம் அவர்களும் கனம் விஸ்வநாதம் அவர்களும் எதிர்ப்பு செய்கிறார்கள். இந்த 17 நாட்களின் எதிர்ப்புகளுக்குப் பின்புதான் இந்த சட்டம் வருகிறது. ஆனால், வெளியில் பல லட்சக் கணக்கான மக்கள் இந்த சட்டமில்லாமல் மடிந்து மாண்டு கொண்டிருக்கிறார்கள். ஆனால், முதலாளிகளோ கோர்ட்டு களுக்குச் சென்று மடிந்து கொண்டிருக்கும் பல லட்சக் கணக்கான மக்க

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ளுக்கு எதிராக தீர்ப்புகள் வாங்கிக் கொண்டிருக்கிறார்கள். மக்களுக்கு விரோதமாக கோர்ட்டுகள் Judgment கொடுக்கிற இந்த நிலைமையிலிருக் கிறது. இப்பொழுதுள்ள கோர்ட்டுகள் இப்பொழுது இந்த சட்டத்தில் கோர்ட்டு களுக்கு கனம் மந்திரி மாதவ மேனன் அவர்களால் சில அதிகாரங்கள் கொடுக்கப்பட்டிருக்கின்றன. இதற்கு முன்னால் கனம் O.P. இராமசாமி ரெட்டியார் அவர்கள் கொண்டு வந்தபோது இந்த சட்டத்தினால் கோர்ட்டு களுக்கு அதிகாரமே கொடுக்கப்படவில்லை. இப்பொழுது கொடுக்கப் பட்டிருக்கும் அதிகாரம் அப்பொழுது இல்லாமலிருந்தது. பிறகு கொஞ்சம் கொஞ்சமாக கோர்ட்டுகளுக்கு அதிகாரம் கொடுக்கப்பட்டிருக்கிறது. இதற் காகத்தான் நான் கழுதை தேய்ந்து கட்டெடும்பாயிருக்கிறது என்று முதலில் சொன்னேன். வரலா ஒவ்வொரு விதிகளும் மாறுதல் அடைந்துகொண்டு வந்திருக்கிறது. இன்று பார்த்தால் மடத்திற்கும், கோவிலுக்கும் ஏராள மான சொத்துக்களிருக்கின்றன. கோடிக் கணக்கான ரூபாய் வருமானம் வருகிறது. அதை வைத்துக்கொண்டு கோர்ட்டுகளில் வழக்காடிக் கொண் டிருக்கிறார்கள். பணத்தை துர்விநியோகம் செய்துகொண்டு வருகிறார்கள். இவ்விதமிருக்கும் பொழுது பொது மக்கள் என்ன செய்யமுடியும். கிராமங் களிலுள்ள ஜனங்கள் அவ்விதம் பொது சொத்துக்களை துர்விநியோகம் செய்து வருகிறார்கள் என்று சொல்லுகிறார்கள். ஆனால், அவ்விதம் துர் விநியோகம் செய்வதை தடுப்பதற்கு என்று ஒருவனுக்கு கோர்ட்டிற்குப் போவதற்கு இப்பொழுது அதிகாரம் கிடையாது. ஆனால் மடாதிபதிகளும், கோவில் நிர்வாகிகளும் பொது சொத்தை வைத்துக்கொண்டு தங்களிடம் பணமிருக்கிறது என்பதற்காக எத்தனை வருஷங்கள் வேண்டுமென்றாலும் வாதாடலாம் என்று வாதாடிக்கொண்டு வருகிறார்கள். அதைத் தடுப்பதற் குப் இப்பொழுது மார்க்கமில்லாமலிருக்கிறது. அவ்விதமில்லாமலிருப்பதற் காகத்தான் இச்சட்டத்தை செய்கிறார்கள். அதற்கு எதிர்ப்புகளிருக்கின்றன: இதில் அரசாங்கத்திற்கு Rule-making powers இருக்கின்றன. அதற்குத் தகுந்த விதிகளைக்கொண்டு வருவதற்கு அரசாங்கத்திற்கு அதிகாரத்தை நாம் கொடுத்திருக்கிறோம். இந்த மசோதாவினால் ஹிந்து மதமே அழிந்து போய்விடும் என்று சொல்லப்படுகிறது அவ்விதமில்லை. இம் மசோதா வினால்தான் ஹிந்து மதம் வாழப்போகிறது என்பதைத் தெரிந்துகொள்ள வேண்டும்.

"இன்று ஹிந்து மத பரிபாலன போர்டு இருக்கிறது. அதற்கு ரூல் எவ்வித மிருக்கிறது என்பது எனக்குத் தெரியாது. இன்று அதனுடைய நிர்வாக மானது ஒரு Statutory body ஆக இருக்கிறது. அதில் உத்தியோகஸ்தர்களை நியமிப்பதற்கும் அரசாங்கத்திற்கும் சம்பந்தமில்லாமலிருக்கிறது. இன்று ஹிந்து மத பரிபாலன போர்டு உத்தியோகஸ்தர்களுடையவர்கள் அரசாங்கம் ஸர்க்கார் உத்தியோகஸ்தர்களாகப்போகிறார்கள். அதை எவ்விதம் செய்யப் போகிறார்களோ தெரியவில்லை. இப்பொழுது இருக்கும் உத்தியோ கஸ்தர்களில் பத்துப் பேர்களை எடுத்துக்கொண்டால் சிலர் B.L. பாஸ் பண்ணி இருக்கிறார்கள். சிலர் B.A., L.T. பாஸ் பண்ணி இருக்கிறார்கள். அவர்களில் ஒருவருக்கு ரூ. 250 சம்பளம் என்றால் மற்றவருக்கு ரூ. 65 சம்பளமாக இருக்கிறது. அவ்வித வித்தியாசம் ஏன் இருக்கிறது என்பது தெரியவில்லை. அதற்குவேண்டிய விதிகளை நாம் கொடுத்திருக்கிறோமா இப்பொழுது அதே மாதிரி கமிஷனுக்கு அதிகாரம் கொடுத்திருக்கிறோம். ஒரு ஊழியர் குற்றம் செய்தால் அவரை Dismiss செய்வதற்கோ suspend செய்வதற்கோ அதிகாரம் இருக்கிறது. ஆனால், அந்த ஊழியர் அப்பீல் செய்து கொள்வதற்கு அதிகாரம் கொடுக்கப்படவில்லை. அதேபோல் ஒரு உத்தியோகஸ்தர் குற்றம் செய்து தண்டிக்கப்பட்டால் அவர் அரசாங்கத் தினிடம் அப்பீல் செய்து கொள்வதற்கு அதிகாரமிருக்கிறது. ஆகவே, ஊழியர்களுக்கும் அப்பீல் செய்து கொள்வதற்கு வசதியளிக்கவேண்டும். இவைகளை யெல்லாம் மனதிற் வைத்துக்கொண்டுதான் நான் 5, 6 திருத் தங்களைக் கொடுத்தேன். அவைகளையெல்லாம் ஒப்புக்கொள்ள முடியாது என்று கனம் மாதவமேனன் அவர்கள் சொல்லி விட்டார்.

"நான் கொடுத்த திருத்தங்களில் முக்கியமானது ஒன்று. இன்றையதினம் பெரிய நில சேர்திருத்தம் செய்யப்போகிறோம் என்று அரசாங்கத்தார் பறை

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சாற்றுக்கொண்டிருக்கிறார்கள். உண்மை. அரசாங்கத்திற்கு விவசாயிகள் மீது அநுதாபமிருந்து உண்மையாகவே நில சீர்திருத்தம் செய்யவேண்டுமென்று நினைத்திருந்தால் நான் கொடுத்த ஒரு amendment-ஐ ஒப்புக்கொண்டிருக்கவேண்டும். அதாவது இப்பொழுது கோவில்களுக்கும் மடங்களுக்கும் ஏராளமான நிலங்களிருக்கின்றன. அந்த நிலங்களை கட்டுக்குத்தக்கத் (lease) விடும்பொழுது ஆங்காங்குள்ள கோவாரேட்டிவ் சங்கங்கள் கொடுத்து அதன் மூலம் விவசாயிகளுக்கு நிலங்களைக் கொடுக்கவேண்டுமென்று தான். அதை ஒப்புக்கொள்ள முடியாது என்று கனம் மதுவமேனன் அவர்கள் சொன்னார்கள். அதைப்பற்றி பேசும்பொழுது கனம் கரந்த அவர்கள் இது ஒரு தேர்தல் பிரச்சாரம் என்று சொன்னார். தேர்தல் பிரச்சாரத்தைப்பற்றி சொன்னதால் நான் ஒன்று சொல்லுகிறேன். தேர்தலில் மக்களை ஏமாற்றி விடமுடியாது. உண்மையில் விவசாயிகள் என்ன செய்கிறார்கள் என்பதைப் பேசுகிறார்கள் என்பதைப் பார்க்கவேண்டும். எதையாவது சொல்லிக் கொண்டு போட்டுகளை வாங்கிவிடமுடியாது. எந்த நிலைமையில் நாம் அரசாங்கத்தை நடத்துகிறோம். மந்திரிகள் என்ன செய்கிறார்கள்? மக்கள் சொல்வதை மந்திரிகளிடத்தில் சொல்லுவதற்குத் தான் அங்கத்தினர்களுக்கு கின்றார்கள் என்றெல்லாம் அவர்கள் சொல்லுகிறார்கள். ஆகவே அவர்கள் ஏமாற்றி போட்டுகளை வாங்கிவிடுவது என்பது முடியாது. நில சீர்திருத்தம் என்பது ஒரு பெரிய காரியம். அந்தக் காரியத்தை நாம் இப்பொழுது செய்யப்போகிறோம் அதற்குத் தகுந்தாற்போல் இப்பொழுது மடங்களுக்கும் கோவில்களுக்கும் ஏராளமான நிலங்களிருக்கின்றன. அவைகளை எல்லாம் இப்பொழுது கமிஷனருடைய control-ல் வருகிறது. இப்பொழுது மடாதிபதிகள் இருக்கிறார்கள் அவர்கள் நிலங்களை ஒரு தனிப்பட்ட மனிதனுக்கு கட்டுக்குத்தக்கக் கொடுக்கிறார்கள். அந்தத் தனிப்பட்டவர் தனக்களிப்பின் பத்துப்பேர்களுக்கு sub-lease-க்கு விட்டுவிடுகிறார். பிறகு உழுது ஜீவனம் செய்யும் விவசாயிகளுக்குப் போகிறது. அதனால் அவனுக்கு லாபம் இல்லாமல் போகிறது. மடாதிபதிகளுக்கும் கோவில்களுக்கும் லாபம் இல்லாமல் போகிறது. நிலத்தை உழுபவனுக்கும் லாபம் இல்லாமல் போகிறது. அதனால் மத்தியிலிருக்கும் பூர்கள் தான் சாப்பிட்டுக்கொண்டிருக்கிறார்கள். அதனால் நிலத்தை உழுபவனுக்கு மிச்சமில்லாமல் போகிறது. என்னுடைய amendment-ஐ ஒப்புக்கொண்டிருந்தால் உழுபவனுக்குத் தான் நிலம் போகும்படியாக ஏற்படும். கமிஷனுக்கு நாம் control வைத்திருந்தால் அவர் கோவாரேட்டிவ் சங்கங்கள் மூலம் விவசாயிகளுக்கு நிலம் போகும்படியாகச் செய்யலாம். நாம் காந்திஜி சொல்லி வந்ததுபோல் உழுபவனுக்குத் தான் நிலம் சொந்தம் என்பதை நிறைவேற்றுவதுமாதம். இப்பொழுது கமிஷனுக்கு அதிகாரத்தைக் கொடுப்பதில் நிலங்களை ஆங்காங்குள்ள கோவாரேட்டிவ் சங்கங்கள் மூலமாக விவசாயிகளுக்கே கொடுக்கும்படியாக ஒரு உத்திரவு போடவேண்டும். அப்பொழுதுதான் நாம் காந்திஜி சொன்னதை நிறைவேற்றினவர்களாவோம். இதுதான் கோவில்களுக்கும் மடங்களுக்கும் அதிகமான வருமானம் வரும். நாம் இப்பொழுது உணவு உற்பத்தியை அதிகப்படுத்தவேண்டுமென்று சொல்லி வரும்பொழுது இத்தக்காரியத்தைச் செய்தால் உணவு உற்பத்திக்கு சந்தர்ப்பம் அதிகம் உண்டாகும்படியான ஒரு சாதனையைச் செய்து காட்டமுடியும். என்னுடைய amendment-ஐ ஒப்புக்கொள்ளாததால் இவ்விதம் செய்யும்படியாக கமிஷனர்களுக்கு ஒரு உத்திரவு அனுப்பிக்கவேண்டும்.

“அடுத்தபடியாக மத்ய சர்க்காரால் ஒரு concurrent Bill கொண்டுவரப்படப்போகிறது, அதனால் இந்த சட்டம் அவசியம் என்று பயமுறுத்தப்படுகிறது. இந்த சட்டத்தையே கொண்டுவரக்கூடாது என்று மடாதிபதிகள் இரண்டரை வரல்காலமாக பயமுறுத்தி வருகின்றார்கள். மத்திய சர்க்கார்தங்கனிடத்திலிருக்கிறது என்றும் சொல்லி வருகிறார்கள். ஆனால் மத்திய அரசாங்கத்திற்கு கனம் மந்திரி அவர்கள் இதைச் சொல்லவேண்டும். நாம் ஜமீந்தாரி ஒழிப்பு மசோதாவைக்கொண்டுவந்து 1937-ம் ஆண்டு இலாபம் ஒழித்துவிட்டு அந்த சட்டத்தை நிறைவேற்றினோம். இப்பொழுது நாம் இராமநாதபுரம் ஜில்லாவில் பார்த்தால் பல கிராமங்களில் பல குட்டி ஜமீந்தாரிகளை உண்டாக்கிவிட்டோம். இதைக்கண்டு விவசாயிகள் கொதித்துக்

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கொண்டிருக்கின்றார்கள். அதனால் நாம் எவ்வளவோ unpopular ஆகியிருக்கிறோம். ஏன் இந்த நிலைமைக்குக் கொண்டுவந்து வைத்திருக்கிறார்கள்? மத்ய அரசாங்கத்தாரின் ஒரு உத்திரவு. அதைப்போலவே மத்ய அரசாங்கம் இந்த சட்டத்தை அமுலுக்குக் கொண்டுவர முடியாமல் மாற்றியமைக்கும்படியான ஒரு சட்டத்தைக் கொண்டுவரலாம். அதற்கு இந்த அரசாங்கம் உஷாராக இருக்கவேண்டும். ஆனால் மத்திய அரசாங்கத்தை நான் ஒன்றும் சொல்லமுடியாது. இங்கிருக்கின்றவர்கள் அங்குள்ளவர்களை இவ்விதம் mislead பண்ணுகிறார்கள். தகவல்களைக்கொடுக்க aeroplane-ல் பறக்கிறார்கள். மடாதிபதிகள் மடத்தின் லட்சக்கணக்கான பணத்தை சிலை செய்துகொண்டேயிருக்கிறார்கள். மக்கள் இதைப் பார்த்துக் கொண்டேயிருக்கிறார்கள். மடாதிபதிகள் எங்குவேண்டுமென்றாலும் செல்வார்கள். இதில் அரசாங்கம் நிகவும் கவனமாக இருக்கவேண்டும். நமது மாகாண எள்கைகளை தெளிவுபடச் சொல்லவேண்டும்.”

DEPUTY SPEAKER:—“The hon. Member has got only two more minutes. Let him finish his speech now by taking two more minutes; otherwise he may continue his speech in the afternoon, but he will speak only for two minutes.”

SRI K. T. KOSALRAM:—“I shall continue my speech in the afternoon, Madam.”

The House rose to meet again at 2-30 p.m.

(After lunch--2-30 p.m.)

SRI K. T. KOSALRAM:—“Madam, கனம் பாஷ்யம் அவர்கள் பேசும் போது மடாதிபதிகளையும், மடத்தையும் இந்த மசோதாவில் சேர்த்து விட்டால் ஹிந்து மதமே போய்விடும் என்று ஆக்ரோஷத்துடன் பேசினார்கள். நான் ஒன்று சொல்லுகிறேன். இந்த மசோதா வந்தால்தான் ஹிந்து மதம் தழைக்கப்போகிறது என்பதை அவர் மறந்துவிடக்கூடாது. ஹிந்து மதத்தின் பெயரால் யாரோ ஒரு சிலர் அபகிரமம் செய்கிறார்கள் என்று சொல்வதை அவர் ஒப்புக்கொள்ளுகிறார். அவர்கள் எவ்வளவோ தவறுகள் செய்கிறார்கள். அவர்கள்மேல் அரசாங்கத்தின் கண்காணிப்பிருந்தால் தான், அதுவும் இந்த மசோதாவைக்கொண்டு வந்தால்தான் ஹிந்து மதம் தழைத்தோங்கும். அதற்காக நான் இன்றையதினம் கனம் மந்திரி அவர்களுக்கு நன்றி அனுதாபங்களைப் பதிவுக்கிறேன். என்னுடைய amendment ஒன் நன்றி அனுதாபங்களைப் பதிவுக்கிறேன். என்னுடைய surplus money இருக்கக்கூடியதில் சொல்லியிருந்தேன் அதாவது உபயோகப்படுத்தவேண்டுமென்று. கொடுத்த எடுத்துக் கல்வி வசதிக்காக உபயோகப்படுத்தவேண்டுமென்று. அதன் அவசியத்திற்கு ஒரு திருத்தத்தை அரசாங்கம் ஏற்றுக்கொண்டது. அதன் அவசியத்திற்கு ஒரு உதாரணம் சொல்லுகிறேன். இன்று கிருஷ்ண மிஷனரிகள் இருக்கிறார்கள், அவர்கள் மக்களிடத்தில் மதத்தையும் கல்வியையும் பரப்பிவருகிறார்கள், அவர்கள் என்பதை உதாரணமாக எடுத்துக்கொள்ளவேண்டும். அவர்கள் களுக்கு இங்கு ஆயிரக்கணக்கான நிலங்களும் கோடிக்கணக்கான பணமும் களுக்கு இங்கு ஆயிரக்கணக்கான நிலங்களும் மடங்களுமிருக்கின்றன. அவைகளை வருமானம் வாக்கூடிய கோவில்களும் மடங்களுமிருக்கின்றன. அவைகளை கூடங்களைவைத்து சர்க்காரிடமிருந்து கிராண்டுகள் பெற்று பள்ளிக்கூடங்களை நடத்திவருகின்றார்கள், இன்றும் வைத்ய வசதிகளையும் செய்து வருகிறார்கள். எங்கெங்கெல்லாம் மனிதர்கள் கேவலமாக பிறப்பாக்கான நிலைமையில் இருக்கிறார்களோ அங்கெல்லாம் மிஷனரிகள் சென்று பள்ளிக்கூடங்களை வைத்து ஆஸ்பத்திரிகளை கட்டிவைத்து தங்களுடைய மதத்தை பரப்பி வருகிறார்கள். அதன்மூலம் ஆண்டவனிடத்தில் பக்தியை புதுத்துகிறார்கள். அவர்களுடைய பணம் இவைகளைச் செய்வதற்கு உபயோகமாக இருக்கிறது. மீண்டும் இவைகளை நாம் செய்வதன்மூலம் ஹிந்து மதத்தை எடுத்து தாகும். செட்டிநாட்டு-இராஜா சொன்னமாதிரி இந்த பணத்தை எடுத்துக் கல்வி வசதிக்கு சிலவிடக்கூடாது என்று சொல்வது அனாவசியமான எதிர்ப்பாகும், மனிதன் முன்னேற்றமடையவேண்டுமென்பதற்காகவும், ஹிந்து

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மதம் தழைக்கவேண்டுமென்பதற்காகவும் தான் நம்முடைய மூதாதையர் கள் அநேகம் சொத்துக்களை எழுதி வைத்திருக்கின்றார்கள். அந்த வைத்துக் கொண்டு அரசாங்கத்தை கல்வி வசதிக்காகவும் மக்கள் முன்னேற்றத்திற்காகவும் சிலவிடவேண்டுமென்று சொல்லியிருக்கிறார்கள். ஆகவே மக்களுடைய முன்னேற்றத்திற்காகவும் கல்வி வசதிக்காகவும் இந்த பணத்தை எடுத்து சிலவிடவேண்டுமென்று கமிஷனருக்கு அரசாங்கம் உத்திரவிட வேண்டும் என்பதாக சொல்லிக்கொண்டு நான் இந்த மசோதாவை முழு மனதுடன் ஆதரிக்கிறேன்.”

SRI M. S. PATTABHIRAMIAH :—“ Madam, Deputy Speaker, before I make some observations on this Bill at this third reading stage, I wish to acknowledge the enlightenment I had from the illuminating address, so soberly made by the Hon. Minister for Religious Endowments, Dr. T. S. S. Rajan. It was really an illuminating speech and it was also so sober, and we found that after all, the views of the sponsors of the Bill were not irreconcilable with those of some of the critics of the Bill. I do not, Madam, take the tragic view taken by my hon. Friend, Sri K. Bhashyam, nor do I lightheartedly support all and every provision of the Bill as it emerged after the second reading. Madam, I do find certain defects in it, which ought to have been rectified in the second reading itself. After all that has been done, I find now that it has been better streamlined than it was, when it was first introduced in this Assembly and I believe that during the enforcement of the various provisions of this Bill in this State, we may not find any very great difficulty, and although in course of time, we may be compelled to make certain modifications in certain provisions of the Bill, I am sure that ultimately this Bill will prove of great benefit and will be in the interest and welfare of this State.

“ Unfortunately, Madam, there is a tendency among certain people of our State and here also who presume that these religious institutions, whether they are temples or maths, are entirely divorced from ethical principles and with that presumption they have made speeches with the ostensible object of supporting this Bill as it has been sponsored. In our country, Madam, after the coming into existence of these temples and maths, for the last thousand or a thousand two hundred years, the tie between religion and ethics had never been relaxed even in temples and maths, which had been engaged in philosophical speculations and the propagation of their own peculiar doctrines. These religious institutions, as they are to-day, have no doubt very much deteriorated, but they have not deteriorated to such an extent as to deserve to be wiped out of existence or destroyed altogether. We must make up plans and devise means by which we should make these religious institutions fulfil the objects with which they had been founded by our forefathers. Therefore the Government were right in taking the responsibility upon their heads, and in having brought forward a Bill with a view to see that their affairs were administered properly and that they fulfilled the objects of the founders of such institutions.

Madam, I am only a layman and not a lawyer; nor will it be possible for me to explain the legal points or to point out the legal defects

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in the Bill, as has been done by our lawyer friends, which do not conform to the principles enshrined in the Constitution, but anyhow there is an apprehension in the minds of people like me, and the volume of that apprehension is increasing among the sensible and saner sections of the population of our State, who believe that by enforcing certain of the provisions which are really quite radical and quite against all our concepts of temple and religion, the sanctity of these temples and maths, and the purpose for which they had been established, would be destroyed. Madam, I cannot say that they are entirely wrong for we find that in the administration of many of these religious institutions which have been taken up by the statutory bodies established by our Government, all is not perfect. But, as has been pointed out by all hon. Members of the House, no human institution can be perfect anywhere in the world; so they require reforms. But in this Bill, we find that in certain matters where a secular Government should not interfere and where a secular Government are not competent to interfere or make laws or take over the management of the affairs of the institution into their own hands, the Government are attempting to do so. Take for instance one typical provision in this Bill, relating to the fixing of standard scales of expenditure or of *dittams*. I can just give a small catalogue of such things in this Bill, wherein the Government are interfering unduly with the affairs of the temple, but taking this one matter of what is called the *dittam* alone, what do we see? What is meant by *dittam*, in the first place? *Dittam* is a corrupt form of the word 'Dhishtam' which means that which has been decided. And what has been decided to be the scale of a certain expenditure or a charge for a certain ritual to be performed or the hymns or songs or mantras to be chanted, during the period of worship which appeal to the spirit and soul of man, that *dittam* is sought to be modified or is sought to be changed by an officer appointed by the Government.

“ Is it right, Madam? I say the Government are not competent to deal with the *dittams* of religious institutions like temples. They have been regarded so from very ancient times, and they have been in existence for hundreds of years. There have been cases of mismanagement. With all these mismanagements, all these temples have survived. They have been giving consolation to the people. It is there that forgiveness, charity, etc., are taught. Ethical standards have been set up. Moral values have been given. All these have been going on in temples. But for these institutions we would have been much worse than we are now. All morality and ethical standards are not to be set up by any Government, and particularly by any secular Government. These maths have absolutely no *dittam*, as it is defined in the Bill, or as it can be conceived by anybody, for their daily expenditure. They have no *dittam* for their expenditure. Funds as they come are to be dealt with, and responded to, by the *matadhipathi* or the manager of the math. This is only a small example of what the Government might have done if they had been a little more considerate than they had been. I do not deny

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that the Government had given so much time for discussion, and the Hon. Speaker has given us all the help. This Bill has been so thoroughly discussed and examined in this Assembly. But still there are certain matters, and the Government themselves do feel that there might be something in the Bill which might go against the provisions of the Constitution. That is why they have inserted that Clause as a safeguard. That itself shows that they have not planned it as perfectly as they thought they should have. I believe that the Government, when necessary, will come forward to change certain provisions of the Bill if they find that they do not conform to the provisions of the Constitution, or if they find that these provisions could not be enforced without violating some of the principles on which we have been administering these institutions. The principles can never be violated by any Government however well-intentioned that Government might be. The Government are always well-intentioned, and I do not doubt the good intentions of this Government in bringing forward this Bill. But a critic like myself, who appreciates the endeavour of the Government, wants that the Government should take everything into consideration, and try to improve. Hereafter there is no possibility of improving the Bill. I hope that the Government will come forward for improving the provisions of the Bill in course of time. With these words, and with my hearty congratulations to the Hon. the Minister in charge of the Bill, Hon. Dr. Rajan, I resume my seat."

SRI V. I. MUNISWAMI PILLAY:—"Madam, Deputy Speaker, the sincerity with which the Hon. the Minister for Religious Endowments had brought forward this measure, I think, needs congratulation. Unfortunately, it is not possible for me to give an unqualified support to the measure that has been brought before this House. The religion of the Hindus has reached such an eminence not only in our country, but even in Western countries the philosophy of Hinduism has been greatly appreciated. The philosophical side of Hinduism has been mainly taken up in all maths. The provisions in the Bill relating to maths greatly concern those of us who had the occasion to be the inmates of maths and who had the privilege of sitting under the feet of Gurus. It is these provisions that wound the susceptibilities of men like me. In our State, there are maths the heads of which are held in great reverence. What I would like to point out here is that the promoters of this Bill have not really understood the real relationship between the Guru and the sishya. I have no objection to the provisions which the Hon. the Minister has brought forward and incorporated in this Bill about temples, the management of temples, the management of the endowments and such other things. When I think of the provisions touching the maths, I get shocked. The importance of what is taught in the maths and the relationship that exists between the Guru and the sishya will be greatly interfered with by the provisions of this Bill. I know, as a matter of fact, that the heads of maths do

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not touch money. They do not touch even those that come by way of pathakanikas that are offered to the Guru. Above all the direction for *dittams* and other things that ought to be followed in maths, will hurt the feelings of those people. For example, in some maths the full-moon day is observed. It is not only in the math itself. But they go to mountains and other places away from the place of their abode where thousands of people may come and listen to the teachings of the Guru, and may offer something by way of gifts and such other things which the Guru himself does not consider as gifts. I think it is against all principles of justice to ask either the manager of the math or the Guru himself to account for all these things. My hon. Friends Mr. Bhashyam and Mr. Viswanatham have told several things as to how the provisions of the Bill will not be received with great enthusiasm. In a matter like this Bill, which comes under the concurrent list, we are not the people to finally decide. But Parliament will have the final word to say in this matter. Apart from that, the chequered career of this Bill, and the long time that it has taken, shows the great importance of the provisions in this Bill. It cannot be easily said that everybody in this country welcomes the provisions of this Bill. Why this Bill has taken so much time is a matter that we have to consider. Taking all these things into account, my sole aim is to say that the inclusion of maths, as it is adumbrated in the Bill, is not a welcome thing to me or to those who think just like myself. Some hon. Members who preceded me even referred to the Christian religion, the endowments, the educational, side and the medical benefits that are offered by that religion. Madam, it must be known that in the matter of endowing anything to Hindu temples or maths, the donor makes it perfectly clear for what purposes the endowment is made. If the Government feel that there has been mismanagement of the endowment, they are welcome to interfere. But if we are to change the attitude or the decision of the donor who made the endowment, it will be unworthy and will not be in the best interests of the donor.

"As I said already, Madam, the inclusion of the maths will not be conducive to the propagation of the philosophy of Hinduism. Moreover the officers that are chosen to administer the laws and other things connected with this Bill may not be of the type of people that can administer the affairs of maths. So, I feel, if not now, at least at the rule-making stage later on, the Hon. the Minister will consider how far matters can be made easy in the administration of these maths. With these words, Madam, I support the motion."

SRIMATHI V. LAKSHMI AMMAL:—"உப தலைவி அவர்களே, ஹிந்து மத சம்பந்தமான சட்டம் இரண்டாவது தடவையாக பால் செய்து இப்போது அதை சட்டமாக்குவதற்காக நம்முடைய சபையில் வந்திருக்கிறது. இந்தச் சட்டத்திற்கு அநேக நண்பர்களால் நூற்றுக்கணக்கான திருத்தங்கள் கொடுக்கப்பட்டும், அவைகளில் எதையும் ஒப்புக்கொள்ளாமல் அரசாங்கமே அநேக திருத்தங்களைப் பிரேரித்து இப்போது அதை சட்டமாக்கும் தருணத்தில்

[Srimathi V. Lakshmi Ammal] [18th December 1950]

வைத்திருப்பதற்காகவும் நான் கனம் மந்திரி அவர்களைப் பாராட்டுகிறேன். கனம் மந்திரி இராஜன் அவர்கள் தன்னுடைய வயது முதிர்ந்த காலத்தில் நம் நாட்டிலிருக்கிற தர்ம ஸ்தாபனங்களும் கோவில்களும் நல்ல முறையில் நடக்கவேண்டுமென்ற ஒரு புனிதமான எண்ணத்துடன் இந்தச் சட்டத்தைக் கொண்டு வந்து நிறைவேற்றுவதற்காகத்தான் இவ்வளவு நாட்கள் அவர்கள் பதவியில் இருக்கிறார்களோ என்று சொல்லும்படியாக அவ்வளவு ஒரு தீவிர உணர்ச்சியுடன் இதைக்கொண்டு வந்து நிறைவேற்றிப் போவதற்காக நான் அவர்களைப் பாராட்டி கட்டமைப்பட்டுக்கிறேன். பாராட்டவும் பாாட்டுகிறேன். ஆனால் நடைமுறையில் இந்தச் சட்டமானது எந்த விதமாக அமல் நடத்தப்படுகிறது என்பது பின்னர் தான் தெரியும். ஏனென்றால் இந்தச் சபையில் நாம் சட்டமாக்கிவருகின்ற அநேக சட்டங்களுக்கு மறுபடியும், மறுபடியும் அநேக திருத்தங்கள் வந்தவண்ணமாக இருக்கின்றன. அது மட்டுமல்ல. அநேக சட்டங்கள் கோட்டுகளின் முன் சக்தி யற்றதாக நிராகரிக்கப்பட்டிருக்கிறது. ஆகவே நாம் எவ்வளவுக்கெவ்வளவு சட்டங்களை இயற்றுகிறோமோ அவ்வளவுக்கவ்வளவு கோட்டுக்குப் போய் வியாஜியும், வழக்கு போன்ற விவகாரங்களையும் அதிகமாக்குகிறோம் என்று தான் அர்த்தம். அந்த நிலைமையில் இந்தச் சட்டமானது அதற்குப் புறம்பாக இருக்காது என்று நான் நான் சந்தேகிக்கிறேன். எந்த விஷயத்திலும் சிறிது தவறுகூட நிழலாது யாராலும் எதையும் செய்ய முடியாது. ஆகையால் எந்தக் காரியத்திலும் சிறு தப்பிசங்கள் ஏற்படுவது சகஜம் தான். கூடுமானவனையில் இந்தச் சட்டம் எந்த நோக்கத்துடன் கொண்டு வரப்பட்டிருக்கிறதோ அந்த நோக்கத்தை பரிபூரணமாக நிறைவேற்றி வைக்க இது சம்பந்தமாக அமல் நடத்தப்போகின்ற அதிகாரிகள் நடக்க வேண்டுமென்று நான் நான் இப்போது வேண்டிக்கொள்கிறேன்.

“இப்போது எத்தனையோ நூற்றுக்கணக்கான தேவாலயங்கள் நம்முடைய நாட்டில் பரமபுருஷ கிடக்கின்றன. தஞ்சாவூர் பிரகதிச்வரர் ஆலயம் போன்ற கோவில்களும், மதுரை மீனாட்சி அம்மன் கோவில் போன்ற பல பிரம்மாண்டமான கோவில்களும் இப்போது பல சின்னச்சின்ன கிராமங்களில் மதில்கள் எல்லாம் இடிந்து அந்தக் கோவில் ஸ்வாமியின் தைநேயத்திற்குக் கூட வழியில்லாமல் இருக்கின்றன. இந்தச் சட்டத்தினால் அவைகளை யெல்லாம் புனரூபணம் செய்ய முன் வந்திருக்கிறோம் என்றால் கிராமாந்திரங்களில் இதனால் உற்சாகம் ஏற்படும். அதே மாதிரி அநேக கோவில் புஷ்கரணிகள், தெப்பக்குளங்கள் இன்று கவனிப்பார் அற்று பாசி பிடித்துக் கிடக்கின்றன. பல கோவில்களில் எந்நேர முனைத்துக் கிடக்கிறது. இவைகளையெல்லாம் சீர்திருத்த இந்தச் சட்டத்தினால் வழி ஏற்படுமானால் அது ரொம்பவும் வரவேற்கத்தக்கதாகும்.

“அமர கவி பாரதியார் பாடியிருக்கிற பிரகாரம், ‘வீடு தோறும் கலை யின் விளக்கம் - வீதி தோறும் இரண்டொரு பள்ளி: நாடு முற்றிலும் உள்ள ஊர்கள், நகர்களுக்கும் பல பல பள்ளி,’ என்ற வகையில் சுதந்திரம் அடைந்த நாடு மறுமலர்ச்சி அடையும்போது அந்த மாதிரி யெல்லாம் செய்ய வேண்டுமென்று பாடலில் இருக்கிறது. மேலும், ‘கோவில் இல்லா ஊரில் குடியிருக்க வேண்டாம்,’ என்று ஐனாவயார் சொல்லி இருக்கிறார்கள். ஆகையால் இந்தச் சட்டத்தினால் ஒவ்வொரு கிராமத்திலுள்ள கோவில்களை துய்மை படுத்துவதோடு, இந்தக் கோவில்களிலுள்ள உயிர் பணத்தைக்கொண்டு பல பள்ளிகளை ஏற்படுத்துவதோடு யோசனையை நான் முழுமனதுடன் வரவேற்கிறேன். அது நடைமுறையில் நன்கு பயன் அளிக்க வேண்டும்.

“ஒரு காலத்தில் திருச்செந்தூரில் கோவில்களுக்கு தரிசனம் செய்யப் போகும் பக்தர்கள் அங்கேயே நைவேதனம் அரும் உணவுக் கட்டிகளை வாங்கி தாங்கள் அர்ச்சனை செய்த தேங்காய்களை உடைத்து துவயல் செய்து கொண்டு உண்பார்கள். அந்தக் கட்டிகளின் விலை காலணு தான். இந்த மாதிரி எல்லாக் கோவில்களிலும் பக்தர்களுக்கு உணவு அளிப்பதற்கு என்றே அவர்களுக்கு நிலங்கள் எழுதி வைக்கப்பட்டிருக்கின்றன. இப்போது திருச்செந்தூரில் அவ்வாறு கட்டிகள் கொடுப்பது கிடையாது. கோவில் நிலங்களில்

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லுள்ள தாலியங்களை இப்போது கொள்முதல் அதிகாரிகள் கொள்முதல் செய்துவிடுகிறார்கள். அது தவறு என்று சொல்லவில்லை. இருந்தாலும் எந்த தர்மங்களுக்காக அவைகள் எழுதி வைக்கப்பட்டதோ அதற்காக அதில் சிறிதளவாவது செலவிடப்பட வேண்டுமென்று கேட்டுக்கொள்கிறேன். இம்மாதிரி செய்வதால் சோம்பேறிகள் தான் ஜீவனம் செய்கிறார்கள் என்று எண்ணுவது முற்றிலும் தவறு. எவ்வளவோ பக்தர்களுக்கு அது உபயோகப்படுகிறது. ஆகவே இம்மாதிரி தர்மங்களையும் தொடர்ந்து நடத்தி வரவேண்டுமென்று கேட்டுக்கொள்கிறேன். தவிர சின்னச் சின்ன தர்ம சத்திரங்களையும், வருஷத்திற்கு ரூ. 200 வரும்படியுள்ள கோவில்களையும் இந்தச் சட்டத்திலிருந்து நீக்கும்படியான Rule-ஐ போட வேண்டுகிறேன். Rule செய்யும்பொழுது இதைக் கவனித்துச் செய்ய வேண்டுகிறேன். ஆகவே நல்ல புனிதமான எண்ணத்துடன் கொண்டுவரப்பட்ட சட்டமானது நல்லமுறையில் செயல் பட வேண்டுமென்று பிரார்த்தித்துக்கொண்டு, கனம் மந்திரி அவர்களைப் பாராட்டுகிறேன்.”

SRI S. CHIDAMBARA AYYAR:—“Madam, Deputy Speaker, as far as the constitutional issue is concerned, my hon. Friend Sri T. Viswanatham has said much about it and I am not going to add anything more to it.

“As regards the Bill itself, my humble submission is that it consists of a series of provisions for nomination from top to bottom and from start to finish. There is not even one item which is left to election. During the debate in the second reading of the Bill it was sought to be made out that these Area Committees at least should consist of members elected by the concerned people, but it was not heeded. In these circumstances when the trustee of a math is nominated, when the Area Committee is nominated and when the officers of the Department are nominated, it is very difficult to expect things to go on very well. The trustee, under the powers conferred by the provisions of this Bill, is at perfect liberty to do anything so long as he is under the control of the Area Committee or the Assistant Commissioner or the Deputy Commissioner as intended by the latter. In fact, clause 26 says that the trustee must act in accordance with the lawful orders of the competent authority. On top of this, under clause 23, the Commissioner has got revisional powers and under clause 99-A, the Government have got revisional powers. Under clause 99-A, the Government can call for all the papers and pass any orders they deem fit.

“So far as temples and maths are concerned, there is the provision that an estimate of dittam and other necessary expenditure should be made and sanction obtained therefor. Even that is a very difficult thing. So far as temples are concerned, I can understand it. But so far as maths are concerned, I have got to bring to the notice of the Hon. the Law Minister that it is not possible to predict with certainty what exactly the expenditure of a math will be, because the expenditure depends upon various factors. On some important day it may come up to nearly Rs. 1,000 and on some other ordinary day it may come up to only Rs. 500. On some occasions the disciples concerned may incur the entire expenditure. In all these cases the devotees do not incur the expenditure of all days; the math has to incur it. If on

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an occasion a large number of disciples come and pay money to the math, a large amount is collected. So, it is not possible to say beforehand what exactly will be the income and expenditure. The Hon. the Law Minister said that if there was no *dittam*, there was no necessity to submit returns. I do not know whether he is very serious about it but still the provision says that the trustees including the matadhipathis should submit estimates of *dittam* for scrutiny by the officers, after issuing notice to the public and calling for objections. These things go to show that much restraint is placed on the exercise of powers by the trustee. No doubt there is a differentiation made between temples and maths here. The matadhipati is placed on a somewhat different footing from the trustee of a temple; but it is not enough.

"Then there is the question of submitting accounts for *pathakanika*. Such things cannot be tolerated. It is not desirable that accounts for *pathakanika* should be kept for submission to the Commissioner whenever he wants them. *Pathakanika* is a gift made to the matadhipati and he is expected to deal with it as he likes. An amendment was moved for this purpose but it was not accepted. The Hon. the Law Minister Sri K. Madhava Menon quoted the provision in the existing Act which was a measure of the Raja of Panagal, in support of his contention, that maths should be included in religious institutions. At the same time, there is a provision in the existing Act that exemption can be granted to such maths as the Government may deem fit to give. When we pleaded that that exemption clause should be included in this Bill, the Hon. Minister was not agreeable to it. When exemption has been provided, it is a recognition of the fact that there are maths which are doing good work and managing their affairs properly. Therefore, if that exemption clause is introduced, there will not be much trouble. The Government can make a careful enquiry as to which maths are doing good work and exempt them. If there is mismanagement in any math, it can be brought within the provisions of this Bill.

"Then there is the provision for the appointment of a manager of secular affairs of a math. The distinction between secular affairs and religious affairs is very narrow. When money is wanted, it belongs to the secular side. When we want to spend money for religious ceremonies, then the manager is controlled by the Assistant Commissioner. Therefore, such a provision should not be included in the Bill.

"Then, under the chapter 'Inquiries', the Deputy Commissioner is given the power to inquire into and decide disputes such as whether an institution is a religious institution or not. I think it is too much of power. The Deputy Commissioner is assuming the duties of a Judge. He will have to decide intricate matters involving questions of law and fact. Of course, an appeal to Court is provided in a later provision. But our submission is that it is better that in the initial stage itself the Court is given jurisdiction over these matters.

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"Regarding the notification clause, it has already been stated that the matter is under the consideration of the High Court. Notwithstanding that a religious institution is governed by a scheme settled under this Bill, the Commissioner can cancel that scheme and appoint an executive officer, I do not discuss the motive with which the Bill has been brought forward. No doubt Dr. Rajan has brought forward the measure with the best of motives. He wants to check mismanagement. Of course, there is mismanagement in some temples and maths also. But that does not mean that this kind of provision should be there. The provisions should be more respectful so far as they relate to maths and matadhipatis. With these few words, I congratulate the Government on bringing forward this Bill."

SRI P. KAKKAN :—"கனம் தலைவி அவர்களே! இந்த அற நிலைய மாதுகாப்பு மசோதா சட்டமாகும் நிலைமையை உண்டு பண்ணியிருக்கும் கனம் மந்திரி இராஜன் அவர்களை என்னுடைய ஹிருதய பூர்வமாக நான் பாராட்டுகிறேன்.

"எல்லோரும் சீர்திருத்த வாதிடிகள் ஆகிவிட்டார்கள். சீர்திருத்த வாதிடிகள் எல்லாக் காலங்களிலும் தோன்ற மாட்டார்கள். ஒரு சில காலங்களில் மட்டும் தோன்றுவார்கள். ஆனால் என்னுடைய சிறிய வயதில் இருந்து இன்று வரை நான் கனம் இராஜன் அவர்களைக் கவனித்து வருகிறேன். அவர் உண்மையில் ஒரு பெரிய சீர்திருத்த வாதிதான் என்பதை பெருமை யோடு சொல்ல விரும்புகிறேன். கனம் ராஜாஜி அவர்கள் ஹிந்து மதத்திலிருந்து பிரிக்கப்பட்டு தாழ்த்தப்பட்டோர் என்று ஒதுக்கி வைக்கப்பட்டிருக்கும் ஹரிஜனங்களின் முன்னேற்றத்திற்காக தலைமை தாங்கி நடத்திய பல இயக்கங்களிலெல்லாம் அன்று இராஜன் எவ்வளவு தீவிரமாக ஈடுபட்டார்களோ அதே தீவிர சீர்திருத்த உணர்ச்சியுடன்தான் அவர்கள் இன்றும் இருக்கிறார்கள். ஹிந்து மதத்தைத் துய்மை படுத்த வேண்டுமென்ற ஆர்வத்துடன் அவர்கள் வேலை செய்கிறார்கள். ஆனால் அன்று அவர்களை வெறுத்தவர்கள் இன்று அவரைப் போற்றுகிறார்கள்.

"ஆனால் இந்த மசோதா சட்டமாகும் நிலையை அடைந்திருப்பதைக் கண்டு வெளியிலுள்ள மக்கள் சந்தோஷப்படுகிறார்கள். இதை முழு மனதுடன் வரவேற்கத்தயாராய் இருக்கிறார்கள் என்று நான் இந்தச் சபையில் சொல்லுகிறேன். அது மட்டுமல்ல. இந்தச் சட்டம் வெற்றிகரமாக நடப்பதற்காக கனம் மந்திரி அவர்களுக்குப் பக்க துணையாக இருந்த சட்ட மந்திரி அவர்களையும் பாராட்டுகிறேன்.

"இப்போது ஒன்று சொல்லுகிறேன். இந்தக் கோவில்களின் பணத்தைக் கொண்டு பல பள்ளிகளை ஏற்படுத்தலாமென்று இருக்கிறது. அப்படி ஏற்படுத்தும் பணத்தில் இந்தப் பள்ளிகளில் படித்து முன்னுக்கு வருகின்ற இளைஞர்கள் நிச்சயமாக ஹிந்து மதம் என்றால் என்ன? அது எப்போதும் இளைஞர்கள் நிச்சயமாக ஹிந்து மதம் என்றெல்லாம் நிச்சயம் உணர்வாரா? புனிதமான நன்மை வாய்ந்தது என்றெல்லாம் நிச்சயம் உணர்வார்கள். அவர்களுடைய கொள்கை எப்படி மாறினாலும் தாம் ஹிந்து மதத்தின் பணத்தினால்தான் முன்னுக்கு வந்தோம் என்ற நன்றியை தராமல்களின் பணத்தினால்தான் முன்னுக்கு வந்தோம் என்ற நன்றியை ஒரு நாளும் மறக்க மாட்டார்கள். மேலும் என்றென்றும் ஹிந்து மதத்திற்கு விஸ்வாசம் உள்ளவர்களாக இருப்பார்கள் என்று சொல்லுகிறேன். அதைப் போல ஹிந்து மத ஆலயங்களின் பணத்திலிருந்து நடத்தப்படும் ஆஸ்பத்திரிகளில் சிகிச்சை பெற்ற நோயாளிகள் எல்லோரும் நிச்சயமாக ஹிந்து மதத்தில் விஸ்வாசம் உள்ளவர்களாக இருப்பார்களே தவிர நன்றி மறக்கமாட்டார்கள்.

"தலைவி அவர்களே: கிராமங்களிலே கிருஸ்துவ குருமார்கள் தங்கள் கிருஸ்துவ மதத்தை இப்போது பரப்பிக்கொண்டிருப்பதை நாம் எல்லோரும் அறிவோம். எனது சமூகத்தினர் (ஹரிஜனங்கள்) எவ்வளவு பேர்

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அவர்கள் மதத்திற்கு மாறிவிட்டார்கள் என்ற சொல்லத் தேவையில்லை. ஆனால் அதேமாதிரி ஹிந்து மதத் தலைவர்களும், சன்மாதிகளும் ஹிந்து மதத்தில் பிறந்த ஹரிஜன சகோதரர்களிடம் போய் அவ்வாறு ஹிந்து மதத்தைப் பற்றி பிரச்சாரம் செய்வது கிடையாது. அவர்கள் செய்யத் தவறிய காரியங்களைச் செய்து ஹிந்து மதம் பாவவேண்டுமென்ற உயரிட நோக்கத்துடன் இந்தச் சட்டம் கொண்டுவந்திருப்பதற்காக நான் கனம் மந்திரி அவர்களைப் பாராட்டுகிறேன்.

“தலைவி அவர்களே : கனம் மந்திரி அவர்கள் நன்கு யோசனை செய்து தான் இந்தச் சட்டத்தைக் கொண்டுவந்திருக்கிறார்கள். அதிலும் ஆலயங்களுக்குச் சொந்தமான நிலங்களை குத்தகைக்கு விடும்போது பயிர் செய்து உழுது பாடுமும் உண்மை பாட்டானிகளுக்குத்தான் குத்தகை, மாத்திரிகு கொடுக்கவேண்டும். அவ்வாறு சட்டம் இடம் கொடுக்காவிட்டாலும் அந்த குத்தகைக்கு விடுகின்ற அதிகாரிகளாவது அவ்வாறு விடும்படி பார்த்துக் கொள்ளவேண்டும். ஏனென்றால் உண்மையில் இந்த நிலங்களில் பாடுபடுவது குத்தகைக்காரன் அல்ல. ஏழை ஹரிஜனங்கள் தான் அதில் உழைத்து உழுவவனுக்கே நிலங்களை குத்தகைக்கு விடும்படி பார்த்துக் கொள்ள வேண்டுமென்று கேட்டுக்கொள்ளுகிறேன்.

“கனம் மந்திரி அவர்கள், கோவில்களுக்கு பல ஏரியாக் கமிட்டிகளையும், அட்வைசரி கமிட்டிகளையும் நியமிக்கப்போவதை நான் பாராட்டுகிறேன். இப்போது அந்தமாதிரி தேவஸ்தான டிரஸ்டுகளில் ஹரிஜனங்கள் இருந்தாலும், வருங்காலத்திலும் அவ்வாறு அவர்கள் ஏரியாக் கமிட்டிகளிலும், அட்வைசரி கமிட்டிகளிலும் ஹரிஜனங்கள் பிரதிநிதித்துவம் வகிப்பதற்கு ஏற்பாடுகள் செய்யத் தவறிவிடக்கூடாது. ஏன் இதைச் சொல்லுகிறேன் என்றால் அப்போதுதான் அவர்கள் முன்னுக்கு வரக்கூடிய ஒரு நிலை இன்னும் சிக்கலாக ஏற்படும். அவர்கள் முன்னேற்றத்திற்கு எவ்வளவோ ஏற்பாடுகள் செய்திருந்தாலும் இன்னும் செய்யவேண்டுமென்று கேட்டுக்கொள்ளுகிறேன்.

“மடங்களைப்பற்றி என்னுடைய மதிப்பிற்குரிய கண்ணியமான தலைவர் கனம் முனுசாமி பிள்ளை அவர்கள் சொன்னார்கள். நானும் சொல்லுகிறேன். மடாதிபதிகள் வெளியே போகிறார்கள் என்றால் அவர்களுக்கு பாதகாணிக்கைகள் கொடுக்கிறார்கள். மடத்தைச் சேர்ந்தவர் என்பதற்காக அவர்களுக்கு அவ்வாறு பாதகாணிக்கை கொடுக்கிறார்களே தவிர தப்பிட்ட முறையில் அவர்களுக்குக் கொடுத்து கிடையாது. ஆகையால் அந்த பாதகாணிக்கைகள் மடத்தைத் தான் சேர்ந்ததாகும். அந்தப் பணங்களை அவர்கள் சொந்தமாக வைத்துக்கொண்டு வந்திருக்கிறார்கள். உரிமையும் கிடையாது. ஆகையால் இந்தப் பணங்களை மடத்திற்கே சேர்ந்தார்க்கு வதில் எந்தவிதமான தவறுதலும் கிடையாது.

“ஆகையால் இந்தச் சட்டமும் நன்மைகள் பல செய்வதற்கு கனம் மந்திரி அவர்கள் முன் வந்ததற்காக அவர்களைப் பாராட்டுவதுடன் இந்தச் சட்டத்தையும் நான் முழு மனதுடன் ஆதரிக்கிறேன்.”

SRI D. V. RAMASWAMI :—“Madam Deputy Speaker, I must first express my thanks to the Hon. Mover of this Bill and to the Hon. Law Minister for the excellent way in which they have received the sincere criticisms that have been offered by various hon. Members of this House on the several clauses of this Bill. In the speech of the Hon. Dr. Rajan, while moving the third reading of the Bill, there is a fair recognition of the spirit of this constructive criticism and an attempt to adopt some of the points that have been raised by hon. Members of this House. The extreme patience with which Hon. Sri Madhava Menon has been able to reply to the several amendments that were proposed during the course of the debate only reminds me of the way in which

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Sri Kala Venkata Rao, the ex-Revenue Minister was piloting the Estates Abolition Bill over a long period of discussion in this House. I am sure that the net result of this debate will be very useful in still finding out the possibility of making further amendments on behalf of the Government by way of conceding the valuable and anxious remarks that were made by some of the hon. Members in the course of introducing their amendments. There is always a doubt in my mind that after passing our Constitution of India Act, whether this Assembly is within its rights to introduce a measure of this nature. The intention of the Mover of the Bill is no doubt very laudable. Certainly, wherever there is any debasement going within the purview of the functions of the institutions and their managers, the Government of the land has every right to resort to certain steps whereby the objects of these institutions are fulfilled. There has been the common law procedure and the Civil Procedure Code to introduce such schemes and whereby the Government of the land can exercise the minimum amount of interference in respect of the religious usage and customs. Even under the British Government, religious neutrality was always kept in view. Moreover, the framers of our Indian Constitution have made it clear and clarified the position by stating that the Indian Government is a secular Government and will not interfere with the normal religious aptitudes of the people. So, our Constitution does not interfere with Christian religion, and it does not interfere with Muslim religion. Where on earth is the necessity for bringing this measure only in respect of the Hindu religion? This is a very vital Bill that has been brought on the floor of the House. I feel that whenever any denomination or community slackens in its duties, the Government of the people and for the people have a right to bring home to them that everything is not going well and that they should correct themselves. The Government can advise the constitution of advisory bodies with a view to see that certain irregularities or misappropriations are not committed. Only to that extent the Government can interfere and not take over or almost departmentalise these religious institutions; particularly, as hon. Member Sri Muniswami Pillai has said, on the question of these maths, I should say that the Charter relating to the maths is rather unfortunate. I think the Government would have done well to have omitted this Chapter altogether. As I have said times without number on previous occasions, these maths are not mere religious institutions like temples; they are Colleges of Learning and Philosophy and Culture. It is only these maths that protect and preserve the Hindu culture and religion. In the past, several inroads have been made into the various traditions of our Hindu religion and culture, but still, Hinduism has survived. I should say that by the introduction of this Bill, further and deeper inroads are being attempted to be made into these Colleges of Philosophy and Learning. If we have a clear concept of religion as apart from Philosophy, we would rather leave these maths to other forms of controls rather than taking them over either directly

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or indirectly and controlling their affairs. Attempts have been made even for practically advising the Government as to the need to take power to exempt such maths as are above reproach and run their institutions fairly well. But somehow or other, the Government were not pleased to accept that amendment even. I therefore feel, Madam, that the Government may even now reconsider that position, just as they have reconsidered the valuable suggestions made in regard to the right or necessity to make provision to go before a Civil Court for certain matters. The Government are very responsive and I am sure the Hon. Law Minister is very amenable to any good criticism that is offered in respect of certain clauses. Of course, hon. Members like Sri Kosalram, may not be satisfied with any of the reforms suggested in this Bill and they may want revolutionary and more drastic measures to take over these institutions and treat them as institutions which have been doing all sorts of ridiculous things. That apart, I feel that we need not interfere with these maths in the manner it is sought to be done in this Bill. There are other processes and more popular and more appropriate methods in which the culture of these religious institutions could be preserved. As for instance, we can constitute Advisory Councils for every religion and for every important institution whereby the opinion of the people who pay, donate and contribute for these institutions may be taken so that they may continue to serve such useful purpose for which they are intended. In the ultimate analysis, we, who constitute a large section of the State, feel, 'Why should our Hindu Religious Institutions alone be singled out for treatment in a separate way as if they are the only institutions which are running their affairs in a wrong manner? Why should not the Government take courage in both hands and apply these provisions to all denominations of religious institutions? The Government are applying these provisions in respect of the Hindu religious institutions, simply because Hindus are meek and they practically bow to any Governmental measure.' The Government should not take advantage of that position and practically not appreciate the anxious criticism offered by some hon. Members in order to see that Hindu Religious institutions are properly conducted. All of us are equally anxious with the Hon. Ministers and the Government that these religious institutions must be helped to fulfil the purposes for which they have come into existence and have been working for centuries together. About the necessity and need for the constitution of advisory committees, there can be no second opinion. In this connection, I would like to draw the attention of the hon. Members to the working of some of the temples in some of the estates in my district. For example, I may mention the names of the Simhachalam temple and the Seetharamaswami temple where you have hereditary trustees. It will be seen that practically there has been no criticism about the working of these temples and nothing wrong is noticed. In fact they have been discharging their duties with great anxiety and fear of God. I am sure that such good instances will help the

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Government to recognize the value of the criticism that the Government ought to have taken power to exempt certain important religious institutions from the operation of this Bill. On the whole, the time taken up for discussing this measure is really very valuable and there is no gainsaying the fact that the motive of the Government in introducing this Bill is very laudable. I support this measure."

SRI L. N. GOPALASWAMI:—Madam, Deputy Speaker, I have great pleasure in congratulating the Hon. the Ministers for Hindu Religious Endowments and Law on having piloted this Bill and brought it to this stage. Of course it took a long time for it to reach this stage—seventy hours—but that does not matter. I would like to thank the Hon. Dr. Rajan for having remarked that those who moved amendments to the several clauses in the Bill and those who had occasion to oppose certain provisions of the Bill at certain stages were also guided by motives that were in the interests of the proper administration of the temples and other religious institutions. This is certainly a departure from the attitude taken by the Government and also by some of the supporters of the Bill when the Bill was first introduced. At that time it was even alleged that those who opposed the Bill were for continuing corruption in the various religious institutions. I am glad, Madam, that this attitude has now changed.

"Coming to the extraordinary powers taken by the Government, much has been said by my hon. Friends, Sri Bhashyam and Sri Viswanatham, and I do not want to say anything more. But the only one matter which I shall refer to is the provision which existed in the original Bill for the constitution of Advisory Councils consisting of representatives of the Jiyengars, the archakas, the acharyapurushas and other mirasdars of the devasthanams. Clause 86 which contemplated this has now been removed. We all had felt that there would be some voice given to these people in the administration of the temples. But the Government had thought otherwise. They said: 'That is the thing that is interfering with the religious management of the temples'. And now that clause is no longer in the Bill. I want the Government just to realise, having once inserted this clause in the Bill, what would be the impression they would create in the minds of the public if the provision is taken away now. I will not be wrong if I surmise that even in this sphere, the Government want all powers for themselves and will not be guided by Advisory Councils.

"As regards the general powers that the Government seek to take under this Bill, it has been said that it is only in the interests of proper administration of the temples that such powers are sought to be taken. As my hon. Friend, Sri Ramaswami Mudaliyar, had occasion to point out, the Government take over the administration of temples only 'in order to carry out what the late Raja of Panagal envisaged.' Now it is twenty-four years since we took over the management of these temples from the trustees, of course, through the agency of the Hindu Religious Endowments Board. What has

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been the result? What has been the remarkable achievement that we can boast of during this period? Apart from this, this measure has driven people from the mufassal to run to Madras and only those who have influence here have been able to do certain things for themselves. Nobody else has been able to do anything. I have already, in the course of the debate on the Bill, mentioned the cases of people who had influence and who were able to exchange their properties for those of the religious institutions concerned notwithstanding the fact that the value of the former was not even a tenth of the value of the latter. They were able to get the properties because the Commissioner was in a position to give his sanction. To give another instance, Madam, there was an executive officer in the Lalgudi temple. He wanted to unearth certain endowments of a very rich man of the place. He, as a matter of fact, got all the information relating to the endowments from the Sub-Registrar's office. But the moment the matter was brought to the notice of the mirasdar who endowed those properties, the officer was transferred and next morning he was asked to show cause why he interfered with such things. Is it to vest such powers into the hands of the Commissioner and the Government that this Bill is to be passed or is it for decentralization of control? I ask whether it is for associating the local people, who know what is what in the temple, who are honest and who can legitimately have a voice in the affairs of the temple, with the administration of the temples that this Bill is there. Sri Bhashyam very ably pointed out that the Government had not been able to achieve many things either in the field of food or in other matters by introducing control. Madam, controls are as such bad and the moment these controls are off, the better it is for us and for the Government. Religion is no exception to this rule. If really we want to control religious institutions, we must not go beyond certain limits. When we seek to control the flow of water in the rivers, we do not interfere with the channels but control only the banks. We now want to put a dam across the river and see that we divert all the water for some other purpose. This is wrong. We have not been able to achieve any thing in other spheres nor are we likely to achieve any in the future. I want to warn the Government in this matter that if they really want proper administration, they should not go into forbidden grounds.

"Madam, enormous powers have been given to the Government to extend patronage to their favourites. There are nearly thirty to forty thousand religious institutions in this State which are being made to come under the clutches of this Bill. There are going to be nearly a lakh of trustees, Area Committee members and others. Will the Government be able to use all these powers without heeding to the pressure from party men and without regard to party politics? In the very nature of the Government as they are at present constituted, it will be impossible for them not to pay heed to their party men in the appointment of trustees, executive officers and the like. Madam, no one can say what havoc this will play on the local temples. Only those who can wield influence with the Government

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and not those who stand on their qualifications will get appointed. Only those, Madam, who are in the know of things connected with the temples will be able to serve well. But the Government may say that they will appoint such persons to look after the affairs of the temple, but such persons will be only those who hang after power, who are eager to exercise suzerainty over the village, the temple and its affairs. People who are really honest, religious-minded and contented in their own walks of life, will not offer their services for these religious matters. There is also a taboo which, I suppose, the Government are also aware of. So far as Siva temples are concerned, no man will like to manage the affairs and no man will ever ask for a place in the administration of a temple's affairs. Only such people as are honest and God-fearing should be asked to serve on such committees and as trustees and not those who go about with a begging bowl and ask for favours of the Government and who say, 'please appoint me; I will look after the affairs of the temple'.

"I shall give one more instance, Madam, to show how the affairs of the temple are conducted by the so-called executive officers. The day before yesterday, I saw a news item in the papers that in the Palni temple, the things offered for abhishekam have absolutely deteriorated in quality. Is it because, I ask, of the appointment of an executive officer that good honey, pure milk and fine sandal are not offered for abhishekam? I say it is because of the appointment of such officers that the quality of things has deteriorated. They do not know the value of abhishekam. They feel that jaggery water will suffice in the place of honey and it passes for honey. Water passes for rose-water. They think that some coloured substance will do for sandal. All this happens because the executive officers are not properly trained in the art of religion. They have no faith in these things. They measure every item of work in terms of economy. They say, 'why should hundred measures of milk be offered for abhishekam? Water mixed with some white substance will do for the job'. They do all this in the hope of effecting some economy and that it will all be to their credit. Their services will be recognized by their being promoted to positions carrying higher salaries or emoluments. I emphasize this point once again, Madam. The Government should choose the right type of men even while extending patronage. They should go into the root of the question and find out who the local people are, whether they have any religious faith, whether they can manage the trusts better and last but not least, whether they would have any regard to power or party politics.

"Madam, I have got to say a few words about the matadhipathis. We have tried our best to see that the provision relating to maths is left out of this Bill altogether or at least some exceptions are made so far as good matadhipathis are concerned. Even the good matadhipathis have been dragged into the Bill and the Hon. the Ministers connected with the Bill say, 'we cannot excuse them; why should we differentiate between one matadhipathi and

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another? Madam, they have made exceptions in the case of charitable endowments. The Government under the Act notify only such charitable endowments as are not managed properly. The same provision could easily have been made with regard to the matadhipathis also if only the Government had been a little sympathetic towards them. My feeling is that the maths should be treated on the same footing on which the charitable endowments are treated. They cannot treat the maths in the same way as the temples are treated. There is a vast difference between the temples that own properties and the maths. It may be that certain matadhipathis own large properties. But we should be guided more by the point of view that these properties are there to enable the matadhipathis to propagate the tenets of the Hindu religion than by the fact that these properties are going to colossal waste. As I have already said, it is a different matter if we interfere with the temples and their trusts. Whether X is the trustee or Y is the trustee of a temple; it does not matter much and the temple will go on. But the same is not the case with maths. The matadhipathis are the real persons who are in charge of the maths and their properties. If the Government were to tease them they will go away from the maths and sit under the shade of a tree saying, 'we have nothing to do with the maths; you want the property; you take it and manage it; I can preach my religion even from sitting here'. Is it to ask these matadhipathis to go out of the maths, is it to administer such pin-pricks to them that the Government intend to appoint this army of officers? Madam, it is certainly not fair to treat the matadhipathis in this way. Even at this late hour, I would ask the Government to go slow, taking particular care to see that good maths and good matadhipathis are not interfered with and pin-pricks are not offered to them.

Madam, in the course of the debate on this Bill, Gandhiji's name was dragged in. It was said by the Hon. the Minister for Law that while Gandhiji went on tour, funds were collected every day and that he accounted for them every day and rightly so. Yes, he collected funds and I know, he accounted for them to the last pie. In a way, I had also occasion to know what he was doing. But I would ask the Government to go a step further and see what they should do with the funds collected by the matadhipathis. Gandhiji collected money for the Harijan Welfare Fund, for example, and it was nearly eight lakhs of rupees. It was placed at the disposal of the Harijan Sevak Sangh. Some of the members of the Sangh said to him: 'We are the elected representatives of the Sangh and we want the money to be spent according to our own desire'. The Congress Committees also said the same. Here I shall quote Gandhiji's own words which he used in reply. He said: 'I am a democrat of democrats, but so far as money is concerned, I am the person responsible for it, and I will see how best it can be spent. I will entrust it only to particular persons in whom I have trust'. (The Hon. Sri K. Madhava Menon: 'Hear, hear.') I want the Government not to be under the impression that they are the

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trustees of the people. People have given money to these matadhipathis not because they wanted to give it for the sake of the State Government or the Central Government but because of their faith in the religion which the matadhipathi whom they worship belongs to and preached. Just as Gandhiji wanted that the funds should be spent for the purposes for which they were collected, so also the matadhipathis should have discretion to spend the money they have collected as they like. That is exactly the reason why I have recalled this analogy. The matadhipathi got the money for the math as Gandhiji collected funds for the Harijan Welfare Fund. He said he would entrust the funds only to those in whom he had confidence. He added: 'You may be elected representatives; you may be Congress Committees; you may be very good persons but I have nothing to do with you. I must account to the last pie because I am responsible to those from whom I have collected these funds, nearly eight lakhs of rupees. I will entrust it only to such persons in whom I have trust and will nominate G. D. Birla as the President and A. V. Thakker as Secretary. (The Hon. Sri K. Madhava Menon: 'And Sri Gopalaswami also.') Yes, but the poor Gopalaswami was the last person in the ladder. But, all the same, I want the Government to understand the way in which he dealt with those funds and the importance and weight that he attached to them. I warn the Government that they should not arrogate to themselves the responsibility of administering these funds. They are not the proper custodians but the matadhipathis. The matadhipathis have every right to spend the math's funds according to their own discretion. Therefore, Madam, even at this last moment I would beg of the Government to think over the matter again. If they really follow the Gandhian precepts, they should allow the matadhipathis to account for their funds to the satisfaction of the public and not enter into domains which they are forbidden to enter.

'Lastly I have only a few remarks to offer. The Government have been saying and we have now come to the stage where the executive and the judiciary are to be separated. But so far as this Bill is concerned, it is to be absolutely autocratic. The Commissioner combines in himself all powers, both the executive as well as the judiciary. He has the right to decide the *dittam*, he has the right to *veto dittams* and also the right to say that such and such a thing shall happen. Immediately by the left hand he can undo all he has done by his right hand. He can say: 'Yes you have not done such and such thing. I do not approve of them. I shall evict you and appoint another man'. Is this fair, I ask? Is it in consonance with the policy adumbrated by the Government and also introduced in most of the districts, where the Government have said that their own Collectors should not exercise jurisdiction over the judiciary? I therefore request Government to see that such things do not happen and it is for us to uphold our own policies, the policies that we have laid down for ourselves.

'Lastly, Madam, Deputy Speaker, the Hon. Dr. Rajan when introducing the Bill spoke about the ancient customs and traditions

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and said that he was expecting that these customs and traditions would be established by the passing of the Bill. Ancient customs might have been good. Then we had very great Rajas ruling over us. But unfortunately it is not the Raja who had faith in the Hindu religion that is now ruling us. We are now ruled by democracy. We have no religion. The State as such has no religion and as such these laws cannot hold good now. That is exactly why according to me the Constitution has been passed. A Hindu may be the Chief Minister of the State to-day, to-morrow it may be a Muslim, the third day a Christian, the fourth day a heathen and we may have an atheist also as the Chief Minister of the State, which nobody can prevent. If the Government are going to entrust the wealth and the whole structure of our religion the temples and all their properties into the hands of such people, God alone can save us. I therefore say even now, that it is wrong on our part to enter into domains which are not ours and see in the interests of the temples themselves that we keep only a check and keep at a distance which is confined to us by law. I therefore request the Hon. Minister to see whether even in the working of the Act he will please see that the check he wants to exercise could be reduced to the minimum."

SRI P. KAKKAN:—"On a personal explanation, Madam, கனம் கோபாலசாமி அவர்கள் பேசும்பொழுது பழனி பஞ்சாமிருத்தசுவாமிநிபத்திரிகைகளில் எழுதி இருக்கிறது, அங்குள்ள Executive Officer என்ன பண்ணுகிறார் என்று சொன்னார். நான் கனம் கோபாலசாமியைக் கேட்கிறேன் அந்த ஸ்டேட்மென்டு உண்மைதானா என்று. அந்த விதமான ஸ்டேட்மென்டைக் கொடுத்ததிலிருந்து Executive Officer குற்றமாவது என்று சொல்லுவது நல்லதல்லவென்றும் கேட்கிறேன்."

SRI N. ANNAMALAI PILLAI:—"கனம் தலைவி அவர்களே, இன்றைய தினம் விவாதிக்கப்படும் இந்த எண்டென்மென்டு 'பி' லைக் கொண்டு வந்த மந்திரி அவர்களை நான் பாராட்டிப் பேசவேண்டியிருக்கிறது. இந்த 'பி' லில் அநேகம் குறைபாடுகளிருக்கின்றன. எவ்வுக்கு மிக மில்லாத பல விஷயங்களும் இருக்கின்றன. ஆனால் கனம் மந்திரி அவர்கள் தைரியமாக இந்த சட்டத்தைக் கொண்டு வந்து, அதையும் நிறைவேற்றும் நிலைமையில் கொண்டுவந்து வைத்திருப்பதைக் கண்டு நான் மறுமுறையும் பாராட்டுகிறேன். இந்த சட்டம் எப்படியானாலும் நிறைவேற்றப்படப் போகிறது. ஆனால் இந்த சட்டத்தை அமுல் நடத்துவது மந்திரிகளைப் பொறுத்திருக்கிறது. அவர்கள் மிகவும் ஜக்கரதையாக இதை அமுல் நடத்தவேண்டும். இந்த சட்டத்தின் கீழ் அதிகாரிகளை நியமிக்கும்பொழுது மிகவும் ஜக்கரதையாக நியமிக்கவேண்டும். அதிகாரிகளுக்கு அதிகாரங்கள் விடுவதிலும் மிகவும் ஜக்கரதையாக இருக்கவேண்டும். இப்பொழுது வந்து மதத்தை எதிர்த்து பல இதர மதத்தினர்கள் ஆவேசமான வெறி கொண்ட பிரசாரத்தைச் செய்துகொண்டு வருகிறார்கள். இன்னும் கேட்டால் வந்து மதத்தையே இந்த நாட்டிலிருந்து ஒழித்துவிட வேண்டுமென்றும் ஆவேசம் காட்டுகின்றார்கள். அதற்கு நெருங்குபோல் இந்த சட்டத்தை இயற்றியிருப்பது அதற்கு அனுமனாகப் போய்விடும் என்ற எண்ணம் எனைக்குத் தோன்றி அகையப் போனவே எனக்கு ஒரு பயமும் ஏற்படுகிறது. ஆகவே Executive Officer களைப் போடும்பொழுது மிகவும் ஜக்கரதையாக பார்த்துப் போடவேண்டும். இந்தச் சட்டத்தின்படி முஸ்லிம்களைக்கூட போடலாம். (Some hon. Members: 'Hear, hear and முடியாது') முடியாது என்றிருந்தால் ரொம்பவும் சந்தோஷம். ஆனால் இப்பொழுது வந்துக்கொண்டிருக்கிற பல்பேர்கள் தெரிவத்தின்

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மீது நம்பிக்கையில்லாதவர்கள் இருக்கின்றார்கள். அவர்களும் இந்த வந்து மதத்தையே அழித்துவிடவேண்டுமென்று நினைத்துக்கொண்டிருக்கிறார்கள். (Some hon. Members: 'Hear, hear') பல மேடைகளிலும் அரங்கங்களிலும் வந்துக்கொண்டிருக்கிறார்கள். மனம் புண்டும்படியும் ஆத்திரமும், ஆவேசமும் உண்டாகும்படியாகவும் பல வாலிபர்களும் பல சிமுவர்களும் பேசி வருவதை சர்க்கார் அறிந்திருக்கிறார்கள். இப்பொழுது அப்படிப்பட்டவர்களை Executive Officer களாகப் போடுவார்களே யானால் தேவாலயங்களில் நடந்துவரும் அபிஷேக ஆராதனைகளும் உத்சவங்களும் தானாகவே நின்றுபோய்விடும். அதற்கு ஆதாரமாக இந்த சட்டத்தில் காரணம் காட்டுவார்கள். என்னென்றால் பணமில்லை உத்சவத்தை நிறுத்திவிட்டோம் என்று சொல்லுவார்கள். இப்பொழுதே என்ன நகரத்தில், ஒரு பெரிய திவ்ய சேஷத்திரமாவிய திருவல்லுமையிலே இந்த வருஷத்தில் கந்த சஷ்டி உத்சவத்தை நிறுத்திவிட்டார்கள். ஏன் என்று கேட்டதற்கு பணமில்லை என்று சொல்லிவிட்டார்கள். இன்னும் சங்காபிஷேகத்தையும் நிறுத்திவிட்டார்கள். ஏன் என்று கேட்டதற்கு, அன்றிருந்த நிலைமைக்குத் தக்கபடி உயர்க்காரர்கள் பணம் வைத்திருந்தார்கள். இப்பொழுது மார்க்கெட் லிலே உயர்ந்துவிட்ட படியால் அந்தப் பணத்தை வைத்துக்கொண்டு அபிஷேகத்தைச் செய்யமுடியாது என்று சொல்லிவிட்டார்கள். இந்த அகோமான நிலைமை இப்பொழுது ஏற்பட்டிருக்கிறது. இதைப்பற்றி தர்மகர்த்தாக்களைக் கேட்டால் பணமில்லை நாங்கள் என்ன செய்வோம் அதைத்தான் நாங்கள் நிறுத்திவிட்டோம் என்று சொன்னார்கள். தர்மகர்த்தாக்கள் என்றால் அகன் பொருள் என்னவென்பதைப் பார்க்கவேண்டும். ஆலயங்களில் நடக்கக்கூடிய தர்மகாரியங்கள் நின்று போகாமல் பாதுகாப்பதுதான் தர்மகர்த்தாக்களுடைய வேலை. அதைச் செய்ய முடியாவிட்டால் ஊரில் பிச்சை கொடுத்தாலும்தான் தர்மகாரியத்தைச் செய்து காட்டவேண்டும். அவ்விதம் செய்ய முடியாமல் போனால் அவர்கள் இராஜினாமா தான் செய்யவேண்டும். அவ்விதமே நான் அவர்களிடம் சொன்னேன். ஆனால் அவர்கள் இன்னும் இராஜினாமா செய்யவில்லை. ஏன் இதைச் சொல்லுகிறேன் என்றால் இப்பொழுதுக்கும் நிலைமையில் அபிஷேக ஆராதனைகளும் உத்சவங்களும் நின்று கொண்டிருக்கின்றன. நான் இப்பொழுது சர்க்காருக்கு ஒன்று சொல்லுகிறேன். குறைந்த பட்சம் சைவக் கோவில்களில் விபூதி பூசிக்கொள்ளுகிறவர்களைப்போல்தான் Executive Officer களாகப் போட வேண்டுமென்றுதான் கேட்டுக்கொள்ளுகிறேன். வைஷ்ணவ கோவில்களுக்கு நியமிக்கும்பொழுது நாமம் போட்டுக்கொள்ளக் கூடியவர்களாக வாவது போடவேண்டும். கண்ணிற்கே தெரியாத கீறு நாமம்போட்டுக் கொள்ளக்கூடியவர்களாகவாவது இருக்கவேண்டும். இன்னும் குங்குமத்தை மாட்டிலும் குழைத்து நாமம் போட்டுக்கொள்ளக்கூடியவர்களுமிருக்கிறார்கள். அவர்களுக்கு பக்தியென்ற உணர்ச்சியே இல்லாமலிருக்கிறது. அப்படிப்பட்டவர்கள் அதிகாரத்திலிருந்தால் கோவில் வேலைகள் சரியாக நடைபெறாது. இவைகளைப்பற்றி மந்திரி ஜக்கரதையாகப் பார்த்துக்கொள்ளவேண்டும். எப்படியிருந்தாலும்தான் நாம் இந்த சட்டத்தை பாஸ் செய்துவிடப் போகிறோம். இதை அமுல் நடத்துவதில் ஏதாவதும் தப்பத் தவறுகள் ஏற்பட்டால் என்னைப் போன்றவர்களை ரொம்பவும் பாதிக்கும். என்னென்றால் கோவில் வழிபாடுகளில் நான் நம்பிக்கையுள்ளவன் என்று சொல்லுகிறேன். நம்பிக்கையற்றவர்களுக்கு நான் சொல்லவில்லை. ஆகையால் Executive Officer களைப் போடுவதில் மிகவும் ஜக்கரதையாக மதப்பற்றுடையவர்களையும் ஆசைய வழிபாடுகளில் நம்பிக்கையுடையவர்களுக்கும் போடவேண்டாம். மூம், முடியுமானால் சர்க்கார் பரிசையும் வைத்து கொடுக்கி எடுத்தே தீரவேண்டும். இன்னும் ஒரு விசாரணைக் கமிட்டியைப் போட்டு அது ஒருவேளை இந்த வேலைக்கு லாயக்கானவன் என்று சொன்னால்தான் அவனைப் போடவேண்டும். அவனால் இந்த நிர்வாகத்தை நடத்த முடியும் என்று அந்த கமிட்டி உணர்ந்தால் தான் அவனை appoint பண்ணலாம். மதப்பற்றில்லாதவர்களை ஆபீசர்களாக நியமித்தால் கோவில்களுக்கு கெடுதல்தான் ஏற்படும்.

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“மற்றுமொன்றை சொல்ல நான் விரும்புகிறேன். அதில் அமைந்தும் ரொம்பவும் சர்வ ஜகராதயாக கவனம் செலுத்தவேண்டும். அதுமானது தேவாலயங்களுக்கு வரி செலுத்துபேய் கொடுக்கவேண்டிய நிதி கத்தை இப்பொழுது பேர்டர் நிர்வகித்து வருகிறார்கள். இதை முழுதும் நமக்கு 3½ என்று வகுத்துக் கொடுத்திருக்கிறார்கள். இன்னும் ரூ. 6 அல்லது ரூ. 6½ என்று வரி கொடுப்பதன் நிலைமை ஏற்படுமேல் தோன்றுகிறது. அவ்விதம் நம் வரி விதிப்போமானால் நாம் கே விலின் கீழ் எடுத்துத்தான் பாடக்கூடிய பரிசுக்கும், அவ்விதம் வரி விதிப்பதில் மிகவும் ஜாக்ராதயாக இருக்க வேண்டும். வரி விதியில் அனைத்துவிதமேல் கோகாமல் பார்க்கக்கூடாது என்று கேட்டுக் கொள்ளுகிறேன்.

“மற்றுமொன்று வார்த்தையை சொல்ல விரும்புகிறேன். இப்பொழுது சில ஆய்வுகளுக்கு நிறை பண்பிடுகின்றது. அதுபற்றி பண்புத் த எடுத்து மற்ற கே வில்களுக்கு விவரிக்கப்படுகிறது என்று சில பேர்கள் நினைக்கிறார்கள். ஹிந்துக்களுடைய கே வில் ஹிந்துக்கள் எடுக்கவேண்டியதாகும். அதனுடைய பண்பு பண்பு வேண்டுமென்ற எண்ணமிருந்தால் கே வில்களுக்குள் வேறுபாடு வேண்டியதில்லை. ஒரு கோவிலுக்கு உட்கார்ந்த ஜாஸ் தியாக இருந்து நிறைய பண்பிடுகிறது. இன்னும் சில கோவில்களுக்கு பண்பில்லை. அழிந்து போயிருக்கின்றன. அம்மாதிரி பண்புக்கும் கே விலாவிலிருந்து பண்புத் த எடுத்து பண்பிடுகிறது கோவில்களுக்கு புனரூபமாக்கப்பட்டு உபயோகப்படுத்தவேண்டும். அவைகளை கோவில் பண்புத் த எடுத்து வைக்கவேண்டிய கோவில்களும், வை கோவில் பண்புத் த எடுத்து வைக்க கோவில்களும் சிலவு செய்யவேண்டுமென்று சொல்லுவார்கள். எப்போது போதும் மட்டும் எந்தக் கே வில் பண்பு மாக இருந்தாலும் அது எடுத்து பண்பில்லை கோவில்களுக்கு சிலவு செய்யவேண்டுமென்பதுதான். அதுதான் என்னுடைய அபிப்பிராயம். முடியாது என்றால் அந்தந்த மதஸ்தர்களுடைய கோவில்கள் பண்புத் த எடுத்து அந்தந்த மத கோவில்களுக்கு பரிவர்த்தனை செய்து பங்கு பிரித்துப் போடுவதுதான் நல்லது என்பதாக நான் நினைக்கிறேன். கொள்ளுகிறேன். திருப்பதி கோவில் பண்புத் த எடுத்து மற்ற கோவில்களுக்கு சிலவு செய்வதில் என்ன பிசகு இருக்கிறது? அதனால் மதம் கேட்டுப் போவீரோ? அல்லது கோவிலே இல்லாமல் போய் விடுவா என்று கேட்கிறேன்.”

“இன்னுமொரு வார்த்தையை சொல்லிக்கொண்டு முடித்துக் கொள்ளுகிறேன். நம் நாட்டில் கலை, கல்வி, ஆசாரம் முதலியவைகளை ஏற்படுத்தி வதற்காகத்தான் அந்தக் காலங்களில் கோவில்கள் கட்டப்பட்டன. அந்த மும் ஜனங்கள் நினைப்பதுபோன்றதான் அதுங்களை நிறுத்தப் பட்டிருக்கின்றன. ஆலயங்களில்தான் கலை, கல்வி முதலியவைகள் பொதிக்கப் பட்டுவந்தன. அநேக ஆலயங்களின் கே புரங்களில் அநேக சிற்பங்களை சிற்ப சாஸ்திரிகள் செதுக்கி வைத்திருக்கிறார்கள். இன்னும் எத்தனையோ பாடல்களையும் எழுதி வைத்திருக்கின்றார்கள். இன்னும் அநேக தஸ்தா வேஜுகளையும் எழுதி வைத்திருக்கிறார்கள். அவைகள் எல்லாம் இப்பொழுது மூன்றுபேய்க் கொண்டிருக்கின்றன. இப்பொழுது நிறுத்தப்பட்ட மலை கோவில் கோபுரத்தை எடுத்துக்கொண்டால் அங்கே 13 மெத்தை அடுக்கு கட்டியிருக்கிறார்கள். அவைகளில் எவ்வளவோ சிற்பங்களை, ஓவியங்களும் செதுக்கப் பட்டிருக்கின்றன. இந்த 13 அடுக்கு மெத்தை கட்டுவதற்கு எத்தனைபேர் எவ்வளவு பிரயாசைப்பட்டிருக்கவேண்டுமென்றதை யோசித்துப் பார்க்கவேண்டும். இப்பொழுதுள்ள இஞ்ஞினியர்கள் அந்த உயரத்தைப் பார்த்து சந்தோஷம் பொருள்கள். அந்த அடுக்கு மெத்தைகளில் பெரிய சிற்பங்களை கட்டியும் வைத்திருக்கிறார்கள். இதைக்கட்டுவதற்கு நம் முன்னோர்களும் அரசர்களும் ஏராளமான பணத்தை செலவு செய்திருக்கிறார்கள். இப்பொழுது அதில் பழுதுபோயிருக்கும் வேலைகளைச் செய்வதற்கு பாட்கும் மனம் வரவில்லை. அவ்விதம் அழிந்து போய் பதை சீர்திருத்தம் செய்வதற்கு முன்னால் கோவில்களில் நுழைந்து பண்புத் த எடுத்து சிலவு செய்வதுதான் நியாயமும் தர்மமுமாகும் என்பதை நான் தெரிவித்துக் கொள்ளுகிறேன். ஆகவே இந்த சட்டத்தை இப்பொழுது

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நிறைவேற்றப் போகிறோம். அவைகளுக்கு ஜாக்ராதயாக பாதுகாப்புக் கொடுக்கவேண்டுமென்று கனம் மந்திரிகள் மாதவமேனன் அவர்களையும், டாக்டர் ராஜன் அவர்களையும் ரொம்பவும் கேட்டுக் கொள்ளுகிறேன்.”

(At this stage Mr. Speaker took the Chair.)

SRI N. S. VARADACHARI:—“Mr. Speaker, Sir, the third reading of the Bill is not the occasion to recount anything in the nature of a criticism of the Bill. It is a true doctrine that all difference of opinion should cease during the second reading. Even beautiful words of Mandothary would indicate that all enmity should cease with death; similarly all the differences of opinion should cease at the second reading of the Bill. Legislation has to proceed necessarily slowly. It is done with deliberation. The Hindu marriage knows what is ‘Sapthapathi’. You take seven steps with the bride in order to make the marriage sure and certain and it is good and creditable to all parties concerned. We have taken seven hundred steps in connexion with this Bill. We have discussed it at length and one good thing that could be said about this Bill is that every clause in the Bill has gone through a searching examination.

“The Hon. Minister has to be congratulated on the very free and frank discussion allowed on this Bill and on all the clauses of the Bill. My hope is that this Bill will be welcomed in the country. Even if it does not add to the sum total of the good in the management of the temples and maths, it prevents the growth of evil in these institutions. I shall be satisfied with that. I do not expect that after this Bill is passed, there will rise new temples and maths but I expect that the very passing of the law will operate as a general tonic and will raise the level of managements in all institutions, whether maths or temples. Hinduism is not a proselytising religion. In fact I have come to feel that the day it takes up that side of the fact it will cease to exist. The word ‘Hindu’ itself is a strange work, it will cease to exist. The word ‘Sindu’ which means the sea term. It came from the word ‘Sindu’ which means the sea or the river Indus as the word is applied. In fact the Greeks called it ‘Sindu’ and then perhaps arose the word ‘Hindus-tham’. There is no such thing as Hinduism. It is only the Englishman's making or the foreigners' making. It is such a beautiful flexible thing that it can make the worship the principal thing in temples here and make the worship the principal thing in the rivers in Northern India. Similarly it can make the maths the centres of learning in South India and still leave it to individuals, saints, and philosophers who had no maths at all to proclaim the glory of the religion in the North.

“Sir, I am not going to suggest that this Bill itself will change the face of Hinduism. It cannot. We have a very beautiful tradition. What is a temple? Very often people think it is a place only for ‘bhakti’. It is so to the rest of the world. But it has also a social function to fulfil. It affords facilities for the florid style of architecture which contrasts with all the massive structures of the Gothic style in the West and make a deep

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impression on us, citizens of this country. It has also another function to fulfil. You go there and feel the fresh air. You see the long courtyards with their beautiful halls with hundreds and thousands of pillars wonderfully describing all that the florid genius can produce in architecture. There are several things which one feels as he likes when he goes into a temple.

"Now, Sir, may I suggest this, that the Government as a rule should not interfere with the management of these institutions? But as I have said the law that the Government have made will itself operate as a salutary check on evil tendencies. I will be satisfied with that. The test of the good law is that it operates even without its being given effect to. Nobody should come to feel that the finger of your hand is finer than the groin of your predecessor. That is the way the administration has to be worked. The Government can select people. I do not want election. I am content with nomination and I am glad that this Bill says that persons with interest—persons with interest—having been defined in the Bill—will be made trustees. Once having made them trustees, the Government ought to treat them with some amount of dignity. Do not be always watching them with the care that is bound with suspicion, but with the care and endeavour, honest endeavour which looks to the sum total of the good that can be got out of these institutions. Government can be silent and still they can effect a lot of change in the management of these institutions. The object of the Bill is to secure the better management of these institutions. I hope there will be better management. We cannot say at any stage that the best will obtain even in the best of temples. We want men with artistic sense, men with religious sense, men who can see or at any rate appreciate if they cannot see, the multi-dimensional truth of Hinduism. Hinduism unlike other religions as I said is multi-dimensional. That is why the 'Vedas' said 'we have not seen God, we only see some aspects of Him.' Similarly this Government should say 'We see only some aspects of management. The general management is good. We will encourage good management. We are for decentralization. We will trust the people whom we put into office and give them all the hope and the confidence that we can'. That is the way in which the Bill has to be worked. I hope that way will be followed now.

"One more thing, Sir and I will have done. A lot has been said about the matadhipathis. I myself said that the chapter has to be rewritten. I do not object to the chapter. Let us put it in the Bill, with some changes. I hoped that at the third reading, all this would be done before the bill goes to the other House. Still some provisions in this chapter have to be gone through. The Bill passed through 700 steps in this House and I hope at least it will pass through 200 steps in the other House and we would see the Bill in a more wholesome form. The matadhipathis are really cared for in this Bill. They will appoint their own managers, not at Government suggestion but on their own. Government need only suggest where there is a bad case. For instance, there is nothing wrong, I would contend, in the Government suggesting to the

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Matant of Tirupati that he should have a good manager. But I would certainly deem it a misfortune if in the case of a good matadhipathi Government had to suggest how to nominate the manager for looking after the secular affairs. I earnestly appeal to all our matadhipathis that so far as secular affairs are concerned, and so far as the accounts are concerned, they should proceed immediately even without the Government asking them to do so, or even without the Government throwing out a suggestion that they should do so, to appoint a good manager from among the disciples as some swamis have done. I told you, Sir, the other day, of a swami having nominated a retired M.C.S. gentleman, that is, a gentleman who retired from the Mysore Civil Service, from its body of disciples. There is no need to control such an institution. There is no need to tell such a good man what he should do or what he should not do. He knows the limits of the law. He knows the limits within which he practises the religion that he preaches. The religion which he preaches is so imperishable, is so grand that it leaves such an impression on all of his disciples that he need hardly be told what it is that he should do. A few slokams uttered in devotion may make as much as reading for ten years all the 'Vedas'! That is the way to lead.

"On the religious side, Sir, Government have given an assurance and I hope that assurance will be fully implemented that on the religious side there will be very little interference. Sir, I was speaking during the discussion of the Bill for the underdogs, the tiny archaka. Do not deprive him of the villages. Even if you do so, give him substance with which he can perform his functions. I suggested this amendment in another Select Committee. The Government were good enough to accept the suggestion. I hope this House will also agree. I only wish to say this and conclude with a note of cheer and hope that knowing as we do our own men and their inherent goodness, all the institutions in the country will progress towards more and more good and finally become an illustrious example to ourselves and to the generations to come."

THE HON. SRI K. MADHAVA MENON:—"Sir, after the very good speech and perhaps the better sentiments that have been expressed by my hon. Friend, Sri Varadachari as to what should be the attitude at the third reading of the Bill it is rather awkward that I should sound a discordant note. Unfortunately, situated as we are, I have to clear certain wrong statements made and misunderstandings created that have arisen in the course of the third reading of the Bill. I am really gratified, Sir, that some hon. Members who were feeling surprised that a person like the Hon. Dr. Rajan should bring forward such a Bill, have now come to the conclusion that after all Hon. Dr. Rajan's motives cannot be questioned and the speech he made is really very very helpful, not only helpful but very clear as to the intentions of the Government.

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But, if there is trouble in Srirangam temple, every other temple is a 'chota Srirangam' or a 'bigger Srirangam' in that respect. There is no difference in that. As regards the management or administration, if Srirangam is bad, then every other temple is bad either in a lesser degree or in a bigger degree throughout the State. If Mr. Bhashyam says, 'Srirangam deserves better treatment than other temples,' other temples also deserve the treatment equally in the same manner' is my answer to him.

"Sir, Government want to improve the institutions. What does Mr. Bhashyam want? Perhaps I do not know. Anyhow it is unfortunate, Sir, that such sentiments were expressed in the Third Reading and I don't want to go in detail into what each hon. Member said. But, I want to clear one misunderstanding. Both Mr. Viswanatham and Mr. Gopalaswami said that there was one good clause in this Bill and that was clause 86. They said 'An Advisory Council was provided and the Government removed that Advisory Council'. Mr. L. N. Gopalaswami went a step further and said that 'the Advisory Council was to give advice on the secular affairs of the temple. That was a very good thing. But the Government do not want the advice at all and so they removed the clause 86.' What does clause 86 say? It says:

'Clause 86 (1).—There shall be constituted in such manner as may be prescribed an Advisory Council consisting of the representatives of the jiyengars, the archakas, the acharyapurushas and other mirasdars of the Devasthanams for the purpose of advising in the administration of the religious affairs thereof

It is not 'secular affairs thereof', my Dear Sir."

MR. SPEAKER:—"My Dear Sir' refers to the Chair."

THE HON. SRI K. MADHAVA MENON:—"Excuse me, Sir."

SRI T. VISWANATHAM:—" (Interruption.)

THE HON. SRI K. MADHAVA MENON:—"To my hon. Friend, nobody can be 'My Dear'. But, to me anybody can be, and so it does not matter.

"The purpose was to advise on the administration of religious affairs thereof and the Government do not want any religious advice because we do not want to touch the religious affairs at all and that is the reason for removing that clause, Sir, 'If this clause had been there, everything would have been right. Take away the foul hands of the Government from the religious affairs of these institutions. Don't touch them. Don't touch the religious affairs. There is a clause directly asking the Government to have an Advisory Council.' That is the objection of my friends.

"Sir, hon. Mr. Viswanatham's main argument was again 'not to offend the Constitution'. As a great constitutional pandit as he has become, he always makes a brief survey to see whether we are within the Constitution. My hon. Friend cited Clauses 67, 95, etc., and said that the whole thing was clearly against the Constitution and quoted Articles 25 and 26 of the Constitution. He says, 'Our law-framers were very careful and you have gone

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against the Constitution. Certain people can go to a Court of Law if there is anything wrong.' I do not know whether the idea of my friend was a subtle invitation to people to take this to the courts."

SRI T. VISWANATHAM:—"Sir, the Hon. Minister is crediting me with several things which I have not meant."

THE HON. SRI K. MADHAVA MENON:—"It might be, but Sir, I entirely agree with one sentiment which hon. Sri Viswanatham expressed 'whether it is against the Constitution or not'. Certain points of order were raised and you, Sir, have given your rulings on the points of order. If it is against the Constitution, there are other bodies to go into the matter and let us pray, 'Oh, God, we did not offend the Constitution in any way because it was not our purpose to offend the Constitution at least in any legislation passed in this House.

"Hon. Mr. Viswanatham said that temples should be managed only by those who have faith in them and in their character. I entirely agree that temples should be managed only by those who have faith in them. It cannot be by those who do it as a commercial transaction in the temples and amke something out of them. In that case the faith, the sanctity and the sacredness of these institutions will be lost. The object of the Bill is to prevent such a set of people who want to make commercial transactions in temples. That is the reason for this Bill, Sir.

"Hon. Mr. Viswanatham also said, 'You have squeezed religion out of these temples; you have squeezed the religious denominations out of these temples' . . ."

SRI T. VISWANATHAM:—"Sir, the Hon. Minister is misquoting my statement. I said, 'You are squeezing religion out of the Bill'."

THE HON. SRI K. MADHAVA MENON:—"He said, 'You are squeezing out the religious denomination and religion from the scope of this Bill.' We are not going to squeeze out religion at all. We are attempting to squeeze out those who destroy religion in temples and it is necessary. Our temples must live and they should not die. There are certain cankers which eat into our temples now and we want to squeeze out those cankers and that is the object of the Bill. Religion must live. Those who want to destroy religion must be squeezed out from everything that is religious or religious endowment—whether they are maths or temples. Sir, such expressions were used in the wrong sense. It is not religion that is squeezed out.

"The next point that was discussed at length was about the ousting of the jurisdiction of courts. We have not ousted the jurisdiction of courts. In the course of the discussion I have repeatedly stated that wherever right or title to property is involved, we have left the matter entirely for the courts to decide. But we have decided that, where it is a case of a party indulging

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in wasteful litigation or speculation, it should not be done with the money belonging to the religious institutions. It will be seen therefore that we have stopped only litigation as a luxury and not litigation for a religious purpose or for establishing right or title to property. As practising lawyers are we not every day dealing with legislation restricting the jurisdiction of courts? Oftentimes, when we have to refer to the Limitation Act or the Transfer of Property Act, we used to call them the chottu pusthakam (சுட்டு புத்தகம்) of lawyers. We want these Acts for our livelihood. What is the Limitation Act but an absolute ousting of the jurisdiction of courts? On promissory notes executed earlier than three years one cannot file a suit for the recovery of the amount involved. The court is prohibited from entertaining a suit on such promissory notes even if the party admits the execution of the document. And yet, nobody condemns the Limitation Act for this ousting of jurisdiction of courts. Sir, even if a pro-note has been decreed, even that decree has to be executed within a limited period. Otherwise the decree will not be valid. Why is this so? This is so because the Legislature decided that there must be some sort of 'Thus far and no further.' It decided that there must be a limitation put somewhere and that in the case of promissory notes three years should be the limit and in the case of registered documents the period should be 12 years. The whole Act consists of limitations and safeguards."

SRI T. VISWANATHAM :—" It is limitation of the cause of action and not of power of the courts."

THE HON. SRI K. MADHAVA MENON :—" What does it mean? The court cannot entertain a suit and cannot grant a decree. It is a sort of limiting the jurisdiction of the court."

SRI T. VISWANATHAM :—" It is a misconstruction."

THE HON. SRI K. MADHAVA MENON :—" In the Transfer of Property Act, in the case of a lease it is provided that the lease must end with the month or date of the tenancy. If the lease is anything different, the court cannot entertain a suit. There are hundreds of such legislation limiting the powers of courts to intervene, in the interests of the common good. What we have to examine is whether the limitation imposed is reasonable or not and, as in this case, whether the limitation proposed affects any other kind of litigation except the luxurious litigation. The criterion must be this: whether there is proper ousting of the jurisdiction. I claim that this ousting the jurisdiction of courts is, judged by this criterion, quite proper. It is only this that we have done. We have done nothing to deprive anybody of his right or title to property."

"Then, Sir, Sri Viswanatham attacked the principle of nomination and called it powers of patronage to appoint persons to the various Area Committees for some 'thirty thousand temples' and, in that connection, said: 'The Minister flew into a

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rage when I spoke about patronage.' I should tell him, Sir, that his feeling that I flew into a rage must have been caused by the truth in the reply that I gave on that occasion. He referred to the Tirupati Devasthanam Board and said that there was patronage there. In reply I read out the names of persons who were on the Board, to show that there was nothing done there as a matter of patronage. There was no question of my getting angry. I felt with pride that that was a very good answer to him. I did not say anything in any spirit of anger."

SRI T. VISWANATHAM :—" It may be bad."

THE HON. SRI K. MADHAVA MENON :—" My reply was quite convincing and that is perhaps the reason why my friend said that I was angry. There is no necessity for me to be angry in this matter at all."

"My hon. Friends Mr. Pattabhiramayya, Srimathi Lakshmi Sankara Ayyar and Sri Chidambara Ayyar were saying that the provisions will lead to loss of faith in the temples. God forbid this result. Our idea is quite the reverse of this."

"Sir, I have only one or two points more to refer to. Hon. Friends Sri Chidambara Ayyar and Sri Gopalaswami also referred to the nominations. They said that everything was going to be done by nomination and that nothing good would ever come out of it, etc. Sri Gopalaswami in this connection said that Gandhiji's name was dragged in. I may at once say, Sir, that Gandhiji's name was never dragged in by me. His name was invoked by some Friends here in the course of their arguments. But I remember that he himself invoked that name and I also did so when reference was made to the collection made by Gandhiji to the Harijan Fund. It was said that Gandhiji was very particular that proper accounts of the fund must be kept. It was necessary to mention this when it was said that it was improper to ask the matadhipathis to keep accounts. Sri Gopalaswami asked, 'Did Gandhiji entrust the fund to an elected body or form an electoral college for the fund?' He said he was himself the trustee and so, as he was responsible for it, he nominated for the administration of the fund certain persons in whom he had confidence.' Let that argument be a little more extended. Gandhiji was the trustee himself and he nominated persons in whom he had confidence. The argument of my hon. Friend that nominations are bad can find no support from this example. Gandhiji's nominees for the fund were Mr. G. D. Birla, Sri Thakkar Baba and Sri Gopalaswami. He selected men who would behave like trustees and not like owners of the property entrusted to them. I submit that this is the object of these provisions. The persons nominated must feel that they are trustees and act as trustees. Then only the souls of those who endowed vast properties could rest in peace. Let not the trust properties be improperly used or mismanaged. Let there be some device adopted to see that such properties are

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properly managed. That is our only object. Though comparisons are sometimes odious, one cannot in the same breath condemn nomination in one place and approve of it in another place.

" We were told by one Member that this Bill is an autocratic device, in that the Commissioner can do anything. May I ask whether when the Commissioner is not there, the trustee is not an absolute autocrat? Cannot one say that the trustee is an autocrat? If the Commissioner or the Area Committee is not there, what is the position? Has not the trustee unfettered power? Do you prefer the autocracy of the trustee to the superintendence in administrative matters by Government? Sir, in this connection even the question of the judiciary and the executive was brought in though it has no bearing on the matter under consideration.

" Sir, before I conclude, I should submit with your leave that the idea behind this Bill is that these religious and charitable endowments should be properly managed and that the maths and the matadhipathis should not make people—in the words of Sri Pattabhiramayya and Sri Kosalram who hold extreme views in this matter—'run away from Hinduism'. Possibly in the areas where they live they find people running away from Hinduism, on account of the way in which the religious institutions are conducted. Therefore they ask that for Heaven's sake prevent this happening. It is not a revolutionary proposal. The idea is only to protect ourselves and our cherished institutions. Mr. Kosalram only desired, in what he said, that people should be saved from becoming desperate in matters of religion.

" One hon. Member argued that the matadhipathis are also trustees. In reply to him I may repeat that the matadhipathis are sanyasins who have renounced worldly wealth. They do not care for money. My hon. Friend Sri Muniswami Pillay is annoyed because we have included the matadhipathis in the Bill and feels that to so include them is irreverence. I agree that we should show reverence and regard, in the manner of guru-sishya bhavam (*ഗുരുശിষ്യ, ബന്ധം*), to the matadhipathis. But these sanyasins should not care for money or attachment for property. They should live in the spiritual world as it were. What happens now is some people dupe them of the money which the faithful ones offer to them as pathakanikka, etc. Numbers of devotees put money at their feet. But the clever people seize these sums and make use of them. The matadhipathis should be saved from the trouble of keeping the money offered to them. This is why the maths have been included in the Bill. It has not been done with the idea of lowering them in the esteem or regard of the public. I agree with Sri Varadachariar when he said ' Little may we have occasion to use this Act at all in a way which would hurt the feelings of anybody.' Let us pray for it.

" Sir, I have answered all the points raised. I will now declare once again that the object of the Government is not to

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destroy the temples or the other religious institutions. We wish only to protect and preserve them and, if possible, restore their pristine glory or at least see to it that they are not lost for ever,

MR. SPEAKER :—" The question is—

' That the Madras Hindu Religious and Charitable Endowments Bill, 1949, as amended, be passed into law.' "

The motion was carried and the Bill as amended was passed into law.

THE MADRAS LEGISLATIVE COUNCIL.

Thursday, the 24th February 1949.

The House met in the Council Chamber, Fort St. George, at eleven of the clock, Mr. President (THE HON. SRI K. B. RAMAKRISHNA RAJU) in the Chair.

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THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BILL, 1949 (L.A. BILL No. 10 OF 1949).

* THE HON. T. S. S. RAJAN : " I move, Sir :-

that this House concurs in setting up a Joint Select Committee of the two Houses consisting of 30 Members (20 Members from the Assembly and 10 Members from the Council) to consider the Madras Hindu Religious and Charitable Endowments Bill, 1949 (L.A. Bill No. 10 of 1949), and that the following Members of this House be nominated to the said Joint Select Committee.

" I shall give the list of Members at the end.

" Sir, I should announce to this House that this Bill in its introductory stage had a very prolonged discussion in the Assembly. As many as 26 Members took part in the debate and the Speaker of the House had been kind enough to allow them enough time and to the extent of the consideration stage itself, nearly three to four days. The subject has been thoroughly thrashed out in all its aspects and the various shades of opinion were expressed in no uncertain terms. Since then there has been an interval of days and this interval has been, according to me, well utilized both by supporters of the Bill and those who are opposed to it, in the public meetings held in the various parts of the country and also in the various newspapers that were in favour of one or the other view. So this House particularly is much better informed with regard to the information on this Bill than even the other House. It shall not be said that time was not given or that the Bill is rushed through. I also know this, Sir, that this House has always taken a very keen interest on matters connected with social and religious legislation and I am sure that this House stands to gain by the time it has had at its disposal. My own opinion in the matter is simply this. There has been rather a clouded version from many quarters with regard

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to the object of the Government in enacting this Bill. I must say here and now, Sir, as emphatically as I can, that it is not the intention of the Government to interfere with religion as such. I want to make that point perfectly clear to you. Whatever the term 'religion' may connote, we here as a Government have no idea of usurping to ourselves the places held by those religious men who are vitally concerned with the performances of the various ceremonies in the religious institutions or in the conduct of the charities. It has often been said by those who are opposed to the Bill in public meetings and in other places that this Government are endeavouring to take to them elves certain powers which rightly do not belong to them and that the law or the Constitution now being framed at Delhi does not give them the latitude or the privilege to interfere in such matters. I shall go into that question later on. But I may give this assurance on behalf of the Government that we did not at all have it in our mind when we introduced the Bill. We do not propose to sit in judgment over the decisions or actions of those who are responsible for the religious activities in the temples and the particular methods of worship. We are only concerned with our duty to see that these temple, a local and public institutions have got to be run in the proper way which is perhaps according to the intention of the donor who originally endowed these properties and those who have subsequently added to them. We feel that these funds and charities have accumulated enormously during the course of years; that they have swelled enormously and that unless their use is properly controlled and checked and audited, they are likely to be misused. In fact, they are being misused to-day, and we as a Government cannot sleep over the whole question saying that it is religion and a religious trust.

"We feel that we owe a duty to the public, and that we, as a Government, are as much interested in the proper running of religious institutions and charities. We are taking power only to such an extent as may be necessary to put them right. As I have made myself clear, on this fundamental and important point, all those misgivings with regard to the belief that the Government intend to interfere in religion or take upon them elves the duties of trusts and heads of mufts and religious organizations, must not be there. Speaking on behalf of the Government I make that statement. Secondly, when I have said that we as a Government feel that we have not been doing our duty, I should mention that alien Governments, foreign to our culture, who happened to hold sway over us during the last two or three centuries, not only interfered in these matters, but they actually took over the management of all these trusts and charities, and have directed, not for one or two years, but for a number of years, these institutions and charities. I must here acknowledge the services which the foreign Government have done to Hindu religion and Hindu faith in the wonderful and effective way in which they controlled these trusts and charities. We should say to their credit that though their faith is different from ours, that did not stand in their way of **doing the correct thing**. We are very grateful to them for having **taken up** responsibility in religious matters, in which they are not

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vitally concerned, but which they, as a Government, felt it necessary to come into the business. They did it in such an efficient way that even the Christian Government of the East India Company felt that, that they were not to dabble in the religion of other people and in matters of ecclesiastical interest which does not pertain to their faith, and they stated clearly that it was not their business to interfere in these matters. Then there was the change over of the responsibility, and the Government said 'we shall not take charge of them and we shall leave all the trusts to be managed as best as can be by the people of those faiths.' It is only since then we have begun to take charge of these trusts and charities. In 1817 the Regulation was passed. Between 1795 and 1819 no less than 8,292 temples spread over the then 21 districts of this Province came under the Government's active supervision. Corrupt revenues were dismissed. Temples that had remained closed were opened for worship. Pujas and festivals were regularly conducted. Temple lands were looked after and the ryots' welfare was attended to. If that is the record of the management of the temples and charities by the East India Company of those days, is it charitable—at least to those of us who propose to take charge of these temples—to say that we have less interest in these temples; less faith in Hindu religious practices, and that we are so callous and dead to our faith that by the mere proposal to take charge of the duties, we as a Government have made it so bad that we are not to interfere with it? Sir, history has been different. In the long course of religious history in this Province, we have passed through many stages and vicissitudes. Responsibilities have changed often. I say as a matter of history that temples had been managed by Governments before. They have been so well managed that a foreign Government felt that they should not interfere and that it was not their business. I am here referring to that clear-cut speech of the Hon. Premier in the other House. Permit me to give a quotation from the East India Company's records; the report from the Collector of Tirunelveli:—

'The present control and interference of the district Government and authorities extends over everything connected with the temple; from the collection of its revenues and the management of its lands to the regulating of its daily usual expenses, its periodical festivals and repairs.'

Here is a thing on which orthodox people laid stress.

'Such thorough-going was the control. Lionel Place had jewels made to the shrine at Kanchespuram which were exhibited by the people with pride. Peter Rous, the Collector of Madurai, presented a pair of golden stirrups to the Minakshi temple. And the people welcomed it all.'

Then the positive role of the State gradually disappeared. After Queen Victoria's famous Proclamation, temples relapsed into gloom. Management again became corrupt. Then a number of committees and trustees and a whole hierarchy of non-official management came into being. Things came to such a pass that the previous Government under dyarchy felt it their duty to interpose some agency between the people and the State to take charge of these funds. Then came the Hindu Religious Endowments Board which became a statutory body under the law. They had their own Commissioners, who were both judicial people to give decisions

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and also persons to take charge of the executive management of temples wherever it was necessary to do so. In that way, the Board came into being. The Board has been doing work for well over 20 years. It has been unfortunate that the statutory laws framed under the Act that governs the Endowment Board have not been sufficiently effective. They gave a good amount of latitude to those committees and trustees. That threw open the doors of litigation for them to go and contest to their heart's content about the management and mismanagement of these temples and wait for a decision by the courts. Sir, we have no grudge against law. It has often been said that we as a Government do not like the control of law. Far from it. If only law has helped the management of these trusts, and if it has saved the funds and the hierarchy from the degeneration that followed, we would have no complaint. But what happened? These trustees who were in charge of the funds began to use the trust funds for carrying on their litigation for a number of years. The funds were gradually disappearing and were lost in the course of the litigation. It is there exactly that we felt the need to interfere. Thousands and lakhs of rupees entrusted to the trustees were wasted on litigation from court to court, that is, beginning from the District Court up to the Privy Council—not for one year, but for a number of years. This litigation left nothing for the next trustee to take charge. There is no trust. It is all exhausted in fighting out the law point. In this way, many temples had to be closed down. The trusts disappeared. The obligations which were laid upon the trustees also disappeared. It came to that stage where we say that temples were deserted, worship was neglected, and there was nobody to take charge of them in the manner in which such temples and trusts should be controlled and guided. Because, things came to such a pass we felt that it was our duty to take charge of them. We also felt it our duty that we have to do it. Then, the question was raised that we are a secular State, and we had no business to interfere in this religious matter. Quite true, Sir, we are a secular State, and we do maintain that even this Madras Government under the guidance of the Government of India is a secular State. But when once we have said that it is a secular State, it does not mean that we should not bring in legislation with regard to the various trusts to which this Government are responsible. Therefore, we have come into this business fully conscious of the fact that we are a secular State. While we are a secular State we have a responsibility to control and manage the trusts also. As far as our advice goes—the advice of our legal experts—we are well within our bounds to go on with this legislation and enact it for what it is worth. I have quoted in the other House a full length opinion of the Advocate-General of Madras in support of the position that we have taken, and it is not my intention now to read that opinion in any detail. But I must inform this House that we are perfectly within our rights to go into this question, and that this House as well as the other House were perfectly right in taking up legislation in this matter.

THE PRESIDENT:—Will the Hon. Minister please read the Advocate-General's opinion.

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THE HON. DR. T. S. S. RAJAN:—“That is what I am trying to do. The Advocate-General says—

‘Entry No. 43 in List II (State List) empowers the State Legislature to enact laws in respect of charities and charitable institutions, charitable and Religious endowments and religious institutions. It will be observed that in fact Entry No. 43 in contrast with Entry No. 34 of List II of the existing Government of India Act is wider, in that it includes religious institutions as well. It is therefore impossible to contend even under the new constitution that the State Legislature has no power to enact laws relating to religious endowments or religious institutions on the ground that the State is a secular State and that Freedom of Religion is a fundamental right. That State has a paramount duty to see that religious and charitable institutions are being properly managed and not mismanaged; and that religious endowments are being properly applied for the purposes for which they were intended. The Crown in England has always been regarded as the protector of charity and charity includes religion.’

In another paragraph the Advocate-General says—

‘It is, therefore, impossible to say that the Bill as such would offend the provisions of the draft constitution relating to fundamental rights. The Bill deals with temples, mutts and charities. It goes without saying that charities and charitable institutions are clearly unaffected by Articles 19 and 20. As to temples, it is clear that they are public religious institutions and according to juristic conceptions, the idol is the owner. The same legal conception, however, does not hold good in the case of mutts which are monastic institutions in which particular religious cults are preached and propagated.’

“But mutts are also religious institutions and madathipathis are trustees. Both in the case of temples, as well as in the case of mutts, the distinction between matters of pure religion and religious ritual, and matters relating to the administration of properties and other secular matters will have to be kept in mind; and while the constitution safeguards the fundamental rights in respect of the former without any restriction, the latter are subject to such laws as the legislature might enact. A law which takes away or abridges a fundamental right is declared to be void, but a law, the object of which is to secure or establish or protect that fundamental right, will be a good law. The State cannot dictate how a man shall worship his god, but it can say how he should administer god's property. Therefore, the Advocate-General's opinion is that the Bill cannot be rejected or condemned entire and wholesale, even after the declaration of fundamental rights. It is quite likely that some of the sections will have to be scrutinized at the Select Committee stage with a view to ascertain what sections fall outside the line and where necessary, other suitable amendments or modifications will have to be devised within the limits of the new constitution.

“Sir, we have had deputations, we granted interviews and we discussed the question with lawyers who can speak with any sense of authority and they have all conceded that with regard to the administration of temples we have absolutely every right to take up the question. The only question against which they expressed their opinion was with regard to the spiritual side of these mutts and religious institutions, whether the Government as constituted to-day, and having got that quantum of spirituality in us, could be empowered to go and interfere and sit in judgment over matters pertaining to those revered people. We can understand that, and as far as spiritual functions of religious madathipathis are concerned, we should keep aloof. We have no idea of interfering with them under this Bill. But, we maintain that, if the spiritual

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head of a mutt or a religious institution goes out of the way and squanders the trust funds which are placed under his care, or misuses the funds, if it comes to that, then necessarily, it is time for us to interfere. Therefore, in this Bill, we have made it clear that although various sections that are mentioned therein claim the right to go and interfere and lawyers might be contending that right should not be there—we have made a distinction. We do not interfere with anything which the madathipathis may do or their disciples may do. But, funds are entrusted to the heads of religious institutions and mutts. Though they have to discharge very many religious duties. The head of a mutt should not say 'Oh, this is my property; you should not come here. Whether I misuse those funds or squander away those funds, it is my business.' If the head of a mutt says like that, then Government will have the right to say 'We must have the accounts; we must know how moneys are being spent and in what manner; though that money is given to you as a spiritual head it is given to you only as trustee of the mutt.' Therefore, our right of interference will be exercised in cases where the heads of mutts misuse those funds entrusted to them as trustees by people who believed in their spirituality and in their capacity to do the right thing. They have been given vast extent of lands and many properties and if they are discharging the obligations of those trusts in the spirit in which they were endowed, then Government will not interfere.

"Then, Sir, some persons say 'Government have got other business to do; they have the food problem and so many other problems and why not leave the mutts and religious institutions to themselves?' Sir, this is a strange argument. The Government should have the right to take up the management of those misused trusts and to discharge the duties that are expected of those trusts. This Bill only gives that power to enable Government to take charge of erring institutions in the interests of the people. The public would watch the Government and see that they do not abuse in any way those trusts as would be detrimental to the objects for which those trusts were endowed. Public opinion and the Legislature will come into play and they will see that those objects are made secure. The public can watch the progress of the Government in this matter just as they watch the Government with regard to problems connected with food and so on. That is why Government have decided to appoint an agency to look after the administration of these temples and mutts. We, for our part, say 'If these trustees do act in a manner in which they like and misuse the funds, then we, who are interested in the people, must interfere and for that purpose we have proposed a law.' We do not propose to make laws in bits or instalments with regard to this matter. We want a comprehensive law to deal with this matter and therefore, we have brought in this Bill. It is within the province of the Select Committee to make such alterations in it as to make it thoroughly acceptable to all classes of people.

and Then, Sir, another argument was that these religious ques-
tions are beyond the pale of democracy. Perhaps, it is too much
to say in these days. We, as a Government, have got our

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interest in this matter and we have to take up the responsibility of managing them also. Then, they may say that these trusts are so endowed that the trustees can do anything with them and that the Government cannot interfere and do anything. Is this an argument? It is the duty of the Government to go and interfere as they have done with regard to other problems. That is why the Board has been constituted but they are not able to do what is expected of them. Therefore, Government should take more powers to do it.

"Then, Sir, there is still another argument that we are going to collect taxes under this Bill which we should not. Sir, I want to tell this House that it is not a new thing which the Government are doing. In fact, Government are going to collect money according to the incomes of these temples and it is only a percentage for the maintenance of the machinery which may be constituted under this Bill. Therefore, it is nothing new. We are doing exactly what has been the practice for the last 27 years. People need not be frightened that they are going to be taxed for the maintenance of these temples. The temples will be taxed in a way as to bear a just proportion of the amount of expenses involved in the management of those institutions. We must see that the waste of funds and the mismanagement of moneys are avoided because many of them were unaccounted. Under this Bill, those trusts are made to bear a certain proportion of their income in order that they may be effectively managed and the trust funds may not be wasted or misused. That is what Government intend to do. I know, Sir, that this wastage and mishandling of money is going on in the name of temple in the name of god; that money should be diverted to proper channels. As it is, much is wasted in the name of religion. I do not understand why this should be allowed. Of course, those who have been swindling are in a majority; those who are handling the public funds for their private benefits are in a majority. Therefore, they are against this scheme and they want to continue the existing state of affairs. That is where we come into conflict. Sir, I know how many people have taken to endow these charities. A man has got three unscrupulous sons. He has unfortunately got a big property. He does not trust his own sons. So, he says 'There is so much money; instead of being wasted by unscrupulous sons, I will endow it in the name of god and in the name of a temple.' He endows it in the name of the temple and makes his sons the trustees of the property. Even though the sons misuse the funds, the law gives them protection. Even though the trustees become debtors, the law gives them protection. Because they have been made perpetual trustees, they go on spending all the money and the law merely looks on. This state of affairs is ridiculous. This kind of thing is going on day after day and even though properties have been dedicated in the name of god, the sons and grandsons of those who endowed that property go on abusing those funds to their own advantage. Those original donors might not have foreseen that the trusts would be abused by their own children. But, the law, as it is, gives them protection. That is why we have introduced this Bill in order to deal with such cases. We want only to take power to

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deal with wrong doers and, if I may say so, with those who connive in mishandling those trust properties. We want to prevent this misuse and to divert this money into more useful channels for the benefit of society, such as for the education of the people and so on. It is because there are large properties which people have endowed for the benefit of society and made their children the perpetual trustees and these trustees abuse those funds and misuse the trust properties for their own benefit and it is because there is no law at present which can prevent this, that we have to bring in this Bill. Sir, it has been brought to kill the canker that has crept into society to-day and it is our religious duty to pass this Bill if we want to save the society from this canker. In spite of the clear declarations made by the original donors, under the protection given by the law as it exists at present, these trust properties have dwindled. Therefore, we have brought this law in order to get the power to interfere in these matters, within the four corners of law. I can cite instances after instances where trust funds have been misused and squandered by unscrupulous people. To prevent that, we have necessarily to make some law under which we can take power to interfere and set right matters. The speech of the Hon. the Premier the other day in the other House has given voluminous evidence of the amounts from temple funds which have been mishandled by irresponsible trustees who have been put in charge of them. Such things are going on for hundreds of years. Even those who are against this Bill must admit that it is all absolute truth. The fact cannot be controverted. Since that document was published, I have not seen one statement in the Press saying that the statement of the Hon. Premier is incorrect. I have not seen one line against that statement. But, some people go on saying that we are interfering with religion. They are repeating that statement parrotlike. I say we do not interfere with religion, but we do interfere to manage the religious properties better than they have been done till now. It is in that light the various clauses of this Bill have been drafted. So, Sir, those who have enjoyed the privilege of swindling and mismanagement see something very wrong in all these stringent regulations we want to make. We do it with the knowledge of what we have been having for the last 27 years. The Endowments Board has failed and has failed very badly. Here I would like to quote one or two beautiful sentences from the speech of the Hon. Premier as to the condition of these endowments: "Some others ask, why not a Protector of Charities, instead of a Government department?" That is the sort of slogan that is always raised in public meetings. 'We have tried that and that is the Board. We have found its limitations.' 'Lacking as it does the necessary power—mind you it has no power although it is constituted under the law—' 'Lacking as it does the necessary power it commands scant respect.' That is the most deplorable portion of it. 'It is plaything of the lower courts. Chronic litigants drag on the Board from one court to another, at the expense of charitable fund. The Board has got the power to call for budgets, but not the power to scrutinize them.

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It asks for accounts, but does not get them. It finds abuses, but has no power to reform them. In short it is anamolous, powerless and hardly adequate to meet our requirements. Sir, the position cannot be put in better terms than this and that is what we say in this Bill, namely, that the Board has failed to meet the situation and that therefore we want this Bill to come in and take its place. The trustees have failed, the remedy of protectors has failed and the remedy of the intermediary, the Board, which has been constituted under the law, has also failed and therefore we are driven to the necessity of handling this question. As a Government, we quite appreciate, that our responsibilities are great and our duties are also equally great. Now that we are trying to run a democratic Government, we do not want to coerce anybody, but we want to give freedom of thought and liberty of worship and everything that pertains to worship. That is our idea and our wish. It must be clearly understood that in this undertaking, our policy will be non-interference in matters vitally concerned with religion and we shall not go beyond that and even there it will be limited to proper management of these trusts. If all the maths and the Matadhipathis and the spiritual heads of these institutions do their duties properly, we shall keep miles away from them. We shall see that these things are managed properly and in those cases we do not interfere. But, if you say "they are sacrosanct, do not go near them" then I should say, such people should not be hanging for all these purposes because they do not care to control them. In fact, if any of these trustees are such good godly men and if they resent any restrictions that are put on them by a temporal Government like ours, then we do not want this power and we have got better business to do and they will go their own way. As a matter of fact, no honest religious and spiritual man will like to be worried with the management of lands, trusts and such things, because they form the normal duties of those institutions which are not their main concern, but they are more concerned with the higher spiritual thought and they are doing that and will continue to do that. But, so far as the Government is concerned, they have seen by experience how in many cases these institutions have squandered and mismanaged the funds of the institutions and they are legion and the Hon. Premier has given a documentary list of such mismanaged institutions. Therefore it is needless for me at this stage to harp on it.

"One word more, Sir. We propose to have a representative Select Committee of twenty members from the other House and ten from this House who will form a Joint Select Committee of thirty members and they will have full liberty to go into these questions and shape the Bill as they think necessary. They have had an ample opportunity of studying the question both in the form in which it has now been presented to them and they will also have the question examined in the form in which it is demanded by the people and use their judgment with regard to the evolution of the Bill in a proper atmosphere, only taking care to see that the fundamental principles involved in the Bill are not

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horribly destroyed or mutilated by the Select Committee. If that is done I am sure there will not be any necessity to ask for much of the powers, but I hope the Select Committee will make such protection and such liberty as may be found necessary in the working of the Act where there is interference rightly or wrongly by certain class of people and to that extent I can give this assurance that the Select Committee are entitled to do so. Sir, after the Select Committee considers the Bill and publishes its report and it is placed before this House then the further stages of the Bill will be made as smooth as possible, so that when the Bill is finally approved by both the Houses we may have a certain amount of confidence that we can manage the properties of these trusts in a proper manner. It is with this sense of responsibility that the Government have introduced the motion that the Bill be referred to a Joint Select Committee."

DR. V. K. JOHN:—"Mr. President, Sir, the Opposition would like to reserve their right to discuss the principle of the Bill and its general provisions at the stage at which rule 105 is reached. You know, Sir, that Bills originating in and passed by the Assembly and received in the Council should be dealt with under the rules following rule 102. Under rule 103, any Member acting on behalf of the Government may give notice of his intention to move that the Bill be taken into consideration. That is, after it has been passed by the Assembly. That is rule 103. Then under rule 105 On the day on which such motion is set down in the list of business, the Member in charge of the Bill may move that the Bill be taken into consideration on that date or on any subsequent date to which the discussion of the motion is postponed. The principles of the Bill and its general provisions may be discussed, but the details of the Bill must not be discussed further than is necessary to explain its principles. Now, Sir, it is a right given to members at a particular stage to discuss the principle of the Bill and its general provisions and that right cannot be taken away. I want your ruling on this, Sir, because on a former occasion when a similar motion for the appointment of a Joint Select Committee was made, it was said that we should not discuss the general provisions of the Bill on that day. I say, Sir, that the Opposition want to discuss the general principles of the Bill at the stage when rule 105 comes in."

MR. PRESIDENT:—"Is the hon. Member raising a point of order?"

DR. V. K. JOHN:—"I am suggesting that we shall have a convention. In a way it is a point of order, Sir."

MR. PRESIDENT:—"Please make me understand what you want. Are you raising a point of order?"

DR. V. K. JOHN:—"My point is that the general principles of the Bill should be discussed when we reach the stage of rule 105."

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MR. PRESIDENT:—"The hon. Member must put it in proper form. I am only concerned with the form. The hon. Member cannot say that the principles of the Bill should not be discussed now but only some time later, that is, when the Bill comes from the Assembly. But, what is the position to-day? The motion is there and what is the point of view of the hon. Member as regards this motion. Does he want that the principles of the Bill should be discussed now or need not be discussed now? He will please make his point clear and on what grounds. If it is a case that the principles of the Bill should not be discussed now, I request the hon. Member to give me the rule or the convention or any other thing on which he bases his case to say that the principles should not be discussed now. That is all I want."

DR. V. K. JOHN:—"I am saying that there should be a convention that this may not be discussed now."

MR. PRESIDENT:—"The hon. Member cannot ask for a convention."

DR. V. K. JOHN:—"It cannot be discussed now because under rule 111 we are only asked to concur in the appointment of a Joint Select Committee. Of course, this House will be doing a wrong thing if we do not concur and what will be the result in not concurring with the setting up of a Joint Select Committee? The other House has asked us to concur in the appointment of a Joint Select Committee and if we do not concur we lose the privilege of our members being put on it to discuss the Bill, and the Assembly will still go on with it. The other House has given us the privilege which they are bound to take advantage of asking us to concur in the setting up of a Joint Select Committee. If we do not pass this motion we are doing something against our own interests. I can understand that if we do not concur and the other House cannot go on with the Bill, but then the other House can go on even though we do not concur with the motion for the appointment of a Joint Select Committee."

MR. PRESIDENT:—"May I point out to the hon. Member that it is all beside the point in my humble opinion. I want the hon. Member to come to the point. If the hon. Member thinks that it cannot be discussed now he should make his point of order clear so that the House may know the reason for it. He should point out the rule or otherwise leave it to other hon. Members to discuss it or not."

DR. V. K. JOHN:—"My point is, the rule regarding the setting up of a Joint Select Committee does not say that at this stage we are to discuss the general principles underlying the Bill and because it does not say, we shall not also discuss them. Rule 105 says that we shall discuss the principles at a particular stage. Now, if the intention of the Legislature is that we should take up the time of the House in discussing the general principles of a Bill twice, I think, it should be clearly expressed. I say that that"

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could not be the intention of the Legislature and we have to find out the intention of the Legislature in regard to this. The intention of the Legislature was we should discuss the general principles at the stage where rule 105 is reached."

MR. PRESIDENT:—"I think the hon. Member wants a ruling on the point whether we ought to discuss the motion now or not?"

"I suppose the hon. Member has received a copy of the amendment. Do you wish to shut out the right of any hon. Member to move an amendment?"

DR. V. K. JOHN:—"This is not the stage of moving amendments, because the Bill is before the other House and it is seized of it. The other House can appoint a Committee and ask this House to concur with the appointment of a Joint Select Committee and we may simply oppose the motion. But if we oppose the motion, then we shall not have the advantage of our Members included in the Select Committee. Therefore, I suggest that this is not the stage when we should discuss the general principles or bring forward amendments and the opposition has decided not to discuss the general principles of the Bill. It may not be said that when the Bill emerges from the Select Committee and is placed before us for discussion, we have the right to discuss the general principles of the Bill at that stage. I mean the stage referred to under Rule 105."

MR. PRESIDENT:—"When the rule is there, who can say that it should not be followed?"

DR. V. K. JOHN:—"Last time when the same question was raised, we were told that we should not take up the time of the House in discussing it or putting in amendments at the stage of Rule 105."

MR. PRESIDENT:—"That is not the point."

DR. V. K. JOHN:—"Whatever it is, we would like to know what the Hon. Leader of the House has to say on this matter."

THE HON. SRI K. MADHAVA MENON:—"May I say a word, Sir? I do not accept the principle of interpretation of Dr. John as to the position of the Bill at this stage. I want to remind him what happened last time and which was referred to by Dr. John. In fact, I was moving that Bill. When the Bill came out of the Joint Select Committee, it was being discussed. I said, in the course of my reply, that if only the Bill was for consideration in the setting up of a Select Committee and if suggestions were made then, it would have helped us for consideration in the Select Committee. The Hon. President said that it was open to the House to discuss the principles of the Bill. Now, Sir, in this Bill there is no difference between this stage and the stage when

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a Bill is introduced in this House and a motion is made that the Bill be referred to a Select Committee and that the principle of the Bill is being discussed. Now, the motion before the House is to refer the Bill to a Joint Select Committee instead of a Select Committee. Since we want a Joint Select Committee we request this House to concur with the setting up of a Joint Select Committee. The motion really is that the Bill be referred to a Select Committee of both the Houses. Since we wanted that this House also should concur in the appointment of a Joint Select Committee, we added the words 'that the other House be requested to concur in the appointment of a Joint Select Committee'. Therefore, there is no difference in the principle except the principle of law enunciated by Dr. John that this is not the time to discuss the principles of the Bill. It is wrong. Sir."

MR. PRESIDENT:—"The hon. Member Dr. John has raised a point of order whether it is open to the House to discuss the general principles of the Bill at this stage. In fact, I do not understand him to put his case so thoroughly as that. But his objection comes substantially to that. He says that rule 105 is there and he wants to be sure that if the Bill comes back to this House after having been passed in the other House, the right under rule 105, for discussion of the principles of the Bill should not be taken away. In my view, that is not exactly the point to be discussed now. The real point is, whether on this motion, it is open to members to discuss the general principles underlying this Bill. The motion is, that this House do concur in the setting up of a Joint Select Committee along with the other House. It is common knowledge that when a motion is made in the House, it can also be opposed. An amendment can be given to the original motion or the motion itself can be opposed and may even be voted down. So, there cannot be any restriction on the right of any hon. Member in either agreeing to the motion or disagreeing to the motion. In fact, to-day there is an amendment given notice of by the hon. Member, Mr. Bhima Rao. Now, with that before us, the question arises how this motion is to be discussed. I do not see how the mover of the motion or the mover of the amendment or any other member opposing the motion can say anything either for or against the motion without giving some reasons therefor. The only reason that one can give on such a motion as this, is either that the Bill to which the motion refers, is a very good Bill and that it is worthwhile for the House to join in the Select Committee or say that this Bill is a very bad Bill and that it is not in the interests of the country to pass such a Bill and so ask this House to reject the motion. Without giving one reason or other, I really fail to see how this motion can be properly discussed in this House. When such reasons are being given, it is not also possible to understand how reasons can be adduced without referring at least superficially to the principles underlying the Bill. After all, a Bill is acceptable or not

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acceptable according to the principles that underlie such a Bill. In this case, discussion has gone on for a long time in the other House. Arguments for and against the motion have been advanced there. Similarly, arguments may be advanced here and there are very good reasons for and against the discussion on such a motion as this. There are no definite rules in the rules of the Council governing a motion like this. In the absence of such specific rules, I suppose, ordinary rules of commonsense must apply. We cannot shut out any hon. Member adducing reasons either for or against the Bill. Therefore, I am not prepared to hold that on this motion either nobody could talk or nobody could give reasons for and against the motion. I should think, when the hon. Member Mr. Bhima Rao moves his motion "that this legislation be deferred", he must tell the House on what reasons he says that this Bill should be deferred. So, I am unable to agree that the hon. Member should not give reasons either for or against the motion at this stage. If it is a question of convention, I do not think we can call this, a question of convention because the rights of individual members are involved in this case and when rights are involved, conventions do not arise. Just for the sake of information—because Dr. John apprised me of what he is going to do with regard to this motion—I had an occasion to refer to the procedure in the House of Commons and I find that on two occasions similar amendments were tabled in the House of Commons and the persons who opposed the motion for concurrence in the setting up of a Joint Select Committee, did give ample reasons as to why the Bills under consideration were not good and that why they should be postponed. I may just refer to page 1951 in the Parliamentary Debates of 1918, Volume 108. There the motion was "that for the consideration of the Criminal Law Amendment Bill and the Sexual Offences Bill", the House of Commons do concur with the House of Lords in the setting up of a Joint Select Committee. It was opposed and very valid reasons were given. One of the reasons is perhaps antalogous to the reason which Mr. Bhima Rao may give. "Since elections are coming off very soon and the franchise has been extended to include women voters and this Bill is going to affect the rights and prestige of women, this Bill should not be discussed at this stage and should be left over to the new Parliament." In fact, that is one of the arguments which may be advanced in this case also. So all these things were discussed there and ultimately the motion was agreed to. Therefore, I am unable to uphold the contention that this House cannot discuss the pros and cons of the measure to which this motion relates. Of course, it is open to the hon. Members—they may or may not discuss it as Dr. John puts it. Rule 105 is there. It cannot be taken away by anybody. When the Bill again comes here, I do not think anybody can say that the House has no right to discuss the general principles of the Bill. But in view of rule 105, the members can discuss the general principles of the Bill not elaborately, but in as short a manner as possible so that the work of the House may be expedited. That is a matter of convenience. As I have pointed

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out, I rule that it is open to the House to discuss the general principles underlying this Bill to the extent it is necessary for the motion on paper."

THE HON. DR. T. S. S. RAJAN :—" Sir, I consider that this is not an amendment to the proposition I have made. It is certainly an amendment against the Bill itself. This is not the time nor the occasion at which amendments of that sort should be accepted by the House. He wants that this Bill should not be introduced in this House and that it should be deferred. What are the reasons for it. He says, it should be deferred, 'till after fresh elections are held after issuing a fresh election manifesto, making the proposed legislation an issue therein and after obtaining the verdict of the electorate'. Well, Sir, I do not understand whether this is really an amendment to my proposition. I request you, Sir, to rule that this is not an amendment."

* THE HON. SRI K. MADHAVA MENON :—" Sir, I want you to refer to rules 75 (1) and 88, and the two be read together. Rule 75 (1) says—

'At any time, . . . the member in charge of the Bill may make one of the following motions in regard to his Bill, namely :—

- (a)
- (b) that it be referred to a Select Committee of the Chamber,
- (c) that it be circulated for the purpose of eliciting opinion thereon."

Rule 88 says that after the select committee has reported the Bill should be taken into consideration or it may be recommitted."

So the motion to defer the Bill is in opposition to the motion and it is not an amendment to the motion."

MR. PRESIDENT :—" In effect it comes to that."

THE HON. SRI K. MADHAVA MENON :—" Whether the motion should be allowed is the point for consideration now."

MR. PRESIDENT :—" That is why Mr. Bhima Rao has been careful to couch it in a clever way. The precedent I gave from the House of Commons debate of 1918 is this: The motion there was—

'That it is desirable that the Criminal Law Amendment Bill and the Sexual Offences Bill be committed to a Joint Committee of both Houses of Parliament' be now considered. The amendment moved was, to leave out all the words after the word "That" to the end in the motion table and to insert instead thereof the words

'It is undesirable at this stage of the session to enter on consideration of a subject which will be better undertaken after women have exercised the franchise at a General Election.'

MR. KING :—" I would ask your ruling as to whether the amendment of which I have given notice is in order. In its effect it is an ordinary negative, but I would prefer to move it as an amendment if I am in order."

MR. SPEAKER :—" I think it would be in order for the hon. Member to move the amendment which stands on the paper in his name. That is why I rule the motion is in order."

* DR. V. K. JOHN :—" Sir, we are guided by our rules. This is really an amendment. This Bill is not for consideration now;

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the only thing that is for consideration now is the motion to refer the Bill to the Select Committee or rather the Joint Select Committee."

MR. PRESIDENT:—"We need not go back to that point. I have given the ruling. Mr. Bhima Rao may move his amendment. I cannot really shut out his motion on the ground that it is merely negative; because he says something by way of a resolution that it be deferred till after fresh elections are held after issuing a fresh election manifesto, etc. A legislation contemplates so many things. This motion is preliminary to legislation. It is open to the House to accept the amendment or reject it. So I think he is in order and he may move his motion."

* SRI B. BHIMA RAO:—"Mr. President, Sir, I beg to move—

that the legislation relating to Madras Hindu Religious and Charitable Endowments (L.A. Bill No. 10 of 1949) be deferred till after fresh elections are held after issuing a fresh election manifesto, making the proposed legislation an issue therein and after obtaining the verdict of the electorate.

"I am very glad that you have given me an opportunity to speak on this amendment. When I sent in another amendment to you about ten days back stating that I would make a motion for eliciting public opinion in the same manner as Mr. Vaidyanatha Ayyar did in the Assembly, you were pleased to overrule that amendment, and I am glad to admit that according to the rules of the Council, when once a measure has passed through the Assembly and comes up for consideration before this House, according to the strict interpretation of the rules, it is not permissible for us to move again for reference to elicit public opinion. I admit, Sir, that my first motion was not in order and that your ruling was quite correct and proper. I am glad you made a suggestion in what manner I may give a proper amendment; and although I was not conversant with those ruling and incidents which happened in 1918 in the House of Commons, I thought over your suggestion for two or three days and only this morning the present amendment suggested itself to me. I am glad you have approved of it and given me an opportunity to speak my mind on the subject.

"Sir, I confess that it is with considerable diffidence and with great reluctance that I am obliged to make this speech on this occasion. For the charge is levelled against those who differ from Government on important matters on grounds of conscience and religious scruples that they are out to support those who misappropriate temple funds and those who misappropriate revenues of religious endowment funds. I certainly protest against any such insinuations."

MR. PRESIDENT:—"I do not think any such insinuations are made here."

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THE HON. DR. T. S. S. RAJAN:—"I never made any such insinuation in my speech either in the other House or in this House."

SRI B. BHIMA RAO:—"I was following his speech from my seat and I thought he made mention to that effect. Anyway, Sir, in his speech, the Hon. Premier in the Assembly has made mention of this. I will quote from the speech he made in the Assembly—

'The Bill does affect a large group of men in society who, in the name of God and religion, misuse the trust that is placed in their hands and find in the proposed measure an end to their scope for exploitation. I am not concerned about them. On the other hand, Sir, their very opposition is an eloquent testimony to the sound and wholesome principles of the Bill. But, Sir, it is not for those who directly or indirectly stand to lose materially by a reformist measure such as this now before the House—and they are a vast majority comprising the opposing ranks,—but to those few who rightly or wrongly believe that the proposed measure is a negation of religious rights—it is to them I seek to appeal. No doubt they know not what they are saying.'"

MR. PRESIDENT:—"I do not think it says that those who are opposed to this Bill are in conspiracy with those who misappropriate the temple funds."

* SRI B. BHIMA RAO:—"Probably, Sir, I am adding from my own thought. If that is so I am ready to accept your interpretation. Like my friends I am out against those people who misappropriate and misuse temple funds or income from religious endowments. I will make it clear here that I am one with the Ministry not only to root out this misapplication of temple funds and temple revenues but also to root out corruption. In that respect I do not in the least differ from anyone here or there. But let not anyone make any insinuation against me. I am not against the Bill in so far as it relates to religious endowments. It is only where religious practices are likely to be interfered with, there, I seek to voice forth the feelings and sentiments of orthodox religious people. To that extent I want to express my feelings on this occasion. And it is with regard to those provisions with regard to the entry into mutts and asking the people to produce jewellery and other things, which I shall refer to presently. There are only two or three clauses, or four at the most. Such provisions wound the feelings and susceptibilities of those gentlemen who are affected, and it is on that I want to say a few words. My friends say that they do not want to interfere with religious practices at all. But some of the provisions of this Bill are very drastic, and do not bear out what they say. We have scrutinised the Bill with utmost care, and what does it contain? Some of the provisions certainly are against the statements made by the

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Hon. Dr. Rajan in this House to-day. Take for instance the argument that India is a secular State. Sir, when the election manifesto was issued in 1946, before the general elections were held, these were the promises made to the electorate. 'The new constitution should provide for fundamental rights. Among them are the following: (1) Every citizen of India has a right of free expression of opinion and of free association and combination and the right to assemble peacefully without arms for a purpose not opposed to law or morality.'

MR. PRESIDENT:—"Please refer to the relevant provisions only."

* SRI B. BHIMA RAO:—"Yes, Sir. 'Every citizen shall enjoy freedom of conscience and the right freely to practice his religion subject to public order and morality. The State shall observe neutrality in regard to all religions.'

"This was the election manifesto on which the elections were fought out and the present legislators were returned. At that time, Sir, the subject-matter of this legislation was not put forward before the electorate. This very same sentiment has been reinforced and re-enacted in the preamble of the draft constitution of India. I will read only the relevant portion. 'Resolved to constitute India into a sovereign democratic republic and to secure to all its citizens . . . liberty of thought, expression, belief, faith and worship.' Sir, this has been secured to all of us by virtue of this preamble. In this connexion I will read clause 20 of the Draft Constitution. Clause 20 says—

'Every religious denomination or any section thereof shall have the right—

- (a) to establish and maintain institutions for religious and charitable purposes;
- (b) to manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and
- (d) to administer such property in accordance with law.'

Sub-clause (2) of clause 19 says—

'Nothing in this article shall affect the operation of any existing law or preclude the State from making any law—

- (a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;
- (b) for social welfare and reform or for throwing open Hindu religious institutions of a public character to any class or section of Hindus.'

Sir, as you are fully aware, maths are not religious institutions of a public character. I do not know why the Hon. Dr. Rajan has gone away just now from here. The maths representing his cult are the most exclusive maths that I have ever come across. When worship is performed there, people of other communities are not admitted. A man like myself who belong to another Vaishnava community, namely, the Madwa community, is not allowed to go near the place of worship. Similarly in the Madwa maths, members of other communities are not welcome when the devotees are performing worship. I think this is a well-known fact.

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As soon as this Bill becomes law, I am sure there will be appointed several Commissioners and Deputy and Assistant Commissioners and they will be drawn from all communities. Clause 16 says—

'(1) The Commissioner, Deputy and Assistant Commissioners and such other officers as may be authorized by the Commissioner in this behalf shall have power to enter the premises of any religious institution or any sacred place of worship for the purpose of exercising any power conferred, or discharging any duty imposed, by or under this Act.

'(2) If any such officer is resisted in the exercise of such power or discharge of such duty, the Magistrate having jurisdiction shall, on a written requisition from such officer, direct any Police officer not below the rank of Sub-Inspector to render such help as may be necessary to enable the officer to exercise such power or discharge such duty.'

The officer may even be a Muslim. I am not averse to the Muslim community. Let not my Muslim friends misunderstand me. I said that the officer might even be a Muslim because Muslims are against the worship of idols and images. A Swamiji may be performing puja to the images which contain jewellery, diamonds and other precious stones worth several thousands of rupees in some cases. An Assistant Commissioner may come and say: 'I want to inspect the jewellery. You must produce it. Otherwise I will bring a Police officer and take away the jewellery.' Is this not an interference with the religious rituals and practices of the math? I want my friends the Hon. Dr. Rajan and the Hon. Premier to consider this matter. Dr. Rajan may ask: 'Why not produce the jewellery for inspection after the worship is over?' If the images are kept in a box after worship, it is considered sacrilegious to touch them again till the time for worship the same evening or the next day."

MR. PRESIDENT:—"May I point out to the hon. Member that at this stage only the general principles of the Bill can be discussed? It is better that he keeps the details apart from the principles. The main principle is that the Government want to take over the control of Hindu religious and charitable institutions and endowments. As regards details, the hon. Member can influence the Select Committee if he happens to be a member of it."

SRI B. BHIMA RAO:—"I do not want to influence or make any request. I leave it to the Government. Even a gentleman like Mr. V. I. Muniswami Pillay, who was a Minister in the first Congress Ministry, pointed out the glaring effects of a measure like this and said that all people should not be permitted to enter the premises of maths at times of worship and similar occasions. This is a rather extreme measure. I have also got a newspaper cutting to that effect but I do not want to take up the time of the House by reading it."

MR. PRESIDENT:—"I do not know if his statement is approved by the members of his community."

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SRI B. BHIMA RAO :—“ I think he is a very dispassionate gentleman of his community. I do not think the members of his community are anxious to enter the premises of private religious institutions like the maths. I don't think any desire for such entry has been expressed by any member of the Harijan community.

“ I will deal with only one or two clauses, as I do not want to take up much of the time of the House. Clause 23 says :

‘ The Commissioner or Assistant Commissioner or any officer or other person deputed by the Commissioner or Assistant Commissioner in this behalf may inspect all movable and immovable property belonging to, and all records, correspondence, plans, accounts and other documents relating to, any religious institution ; and it shall be the duty of the trustee of such institution and all officers and servants working under him, his agent and any person having concern in the administration thereof, to afford all such assistance and facilities as may be necessary or reasonably required in regard to such inspection, and also to produce any such movable property or document for inspection if so required.’

If only my hon. Friends have some consideration for the sentiments and susceptibilities of these orthodox *swamis* and their disciples, they will realize the effect of a clause such as this. Even among *swamis* there might be some blacksheep; I do not say that all are quite honest. But some of them are very eminent, pious and revered people. So far as some of the Madwa maths are concerned, their headquarters are all in Mysore State and several of the heads of maths are held in reverence. If there is misappropriation or embezzlement of property, I am one with the Government in taking possession of such property and giving the income from it to the maths. But to say that an officer belonging to any caste or community can enter the premises of any religious institution for inspection is too much.

“ I think the House will sit till 1-30 p.m. (Mr. President : ‘ Yes ’). I will require about fifteen minutes more. I do not want to be elaborate in my remarks.

“ It is said that this Bill is copied from similar laws in Mysore and Travancore. I took the trouble of getting a copy of the law in Mysore. I am not acquainted with any one in Travancore and therefore I could not get a copy of the law in Travancore. The Mysore law is contained in what is called Regulation No. VI of 1913 which has been enacted as the Mysore Religious and Charitable Institutions Act, 1927. The provisions of that Act are similar to those of this Bill. Chapter IV deals with maths and similar institutions. Section 24 occurring in that Chapter says : ‘ The provisions of Chapters II and III shall not apply to maths and other institutions of a similar nature or to the property belonging to them which are in the possession of Matadhipathis or other persons entitled by law or general or particular usage to exercise powers of management or ownership.’ So the general provisions of the law with regard to the management of property

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do not apply to maths. Only in very exceptional cases, the Government can interfere under the Mysore Act. The exceptions are given in section 25 which reads as follows :—

‘ The Government may take over the possession and management of the property of any Math or other institution of a similar nature—

(1) when the Matadhipathi or the head of such other institution voluntarily applies for such help and places the institution or its property under the management of the Government;

(2) when he is dead or has left the country and has not been heard of for more than seven years and has not made legal and satisfactory arrangements for the carrying on of the ordinary business of the institution and there is no successor duly appointed, according to law or custom applicable to succession to the office;

(3) when he is a minor without a duly appointed guardian, fit and willing to act as such, or is by reason of physical or mental infirmity unable to manage the affairs of the institution.’

Only in two cases have the Government of Mysore interfered so far. The first case was in 1836 that is a century ago, in regard to the nomination of a young Guru to the Parakalaswami Math, the Math to which I think my friend the Hon. Dr. Rajan belongs or belonged before he became modernised. (The Hon. Dr. T. S. S. Rajan : ‘ I belong to the Ahobilam Math.’) Anyway, it is a very famous math. In regard to the nomination of a young Guru to the Parakalaswami Math in lieu of the one deceased and the payment of the arrears of allowance due to the institution the Commissioner directed in 1836 that a mahazarnama certifying that he was nominated and recognized according to the established usage of the Math should be obtained from the officers of the institution and other respectable persons of the sect and forwarded to his office. The second case was in 1842 when the Chief Commissioner sanctioned the election of a successor to Sri Raghavendra Swami Math at Nanjangud in lieu of the deceased Guru.

“ As I said, the Mysore Act gives power to the Government to interfere only in very exceptional cases. If only the provisions of the Mysore Act had been copied in this Bill, there would have been no necessity for me to make a speech and I could have simply kept quiet.

“ Sir, my Hon. Friend, Dr. Rajan, quoted the opinion of the learned Advocate-General. Of course he also quoted very fully the last portion of his opinion, but that contained a valuable admission that some of the provisions of this Bill transgressed the Constitution as now enacted by the Constituent Assembly, in regard to certain fundamental rights enunciated in Articles 19 and 20 therein. The last portion of the opinion of the learned Advocate-General, which my hon. Friend quoted, runs somewhat as follows : ‘ I am therefore of opinion that the Bill cannot be rejected or condemned entire or wholesale, even after the declaration of fundamental rights. It is quite likely that some of the sections will have to be scrutinized at the Select Committee stage with a view to ascertain what sections fall outside the line

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and where necessary, other suitable amendments or modifications will have to be devised within the limits of the new Constitution.' So, Sir, the learned Advocate-General is quite conscious that some of the provisions of this Bill offend against those articles which I have quoted just now. I think, Sir, that if the provisions relating to religious practices in maths had been deleted altogether from this Bill, there would not have been any necessity for me to move this amendment of mine. But this Bill gives the Government the power to fix *ditams* or scale of expenditure in maths and other religious institutions. They can say, 'Why should you have eight mutts in Udipi?' So they can order that all these maths should be clubbed into one, as they had ordered in the case of various private owners of motor vehicles to form themselves into a fleet of 20 buses, because under clause 86 the Government have got the right to make rules to specify in what manner the tenets of a particular religion or sect should be propagated. They may ask, 'Why should you spend so much money on pujas, why should you worship three times a day, why should you waste so much of camphor' and so on? So all such things are certainly interferences with the religious practices and rituals of these Matadhipathies. I would only request my hon. Friends, on the Treasury Benches to ponder over this aspect of the matter and say whether those provisions of this Bill do not offend the sentiments and susceptibilities of several of these maths whose heads are eminent, learned and honourable people. My hon. Friend, Dr. Rajan, said that most of these people are vile and vicious persons. I only wish respectfully to enter my emphatic protest against such an observation against people, whom I hold in reverence. Some of the Swamies and Gurus of the Uttarahi Mutt to which I belong are very pious and learned persons and recite Vedas from morning till night, and to generally characterise them as very bad people, that a majority of them misappropriate and misuse the funds of maths, and to give expressions to such things on the floor of the House, would detract from their dignity and offend people following them and would tend to undermine the sanctity of those personages, who are held in high esteem by the public. But, Sir, I have absolutely no objection whatsoever to the Government taking over and managing the religious endowments attached to mutts, where there are malpractices, misappropriation and mismanagement of their property.

"Sir, in the election manifesto, it was clearly stated that we will have religious neutrality and the New Constitution also says that each community is at liberty to profess and practice its own religion according to its custom. So far as this measure is concerned, my hon. Friend says that he had prepared this Bill when he was Minister in charge of Religious Endowments in 1939. I did not know that, Sir, but I take his statement as correct. None of us knew anything about this Bill till a copy of it was handed over to us last month. It was only then that we scrutinized the provisions of this Bill and I am sure, the public also did not know anything about this measure till then to offer their

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views on it. If this measure had been before the electorate in 1946, I am sure, Sir, people would not have voted for many of us here, who had been returned to these legislatures. We, legislators were returned on a different programme altogether, namely, the achievement of independence for this country, and to wrest our freedom from the Britisher, who was ruling this country. For that purpose, all were agreed and none had any difference of opinion on that issue. But if it had been mentioned in the election manifesto that a measure like this, interfering with religion and religious institutions, would be introduced, I am sure, we would not have been returned in such large numbers, to these Houses of the Legislature. Sir, I only mention this, because the argument has been advanced by the Hon. Minister in charge of the Bill that he had the party mandate behind him for the introduction of this measure, but I want to know whether we had the mandate of the electorate in this respect.

"Sir, we know the Black-shirts and their movement and they have been preaching irreligion and hatred amongst communities. They are out to see that religion is abolished altogether and the Hon. Minister pleads that by this measure he is going to protect religion from the philosophy of these Black-shirts. But the orthodox opinion in the country is that there is not much difference between the provisions contained in this Bill and the philosophy of the Black-shirt movement. Sir, I should like, in this connection to quote an extract from the speech of the leader of the Black-shirt movement, Mr. E. V. Ramaswami Naicker, which appeared in the Indian Express of the 16th February 1949. Speaking at a meeting held here under the auspices of the Dravida Kazhagam, Mr. E. V. Ramaswami Naicker explained the principles of the Dravida Kazhagam. He said that the Dravida Kazhagam was not a political party and that it was only an organization to remove the differences between man and man in the name of caste and creed. Referring to the Hindu Religious Endowments Bill, he said that the principles of his party were reflected in this measure. Therefore, Sir, I think, the orthodox religious opinion is quite right in saying that the philosophy of the Black-shirts and the principles contained in this measure are almost the same.

"Sir, another gentleman belonging to the same party is also of the same opinion. Speaking on behalf of the Dravida Kazhagam, he said, 'The Kazhagam's attitude differs from that of the Premier in that while the Premier might take the present measure as a full stop, the Kazhagam would put a comma and it would be followed by further measures of a revolutionary character. Temples and religions should have nothing to do with properties. Temple funds and properties were the result of the efforts of thousands of people and so belong to the State'. So, Sir, although the Government may repudiate this statement of the Black-shirt leaders, yet, people are afraid that so far as religion and religious institutions are concerned, the philosophy of both these people is more or less the same and therefore it is but fair that a measure like this, which had not been placed before the

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electorate in 1946 should now be deferred for consideration till after the new elections are held at the end of this year or next year, making this as an issue in the next election. We never thought that this measure would be brought before the party meeting at this time and its approval sought at such a short notice for its introduction in this session. It has been stated that this measure has been in the archives of the Secretariat for the last eight years and even after the Bill was published for the first time in 1947, it was not brought before the public specifically before January 1949, and therefore it is only fair that the consideration of this measure should be deferred till after the next election takes place.

"With these words, Sir, I move my amendment."

SRI T. PURUSHOTHAM :—"Sir, I support the amendment moved by my hon. Friend, Mr. Bhima Rao."

* SRI K. NATARAJAN :—"Mr. President, Sir, I beg very respectfully to bring before the Hon. Mover of this Bill and the Hon. Premier the following points for their consideration and request them to take them in a spirit of sympathetic criticism and not to treat them in any way as hostile or destructive. Sir, the first principle underlying this Bill, as I understand it, is the general vesting of all the religious institutions, including some of the charities, in the Government, that is to say, they will become, for all practical purposes, departments of Government. The second principle, I suppose, is, that no distinction is sought to be made between mutts and temples. The third is, that though there is no intention on the part of the Government to interfere with religion or with age-long religious practices and this has been made sufficiently clear in the speech of the Hon. Leader of this House, yet a scrutiny of some of the provisions of this Bill amount to an interference in religion and religious rituals, as I shall presently show.

"It may not be the intention or object of the framers of the Bill to interfere with religion but the provisions as they stand have the effect of interfering with religion. I think the application of the cypres doctrine as understood by decisions of courts is very much deviated from in this case to the detriment of the religious institutions themselves. This Bill does not take into consideration the remedies that are open under the present Act. They introduce radical changes which are not in consonance with the spirit of the intentions of the founders of the several maths. The remedy which they want to introduce is worse than the disease in general. Then, Sir, there must be a statutory enumeration of the qualifications of the persons who are to be appointed as Commissioners, Deputy Commissioners and Assistant Commissioners and it will not be quite sufficient to simply say that they must profess the Hindu religion. I shall therefore confine myself as far as I can to the elaboration of these points briefly.

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"I shall first take the most important point, namely, the vesting of the management in the Government. Originally no doubt there was interference by the Government in religion, even in 1817-18. I fully concede that. Sometime afterwards owing to the influence of the missionaries the Government wanted not to interfere as they professed religious neutrality. Again they tried to interfere with these institutions gradually and the Act of 1863 came in. Later they introduced the temple committees in the Raja of Panagal's Act. Then in the Select Committee which considered that Act they wanted the appointment of a Board of Commissioners with a term of office and with certain qualifications to exercise their powers of supervision over the temple committees. My endeavour is only to show that if at all there are any defects in the present system of management, there is a case for the reintroduction of the temple committees and more effective control by the Board of Commissioners with reference to the functions of the temple committees and not for the wholesale transfer and handing over and vesting of all these properties in the Government as an institution. I have been very carefully reading the speech of the Hon. the Premier in the Legislative Assembly and the statement of all the instances of misappropriation, etc. I shall come to them. When you straightway look into the list of misappropriations which have been enumerated you will see that various remedies have been referred to as having been adopted, namely, scheme settled, trustees removed, notification made, amount recovered, reported to Government, criminal proceedings lodged, etc., etc. Probably I might have overlooked one or two items. Some of the items are related to the same kind of institution and the misdeeds come under different heads. This catalogue is very fairly and well prepared and the instances refer to action taken under the present Act. I request the Hon. the Mover and the Hon. the Premier to say whether the actions that have been taken have not served the purpose. Even for such drastic remedies like the removal of a trustee there is provision in the Act. So far as the Thiruvaduthurai math is concerned, which is one of the instances quoted, I know that a scheme has been settled though the matathipathi contended that that was not a public trust and section 92 would not apply. In all these cases either notifications have been issued or schemes have been settled. And as regards the Pandanallur case there is a scheme settled in the Sub-Court and proceedings are pending. I do not want to dwell in detail and take up the time of the House over all these minute matters. I request the Hon. the Mover of the Bill as well as the Hon. the Premier to pause a while and find out in what respect these remedies have been found useless. I would rather put it the other way. The persons who are responsible for the superintendence of the institutions, namely, the Board of Commissioners and their subordinates have not been functioning properly and proper check has not been exercised. That is why these things have arisen and we are in this sorry state of affairs and not because there is any lacuna in the present Act as it stands.

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"As regards temples and maths my hon. Friend, Mr. Dhima Rao, anticipated me. The Hon. the Premier has in his speech before the Legislative Assembly referred to the Native States having interfered and he instanced the Cochin Regulation, the Travancore Regulation, the Mysore Regulation and the Pudukottah Regulation. I shall leave the Pudukottah Regulation out of account and take Cochin, Travancore and Mysore Regulations. I shall quote from this Book, entitled Ganapathi Iyer's Statute Law on Religious Endowments. This deals with the Regulation of 1913 by the Mysore Government as amended by the Regulation of 1927. I shall only place before the House the way in which they distinguish between the trustees of the temples, i.e., muzarai and institutions which are not temples. This is what they say. No doubt there the Government is the chief controlling authority. But nowhere do I find that the management is vested in them. The Commissioner who is appointed there as the Muzara Commissioner is invested with the duties and powers of appeal, supervision and control. Even with regard to temples, if they are dissatisfied the Government may appoint dharma darsis, corresponding to trustees, and nazaranams, i.e., the name of the person selected for mosques. The persons are selected for a term of office and there is a regulation about their powers. Another provision is, that in addition to the dharma darsis they may appoint a committee of persons chosen by election or otherwise for the management of the muzarai institution. In certain cases they may transfer the authority to local bodies. Then one important provision, namely, section 11 states that suits by muzarais may be brought in the civil courts. That is Chapter II. Chapter III deals with religious and charitable institutions. In the case of the ordinary institutions also there are two classes, one if a man becomes insane, or if a man goes away from the Mysore State or becomes insolvent and other similar contingencies occur, then the Government takes over them. But if there is a case of gross mismanagement first they must institute an enquiry in respect of that temple with the sanction of the Government and then only take the management under the Government and frame a scheme and there is a suit provided for at the instance of the aggrieved party. That is so far as muzarai institutions are concerned. Then under section 20 the application of the cypres doctrine comes in only in the case of the failure of a whole or part of the muzarai officer in passing a scheme for the object of a similar nature. I refer to Chapters II and III and these chapters refer to ordinary muzarai institutions which correspond to our temples. When they come to the maths, the Hon. the President will see that there is a distinction made between the maths and the temples. Clauses 20 and 29 of the Mysore Regulations should be taken. There they say that the application of the cypres doctrine should not be used for any extraneous purpose as is mentioned in the present Bill but for the purpose of spreading religious instruction according to the tenets of the math. What the Mysore Regulation says is that the funds of that math cannot be used for other

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purposes but only for the purpose of spreading the tenets of that particular religion. What we find here is that section 92 has been repealed and there is no distinction made between maths and temples. There is a distinction between the maths and the temples which cannot be ignored. In the temples the deity is vested with the property; in the maths the beneficiary persons are the owners and the matathipathis are only in the nature of trustees but the temple trustees are really trustees. Then, Sir, the object of a temple is worship and the object of a math is the propagation of the particular tenets of that particular religion. Then, the maths have got so many disciples and the disciples are interested in the maths and in the temples the public in general are interested. These are the distinctions that should be observed between the maths and the temples. Now we must come to Chapter IV of Mysore Regulation. The provisions of Chapters II and III will not apply to maths.

"The provisions in Chapter IV are rather important. Section 24 of Chapter IV states that the provisions of Chapters II and III shall not apply to maths and other institutions of a similar nature or to the property belonging to them which are in the possession of matathipathis or other persons entitled by law or general or particular usage to exercise powers of management or ownership. Section 25 says that the Government can take over the possession and management when the madathipathi, etc., voluntarily applies for such help and places the institution or its property under the management of the Government. Such help is given when he is dead or has left the country or when he is a minor and the Regulation further says that such management shall cease on the termination of any period of agreement or when a competent successor is appointed or other disqualifications are removed. As regards misappropriation it says: 'When on complaint made or information furnished in writing by disciples or other persons interested in any math or other similar institution, the Government has reason to believe that the matathipathi or, etc., has been grossly mismanaging the property of the institution or is attempting to alienate the whole or any part of such property for improper purposes, the Government may order an enquiry by a committee of not less than three persons, one at least of whom shall, whenever possible, be a disciple of or a person interested in the math or other institution, as the case may be, provided he is not a whole-time servant of the Government.' I want to know whether there is such a provision made in the present Bill. I want to impress this upon the attention of the Hon. the Premier and the Hon. the Leader of the House. Therefore I say that we must make a distinction.

"Then what about the gentlemen who are to be appointed Commissioners, etc. No qualifications are given. The Hon. the President will be pleased to see that in the present Act there are provisions giving the qualifications. But he holds office only

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for four years, and he is liable to be removed after that period. Take the case of an Assistant Commissioner. We have now a fairly good experience of the Assistant Commissioners. It is stated very often and I believe it is true that many of these people in the lower ranks appointed by the Board are really persons who have absolutely no faith in religion. They are iconoclasts."

MR. PRESIDENT:—"The hon. Member can continue his speech after lunch. The House will now rise and meet at 2-30 p.m."

The House adjourned for lunch.

(After lunch—2-30 p.m.)

* SRI K. NATARAJAN:—"Mr. President, Sir, as regards the interference with the ritual, I invite the attention of the Hon. Minister to clauses 15, 20, 21, 41 and 43 of the present Bill. These clauses will give the Commissioner or the persons to whom powers are delegated the power to interfere with the *dittam* and say what are the necessary rituals to be performed, and what ceremonies should be adhered to. All this interference may not be in consonance with the usage of the institution. For example, in Saiva Siddhanta maths, there is what is called *Resha manthram*, *athvartha puja*, *Guru puja* and *Putnapravesam*. I am one of those who think that *Putnapravesam* is a waste. It costs Rs. 2,000. People believe that the *Pandarasannidhi* himself is God, and pay obeisance to him. Similarly, when people come to be initiated as disciples, there are certain ceremonies to be performed. This costs money. From one point of view of an advanced Hindu, saturated with modern ideas, it may not at all be a necessary function. The *dittam* may be curtailed. But in the usage of the institution, this *dittam* should not be curtailed. There are other usages in maths. In some maths the disciples appoint their future head, and in others, the head of the math nominates a Chinna Pandarasannidhi. There are other usages in institutions like the Ahobila math. With reference to appointments, there are certain rituals to be performed. If it is left to the Commissioner or Assistant Commissioner to interfere and judge for himself to what extent such a ritual is to be performed, he may as well say why not this coming in and going out be written on a piece of paper. The Mover of the Bill has to consider whether this would not mean interference with the *dittam* and ritual of the institution.

"As regards the propagation of the tenets of religion, there are the Tiruvaduthurai, Dharmapuram and other Saiva Siddhanta maths. They have got branches throughout the Presidency. It may be asked 'why should you have so many branches and why should you incur expenditure on them.' The Commissioner and the Assistant Commissioner and the persons in charge may have different views about these branches. In all these cases, if the

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Commissioner is given power to interfere in the ritual, *dittam* and ceremonies, it will be a very dangerous thing. It will mean that the person concerned is taking upon himself the functions of the *matathipathi*.

"Take temples. In temples there is the *Brahmothsavam*. There is a festival on the last day of which a chariot or car is dragged round the streets. I know in Tanjore there is this chariot festival. One gentleman who happened to be in charge of this festival thought 'what is this chariot; thousand people dragging the car; it is a waste of time, money and energy.' But, Sir, the people rebelled against him. This enraged the gentleman. (Interruption by the Hon. Sri K. Madhava Menon.) All these things may appear differently to different people. It is not a case where the sentiment of the people can be ignored and handed over to a person who simply professes Hindu religion. He must have a grounding in the tenets of Hindu religion.

"One more point, Sir. There was a very wholesome provision in the old Act. There is a provision in section 3 for the exemption of certain institutions. I think the purpose of this legislation may very well be achieved by incorporating that section in this Bill. Section 3 of the Madras Hindu Religious Endowments Act says:

'3. (a) The Provincial Government may, after consulting the Board, exempt any such endowment from the operation of all or any of the provisions of this Act or vary, alter or cancel such exemption.

(b) The Provincial Government may, by notification, extend to Jain religious endowments the provisions of this Act and of any rules framed thereunder, and may declare such extension to be subject to such restrictions and modifications as they think fit.'

If this section is re-enacted in the present Bill, it will serve two purposes. Sir, there is the Kamakoti Peetam at Kumbakonam. I do not think anyone can boldly say anything against it. I speak without any fear of contradiction. Why this Act should be made applicable to that mutt? If you exempt this mutt, two consequences will follow. Other *matathipathis* will see that they are exempted. They will follow the example. If the person who is exempted does not fare well and becomes loose, or does not manage the mutt properly, the exemption may be cancelled. This will conduce to the improvement of the institution without any interference from Government. I believe one of the previous Presidents of the Endowments Board has written an article that in the case of mutts the disciples or advisory bodies must be given some prominence, and they should be given the chance to suggest suitable measures for the better management of the mutts. No sane man will say that there are no defects in our temples. The instances given by the Hon. Premier are small when compared with the number of institutions. Perhaps the defects have not yet come to light. I do not want to say that instances are very few, and therefore there is no need for legislation. Even if there are only a few instances, have the necessary legislation. But please take care to see that the legislation is such as will remedy the disease. Do not launch upon the scheme of giving some

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person who simply professes Hindu religion the power of absolute interference with the Matathipathi. Let it not be said that a Commissioner who is a disciple of a Matathipathi goes to pay his salutations with a gentleman who is no less than a Sub-Inspector in rank. What will be the attitude of that gentleman? He will have to prostrate before the man. He will sometimes accompany the Sub-Inspector. Everybody in society has some dignity and prestige to maintain. Matathipathis are entitled to certain respect just as we and the Hon. Ministers are entitled to respect. Let it not be said that we undermine all the fundamental and accepted principles of society and introduce hasty legislation. Pause for a while, and think whether the object which you want to achieve cannot be achieved by less Draconian methods. Is there any urgency about this measure? Is there not enough provision in the previous Act for setting right things? On a general comprehensive survey of all the institutions, am I not right in saying that they have decidedly improved for the better? Therefore, I respectfully bring to the notice of the Hon. Premier and the Hon. Dr. Rajan to see that the Bill is modified that the Bill is not subject to other faults pointed out by legal pandits. We are for the present to be guided by our learned Advocate-General, and we must take his word even though the previous learned Advocates-General may have given a different opinion. Whatever it is, he himself, as Mr. Bhima Rao pointed out, has stated that there is a difference between mutts and temples. All the clauses of the Bill have to be modified to suit the difference between temples and mutts. He has also pointed out that some clauses go too far. Therefore, I suggest that if the Hon. Premier thinks that he cannot wait, and if the hon. Leader of the House thinks that he cannot wait—having waited for so many years already—they should at any rate see that this Act is not Draconian, not unduly severe and does not undermine the prestige of the Matathipathis, Gurus and trustees. Reconstitute the temple committees which have been taken away by the Act of 1944. Reconstitute control by the Board of Commissioners. Make them serve better. Introduce stricter control over their acts and find out whether it is not the inefficiency of the Board of Commissioners that has led to this state of affairs. See whether there is any necessity for giving such autocratic powers to a Commissioner or Deputy Commissioner who may not see eye to eye with the temple trustees or the Matathipathis in every aspect of management."

* SRI K. VENKATASWAMI NAYUDU :—“ Mr. President, Sir, when I rise to speak on this subject, it is with a certain trepidation that we are treading on a very difficult subject. This Government is generally secular in nature. Is it entitled to legislate on religion? That is the question that is before us. This question has been agitating the orthodox men, legal pandits and other people. But I wish to say that it has been all along the duty of the Government to rectify matters in any sphere of administration whenever it goes wrong. Now, we find that all is not well with

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our religious institutions. We find that the temple managements are not very good. The archakas are not doing their duties properly. For everything we want some qualification. To be a lawyer we want one to be a B.L., to be a doctor one should be a M.B.B.S., to be an Engineer one should be a B.E., but to be an archaka he should have 'nil' qualification! This is a very important point. A man who caters to our spiritual needs is a man who is only the son of his father. He has no other qualification. Whatever disqualifications he has, still he is forced to continue, and he should be allowed to continue, because that is the law to-day. This has very much deteriorated the condition of our temples.

“ Secondly, we come to the purohita. In our marriages, all big people, people with hearts full of blessings are present. In marriages, the primary functionary is the purohita. But, he does not know how to repeat the 'Manthrams'. He has no school; he has no wherewithal to say those 'Manthrams' in the right manner. He says something which he does not understand nor does he learn anything. Similarly, I am sorry to say that the matathipathis for whom we have such great regard have not kept up their position. They are very responsible people. They have got a very high duty to perform to the people. The God in the temple does not speak. But, this God is expected to speak and he must speak well. But we find to our great disappointment and sorrow that the matathipathis are not doing their duty properly. That is because, I think, they are so much engrossed with money matters that they are unable to attend to the spiritual needs of the people. I think we will be doing a great service to them if we take away from them the management of the trusts and allow them to concentrate on the side of religion. Then, we see that the various people who have to cater to the needs of our spirituality have not been able to do well. That is why we feel that some agency must come to help us. For a long time, the Government has been interfering with religious institutions. I do not want to repeat what the Hon. the Leader of the House said with regard to the various subjects in which Government interfered; if such interference was necessary, then it must interfere. I am not for Government interference at all stages. Government must give such help as is necessary. Sometimes, we quarrel in temples and the policeman comes there to conduct the temple festivals. Therefore, Government interference has been there when such interference was necessary.

“ Sir, the first Endowments Bill that was introduced twenty years ago by the late Raja of Panagal was the first act of a popular Ministry to see that these religious endowments are managed properly. But, that Board has not sufficient powers, and the Endowments Act, which is in force to-day, is very inadequate to meet the needs of the people. That is why we find it necessary to give better powers to Government which will enable the supervision and administration of temples in a better manner. That is why I strongly recommend that Government authority should

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take over the responsibility. Now, it is the people's Government and it is necessary to see that our charities, our temples and mutts and our trust properties are safeguarded and efficient supervision made. Such a supervision can come only when there is a Government which is taking the fullest responsibility. Only such a Government can see that supervision is fairly well-conducted. Of course, the Board is there. The Commissioners come and go every five years. But, here, the Government department will always be responsible and they will see that even if a Commissioner is not conducting himself properly, he may be changed. Therefore, I feel very sincerely that Government control will be very good for the management of these temples.

"Then, what can Government do? Government is taking over a very grave responsibility. I also feel diffident because we do not know what will be the composition of the Government. Many people are enthusiastic about this Bill. I am not here to question their motives, but I feel that some people have in their minds that there is so much treasure in the temples and that this treasure may be utilized for various purposes. If that is so, I fear that the secular doctrines will prevail and that the better administration of religious institutions will not be met and then, it may be that more importance may be given to the secular aspect than to the religious aspect by the Secular Government. This is a fear which I want to guard against. But, I do not feel that we are going in for a bad Government. As it is, we have got to do our duty in the various aspects of life and if the Government finds that these religious endowments are not properly managed, it is their duty to see that they are properly managed. If, in doing so, they overstep their limits, it would mean ruin. We should warn ourselves against doing that. It is very necessary that every pie of this money should be utilized for the purposes for which they are entrusted. I can tell you that there are many things which we can do for temples. The Board says that it cannot do anything beyond the Act. So, the Board has done nothing beyond making some arrangements for some sort of supervision, even though there is a lot of money. I understand that there is a very good surplus fund with the Board which can be properly utilized. But, it is utilized only for giving more salaries and more allowances and not for any religious purpose. There are thousands of temples which are in ruins. There are thousands of temples which, if not attended to to-day, will go to ruins. Also many beautiful works of art are in ruins. There is a temple near Tirupathi called Mangapuram. The temple is almost in ruins. If you do not spend a few lakhs, those beautiful works of art will disappear for all time. Who is going to do it? The Archaeological department of the Government must do it. Will they do it? They cannot spend so much money. If the surplus fund with the Board is utilized for such a purpose, it will be a very good thing. In this way, they can help to preserve the architecture which the temples in South India possess."

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MR. PRESIDENT:—"The hon. Member is now the President of the Tirupathi Devasthanam Committee. I know it refused to do anything for the Mangapuram temple before he became President. Has the hon. Member revised that decision?"

THE HON. DR. T. S. S. RAJAN:—"The hon. Member wants Government to take up the matter."

* SRI K. VENKATASWAMI NAYUDU:—"The question came up before the Temple Committee also. The question was why we should do it when the Government Archaeological Department is in possession of it. They found it necessary to preserve that art, and it was thought that it is Government's primary duty to take over this matter. If Government ask for some contribution, I think the Tirupathi Devasthanam authorities will only be too glad to give such amount as they think necessary."

MR. PRESIDENT:—"I only wanted to get that statement from the hon. Member."

* SRI K. VENKATASWAMI NAYUDU:—"Coming to that subject of Tirupathi, I can tell the House that the Tirupathi Devasthanam earns about 17 lakhs of rupees as hundis. Out of this, only four lakhs are utilized for temple purposes and the other thirteen lakhs are taken away for other purposes. We do not grudge it. But, we find sometimes that the temple funds are not made available for religious purposes. That is exactly the fear which some orthodox people have got in their minds. They fear that once this Government is allowed to meddle with temple affairs, they will take away the money because Government feel and also some people feel, and rightly so, that industries and education are more important matters than these temples, and wherever money can be found it should be diverted for these purposes which in their opinion are very good. We have no objection. For instance, Tirupathi Devasthanam gives thirteen lakhs of rupees to be spent on education, for the maintenance of the Arts College and so on. Of course they are very good purposes. But the orthodox man and the religiously minded man think that this money should be spent in making the temple more attractive. Then there is also this great fear of which Sri Bhima Rao spoke. The black-shirts are supporting this Bill. Then, comes the natural fear as to why they are so enthusiastic about this Bill. It is because, they feel—and that is also the fear of the orthodox people—that these monies will be available for other purposes. The orthodox people feel that as the temples are in ruins, they must be renovated and that they must be made more attractive. Now people are drifting away from spiritual ideals and Government should not allow this drift to go on because we find that our younger generation are going away from the temples. Sir, we must make these temples attractive; then only we will be really doing the work that we must do with regard to these temples."

"Then, Sir, I think this is the best time when we can attempt to bring a legislation of this kind. We have got a very pious

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gentleman in our Premier, who out of the best motives, has started to do this work. If you do not do this now, some time later it will be very difficult to do and there may be a sweep. We have already allowed these things to drift for such a long time. We must take courage in our hands and must pull together and see that the temples are made more attractive, that temple mounds are properly utilized and that modern currents of thought are taken into consideration.

Now, Sir, people are going away from temples and they are organizing bhajanas and other things. There is the Ramana Ashramam and there is also the Ramakrishna Mission which is doing wonderful work. Similarly, there is the Arambado Ashram. These new institutions have come up because the old institutions and the old matathipathis have not been able to attract people. What is wrong with these old matathipathis and these old institutions? How can we make them more attractive as the media of spirituality? I feel, Sir, that the matathipathis have not done much to raise the spiritual status of this country. Mahatma Gandhi with his constructive programme of removal of untouchability has done much to raise the spiritual status of this country through his 'Bhajan'. He began in prayers and he died in prayers. The last message which Mahatma Gandhi has given is for the spiritual uplift of the country and for the spiritual leadership of the country. If we as legislators, as people who are responsible for the better government of this country, do not lay our foundation on this spirituality of Mahatma Gandhi, we are not really doing what Mahatma Gandhi has asked us to do. As a legislator myself, I feel that we have a great and important task to do, I am afraid of the magnitude of the work which this involves, but I hope that with God's blessings we will be able to do something good, something great. This is one of the great pieces of legislation which we have undertaken and I do not think either the zamindari legislation or any other piece of legislation is so great and important for the benefit of the humanity of this country as this. I am sorry that on this occasion I miss a very great friend of mine, Mr. Muthuranga Mudaliyar. He is not here amidst us now and I miss him very much. I used to see him sitting there and he promised that on this measure he would make a wonderful speech. The last occasion on which I heard him speak was at the Party meeting. He was so enthusiastic about it that he said, 'are you going to allow the existing Act to continue? Can you tolerate this state of affairs?' This is what he said. We must have this Bill passed or do something better. We cannot allow these things to go on. He spoke in this strain and said that this is the proper stage to protect the temples and maths against decline due to malpractices. He gave his fullest support to this measure because he believed sincerely that such a measure was necessary. Unfortunately, he is not here with us now, though his spirit is here. He said that he would fight to the last and see that this Bill is made as good as possible. Then, Sir, when I told him

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that he must be on the Select Committee, he said, 'who will put me on it.' That shows the anxiety he had to see that the Bill is supported by the House.

"Mr. President, Sir, I do not want to take up any more of the time of the House except to say that on all sides of the House there is enthusiasm for the Bill. I am very happy that the Opposition does not choose to oppose the Bill and that is indeed a very great help."

MR. PRESIDENT:—"It is only opposition to the motion and not to the Bill."

* SRI K. VENKATASWAMI NAYUDU:—"The fact that there is no opposition to-day is really a good gesture on the part of the Opposition. So, let us all put our hands to the wheel and see that we do this good piece of work so that our temples are restored to their former great glory."

*SRI S. A. S. Rm. RAMANATHAN CHETTIYAR:—"தலைவர் அவர்களே, இந்த தேவஸ்தானம் மடங்கள் சம்மந்தமான 'பில்' ரொம்ப நாட்களுக்கு முன்னதாகவே வந்திருக்கவேண்டியது. நமது நண்பர் ஸ்ரீ நடராஜன் சொன்னபிரகாரம் இந்த 'பில்' 1920-ம் ஆண்டு start பண்ணி பிறகு பிரயோஜனமில்லாமல் போய்விட்டது. 1920-ம் ஆண்டு start பண்ணி இப்பொழுது 28 வருஷங்களாகின்றன. இதற்காக மாதம் ஒன்றுக்கு ரூ. 25,000 வீதம் சிலவாகியிருக்கிறது. அப்படி வருஷத்திற்கு மூன்று லட்ச ரூபாய் வீதம் 20 வருஷங்களுக்கு சுமார் 40 லட்சம் ரூபாய் செலவாகியிருக்கிறது. இவ்வளவு சிலவுசெய்து பரீட்சை பார்த்துவிட்டு இப்பொழுது இந்த 'பில்லை' கொண்டுவந்தது ரொம்பவும் பயித்தியக்காரத்தனம். இவ்வளவு சிலவு செய்துவிட்டு இப்பொழுது கொண்டுவருவது போல் இன்னும் கொஞ்சம் பணத்தைத் தொலைத்து விட்டு இன்னும் கொஞ்சம் நாள் கழித்துக்கொண்டு வரலாமா."

"இன்னும் இதற்காக ஷூக்களை நியமிக்கவேண்டுமென்கிறார்கள். இப்படி ஷூக்களை நியமித்தால் லஞ்சமில்லாமல் இது நடக்குமா என்று கேட்கிறேன். இப்பொழுது எங்குபார்த்தாலும் லஞ்ச ஊழல் நடக்கிறது. அது இன்னும் ஜாஸ்தியாகலாம். இப்பொழுது சீர்திருத்தம் செய்ய வேண்டுமென்றால் 40 லட்ச ரூபாய் செலவுசெய்து பரீட்சை பார்த்து சீர்திருத்தம் செய்வதைப் போல் இன்னும் கொஞ்சம் பணத்தைத் தொலைத்துவிட்டு கொஞ்சம் நாட்கள் கழித்து வேண்டிய சீர்திருத்தம் செய்யலாம் என்று தோன்றுகிறது. அப்பொழுது தான் இந்த தேவஸ்தானங்களும் மடங்களும் ஒழுங்காக நடக்கும்."

"தேவஸ்தானங்களிலும் மடங்களிலும் அக்கிரமங்கள் அதிகமாக நடக்கிறது. எங்களுடைய ஜில்லாவில் வைத்தேஸ்வரன் கோவில் இருக்கிறது. அதற்கு 365 வேலி நஞ்சை நிலம் இருக்கிறது. ஒரு நாளைக்கு ஒரு வேலி வீதம் 365 நாட்களுக்கும் 365 வேலி வீதம் சிலவுசெய்வதற்கு நிலம் தஞ்சாவூர் இராஜாவால் கொடுக்கப்பட்டிருக்கிறது. அங்கே தம்புரான் என்று ஒருவர் இருக்கிறார். இன்னும் தர்மபுரம் ஆணைக் கட்டளை அருகே தம்புரான், என்றெல்லாம் இருந்து வருகிறார்கள். சுவாமிக்கு சந்திரானம் என்ற பதம் காணும். இவர்களுக்கு சந்தி எங்கிருந்து வந்ததோ தெரியவில்லை. ஒரு சமயம் நான் வைத்தேஸ்வரன் கோவிலுக்குச் சென்ற போது சுவாமி வெளியில் புறப்பட்டது. அப்பொழுது தம்புரானும் புறப்பட்டு வெளியில் வந்தார். அப்பொழுது அவருக்குதான் ஏராளமான மரியாதை நடந்தது. சுவாமிக்கு குடை பிடிக்கவில்லை. ஆனால் இந்த தம்புரானுக்குதான் குடை பிடித்து வந்தார்கள். எவ்வளவு அக்கிரமம் பாசங்கள். அது மட்டுமல்ல. அந்தசமயம் மறை பெய்தது. மறை பெய்து கொண்டிருக்கும் பொழுது இந்த தம்புரானுக்கு குடை பிடித்துக்கொண்டு"

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விசிறிக்கொண்டும் வந்தார்கள். சுவாமிக்கு குடை கிடையாது. சந்திக்கு குடையுடனல்லாமல் விசிறிக்கொண்டும் வந்தார்கள். நான் அதைப் பார்த்து என்ன ஐயா அக்கிரமம் என்று கேட்டேன் மனையில் எதற்காக விசிறி வேண்டுமென்று கேட்டேன். ஏதோ தெரியாமல் செய்துவிட்டோம். எங்கேயோ ஞாபகமாகச் செய்து விட்டோம் என்று சொன்னார்கள். இவ் விதம் அவர்கள் பணத்தை செலவிட்டுக்கொண்டு அக்கிரமம் செய்து வருகிறார்கள். இதை விட்டுவந்தால் அனுமாருக்கு வால் வளர்த்ததுபோல வளர்ந்து கொண்டேபோய் எல்லாபணமும் அழிந்துபோய்விடும்.

“இந்தமாதிரியான அக்கிரமங்களை யெல்லாம் லட்சுமிகாந்தன் என்று ஒருவன் எழுதிவந்திருந்தான். அவன் இப்பொழுது இறந்துபோய் விட்டான். எழுதுவதற்கு வேறு ஆட்கள் கிடையாது. இவர்கள் செய்யும் அக்கிரமங்களைப்பற்றி எவ்வளவோ புத்தகங்கள் வந்திருக்கிறது. இப்பொழுது அந்தமாதிரி அக்கிரமங்கள் செய்வது பேப்பரில் வருவதில்லை. அப்படியாவது எழுதிவிட்டால் அந்த பேப்பரானதுக்கு ஆரிரம் ரூபாய் கொடுத்து அதை வெளியிடாமல் செய்து விடுகிறார்கள் அதனால் எழுதுவதில்லை. அப்படி ஒருவன் கும்பகோணத்தில் எழுதியதற்காக இப்படி எழுதியவனை அடித்திருக்கிறார்கள். ஆகையால் இந்த சட்டம் ரொம்பவும் அவசியம்.

“சிதம்பரசுவாமி என்றிருக்கிறது அங்கே சிதம்பர அய்யர் என்று குருக்கள் ஒருவர் இருக்கிறார். அவர் நூறு வேலி நிலத்தையும், தன் பேருக்கு பட்டா மாற்றிக்கொண்டார். அப்பொழுது மேட்டூர் ஜலம் வரவில்லை. இப்பொழுது மேட்டூர் ஜலம் வந்ததால் அவ்வளவு நிலங்களுக்கும் நஞ்சையாக மாறிவிட்டன. அந்த சிதம்பர அய்யர் பேராஸ்தான் பட்டா ஏற்பட்டிருக்கிறது. இப்பொழுது அந்த நிலத்தின் மதிப்பு சுமார் ஒரு லட்சம் ரூபாய் இருக்கும் ஆகையால் இந்த சொத்திற்கு ஏதாவது வழி செய்யவேண்டும். இதற்கு வேண்டிய மாறுதல்கள் சட்டத்தில் செய்தாலும் செய்துகொள்ளலாம். திரும்பவும் தீர்மானப்போகும்படியாக இருக்குமே என்று யோசிக்கவேண்டாம். திருப்பிச்சென்றால் ஒன்றும் பாதகமில்லை. Proper management செய்ய வேண்டும். சுமிட்டி வைக்கப்போகிறார்கள் என்று சொல்லுகிறார்கள். E.L.C.களையும் மத்திரிகையும் புகார் சொல்லுகிறார்கள். புகாருக்கு இடமில்லாமல் பார்த்துக்கொள்ளவேண்டும்.”

MR. PRESIDENT:—இப்பொழுது (motion)-ஐப்பற்றியே சொல்லுங்கள். மந்திரி, மெம்பர்களுடைய புகார்களைப்பற்றி சொல்லவேண்டாம்.”

SRI S. A. S. Rm. RAMANATHAN CHETTIYAR:—“அவர்கள் புள்ளி சொல்லுகிறார்கள் என்றுதான் சொல்லுகிறேன். ஆகையால் Proper management-க்கு எப்படி செய்யவேண்டுமோ அதை யோசனை செய்து பண்ணினால் ரொம்பவும் புண்ணியம் உண்டு. இரண்டு கோடி பொறுமான் குள்ள சொத்து இப்பொழுது இருக்கிறது. வரும் வரும்படியை ஒழுங்கு செய்தால் சொம்பவும் புண்ணியம் உண்டு, பண்ணவேண்டியதை எப்படிச் செய்ய வேண்டுமோ அதை அப்படி செய்யவேண்டும். அப்படிச் செய்தால் ரொம்பவும் புண்ணியமுண்டு.”

SRI S. B. ADITYAN:—“Sir, the amendment of the hon. Mr. Bhima Rao seems to imply that this Bill has not got the support of the public. With due respect to the hon. Member I wish to point out that he is entirely mistaken in his view. Some of us have addressed many public meetings after the introduction of this Bill and I know that the popular support and enthusiasm were such as were not seen for the last many years. In fact the support from the masses is such as we have not come across after the attainment of Independence. I may say that Congressmen have not been active for the last 14 years in holding public meetings. After this Bill was published in the Gazette, we have been in the foreground and address public meetings and feel the pulse of the people in regard to this measure. They are fully and thoroughly in support of it. Their enthusiasm and applause which they gave at the meetings are sure indication of their support to it. There is no lack of support as has been expressed in some of the newspapers. I would ask my hon. Friend, Mr. Bhima Rao, to go back to his own town and organize public meetings to know what the public feel in regard to this Bill.

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“Again, Sir, it has been remarked that this Bill has been brought forward in a hurry. I am afraid that that statement is made without going into the history of the matter. As you are aware, an Act has been in the Statute Book for the last 22 years and now after working that Act for the last two decades, we have been able to find certain defects in its working and it is in order to rectify those defects that this Bill has been brought forward.

“The important feature of this reform is that it is intended to introduce control over Matathipathis. When the original Bill, the Hindu Religious Endowments Bill of 1926, was brought in, the maths and those interested in them raised opposition to it and they made a hue and cry and invoked the Proclamation of Queen Victoria. They succeeded to a great extent and the result was the maths were omitted from that Act. The main feature of the present Bill is to bring in a certain measure of control over the maths and it is my humble opinion that even the measure of control proposed in the Bill is quite inadequate to meet the situation.

“Sir, without going in great detail into the various provisions of the Bill I would like to mention one or two sections, sections 39 to 42 which deal with the control of maths.”

MR. PRESIDENT:—“May I suggest to the hon. Member that he can deal with the details later, but now it is sufficient if he agrees with the principles. It is likely he may also be on the Joint Select Committee.”

* SRI S. B. ADITYAN:—“I will only take a few minutes more.”

MR. PRESIDENT:—“It is enough if the hon. Member says that he agrees with the principles of the Bill.”

* SRI S. B. ADITYAN:—“Yes, Sir. I wish to point out that the present measure is insufficient because what is suggested in the Bill is, that the Government will not have the power to remove any matathipathi. Supposing a trustee of a math is found to be insane or found to have been convicted of moral turpitude, even in such cases the Government have not got the power to remove him. My submission is that the Government should take adequate powers than what they have under the Act so that even in cases where a trustee of a math is convicted of moral turpitude, he could be removed without going to court. Under the Bill in such cases, the Government have to go to a court and ask for an order for the removal of the trustee of the math concerned.

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"Now, another provision which is sought to be made in the Bill is in regard to dittam or estimate of expenditure. When a trustee of a math prepares a budget, it is now proposed to take powers to alter it only in cases where the dittam is at variance with the usage. I submit that the Government should have power to alter the dittam even in other cases where it is inconsistent with modern ideas.

"Sir, we see in clause 42 that the manager of a mutt who will be appointed again by the trustee of a mutt will have only secular powers. The particular section uses the word 'secular'. A great deal has been said about secular State. In fact, I understand that the main plank of the opposition to this Bill is that our state is a secular State and it is not within the capacity of a secular State to bring forward a Bill of this nature. Whether it is consistent or not with the status of a secular State, depends on the meaning attributed to the word 'secular'. The Hon. Premier, who is really the head of the administration of our Province, has stated in the other House, what is meant by 'secular State'. He has definitely stated that it does not mean a licence to misappropriate temple funds. If anyone is competent to define a 'secular State', I submit, he is Pandit Nehru. Three days after the Premier of our Province had spoken in the Legislative Assembly about what is meant by a 'secular State', the Prime Minister of India spoke on the secular character of the State and this is what he said on the 13th of February. He said: 'The secular character of the Indian State must be maintained at all costs'. 'This did not mean that we were to be irreligious or a nation of atheists. A secular State only meant that every individual in it was free to profess any faith he chose and no disability should rest on him by reason of his faith.' Now, that is the description of a secular State as given by the Prime Minister. And I ask, Sir, who is more competent to define the meaning of the secular State than the Architect of the Constitution of India. I mean the Prime Minister, Pandit Nehru. So, it is high time there is an end to the discussion of a secular State because that has been well defined and settled; and it is settled once for all by the definition given by the Prime Minister of India, and let there be no further opposition based on the ground that the Bill is beyond the capacity of the State or against the character of the State.

"Sir, another point was raised about the religious rites and rituals. This Bill very wisely prevents people going to courts on a matter of mere ritual or ceremony. We have seen enough of litigation going on with regard to mere matters of rituals and ceremonies. It is only a few days ago the High Court gave judgment on a matter between two sets of priests or Pandarams about certain rites connected with Palni temple. Therefore, I say, it is high time that there is an end to unnecessary litigation and it would be much better if the Commissioner who is bound to be a Hindu,

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disposes of the disputes relating to rituals and ceremonies rather than allow them to be carried to the High Courts or Federal Courts. I support the Bill and oppose the amendment."

* SRI D. KRISHNAMURTHI:—"Mr. President, I support the introduction of this Bill and oppose the motion moved by the hon. Sri Bhima Rao. This Bill, containing about 93 clauses, is an attempt to provincialize the administration of religious and charitable institutions of this Province and to codify the law as it exists to-day. It repeals the old Hindu Religious Endowments Act, the Tirumalai-Tirupati Devasthanam Act and other subsequent amendments. This Bill goes a step further and brings under its purview mutts which have been till to-day more or less enjoying a privileged position. Some years back, one of the members of the old Legislative Council brought forward, what is called, a Mutt Bill. That Bill went to the Select Committee and there was a lot of hue and cry from various heads of religious institutions and the then Government dropped that Bill in 1935 or 1936. Subsequently no steps have been taken to regularize and preserve the endowments connected with mutts. It has been found from experience that where the administration of these religious institutions has been undertaken by the Religious Endowments Board, certain powers are found to be absolutely necessary to make the administration more efficacious and effective. The old Act gives enormous powers to courts to interfere with the decision of the Board. The Board is a specialized body created to perform certain functions but its decisions have often been flouted. Naturally, this kind of litigation between the Board and a religious institution may prolong for a long time with the result that no improvement can be effected in this sphere. In this connexion, I would just like to draw the attention of this House to the decision of the Madras High Court quoted by me some years ago in the old Legislative Council while moving an amendment to the old Act."

MR. PRESIDENT:—"I thought you were going to narrate your experiences."

SRI D. KRISHNAMURTHI:—"On the 13th October 1934, in a judgment of the Madras High Court, delivered by the Hon. the Chief Justice and Justice King, they said:

'We cannot leave this case without saying that it is a glaring example of protracted litigation. The suit was filed in 1918 and in 1932, fourteen years afterwards, the issue as to its maintainability was first decided. This is nothing short of a scandal. The suit must now be disposed of without further delay.'

It had taken practically fourteen years to decide the preliminary point whether the suit is maintainable in law or not. Sir, attempts made to put down litigation under the present Act have been found to be totally inadequate. The vested interests behind mutts always seek the aid of law and indulge in protracted litigations. Therefore, something must be done to protect these religious institutions from going to rack and ruin. This Bill is an attempt just to regularize and systematize the administration. Government do not want to interfere in the day-to-day administration or the religious

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worship or the particular thought which a religious institution is promoting for the welfare of the people. The Hon. Dr. Rajan, when introducing the Bill, gave an assurance that there would be absolutely no interference in matters purely religious or particularly sectarian. This Government is a popular Government and they will try to cater to the public taste with strict neutrality and in a spirit of just impartiality. This legislation is long overdue. The Board has been attempting to get this enactment placed on the Statute Book for some years past but they could not succeed owing to obvious difficulties. Now the Government have felt the need for this measure and I sincerely wish that this Bill will soon be enacted into law with the necessary precautions and safeguards incorporated in it. Even in the Select Committee stage, there should be no change in the main principle of the Bill, viz., the provincialization of the administration of religious and charitable institutions. The unnecessary interference of courts should be prevented and provisions in the Bill relating thereto need careful examination. I am very glad that this Government have taken up this step which is long overdue and I wish that the Government will succeed in this attempt."

* THE HON. SRI K. MADHAVA MENON :—" Sir, I am rather surprised at the so-called amendment moved by Mr. Bhima Rao. He wants, in his amendment, to defer this legislation 'till after fresh elections are held after issuing a fresh election manifesto, making the proposed legislation an issue therein and after obtaining the verdict of the electorate.' This only shows a little bit of ignorance on his part of what the public feel on this Bill. As Mr. Adityan has rightly pointed out, I say it is wrong to say that this measure has no popular support. On the other hand public meetings have to be held to oppose the Bill under police protection. What does this show? This only shows that the public feeling is overwhelmingly in favour of this Bill. It is equally wrong to say that the Bill interferes with religion and religious institutions and that the Congress election manifesto does not give the Government necessary sanction to bring forward this measure. Sir, neither the Congress election manifesto nor the provisions of the New Constitution gives the right to anybody to improperly manage the properties belonging to religious institutions. We should not confuse the question of management of religious institutions with the question of religious practices. We must try to draw a line as to where religion ends and where the secular aspect of religion begins. This Bill is an attempt to consolidate the governance, administration and regulation of religious institutions and does not go against the fundamental rights guaranteed in the proposed New Constitution. If there are secular activities associated with religious practices, the Government have to legislate for them also.

or " Mr. Bhima Rao was at pains to say that this Bill contravenes the fundamental rights guaranteed in the New Constitution. But, Sir, there is nothing in this Bill which contravenes the

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fundamental rights. What are the fundamental rights guaranteed in the new Constitution? The one fundamental right is that a citizen can follow his own faith without compulsion from outside. I cannot certainly call upon Mrs. Mona Hensman to become a Hindu much against her will. She has got every right to continue to be a Christian and I have got every right to continue to be a Hindu. Therefore, there is nothing in this Bill to affect that fundamental right. This Bill is primarily intended to provide better administration, governance and regulation of Hindu religious and charitable institutions.

" Sir, in this connexion I should like to invite the attention of hon. Members to item 34 in List II of the Provincial Legislative List under the Seventh Schedule of the Government of India Act 1935, in which specific mention has been made of 'charities and charitable institutions; charitable and religious endowments', and I want Members particularly to note the words 'religious endowments' therein. This is the Act under which we are now working and under this Act the Provincial Legislature is entitled to legislate on these matters. Even in the present Draft Constitution in List II—State List, Item 43, the subject 'religious institutions' has been included specifically which it had not found a place in the present Government of India Act, 1935. So we can legislate on charities and religious institutions that are in the Province. There is no need to confuse things.

" Sir, much was said about clauses 19 and 20 of the Draft Constitution which have been passed. If we are to logically proceed on the argument of Mr. Bhima Rao, then the position will be that the Contract Act shall not apply. As regards properties of religious institutions, clause 20 of the Fundamental Rights gives power. Clause 19 gives freedom of conscience and the right freely to profess, practise and propagate religion. There is no use simply saying that clauses 19 and 20 give certain fundamental rights. We must see really what they are. I will now read the clause in full:—

'Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.'

This is the fundamental right given, and then there is the Exception to the rule which runs thus:—

'Nothing in this Article shall affect the operation of any existing law or preclude the State from making any law.

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practices.'

So, it is evident that we can legislate. The Fundamental Rights do not prevent our right. And the second exception is for social welfare and reform or for throwing open Hindu religious institutions of a public character to any class or section of Hindus. Then, clause 20 gives freedom to manage religious affairs and to own, acquire and administer properties for religious or charitable purposes. So, that is the law and we are within our rights in

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bringing this Bill. If that is not so, we will come to a ridiculous conclusion that the Contract Act and the Transfer of Property Act will not apply to this Province.

"One point made out by Mr. Natarajan was that we are taking power in this Bill empowering the Commissioner to prescribe rituals in temples. That is not the fact. It is wrong to say so. I will refer the hon. Member to clause 15. From it it will be seen that he is given only the general superintendence of all religious institutions and endowments. He has only to see to the proper management of the secular affairs of religious institutions and to the due performance of rituals, ceremonies and other religious observances therein. I am only citing one example, though there are several such instances. The section does not give the Commissioner power to prescribe what particular *mantrams* should be spoken by the *Archaka* or what *Agama* or *Sutra* should be uttered by the *Archaka*. It only gives him the right to see to the due performance of rituals. Suppose an *Archaka* refuses to perform rituals, as things happened in Malabar in a particular case. There, after the passing of the Temple Entry Act, the *Archaka* refused to perform the rituals, as untouchables had entered the temple. Thereupon the trustee closed the temple, declaring that he did not want anybody to enter the temple. In such a case it is the duty of the Commissioner to see to the due performance of rituals. I can quote to the House some sections in the Bill showing that power is taken only to manage religious affairs and to administer properties of religious or charitable institutions. Practice or profession of religion is not at all touched. Mr. Bhima Rao and Mr. Natarajan quoted Mysore law and said that no difference had been made out between *maths* and religious institutions. I will ask the House to refer to clauses 30 to 38 which show that *maths* and specific endowments have been specially dealt with. Such religious institutions have been treated separately under clauses 39 to 42.

"Why should we not take power to manage *maths*? The way in which our so-called Hindu *maths* are protecting religion, if I am to give all the instances in my mind, it will take much time and I will confine myself to one example. Everyday in our Headquarters hospitals poor women give birth to children and die. The orphans are there and in many cases they are Hindu orphans. In all those cases not even a single Hindu *math* or religious institution takes charge of them. It is the Christian missionaries who take hold of the children and look after them. I thank them for their humanity. I wonder whether the tremendous love of the Hindu *matadhipathis* or of those who oppose this Bill protects the principles of Hindu religion. The other day a District Medical Officer informed me that there were five Hindu orphans and asked me, 'what am I to do with them? The Government do not allow me to keep them here.' Fortunately, the *Gandhigram* at Chinnalapatty offered to take those children and maintain them. It is an institution which is not maintained by

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those *matadhipathis* or *maths*, but maintained by others on pure humanitarian considerations. What are these *matadhipathis* or monastery people who are supposed to do propagation of Hindu religion and preserve Hindu religion doing, I ask? Then, the most unfortunate part of it is that Mr. Bhima Rao thought that the Dravida Kazhagam of Mr. Ramaswami Naicker, who is familiarly known as Periyar, which condemned scriptures supported this Bill. Sir, misfortune brings together strange bed-fellows. Simply because the Dravida Kazhagam support this Bill, does this Bill become bad law? Suppose a man, an undesirable person, supports a measure. Then, merely because an undesirable person supports it, does that measure become a bad measure?

"Mr. Natarajan gave five instances of interference by State with rituals. I challenge him to show one case where the Commissioner proposes to interfere with the religion or ritual or religious practices.

"Then, reference was made to the application of *cypres* doctrine. There are institutions endowed by great people where the temples have been lost. There is nothing to be managed. Property is there; it is being eaten by the trustee. What shall we do with that property? It is not as if Government have taken over the property for revenue purpose. Even Mr. Venkataswami Nayudu was doubtful about the possibilities of clause 45. The clause runs thus:—

"The Deputy Commissioner may, on being satisfied that the purpose of a religious institution has from the beginning been, or has subsequently become, impossible or incapable of realization, or that the machinery for effectuating such purpose has failed or no longer exists, or that after providing adequately for the purposes of the institution and after setting apart a sufficient sum for the repair and renovation of the buildings connected therewith, there is a surplus, by order direct that the endowments of the institution or such surplus as is declared to be available, as the case may be, be appropriated to religious, educational or charitable purposes not inconsistent with the objects of the institution."

Those are the conditions in which the *cypres* doctrine will apply.

"As regards the qualifications of Commissioner, somebody doubted whether Hindus alone will be appointed. I have known of cases of theft of temple property where the *matadhipathis* were willing to allow officers, to whatever caste they may belong, to enter the holy precincts for purposes of detection. Clause 10 specifically says that all officers and servants appointed to carry out the purposes of this Act shall be persons professing Hindu religion only. The most vehement attack that was made was about clause 6, about vesting. What has been vested, Sir? Clause 6 says:—

"The general superintendence of all religious institutions and endowments shall vest in the Provincial Government."

So it is not temples that have been vested. The Mysore law speaks of supervision, control and regulation. In our Act, there is provision for general superintendence and so it is not the properties of institutions that are to vest but it is the superintendence, regulation and maintenance of endowments. If we can make a distinction between or draw a line where the religious aspect ends

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and the secular aspect begins, then there is no scope for confusion. There is nothing to be afraid of. It is very definite from the beginning in the Bill. Mr. Natarajan said that the Premier gave a number of cases where the institutions have been mismanaged and scheme suits have been put in. Mr. Krishnamurthi very rightly cited one case where a suit has been going on for twelve years and still the suit is not over. There are several such cases, for when a temple is declared to be a public temple, immediately the trustee files a suit before the Commissioner and on his decision an appeal is filed in the District Court to bring the temple under the old management and this continues for several years. Such cases have been very many. Finally, Sir, it is very uncharitable to suggest that the authors of this Bill have the same objects as the Dravida Kazhagam in bringing this measure."

* THE HON. SRI O. P. RAMASWAMI REDDIYAR :—" Sir, after I last spoke on the subject in the other House, I notice a marked change in the climate of opposition opinion. Many who genuinely feared that the Bill might interfere with religion are now convinced that the Bill would promote healthy development of religious institutions. It is no longer the godly who are worried, but the godless. This godless tribe apprehend that when temples prosper and charitable institutions thrive and true religion takes hold of the masses, they will be deprived of the material for destructive propaganda. Even those, who while sympathizing with the objects of the Bill yet entertain genuine doubts as to whether it has not gone far, do now feel reassured, as they realize that the Select Committee will impartially consider the various suggestions put forward by them. After this lapse of time, therefore, and after watching the reactions of public opinion to my last speech, I am glad to say that to-day, I am able to speak before this House with added strength and firmer conviction in the urgency and soundness of the measure than ever before.

" Sir, I have been accused of being a religious reformer and of having donned the mantle of a self-appointed prophet. I am afraid that is too big a compliment for me. I can only claim to have been a devout Hindu all my life, striving to understand the basic teachings of the Vedas, the Upanishads, the Prabandhas and Thevarams and, in my humble way, to translate them into practice in daily life. What my religion teaches is very simple. It teaches tolerance, it teaches love; it teaches service to humanity and service to God. It teaches that in the eye of God everyone is equal; and it teaches that the temples are the portals of Higher Life. To understand these teachings, Sir, to translate these teachings in daily life and to see that the Governmental machinery is so devised that the corporate bodies in charge of religion translate them into practice—these simple aims do not require one to be a religious reformer, do not call for one to be a seer or a prophet. They only require one to be dutiful to his faith and that is all. It is my duty to be. I have a duty to my religion and I have a duty to the people, and I find the two do not conflict.

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" It has been said that the State is a materialistic body and that there should be no confusion of functions with spiritual institutions. But, Sir, the measure under discussion does not seek to interfere with spiritual side of religion at all. On the other hand this measure can only promote spiritual welfare. But Sir, our aim is limited. The Bill seeks to attend only to the material side of the religious institutions, to the proper administration of their lands and finances. This the State has been doing all along, in all times and in all climes. Those who object to Government regulating the temple properties and trusts, those who object to Government checking and auditing temple funds, those who object to Government insisting that charitable institutions should spend their funds in fulfilment of the pious wishes of the original donors, Sir, these objectors do not object to a non-Hindu, or a free-thinking Judge giving a decision as to whether priest 'A' or priest 'B' should do the puja, whether trustee 'X' or trustee 'Y' should receive the prasadam first, whether the temple elephant should have caste mark this way or that. Dharma Acharyas who lay claim to be the sole interpreters of the sacred law do not object to stand before the non-Hindu judges of a materialist State and take their decisions in religious matters, in matters of rituals and pujas. But when public funds are wasted, when temples are deserted and the owl and the bat are allowed to reign supreme, and when Government seek to put an end to these things, only then comes the objection that the materialist State should not decide for religious institutions.

" Much has been made of the Secular State provisions in the Draft Constitution. I have already made it clear that those provisions do not clash with the object of this Bill. If, however, any doubts had lingered, the recent statement of Pandit Jawaharlal Nehru at Godhra must have dispelled them. Addressing a large gathering on the banks of the Mashwee, Panditji said that the Secular State 'did not mean that we were to be irreligious or a nation of atheists. By a Secular State is only meant that every individual in it was free to profess any faith he chose and no disability should rest on him by reason of his faith.' Does this mean that temples should be neglected, that trust properties should be mishandled and misappropriated, that religious education should be neglected and sanitary and hygienic precautions in places of worship should be ignored? Does it mean that the temple funds should be frittered away in costly and needless litigation that does no good to the religious well-being of the devotees? Does it mean that at a time when food problem is so acute, the temple lands should be neglected or indifferently cultivated? Does it mean that the temple tanks should continue to be filthy and dirty and be the breeding farms of a thousand and one diseases? Does it mean that all these things should take place and because there is some mention of the Secular State in the Draft Constitution, Government should continue to tolerate these social and economic evils?

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"In the other House I submitted a long list of sixty-five cases of misappropriation and mishandling of temple and trust properties. I pointed out that the list was not exhaustive. Since then hundreds of similar instances happening from the early days of the Board have been brought to my notice, and the Board was powerless to prevent them. Lands have been leased, mortgaged and sold on questionable terms and under suspicious circumstances. And often the interference of the Board only meant waste of additional public funds on litigation. The Board had to remain a helpless spectator of innumerable cases of flagrant misappropriation and illegitimate diversion of religious and charitable funds.

"Sir, it is needless for me to take up the time of the House any longer with this question. The objects of the Bill are very simple. There is no innovation, and I am no religious reformer. Over twenty years ago it was found necessary to regulate temple funds and properties and an Act was passed. We found that Act ineffective. We are making it effective. That was inadequate. We are making it adequate. That was halting. We are making it full. It is but an amplification of a measure already begun. It is the sheer result of logic of events. Two decades of the Board's ineffective working has led to this. I fail to see how such a simple and necessary piece of legislation, whose principles have already been accepted and written into in the Statute Book, can arouse any controversy. I have, therefore, every hope that this House would give the measure the support it abundantly deserves. In doing so, I look forward to the valuable and constructive suggestions of the Members in the Select Committee. I am confident that the Select Committee will give them full consideration and effect suitable changes consistent with the underlying objects of the Bill. With these words, Sir, I earnestly appeal to the support of this House for this measure at all stages of its career until it emerges as law."

* THE HON. DR. T. S. S. RAJAN :—"I am very thankful to the Members of this House for the very practical way in which they have dealt with this question. At the outset I assured them that we were not going into the details of the Bill. At the introduction stage I took particular care to see that the principles involved in this Bill are made clear and I gave sufficient guarantee and assurance about the nature of the Bill itself. I also explained clearly the limitations that this Bill imposed on the Government. The speeches of my Colleagues the Hon. Mr. Madhava Menon and the Hon. Premier have made my point very clear and so distinct that it is unnecessary for me to cover the same field. As far as the discussion was concerned, there was more support than criticism of an adverse nature. I can understand the hon. Mr. Natarajan making an appeal to the Government to reconsider some of the clauses which appear to him to be very stringent, particularly clauses relating to the rights till now enjoyed by the Matadhipathis and trustees. We are not unaware of them. We will certainly take as much care as is necessary and deal with the people against

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whom this Bill will operate with all respect that is due to them. But I must make it clear that we shall not out of considerations of a sentimental nature make the Bill useless. That we should not do. I give this assurance for what it is worth. In the Select Committee stage and the further stages of this Bill, we shall not ride roughshod over the sentiments of people which have been nurtured by habits of years past, at the same time reserving to ourselves the right to consider the inherent justice of the claims put forward. To set right glaring defects is the real object we aim at. My hon. friend Mr. Bheema Rao struck me as being unnecessarily ultra-orthodox in his sentiments. If only I argue as he does, I know I will land myself in an absurdity. The Temple Entry Act is in force. There is the head of a religious Math who could not compromise himself to this legislation. He enjoined that those of his disciples who go to temples in which Harijans enter should not come to his Math. This is a very innocent way of making the Temple Entry Act useless in a way. Some of the disciples respected his ukase and did not go to the temples. What does the result of this absurdity mean? The image of God is installed in a big temple and large sums of money are endowed for the temple. If Harijans are admitted in the temple, the head of the Math says that the others who go there become polluted. This is one of the several funny absurdities to which religious fanaticism might lead people. It is wrong to say that we are throwing Hinduism to the wolves. Hinduism is subject to the law of the land as much as any other ism in this land of ours. No gentleman, however high his position in his community may be, shall be allowed the right to nullify the effect of an Act by saying that those who go to the temples to which Harijans are admitted become polluted and that they should not come to his Math. That certainly is wrong according to us. On that plea, people should not quarrel with us and say that we should not interfere with that Math. There are limits to which arguments can be carried on both sides. We shall not undeservedly interfere. We have respect for the sentiments of the orthodox people. Out of a misguided knowledge of things and out of absolute ignorance of political conditions in the State, the orthodox people might feel hurt. But Government cannot take notice of them. We will have to do what is right. It is only in that spirit that we want to take the responsibility in our own hands. I am saying this over and over again, because there seems to be some confusion in the public mind. That confusion is absolutely unwarranted. It is wrong to say that the Government are interfering with religion. That certainly is not the intention of the Bill that is going to be considered. After listening to the speeches in this House, I am glad to say that I feel strengthened in the attitude we have taken in pursuing this Bill and committing it to a Joint Select Committee. I may assure this House that in the Select Committee we shall not prevent any section of opinion giving evidence, and the Select Committee shall carefully consider all such evidence.

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"Sir, in a matter like this which rightly or wrongly concerns the people's faith, the Government cannot but be oversensitive and therefore what I say is that every consideration shall be given to all the views that are expressed and all the communications that are received from various schools of thought with regard to this matter and these shall be carefully gone into by the Government at the Select Committee and with this assurance, Sir, I want the House to accept the names of members that I am proposing for inclusion in the Joint Select Committee which is to be constituted to consider this Bill. In mentioning the names of the Members of the Select Committee, I may tell the House that I have taken into consideration the opinions expressed by various members of this House and have also had consultations with the leaders of the various groups and I have selected the following ten members who are to be included in the Select Committee, which I hope, the House will accept :—

The Hon. Sri O. P. Ramaswami Reddiyar.

The Hon. Dr. T. S. S. Rajan.

The Hon. Sri K. Madhava Menon.

Sri N. Ranga Reddi.

Sri K. Venkataswami Naidu.

Sri S. B. Adityan.

Sri M. Narayana Menon.

Sri M. D. T. Kumaraswami Mudaliyar.

Sri D. Manjaya Hegde.

Sri R. Suryanarayana Rao."

MR. PRESIDENT :—" I should like to know whether the Hon. Mr. Bhima Rao is pressing his amendment."

SRI B. BHIMA RAO :—" I know, Sir, what would be the fate of my amendment if I press it for a division and therefore I do not propose to press it. I shall withdraw it with the leave of the House, Sir."

MR. PRESIDENT :—" I suppose the House gives permission to Mr. Bhima Rao to withdraw his amendment."

The amendment was by leave of the House withdrawn.

MR. PRESIDENT :—" The motion is—

' that this House concurs in setting up a Joint Select Committee of the two Houses consisting of 30 members (20 members from the Assembly and 10 members from the Council) to consider the Madras Hindu Religious and Charitable Endowments Bill, 1949 (L.A. Bill No. 10 of 1949), and that the following members of this House be nominated to the said Joint Select Committee :—

The Hon. Sri O. P. Ramaswami Reddiyar.

The Hon. Dr. T. S. S. Rajan.

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The Hon. Sri K. Madhava Menon.

Sri N. Ranga Reddi.

Sri K. Venkataswami Naidu.

Sri S. B. Adityan.

Sri M. Narayana Menon.

Sri M. D. Kumaraswami Mudaliyar.

Sri D. Manjaya Hegde.

Sri R. Suryanarayana Rao.' "

The motion was carried.

THE MADRAS LEGISLATIVE COUNCIL.

Friday, the 19th January 1951.

The House met in the Council Chamber, Fort St. George, at eleven of the clock, Mr. Chairman (THE HON. SRI R. B. RAMAKRISHNA RAJU) in the Chair.

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[19th January 1951]

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS
BILL,^a 1949 (L.A. BILL NO. 10 OF 1949).

THE HON. SRI K. MADHAVA MENON:—“ Mr. Chairman, Sir, in the absence of the Hon. Dr. T. S. S. Rajan, Health Minister, who is in charge of this portfolio, and who, as you are aware, has so ably and admirably piloted this Bill in all its main stages, in the Joint Select Committee and in the other House, I have been asked by him to move that the Madras Hindu Religious and Charitable Endowments Bill, 1949 (L.A. Bill No. 10 of 1949), as passed by the Assembly, be taken into consideration. In doing so I should like briefly to mention, at the outset, a few relevant facts which will help in a proper understanding and appreciation of the Bill in its correct perspective.

“ Dr. Rajan my Hon. Colleague has taken upon himself this task, more as a labour of love and for over 18 days attended to all the details of its passage in the other House. But the flesh proved weaker than the spirit and the arduous task was too much for him. He has been ordered to take rest for sometime. But I am glad to be able to tell you that I expect him to be here with us again before we close our discussion of the Bill in this House. Let us hope and pray that he will return to us refreshed by the rest he has taken, to guide us aright at the end, as he has done at the beginning. He has unique qualifications for this task, to which I do not pretend to lay any claim, except that I have imbibed some of his spirit and enthusiasm during the period I have had the privilege of working along with him on this Bill, for the last two years. He was born and bred up in an orthodox Hindu Brahman family in the holy town of Srirangam under the very shadow of the great temple of Sri Ranganatha, the Lord of the Universe. Providence in the Infinitude of Its Wisdom and Grace has so ordained that such a person should be the Minister in charge of the subject in the first truly National Government that administered the affairs of this State. With his quick grasp of any material placed before him, my Hon. Colleague soon perceived that the present Hindu Religious Endowments Act was defective and inadequate in several respects to achieve the goal aimed at by that great statesman of South India, the late Rajah of Panagal, who introduced for the first time in India a comprehensive legislation on the Hindu Religious Endowments. Under the directions of Dr. Rajan a Bill was first prepared by the then President of the Hindu Religious Endowments Board, Sri A. Kondappa, and it was revised thoroughly by Dr. Rajan himself in 1939. The World War, and the resignation of the Congress Ministries throughout India shortly thereafter, unfortunately prevented this extremely necessary and urgent piece of legislation from being placed on the Statute Book for over a decade.

“ As soon as the new Congress Ministry was formed, no time was lost in taking up the question again and the Draft Bill, based mainly on the original Bill of 1939, was published in the latter half

^a Published in the *Fort St. George Gazette*, dated 14th January 1949 and also printed as Appendix on pages 35-36 infra.

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of 1947. Our preoccupation with that great ameliorative measure for the masses, the first of its kind in India again, the Estates Abolition Act and the Rent Reduction Act and other important measures that could not brook any delay prevented us from proceeding with this Bill forthwith. But my distinguished friend, the Hon. Sri O. P. Ramaswamy Reddiar, did not allow the grass to grow under his feet. With his characteristic zeal and enthusiasm bordering on religious fervour and by dint of his unremitting labours, he succeeded in placing this Bill again before the Legislature, as soon as the urgent measures referred to above were finished. The intervening time had been utilized by the Secretariat, under his directions, in improving upon several features of the Bill, in the light of the criticisms offered by various individuals and associations interested in religious institutions.

“ The second draft, which is a great improvement, in several respects, upon the original Bill of 1947, was published in January 1949 and presented to both Houses of the Legislature. We felt, however, that even then the public were not sufficiently consulted on a matter of such vital importance concerning our spiritual as well as material welfare. Consequently, on introducing the Bill in the Legislature, both the Houses decided to set up a Joint Select Committee and it invited not only memoranda on all aspects of the Bill from everyone interested in it, but also to take oral evidence as well, of individuals having special knowledge and opportunities for study and thought on the subject. This took a considerable time. As Hon'ble Members who were on the Joint Select Committee are aware, several important clauses have been altered, as a result of their deliberations, in the light of the evidence tendered before them.

“ Let me here and now pay my tribute and express on behalf of the Government their deep sense of gratitude to the Members of the Joint Select Committee for the conspicuous ability and industry with which they worked on the Bill and improved it. I think I will be discharging this duty best, if I read the relevant portion of the speech of my Hon. Colleague who paid a very handsome compliment to the Joint Select Committee in the Legislative Assembly, when presenting that Committee's Report and moving for the Second Reading of the Bill. He said—

“ Let me express my grateful appreciation of the manner in which the Members of this House and those of the Upper House who constituted the Joint Select Committee carried out the task entrusted to them. Voluminous written memoranda covering about 550 pages of printed matter were presented to the Committee by various associations and individuals interested in religious institutions. In addition, a number of persons representing many schools of thought and important religious institutions including maths gave oral evidence before the Joint Select Committee. The material thus gathered was then arranged and sifted, and further subjected to a detailed examination by the Committee. Some 50 issues were framed and the Committee discussed these issues at some considerable length and settled the principles on which the Bill should be amended. In the light of the decisions of the Committee on the several issues framed for its consideration, the Bill was redrafted. The Committee then took up a detailed examination of the Bill clause by clause, as a result of which they suggested various amendments. These amendments were again duly incorporated in the Bill, and a second revised draft was printed and put up to the Committee

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for its consideration. For a second time the Joint Select Committee scrutinized the provisions of the Bill, clause by clause, and then suggested a few alterations which have been finally incorporated into the Bill as republished in the present form in February 1950. The House will thus see that the Joint Select Committee took great pains to examine every one of the clauses in the Bill with reference to the criticisms and suggestions for amendments made in the oral and documentary evidence before it. As a result of their labours the Bill has been amended and improved in various respects.

"In his speech of 11th September 1950 in the Legislative Assembly from which I have just now quoted, the Hon. Dr. T. S. S. Rajan dwelt at length on the salient features of the Bill which the Government claim to be wholesome and substantial improvements of a far-reaching character over the existing Act, and has also not only referred to the outstanding contributions made by the Joint Select Committee, in improving the scheme and structure of the Bill and moulding it into its present shape, but has also reviewed in retrospect what had already been done in the direction of improving the administration and conserving the resources of the religious institutions in this State during the past 25 years of the administration of the Hindu Religious Endowments Act. It is not, therefore, necessary for me to traverse the same ground over again here and weary you with all the details. You will have all followed the discussion of this Bill in the other House and will have known the final shape of the important clauses of the Bill.

"I will therefore on this occasion content myself with a brief reference to two or three of the most vital features under each one of the above two main categories, namely,

(1) improvements over the existing Act which the Government claim to have made in the Bill and which have survived the minute and critical scrutiny of the Joint Select Committee, and

(2) the contributions made by the Joint Select Committee during its deliberations as a result of the suggestions made in the memoranda presented to, and the oral evidence tendered before it."

MR. CHAIRMAN :—"The House will now rise for lunch and re-assemble at 3 p.m."

The House then adjourned for lunch.

(After lunch—3 p.m.)

THE HON. SRI K. MADHAVA MENON :—"As the Statement of Objects and Reasons appended to the Bill first published in 1947 would clearly show, the main and perhaps the most fundamental change effected by the Bill is the provincialization of the Hindu Religious Endowments Board's officers and staff into a Department of Government. The Board has been pressing for this for quite a long time. The first Congress Ministry, presided over by our revered Rajaji who is still happily serving the interests of the country in a higher sphere after relinquishing an even more exalted office, accepted this in principle in the first draft of

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the Bill prepared in 1939 referred to by me earlier. And the provisions relating to this provincialization have continued to form an integral part of the present Bill in all its stages from 1947 onwards. The main opposition to this came curiously enough from an unexpected quarter. It is said that these provisions offend the fundamental rights guaranteed by the Constitution of India. The whole question has therefore been fully examined by two eminent lawyers who have held with distinction the high office of Advocate-General of this State successively, in the course of the passage of this Bill. Sir, you will permit me incidentally to pay the meed of praise so richly deserved by the two Legal Advisers of the State for the great patience with which they have examined the Bill in detail and the profound learning they brought to bear on the subject. Both of them came to the conclusion that there is nothing repugnant or opposed to the Constitution in the provisions regarding provincialization of the Board's officers and servants. But let us examine whether, apart from the narrow technicality of the law, there is any real substance in the objection. Madras State has not only an overwhelmingly preponderating Hindu population but also the largest number of Hindu Religious Institutions in India; and though we are a secular State, I ask what is wrong in such a State taking steps for safeguarding the proper administration of the Hindu religious and charitable institutions, most of which were richly endowed by the ancient rulers of this land. It is not denied that in the neighbouring States of Mysore and Travancore-Cochin, the State has been exercising for centuries a higher degree of control in various aspects than has been ever contemplated by us. While the law may look to these technicalities and possibilities, you, as administrators and statesmen, have to look to realities and you will easily discover how baseless is this opposition to the supervision of the administration of Hindu religious and Charitable institutions by the State.

"Another important improvement in the Bill over the existing Act is the addition of the word 'Charitable' to its title. This itself is meant to signify that, while the existing Act applied only to religious institutions, an express provision is made in the Bill for its extension to charitable endowments as well. This has been a crying need all along. Maladministration and misapplication of public funds have been as rampant in the case of charitable endowments in this State as in respect of temples and maths. The present law relating to charitable endowments is not sufficient to prevent mismanagement. Under Regulation VII of 1817, the control of charities is vested in the Board of Revenue. Owing to the multifarious duties which the Board of Revenue has to perform and owing to the very large number of charitable endowments scattered all over the State, the Board has not been able to exercise any effective supervision over the administration of charitable endowments. No doubt, there is the remedy open to the public in cases of misappropriation or misapplication of trust funds relating to charitable endowments by filing suits under Section 92 of the Civil Procedure Code,

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with the Advocate-General's consent. But the filing of a suit generally means great expense and trouble and so, in practice, this provision has been rarely availed of by the general public. Charitable endowments are public trusts just in the same way as religious endowments are, and there is no reason why adequate arrangements should not be made for their supervision with a view to prevent maladministration and misappropriation of funds. In England, the jurisdiction of the Charity Commissioners extends to secular as well as religious charities.

"The third improvement is the restriction of the scope for litigation and the consequent wastage of the funds of religious institutions. Here I crave the permission of the House to quote again from the speech of my Hon. Colleague, Dr. T. S. S. Rajan, made on 11th September 1950 in the Legislative Assembly, as it forcibly brings home the importance and magnitude of this improvement in the Bill over the existing Act.

"One of the unfortunate results of Act II of 1927 was the abundant crop of litigation that sprang up in regard to every conceivable matter dealt with by the Board. While the Board of Commissioners were vested with original jurisdiction in respect of all matters pertaining to religious institutions, the Act allowed parties, fancying themselves to be aggrieved by its orders, to appeal to law courts and to question the correctness of the Board's orders in almost every matter. The trustees of temples, taking advantage of the fact that they are in possession of temple funds, indulged in endless litigation. Some of them revelled in it. I need not take up the time of the House now with a catalogue of the numerous instances in which this right of appeal to law courts or to file suits before them, has been abused. In my speech while introducing the Bill in this House on the 4th February 1949, I have described in some detail the ridiculous straits to which litigation was reduced, particularly in matters of ritual, some of which do not, in my opinion, affect in the least the fundamentals of religion. I have no doubt this House will agree with me that as a result of such reckless and cantankerous litigation, there has been enormous wastage of public funds, and there was also great and unconscionable delay in several matters in giving effect to the decisions of the Board."

"Turning now to the outstanding contributions made by the Joint Select Committee I would mention first and foremost the new provisions made by it for the constitution of the Area Committees, which we have finally decided to form throughout the State, in order to associate the public more closely with the administration of the new department. These are, so to speak, the lineal descendants, the legal heirs and successors of the old Temple Committees, which were constituted, when the East India Company wanted to be relieved of the responsibility of looking after the Hindu Temples and Mutts at the instance of Christian missionaries and which continued to exist in some form or other, till they were abolished altogether by the amending Act of 1944 passed during the Advisers' regime. The Temple Committees were, no doubt, the cause of many a headache to Dr. T. S. S. Rajan, during his first term of office in 1937-39, as well as to his predecessors. They had to be abolished owing to the factious spirit displayed by them, combined with a deplorable lack of interest in their work and their anxiety to abuse their patronage, oblivious of the welfare of the institutions committed to their charge. The provision for the constitution of Area Committees did not find a place in the draft as published in 1947, or even in that published in 1949. But we, as a popular Government

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deriving authority from the will and support of the people and seeking their co-operation to the fullest possible extent in all directions, have accepted the suggestion of some hon. Friends in the Select Committee to revive them, though in an altered form. They will be presided over by the Assistant Commissioners, who have been trained to discipline and integrity and who may therefore be trusted to guide them aright and see that the ugly features which disfigured the work of the earlier committees do not raise up their heads again, after their revival. We do sincerely wish and hope that the experiment will succeed with the active help and co-operation of hon. Members.

"Another important contribution made by the Joint Select Committee is the addition of a set of special provisions relating to institutions getting an annual income of Rs. 20,000 and more. A great English thinker has said that 'Just as mercy is twice blessed, patronage is twice cursed. It curseth him that gives as well as him that takes.' It is this abuse of patronage that has been the besetting sin and snare of all democratic administrations all over the world. Therefore, when we decided to revive the Temple Committees, we decided also to take out of their purview institutions getting an income of over twenty thousand rupees. These will be administered by a Board of Trustees consisting of not less than 3 and not more than 5 members appointed by the Commissioner. We have taken the additional precaution of not allowing the Commissioner to delegate this power to even the Deputy Commissioner, as he might delegate other powers, in order to ensure that this power is exercised in the best interests of the institutions by the highest authority under the Government. More we cannot do by legislation and we hope that this special provision will result in smooth and harmonious administration of the bigger institutions and will be beneficial to the public and the institutions alike.

"The Joint Select Committee has also enlarged the jurisdiction of the Civil Courts, by providing for the right to file suits in respect of matters decided by the Deputy Commissioner in the first instance and by the Commissioner on appeal. In the Bill, against the orders of the Commissioner only an appeal to the High Court was originally provided. The Joint Select Committee, however, decided that it would be better to provide a right to file a suit in the first instance instead of an appeal straightway to the High Court. Consequently, a provision has been made that against the decision of a Commissioner in certain cases a suit may be filed in the Court of Original Civil Jurisdiction in the mufassal and in the City Civil Court in the Presidency town, and that against the decree of the said Courts appeals may be filed in the High Court. Though a suit has been provided for from the orders of the Commissioner, the powers of the court have been restricted, so as not to stay the Commissioner's orders pending the disposal of the suit.

"Having dealt with a few of the prominent features of the Bill which constitute distinct improvements over the existing Act and a few of the more important contributions made by the Joint Select

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Committee, I will now pass on to the amendments either moved by the Government themselves, or accepted by them during the Second Reading of the Bill in the Assembly. Here, again, I will not burden the House with all the minor details, but will confine myself to a brief reference to the more important among them. As hon. Members are aware, my Hon. Colleague moved for the Second Reading of the Bill in the Legislative Assembly on 11th September 1950. All the details of the Bill were fully and completely thrashed out, clause by clause, during the 17 days that the discussion of the measure in the Second Reading occupied in that house. The number of amendments tabled reached a record figure of over 400 and the majority of them were moved and discussed. I may here prominently bring to the notice of this House that even after the Second Reading of the Bill in the Assembly commenced, we had very carefully re-examined the whole Bill with the assistance of the Advocate-General, in the light of the general criticism offered in the other House and the amendments given notice of by some of my hon. Friends. As a result, a good number of their amendments had, in substance, been taken up by us as Government Amendments and have now been embodied in the Bill, as it has emerged from the Second Reading. For instance, original clause 7, conferring on the Government general powers of superintendence over all religious institutions, has been taken away altogether, mainly in deference to public criticism. The provision relating to the utilization of surplus funds originally embodied in clause 64 of the Bill has now been removed from it and, after considerable modification, has been shaped into the present clause 31 as passed by the Assembly in the Second Reading.

"The main change made in respect of this provision is that while the original clause 64 empowered the Deputy Commissioner, *inter alia*, to direct the appropriation of surplus income of religious institutions for any purpose specified in that clause, that power has now been transferred to the trustee himself. On the advice of the Advocate-General that the original clause 64, may lend itself to possible objection that it might be construed as offending Article 26 (d) of the Constitution, which entitles every religious denomination, or section thereof, to administer its property according to law, it has been provided in the new clause 31, that when the trustee of an institution considers that the surplus should be spent on any of the purposes specified in old clause 64 (present clause 59), he should himself take the initiative and spend it for such purposes, after obtaining the Deputy Commissioner's sanction. The element of compulsion has thus been removed and the trustee has been invested with a substantial measure of discretion and autonomy.

"Likewise, in the original clause 56 (present clause 51), amendments have been made giving greater autonomy to the trustees and reducing the scope for interference by the Deputy Commissioner. Clause 67 of the Bill as presented to the Assembly (present clause 62 before the House) has been substantially modified by providing for filing of suits in Civil Courts in all matters dealt with under original

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clause 62 (present clause 57). In other words, the right to file suits in Courts has now been extended to the following matters also:—

- '(1) Whether the trustee holds, or held, office as a hereditary trustee; and
- (2) whether any person is entitled, by custom, or otherwise, to any honour, emolument, or perquisite in any religious institution; and what the established usage of a religious institution is in regard to any other matter.'

We have accepted the principle that wherever a question of right or title to property arises, the final decision should be with the Courts.

"Another very vital amendment which the Government themselves moved is the deletion of clause 40 which empowered the appointment of non-hereditary trustees even in cases where there were only hereditary trustees, and which provided for the compulsory appointment of an executive officer for each institution having an annual income of over Rs. 20,000. The Government have also modified the whole series of clauses dealing with such institutions.

"The Government also moved for the deletion of clause 86 of the Bill providing for the constitution of an Advisory Council consisting of the representatives of the jiyengars, the archakas, the acharyapurushas and other mirasdars of the Tirumalai-Tirupathi Devasthanams, in order to avoid any argument that the Bill interferes with the religious affairs in contravention of Article 26 (b) of the Constitution. Finally, the Government themselves moved for the addition of the new clause 92 which expressly provides that nothing in this Bill shall be deemed to violate the provisions of Article 26 of the Constitution.

"Indeed, it is very doubtful whether any Government Bill, which had already been considered for such a long period as three years, had such a huge list of further amendments covering over ten pages of printed matter, to be moved by the Government themselves in the Second Reading of the Bill in the Assembly. As Dr. Rajan has pointed out in the other House, "all these will clearly show that far from trying to thrust our own views on the public with the aid of a well-drilled majority, we have been most responsive to public opinion in the matter, and have tried our best to satisfy public sentiment on the subject to the greatest possible extent, compatible with the preservation and proper utilization of the resources of these institutions." for the purposes for which they are intended.

"And now the Bill comes before you, recast and greatly improved in the course of this long process of study and discussion. The task of the hon. Members of this House is, if I may say so, in one sense, an easier and in another, a difficult one, than that of the other House. It is easier, because all the preliminary spade work has been done already in the matter of clarification of various points and the modification of clauses of doubtful importance. It is difficult in the sense that hon. Members have to focus their energies all the more to the task of scrutinising the Bill as a reviewing House of elders, by bringing to bear on its essentials the great weight of the ripe experience and mature wisdom associated with

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the Members of the Upper House in all Legislatures. Notice of as many as 55 amendments, have been already received by us, and we shall be presently discussing them. While it is open to us again to study every feature of the Bill, I would earnestly appeal to all hon. Members not to stress upon points already discussed threadbare elsewhere and get lost in a maze of petty details, but to concentrate on essentials, on new matters, which would improve the Bill in its more important and essential features, and thus promote the end we all have in view, namely, the purification of the administration of the institution dedicated to the service of God and Man.

"I have finished all that I have to say before commending, this Bill to your consideration. Mr. Chairman, Sir, I move—

'That the Madras Hindu Religious and Charitable Endowments Bill, 1949 (L.A. Bill No. 10 of 1949), as passed by the Assembly be taken into consideration.'"

MR. CHAIRMAN:—"I suppose the Select Committee Report has been circulated to the hon. Members."

THE HON. SRI K. MADHAVA MENON:—"Yes, Sir, it was a Joint Select Committee, and its report has already been circulated."

MR. CHAIRMAN:—"The question is—

'That the Madras Hindu Religious and Charitable Endowments Bill, 1949 (L.A. Bill No. 10 of 1949), as passed by the Assembly be taken into consideration.'"

SRI D. MANJAYA HEGDE:—"Mr. Chairman, Sir, I am constrained to say that I am opposing this Bill. In spite of the many changes just now stated by the Hon. Minister, the Bill is still faulty. It is against law and justice. The present Government is said to be a secular Government. But according to the present Bill, the Government seems to be more communal and sectarian. Under clause 59, sub-clause (1), the Deputy Commissioner may make arrangements for the propagation of Hindu religion and can open schools for the study of Hindu sastras. Is it not against the principles of Fundamental Rights of the present Indian Constitution? I say it is, Sir. If the Government want to do justice to all religious institutions, they should frame such a Bill that would be made applicable to all religious institutions including Mohamedan and Christian institutions. But they have selected only Hindu religious institutions, leaving the other religious institutions to their fate. Is it because they are not mismanaged and that there is no mal-administration among those other religious institutions? If they were well-managed, then there is no reason why hon. Janab Farookhi should have forward his own Bill to reform his own religious institutions. So I say this is more communal and sectarian in its very outlook. Therefore I oppose it.

"Again, the Government have ignored public opinion. In the Select Committee many prominent people were invited to give

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evidence, but many suggestions made by them were ignored. They stated that a Tribunal must be appointed as an appellate authority, but it was not taken into consideration. They said that curtailment of the powers of the Court should be avoided. But it is not done as far as I know. Clauses 78 and 79 and the sub-clauses go to show that the Fundamental Rights are in danger. No freedom is given to expression of views. The only justice that one can get is from the Courts, but the Government want to curtail that right to make their power more despotic and make the Commissioner a despotic ruler. Therefore we do not want to tolerate such things and I oppose this Bill."

SRI B. BHIMA RAO:—"Mr. Chairman, Sir, I regret that I also am obliged to sound a note of dissent with regard to the passage of this measure. This is a most inopportune time to bring forward a highly controversial measure of this kind at the fag end of the tenure of this House. This is a very highly controversial measure. Protests have been lodged not only by the humblest personages, but also, by the noblest individuals of the South. They interviewed the then Premier Sri O. P. Ramaswamy Reddiar and lodged their protests. It was two years ago, i.e., on the 18th, 19th and 20th January 1949 they sought an interview with the then Premier and they presented a Memorandum to him to exempt the maths from the operation of this legislative enactment. The gentleman who waited on deputation to the then Premier are Sri S. Varadachari, ex-Judge of the Federal Court; Sri N. Chandrasekara Iyer, at present one of the Judges of the Supreme Court; Sri Alladi Krishnaswami Iyer who was the then Advocate-General and one of the leading Advocates of not only Madras, but the whole of India, as well as Mr. T. R. Venkatarama Sastriar, the doyen of the Bar and President of the Indian Liberal Federation and also Sri K. Balasubramania Iyer. Not only these people, but representatives of various maths also presented Memoranda and pleaded that the provisions with regard to the maths are at variance and contrary to the principles of the Constitution and that this State which professes to be a secular State ought not to legislate for these maths which are largely of a religious nature. That was their plea and I need not read any excerpts from the printed representations made by the various gentlemen of the whole of Madras State to the then Premier. They contain this remark and you can judge therefore that an important body of people are opposed tooth and nail to the passage of this measure. In their Memorandum submitted on behalf of maths situated in the Madras State, it is said—

'The Government which, from time to time, will be established under a party system is particularly unsuited to control these religious foundations which have to be kept free from the caprices and political changes of parties in the country. If parties whose creed is anti-religion and anti-God and against religious foundations come into power, then there is every risk of these Mutts being injuriously affected. There is no safeguard provided in the Bill to prevent such a calamity to the Mutts. Moreover, the Bill seeks by clause (12) to include even personal gifts or offerings to heads of Mutts within the control of the Government. It enables, in clause (16) the officers of Government to enter the sacred precincts of the mutt and hence interferes directly with the Acharya's personal freedom.'

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"That clause (16) is now converted into clause 21. The Bill gives power to the Commissioner even to control rituals, ceremonies and religious observances in the math which are entirely within the jurisdiction of the head of the math as he is the sole spiritual authority. These are very highly objectionable and this kind of control which seeks to deprive the heads of maths of their autonomy and integrity should be dropped. Their apprehensions have turned out to be true because some of the provisions contained in this measure which they opposed have still been retained. As they say, Sir, the spirit of irreligion and iconoclasm is abroad at the present day. I think it is quite obvious as we see in the report in newspapers about the incidents in the south as well as in Kerala where that beautiful temple of Sabari on the Sabarimalai (Sabari Hills) was desecrated. So the spirit of iconoclasm is abroad and this time is not the opportune for the introduction of a revolutionary measure of this kind. After all the maths are engaged—have long been engaged—in inculcating spiritual culture to its disciples. I cannot accept the claim of the Central Government as well as our Government that this is a secular State when the enforcement of certain provisions of the Bill is definitely likely to result in an infringement of our right to worship freely and independently. I am sure they come within the clutches of the Articles of the Constitution.

"Now, Sir, I shall read only one or two clauses of the Bill to emphasise my objection to this measure. Clause 21, which most representatives have referred to, entitles any officer of the Government to enter the premises of a math. The words used there are 'religious institution' which include a math also. The clause reads—

'The Commissioner, Deputy and Assistant Commissioners and such other officers as may be authorized by the Commissioner or the Area Committee in this behalf shall have power to enter the premises of any religious institution or any place of worship for the purpose of exercising any power conferred, or discharging any duty imposed, by or under this Act.'

Sub-clause (2) says—

'If any such officer is resisted in the exercise of such power or discharge of such duty, the Magistrate having jurisdiction shall, on a written requisition from such officer, direct any police officer not below the rank of Sub-Inspector to render such help as may be necessary to enable the officer to exercise such power or discharge such duty.'

And sub-clause (3) provides that nothing in this clause shall be deemed to authorize any person who is not a Hindu to enter the premises or place referred to in it. Sir, of course, I have got the greatest regard for the members of the Harijan community and especially for Sri Muniswami Pillay who was a Minister during Rajaji's administration. Even he is against this provision and he has given expression to it both on the floor of the other House as well as in other places. I want the House to know what the Father of the Nation had said. Gandhiji pleaded for equality of treatment for the Harijans. I request you, Sir, to think for a moment that there is an orthodox Brahman community. The Sri Mathas and the Madhwas are reputed to be the most orthodox

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amongst the members of the Brahman community. Sir, we have one or two Madhwa maths in our State, the chief of which is Uttradhi Mutt. There are two sacred images of Sri Ramachandra and Sita in the Mutt. There is a tradition attaching to the two images. There were certain Brahmans during the days of Sri Ramachandra who would not take their breakfast unless they saw Sri Ramachandra. This practice is still continuing—although in a different way—in certain parts of Northern India—in Agra and Delhi. They are called Darsani Brahmans. Even during the days of Akbar they would not take their breakfast unless they saw the emperor who used to appear in the Jasmine Tower in the Fort at Agra. That has been the tradition. Once it appeared a member of the Brahman community was not permitted for some reason or other to see Sri Ramachandra. He immediately fell down and prayed: 'You are giving audience to so many and why not you permit me to see you?' Then Sri Ramachandra is said to have handed these two images to him asking him to see them whenever he felt like seeing him but could not come to the palace owing to ailment or indisposition. These are said to have come into the possession of the Uttradi Mutt in the following manner. I request I may be given five or ten minutes more, Sir."

MR. CHAIRMAN:—"The hon. Member may go on."

SRI B. BHIMA RAO:—"It is the tradition. One may scoff at this idea. These images had been preserved in Orissa and brought to Vijayanagar when the Muhammadan Kings destroyed Vizianagar Empire later—during the troublous days of the Muslim rule—and immersed in a tank in a village called Narayanadevareker which will be submerged now by the construction of the Tungabhadra Dam. In the Bellary district this tradition is universally known. In course of time the two images came into the possession of the Uttradi Math studded with diamonds, gems and emeralds of beauty and lustre. They may be worth one lakh or two lakhs of rupees. I am not an expert in valuing such precious stones. But if a Harijan gentleman is appointed as Commissioner or Assistant Commissioner under the Act he can enter the institution at any time for purposes of inspection and evaluation. Sir, often these images are taken out only during the time of worship. At the end of it, they put them in a receptacle which is kept there and afterwards they do not touch them till the next day. What I want to point out is that the person who is to evaluate under the subsidiary provisions of the Bill can say: 'They are valuable and must be in proper custody. You cannot keep them in this manner. You should take away the diamonds. They are worth nearly two lakhs of rupees. Why should these images be studded with such costly gems?' Sir in Bellary, nearly 3,000 people come to worship each day when the Swamiji of Uttradhi Mutt camps there. It may be that now there is not such a big congregation owing to food regulations. What would be the feelings of those who assemble there every day? Ladies congregate in larger numbers than the rest who are not so religious as they. What would be the feelings of the ladies on such occasions?

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if such a procedure is adopted and enforced? If anyone, for instance, causes disturbance at a Muslim congregation for prayer, then he becomes punishable under Section 295 of the Indian Penal Code. I know if anyone makes such a disturbance he will not return home alive. I do not want to go into further details. Now what happens if access to the institution is refused? If there is resistance, a case will be registered and the person concerned will be sentenced to six months' imprisonment and fine and so forth.

"Then, Sir, clause 100 empowers the Government to frame rules, among others, for the proper collection of the income of, and the incurring of expenditure by religious institutions. Now the Government may say, 'you must spend only so much, say one hundred rupees only and nothing more'. Sir, this is not fair. The Swami cannot tell his disciples, 'you go out, you cannot remain here since the expenditure has been ordered to be curtailed.' That is quite uncustomary, uncivil and unconventional from any point of view. Then, Sir, the Government can make rules for the custody of the moneys of religious institutions, their deposit in, and withdrawal from banks and the investment of such moneys. Now the Swami will be totally left in the lurch in that the Commissioner may order everything to be deposited in a bank. Then comes the case of jewels and other valuables and documents of religious institutions. The images of Ramachandra and Sita in the case of the Uttaradi Math may be termed a jewel inasmuch as they are studded with diamonds and they may be ordered to be kept in a bank. That means, we destroy religion altogether and the regular performance of the worship. Later comes the inspection and supervision of the properties and buildings of religious institutions. I say the Government are interfering with the free performance of worship of these Swamiyars in inspecting the properties in their charge, in the manner laid down in the Bill.

"Then, Sir, there is clause 87 which is a miscellaneous clause applicable to all religious institutions; religious institutions include a math according to the definition, and to all functions of the trustee of the religious institution in accordance with the provisions of this Bill. Sir, a Swamiji may be a trustee as well as a spiritual adviser. With regard to the main acts of management, the Swamiji gives instructions and with regard to minor details he leaves them to the subordinates in the math or the Dewan. Primarily he is also the trustee of the math and the definition itself for trustee, clearly shows that this also is included, that is the act of management by him is also contemplated. Sub-clause (19) of clause 6 defines a trustee as—

"'Trustee' means any person or body by whatever designation known in whom or in which the administration of a religious institution is vested, and includes any person or body who or which is liable as if such person or body were a trustee."

Sir, as I said with regard to the main acts of management, he gives instructions and smaller details are left to the Dewan to carry out the instructions. So the Swamiyar is not only the religious head but also a trustee in a sense.

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"Then, Sir, clause 87 says—

'Where a person has been appointed—

(a) as trustee or executive officer of a religious institution, or

(b) to discharge the functions of a trustee of a religious institution in accordance with the provisions of this Act, or

(c) as manager under section 56 or in any scheme framed by the Board before the commencement of this Act, and such person is resisted in, or prevented from obtaining accounts and properties thereof, by a trustee, office-holder or servant of the religious institution who has been dismissed or suspended from his office or is otherwise not entitled to be in possession or by any person claiming or deriving title from such trustee, office-holder or servant, not being a person claiming in good faith to be in possession on his own account or on account of some person not being such trustee, office-holder or servant, any Magistrate of the first class in whose jurisdiction such institution or property is situated shall, on application by the person so appointed, and on the production of the order of appointment, and where the application is for possession of property, of a certificate by the Commissioner in the prescribed form setting forth that the property in question belongs to the religious institution, direct delivery to the person appointed as aforesaid of the possession of such religious institution, or the records, accounts and properties thereof, as the case may be : . . .

This affects the maths also.

"Sir, I do not want to labour the point any further.

"With regard to the essentials of a secular State, a memorandum has been prepared by an able constitutional lawyer. He quotes from Mr. Thomas Jefferson's speech and says: 'I will conclude with the reply which Thomas Jefferson who played such a notable part in laying the foundations of a Secular State in America, gave to an address presented to him by the Danbury Baptist Association on January 1, 1802.' The following is the quotation from Mr. Thomas Jefferson's speech. I want to emphasize this for the attention of the House—

'Believing with you that religion is a matter which lies solely between man and his God, that he owes account to none other for his faith or his worship that the Legislative powers of Government reach actions only, and not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should make no law respecting an establishment of religion, or prohibiting the free exercise thereof, thus building a wall of separation between Church and State. Adhering to this expression of the supreme will of the nation in behalf of the rights of conscience, I shall see with sincere satisfaction the progress of those sentiments which tend to restore to man all his natural rights, convinced he has no natural rights in opposition to his social duties.'

This is an extract, Sir, from a famous speech of one of the Presidents of America, made a century and a half ago. If a State claims to be a secular State this is one of the principles that that State should follow.

"I am sure, Sir, I have quoted the various provisions of the Bill to indicate that the right of free worship by members of the Brahman community is in danger. Of course I stress this because, the Brahman community apprehend that their religion is in danger from this enactment and I am voicing their feelings in saying that this measure is designed to destroy their religion and their tradition and their right to worship.

"I regret, Sir, that the name of Hon. Sri Rajagopalachari and those of others were brought forward in this connexion. It was said that this Bill was prepared in the year 1939. Whatever one may

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say about Sri Rajagopalachari, he is a very conservative gentleman. You might remember, Sir, he introduced a Bill in the Central Legislature saying that every member of the Harijan community shall have free entry to every temple. But when he introduced here in this House a Bill of that nature, he confined it only to the Malabar district because it was very much advanced and at that time there was the Guruvayur Satyagraha led by Mr. Kelappan. He knew that that measure would be successful in the Malabar district. At that time there was a lot of criticism about that Bill being confined only to the district of Malabar. So also with regard to Prohibition. Of course there were other ardent gentlemen besides Sri Rajagopalachari, with regard to the introduction of prohibition throughout the State of Madras. When it came to practical application, in which district did he introduce it first? He introduced and confined that measure to his own district of Salem . . .

THE HON. SRI K. MADHAVA MENON :—" The first temple entry was in Madura and not in Malabar district. (An hon. Member : ' That was an Ordinance. ') Whatever it may be, it was first introduced in Madura. "

MR. CHAIRMAN :—" Let us not discuss about Sri Rajagopalachariar here. He is not here to defend himself. "

SRI B. BHIMA RAO :—" It is said, Sir, that he did not permit this measure during his regime of nearly two years and three months : our friends took up office on the 10th July 1937 and tendered their resignation on the 23rd October 1939, the period was barely two years and three months. Sir, he thought this was too violent a measure. "

MR. CHAIRMAN :—" It is not right to discuss what his opinions were in the matter. By doing so we may be doing injustice to him. "

SRI B. BHIMA RAO :—" I only say, Sir, that he was a cautious and a conservative gentleman. I want to give him credit for it. But they want to take the privilege of saying that it was during his time that this Bill was prepared. Why was it kept back for such a long time ?

" Then, Sir, coming to the introduction of this measure—the original Bill was first given to us, in September 1947,—we have travelled a long way from September 1947. I have got all these facts with me, but I do not want to trouble the House with them and create a feeling of disgust in the House by making a lengthy speech. Sir, you know the Select Committee, took the leave of this House to sit in the Hill Station and I was watching the proceedings of the Committee in the Hill Station as reported in the newspapers. Every one of the witnesses who went to Ooty and gave evidence objected to the provisions of this Bill in regard to

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SRI R. SURYANARAYANA RAO :—" The proceedings of the Committee were not open to the Press. "

SRI B. BHIMA RAO :—" But, Sir, it was reported in the Press and I do not know how they got the reports. There was no objection raised to these reports. "

MR. CHAIRMAN :—" Was it only the witnesses that went to Ooty that objected? Has the climate anything to do with it? "

SRI B. BHIMA RAO :—" They went there and invited witnesses; several respectable people went there and gave evidence. "

MR. CHAIRMAN :—" The hon. Member should have objected then. "

SRI B. BHIMA RAO :—" At that time I raised an objection. The Select Committee I believe is constituted to hear evidence and to consider with respect the views given by the witnesses. Sir, ninety-nine per cent of the witnesses examined said that the inclusion of the maths under the Bill was an abnoxious thing which ought to be removed. That is the impression I got from the evidence given before the Select Committee. But what is it that they have done? They paid scant courtesy to the evidence of the witnesses who appeared before them. If really they had made up their mind to reject the views expressed by the witnesses why should they give them the trouble, why should they be asked to go there at considerable expense to make representations and give evidence? Absolutely no consideration was shown to their feelings. I do not want to take more time of the House. I say, Sir, at this fag-end of their tenure of office, the Government ought not to have introduced this Bill. I do not find anything in the election manifesto of the party about this for the Government to introduce this Bill. Of course, if in the manifesto the Congress has stated that they will do this and that, such as the abolition of the zamindari and so on, there is justification for them to do that. But there is nothing in the manifesto with regard to a violent measure of this kind which outrages the feelings of a considerable section of the Hindu community. Have the Government taken a vote or a plebiscite on this issue to indicate that a measure of this sort is necessary? They have not done that. I am really sorry that the Ministry should have been led away by the clamour of a clique who want to have a measure of this kind enacted. I say, Sir, the Government should not have introduced a measure of this kind at this time. "

DR. A. LAKSHMANASWAMI MUDALIYAR :—" Mr. Chairman, Sir, my task in speaking about this Bill has been rendered much more difficult by some of the remarks that have been made by the previous speakers. But I hope I shall present what I consider a factual, unprejudiced view of the measure that has been introduced into this House which I am sure will be passed dotting the i's and crossing the t's as we have been accustomed to

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with several such other measures. There are certain features in this Bill which are common to all Bills that are introduced in this House. The supreme faith that they have in the Government as the one and only method of conducting the affairs of the State in a manner that will not be prejudicial to the interest of anybody would be pathetic if it were not misplaced. The other feature of the Bill is that they believe while they don't want patronage and while they feel, as my Hon. Friend Sri Madhava Menon said, that patronage is twice cursed, it is best that the Government exercises patronage rather than anybody else. The third feature of the Bill is, and it is common feature with all their legislation, that so far as possible the established courts of the land should have little or nothing to do with measures introduced in the Legislature. On the ground of delay, on the ground of costs and on many other grounds, perhaps it may be wise to see that in most of these enactments, the courts do not have to play a great part. The Hon. the Finance Minister came in and went away before I could fix my eye on him. I wish to refer here that, in every Bill that has been introduced, the financial aspects of the measure are never taken into consideration or if they are taken into consideration, the House is never taken into confidence as to what would be the financial commitments of any such measure."

MR. CHAIRMAN:—"The Hon. the Finance Minister has come."

DR. A. LAKSHMANASWAMI MUDALIYAR:—"I am glad, Sir, that I will have the opportunity of touching on those aspects when the Hon. the Finance Minister is present."

"Now, Sir, I concede, and I make no secret of the fact, that our Hindu religious institutions are not being managed in the manner they should be managed. But, one has the right to manage and I entirely agree with the Government, the hon. Members on the Treasury Bench, that every one of us should try and see whether it will not be possible for us to introduce such changes as may be necessary and as may be fruitful to bring home to those in charge of these institutions certain fundamental ideas of how to run the Hindu religious institutions. I may state, Sir, that I have visited many Hindu temples all over India, Prayag, Benares, Gaya, Kali temple at Calcutta, the temples in Bombay, Nasik and Nabadra, and various other temples in smaller places, and dipped myself into most of the sacred rivers of India and have seen many of the largest temples of South India, and I therefore cannot be considered as one who has not got any idea of how the Hindu religious institutions are being managed. On the other hand, Sir, I hope I shall not be presumptuous when I say that I am not exaggerating in these matters and I hope everybody will agree with me if, in spite of so many trips to western countries, I become more and more convinced that our Hindu religious institutions have been in need of a great deal of improvement. I state the bare facts, may I, in this connexion, say how regrettable it is that

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those who have the opportunity, those who have the weight behind them and those who are largely responsible for running these institutions, and those who have counselled, guided and otherwise controlled the people who are responsible for these institutions, have unfortunately not fulfilled the task that was expected of them? Here is no communal bogey, Sir, and let me make that perfectly clear and in the course of my speech, I shall make it clear why it is that I am opposed to some of the provisions contained in this Bill.

"Sir, first of all, this Bill refers to the Madras Hindu Religious and Charitable Endowments. The Hon. Sri K. Madhava Menon said that charitable endowments have been included because there was a great deal of abuse. Nobody denies this, Sir. On the other hand, if a Bill were to be introduced for charitable endowments, and such a Bill was introduced in the Central Legislature it and is now sought to be repealed,—it should apply to charitable endowments of all descriptions and not to Hindu charitable endowments alone. And when you include Hindu charitable endowments and define 'charitable endowment' as it has been defined on page 3 of the Bill, you will find that it is a very discriminatory piece of legislation that is sought to be utilized. I am not speaking of the constitutional aspect and I think it is futile to speak of the Constitution Act for two reasons. Whatever our opinions are, people who do not believe that it is in consonance with the Constitution Act will refer to authorities that have been provided under the Constitution and that those who believe that it is within the Constitution Act are not going to convince those who do not so believe. I therefore, for a moment leave aside altogether the constitutional aspect."

'Charitable endowment' means all property given or endowed for the benefit of, used as of right by, the Hindu or the Jain community or any section thereof, for the support or maintenance of objects of utility to the said community or section, such as rest-houses, choultries, patahalas, schools and colleges, . . .

I want to put before the House a practical illustration. A particular Hindu gentleman endowed large sums of money to found a college and the college was founded, and a non-Hindu is contributing to its endowments, and may I know whether that will become a Hindu charitable endowment? On the other hand, Sir, we have been told and very rightly, that although a Hindu might have given a charitable endowment and founded a college, this Government must insist on that college being open to all sections of the State. A battle-royal has been going on for many years and I myself was responsible when I was President of the Trust Board of the Pachaiyappas, to introduce a measure to admit all sections of the community, but unfortunately my colleagues the majority of whom, were members of the legal profession, so frightened me that I could not proceed with that measure with that particular insistence. Is it the intention of the Government to petrify these differences by insisting upon Hindu charitable endowments for founding colleges being limited for Hindus or is it their intention

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that those Hindu charitable endowments when diluted with non-Hindu charity does not become a Hindu charitable endowment? Sir, there must be some clarification and I hope the Hon. the Minister for Law will give me a correct interpretation of the definition of the words 'charitable endowment' as it is contained in the Bill.

"Now, Sir, I think it has been rightly contended that a secular Government of this nature should not take such entire responsibility for the administration of Hindu religious institutions and that it must not, in the words of the Hon. the Minister for Law as he put it, departmentalize the Hindu religious institutions and try to control them through the machinery of Government. The Hon. Minister referred to certain practices that obtained and obtain in States like Mysore, Travancore and Cochin, or the present Travancore-Cochin State. The Devaswom Department there although treated as a Government department was directly under the administrative control of the Maha Rajah and it was not a Government department that could be interfered with by any other member of the Government and that was the practice before the days of democracy. It was the ruler of the State of Mysore or of Travancore or of Cochin that had the entire control of the department. I know that because only three years ago before this merger came and before democracy swept those States, to the eternal benefit of the people of those States I hope, though the people seem to have grave doubts at present . . ."

AN HON. MEMBER :—"Not the people!"

DR. A. LAKSHMANASWAMI MUDALIYAR :—"If you see the Malayalee papers, you won't say that."

"At any rate, I know very well that, from out of the Devaswom department, a sum of Rs. 5 lakhs was given to start a college and it was under the authority of the ruler of the State that it was possible to do so. So, to compare the Devaswom departments of those States as they existed then with the provisions of this Bill which seek to departmentalize the whole of the religious institutions under the control of the Government, does not seem to me quite appropriate."

"Sir, I do not wish to draw a red-herring across the track. I want to say this; when you departmentalize these and take over under the control of the Government and that this Government shall have control over the Hindu religious institutions, the Hon. Minister if I understand him rightly, implied that as Hindus will be in a majority, there will be no need to worry. There is no reason for us to suppose that in a system of democratic form of Government when people do not think of the candidate as a Hindu or Muslim or Christian, as the Hon. the Finance Minister has also said, it is just possible that the Hindu community may be in a minority. Again, Sir, as my hon. Friend, Sri Bhima Rao, rightly said, that in a democratic form of Government you must expect a

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change of ideologies to sweep in at one time or other and in the sweeping in of such changes in ideologies you must expect a transformation if not a transfiguration of those occupying the Treasury Bench. Are you so sure that the people that will succeed you will have the same consideration as I am sure you have at present for the proper conduct of the measure that you seek to enact. This measure is not for this year or for that year. I hope, and it is not realized, that this is a measure which is being placed permanently on the Statute Book. Is it right or fair that under such circumstances, when the changes are not very remote in the personnel of the Treasury Bench in a manner that may not always be pleasant to us and which is inevitable in a system of democratic form of Government, we should allow a measure with so much of control by the Government, so much of guidance and so much of power to direct, in what may prove to me the wrong channels."

"Sir, I have said that the whole of these institutions are to be a department of the Government. The Hon. the Law Minister in the course of his introductory remarks said that the Hindu Religious Endowments Board was pressing for provincializing the whole scheme. Those who are employed in local bodies are pressing for provincialization and those whom we appoint to panchayats are pressing for provincialization. The whole thing is mixed up with the idea of bread and butter and if the Hindu Religious Endowments Board wanted to provincialize the whole thing, I have no doubt that they had very good reasons for this provincialization. If the Hon. the Law Minister had told me what other reasons they had advanced, I could have understood it. But, knowing as I do, having been for nearly 40 years a servant of the Government, that we ask for provincialization in spite of the very bad treatment that we get occasionally from the hands of the Government. It is a question of not throwing ourselves from the frying pan into the fire."

"Sir, it gratified me very much, indeed I felt elated when in this House complimentary references were made to a great leader, one of the greatest leaders, who had become a great leader through hard and good reports, the late Raja of Panagal. You know very well, Sir, it was my great good fortune as a young man for twenty years to have sat at his feet and listened to his discourses on many of these matters. He had a great and grand idea. At the time when he introduced this Bill, although actually so many curses were passed on him, he had this fundamental idea to reform and purify the administration of the Hindu Religious Endowments. What did he do? He could have taken the power just as this Government is trying to take power and he had a party behind him. If I may use a simile that was applied to me in a humorous journal, I hope you will not put me to order, Sir. I was supposed once, sitting in the Senate as a senator, driving off a mosquito by raising my hand and the other members seeing this, simultaneously raised their hands thinking that a proposition was being put to

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vote. That power the Treasury Bench has got to-day, and he the late Raja of Panagal had that power then and that, I can assure the Hon. Minister and you know that, Sir, he never used that power. There was a real spirit and he could have got that power. He could have done what the Hon. the Law Minister wants to do to-day. That was 25 or 26 years ago. This Bill was passed in 1923 and it was on account of that Bill more than any other Bill that he came into the House again in somewhat attenuated numbers. I can tell you that also, Sir. But, he never asked for that power.

"He constituted an appropriate Board and defined their powers. Give them the opportunity to face the public criticism and still the Government have the whip hand if they go wrong. What do this Government propose to do? First of all, they are going to appoint a Commissioner. I think the idea of a Commissioner has come into vogue after the second world war. Sir, it is somewhat extraordinary that we believe in single individuals controlling everything. So much so, the Central Government began with Director-Generals, Superior-Generals, Controller-Generals and all sorts of Generals and these people really thought that they were Generals except that they do not wear the uniform. This gentleman, who is known as the Commissioner, will be a super-Matadhipati under this Bill. I do not think there will be anybody in the wide world, short of Stalin, who has such extraordinary powers invested in him as these which the many provisions of this Bill propose to confer on the Commissioner. I am not trying to make a debating point of it. He has got the power to control, to direct and to supervise the Deputy Commissioner, the Assistant Commissioner, the Area Committees, the Hereditary Trustees, the Ordinary Trustees, the Board of Trustees, etc. He has got the extraordinary power to listen to everybody and pass final orders. There is no appeal from the Commissioner's final orders in the majority of instances. This Bill is bound to be passed into law whatever may be the criticisms offered on the floor of the House. I hope I shall have the honour of seeing this Commissioner when he is seated on the throne of grace, administering the religious institutions.

"I say, this is fundamentally wrong. It is good to give to a board such powers, but it is bad to give the same to an individual. I have stated, and I will repeat, that power corrupts man. Great power greatly corrupts and there is no man who is not susceptible to such corruption when power is given to him in an unlimited measure.

"While, therefore, I appreciate the point that there should be a certain amount of control, I cannot possibly agree to a policy or measure which seeks to give such vast control to an individual, the Commissioner. The lower rungs of the heir-archy consist of the Deputy Commissioner, the Assistant Commissioner, etc., and the area committees which are to be nominated by the Government. It is an irony of fate that, when we are going in for adult franchise on the one hand and when we are going to have the land flowing

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with milk and honey by the institution of panchayats in all our villages, we should have these area committees nominated by the Government without the right to have their own chairmen. The Deputy Commissioner or the Assistant Commissioner must go and preside over their meetings. These deputies and assistants are the only people who can train the members of the area committees from naughty boys into well-disciplined school boys! I dare not say that from the position I occupy, because the students will be up in arms against me and I will not be able to visit any institution of that kind. It seems to me that, if we want the area committees to discharge their responsibilities properly, there should be a greater amount of trust placed in them and there should be the least interference on the part of the bureaucratic elements present therein. The provision is that an assistant commissioner should be the chairman of an area committee and, only if he is not able to preside, should the committee elect its own chairman. And the curious fact is that such a chairman will have no vote. He can only take part in the proceedings. This is a fundamentally new conception of what a meeting is and how it is to be conducted. It may be that the idea is that the elected chairman should not unduly influence the voting, by raising his hand in the manner I am supposed to have done at a meeting I mentioned a few minutes ago. Sir, in the old days, at the meetings of the district boards when the collectors used to preside, it is said that the members were always expected to say: 'I agree' to whatever the collector said. The only thing they were expected to say was a Telugu expression 'kankara devara' (కంకరా దేవరా) meaning, 'I concur, Sir.' They did not know that they were using English words which meant, 'I agree'. They simply said 'kankara devara'. It seems to me that the area committee members are expected to say 'kankara devara' at meetings when the assistant commissioner presides.

"In another respect, I am sorry to have to say, this measure is going to petrify some of the things that are not to be petrified. Here is a Government which is giving a certain amount of benediction to certain things that, I consider, require radical change. Let me refer to two of them. The question of hereditary trusteeship is one that has been puzzling the minds of many Hindus for a good length of time. In my humble opinion, the term 'hereditary trustee' is self-contradictory. You cannot expect the son of a trustee to acquire from his father the sense of responsibility of his father hereditarily. The word implies that he is capable of managing the trust according to the well-known canons of a trust. How can a man become capable, by hereditary, to manage a trust? To think that this capacity will descend as a hereditary trait from generation to generation is wrong and is against all modern scientific knowledge of hereditary traits. I can say without fear of contradiction—and, Sir, your vast experience will bear testimony to what I say—that the only things that one hereditarily gets are the bad traits of his forefathers. If they were drunkards, their successors

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will be drunkards. Fortunately for us, prohibition will compulsorily prevent us from becoming drunkards. But there is one well-known scientific phenomenon and that is, the things that are transmitted from generation to generation are nothing good, but only evil traits. I must say, therefore, that the one fundamental thing to do in regard to these religious institutions is the abolition of the hereditary trusteeship.

"I find that much eloquence was spent in the other House where there was more heat than light generated during the 18 days' discussion of this Bill; but to my surprise the majority of the speeches were all for petrifying some of the ancient traditions and customs which are condemned under modern conditions. Similarly, I fail to see how there can be a hereditary line of archakas. They are priests who repeat a large number of slokas or sthothras and Sahasranamams. You and I have visited many temples. Now let me tell you, having listened to their chanting of the ashtotharam, that it does not seem that they knew what it is and, in any case, they finished the business more quickly than we anticipated. Sahasranamam, even when it is repeated with the rapidity of a cataract with which they were pronouncing the thousand names, could certainly not be finished within the time they do it. It is this practice that brings the Hindu religion into discredit. This is why people say something awkward about the Hindu religion. This is the root cause of the anti-Hindu feeling generated by a set of people who do not realise the unfortunate nature of their propaganda. Let us face the facts. I for one will have no hesitation in saying that there should be a very good test—moral, intellectual and physical—for those who take on this great responsibility of inculcating into the minds of the heterogeneous people something of the spirit of the revitalised Hinduism.

"My hon. Friend, the Deputy Chairman, is the President of the Tirumalai-Tirupati Devasthanam. I am glad to see him functioning there, introducing useful schemes. He has a scheme for the establishment of a college or school for giving proper training for this thing. It is true that there is no religion in the world except ours where those who enter the priesthood have necessarily to be limited to a certain lineage by birth. Christianity throws its doors wide open to anybody who seeks to get ordained as priest. Islam has its own laws by which the Moslems create their priests. Buddhism has its own methods of creating its monks and Judaism and Zoroastrianism too have their own methods for robing their priests. We have, however, accepted this principle that the priesthood must be limited by birth to a particular class. I am not quarrelling with that; but, having limited our choice in that manner, if Hinduism is to be revived, it can only be made possible if those who have power and influence set their face against this bad practice and create a college of divinity—an institution where there will be good training given. I know that in some places such training is being given; but

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let me not be misunderstood when I say that there should be greater learning and training to control the habits and a disciplined method of life for those who enter upon the greatest profession of spiritual preceptors to the vast masses of people. This Bill tries to petrify those old antiquated customs which under modern conditions, with the ever-increasing flow of new thoughts and methods of life and impact of other religions, will not stand the strain unless we provide these requirements as quickly as possible.

"We know all of us that with regard to these customs there must be a certain amount of elasticity. Those who are interested in the Hindu faith should set an example themselves by making such changes as may be necessary from time to time. It has been laid down in the Hindu texts themselves that one of the fundamentals of the Hindu religion is its adaptability to changing conditions of the world, consistently with the eternal principles one should follow.

"Sir, next let me turn to some of the other things which, as far as I am concerned, require some enlightenment. Let us take clause (34) (1) which refers to the privileges or the conditions under which certain emoluments are to be made available to Devadasis in temples. Now, I have a faint recollection that, somewhere in 1947, the Legislature passed a Bill for the abolition of Devadasis. I know that in that Act it is laid down that section 44-A of the Endowments Act, so far as it applies to them, should continue to apply to Devadasis. I would like to know what the implication of introducing this new clause is. Is it suggested that the Devadasi system should be revived in our temples, because under clause 8 it is said: 'For the purpose of this section "devadasi" shall mean any Hindu unmarried female who is dedicated to a temple . . .'. It would appear that the present tense is used with some significance. Is it the view of the Hon. the Minister for Law that this custom should be revived so as to make our religion the grand old thing it was? I would not have taken this seriously but for certain statements that appeared in the Press. Actually a certain gentleman suggested, at one of the great conferences which we have the privilege of holding in our city during what we may call the festive Christmas season, that we must revive this practice of having 'girl dancers'. Sir, some 45 years ago, when I was quite a moustacheless lad, I joined some people who thought very lowly of the custom of having nautch parties at the marriages and we resolved vow that we would not attend any marriage at which such a nautch party was held."

MR. CHAIRMAN:—"Except to see whether such a party was going on or not." (Laughter.)

DR. A. LAKSHMANASWAMI MUDALIYAR:—"We had spies in those days. We had peculiar ideas and fears. We thought that it was perhaps wrong. We did not realise, as people

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now seem to realise that the two things were different, that the nautch itself was one of those very highly civilized forms of entertainment—at any rate they say so—whereas the person concerned might be different. I shall not say more about it. But I do want some enlightenment as to what exactly is the place the Devadasi is going to have in this scheme of things, whether it is merely rendering unto her those privileges in the shape of lands and other things which she used to have or whether she should still continue to render service because she has got the lands."

THE HON. SRI K. MADHAVA MENON :—" Clause 34 definitely says that the service of the Devadasis will be stopped and that lands will remain with them and that instead of doing the service they should pay quit-rent for the lands. The clause definitely says that the lands shall be enfranchised from the condition of service by the imposition of quit-rent. I do not know exactly what more clarification the hon. Member wants."

MR. CHAIRMAN :—" The hon. Member refers to the definition of 'Devadasi' in sub-clause (8) of clause 34."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" If, as the Hon. Minister says, it is merely a change to payment of quit-rent instead of rendering service, I shall not quarrel with it. It is not my object that those who have been in the enjoyment of these lands should be deprived of them."

MR. CHAIRMAN :—" Perhaps the confusion is due to the use of the word 'is' instead of the word 'was' in the clause, 'who is dedicated to a temple'."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" My mind is a little confused, Sir. I am glad that some amount of clarification is forthcoming."

THE HON. SRI K. MADHAVA MENON :—" Under the Board's Rules, where there is a service inam, if the service is not performed, the inam can be resumed. The party will lose the land. We do not want the service of the Devadasis here. We say that the land shall not be resumed, that it shall be given to the family concerned and that instead of the service, quit-rent should be paid."

MR. CHAIRMAN :—" The definition in sub-clause (8) of clause 34 says—

'(8) For the purpose of this section, "Devadasi" shall mean any Hindu unmarried female, who is dedicated to a temple.'

So it refers to future dedication also."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" If the word had been 'was' instead of 'is' it would have been different. In view of the new ideas that are creeping in, I thought probably there was a demand for this."

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THE HON. SRI K. MADHAVA MENON :—" There is already an Act passed by this Legislature preventing the dedication of girls to temples."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" That is why I said that this would be inconsistent with that Act."

MR. CHAIRMAN :—" My impression is that the Devadasis Act prevented only future dedication. What about those who are already dedicated? Does that Act provide for discontinuance of the service by these people?"

THE HON. SRI K. MADHAVA MENON :—" They need not do service hereafter . . ."

MR. CHAIRMAN :—" I think those who are there continue to be there."

THE HON. SRI K. MADHAVA MENON :—" They need not do service hereafter."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" I hope so."

"I now come to Chapter IV—Maths, which has naturally exercised the minds of many people. It is not quite fair for the hon. Member to say that this chapter affects only particular communities. Let me assure the hon. Member that there are many Saivite Maths and the heads of these maths have a very large number of disciples who look upon the matadhipathis with a great deal of reverence."

MR. CHAIRMAN :—" May I say a few words by way of clarification of this point? I have heard arguments that there is discrimination in taking up Hindu temples and charitable endowments alone for consideration here. Now what is wrong in a measure which does not take up all kinds of charitable endowments but takes up only one kind of charitable endowments? If it is admitted that these charitable institutions require some amount of supervision and control over their management, what is wrong in restricting a measure like this only to those institutions? I can understand a matadhipathi or somebody else who is opposed tooth and nail to this measure advancing such an argument. I wish to know what is wrong in such a measure by itself, what is intrinsically wrong about it."

DR. A. LAKSHMANASWAMI MUDALIYAR :—" By saying 'Hindu charitable endowments' you are restricting the charitable endowments by making them applicable only to Hindus, while the time has come to diffuse a more cosmopolitan spirit in the people and see that even these charitable endowments are open to everybody—Hindus and non-Hindus alike."

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MR. CHAIRMAN:—"That is a different point. If the Pachaiyappa's College for instance admits only Hindu students, then and then only it will come under the definition of Hindu charitable endowments."

DR. A. LAKSHMANASWAMI MUDALIYAR:—"The definition of a 'charitable endowment' restricts it only to the Hindu community. My objection is that in the matter of collegiate or school education at any rate, restriction of admission to particular communities will defeat the very purpose of a secular State."

MR. CHAIRMAN:—"I agree. In such cases, it would not come under this Act as an endowment which is used by the Hindu or the Jain community. If any college or any charitable institution can be used by all communities, then it would not come under this Act."

DR. A. LAKSHMANASWAMI MUDALIYAR:—"Is it desirable by an Act of this nature to countenance such use of educational institutions?"

MR. CHAIRMAN:—"That is a different point. I can understand a person like Sri Manjaya Hegde saying that he does not want this Bill under any conditions."

DR. A. LAKSHMANASWAMI MUDALIYAR:—"In the Madras University Act it is laid down that no sort of restriction on account of caste or creed shall be imposed on anybody seeking admission to any educational institution under the University."

MR. CHAIRMAN:—"But it would not come under this Act."

DR. A. LAKSHMANASWAMI MUDALIYAR:—"If it does not, so much the better."

"I now come to maths. Maths belong to Brahmans and Non-Brahmans. I do not think it is justifiable to say that the inclusion of maths adversely affects any particular community only. I do feel that much greater thought and consideration ought to have been bestowed on the matter before they decided to include maths in this legislation. The very definition of 'math' is different from what it was in the 1926 Act. I do not know who was responsible for it. It is laid down here—

"math" means a Hindu religious institution with properties attached thereto and presided over by a person whose duty it is to engage himself in imparting religious instruction or rendering spiritual service to a body of disciples

In the old Act it was only, 'Whose duty it is to render spiritual service'. As they have now added 'imparting religious instruction' our Commissioner may say that the head of the math must take eight hours' classes a week just as the Government impose the restriction that schoolmasters should have 25 periods a week. Or else he may say that the matadhipathi is not complying with

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this definition. That is not the spirit in which you should treat the spiritual head of a great religious institution. I do not know who was responsible for introducing this very questionable clause 'whose duty it is to engage himself in imparting religious instruction' in this Bill. The matadhipathi knows his duty. If you had stopped with saying, 'whose duty it is to render spiritual service' there would have been some dignity. The whole chapter, if I may say so respectfully, is couched in terms which must necessarily produce a certain amount of depression in the people who believe that in spite of all that has been said about the wickedness of certain matadhipathis, there is something reminiscent of good there, and it can be improved provided the devotees and the disciples and others connected with it rise to the occasion. The matadhipathis are what their disciples make of them, though the disciples undoubtedly receive inspiration from the matadhipathis. I do not plead for those who transgress the moral law. Let them be brought under the clutches of the law as they richly deserve. But I do plead that when you are thinking of the spiritual heads of these institutions there must be a certain amount of composure and a spirit of humility even in the Government in approaching such personages. I will take one or two things which, I felt, are not consistent with this spirit. You have definitely stated that the matadhipathi will be the trustee of the math. Then in clause 55 (1) it is stated—

'(1) The trustee of a math shall be entitled to spend at his discretion, for purposes connected with the math any "pathakanika" that is to say, any gift of property or money made as a personal gift to him as the head of the math.'

Very good. The thing is given as personal gift. The giver knows and the receiver knows it and no question arises as to the purpose for which it is given. Having given the matadhipathi permission to spend it according to his own ideas of how it should be spent, the next sub-clause says—

'(2) The trustee shall keep regular accounts of all receipts and disbursements of the nature referred to in sub-section (1) and shall cause such accounts to be produced before the Commissioner or any person authorized by him in this behalf, whenever so required.'

If the Commissioner asks a Lower Division clerk to go to the matadhipathi, then the matadhipathi must produce the accounts to him. Is that the way in which you want to treat a matadhipathi? I was almost afraid that a provision like this would cause high blood pressure to my hon. Friend Mr. Bhima Rao, but I am phlegmatic and so not worried. Is there any necessity, any reason for this? Is it not absurd for you to enact this condition? Are there not other methods of achieving the object? Should the pathakanika be subject to the scrutiny of the super-matadhipathi, the Commissioner? You say that it is a personal gift. Are we not receiving personal gifts? Except that we have to keep our accounts regarding our pay to the satisfaction of the Income-tax officers, none of us can afford to reveal all the methods by which we spend all the monies we receive. Therefore let not the matadhipathi be the only exception to the rule. I hope that hon. Members on calm consideration will feel that my criticisms are not merely

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humorous but are made in the humblest spirit so as to convince them that this is not the right approach. Then Sir, if you wanted that the properties of the maths, the secular aspect of the maths should be under some supervision—and I concede the need for it—you could have differentiated between the spiritual and the secular affairs. You could have asked the matadhipathi to nominate a trustee for the secular affairs and then have had a strangle-hold over the trustee. The matadhipathi is the spiritual head and he ought to resign himself to that. So far as the properties are concerned, if you say that the trustee shall be the matadhipathi, it brings him in direct subordination to the person who has no claim to be any sort of religious head, except such claim as the Government may give him by virtue of his office.

“Then Sir, there is another point and I feel strongly on this although I owe no sort of allegiance to any math whatsoever. A math, if it is situated elsewhere than in this State, if it has properties in this State, the matadhipathi has got to come here and show his accounts and pay his obeisance to the Commissioner sahib. It seems to me that in all these respects you are fundamentally offending something which a Hindu who is associated with the math has a right to feel offended about. Sir, under the Act, anybody who professes to be a Hindu is eligible for any of the appointments. I looked into the dictionary for the meaning of the word ‘profess’, and I cannot tell you all that is given in the dictionary; but I shall be . . .”

MR. CHAIRMAN:—“I think you were a Professor yourself.”

DR. A. LAKSHMANASWAMI MUDALIYAR:—“But I do not profess anything, Sir. This language of course is copied from the 1926 Act. But I ask, would a Hindu who marries a European, if he professes to be a Hindu, be eligible for all these privileges? Would his wife, if she is a non-Hindu, but professes to be a Hindu, be eligible for all these privileges? Would the children who are the offsprings of mixed marriages, be eligible for these privileges? I am only putting these questions because you have a series of lucrative appointments created under this departmentalised administration; and after all, even the best of these jobs are not such as to be entirely out of the scope of the ambition of anybody who is a citizen of India. Will you admit all people who are citizens of India to these privileges? I only want an answer. Personally, I do not feel strongly either way, because I know some of them are even better Hindus, better than any of us. If, for instance, Dr. Annie Besant wanted to be a Commissioner under the Hindu Religious Endowments Act of 1951, I for one would have welcomed that grand opportunity. But that apart, Sir, let us know what it is we are now committing ourselves to when we say ‘anybody who professes to be a Hindu’? In the old Act, the privileges were very much limited and people did not therefore take note of it. That Act was passed in 1926; much water has run under the bridge since then. Within the last 25 years,

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the contour and configuration of Delhi has changed and has changed in such a manner that the situation is very different to-day. And if you go there, you will know what sort of people profess to be Hindus and how many of them are really Hindus.

“I now come to the Chapter which I think is a very important chapter, the chapter with regard to budget-framing. This is a very difficult thing for a religious institution. One of the clauses here says—

‘The repair and renovation of the buildings connected with the institution the provision made under this clause not being less than ten per centum of its income in the case of an institution assessed to contribution under section 76 for the previous fasli year or an income not exceeding three thousand rupees, and not being less than twenty-five per centum of its income, or ten per centum of its income up to three thousand rupees and the whole of the excess of its income over that amount, whichever is less . . .’

So, this is to be provided for every year. You know the condition of most of the temples. Renovation of temples is certainly a very important thing; but the renovation when it is started, involves so many other complicated processes which in their turn require a very large amount of money. If this is provided for—and the trustee has under the provisions of the Act, to provide for it—the funds will be wasted every year on so-called renovations. The Commissioner of course has got the power to look into it. But on the other hand, if you have a building fund into which this particular amount is deposited from year to year, and if the fund is accumulated so that it may be utilized whenever necessary, then there will be a much better opportunity for the amount to be utilized properly.

“I come, Sir, lastly to the provisions regarding Finance. Here there is a fundamental change. I am not going to take the institutional aspect of it whatsoever. Apart from the fact that there is an increase in the contribution that is demanded from these religious institutions from 1½ per cent to 5 per cent, the Government undertake full responsibility to pay the salaries, allowances, pension and other beneficial remuneration, of the Commissioner, the Deputy Commissioners, Assistant Commissioners and such other officers and servants as are mentioned, and also the cost of audit. Now, Sir, under the old Act, it was necessary for the Hindu Religious Endowments Board to meet the expenditure out of its income. It was necessary for the religious institutions concerned to meet the cost of the audit fees. Now, however, the Government say that they will take a certain percentage and they will out of the general revenues of the tax-payer, meet all these costs. It seems to me that unless this provision applies to all religious institutions, there is certainly some thing fundamentally objectionable in the general tax-payer's money being utilized—whether it will be really utilized is not the point—but it is certainly fundamentally objectionable, for being utilized for a religious institution of a particular denomination. I am not raising the constitutional point, but it seems to me it is a very clear case that has got to be examined. All this trouble would not

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have arisen at all if the Government had kept aloof and allowed the machinery to be operated upon by quite a different set of people altogether. Now, I should like to know whether it would not have been possible for the Government to set up a machinery like the Public Service Commission—I do not say the present Public Service Commission—but a Service Commission for the determination of the pay, the emoluments, the qualifications, etc., and for the selection of the personnel. Is it right that a secular Government composed of a democratic Legislature with all the beneficial influences that democracy can exercise over that Government, should have this privilege of selecting the personnel, fixing their salaries and giving them their terms and conditions of office? Sir, it was the late Raja of Panagal on a famous occasion when the no confidence motion was moved against his ministry in the year 1924 by Dr. C. R. Reddi, who said—and his words have been ringing always in my ears—in a very pathetic tone almost at the conclusion of his reply: ‘Sir, for every appointment that is made, I make a doubtful friend, but 99 certain enemies’. The surest way for any democratic Government to dig a grave for themselves is to exercise this patronage. Can any Government free themselves from all the imputations that may be made not only by those who have no opportunity to secure these offices, but by members of other religious persuasions, all the imputations which will certainly appear in the Press? And it will certainly be very difficult for them to explain them away every time. I therefore ask them whether it may not be possible to have a statutory body to exercise these functions and control these people and punish and dismiss them. The Hon. Minister for Law is not in a position to dismiss even a peon in his office,—let him contradict me if he can—much less can he dismiss a lower division clerk; they have a right of appeal. Here however the Commissioner has got an absolute power of dismissal of a large number of people. Is it right, Sir? Would it conduce to efficiency of administration? From the little knowledge I have, I am afraid it will not.

“Lastly, Sir,—I am sorry I have taken so much of your time and time of the House—I come to clause 100. Clause 100 is extremely interesting. Members are doubtless aware that whenever the Government pass a measure, they give us a glimpse into the main objects of the Bill and say that the rest of it all is covered by the rules. You will be surprised to know that in clause 100, the rule-making purposes are so many that after having exhausted all the letters of the English alphabet, they have come to double letters (aa). Sir, I do protest against so many provisions being made under the rules. My friend has referred to the preservation of the images of temples. I do not know what rules can be made for the preservation of images in the temples. When I was in Palni some time ago, I found, having visited that place some 42 years ago in 1909, that the image of Palani Andavar was getting thinner and thinner. Some of the Ministers here may say in a jocular mood ‘it is because of food rationing’. It will shock me to hear all that, but that is because of a certain jest. What is

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this ‘preservation of images in temples’? It may be that they want to see that the images are not lost. But such things are not exactly for being brought under the rule-making powers of the Government.

“Then again, Sir, if the rules are to be made by the Government, one of the functions of the degenerate past Government was that those rules should be placed before the Legislature, not merely for their information but also for their ratification. Under the Act of 1926 there is a provision to say that the different schedules that are there may be modified, but before doing so, they must be published; and the rules made thereunder must be placed before both the Chambers of the Legislature and must be approved by both of them. I do not want to dilate on that point any further.

“One other thing I would say is with reference to clause 106. Clause 106 says—

‘If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty.’

You will realise, Sir, they may do anything and at any time. It is a thing that will go on for years and years; while in the corresponding section of the previous Act, it is definitely laid down that what the Government can do is to remove such difficulties as may arise only at the time of the inauguration of the Act and for that time only. Similar provisions are found to exist everywhere. When the Madras University Act of 1923 was passed, it was laid down that the Government might do all such things as might be necessary at the initial stages to implement the provisions of the Act and remove any difficulties that might arise. I say, Sir, seriously that it is too wide a power to be given to the Government.

“I must now apologise to the House for having taken so much of its time. My only object is not to say that the Hindu Religious Endowments should not be well administered, not to suggest that they must not be controlled, but only to plead for a more intelligent, if I may use the word without offence, method and for a spirit of religious tolerance and humility in perpetuating the measures that are necessary. The hand of the Government is always mighty and powerful as of any Government and the more the powers that are vested in the Government, the greater is the danger. To have such power is good, but to wield it is folly. It is only in that spirit that I would appeal to the Government to review this Bill and see that at least in the methods in which they are going to implement it, they do incorporate some of the suggestions that I have ventured to make just now.”

MR. CHAIRMAN:—“We will continue the discussion on Monday. The House will now adjourn and meet again at 2-30 p.m. on Monday next.”

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APPENDIX III.

[Vide page 2 supra.]

THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS BILL, 1949.

(L.A. BILL No. 10 OF 1949.)

(As passed by the Assembly.)

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L.A. BILL No. 10 OF 1949.

(As passed by the Assembly.)

A Bill to provide for the better administration and governance of Hindu Religious and Charitable Institutions and Endowments in the State of Madras.

WHEREAS it is expedient to amend and consolidate the law relating to the administration and governance of Hindu Religious and Charitable Institutions and Endowments in the State of Madras; It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY.

1. (1) This Act may be called the Madras Hindu Religious and Charitable Endowments Act, 1950. Short title, extent, application, and commencement.

(2) It extends to the whole of the State of Madras and applies to all Hindu public religious institutions and endowments, including the Tirumalai-Tirupati Devasthanams and the endowments thereof.

Explanation.—In this sub-section, Hindu public religious institutions and endowments do not include Jain religious institutions and endowments.

(3) It shall come into force on such date as the Government may, by notification, in the *Fort St. George Gazette* appoint.

2. The Government may, by notification in the *Fort St. George Gazette*, extend to Jain public religious institutions and endowments, all or any of the provisions of this Act and of any rules made thereunder and thereupon the provisions so extended shall apply to such institutions and endowments as if the expressions 'Hindu' and 'Hindus' therein included 'Jain' and 'Jains' respectively: Power to extend Act to Jain religious institutions and endowments.

Provided that before issuing such a notification, the Government shall publish in the *Fort St. George Gazette*, a notice of their intention to do so, fix a period which shall not be less than two months from the date of publication of the notice, for the persons interested in the institutions and endowments concerned to show cause against the issue of the notification and consider their objections, if any.

3. Where the Government have reason to believe that any Hindu or Jain public charitable endowment is being mismanaged and are satisfied that in the interests of the administration of such charitable endowment it is necessary to extend thereto all or any of the provisions of this Act and of any rules made thereunder, they may, by notification in the *Fort St. George Gazette*, extend to such charitable endowment the said provisions and thereupon the provisions so extended shall apply to such charitable endowment as if it were a specific endowment: Power to extend Act to charitable endowments.

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Provided that before issuing such a notification, the Government shall publish in the *Fort St. George Gazette*, a notice of their intention to do so, specifying reasons for the action proposed to be taken by them and fixing a period which shall not be less than two months from the date of publication of the notice, for the persons interested in the endowment concerned to show cause against the issue of the notification, and consider their objections, if any.

Exemptions. 4. The Government may, by notification in the *Fort St. George Gazette*—

(a) exempt from the operation of any of the provisions of this Act or of any rules made thereunder, any religious or charitable institution or endowment, the administration of which is for the time being vested in the Official Trustee or in the Administrator-General; or

(b) vary or cancel such exemption.

Repeals. 5. (1) The Madras Hindu Religious Endowments Act, 1926, is hereby repealed. Madras Act II of 1927.

(2) The Tirumalai-Tirupati Devasthanams Act, 1932, is hereby repealed, but the repeal shall not revive the arrangement made by the Government in 1848 for the management of the Tirumalai-Tirupati Devasthanams or the scheme settled by the Privy Council in Appeal No. 6 of 1906 or the rules framed under such scheme. Madras Act XIX of 1933.

(3) The following enactments shall cease to apply to Hindu religious institutions and endowments, namely:—

(a) The Madras Endowments and Escheats Regulation, 1817; Madras Regulation VII of 1817.

(b) the Religious Endowments Act, 1863; Central Act XX of 1863.

(c) the Charitable Endowments Act, 1890; Central Act VI of 1890.

(d) the Charitable and Religious Trusts Act, 1920; Central Act XIV of 1920.

(e) sections 92 and 93 of the Code of Civil Procedure, 1908. Central Act V of 1908.

Definitions. 6. In this Act, unless there is anything repugnant in the subject or context—

(1) "Area Committee" means, in relation to any temple or specific endowment, the Area Committee constituted under this Act and having jurisdiction over such temple or endowment;

(2) "Assistant Commissioner" means an Assistant Commissioner appointed under section 8;

(3) "Board" means the Board constituted under section 10 of the Madras Hindu Religious Endowments Act, 1926. Madras Act II of 1927.

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(4) "charitable endowment" means all property given or endowed for the benefit of, or used as of right by, the Hindu or the Jain community or any section thereof, for the support or maintenance of objects of utility to the said community or section, such as rest-houses, choultries, patasalas, schools and colleges, houses for feeding the poor and institutions for the advancement of education, medical relief and public health or other objects of a like nature; and includes the institution concerned;

(5) "Commissioner" means the Commissioner appointed under section 8;

(6) "Court" means—

(i) in relation to a math or temple situated in the Presidency-town, the Madras City Civil Court;

(ii) in relation to a math or temple situated elsewhere, the Subordinate Judge's Court having jurisdiction over the area in which the math or temple is situated, or if there is no such Court, the District Court having such jurisdiction;

(iii) in relation to a specific endowment attached to a math or temple, the Court which would have jurisdiction as aforesaid in relation to the math or temple;

(iv) in relation to a specific endowment attached to two or more maths or temples, any Court which would have jurisdiction as aforesaid in relation to either or any of such maths or temples;

(7) "Deputy Commissioner" means a Deputy Commissioner appointed under section 8;

(8) "Government" means the State Government;

(9) "Hereditary trustee" means the trustee of a religious institution succession to whose office devolves by hereditary right or is regulated by usage or is specifically provided for by the founder, so long as such scheme of succession is in force;

(10) "math" means a Hindu religious institution with properties attached thereto and presided over by a person whose duty it is to engage himself in imparting religious instruction or rendering spiritual service to a body of disciples or who exercises or claims to exercise spiritual headship over such a body; and includes places of religious worship or instruction which are appurtenant to the institution;

Explanation.—Where the headquarters of a math are outside the State but the math has properties situated within it, control shall be exercised over the math in accordance with the provisions of this Act, in so far as the properties of the math situated within the State are concerned;

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(11) "person having interest" means—

(a) in the case of a math, a disciple of the math or a person of the religious persuasion to which the math belongs;

(b) in the case of a temple, a person who is entitled to attend at or is in the habit of attending the performance of worship or service in the temple, or who is entitled to partake or is in the habit of partaking in the benefit of the distribution of gifts thereat;

(c) in the case of a specific endowment, a person who is entitled to attend at or is in the habit of attending the performance of the service or charity, or who is entitled to partake or is in the habit of partaking in the benefit of the charity;

(12) "prescribed" means prescribed by rules made by the Government under this Act;

(13) "religious charity" means a public charity associated with a Hindu festival or observance of a religious character, whether it be connected with a math or temple or not;

(14) "religious endowment" or "endowment" means all property belonging to or given or endowed for the support of maths or temples, or given or endowed for the performance of any service or charity of a public nature connected therewith or of any other religious charity; and includes the institution concerned and also the premises thereof, but does not include gifts of property made as personal gifts to the archaka, service-holder or other employee of a religious institution.

Explanation (1).—Any inam granted to an archaka, service-holder or other employee of a religious institution for the performance of any service or charity in or connected with a religious institution shall not be deemed to be a personal gift to the archaka, service-holder or employee but shall be deemed to be a religious endowment.

Explanation (2).—All property which belonged to, or was given or endowed for the support of a religious institution, or which was given or endowed for the performance of any service or charity of a public nature connected therewith or of any other religious charity shall be deemed to be a "religious endowment" or "endowment" within the meaning of this definition, notwithstanding that, before or after the commencement of this Act, the religious institution has ceased to exist or ceased to be used as a place of religious worship or instruction or the service or charity has ceased to be performed:

Provided that this Explanation shall not be deemed to apply in respect of any property which vested in any person before the commencement of this Act, by the operation of the law of limitation.

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(15) "religious institution" means a math, temple or specific endowment;

(16) "specific endowment" means any property or money endowed for the performance of any specific service or charity in a math or temple, or for the performance of any other religious charity, but does not include an inam of the nature described in Explanation (1) to clause (14);

(17) "temple" means a place by whatever designation known, used as a place of public religious worship, and dedicated to, or for the benefit of or used as of right by, the Hindu community or any section thereof, as a place of public religious worship;

(18) "Tirumalai-Tirupati Devasthanams" or "Devasthanams" mean the temples specified in Schedule II and the endowments thereof and shall include the educational institutions referred to in Schedule III;

(19) "trustee" means any person or body by whatever designation known in whom or in which the administration of a religious institution is vested, and includes any person or body who or which is liable as if such person or body were a trustee.

CHAPTER II.

THE COMMISSIONER AND OTHER CONTROLLING AUTHORITIES.

7. There shall be the following classes of authorities under this Act, namely:—

Authorities
under Act.

- (a) The Commissioner;
- (b) Deputy Commissioners;
- (c) Assistant Commissioners; and
- (d) Area Committees.

8. The Government shall appoint the Commissioner and such number of Deputy and Assistant Commissioners as they think fit.

Government
to appoint
Commis-
sioner, etc.

9. The Commissioner, every Deputy or Assistant Commissioner and every other officer or servant appointed to carry out the purposes of this Act, by whomsoever appointed, shall be a person professing the Hindu religion, and shall cease to hold office as such when he ceases to profess that religion.

Commis-
sioner, etc.,
to be
Hindus.

10. (1) The Commissioner shall, with the previous approval of the Government, specify the area within which each Deputy Commissioner, if there is more than one, shall exercise the powers and discharge the duties assigned by or under this Act to a Deputy Commissioner as such.

Delegation
to Deputy
Commis-
sioners.

(2) The Commissioner may delegate any of the powers conferred or duties imposed on him by or under this Act [including the powers and duties of an Assistant Commissioner which may be exercised by the Commissioner under

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the proviso to section 11, sub-section (2), but not including the powers and duties of the Commissioner under section 18, 19, 38, 39, 52, 56, 61, 64 or 76 (2)] in respect of any area or of any class or group of institutions in the State or any area therein to a Deputy Commissioner subject to such restrictions and control as the Government may, by general or special order, lay down and subject also to such limitations and conditions, if any, as may be specified in the order of delegation.

Territorial jurisdiction and powers and duties of Assistant Commissioners.

11. (1) The Commissioner shall, with the previous approval of the Government, divide the State into divisions, each of which shall be in the charge of an Assistant Commissioner.

(2) An Assistant Commissioner shall exercise such powers and discharge such duties as are assigned to him by or under this Act in respect of his division:

Provided that the Commissioner may, by order in writing, declare that the exercise and discharge of all or any of such powers and duties shall be subject to such exceptions, limitations and conditions as may be specified in the order, and may himself exercise or discharge any power or duty so excepted.

(3) The Commissioner may delegate to an Assistant Commissioner any of the powers conferred or duties imposed on the Commissioner by or under this Act [other than the powers and duties referred to in section 18, 19, 38, 39, 52, 56, 61, 64 or 76 (2)] in respect of the division of the Assistant Commissioner or of any institutions or any class or group of institutions in that division, subject to such restrictions and control as the Government may, by general or special order, lay down and subject also to such limitations and conditions, if any, as may be specified in the order of delegation.

Area Committees.

12. (1) The Government—

(a) shall, as soon as may be after the commencement of this Act, by notification in the *Fort St. George Gazette*, constitute an Area Committee for all temples situated in an Assistant Commissioner's division or part thereof other than temples included in the list published under section 38; and

(b) may likewise abolish any Area Committee constituted under clause (a), provided that before doing so, a reasonable opportunity shall be given to the Committee to show cause against its abolition.

(2) An Area Committee shall have jurisdiction over specific endowments attached to the temples for which it is constituted, other than specific endowments included in the list published under section 38:

Provided that where a specific endowment is attached to two or more temples comprised within the jurisdiction of

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two or more Area Committees, the Commissioner shall decide as to which of the Area Committees shall have jurisdiction over the specific endowment:

Provided further that where a specific endowment is attached partly to one or more temples included in the list published under section 38 and partly to one or more temples not so included, only the Commissioner shall have jurisdiction over the specific endowment and no Area Committee shall have such jurisdiction.

13. (1) Every Area Committee shall consist of such number of members as may be appointed by the Government, not being less than three nor more than five.

Strength of Area Committees and term of office and disqualifications of members.

(2) Save as otherwise expressly provided in this section, a member of an Area Committee shall be entitled to hold office for three years from the date on which his appointment is notified in the *Fort St. George Gazette*.

(3) A person shall be disqualified for being appointed as, or for being, a member of an Area Committee—

(a) if he does not profess the Hindu religion;

(b) if he has applied or applies to be, or has been, or is, adjudicated an insolvent;

(c) if he is of unsound mind, a deaf-mute or suffering from contagious leprosy;

(d) if he is a trustee of, or an office-holder or a servant attached to, or a person in receipt of any emolument or perquisite from, any temple or specific endowment over which the Area Committee has jurisdiction, or if he belongs to a joint Hindu family a member of which is such a trustee, office-holder or servant or a person in receipt of any such emolument or perquisite;

(e) if he has been sentenced by a criminal court to transportation or to imprisonment for a period of more than six months, for any offence other than an offence not involving moral turpitude, such sentence not having been cancelled or reduced to a period of six months or less, or the offence not having been pardoned, provided that the Government may direct that such sentence shall not operate as a disqualification.

(4) A person shall also be disqualified for being appointed as a member of an Area Committee if he is already a member of some other Area Committee.

(5) A member of an Area Committee shall also cease to hold office—

(a) if he absents himself from three consecutive meetings of the Committee:

Provided that when a person who ceased to be a member by reason of such absence, applies for restoration within one month from the date of the last of the three meetings, the Committee may, at the meeting next after the

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receipt of such application, restore him to his office of member but a member shall not be so restored more than twice during his term of office, or

(b) if he resigns his office by giving notice in writing to the Government.

Chairman
of Area
Committee.

14. (1) The Assistant Commissioner of the division for which or part of which an Area Committee is constituted shall be its Chairman and shall be entitled to preside over its meetings and take part in its proceedings, but shall not be entitled to vote.

(2) He shall forward to the Commissioner a copy of the minutes of the proceedings at every meeting of the Area Committee within a week from the date of the meeting.

Power of
Government
to make
rules.

15. The Government may make rules regarding the convening of meeting of Area Committees, the quorum for, and the conduct of business at, such meetings, and all matters relating to the transaction of their business.

Act of Area
Committee
not to be in-
validated by
informality.

16. No act of an Area Committee shall be deemed to be invalid by reason only of a defect in its constitution or on the ground that the Chairman or any member thereof was disqualified for, or had ceased to hold, his office, or by reason of such act having been done during the period of any vacancy in the office of the Chairman or any member of such Committee.

Performance
of functions
of Area
Committee
on abolition.

17. Where an Area Committee has been abolished under clause (b) of sub-section (1) of section 12, a new Area Committee shall be constituted within six months of its abolition and till then its powers and duties shall be exercised and discharged by the Assistant Commissioner concerned.

Power of
Commissioner
to call
for records
and pass
orders.

18. (1) The Commissioner may call for and examine the record of any Deputy or Assistant Commissioner, of any Area Committee, or of any trustee not being the trustee of a math or of a specific endowment attached to a math, in respect of any proceeding under this Act (not being a proceeding in respect of which a suit or an appeal to a Court is provided by this Act), to satisfy himself as to the regularity of such proceeding, or the correctness, legality or propriety of any decision or order passed therein.

(2) If any such decision or order has been passed by any Deputy or Assistant Commissioner, or by the trustee of any religious institution other than one included in the list published under section 38, and it appears to the Commissioner that the decision or order should be modified, annulled, reversed or remitted for reconsideration, he may pass orders accordingly.

(3) (a) If any such decision or order has been passed by any Area Committee or by the trustee of any religious institution included in the list published under section 38, the

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Commissioner may, if he thinks fit, remit the matter together with his observations in regard thereto, to the Committee or trustee for reconsideration of the decision or order and report to the Commissioner within a time to be specified by him in this behalf.

(b) On receipt of, and after considering, such report, it shall be open to the Commissioner to modify, annul or reverse the decision or order, or the decision or order as revised after such reconsideration, as the case may be.

(c) If the report is not received by the Commissioner within the time specified or such further time as may be granted by him, the Commissioner may modify, annul or reverse the decision or order of the Area Committee or trustee, as the case may be.

(4) The Commissioner shall not pass any order prejudicial to any party under sub-section (2) or clause (b) or clause (c) of sub-section (3), without hearing him or giving him a reasonable opportunity of being heard.

(5) The Commissioner may stay the execution of any decision or order of the nature referred to in sub-section (1), pending the exercise of his powers under sub-section (2) or sub-section (3) in respect thereof.

19. (1) The Commissioner shall have power at any stage—

(a) to transfer any proceeding pending before a Deputy or an Assistant Commissioner to his own file and dispose of it himself, or

(b) to transfer it to another Deputy or Assistant Commissioner for disposal.

(2) If the Commissioner is satisfied that a Deputy or an Assistant Commissioner has failed to exercise any power or discharge any duty which he ought to have exercised or discharged, the Commissioner may himself exercise such power or discharge such duty.

(3) If the Commissioner is satisfied that an Area Committee—

(a) has failed to exercise any power or discharge any duty which it ought to have exercised or discharged, or

(b) is unable for any reason to exercise any power or discharge any duty,

the Commissioner may himself exercise such power or discharge such duty or authorize the Assistant Commissioner to do so:

Provided that in cases falling under clause (a), the Commissioner shall first fix a period for the exercise of the power or the performance of the duty by the Area Committee and shall exercise the right conferred on him by this sub-section only if the power is not exercised or the duty is not performed by the Area Committee within the period so fixed.

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(4) Notwithstanding anything contained in this Act, where the office of a Deputy or an Assistant Commissioner is vacant, the Commissioner may, until the vacancy is filled—

(a) himself exercise the powers and discharge the duties assigned by or under this Act to the Deputy or Assistant Commissioner, or

(b) authorize another Deputy or Assistant Commissioner to exercise the said powers and discharge the said duties.

(5) Any party aggrieved by an order of the Commissioner under sub-section (1) (a), (2), (3) or (4) (a), not being an order against which a suit or an appeal to a Court is provided in this Act, may appeal to the Government within three months from the date of the receipt of the order by him :

Provided that the Government shall not pass any order prejudicial to any party without hearing him or giving him a reasonable opportunity of being heard.

CHAPTER III.

RELIGIOUS INSTITUTIONS.

General Provisions.

Powers and duties of the Commissioner in respect of religious endowments.

20. Subject to the provisions of this Act, the administration of all religious endowments shall be subject to the general superintendence and control of the Commissioner; and such superintendence and control shall include the power to pass any orders which may be deemed necessary to ensure that such endowments are properly administered and that their income is duly appropriated for the purposes for which they were founded or exist.

Power to enter religious institutions.

21. (1) The Commissioner, Deputy and Assistant Commissioners and such other officers as may be authorized by the Commissioner or the Area Committee in this behalf shall have power to enter the premises of any religious institution or any place of worship for the purpose of exercising any power conferred, or discharging any duty imposed, by or under this Act.

(2) If any such officer is resisted in the exercise of such power or discharge of such duty, the Magistrate having jurisdiction shall, on a written requisition from such officer, direct any police officer not below the rank of Sub-Inspector to render such help as may be necessary to enable the officer to exercise such power or discharge such duty.

(3) Nothing in this section shall be deemed to authorize any person who is not a Hindu to enter the premises or place situated in sub-section (1) or any part thereof.

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22. No person may succeed or be appointed to, or hold, the office of the trustee of a religious institution—

(a) unless he professes the Hindu religion, and

(b) except in the case of a hereditary trustee, unless he is not less than twenty-five and not more than seventy years of age.

Trustees to be Hindus and within certain limits of age.

23. The trustee of a religious institution shall be bound to obey all lawful orders issued under the provisions of this Act by the Government, the Commissioner, the Deputy Commissioner, the Area Committee or the Assistant Commissioner.

Trustee bound to obey orders issued under Act.

Madras Act V of 1947.

24. (1) Subject to the provisions of the Madras Temple Entry Authorization Act, 1947, the trustee of every religious institution is bound to administer its affairs and to apply its funds and properties in accordance with the terms of the trust, the usage of the institution and all lawful directions which a competent authority may issue in respect thereof and as carefully as a man of ordinary prudence would deal with such affairs, funds and properties if they were his own.

Care required of trustees and his powers.

(2) A trustee shall, subject to the provisions of this Act, be entitled to exercise all powers incidental to the provident and beneficial administration of the religious institution and to do all things necessary for the due performance of the duties imposed on him.

(3) A trustee shall not be entitled to spend the funds of the religious institution for meeting any costs, charges or expenses incurred by him in any suit, appeal or application or other proceeding for, or incidental to, his removal from office or the taking of any disciplinary action against him :

Provided that the trustee may reimburse himself in respect of such costs, charges or expenses if he is specifically permitted to do so by an order passed under section 88.

25. (1) For every religious institution, there shall be prepared and maintained a register showing—

Preparation of register for all institutions.

(a) the names of past and present trustees and particulars as to the custom, if any, regarding succession to the office of trustee;

(b) particulars of the scheme of administration and of the *dittam* or scale of expenditure;

(c) the names of all offices to which any salary, emolument or perquisite is attached and the nature, time and conditions of service in each case;

(d) the jewels, gold, silver, precious stones, vessels and utensils, and other movables belonging to the institution, with their estimated value;

(e) particulars of all other endowments of the institution and of all title-deeds and other documents;

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(f) particulars of the idols and other images in or connected with the institution, whether intended for worship or for being carried in processions;

(g) such other particulars as may be required by the Commissioner.

(2) The register shall be prepared, signed and verified by the trustee of the institution concerned or by his authorized agent and submitted by him to the Commissioner, directly in the case of a math, through the Area Committee, in case the institution is subject to the jurisdiction of an Area Committee, and through the Assistant Commissioner in other cases, within three months from the commencement of this Act or from the founding of the institution, as the case may be, or within such further period as may be allowed by the Commissioner, the Area Committee or the Assistant Commissioner :

Provided that this sub-section shall not apply where a register so signed and verified has been submitted to the Board before the commencement of this Act.

(3) The Area Committee or the Assistant Commissioner, if the register is submitted through it or him, may, after such inquiry as it or he may consider necessary, recommend such alterations, omissions or additions in the register as it or he may think fit.

(4) The Commissioner may, after receiving the register and the recommendations of the Area Committee or of the Assistant Commissioner with respect thereto and making such further inquiry as he may consider necessary, direct the trustee to make such alterations, omissions or additions in the register as the Commissioner may deem fit.

(5) The trustee shall carry out the orders of the Commissioner and then submit three copies of the register as corrected to the Commissioner for approval.

(6) One copy of the register as approved by the Commissioner shall be furnished to the trustee and one to the Area Committee or the Assistant Commissioner concerned, if any.

Annual verification of the register.

26. The trustee or his authorized agent shall scrutinize the entries in the register every year and submit to the Commissioner for his approval, directly or through the Area Committee or through the Assistant Commissioner, as the case may require, a verified statement showing the alterations, omissions or additions required in the register; and the provisions of sub-sections (3) to (6) of section 25 shall apply in relation to such statement as they apply in relation to a register.

Trustee to furnish accounts, returns, reports, etc.

27. (1) The trustee of every religious institution shall furnish to the Commissioner such accounts, returns, reports or other information relating to the administration of the institution, its funds, property or income, or moneys connected

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therewith, or the appropriation thereof, as the Commissioner may require and at such time and in such form as he may direct.

(2) The powers conferred by sub-section (1) may also be exercised by the Assistant Commissioner in the case of religious institutions other than maths, and by the Area Committee in the case of institutions subject to its jurisdiction.

28. (1) The Commissioner or any officer or other person deputed by the Commissioner in this behalf may inspect all movable and immovable property belonging to, and all records, correspondence, plans, accounts and other documents relating to, any religious institution. Inspection of property and documents.

(2) The powers conferred by sub-section (1) may also be exercised, in the case of religious institutions other than maths, by the Assistant Commissioner, and in the case of institutions over which an Area Committee has jurisdiction, by any member of the Committee authorized by it in this behalf.

(3) It shall be the duty of the trustee of the institution concerned and all officers and servants working under him, his agent and any person having concern in the administration of the institution, to afford all such assistance and facilities as may be necessary or reasonably required in regard to any inspection made in pursuance of sub-section (1) or sub-section (2), and also to produce for inspection any movable property or document referred to in sub-section (1) if so required.

29. (1) Any exchange, sale or mortgage and any lease for a term exceeding five years of any immovable property belonging to, or given or endowed for the purposes of, any religious institution shall be null and void unless it is sanctioned by the Commissioner as being necessary or beneficial to the institution. Alienation of immovable trust property.

Provided that before such sanction is accorded, the particulars relating to the proposed transaction shall be published in such manner as may be prescribed, inviting objections and suggestions with respect thereto; and all objections and suggestions received from the trustee or other persons having interest shall be duly considered by the Commissioner.

(2) When according such sanction, the Commissioner may impose such conditions and give such direction as he may deem necessary regarding the utilization of the amount raised by the transaction, the investment thereof and in the case of a mortgage, regarding the discharge of the same within a reasonable period.

(3) A copy of the order made by the Commissioner under this section shall be communicated to the Government and to the trustee and shall be published in such manner as may be prescribed.

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(4) The trustee may within three months from the date of his receipt of a copy of the order, and any person having interest may within three months from the date of the publication of the order, appeal to the Government to modify the order or set it aside.

(5) Nothing contained in this section shall apply to the inams referred to in section 35.

Authority of trustee to incur expenditure for securing the health, etc., of pilgrims and worshippers and for the training of archakas, etc.

30. (1) The trustee of a religious institution may, out of the funds in his charge, after making adequate provision for the purposes referred to in section 70, sub-section (2), incur expenditure—

(a) on arrangements for securing the health, safety or convenience of disciples, pilgrims or worshippers resorting to the institution; and

(b) for the training of archakas, adhyapakas, veda-parayanikas and othuvans.

(2) In incurring such expenditure, the trustee shall be guided by such general or special instructions as may be given by the Commissioner or in the case of an institution over which an Area Committee has jurisdiction, also by such Committee.

Utilization of surplus funds.

31. (1) If after making adequate provision for the purposes referred to in section 70, sub-section (2), and also for the arrangements and the training referred to in section 30, sub-section (1), there is a surplus in the income of the institution, the trustee thereof may, with the previous sanction in writing of the Deputy Commissioner, appropriate such surplus or any portion thereof for all or any of the purposes specified in section 59, sub-section (1):

Provided that before according such sanction, the Deputy Commissioner shall publish the particulars relating to the proposal of the trustee in such manner as may be prescribed, invite objections and suggestions with respect thereto and consider all objections and suggestions received from persons having interest:

Provided further that the sanction aforesaid shall be published in such manner as may be prescribed.

(2) Any person having interest may, within such time as may be prescribed, appeal to the Commissioner against the sanction accorded by the Deputy Commissioner under sub-section (1).

Enforcement of service or charity in certain cases.

32. (1) Where a specific endowment attached to a math or temple consists merely of a charge on property and there is failure in the due performance of the service or charity, the trustee of the math or temple concerned may require the person in possession of the property on which the endowment is a charge, to pay the expenses incurred or likely to be incurred in causing the service or charity to be performed

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otherwise. In default of such person making payment as required, the Deputy Commissioner may, on the application of the trustee and after giving the person in possession a reasonable opportunity of stating his objections in regard thereto, by order, determine the amount payable to the trustee.

(2) Where the person in possession of the property on which the endowment is a charge is not the person responsible in law for the performance of the service or charity and any amount is paid by or recovered from the person in possession, the Deputy Commissioner may, on the application of the person in possession and after giving the person responsible in law a reasonable opportunity of stating his objections in regard thereto, by order, require the person responsible in law to pay to the person in possession the amount so paid or recovered.

(3) Against an order of the Deputy Commissioner under sub-section (1) or sub-section (2), the trustee or the person affected may, within two months from the date of the receipt of the order by him, appeal to the Commissioner.

(4) On application by the trustee to the Collector of the district in which the property referred to in sub-section (1) is situated, or on application by the person in possession to the Collector of a district in which is situated any property of the person responsible in law, as the case may be, the Collector shall recover from the person in possession or the person responsible in law, as the case may be, the amount specified in the order of the Deputy Commissioner as modified by the order of the Commissioner, if any, and the expenses of such recovery, as if they were arrears of land revenue and pay to the trustee or, as the case may be, to the person in possession, the amount due to him.

33. The trustee of a specific endowment made for the performance of any service or charity connected with a math or temple shall perform such service or charity subject to the general superintendence of the trustee of the math or temple and shall obey all lawful orders issued by him.

34. (1) (a) (i) Where the remuneration for any service to be performed by a devadasi in a temple consists of lands granted or continued in respect of, or annexed to, such service by the Government, the Government shall enfranchise the said lands from the condition of service, by the imposition of quit-rent.

(ii) Where the remuneration for such service consists of an assignment of land revenue so granted or continued, the Government shall enfranchise such assignment of revenue from the condition of service:

Provided that where, at the time when proceedings are taken under this sub-clause, the devadasi is herself the

Power of trustee of math or temple over trustees of specific endowments. Enfranchisement or freeing of lands, etc., held by a devadasi on condition of service in a temple.

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owner of the lands in respect of which the assignment of revenue has been made, enfranchisement shall be effected and quit-rent imposed in the manner laid down in sub-clause (i).

(iii) Where the remuneration for such service consists in part of lands and in part of an assignment of land revenue, enfranchisement of the lands shall be effected in the manner laid down in sub-clause (i) and of the assignment of the land revenue in the manner laid down in sub-clause (ii).

Explanation.—For the purposes of this clause, a grant shall be deemed to consist of an assignment of land revenue in all cases in which the devadasi herself is not, at the time specified in the proviso to sub-clause (ii), the owner of the lands in question.

(b) Enfranchisement under clause (a) shall be effected in accordance with such rules as the Government may make in this behalf and shall take effect as and from such date as they may fix.

(2) Where the remuneration for such service consists, in whole or in part, of lands or of produce of lands not falling under sub-section (1), the Government shall direct the Collector to determine the amount of rent payable on the lands or the produce in question. The Collector shall thereupon, after giving notice to the party concerned and holding such enquiry as may be prescribed by the Government, by an order, determine the amount of rent, and in doing so, he shall have due regard to—

(a) the rent payable by the tenant for lands of a similar description and with similar advantages in the same village or neighbouring villages; and

(b) the improvements, if any, effected by the devadasi in respect of the lands.

Such order shall be communicated to the parties concerned and also published in the manner prescribed.

(3) The amount of rent fixed by the Collector under sub-section (2) may be questioned by petition presented to the Board of Revenue within three months of the date of the publication of the order under the said sub-section but subject to the result of such petition, the order of the Collector fixing the amount of rent under sub-section (2) shall be final and shall not be liable to be questioned in any court of law:

Provided, however, that the Board of Revenue shall have power on sufficient grounds to entertain a petition presented after expiration of the period of three months.

(4) While determining the rent under sub-section (2), the Collector shall fix a date from which the order shall take effect and such lands or produce shall be deemed to have been freed from the condition of service on and from the date so fixed.

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(5) No obligation to render any service relating to any temple to which any devadasi may be subject by reason of any grant of land or assignment of land revenue or produce derived from land, shall be enforceable when such land, assignment or produce is enfranchised or freed, as the case may be, in the manner hereinbefore provided.

(6) No order passed under sub-section (1), (2) or (3) shall operate as a bar to the trial of any suit or issue relating to the right to enjoy the land, or assignment of land revenue or produce derived from land, as the case may be.

(7) (a) The quit-rent imposed under sub-section (1) shall be payable to the temple concerned.

(b) The assignment of land revenue enfranchised under sub-section (1), or the rent fixed under sub-sections (2) and (3), as the case may be, shall be payable to the devadasi concerned during her lifetime and after her death to the temple concerned.

(8) For the purpose of this section, "devadasi" shall mean any Hindu unmarried female, who is dedicated to a temple.

(9) Where any inam is granted for a service which is auxiliary to the service to be performed by a devadasi in a temple, such inam shall be enfranchised or freed from the condition of service, as if it were a devadasi inam: and the provisions of sub-sections (1) to (8) shall apply accordingly.

35. (1) Any exchange, gift, sale or mortgage and any lease for a term exceeding five years, of the whole or any portion of any inam granted for the support or maintenance of a religious institution or for the performance of a charity or service connected therewith or of any other religious charity and made, confirmed or recognized by the Government shall be null and void: Resumption and re-grant of inam granted for the performance of any charity or service.

Provided that any transaction of the nature aforesaid (not being a gift) may be sanctioned by the Government as being necessary or beneficial to the institution.

Explanation.—Nothing contained in this sub-section shall affect or derogate from the rights and obligations of the landholder and tenant in respect of any land which is ryoti land as defined in the Madras Estates Land Act, 1908.

(2) (a) The Collector may, on his own motion, or on the application of the trustee of the religious institution or of the Commissioner or of any person having interest in the institution who has obtained the consent of such trustee or the Commissioner, by order, resume the whole or any part of any such inam, on one or more of the following grounds, namely:—

(i) that except in the case referred to in the proviso to sub-section (1), the holder of such inam or part or the

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trustee of the institution has made an exchange, gift, sale or mortgage of such inam or part or any portion thereof or has granted a lease of the same or any portion thereof for a term exceeding five years, or

(ii) that the religious institution has ceased to exist or the charity or service in question has in any way become impossible of performance, or

(iii) that the holder of such inam or part has failed to perform or make the necessary arrangements for performing, in accordance with the custom or usage of the institution, the charity or service for performing which the inam had been made, confirmed or recognized as aforesaid, or any part of the said charity or service, as the case may be.

When passing an order under this clause, the Collector shall determine whether such inam or the inam comprising such part, as the case may be, is a grant of both the melvaram and the kudivaram or only of the melvaram.

Provided that in the absence of evidence to the contrary, the Collector shall presume that any minor inam is a grant of both the melvaram and the kudivaram.

(b) Before passing an order under clause (a), the Collector shall give notice to the trustee, to the Commissioner, to the inamdar concerned, to the person in possession of the inam where he is not the inamdar and to the alienee, if any, of the inam; the Collector shall also publish a copy of such notice in such manner as may be prescribed and such publication shall be deemed to be sufficient notice to every other person likely to be affected by such order; and the Collector shall hear the objections, if any, of the persons to whom such notice is given or deemed to be given and hold such inquiry as may be prescribed.

Explanation.—Where only a part of the inam is affected, notice shall be given under this clause to the holder of such part as well as to the holder or holders of the other part or parts, to the person in possession of every such part where he is not the holder thereof, and to the alienee, if any, of every such part; and the objections of all such persons shall be heard by the Collector.

(c) A copy of every order passed under clause (a) shall be communicated to each of the persons mentioned in clause (b), and shall also be published in the manner prescribed.

(d) (i) Any party aggrieved by an order of the Collector under clause (a) may appeal to the District Collector within such time as may be prescribed, and on such appeal the District Collector may, after giving notice to the Commissioner and each of the persons mentioned in clause (b) and after holding such inquiry as may be prescribed, pass an order confirming, modifying or cancelling the order of the Collector.

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(ii) The order of the District Collector on such appeal, or the order of the Collector under clause (a) where no appeal is preferred under sub-clause (i) to the District Collector within the time prescribed, shall be final:

Provided that where there has been an appeal under sub-clause (i) and it has been decided by the District Collector or where there has been no appeal to the District Collector and the time for preferring an appeal has expired, any party aggrieved by the final order of the District Collector or the Collector, as the case may be, may file a suit in a civil court for determining whether the inam comprises both the melvaram and the kudivaram or only the melvaram. Such a suit shall be instituted within six months from the date of the order of the District Collector on appeal where there has been an appeal under sub-clause (i), or from the date of the expiry of the period prescribed under sub-clause (i) for an appeal to the District Collector where there has been no such appeal.

(e) Except as otherwise provided in clause (d), an order of resumption passed under this section shall not be liable to be questioned in any court of law.

(f) Where any inam or part of any inam is resumed under this section, the Collector or the District Collector, as the case may be, shall, by order, re-grant such inam or part—

(i) as an endowment to the religious institution concerned, or

(ii) in case of resumption on the ground that the religious institution has ceased to exist or that the charity or service in question has in any way become impossible of performance, as an endowment for such religious, educational or charitable institution as the Commissioner may recommend.

(g) The order of re-grant made under clause (f) shall, on application made to the Collector within the time prescribed, be executed by him in the manner prescribed.

(h) Nothing in this section shall affect the operation of section 34.

36. Notwithstanding anything contained in any scheme Office-holders settled or deemed to be settled under this Act or in any decree and servants of religious institutions or order of a court, or any custom or usage to the contrary, no office-holder or servant of a religious institution shall have not to be in the right to be in possession of the jewels or other valuables possession of belonging to the religious institution except under such conditions and safeguards as the Commissioner may, by general or conditions. special order, direct.

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Religious institutions other than maths or specific endowments attached thereto.

Sections 38 to 51 not to apply to maths or specific endowments attached to maths.

Commissioner to publish list of certain institutions.

38. The Commissioner shall publish in the prescribed manner a list of the religious institutions whose annual income as calculated for the purposes of the levy of contribution under section 76 is not less than twenty thousand rupees, and may from time to time modify such list in the prescribed manner :

Provided that the Commissioner shall not be bound to remove any institution from such list unless its annual income calculated as aforesaid has fallen below twenty thousand rupees for three consecutive years.

Trustees and their number and term of office.

39. (1) Where a religious institution included in the list published under section 38 or over which no Area Committee has jurisdiction, has no hereditary trustee, the Commissioner shall constitute a Board of Trustees consisting of not less than three and not more than five persons appointed by him.

(2) Where any such institution has, at the commencement of this Act, both a hereditary trustee or trustees and a non-hereditary trustee or trustees, the Commissioner shall have power to appoint the non-hereditary trustee or trustees as and when vacancies arise in their number.

(3) Every trustee appointed under sub-section (1) or sub-section (2) shall hold office for a term of five years, unless in the meanwhile the trustee is removed or dismissed or his resignation is accepted by the Commissioner or he otherwise ceases to be a trustee.

Chairman.

40. (1) In the case of a religious institution for which a Board of Trustees is constituted under section 39, sub-section (1), the Board shall elect one of its number to be its Chairman.

(2) In the case of any other religious institution having more than one trustee, the trustees of such institution shall elect one of their number to be the Chairman.

(3) A Chairman elected under sub-section (1) or sub-section (2) shall hold office for such period as may be prescribed.

Power of Area Committee.

41. (1) In the case of any religious institution over which an Area Committee has jurisdiction, the Area Committee shall have the same power to appoint trustees as is vested in the Commissioner in the case of a religious institution referred to in section 39.

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Provided that the Area Committee may, in the case of any institution which has no hereditary trustee, appoint a single trustee.

(2) The provisions of section 39, sub-section (8), and section 40, shall apply to the trustee or trustees appointed, or the Board of Trustees constituted, by the Area Committee as they apply in relation to the trustee or trustees appointed, or the Board of Trustees constituted, by the Commissioner.

42. The power to appoint trustees under section 39 or section 41 shall be exercisable notwithstanding that the scheme, if any, settled, or deemed under this Act to have been settled for the institution contains provision to the contrary, notwithstanding provision in scheme.

43. In making appointments of trustees under section 39 or 41, the Commissioner or the Area Committee, as the case may be, shall have due regard to the claims of persons belonging to the religious denomination for whose benefit the institution concerned is chiefly maintained.

44. Every non-hereditary trustee lawfully holding office at the commencement of this Act, shall be deemed to have been duly appointed trustee under this Act for the residue of his term of office at such commencement.

45. (1) The Deputy Commissioner in the case of any religious institution over which an Area Committee has jurisdiction, and the Commissioner in the case of any other religious institution may suspend, remove or dismiss any hereditary or non-hereditary trustee or trustees thereof—

(a) for persistent default in the submission of budgets, accounts, reports or returns, or

(b) for wilful disobedience of any lawful order issued under the provisions of this Act by the Government, the Commissioner or Deputy Commissioner, the Area Committee or the Assistant Commissioner, or

(c) for any malfeasance, misfeasance, breach of trust or neglect of duty in respect of the trust, or

(d) for any misappropriation of, or improper dealing with, the properties of the institution, or

(e) for unsoundness of mind or other mental or physical defect, or infirmity which unfits him for discharging the functions of the trustee.

(2) When it is proposed to take action under sub-section (1), the Commissioner or the Deputy Commissioner, as the case may be, shall frame charges against the trustee concerned and give him an opportunity of meeting such charges, of testing the evidence adduced against him and of adducing evidence in his favour; and the order of suspension, removal or dismissal shall state the charges framed against the trustee, his explanation and the finding on each charge with the reasons therefor :

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Provided that the Deputy Commissioner shall also consult the Area Committee before passing the final order under sub-section (1).

(3) Pending the disposal of the charges framed against the trustee, the Commissioner or the Deputy Commissioner may place the trustee under suspension and appoint a fit person to discharge the functions of the trustee.

(4) It shall be open to an Assistant Commissioner to move the Deputy Commissioner to take action under sub-section (1) in respect of any trustee of an institution over which an Area Committee has jurisdiction, and to place the trustee under suspension pending the orders of the Deputy Commissioner under sub-section (3).

(5) A trustee who is suspended, removed or dismissed under sub-section (1), may, within one month from the date of the receipt of the order of suspension, removal or dismissal, appeal against the order to the Commissioner if it was passed by a Deputy Commissioner and to the Government if it was passed by the Commissioner.

Disqualifications of trustees.

46. (1) A non-hereditary trustee shall cease to hold his office if he—

(a) is sentenced by a criminal court to transportation or to imprisonment for a period of more than six months, for any offence other than an offence not involving moral turpitude, such sentence not having been cancelled or reduced to a period of six months or less, or the offence not having been pardoned, provided that the Government may direct that such sentence shall not operate as a disqualification; or

(b) applies to be adjudicated or is adjudicated an insolvent.

(2) In cases of doubt or dispute, the Deputy Commissioner shall determine whether a trustee is disqualified under sub-section (1) or not.

(3) If a hereditary trustee becomes subject to any of the disqualifications described in sub-section (1), the Deputy Commissioner may supersede the trustee.

(4) Any person affected by an order of the Deputy Commissioner under sub-section (2) or sub-section (3) may, within one month from the date of the receipt of the order by him, appeal against the order to the Commissioner.

Filling up of vacancies in the office of hereditary trustee.

47. (1) When a permanent vacancy occurs in the office of the hereditary trustee of a religious institution, the next in the line of succession shall be entitled to succeed to the office.

(2) When a temporary vacancy occurs in such an office by reason of the suspension of the hereditary trustee under

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section 45, sub-section (1), or by reason of his supersession under section 46, sub-section (3), the next in the line of succession shall be entitled to succeed and discharge the functions of the trustee until his disability ceases.

(3) When a permanent or temporary vacancy occurs in such an office and there is a dispute respecting the right of succession to the office, or

when such vacancy cannot be filled up immediately, or when a hereditary trustee is a minor and has no guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as guardian, or

when a hereditary trustee is by reason of unsoundness of mind or other mental or physical defect or infirmity unfit for discharging the functions of the trustee,

the Deputy Commissioner may appoint a fit person to discharge the functions of the trustee of the institution until the disability of the hereditary trustee ceases or another hereditary trustee succeeds to the office or for such shorter term as the Deputy Commissioner may direct.

Explanation.—In making any appointment under this sub-section, the Deputy Commissioner shall have due regard to the claims of members of the family, if any, entitled to the succession.

(4) Any person affected by an order of the Deputy Commissioner under sub-section (3) may, within one month from the date of the receipt of the order by him, appeal against the order to the Commissioner.

(5) Nothing in this section shall be deemed to affect anything contained in the Madras Court of Wards Act, 1902.

Madras Act I of 1902.

48. (1) Vacancies, whether permanent or temporary, amongst the office-holders or servants of a religious institution shall be filled up by the trustee in cases where the office or service is not hereditary.

Appointment of office-holders and servants in religious institutions.

(2) In cases where the office or service is hereditary, the next in the line of succession shall be entitled to succeed.

(3) Where, however, there is a dispute respecting the right of succession, or

where such vacancy cannot be filled up immediately, or where the person entitled to succeed is a minor without a guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as guardian, or

where the hereditary office-holder or servant is suspended from his office under section 49, sub-section (1),

the trustee may appoint a fit person to discharge the functions of the office or perform the service, until the disability of the office-holder or servant ceases or another person succeeds to the office or service, as the case may be.

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Explanation.—In making any appointment under this sub-section, the trustee shall have due regard to the claims of members of the family, if any, entitled to the succession.

(4) Any person affected by an order of the trustee under sub-section (3) may, within one month from the date of the receipt of the order by him, appeal against the order to the Deputy Commissioner.

Punishment of office-holders and servants in religious institutions.

49. (1) All office-holders and servants attached to a religious institution or in receipt of any emolument or perquisite therefrom shall, whether the office or service is hereditary or not, be controlled by the trustee; and the trustee may, after following the prescribed procedure, if any, fine, suspend, remove or dismiss any of them for breach of trust, incapacity, disobedience of orders, neglect of duty, misconduct or other sufficient cause.

(2) Any office-holder or servant punished by a trustee under sub-section (1) may, within one month from the date of the receipt of the order by him, appeal against the order to the Deputy Commissioner.

(3) A hereditary office-holder or servant may, within one month from the date of the receipt by him of the order of the Deputy Commissioner under sub-section (2), prefer an appeal to the Commissioner against such order.

Power to fix fees for archanas and determine their apportionment.

50. Notwithstanding anything contained in any scheme settled or deemed to be settled under this Act, or any decree or usage to the contrary, the trustee of a temple shall have power, subject to such conditions as the Commissioner may, by general or special order, direct, to fix fees for the performance of archanas and to determine what portion, if any, of such fees shall be paid to the archakas or other office-holders or servants of the temple.

Fixing of standard scales of expenditure.

51. (1) The trustee of a religious institution may, from time to time, submit to the Area Committee if the institution is subject to the jurisdiction of such a Committee, and to the Commissioner in other cases, proposals for fixing the *dittam* or scale of expenditure in the institution, and the amounts which should be allotted to the various objects connected with such institution or the proportions in which the income or other property of the institution may be applied to such objects.

(2) The trustee shall publish such proposals at the premises of the institution and in such other manner as may be required by the Area Committee or the Commissioner, as the case may be, together with a notice stating that, within one month from the date of such publication, any person having interest may submit his objections or suggestions to the Area Committee or the Commissioner.

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(3) After the expiry of the said period, the Area Committee or the Commissioner shall, after considering any objections and suggestions received, pass such order as it or he may think fit on such proposals, having regard to the established usage of the institution and its financial position; and a copy of the order shall be communicated to the trustee.

(4) Against an order made by the Area Committee under sub-section (3), the trustee or any person having interest may, within one month from the date of the receipt of the order by the trustee, appeal to the Deputy Commissioner.

(5) The *dittam* or scale of expenditure for the time being in force in an institution shall not be altered by the trustee except in accordance with the procedure laid down in this section.

CHAPTER IV.

MATHS.

52. (1) The Commissioner, or any two or more persons having interest and having obtained the consent in writing of the Commissioner, may institute a suit in the Court to obtain a decree for removing the trustee of a math or a specific endowment attached to a math, for any one or more of the following reasons, namely:—

Suit for the removal of trustee of math or specific endowment attached thereto.

(a) the trustee being of unsound mind;

(b) his suffering from any physical or mental defect or infirmity which renders him unfit to be a trustee;

(c) his having ceased to profess the Hindu religion or the tenets of the math;

(d) his conviction for any offence involving moral turpitude;

(e) breach by him of any trust created in respect of any of the properties of the religious institution;

(f) persistent and wilful default by him in discharging his duties or functions under this Act or any other law.

(2) Where the Commissioner refuses to give consent under sub-section (1), the party aggrieved may, within, three months from the date of the receipt of the order by him, appeal to the Government who may, after making such inquiry as they may consider necessary, confirm the order of the Commissioner or direct the Commissioner to give his consent in writing.

53. (1) When a vacancy occurs in the office of the trustee of a math or specific endowment attached to a math and there is a dispute respecting the right of succession to such office,

Filling of vacancies.

or

when such vacancy cannot be filled up immediately, or

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when the trustee is a minor and has no guardian fit and willing to act as such or there is a dispute respecting the person who is entitled to act as guardian, or

when the trustee is by reason of unsoundness of mind or other mental or physical defect or infirmity unable to discharge the functions of the trustee,

the Assistant Commissioner may take such steps and pass such order as he thinks proper for the temporary custody and protection of the endowments of the math or of the specific endowment, as the case may be, and shall report the matter forthwith to the Commissioner.

(2) Upon the receipt of such report, if the Commissioner, after making such inquiry as he deems necessary, is satisfied that an arrangement for the administration of the math and its endowments or of the specific endowment, as the case may be, is necessary, he shall make such arrangement as he thinks fit until the disability of the trustee ceases or another trustee succeeds to the office, as the case may be.

(3) In making any such arrangement, the Commissioner shall have due regard to the claims of the disciples of the math, if any.

(4) Nothing in this section shall be deemed to affect anything contained in the Madras Court of Wards Act, 1902. Madras I of 1902.

Fixing of
standard
scales of
expenditure.

54. (1) The trustee of every math or specific endowment attached to a math may, from time to time, submit to the Commissioner proposals for fixing the *dittam* or scale of expenditure in the institution, and the amounts which should be allotted to the various objects connected with the institution or the proportions in which the income or other property of the institution may be applied to such objects.

(2) The trustee shall publish such proposals at the premises of the math and in such other manner as the Commissioner may direct together with a notice stating that within one month from the date of such publication, any person having interest may submit suggestions to the Commissioner.

(3) If on a scrutiny of such proposals, and any suggestions made by persons having interest, it appears to the Commissioner that the scale of expenditure or any item in the scale of expenditure is at variance with the established usage of the institution, or is not justified by its financial position, the Commissioner may call for the remarks of the trustee and if after considering the same, the Commissioner is of opinion that any modification is required in the scale of expenditure or any item in the scale of expenditure, he shall submit the case to the Government who shall pass orders thereon, and such orders shall be final.

55. (1) The trustee of a math shall be entitled to spend at his discretion, for purposes connected with the math any *pathakanika* that is to say, any gift of property or money made as a personal gift to him as the head of the math.

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(2) The trustee shall keep regular accounts of all receipts and disbursements of the nature referred to in sub-section (1), and shall cause such accounts to be produced before the Commissioner or any person authorized by him in this behalf, whenever so required.

56. (1) For the administration of the secular affairs of a math, the trustee of the math shall, when so required by the Commissioner, appoint a competent person as manager and report the name of the person so appointed, to the Commissioner; and in default of such appointment, the Commissioner may himself make the appointment. **Appoint-
ment of
manager of
secular
affairs of
math.**

(2) The manager appointed under sub-section (1) shall be subordinate to the trustee of the math and shall, in addition to the trustee, be responsible for the due submission to the Commissioner of the registers, accounts and budgets of the math, and also for the performance of other statutory duties imposed upon the trustee by or under this Act.

CHAPTER V.

INQUIRIES.

57. Subject to the rights of suit or appeal hereinafter provided, the Deputy Commissioner shall have power to inquire into and decide the following disputes and matters:— **Deputy Com-
missioner
to decide
certain dis-
putes and
matters.**

(a) whether an institution is a religious institution;

(b) whether a trustee holds or held office as a hereditary trustee;

(c) whether any property or money is a religious endowment;

(d) whether any property or money is a specific endowment;

(e) whether any person is entitled, by custom or otherwise, to any honour, emolument or perquisite in any religious institution; and what the established usage of a religious institution is in regard to any other matter;

(f) whether any institution or endowment is wholly or partly of a religious or secular character; and whether any property or money has been given wholly or partly for religious or secular uses; and

(g) where any property or money has been given for the support of an institution which is partly of a religious and partly of a secular character, or the performance of any service or charity connected with such an institution or the performance of a charity which is partly of a religious and partly of

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a secular character or where any property or money given is appropriated partly to religious and partly to secular uses, as to what portion of such property or money shall be allocated to religious uses.

Power of
Deputy
Commissioner to
frame
schemes.

58. (1) When the Deputy Commissioner has reason to believe that in the interests of the proper administration of a religious institution, a scheme should be settled for the institution, or when not less than five persons having interest make an application in writing, stating that in the interests of the proper administration of a religious institution a scheme should be settled for it, the Deputy Commissioner shall consult in the prescribed manner the trustee and the persons having interest and the Area Committee, if any, having jurisdiction over the institution; and if, after such consultation, he is satisfied that it is necessary or desirable to do so, he shall, by order, frame a scheme of administration for the institution.

(2) A scheme settled under sub-section (1) for a temple or for a specific endowment other than one attached to a math may contain provision for—

(a) removing any existing trustee, whether hereditary or non-hereditary;

Provided that where provision is made in the scheme for the removal of a hereditary trustee, provision shall also be made therein for the appointment as trustee of the person next in succession who is qualified;

(b) appointing a new trustee or trustees in the place of or in addition to any existing trustee or trustees;

(c) defining the powers and duties of the trustee or trustees;

(d) appointing, or directing the appointment of, a paid executive officer, who shall be a person professing the Hindu religion, on such salary and allowances as may be fixed, to be paid out of the funds of the institution; and defining the powers and duties of such officer;

Provided that in making any provision of the nature specified in clause (b) due regard shall be had to the claims of persons belonging to the religious denomination for whose benefit the institution is chiefly maintained.

(3) A scheme settled under sub-section (1) for a math or for a specific endowment attached to a math may contain provision for—

(a) associating one or more persons with the trustee or constituting a separate body for the purpose of participating or assisting in the whole or any part of the administration of the endowments of such math or of the specific endowment;

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provided that such person or persons or the members of such body shall be chosen from persons having interest in such math or endowment;

(b) appointing or directing the appointment of a paid executive officer, who shall be a person professing the Hindu religion, on such salary and allowances as may be fixed by the Deputy Commissioner, to be paid out of the trust funds, and defining the powers and duties of such officer;

(c) defining the powers and duties of the trustee.

(4) The Deputy Commissioner may determine what the properties of the religious institution are and append to the scheme a schedule containing a list of such properties;

Provided that such determination shall not affect the rights of persons who are in hostile possession of any of the said properties.

(5) Pending the framing of a scheme for a temple or for a specific endowment other than one attached to a math, the Deputy Commissioner may appoint a fit person to discharge all or any of the functions of the trustee thereof and define his powers and duties.

(6) The Deputy Commissioner may, at any time, after consulting the trustee and the persons having interest and the Area Committee, if any, having jurisdiction over the institution, by order, modify or cancel any scheme settled under sub-section (1) or a scheme settled by the Board under the Madras Act II of 1927.

(7) Every order of the Deputy Commissioner settling, modifying or cancelling a scheme under this section shall be published in the prescribed manner and on such publication shall, subject to the provisions of sections 61 and 62, be binding on the trustee, the executive officer and all persons having interest.

(8) The powers conferred by this section shall, in respect of maths, be exercised by the Commissioner or by a Deputy Commissioner to whom powers in this behalf have been delegated by the Commissioner under section 10, sub-section (2).

59. (1) The Deputy Commissioner may, on being satisfied that the purpose of a religious institution has from the beginning been, or has subsequently become, impossible of realization, by order, direct that the endowments of the institution be appropriated to all or any of the following purposes, namely:—

(a) the propagation of the religious tenets of the institution;

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(b) the establishment and maintenance of a university or college or other institution in which special provision is made for the study of Hindu religion, philosophy or sastras or for imparting instruction in Hindu temple architecture;

(c) the establishment and maintenance of educational institutions where instruction in the Hindu religion is also imparted to Hindu students thereof;

(d) promoting the study of Indian languages including Sanskrit;

(e) promotion of the cultivation of Indian arts and architecture;

(f) the establishment and maintenance of orphanages for Hindu children;

(g) the establishment and maintenance of asylums for Hindus suffering from leprosy;

(h) the establishment and maintenance of poor homes for destitute Hindus who are physically disabled and helpless;

(i) the establishment and maintenance of hospitals and dispensaries for the benefit of Hindus; and

(j) the grant of aid to any other religious institution which is poor or in needy circumstances:

Provided that in the case of a religious institution founded and maintained by a religious denomination or any section thereof the endowments shall, as far as possible, be utilized for the benefit of the denomination or section concerned for the purposes mentioned above.

(2) The Deputy Commissioner may at any time by order modify or cancel any order passed under sub-section (1).

(3) The order of the Deputy Commissioner under this section shall be published in the prescribed manner and on such publication shall, subject to the provisions of section 61, be binding on the trustee, the executive officer and all persons having interest.

Determina-
tion and
application
of properties
and funds
of defunct
religious
institutions.

60. (1) The Deputy Commissioner may, on being satisfied that a religious institution has, whether before or after the commencement of this Act, ceased to exist, hold an inquiry in the prescribed manner to ascertain its properties and funds; and after doing so, shall pass an order—

(a) specifying the properties and funds of the institution;

(b) appointing a trustee therefor;

(c) directing the recovery of any such property or funds from any person who may be in possession thereof; and

(d) laying down that the properties and funds so specified shall be applied or utilized for renovating the

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institution or if such renovation is not possible, be appropriated to any one or more of the purposes specified in section 59, sub-section (1).

(2) The Deputy Commissioner may, on being satisfied after holding an inquiry in the prescribed manner, that any building or other place which was being used for religious worship or instruction has, whether before or after the commencement of this Act, ceased to be used for that purpose, pass an order—

(a) directing the recovery of such building or place from any person who may be in possession thereof; and

(b) laying down that it shall be used for religious worship or instruction as before, or if such use is not possible, be utilized for any one or more of the purposes specified in section 59, sub-section (1).

(3) Nothing contained in sub-section (1) or sub-section (2) shall be deemed to authorize the Deputy Commissioner to pass an order in respect of any property or funds which vested in any person before the commencement of this Act by the operation of the law of limitation.

(4) Every order of the Deputy Commissioner under sub-section (1) or sub-section (2) shall be published in the prescribed manner.

61. (1) Any person aggrieved by any order passed by the Deputy Commissioner under any of the foregoing provisions of this Chapter may, within one month from the date of the publication of the order or of the receipt thereof by the party concerned, as the case may be, appeal to the Commissioner. **Appeal to the Commissioner.**

(2) Any order passed by the Commissioner on such appeal against which no suit lies to the Court under the next succeeding section, or in which no suit has been instituted in the Court within the time specified in section 62, sub-section (1), may be modified or cancelled by the Commissioner if the order has settled or modified a scheme for the administration of a religious institution or relates to any of the matters specified in section 59.

62. (1) Any party aggrieved by an order passed by the Commissioner— **Suits and appeals.**

(i) under section 61, sub-section (1) or sub-section (2), and relating to any of the matters specified in section 57, section 58 or section 60; or

(ii) under section 57, section 58 or section 60 read with sub-section (1) (a) (2) or 4 (a) of section 19 or with sub-section (3) or (4) of section 80;

may, within ninety days from the date of the receipt of such order by him, institute a suit in the Court against such order;

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and the Court may modify or cancel such order, but it shall have no power to stay the Commissioner's order pending the disposal of the suit.

(2) Any party aggrieved by a decree of the Court under sub-section (1) may, within ninety days from the date of the decree, appeal to the High Court.

(3) (a) Any scheme for the administration of a religious institution settled or modified by the Court in a suit under sub-section (1) or on an appeal under sub-section (2) or any scheme deemed under section 103, clause (d), to have been settled or modified by the Court may, at any time, be modified or cancelled by the Court on an application made to it by the Commissioner, the trustee or any person having interest.

(b) Any party aggrieved by an order of the Court under clause (a) may, within ninety days from the date of the order, appeal to the High Court.

CHAPTER VI.

NOTIFIED RELIGIOUS INSTITUTIONS.

Issue of notice to show cause why institution should not be notified.

63. (1) Notwithstanding that a religious institution is governed by a scheme settled or deemed to have been settled under this Act, where the Commissioner has reason to believe that such institution is being mismanaged and is satisfied that in the interests of its administration, it is necessary to take proceedings under this Chapter, the Commissioner may, by notice published in the prescribed manner, call upon the trustee and all other persons having interest to show cause why such institution should not be notified to be subject to the provisions of this Chapter.

(2) Such notice shall state the reasons for the action proposed, and specify a reasonable time, not being less than one month from the date of the issue of the notice, for showing such cause.

(3) The trustee or any person having interest may thereupon prefer any objection he may wish to make to the issue of a notification as proposed.

(4) Such objection shall be in writing and shall reach the Commissioner before the expiry of the time specified in the notice aforesaid or within such further time as may be granted by the Commissioner.

Consideration of objections, if any, and notification of institution.

64. (1) Where no such objection has been received within the time so specified or granted, the Government may, on receipt of a report from the Commissioner to that effect, by notification published in the *Fort St. George Gazette*, declare the religious institution to be subject to the provisions of this Chapter.

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(2) Where any such objections have been received within the time so specified or granted, the Commissioner shall hold an inquiry into the objections in the manner prescribed, and decide whether the institution should be notified to be subject to the provisions of this Chapter or not.

(3) If the Commissioner decides that the institution should be notified as aforesaid, he shall make a report to that effect to the Government who may thereupon, by notification published in the *Fort St. George Gazette*, declare the religious institution to be subject to the provisions of this Chapter.

(4) Every notification published under this section shall remain in force for a period of five years from the date of its publication; but the Government may, at any time, on an application made to them, cancel the notification.

65. On the publication of the notification, the scheme of administration, if any, settled for the religious institution, whether before or after the commencement of this Act, and all rules, if any, framed under such scheme shall cease to apply to the institution; and such scheme and rules shall not be deemed to be revived by reason of the cancellation of the notification or by reason of its having ceased to be in force by efflux of time.

Scheme to lapse on notification.

66. (1) For every institution notified under this Chapter, the Commissioner shall as soon as may be appoint a salaried executive officer, who shall be a person professing the Hindu religion.

Appointment of salaried executive officer.

(2) The salary and allowances of the executive officer, as determined by the Commissioner, shall be paid from the funds of the religious institution.

67. (1) The executive officer shall hold office for such period as may be fixed by the Commissioner and he shall exercise such powers and perform such duties as may be assigned to him by the Commissioner:

Term of office and duties of executive officer.

Provided that only such powers and duties as appertain to the administration of the endowments of the religious institution shall be assigned to the executive officer.

(2) The Commissioner shall define the powers and duties which may be exercised and performed respectively by the executive officer and the trustee, if any, of the religious institution.

(3) The executive officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

68. The Commissioner may, for good and sufficient cause, suspend, remove or dismiss the executive officer.

Removal of executive officer.

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Section 58
not to apply
to notified
institutions.

69. Section 58 shall not apply to, and no Area Committee shall have jurisdiction over, any religious institution notified under this Chapter or under Chapter VI-A of the Madras Hindu Religious Endowments Act, 1926, so long as the notification remains in force. **Madras Act II of 1927.**

CHAPTER VII.

BUDGETS, ACCOUNTS AND AUDIT.

Budgets of
religious
institutions.

70. (1) The trustee of every religious institution shall, before the end of March in each year, submit, in such form as may be fixed by the Commissioner, a budget showing the probable receipts and disbursements of the institution during the following fasli year—

(a) to the Area Committee, if the institution is subject to the jurisdiction of such a Committee; and

(b) to the Commissioner, in other cases.

(2) Every such budget shall make adequate provision for—

(a) the dittam or scale of expenditure for the time being in force;

(b) the due discharge of all liabilities binding on the institution;

(c) the repair and renovation of the buildings connected with the institution, the provision made under this clause not being less than ten per centum of its income in the case of an institution assessed to contribution under section 76 for the previous fasli year on an income not exceeding three thousand rupees, and not being less than twenty-five per centum of its income, or ten per centum of its income up to three thousand rupees and the whole of the excess of its income over that amount, whichever is less, in the case of any other institution;

Provided that any institution the income of which does not exceed or does not sufficiently exceed the expenditure referred to in clauses (a) and (b) may be exempted by the Commissioner, in whole or in part, as the case may be, from the requirement of this clause;

(d) the maintenance of a working balance.

(3) The Area Committee or the Commissioner, as the case may be, may, after giving notice to the trustee in the prescribed manner and after considering his representations, if any, make such alterations, omissions or additions in the budget as the Area Committee or the Commissioner may deem fit.

(4) Against an order made by the Area Committee under sub-section (3), a trustee may, within one month from the date of the receipt by him of the order, appeal to the Deputy Commissioner.

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71. (1) The trustee of every religious institution shall keep regular accounts of all receipts and disbursements. **Accounts and audit.**

(2) The accounts of every religious institution, the annual income of which as calculated for the purposes of section 76 for the fasli year immediately preceding is not less than sixty thousand rupees, shall be subject to concurrent audit, that is to say, the audit shall take place as and when expenditure is incurred.

(3) The accounts of every other religious institution shall be audited annually, or if the Commissioner so directs in any case or class of cases, at shorter intervals.

(4) The audit shall be made—

(a) in the case of a religious institution the annual income of which calculated as aforesaid for the fasli year immediately preceding is not less than one thousand rupees, by auditors appointed in the prescribed manner, who shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code;

(b) in the case of any other religious institution, by an officer or servant subordinate to the Commissioner and deputed by him for the purpose.

72. After completing the audit for any year or shorter period, or for any transaction or series of transactions, as the case may be, the auditor shall send a report— **Authority to whom audit report is to be submitted.**

(a) to the Area Committee, if the institution is subject to the jurisdiction of such a Committee; and

(b) to the Commissioner, in other cases.

73. (1) The auditor shall specify in his report all cases of irregular, illegal or improper expenditure, or of failure to recover moneys or other property due to the religious institution, or of loss or waste of money or other property thereof, caused by neglect or misconduct. **Contents of audit report.**

(2) The auditor shall also report on such other matter relating to the accounts as may be prescribed, or on which the Commissioner or the Area Committee concerned, as the case may be, may require him to report.

74. (1) The Area Committee or the Commissioner, as the case may be, shall send a copy of every audit report relating to the accounts of a religious institution to the trustee thereof, and it shall be the duty of such trustee to remedy any defects or irregularities pointed out by the auditor and report the same to the Area Committee or the Commissioner, as the case may be. **Rectification of defects disclosed in audit and order of surcharge against trustee, etc.**

(2) The Area Committee shall forward to the Commissioner a copy of every audit report received by it under

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Section 58
not to apply
to notified
institutions.

69. Section 58 shall not apply to, and no Area Committee shall have jurisdiction over, any religious institution notified under this Chapter or under Chapter VI-A of the Madras Hindu Religious Endowments Act, 1926, so long as the notification remains in force.

CHAPTER VII.

BUDGETS, ACCOUNTS AND AUDIT.

Budgets of
religious
institutions.

70. (1) The trustee of every religious institution shall, before the end of March in each year, submit, in such form as may be fixed by the Commissioner, a budget showing the probable receipts and disbursements of the institution during the following fasli year—

(a) to the Area Committee, if the institution is subject to the jurisdiction of such a Committee; and

(b) to the Commissioner, in other cases.

(2) Every such budget shall make adequate provision for—

(a) the ditto or scale of expenditure for the time being in force;

(b) the due discharge of all liabilities binding on the institution;

(c) the repair and renovation of the buildings connected with the institution, the provision made under this clause not being less than ten per centum of its income in the case of an institution assessed to contribution under section 76 for the previous fasli year on an income not exceeding three thousand rupees, and not being less than twenty-five per centum of its income, or ten per centum of its income up to three thousand rupees and the whole of the excess of its income over that amount, whichever is less, in the case of any other institution;

Provided that any institution the income of which does not exceed or does not sufficiently exceed the expenditure referred to in clauses (a) and (b) may be exempted by the Commissioner, in whole or in part, as the case may be, from the requirement of this clause;

(d) the maintenance of a working balance.

(3) The Area Committee or the Commissioner, as the case may be, may, after giving notice to the trustee in the prescribed manner and after considering his representations, if any, make such alterations, omissions or additions in the budget as the Area Committee or the Commissioner may deem fit.

(4) Against an order made by the Area Committee under sub-section (3), a trustee may, within one month from the date of the receipt by him of the order, appeal to the Deputy Commissioner.

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71. (1) The trustee of every religious institution shall keep regular accounts of all receipts and disbursements. Accounts and audit.

(2) The accounts of every religious institution, the annual income of which as calculated for the purposes of section 76 for the fasli year immediately preceding is not less than sixty thousand rupees, shall be subject to concurrent audit, that is to say, the audit shall take place as and when expenditure is incurred.

(3) The accounts of every other religious institution shall be audited annually, or if the Commissioner so directs in any case or class of cases, at shorter intervals.

(4) The audit shall be made—

(a) in the case of a religious institution the annual income of which calculated as aforesaid for the fasli year immediately preceding is not less than one thousand rupees, by auditors appointed in the prescribed manner, who shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code;

(b) in the case of any other religious institution, by an officer or servant subordinate to the Commissioner and deputed by him for the purpose.

72. After completing the audit for any year or shorter period, or for any transaction or series of transactions, as the case may be, the auditor shall send a report— Authority to whom audit report is to be submitted.

(a) to the Area Committee, if the institution is subject to the jurisdiction of such a Committee; and

(b) to the Commissioner, in other cases.

73. (1) The auditor shall specify in his report all cases of irregular, illegal or improper expenditure, or of failure to recover moneys or other property due to the religious institution, or of loss or waste of money or other property thereof, caused by neglect or misconduct. Contents of audit report.

(2) The auditor shall also report on such other matter relating to the accounts as may be prescribed, or on which the Commissioner or the Area Committee concerned, as the case may be, may require him to report.

74. (1) The Area Committee or the Commissioner, as the case may be, shall send a copy of every audit report relating to the accounts of a religious institution to the trustee thereof, and it shall be the duty of such trustee to remedy any defects or irregularities pointed out by the auditor and report the same to the Area Committee or the Commissioner, as the case may be. Rectification of defects disclosed in audit and order of surcharge against trustee, etc.

(2) The Area Committee shall forward to the Commissioner a copy of every audit report received by it under

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clause (a) of section 72 and the report, if any, of the trustee made under sub-section (1), together with such remarks as the Area Committee may wish to make thereon.

(3) If, on a consideration of the report of the auditor along with the report, if any, of the trustee, and the remarks, if any, of the Area Committee, the Commissioner thinks that the trustee or any other person was guilty of misappropriation or wilful waste of the funds of the institution or of gross neglect resulting in a loss to the institution, the Commissioner may, after giving notice to the trustee or such person to show cause why an order of surcharge should not be passed against him and after considering his explanation, if any, by order, certify the amount so lost and direct the trustee or such person to pay within a specified time such amount personally and not from the funds of the religious institution :

Provided that if, in respect of any expenditure or dealing with trust property, the trustee or such person had obtained the directions of the Area Committee or of the Commissioner and had acted in accordance with such directions, he shall not be held responsible.

(4) The Commissioner shall forward a copy of the order under sub-section (3) with the reasons for the same, by registered post to the trustee or person concerned.

(5) The trustee or other person aggrieved by such order may, within thirty days of the receipt by him of the order, either—

(a) apply to the Court to modify or set aside the order and the Court, after taking such evidence as is necessary, may confirm, modify or remit the surcharge with such orders as to costs as it may think appropriate in the circumstances, or

(b) in lieu of such application may appeal to the Government who shall pass such orders as they think fit.

(6) Neither the Court nor the Government to which or to whom an application or appeal is made under sub-section (5) shall have power to stay the operation of the order pending the disposal of the application or appeal.

(7) An order of surcharge under this section against a trustee shall not bar a suit for accounts against him except in respect of the matter finally dealt with by such order.

(8) The Collector of the district in which is situated any property of the trustee or other person from whom an amount is recoverable by way of surcharge shall, on a requisition made by the Commissioner, recover such amount as if it were an arrear of land revenue and pay the same to the religious institution concerned.

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75. The provisions of this Chapter shall apply to every religious institution, notwithstanding anything to the contrary contained in any scheme settled or deemed to be settled under this Act.

Chapter to apply notwithstanding provision in scheme.

CHAPTER VIII.

FINANCE.

76. (1) In respect of the services rendered by the Government and their officers, every religious institution shall, from the income derived by it, pay to the Government annually such contribution not exceeding five per centum of its income as may be prescribed.

Religious institutions to pay an annual contribution to the Government.

(2) Every religious institution, the annual income of which, for the fasli year immediately preceding as calculated for the purposes of the levy of contribution under sub-section (1), is not less than one thousand rupees, shall pay to the Government annually, for meeting the cost of auditing its accounts, such further sum not exceeding one and a half per centum of its income as the Commissioner may determine.

(3) The annual payments referred to in sub-sections (1) and (2) shall be made, notwithstanding anything to the contrary contained in any scheme settled or deemed to be settled under this Act for the religious institution concerned.

(4) The Government shall pay the salaries, allowances, pensions and other beneficial remuneration of the Commissioner, Deputy Commissioners, Assistant Commissioners and other officers and servants (other than executive officers of religious institutions) employed for the purposes of this Act and the other expenses incurred for such purposes, including the expenses of Area Committees and the cost of auditing the accounts of religious institutions.

77. All costs, charges and expenses incurred by the Government, the Commissioner, a Deputy Commissioner, an Area Committee, or an Assistant Commissioner as a party to, or in connexion with, any legal proceeding in respect of any religious institution shall be payable out of the funds of such institution, except in cases where a liability to pay the same has been laid on any party or other person personally and the right to reimbursement under this section has been negatived in express terms.

Recovery of costs and expenses incurred on legal proceedings.

78. (1) The contributions, costs and expenses payable under sections 76 and 77 shall be assessed on and notified to the trustee of the religious institution concerned in the prescribed manner.

Assessment and recovery of contributions and costs and expenses.

(2) (a) Such trustee may, within fifteen days from the date of the receipt of such notice or within such further time as may be granted by the Commissioner, prefer his objection

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thereto, if any, to the Commissioner in writing. Such objection may relate either to his liability to pay or to the amount specified in the notice. The Commissioner shall consider such objection and give his decision confirming, withdrawing or modifying his original notice.

(b) Within one month from the date of receipt of the notice of assessment, or when objection has been preferred, within one month from the date of the decision of the Commissioner, or within such further time as may be granted by him, such trustee shall pay the amount specified in the original notice or the amount as fixed by the Commissioner on objection.

(3) If the trustee fails to pay the amount aforesaid within the time allowed, the Collector of the district in which any property of the religious institution is situated shall, on requisition made to him in the prescribed manner by the Commissioner and subject to the provisions of this section, recover such amount as if it were an arrear of land revenue.

(4) (a) On receipt of a requisition under sub-section (3), the Collector shall issue a notice to the trustee concerned—

(i) requiring him, within fifteen days from the service thereof, to pay the amount mentioned in the requisition and specified in the notice; and

(ii) stating that on default, such amount will be recovered as if it were an arrear of land revenue.

(b) If, within the period of fifteen days aforesaid, the amount demanded is not paid, the Collector shall proceed to recover the amount specified in the notice (with the charges of collection) as if it were an arrear of land revenue.

(5) The Collector shall, on receipt of a requisition under sub-section (3), withhold the amount mentioned therein out of the tasdik or any other allowance payable by the Government to the religious institution concerned, but where the tasdik or other allowance is insufficient for the purpose, the Collector shall withhold the amount available, and recover the balance as if it were an arrear of land revenue.

(6) Places of worship, including temples and tanks and places where utsavams are performed, idols, vahanams, jewels and such vessels and other articles of the religious institution as may be necessary in accordance with the usage of the institution for purposes of worship or processions shall not be liable to be proceeded against in pursuance of sub-sections (3), (4) and (5).

(7) Instead of selling the property after attachment thereof under the provisions of the Madras Revenue Recovery Act, 1864, it shall be open to the Collector at the instance of the Commissioner to appoint a Receiver to take possession

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of the property or such portion thereof as may be necessary and collect the income thereof until the amount sought to be recovered is realized. The remuneration, if any, paid to the Receiver, and the other expenses incurred by him shall be paid out of the income of the institution concerned.

(8) No suit, prosecution or other legal proceeding shall be entertained in any court of law against the Government or any officer or servant of the Government for anything done or intended to be done in good faith in pursuance of this section.

79. (1) It shall not be competent for the Commissioner to levy any contribution for more than three faslis immediately preceding the fasli in which a notice of assessment is issued under section 78.

Contribution not to be levied for more than three faslis immediately preceding the fasli in which a notice of assessment is issued.

(2) Nothing in this section shall affect any levy of contribution made or moneys collected by the Board before the commencement of the Madras Hindu Religious Endowments (Amendment) Act, 1946.

Madras Act
X of 1946.

CHAPTER IX.

THE TIRUMALAI-TIRUPATI DEVASTHANAMS.

80. (1) The provisions of this Chapter shall apply to the Tirumalai-Tirupati Devasthanams.

(2) Sections 58 and 63 to 69 of this Act shall not apply to the Devasthanams.

(3) The other provisions of this Act shall apply to the Devasthanams as if they constituted a single religious institution included in the list published under section 38 and subject to the following modifications, namely:—

Application of Act to Tirumalai-Tirupati Devasthanams.

(a) There shall be a Board of Trustees constituted for the Devasthanams consisting of five persons appointed by the Government; and any person so appointed shall hold office for a term of five years unless in the meanwhile he is removed or his resignation is accepted by the Government or he otherwise ceases to be a trustee.

(b) The Government shall also appoint a salaried executive officer for the Devasthanams, and shall have power to suspend, remove or dismiss him from office.

(c) All powers and duties assigned by the provisions aforesaid to a Deputy or an Assistant Commissioner shall be deemed to have been assigned to the Commissioner instead.

(4) The provisions of this Act shall apply to every specific endowment attached either to the Devasthanams as a whole or to any temple or institution thereof as if all powers and duties assigned therein to a Deputy or an Assistant Commissioner had been assigned to the Commissioner instead.

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Qualification of executive officer and payment of salary, allowances, etc.

81. (1) The executive officer shall be a person professing the Hindu religion.

(2) If the executive officer is an officer in the service of the Government, the Devasthanams shall pay his salary, allowances and such contributions towards his pension, provident fund and leave allowances as may be required under the rules prescribed by the Government in this behalf.

Powers and duties of executive officer.

82. Subject to such reservations as may be laid down by the Government and to the general control of the Board of Trustees, the executive officer—

(a) shall have power to manage the properties and affairs of the Devasthanams;

(b) shall be responsible for the proper custody of all the records and of all the jewels, valuables, moneys, funds and other properties of the Devasthanams;

(c) shall arrange for the proper collection of the income and for the incurring of expenditure; and

(d) may, in cases of emergency, direct the execution of any work or the doing of any act which is not provided for in the budget for the year and the immediate execution or the doing of which is, in his opinion, necessary for the preservation of the properties of the Devasthanams or for the service or safety of the pilgrims resorting thereto; and may direct that the expenses of executing such work or the doing of such act shall be paid from the funds of the Devasthanams.

The executive officer shall report forthwith to the Board of Trustees any action taken by him under clause (d) and the reasons therefor.

Appointment and punishment of office-holders and servants by executive officer in certain cases.

83. (1) The powers of appointment and punishment conferred on a trustee by sections 48 and 49 shall, in respect of the office-holders and servants of the Devasthanams, be exercised by the executive officer subject to such restrictions and conditions, if any, as may be laid down by the Government.

(2) Any person affected by an order of the executive officer acting in pursuance of the powers conferred on him by sub-section (1) may, within one month from the date of the receipt of the order by him, appeal to the Board of Trustees.

(3) Within one month from the date of the receipt by him of the order of the Board of Trustees, the office-holder or servant may appeal to the Commissioner.

Application of Madras Village Panchayats Act and other enactments to Tirumalai area.

84. (1) The Government may, by notification in the *Fort St. George Gazette*, declare that any of the provisions of the Madras Village Panchayats Act, 1950, or of the Madras Public Health Act, 1939, or of any rules made under those Acts, shall be extended to, and be in force in, the Tirumalai Hills area as notified by the Government in the *Fort St. George Gazette* from time to time.

Madras A
X of 1950
Madras A
III of 1939

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(2) The provisions so notified shall be construed with such modifications not affecting the substance as may be necessary or proper for the purpose of adapting them to the Tirumalai Hills area.

(3) Without prejudice to the generality of the foregoing provision—

(i) the Tirumalai Hills area shall be deemed to be a village for the purposes of the Madras Village Panchayats Act, 1950, and a local area for the purposes of the Madras Public Health Act, 1939;

(ii) all references to a panchayat or the president, executive officer or executive authority thereof in the Madras Village Panchayats Act, 1950, and all references to a local authority, executive authority or executive officer in the Madras Public Health Act, 1939, shall, subject to the provisions of clauses (iii) and (iv), be construed as references to the executive officer, in the Tirumalai Hills area;

(iii) any appeal provided for by or under the Madras Village Panchayats Act, 1950, from an order or decision of the president, executive authority or executive officer of a panchayat to the panchayat shall lie instead to the Inspector of Municipal Councils and Local Boards;

(iv) any appeal provided for by or under the Madras Public Health Act, 1939, from an order or decision of the executive authority or executive officer of a local authority to the local authority shall lie instead to the Director of Public Health.

(4) (a) The Government may, by notification in the *Fort St. George Gazette*, authorize the executive officer, to levy tolls, in the prescribed manner in respect of any road, including the ghat road leading to Tirumalai from Tirupati which has been or shall hereafter be constructed entirely from the funds of the Devasthanams and situated within the Tirumalai Hills area as notified under sub-section (1), at such rates and for such period as may be specified in the notification.

(b) The executive officer may—

(i) place the collection of such tolls under the management of such persons as may appear to him proper, or

(ii) farm out such collection on such terms and conditions as he may think fit.

(c) The provisions of sections 3 to 7 of the Indian Tolls Act, 1851, as in force for the time being in the State of Madras, shall apply to the collection of such tolls and the persons under whose management the collection of such tolls

Madras Act
X of 1950.
Madras Act
III of 1939.

Madras Act
X of 1950.

Madras Act
III of 1939.

Madras Act
X of 1950.

Madras Act
III of 1939.

Central Act
VIII of
1851.

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may be placed, as well as the persons to whom such collections may be farmed out and their agents and servants shall be deemed to be persons appointed to collect tolls within the meaning of that Act.

Purposes for which Devasthanam funds may be used.

85. The funds of the Devasthanams may be utilized for any purpose permitted by any other provision of this Act and also for all or any of the following purposes:—

(i) the maintenance, management and administration of the Devasthanams;

(ii) the maintenance of the educational institutions referred to in Schedule III;

(iii) the foundation and maintenance of hospitals and dispensaries for the relief of the pilgrims and worshippers visiting the temples;

(iv) the construction and maintenance of choultries and rest-houses for the use and accommodation of all classes of pilgrims;

(v) the provision of water-supply and other sanitary arrangements to the pilgrims;

(vi) the establishment and maintenance of a veterinary hospital for the animals of the Devasthanams;

(vii) the acquisition of any land or other immovable property for the purposes of the Devasthanams provided the acquisition is authorized by the Government;

(viii) the construction and maintenance of roads and communications and the lighting thereof for the convenience of the pilgrims and worshippers;

(ix) the training of archakas to perform the religious worship and ceremonies in the Devasthanams, and the training of adhyapakas and vedaparyayanikas; and

(x) any work or undertaking for the purposes of the Devasthanams, authorized by the Government, so long as such authorization subsists.

CHAPTER X.

MISCELLANEOUS.

Public Officers to furnish copies of or extracts from certain documents.

86. All public officers having custody of any record, register, report or other document relating to a religious institution or any movable or immovable property thereof shall furnish such copies of or extracts from the same as may be required by the Commissioner, a Deputy Commissioner, an Area Committee, or an Assistant Commissioner.

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87. Where a person has been appointed—

(a) as trustee or executive officer of a religious institution, or

(b) to discharge the functions of a trustee of a religious institution in accordance with the provisions of this Act, or

(c) as manager under section 56 or in any scheme framed by the Board before the commencement of this Act, and such person is resisted in, or prevented from obtaining possession of, the religious institution or of the records, accounts and properties thereof, by a trustee, office-holder or servant of the religious institution who has been dismissed or suspended from his office or is otherwise not entitled to be in possession or by any person claiming or deriving title from such trustee, office-holder or servant, not being a person claiming in good faith to be in possession on his own account or on account of some person not being such trustee, office holder or servant, any Magistrate of the first class in whose jurisdiction such institution or property is situated shall, on application by the person so appointed, and on the production of the order of appointment, and where the application is for possession of property, of a certificate by the Commissioner in the prescribed form setting forth that the property in question belongs to the religious institution, direct delivery to the person appointed as aforesaid of the possession of such religious institution, or the records, accounts and properties thereof, as the case may be:

Provided however that before issuing any such certificate in respect of any property, the Commissioner shall give notice to the trustee, office-holder or servant of the religious institution, as the case may be, of his intention to issue the certificate and consider the objections, if any, of such trustee, office-holder or servant:

Provided also that for the purpose of proceedings under this section, the certificate aforesaid shall be conclusive evidence that the properties to which it relates belong to the religious institution.

Provided further that nothing contained in this section shall bar the institution of a suit by any person aggrieved by an order under this section for establishing his title to the said property.

Explanation.—A person claiming under an alienation contrary to the provisions of section 29 or 35 shall not be regarded as a person claiming in good faith within the meaning of this section.

88. (1) The costs, charges and expenses of and incidental to any suit, appeal or application to a Court under this Act shall be in the discretion of the Court, which may, subject to the provisions of section 77, direct the whole or any part

Putting trustee or executive officer in possession.

Cost of proceedings, etc.

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of such costs, charges and expenses to be met from the property or income of the religious institution or endowment concerned or to be borne and paid in such manner and by such persons as it thinks fit.

(2) The costs, charges and expenses of and incidental to any appeal, application or other proceeding before the Commissioner or a Deputy Commissioner shall be in his discretion and he shall have full power to determine by whom or out of what funds and to what extent such costs, charges and expenses are to be paid; and the order passed in this regard may be transferred for execution to the Court and shall be executed by the Court as if the order had been passed by itself if and in so far as the Court considers the order to be a reasonable one.

Penalty for refusal by trustee to comply with provisions of Act. 89. (1) If any trustee [including the executive officer or other person in whom the administration of a religious institution is vested] or any agent of, or person working under, the trustee—

(a) refuses, neglects or fails to comply with the provisions of section 25 or section 26, or

(b) refuses, neglects or fails to furnish such accounts, returns, reports or other information relating to the administration of the religious institution or its funds, property or income or the application thereof, at such time and in such manner as the Commissioner, Deputy Commissioner, Area Committee or Assistant Commissioner may require, or

(c) refuse to permit, or cause obstruction to, inspection by the Commissioner, a Deputy Commissioner, a member of an Area Committee duly authorized in this behalf or an Assistant Commissioner, of any movable or immovable property belonging to, or of any records, correspondence, plans, accounts and other documents relating to, the religious institution, or neglects or fails to produce them for inspection.

The trustee, or where there is more than one trustee, each of the trustees shall be punishable with fine which may extend to two hundred rupees; and in case the act or default complained of continues for more than one month with a further fine which may extend to one hundred rupees for every week or part thereof during which the act or default so continues.

(2) No Court shall take cognizance of an offence punishable under sub-section (1) except on the complaint in writing of the Commissioner.

(3) No offence punishable under sub-section (1) shall be inquired into or tried by any Court inferior to that of a Magistrate of the first class.

(4) The Commissioner may accept from any trustee who has committed or is reasonably suspected of having

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committed any of the offences referred to in sub-section (1), by way of composition of such offence, a sum of money not exceeding one thousand rupees.

(5) Any fine imposed under sub-section (1) or any money payable by way of composition under sub-section (4) shall be paid by the trustee from his own funds and not from the funds of the religious institution concerned.

Central Act
VII of 1870.

90. Notwithstanding anything contained in the First or Second Schedule to the Court-fees Act, 1870, the proper fees for the documents described in columns (1) and (2) of Schedule I shall be the fees indicated in column (3) thereof. **to be paid as prescribed by Schedule I.**

91. Nothing contained in this Act shall—

Saving.

(a) save as otherwise expressly provided in or under this Act, affect any honour, emolument or perquisite to which any person is entitled by custom or otherwise in any religious institution, or its established usage in regard to any other matter; or

(b) authorize any interference with the religious and spiritual functions of the head of a math including those relating to the imparting of religious instruction or the rendering of spiritual service.

92. Nothing contained in this Act shall be deemed to confer any power or impose any duty in contravention of the rights conferred on any religious denomination or any section thereof by clauses (a), (b) and (c) of Article 26 of the Constitution. **Act not to affect rights under Article 26, clauses (a) to (c) of the Constitution.**

93. No suit or other legal proceeding in respect of the administration or management of a religious institution or any other matter or dispute for determining or deciding which provision is made in this Act shall be instituted in any Court of law, except under, and in conformity with, the provisions of this Act. **Bar of suits in respect of administration or management of religious institutions, etc.**

94. Nothing contained in any law of limitation for the time being in force shall be deemed to vest in any person the property or funds of any religious institution which had not vested in such person or his predecessor-in-title before the commencement of this Act. **Property of religious institutions not to vest under the law of limitation after commencement of this Act.**

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Procedure and powers at inquiries under Chapters V and VI.

95. (1) Where a Commissioner or a Deputy Commissioner makes an inquiry or hears an appeal under Chapter V or Chapter VI, the inquiry shall be made and the appeal shall be heard, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits or the hearing of appeals, as the case may be. **Central Act V of 1908.**

(2) The provisions of the Indian Evidence Act, 1872, and the Indian Oaths Act, 1873, shall apply to such inquiries and appeals. **Central Act I of 1872. Central Act X of 1873.**

(3) The Commissioner or a Deputy Commissioner holding such an inquiry or hearing such an appeal shall be deemed to be a person acting judicially within the meaning of the Judicial Officers Protection Act, 1850.

Central Act XVIII of 1850.

Notifications, orders, etc., under Act not to be questioned in Court of law.

96. Save as otherwise expressly provided in this Act, no notification or certificate issued, order passed, decision made, proceedings or action taken, scheme settled, or other thing done under the provisions of this Act by the Government, the Commissioner or a Deputy Commissioner, an Area Committee, or an Assistant Commissioner, shall be liable to be questioned in any Court of law.

Budget, audit report, etc., to be submitted to Area Committee through Assistant Commissioner.

97. Any budget, audit report, accounts, returns, reports or other documents and any information required to be submitted to, or called for by, an Area Committee in respect of an institution subject to its jurisdiction, and all communications intended for an Area Committee shall be sent to the Assistant Commissioner concerned and shall be placed by him before the Committee at its next meeting, together with his remarks or recommendations thereon, if any.

Power of Assistant Commissioner to act for Area Committee in an emergency.

98. The Assistant Commissioner may, in cases of emergency, direct the doing of any act which would ordinarily have to be done by the Area Committee, if the immediate doing of such act is, in his opinion, necessary in the interests of a religious institution:

Provided that the Assistant Commissioner shall not act under this section in contravention of any order of the Area Committee prohibiting the doing of any particular act:

Provided further that he shall report the action taken under this section and the reasons therefor to the Committee at its next meeting; and the Committee may annul, modify or reverse the order passed by the Assistant Commissioner.

Power of Government to call for records and pass orders.

99. (1) The Government may call for and examine the record of the Commissioner or any Deputy or Assistant Commissioner, of any Area Committee or of any trustee in respect of any proceeding, not being a proceeding in respect of which a suit or an appeal to a Court is provided by this Act, to satisfy

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themselves as to the regularity of such proceeding or the correctness, legality or propriety of any decision or order passed therein; and, if, in any case, it appears to the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, they may pass orders accordingly:

Provided that the Government shall not pass any order prejudicial to any party unless he has had a reasonable opportunity of making his representations.

(2) The Government may stay the execution of any such decision or order, pending the exercise of their powers under sub-section (1) in respect thereof.

100. (1) The Government may make rules to carry out all or any of the purposes of this Act and not inconsistent therewith. **Power to make rules.**

(2) In particular, and without prejudice to the generality of the foregoing power, they shall have power to make rules with reference to the following matters:—

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the form and manner in which applications and appeals should be submitted to the Government, the Commissioner, or a Deputy or an Assistant Commissioner;

(c) the powers of the Government, the Commissioner, or a Deputy or an Assistant Commissioner to hold inquiries, to summon and examine witnesses and to compel the production of documents;

(d) the inspection of documents and the fees to be levied for such inspection;

(e) the fees to be levied for the issue and service of processes and notices;

(f) the grant of certified copies and the fees to be levied therefor;

(g) the budgets, reports, accounts, returns or other information to be submitted by trustees;

(h) the convening of meetings of trustees and the quorum for, and the conduct of business at, such meetings;

(i) the manner in which the opinions of trustees shall be ascertained otherwise than at meetings;

(j) the proper collection of the income of, and the incurring of expenditure by religious institutions;

(k) the custody of the moneys of religious institutions, their deposit in, and withdrawal from, banks, and the investment of such moneys;

(l) the custody of jewels and other valuables and documents of religious institutions;

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(m) the manner in which and the period for which leases of properties of religious institutions shall be made;

(n) the manner in which the accounts of religious institutions shall be audited and published, the time and place of audit and the form and contents of the auditor's report;

(o) the method of calculating the income of a religious institution for the purpose of levying contribution and the rate at which it shall be levied;

(p) the security, if any, to be furnished by officers and servants employed for the purposes of this Act;

(q) the preservation, maintenance, management and improvement of the properties and buildings of religious institutions;

(r) the inspection and supervision of the properties and buildings of religious institutions, the reports to be submitted by persons making such inspection and supervision and the fees leviable for such inspection, supervision and report;

(s) the preservation of the images in temples;

(t) the grant of travelling and halting allowances to the members of the Area Committees or to the trustees;

(u) the preparation and sanction of the estimates and acceptance of tenders, in respect of public works and for supplies in religious institutions including the Tirumalai-Tirupati Devasthanams;

(v) the levy of tolls on roads constructed entirely from the funds of the Tirumalai-Tirupati Devasthanams and situated within the Tirumalai Hills area and the collection thereof;

(w) the delegation by the executive officer of the Tirumalai-Tirupati Devasthanams of his powers, functions and duties to any officer or servant of the Devasthanams and the restrictions, limitations and conditions subject to which such delegation shall be made;

(x) the qualifications, method of recruitment, pay, grant of leave, leave allowance and travelling allowance, personal conduct and punishment, of—

(i) officers and servants constituting the establishment of the Tirumalai-Tirupati Devasthanams;

(ii) executive officers appointed for religious institutions under any provision of this Act or in pursuance of any scheme settled or deemed to be settled thereunder;

(y) the qualifications to be possessed by the officers and servants for appointment to non-hereditary officers in religious institutions, the qualifications to be possessed by hereditary servants for succession to office and the conditions of service of all such officers and servants;

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(z) the grant of pensions or gratuities to officers and servants of the Board who retired before the commencement of this Act; and

(aa) the grant of gratuities to the heirs of deceased officers and servants of the Board including those who had retired before the commencement of this Act.

(3) The power to make rules under this section shall be subject to the condition of previous publication.

CHAPTER XI.

TRANSITIONAL.

101. On and from the date on which this Act comes into force, the Board shall cease to exist, and all its assets and liabilities shall devolve on the Government.

Abolition of Board and devolution of its assets and liabilities.

102. Any reference to the Board or its President or a Commissioner thereof contained in any enactment in force in the State of Madras or in any notification, order, scheme, rule, form or by-law made under any such enactment and in force in the State, shall, on and from the commencement of this Act, be construed as a reference to the Commissioner appointed under this Act.

Construction of references to the Board, President or Commissioner.

103. Notwithstanding the repeal of the Madras Hindu Religious Endowments Act, 1926 (hereinafter in this section referred to as the said Act)—

Effect of repeal of the Madras Hindu Religious Endowments Act, 1926.

(a) all rules made, notifications or certificates issued, orders passed, decisions made, proceedings or action taken, schemes settled and things done by the Government, the Board or its President or by an Assistant Commissioner under the said Act, shall, in so far as they are not inconsistent with this Act, be deemed to have been made, issued, passed, taken, settled or done by the appropriate authority under the corresponding provisions of this Act and shall, subject to the provisions of clause (b), have effect accordingly;

Explanation.—Certificates issued by the Board under section 78 of the said Act shall be deemed to have been validly issued under that section, notwithstanding that the certificates were issued before the making of rules prescribing the manner of their issue.

(b) if the Government are satisfied that any such rule, notification, certificate, order, decision, proceeding, action, scheme or thing, although not inconsistent with this Act would not have been made, issued, passed, taken, settled or done, or would not have been made, issued, passed, taken, settled or done in the form adopted, if this Act has been in force at the time, they shall have power, by order made at any time within

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one year from the commencement of this Act, to cancel or to modify in such manner as may be specified in the order, the said rule, notification, certificate, order, decision, proceeding, action, scheme or thing, and thereupon, the same shall stand cancelled or modified as directed in the said order, with effect from the date on which it was made or from such later date as may be specified therein :

Provided that before making any such order, the Government shall publish in the *Fort St. George Gazette* a notice of their intention to do so, fix a period which shall not be less than two months from the date of the publication of the notice for the persons affected by the order to show cause against the making thereof and consider their representations, if any;

(c) a notification published in respect of any religious institution under section 65-A, sub-section (3) or sub-section (5), of the said Act and in force immediately before the commencement of this Act shall be deemed to be a notification published under section 64 of this Act and shall be in force for five years from the date of commencement of this Act;

Explanation.—The scheme of administration, if any, settled for the religious institution and the rules, if any, framed under such scheme which ceased to apply to the institution under section 65-B of the said Act shall not be deemed to be revived by reason of the cancellation of the notification under section 64, sub-section (4), or by reason of its having ceased to be in force by efflux of time.

(d) all schemes settled or modified by a Court of Law under the said Act or under section 92 of the Code of Civil Procedure, 1908, shall be deemed to have been settled or modified by the Court under this Act and shall have effect accordingly;

Central
Act V of
1908.

(e) in any scheme settled or deemed to have been settled under the said Act (including a scheme settled under section 92 of the Code of Civil Procedure, 1908) and in force immediately before the commencement of this Act—

Central
Act V of
1908.

(i) all powers conferred and all duties imposed by such scheme on one or more trustees, whether hereditary or non-hereditary, shall be exercised, subject to the restrictions and conditions, if any, specified in the scheme by the trustee or trustees appointed for the religious institution under this Act;

(ii) all powers conferred and all duties imposed by such scheme on any Court or Judge or any other person or body of persons not being a trustee or trustees or a paid or an honorary officer or servant of the religious institution, shall be deemed to have been conferred or imposed on the Area Committee if the institution is subject to the jurisdiction of such a Committee and on the Commissioner, in other cases; and the Area Committee or the Commissioner, as the case may be,

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shall exercise such powers and discharge such duties in accordance with the provisions of the scheme subject to such restrictions and conditions, if any, specified in the scheme;

(f) all orders made under section 67 of the said Act shall, notwithstanding that they are inconsistent with this Act, continue in force, but any such order may at any time be modified or cancelled by the Deputy Commissioner if it is an order made under sub-section (1) or sub-section (3) of that section and by the Commissioner if it is an order made under sub-section (4) or sub-section (5) of that section; and any person aggrieved by any modification or cancellation made by the Deputy Commissioner may appeal to the Commissioner within such time as may be prescribed;

(g) all by-laws made by the Board under the said Act shall, in so far as they are not inconsistent with this Act, be deemed to be orders issued by the Commissioner under this Act;

(h) all proceedings pending before the Government or the Board or its President or an Assistant Commissioner under the provisions of the said Act at the commencement of this Act, may, in so far as they are not inconsistent with the provisions of this Act, be continued by the appropriate authority under this Act;

(i) all costs, expenses, charges, penalties, and contributions payable to the Board under the said Act immediately before the commencement of this Act, shall be payable to the Government instead; and any assessment, levy or demand of such sums made before the commencement of this Act shall be deemed to be valid and may be continued and shall be enforceable under this Act;

(j) all suits, applications or proceedings taken by, or on behalf of, or against, the Board under the provisions of the said Act and pending at the commencement of this Act, may be continued, by or on behalf of, or against, the Commissioner subject to the provisions of, and in so far as they are not inconsistent with, this Act;

Explanation.—All suits and applications instituted under the said Act in the High Court in respect of religious institutions situated within the Presidency-town and pending on the date of commencement of this Act, which would have been instituted in the Madras City Civil Court if this Act had been in force at the time when such suits or applications were instituted shall be continued in, and disposed of by, the High Court.

(k) any remedy by way of application, suit, or appeal which is provided by this Act shall be available in respect of proceedings under the said Act pending at the commencement of this Act as if the proceedings in respect of which the remedy is sought had been instituted under this Act.

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Position
of the
President,
Commis-
sioners, etc.,
of Board
after
commence-
ment of this
Act.

104. (1) On the coming into force of this Act, such members of the Board including the President and such of its subordinates as the Government may consider suitable, may be appointed by the Government in their discretion to any offices provided for in this Act to which they may be deemed qualified; and the services of the rest shall be deemed to have been terminated.

(2) The conditions of service of persons so appointed shall be regulated by rules made by the Government from time to time as if they had entered the service of the Government on the date of their first entertainment as a member of the Board or as its subordinate, as the case may be.

(3) To those not so appointed, the Government may accord such relief by way of pension, gratuity, provident fund or leave with allowances as they may in their discretion deem fit.

(4) No Court shall entertain any suit or application for damages or compensation by any member of the Board or any of its subordinates affected by sub-section (1) or for the variation of the relief, if any, granted under sub-section (3).

Effect of
repeal of
Tirumalai-
Tirupati
Devastha-
nams Act,
1932.

105. (1) Notwithstanding the repeal of the Tirumalai-Tirupati Devasthanams Act, 1932 (hereinafter referred to as the **Madras A XIX of 1933.** Devasthanams Act)—

(a) all rules or by-laws made, notifications issued, orders passed, decisions made, proceedings or action taken and things done by the Government, the Board or the Committee constituted under Chapter II of the Devasthanams Act or the Commissioner appointed under section 18 of that Act or by any of the Advisory Councils appointed under that Act, shall, in so far as they are not inconsistent with this Act be deemed to have been made, issued, passed, taken or done by the appropriate authority under the corresponding provisions of this Act and shall have effect accordingly;

(b) all proceedings pending before the Government, the Board, the Committee or the Commissioner under the provisions of the Devasthanams Act at the commencement of this Act may, in so far as they are not inconsistent with the provisions of this Act, be continued by the appropriate authority under this Act;

(c) all suits, applications or proceedings taken by, or on behalf of, or against, the Committee or the Commissioner under the provisions of the Devasthanams Act may be continued by, or on behalf of, or against, the Board of Trustees or the executive officer, as the case may be, of the Devasthanams, subject to the provisions of, and in so far as they are not inconsistent with this Act;

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(d) any remedy by way of application or appeal which is provided by this Act shall be available in respect of proceedings under the Devasthanams Act pending at the commencement of this Act as if the proceedings in respect of which the remedy is sought had been instituted under this Act.

(2) Any reference to the Committee constituted under the Devasthanams Act or the Commissioner appointed under that Act, in any enactment in force in the State of Madras or in any notification, order, rule, form or by-law made under any such enactment and in force in the State, shall, on and from the commencement of this Act, be construed as a reference to the Board of Trustees or the executive officer of the Devasthanams under this Act.

(3) The undertaking by the Tirumalai-Tirupati Devasthanams Committee constituted under the Devasthanams Act, of the functions of a licensee under the Tirumalai-Tirupati Devasthanams Electrical Licence, 1932, shall be deemed to have been authorized by the Government within the meaning of clause (x) of section 85 of this Act and all expenditure incurred from the funds of the devasthanams before the commencement of this Act for the performance of such functions is hereby validated.

106. If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty. **Power to remove difficulties.**

SCHEDULE I.

(See section 90.)

Court-fees payable for documents.

Section.	Description of document.	Proper fee.
(1)	(2)	(3)
		RS.
<i>I. Suits.</i>		
52	Suit for removal of trustee of math or specific endowment attached to math.	50
62	Suit against order of the Commissioner	50
<i>II. Applications to Court.</i>		
62 (3) (a)	Application to Court to modify or cancel a scheme settled or modified or deemed to have been settled or modified by the Court.	50
74 (5)	Application to Court against order of surcharge.	20

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Section.	Description of document.	Proper fee.
(1)	(2)	(3)
		RS.
	<i>II. Applications to Court—cont.</i>	
87	Application for delivery of possession ..	2
	<i>III. Appeals to Court.</i>	
62 (2) } 62 (3) (b) }	Appeal to High Court	50
	<i>IV. Applications to Government, Commissioner or Deputy Commissioner.</i>	
18	Application to Commissioner for revision	10
32 (1)	Application by trustee for recovery from person in possession of property of specific endowment.	2
32 (2)	Application by person in such possession for recovery from person responsible in law for performance of service or charity.	2
52 (1)	Application to Commissioner for consent to suit for removal of trustee of math or specific endowment attached to math.	10
57	Application for decision of dispute or matter under the section.	15
58 (1)	Application for settlement of scheme ..	50
58 (6)	Application to modify or cancel scheme settled under section 58 (1) or deemed to have been so settled.	25
59 (1)	Application for order under the section ..	25
59 (2)	Application to modify or cancel order passed under section 59 (1) or deemed to have been so passed.	25
61 (2)	Application to Commissioner to modify or cancel order passed under section 61 (1) or deemed to have been so passed.	25
64 (4)	Application to Government to modify or cancel notification of religious institution under Chapter VI.	25
99	Application to Government for revision ..	25
103 (f)	Application for modification or cancellation of order under section 67 of the Madras Hindu Religious Endowments Act, 1926.	25
	<i>V. Appeals to Government, Commissioner, Deputy Commissioner or trustee.</i>	
19 (5)	Appeal to Government against order of Commissioner.	20

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Section.	Description of document.	Proper fee.
(1)	(2)	(3)
		RS.
	<i>V. Appeals to Government, Commissioner, Deputy Commissioner or trustee—cont.</i>	
29 (4)	Appeal to Government against order of Commissioner regarding alienation of property.	15
31 (2)	Appeal to Commissioner under the section ..	25
32 (3)	Appeal to Commissioner against order of Deputy Commissioner directing recovery under section 32 (1) or (2).	5
45 (5)	Appeal to Commissioner by trustee against order of punishment passed by Deputy Commissioner.	25
	Appeal to Government against order of punishment passed by Commissioner.	25
46 (4)	Appeal to Commissioner against order of Deputy Commissioner under section 46 (2) or 46 (3).	25
47 (4)	Appeal to Commissioner against order of Deputy Commissioner appointing temporary successor to hereditary trustee.	25
48 (4)	Appeal to Deputy Commissioner against order of trustee under section 48 (3).	2
49 (2)	Appeal to Deputy Commissioner by office-holder or servant against order of punishment passed by a trustee.	2
49 (3)	Appeal to Commissioner by hereditary office-holder or servant against appellate order of Deputy Commissioner.	2
51 (4)	Appeal to Deputy Commissioner against order of Area Committee regarding <i>dittam</i> .	20
52 (2)	Appeal to Government against Commissioner's refusal to give consent.	20
61 (1)	Appeal to Commissioner against order of Deputy Commissioner under Chapter V.	25
70 (4)	Appeal to Deputy Commissioner against order of Area Committee regarding budget.	10
74 (5)	Appeal to Government against order of surcharge.	20
83 (2)	Appeal to the Board of Trustees by office-holder or servant against order of punishment by executive officer.	2
83 (3)	Appeal to Commissioner by office-holder or servant against appellate order of the Board of Trustees.	2
103 (f)	Appeal to Commissioner under the section ..	25

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SCHEDULE II.

[See section 6 (18).]

List of Tirumalai-Tirupati Devasthanams.

I. The temple of Sri Venkateswaraswami on Tirumalai Hill with the sub-temples of—

- | | |
|--------------------------|-------------------------------|
| (1) Sri Varahaswami, | (4) Sri Kshetrapalaka, |
| (2) „ Bhashyakarlu No. I | (5) „ Dova Bhashyakarlu, |
| (within the pagoda), | and |
| (3) „ Bedi-Hanumantha- | (6) „ Anjaneyaswami (in front |
| rayaswami, | of Sri Varahaswami). |

II. The temple of Sri Govindarajaswami at Tirupati with the sub-temples of—

- | | |
|-----------------------------|-----------------------------|
| (1) Sri Saley Nacharamma, | (8) Sri Manavala Mahamuni, |
| (2) „ Choodikodutta Nachar- | (9) „ Nammalwar, |
| amma, | (10) „ Vedanta Desikulu, |
| (3) „ Modal Alwar, | (11) „ Woolu Alwar, |
| (4) „ Chakrath Alwar, | (12) „ Tirumala Nambi, |
| (5) „ Madhurakavi Alwar, | (13) „ Tirumanga Alwar, |
| (6) „ Anjaneyaswami (near | (14) „ Bhashyakarlu No. II, |
| Dhwajasthambam), | (15) „ Kurath Alwar, and |
| (7) „ Anjaneyaswami (near | (16) „ Sanjeevaroyaswami. |
| Pedda Bugga), | |

III. The temple of Sri Kothandaramaswami at Tirupati.

IV. The temple of Sri Kapileeswaraswami at Tirupati.

V. Sri Padmavathi's temple at Tiruchanur with the sub-temples of—

- (1) Sri Krishnaswami,
- (2) „ Suryanarayanaswami, and
- (3) „ Sundararajaswami.

VI. Any other minor temple attached to any of the above temples and not specifically mentioned above.

SCHEDULE III.

[See section 6 (18).]

List of educational institutions maintained from the funds of the Tirumalai-Tirupati Devasthanams.

- (1) Devasthanam Hindu High School, Tirupati.
- (2) Sri Mahant Devasthanam Hindu High School, Vellore.
- (3) „ Venkateswara Vedapatasala, Tirupati.
- (4) „ Venkateswara Ayurvedic College, Tirupati.
- (5) „ Venkateswara Sanskrit College, Tirupati.
- (6) „ Venkateswara Arts College, Tirupati.
- (7) The Oriental Institute, Tirupati.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE
ENDOWMENTS BILL, 1949 (L.A. BILL No. 10 OF
1949, AS PASSED BY THE ASSEMBLY—cont.

22nd January 1951] [SRI S. A. S. RM. Ramanathan Chettiyar]

ஒரே மாதிரியான ஒரு சட்டத்தை நிறைவேற்றக்கூடாது என்று நான் அபிப்பிராயப்படுகிறேன். சில மடாதிபதிகளும், கோவில்களின் டிரஸ்டிகளும் தஞ்சை ஜில்லாவில் சில இடங்களில் தவறுதல்கள் செய்து வருகின்றார்கள். தஞ்சை ஜில்லாவில் ஒரு ஊரில் கோவில் சுவாமியின் பெயர் திரு நீலசண்டேஸ்வரர். அந்த கோவிலில் திருநீலகண்ட அய்யர் என்பவர் அதன் டிரஸ்டியாகவும் குருக்களாகவும் இருக்கிறார். அவர் அந்த கோவிலிற்குச் சொந்தமான நூறு வேலி நிலத்தை தன்னுடைய பெயருக்கு மாற்றிக் கொண்டுவிட்டார். இன்னும் அநேகம் கோவில்களுக்குள்ளேன. அவைகளின் பெயர்களைச் சொல்லவேண்டாம். அவைகளுக்கு ஆயிரம் வேலி நிலங்களிருக்கின்றன. அவ்வளவையும் அதனதன் தர்மகர்த்தாக்கள் தங்களுடைய சொந்தத்திற்கு மாற்றிக்கொண்டுவிட்டார்கள். அவைகளெல்லாம் தஞ்சாவூர் மஹாஜனினால் கொடுக்கப்பட்டவைகள். அவ்விதம் ஆயிரம், இரண்டாயிரம் வேலி நிலங்களை தங்களுடைய உபயோகத்திற்காக மாற்றிக் கொண்டுவிட்டதனால் இவ்விதமான சட்டம் செய்யவேண்டியது அவசியம் தான். இவ்விதம் பொதுவாக கொடுக்கப்பட்ட சொத்துக்களுக்குதான் சட்டம் செய்யவேண்டுமே யொழிய தானே சொந்தமாக சம்பாதித்து, ஒரு ஸ்கூலுக்கோ, கோவிலுக்கோ, குளத்திற்கோ, பாடசாலைக்கோ, கொடுத்திருந்தால் அதில் தலையிடுவது நியாயமில்லை. அவ்விதம் நாம் தலையிட்டால் இனிமேல் வரும் generation தர்மம் செய்யமாட்டார்கள். தர்மத்திற்கு என்று எழுதிவைத்த பொதுப் பணத்தை எடுத்து சாப்பிடுவதை கண்டிக்க வேண்டியதுதான். சில இடங்களில் அப்படிப்பட்ட சொத்துக்களின் கணக்கு கூட சொல்வதில்லை. ஆனால் சொந்தமாக செய்துவரும் தர்மத்தின் சொத்துக்களுக்கு கணக்குகொடு என்று சொல்வது சரியல்ல. அது ஒரு பொறுத்தமான விஷயமுமல்ல. அவ்விதம் செய்தால் ஒருவரும் இனிமேல் தர்மம் செய்ய முன்வர மாட்டார்கள். ஆகவே பிரைவேட் டிரஸ்டிகளுக்குப் போகாமலிருக்கும்படி ரொம்பவும் கேட்டுக்கொள்கிறேன்.

“தவிர கமிஷனுக்கு நல்ல அதிகாரம் கொடுக்கப்பட்டிருக்கிறது. அது முற்றிலும் சரிதான். கமிஷனுக்கு பவர் கொடுக்கவேண்டியது அவசியம்தான். ஆனால் அவருடைய முடிவிற்குமேல் அப்பீல் கிடையாது என்று சொல்வது கொஞ்சம் கூட பொறுத்தமல்ல. அப்பீல் கிடையாது என்ற அதிகாரமிருந்தால் அவர் தன்னுடைய இஷ்டப்படி தீர்ப்பு எழுதுவதற்கு இடம் கொடுக்கும். அப்பீல் செய்வதற்கு இடமிருக்கிறது என்றிருந்தால் கூடுமானவரையிலும் நியாயம் தவறாமல் தீர்ப்பு எழுதுவதற்கு தோன்றும். சாதாரணமாக ஹைக்கோர்ட்டை எடுத்துக்கொண்டால் அங்கே சுமார் 100 கேஸ்களுக்குள்ளேன் வென்று வைத்துக்கொள்ளுவோம். அவைகளில் 90 கேஸ்களில் ஒருவராவது அப்பீலில் ஜெயிப்பது இல்லை. அவைகளில் பத்து கேஸ்கள்தான் கீழ்க்கோர்ட்டிற்கு திருப்பி அனுப்பிக்கப்படுகிறது. அதனால் அப்பீல் கோர்ட்டே தேவையில்லை என்று சொல்லுவது சரியல்ல. நூறு கேஸ்களில் பத்து கேஸ்கள்தான் திருப்பி அனுப்பிக்கப்படுவதால் அப்பீல் கோர்ட்டே வேண்டாமென்று சொல்லுவது கொஞ்சமும் பொறுத்தமல்ல. அதைப்போலவே கமிஷனுடைய தீர்ப்பிற்குமேல் அப்பீல் கிடையாது என்று சொல்லுவதில் கொஞ்சமும் பொறுத்தமில்லை. ஆனால் இவ்விதமான விவகாரங்களினால் லட்சக்கணக்கான பணம் விரயமாகலாம் மென்று சொல்லலாம். அதற்காக அப்பீல் வேண்டுமென்பதை உத்தேசித்து கமிஷனுடைய தீர்ப்புக்கு மேல் சர்க்காருக்கு அப்பீல் செய்து கொள்ளும்படி இருக்கவேண்டும். இது ரொம்பவும் அவசியம். இது இல்லாமல் போனால் கமிஷனுடைய தீர்ப்பே முடிவாகிவிடும். ஆகவே Hon. மாதவமேனன் அவர்கள் இதை உத்தேசித்து அதற்கு வேண்டிய மாறுதல்களைச் செய்வார்களென்று நம்புகிறேன்.

“தவிர முதலில் நமது கனம் மந்திரி ராஜன் அவர்கள்தான் இந்த சட்டத்தை ஆரம்பித்து வைத்தார். இப்பொழுது அவர் ஓய்வு எடுத்துக் கொண்டு ஊரில் இருக்கிறார் என்று பத்திரிகையில் பார்த்தேன். அவரே முதலில் இந்த சட்டத்தைக்கொண்டு வந்ததால் அவரே இப்பொழுது தங்கிருந்து இவைகளுக்கெல்லாம் பதில் சொன்னால் நன்மையாக இருக்கும். ஆனால் துர்அதிர்ஷ்டவசமாக அவர் ஓய்வு எடுத்துக்கொண்டு ஊரிலிருந்து

THE MADRAS LEGISLATIVE COUNCIL.

Monday, the 22nd January 1951.

The House met in the Council Chamber, Fort. St. George, at half past two of the clock, Mr. Chairman (THE HON. SRI R. B. RAMAKRISHNA RAJU) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BILL, 1949 (L.A. BILL NO. 10 OF 1949), AS PASSED BY THE ASSEMBLY—cont.

SRI S. A. S. RM. RAMANATHAN CHETTIYAR:—“கனம் அக்ரோசனாதிபதி அவர்களே, இப்பொழுது இந்த மசோதா ஹிந்து அறநிலைய பாதுகாப்பு மசோதாவென்ற பெயரளவில் வந்திருக்கிறது. சட்டமென்று ஒன்றிருந்தால் அது எல்லோருக்கும் ஒரே விதமாக இருக்கவேண்டிய தவசியம். ஆனால் தர்மத்தை தவறுதலான முறையில் செய்கின்றவர்கள் ஹிந்துக்கள் மட்டுமல்ல. அவ்விதம் யார் யார் தவறுதலான முறையில் செய்துவருகின்றார்கள் என்பதை கவனிக்கவேண்டியது கவரின்மெண்டின் கடமை. இப்பொழுதிருக்கும் மாதிரி ஒரு வகுப்பிற்குமட்டும் சட்டத்தைக் கொண்டுவருவது என்பது அதாவது Hindu Religious Endowments Bill என்று ஒரு பாகுபாடு பண்ணி ஒரு ஜாதிக் குடும்பத்துக்கு ஹிந்துக்களுக்கு மட்டிலும் இந்த சட்டத்தை கொண்டுவரவேண்டாமென்று கேட்டுக்கொள்ளுகிறேன். ஹிந்துக்களே மெஜாரிட்டியாக இருந்துகொண்டு, நாமே அரசாங்கத்தை நடத்துமோது, நாமே இம்மாதிரியான ஒரு சட்டத்தை கொண்டு வருவதினால் அர்த்தமில்லாமல்போய் விடுகிறது. முகம்மதியர்களுக்கும், கிருஸ்தவர்களுக்கும் பயன்படும்படியாக ஏன் இந்த சட்டத்தை கொண்டுவரக்கூடாது என்று கேட்கிறேன். சட்டம் என்பது எல்லோருக்கும் பொது. கிருஸ்தவர்களும், முகம்மதியர்களும் தவறுதல்கள் பண்ணாமலிருக்கின்றார்கள் என்று சொல்வதற்கில்லை. ஆகவே ‘ஹிந்து’ என்கிற பதத்தை சட்டத்திலிருந்து நீக்கிவிட்டு இந்த மசோதாவை ஒரு பொதுவான சட்டமானதாக நிறைவேற்ற வேண்டுமென்று நான் கேட்டுக்கொள்கிறேன்.

“இரண்டாவதாக இந்த சட்டத்தை இயற்றவேண்டியது அவசியம்தான். எந்த இடத்தில் திருட்டுப்போகிறதோ அங்கு திருட்டுப் பார்த்து பிடிக்க வேண்டும். அவ்விதமில்லாமல் எல்லோரையும் ஒரே விதமாக பாவித்து

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before the Select Committee, those drafts were scrutinized, and there has emerged the final draft of the Bill together with the report of the Joint Select Committee signed by the Chairman, the Hon. Dr. T. S. S. Rajan. Curiously enough, certain changes made in the Select Committee stage are not embodied in the Bill as amended by the Joint Select Committee. One of them is with regard to the board of trustees. The decision of the Select Committee was that the board of trustees should be one of the authorities set up under this Bill for the proper management of religious institutions. But that is not found in the Bill annexed to the report of the Joint Select Committee. The second thing relates to pathakanika. Yesterday, the hon. Dr. Lakshmanaswami Mudaliyar referred to pathakanika. In regard to that, the final decision of the Select Committee was that the matadhipathi should merely keep accounts of receipts and expenditure, and the Legal department was asked to prepare the necessary amendment. But what is it that we find in the relevant clause in this Bill? The clause says that he shall cause such accounts to be produced before the Commissioner or any person authorized by him in this behalf, whenever so required. This was never the intention of the Select Committee and it never took a decision on the point. So Dr. Lakshmanaswami Mudaliyar was perfectly right in saying that we were making the Commissioner a super-matadhipathi. The Select Committee wanted that the amount received by way of pathakanika should be spent by the matadhipathi at his discretion for purposes connected with the math. In order that the amount might be spent for purposes connected with the math, we wanted the matadhipathi to keep accounts. At a late stage, the hon. Sri S. B. Adityan moved an amendment to the above effect. We never said that the Commissioner should be empowered to call for the accounts of a matadhipathi. We never wanted to make the Commissioner a super-matadhipathi. Because the report and the Bill as amended by the Joint Select Committee are made available to the members of this House, I am referring to them. These are two instances in which, I feel, alterations have been made. They are not consequential but substantial. I do not think that either the Chairman of the Select Committee or the Government are competent or authorized to make these innovations in the Bill. I shall later on say how very helpful the Chairman was to the committee. But with due deference to him, I say that he should never have signed the report unless he was satisfied that the provisions of the Bill were in accordance with the decisions of the Select Committee. These are serious innovations which the Bill makes and they were never contemplated by the members of the Joint Select Committee.

"I am one of those who are in favour of the principles of this Bill and also the plan given in the Bill for carrying out those principles. But that does not mean that I must lend my support to every comma, semi-colon or full stop found in the Bill. I am not one of those who feel that, simply because I am in favour of the Bill, I must go the whole hog with the Government.

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"Nor am I one of those, who, simply because I mention certain provisions to which I am opposed and which I want to be amended are opposed to the Bill altogether. From that point of view, I am sure, hon. Members of the House and also the Government should be deeply grateful to my hon. Friend Dr. A. Lakshmanaswami Mudaliyar, for what I may call, his incisive criticism of the various provisions of the Bill. His criticism showed the breadth of his outlook and his consideration for the measure, and his main desire in offering such a criticism was that whatever we may do, we shall do it well, so that there may be no unnecessary opposition even from quarters who are always anxious to find fault with the Government, in all the beneficial measures brought forward by them. I have just now referred to the special feature about the provision relating to pathakanika and it is to that which my hon. Friend Dr. A. Lakshmanaswami Mudaliyar also referred.

"Then, Sir, he referred to the hierarchy of officials under the Commissioner. I quite agree with him. When any department of this kind is set up, there is bound to be a hierarchy of officials to be appointed under the Commissioner, and it is the Government that must have the control over these officials and see that the policy underlying this Bill is carried out properly. But the Bill, as it stands, leaves everything to the Commissioner, and, as has been suggested, the Commissioner will even become a super-Government in certain matters. It is with a view to prevent such a thing happening that I have made certain suggestions in the amendments which I have given notice of. Many of them are simple amendments seeking to make the Government the ultimate authority so far as executive orders are concerned and in matters over which we have not given power to the courts to interfere.

"Then, Sir, Dr. A. Lakshmanaswami Mudaliyar spoke about area committees. May I point out to him, Sir, that the idea of setting up Area Committees was discussed at great length in the Joint Select Committee and that these committees were put in the place of what were known by the name of temple committees which had been in existence previously and which had been condemned by all officials and committees who went into this question. Sir, the Venkataramana Rao's Committee, which went into this question, suggested that the Government must do away with these temple committees and install Assistant Commissioners in their place. Even Sri R. V. Krishna Ayyar, who was the Special Officer for some time, recommended the abolition of these temple committees. But, we felt it right that we should set up Area Committees in the place of temple committees and leave the management of the secular affairs of these temples in their charge, even as we thought it right in the year 1951 to set up autonomous units like the village panchayats to look after the civic affairs and needs of their own villages and even if they committed mistakes in the initial stage, they should be made to work that experiment and that it did not

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matter if mistakes were made, so long as the ultimate authority for the administration of the Act rested with the local Government. That is why we did suggest the creation of these area committees because we felt that we can no longer fight shy of these committees and that people who are interested in the temples situated in the locality should be enabled to take part in the administration of the affairs of the temples and to have some voice in their management. We therefore pleaded with the Government to set up a number of area committees to administer the Act and the Government also were good enough to accept our suggestion and accordingly amended the Bill providing for the constitution of these area committees as well, and that is how they came into existence in the Bill.

"Then Sir, the question arose as to how to get the members of the area committees and here, as was pointed out by my hon. Friend Dr. A. Lakshmanaswami Mudaliyar, we had no other feasible alternative than to resort to the method of nomination. It is true we could not find out any other suitable democratic method of getting the representatives of people to be the members of the Area Committee in the initial stage. It is unfortunate that we had to accept nomination, and I was one of those who pleaded for nomination along with some other friends who were of a more democratic bent of mind, because it was difficult for us to decide what should be the electoral college from which these members of the Area Committee should be elected and what should be the qualifications of those who should form the electoral college. Therefore, we said, that as a first step, let us revive the temple committees in the garb of area committees and let us, for the present, have members nominated by the Government and that is how nomination came in.

"Then Sir, my hon. Friend Dr. A. Lakshmanaswami Mudaliyar twitted us for accepting the Assistant Commissioner to be the Chairman of the Committee. We did accept it, Sir, because we wanted somebody to guide the deliberations of these area committees. We know that in the past these temple committees, because they had not any responsible officials to guide them in their deliberations and in their affairs, became corrupt and mismanaged the affairs of the temple and that is why they were condemned. We wanted to give a fair trial to these area committees by making the Assistant Commissioner their chairman. At the same time, we have taken care to see that if the Assistant Commissioner does anything without the permission of the Area Committee, he should report the same to the Area Committee and obtain its approval. If under any circumstances, he is forced to take any urgent action without the approval of the Area Committee, he should immediately report to the Area Committee of his action and obtain its ratification. Therefore, it was with this safeguard that we agreed to the Assistant Commissioner being the Chairman of the Area Committee. As I have already mentioned. Sir, our

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primary object in having accepted all these restrictions and all these safeguards in the constitution of the area committees, was to see that those temple committees which had been condemned in the past and which we are reviving in the shape of Area Committee, work efficiently and well, and that in course of time, such an arrangement does not prevent the Government or anybody asking that the members of the Area Committee should be elected. There is therefore nothing in the Bill to prevent us from coming forward at a later stage with an amendment to this effect.

"Let me, in this connexion, Sir, mention to the House that I have given notice of an amendment making the Assistant Commissioner subordinate to the Area Committee in regard to certain matters coming within its jurisdiction, whereas the Government have sought to make him a Super-Area Committee by himself, in the present Bill.

"Then, Sir, my hon. Friend Dr. A. Lakshmanaswami Mudaliyar raised a very pertinent point regarding the method of appointment to the various posts comprising the hierarchy of officials to administer this Act. I may inform the House, Sir, that the Venkataramana Rao's Committee also went into this question and made certain recommendations. They suggested that these Assistant Commissioners should be recruited by the Government in consultation with the Hindu Religious Endowments Board. As a matter of fact, in the scheme of things adumbrated by the Venkataramana Rao's Committee, the Hindu Religious Endowments Board was sought to be continued and they recommended that these appointments should be made in consultation with the President of the Board. But Mr. Ramalingam Chettiyar, who was one of the members of that Committee was of the opinion that these appointments should be made either by the Public Service Commission or by an *ad hoc* Committee appointed by the Government consisting of representatives of all interests and parties. Evidently my hon. Friend Dr. A. L. Mudaliyar was voicing the opinion of Mr. Ramalingam Chettiyar."

DR. A. LAKSHMANASWAMI MUDALIYAR:—"I have not voiced anybody's opinion, Sir. I have given out my own opinion."

SRI R. SURYANARAYANA RAO:—"Perhaps, it may be, Sir, that both are of the same opinion. We also pleaded in the same manner as Dr. A. Lakshmanaswami Mudaliyar in the Select Committee, but somehow the matter was not pressed further. Under the rule-making powers the Government are empowered to frame rules for the purpose and we beg of the Government not to undertake this responsibility of making these appointments upon their own shoulders, as it would lead to a lot of public criticism, but to leave it either to the Public Service Commission or to create an *ad hoc* Committee for the purpose.

"Sir, my hon. Friend Dr. A. L. Mudaliyar also made certain very pertinent observations regarding our approach towards maths

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“ Again, it is provided that these maths must hereafter prepare *dittams* and budgets. Is it a drastic provision against any math? Any properly managed math and institution must have a proper system of accounting and a budget. So, in this respect also there is nothing more required of the maths than what the better managed maths are at present doing. There is the provision requiring the maths to appoint managers. The manager is only for the secular affairs and not for the religious functions. I know that many of the maths are already having managers. It is only to carry on the secular affairs of a math in the most business-like manner that managers are appointed. Thus, it will be seen that no drastic provision is sought to be introduced to exercise control over maths. Whatever is now provided for the first time is only that which a well-ordered and well-managed math is practising to-day and what a good institution is expected to do. I may assure the well-managed maths that they have nothing to fear from the provisions contained in this Bill. I may also say that the other maths, of which we have heard a lot, must now pay heed, and unless they show an immediate improvement in the right direction, it may well be that the Government would be forced to seek fresh and wider powers so that mis-managed maths may come into line with the better managed maths. I sincerely hope that it will not be necessary to bring in a Bill with more drastic provisions. I have no doubt that the Government will not hesitate to bring such Bill, because they are backed by public opinion in this matter. As an instance of the smallness of the power of control which is now introduced, I may state the position with regard to the removal of the heads of maths. Even after the head of a math has been convicted of an offence involving moral turpitude, the Government are powerless under this Bill to remove him immediately. One would expect that as soon as the head of a math is convicted of an offence, it would automatically mean his removal from office. But that is not the case. The Government are so cautious that even in such a case, they are not assuming powers to themselves to remove the head of the math. Instead, what is provided in the Bill is that the Government will apply to the court bringing the fact of conviction to the notice of the judge, and ask for an order for the removal of the head of the math. This only shows how cautious the Bill is in the matter of controlling maths and how very little the powers that the Government take to themselves.

“ Sir, we have heard a lot both here and in the other House about the Commissioner having been made a super-matadhipathi or maha matadhipathi. I do not know exactly what is meant by these terms. But what is implied is, I think, that wide powers are vested with the Commissioner. I very humbly submit that a careful perusal of the provisions will show that the Commissioner is far from being a super-matadhipathi. The fact is no order which the Commissioner can make is final. In some matters the orders of the Commissioner are appealable either to the Sub-Court or to the High Court. There are other matters in which the orders

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of the Commissioner are appealable to the Government. There are no orders which cannot be called in question either by the court or by the Government. In the original draft of the Bill it was provided that all the orders issued by the Commissioner would be revisable by the Government. Afterwards it was drafted and as provided in the Bill, certain matters were left to the High Court and certain others to Government. Suppose the Commissioner says that a certain institution comes under the definition contained in the Bill, and he passes an order. That order should go to the court on appeal and not to the Government. Suppose again the Commissioner issues an order saying that a certain property comes under the definition of an endowment. His order will not be final. It can be taken on appeal to the court. Suppose the Commissioner frames a scheme or he gives directions as to the disposal of the funds of a defunct institution, that scheme or order can be taken on appeal to the High Court. In all other matters when the Commissioner makes an order, that order can come before the Government. I need not here, Sir, refer in detail to all the various clauses. The power to take any matter to the court is in Clause 62, and the power to take any matter before the Government is in Clause 19, sub-clause (5). What I wish to emphasize is that the Commissioner is far from being a super-matadhipathi or a person having the final say. I personally felt that in some matters at least the Commissioner's orders could have been made final so as to avoid unnecessary litigation. With a view to avoid any embarrassment to the Minister in charge of this portfolio, it would have been better if the Commissioner's orders are made final. But the Bill provides otherwise, practically anything that the Commissioner does can be taken either to the High Court or to the Government.

“ My hon. Friend Mr. Suryanarayana Rao dealt, at great length with the area committees. The provisions relating to area committees are again an innovation. We are providing, for the first time, for the appointment of area committees. This matter was discussed very fully, and it was in fact pointed out that these committees had been in existence for many centuries. During the later stages, however, these committees became practically useless, as they were not vested with any powers. So, the Joint Select Committee decided, as a temporary measure, to give them powers over all endowments, so that we might try them, and see how they worked. Many Commissions appointed by the Government have reported that these advisory committees in the districts had not been usefully working, and that they were not taking keen interest in the affairs of temples. A case could actually be made out for the abolition of these committees. It was however felt that in this new era, we had better try these committees. Criticism was levelled that these committees were not elected bodies. The trouble was how to provide for an election. I agree that, if it were possible to have elections, we had better try them. But it was not possible to devise a workable system of election to area committees.

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power as is necessary to supervise the management of religious institutions and nothing more. The elective element could not be put in but still the popular element has to be included and that is why we have got the area committees.

"Then we find that the charitable endowments are also included in this Bill. That is a very much desired improvement because we find that there are so many charitable endowments which are not properly administered and are going to waste. Of course, there is section 92, there is the Charitable Endowments Act, but these are dead letters and they have not been availed of by the public. We see that though there are these two remedies, the public have not been able to make full use of them. That is why we thought fit that charitable endowments might also be included in this Bill. But the provision is not very effective; it is simply included in this Bill. A first step is taken to see that the Government will exercise certain amount of superintendence over these charitable endowments and whenever any irregularity is brought to their notice, they will take such action as is necessary. I welcome this provision.

"The question of surplus funds has also been dealt with and a good list is given in the Bill as to how surplus funds must be spent. I am sure that the Government will be enabled to have a lot of funds in their hands. Besides this, it is a good thing to regulate the spending of extra money wherever available, for useful purposes. But one thing I would insist on this occasion and that is that temple renovations are very important. For instance, you have got the Government of India's Archaeological Department which takes care of petty little things. In the Circars there is a burial-ground over which some Rs. 10,000 are spent. But we see many monuments of temples going to waste and ruin. There is no possibility of the Government coming to their rescue either through this Bill or in any other manner. Some donor must do it. Otherwise, the temples may go to rack and ruin. Therefore, I would be glad if first preference is given to temple renovations which should be attended to from temple funds or general funds that may come into the hands of the Government or funds which may come from other temples which can afford to part with their surplus money. There are a number of things that are detailed in the clause and it is very important that temple renovation and religious propaganda should be given preference as far as possible.

"Mr. Chairman, Sir, yesterday Dr. Lakshmanaswami Mudaliyar spoke about hereditary trustees and hereditary archakas. I also think that as a doctor he has put forward the scientific point of view. Everyone is agreed that the hereditary system does not count much in the management of temples or estates. When we want our temples to prosper and our religious education to develop, these hereditary trustees come in at every stage and throttle any sort of advancement and people are not able to get just benefit. So, though nothing has been provided in this Bill for that, yet it is very necessary that at earlier stages we must see that we get the proper people

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to do temple service. I am thankful to Dr. Lakshmanaswami Mudaliyar for mentioning that an attempt is made at Tirupati to have a college of Divinity. It is very necessary that there should be such a college where all these temple employees should have some sort of fundamental training. There are temple archakas and other people who do not know the fundamentals of Hindu religion. It may be asking too much of this Government to do all these things. Their finances are very limited. But though the Government have got only superintending power, they can use their good influence to see that wherever possible proper trustees are elected and proper employees come in to do the work.

"Then we see that trustees are given more powers. But we find there are also executive officers appointed by the Government who are the real masters of the situation. He might be a petty clerk on Rs. 50 or Rs. 60, but he comes with the authority of the Government just like the policeman who has got the whole Government in his hands. So, this executive officer sets at nought the whole Board of Trustees. It is not as if the executive officer is an innocent officer who will work under the trustees. He is in fact many times the master of the situation. So, there must be a good adjustment between the executive officer, the trustee and the Government. This balancing will get good results and if at any place there is any greater weight, then the whole institution suffers.

"In this connexion, I would also like to say that in any branch of administration of Government we prescribe qualifications for officers. But there is nil qualification prescribed for an executive officer. We have got the I.A.S. qualification for a Collector but what qualification is prescribed for an executive officer? Anybody who is not fit for Government service can be appointed straightway as executive officer; he need not go before the Service Commission. It is very necessary, Sir, that we must ask him to undergo some training. At least within two years he may be asked to qualify himself before he is confirmed. He may be given two years' time to study. There are so many necessary Tests and he may be asked to pass them. Then he can know how to manage the affairs properly. That would be a better thing to do.

"Coming to the Tirupati Devasthanam, I am very sorry that the temple that gets the biggest income in this whole land is given an ordinary place along with other temples. Hitherto, there has been a separate Act and a separate Commissioner and all that. It is a big institution. It is not a mere temple; it has got educational institutions and it has got to manage so many other good things. It is really good that in the whole of this country, there is at least one temple which has got such tremendous influence with a great number of people. I tried my level best to see that it was treated in a separate manner. But that was not possible and it has not been given a separate status, except the introduction of 5 clauses or so in this Bill. I feel that this temple should be given a separate status."

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MR. CHAIRMAN:—"I think there is also a clause in which the Tirumalai-Tirupati Devasthanams Act is repealed." (Laughter.)

SRI K. VENKATASWAMI NAYUDU:—"I would only request that the temple should be given proper status. Hitherto we used to be proud of our Commissioner. Now he is going to be an Executive Officer like any other Executive Officer and will lose all the status. I do not know what salary is going to be given to that officer. But formerly there was a Deputy Commissioner who was doing very good work. I think that post is taken away in this Bill. I would implore that we must see that this temple is treated separately.

"There is another matter, Sir. It was stated in the other House that it was a local matter and therefore local people must administer this temple. But I dissent from that view, because, it is not the local persons that find the money and it is not the local persons who take so much interest in the affairs of the temple. On the other hand, the local people are benefited to a great extent by so many pilgrims visiting this temple from all parts of India. So it is absolutely necessary that everybody who is interested in the temple should be associated with the management of the temple. While I concede that a certain amount of local elements must also be there, it is essential that the Trust Board must be represented by people from all parts of India. Then only, there will be a better outlook which is very necessary for the administration of the temple.

"Again, the number of trustees has been reduced and, like other temples, it has got 5 trustees only. In the case of the Tirupati temple, there must be more representation and hence there should be more trustees.

"There is one other matter. The Religious Advisory Councils have been abolished. I think that these Advisory Councils are merely advisory and it is good that they give us ideas about technical matters. Not only in Tirupati, but in all important temples, we must have Religious Advisory Councils which would be a substitute for my idea of having a Syndicate of Religious men, to ultimately administer these temples. We have got Christian institutions in this country. We find how wonderfully they are managed by their own men and their own committees. Why should not our religious institutions also have the same privilege? That is the ideal towards which we must concentrate our attention. Sir, I must once again welcome this Bill; because, this is one of the best measures next to the Zamindari Abolition Bill. This is a great measure. We understand the keen interest that the public have evinced in this measure and we are glad that the Government have taken up this matter. It is with great trepidation and patience, Dr. Rajan, who piloted this Bill, told us that this had to be done and we find that the Bill has come on the anvil. This is a very, very moderate piece of legislation and all shades of opinion have been considered and

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much concession has been given to see that this Bill is put on the anvil. What I am glad is that the Government have taken up that responsibility which was necessary, in the introduction of this measure. Of course, when the Raja of Panagal first brought forward this Bill, he must have been still more nervous than what we are to-day. Now, 17 or 18 years have passed away and the Endowments Act has worked well. At present, we have got greater courage to say that we should have greater superintendence over these Hindu Religious Institutions. I request my hon. Friends not to further contest or to raise the bogey of constitutional issues. Let us all work together. All shades of opinion have been duly considered. Let us see that our temples which are very dear to our heart are enabled to work better. We must work towards that ideal, viz., that on a future date we will be able to again give up these institutions in the hands of the Religious Syndicate who will manage these institutions well. With these few words I support this Bill."

SRI S. JAYARAMA REDDI:—"Mr. Chairman, Sir, after having heard persons of great eminence like Dr. Lakshmanaswami Mudaliyar supporting this Bill, I thought that it was unnecessary on my part to make a speech on this Bill. Contrary to my expectations, there seems to be larger support in this House to this Bill than it was elsewhere. The only two gentlemen who protested against this Bill in this House are Sri Bhima Rao and Dr. Hegde. All other speakers who spoke before me have supported this measure. Those who oppose this measure seem to forget that this Bill is the outcome of public opinion that is prevalent more in Tamilnad. Many people coming from other parts of this State may not at all know what amount of feeling is created for and against this Bill. If this Bill does not find a place in the Statute Book, the friends who are contemplating to seek refuge on the constitutional issue and other defects of the Constitution or something like that, will come to realise that one day or other they will have to pay for that. I have even heard, Sir, that some people are going to exploit on the religious instincts of certain high-placed persons who will have to give their assent to this Bill when it goes up to them for approval. If such things come to pass, I think they are only digging their grave for a future day.

"Sir, much is said that this is a secular State and so it should not interfere with the religious affairs of this country. I feel, Sir, that as a sovereign Legislature, we are quite competent to legislate on matters of this kind. There are no kings who founded these institutions. Their heirs are not existent and we are their heirs as a Government and I think that it is but proper that we should take upon ourselves duties of this kind. Even if there is any defect in the Constitution as is reported or suspected to be by our Friends, I think the Constitution is meant more for the sake of the evolution or progress of the people. The Constitution is not so rigid. If there is anything that is found lacking to get support for measures of this

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kind, then the Constitution must be changed. I think Sri Suryanarayan Rao, when he was speaking on another occasion, said that whenever defects were noticed in the Constitution, they should be brought to the notice of the higher authorities and if necessary the Constitution must be changed. If the provisions of the Constitution are to be changed in respect of the cases mentioned by Sri Suryanarayana Rao, then I feel that even in this case they should be changed.

" These institutions were founded for the propagation of Hindu tenets and culture. Subsequently, it was found that persons who were in the management of these things were not properly managing the affairs and so persons like the late Raja of Panagal and others thought it necessary to bring a measure of this kind. Now, when this legislation is brought in, the very same people who were put in charge of these institutions without searching their conscience whether they are acting up to the expectations of those founders, are questioning the rights of the Legislature about their propriety in enacting all these measures. I would beg of them not to question our rights, but to search their own hearts and rectify themselves and be eligible for continuing in their spheres of life as they are to-day.

" As regards the provisions of this Bill, Dr. Lakshmanaswami Mudaliar was making certain observations about the Commissioner's extraordinary powers and other things. I would request the Government to take into consideration what all observations he made ; because I felt the other day that he was making those suggestions in all good spirits and if there was any lacuna that is to be filled up or any defects that are to be rectified, I think the Government will not hesitate to reconsider their attitude in matters of detail without standing on formalities or prestige.

" There are one or two small things to which Dr. Lakshmanaswami Mudaliar referred and I would like to make my observations about them. About these archakas, one thing which impressed me is the criticism about the hereditary archakas. I also have been to some temples, though not to the same number of temples as Dr. Lakshmanaswami Mudaliar has visited. The way in which those archakas repeat the Sahasranamam and other archanas does not create a feeling that they are doing it sincerely and that they are well conversant with the whole spirit behind those things. When we go to a temple, it is better that at least within that short time we are impressed with the seriousness of the slokams and other things that are recited there. From the way in which these things are done in the temples, it looks as though we are doing some business and it is our duty to pay off some money and absolve ourselves of all our sins. That should not be the spirit with which we should approach the *sanctum sanctorum* and I think the suggestions made by Dr. Lakshmanaswami Mudaliar should be taken into consideration.

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" About the Area Committees, he said that nomination should not be the order of the day and that all of them must be made elective bodies. I have had some previous experience of these temple committees. With the introduction of adult suffrage and other progressive reforms, I do not think it advisable that the Area Committees should be required to undergo the ordeal of elections. For, there should be no other kind of election than by adult suffrage there also. There can be no other type of electorate we can possibly conceive of at present. Therefore, it is better for some time at least that the Government are entrusted with this job and election is not brought in here.

" About audit, it was said that we were going to collect some money from these temples and that the general funds of this State were going to be spent on this account. Suppose, Sir, one hundred rupees is collected from the temples and one hundred and five rupees is estimated to be spent on audit. Then it shows that the five rupees needed more will be spent from out of the general revenues of the State on Hindu Religious institutions. That was perhaps what was said. Sir, it is quite possible that it may be contended that this five rupees from the general revenues of the State is spent on a religious institution in the State which is not common to all the people. I have a doubt in this matter and I hope that the Government will duly consider this matter. I fear that on such small, trivial matters much criticism will be made and they may be taken to courts also.

" Sir, with these few words, I support the Bill. As my hon. Friend, Sri Venkataswami Naidu said, this Bill should find a place in the Statute Book as early as possible. I am glad that in this House, there has not been so much criticism of this measure as was witnessed in the other House."

SRI H. M. JAGANNATHAM:—" Mr. Chairman, Sir, I rise to support this Bill which I consider by no means revolutionary, but a modest piece of legislation designed to arrest the process of deterioration and decay in the management of many Hindu religious temples and mathas. I will be failing in my duty if I do not express my tribute of admiration for the courage, initiative and imagination which the Government have shown in bringing forward this Bill in the teeth of opposition from certain powerful vested interests both inside and outside the ranks of our Party, backed as they are by an equally powerful and influential Press in our State.

" The House has every reason to congratulate the Hon. the Chief Minister and the Leader of the House, and Law Minister for refusing to be stampeded by the opposition so forcibly and eloquently expressed both on the floor of the Legislature and in the columns of the Press. There is no doubt the country wants this Bill; there is no denying that the vast majority of Hindus welcome this measure. But a small, powerful and vocal section of the people are attempting

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to create the impression that this Bill is meeting with a great opposition from the public, which is not correct. Speaking as a Harijan member of the Hindu fold I make bold to say that my community is entirely in favour of this beneficent reform and that we are solidly behind the Government in getting this Bill passed and placed on the Statute Book.

"Sir, I would like the Government not merely to take over the management and control of temples and maths but to go a step further. I want them to conscript the wealth of these temples which at present is being misused and squandered for selfish and unworthy purposes, for the benefit and social well-being of the economically backward and deserving classes in the Hindu society. The Government would be perfectly justified, if they make use of these temple funds for the uplift of the dumb, poverty-stricken millions in this land. If freedom means anything to them, it must come to them in the shape of freedom from want, freedom from fear and freedom from starvation. Neither custom, nor tradition, nor past usage should be allowed to stand in the way of social and economic betterment of the masses and the Harijans constitute the predominant element among the masses of this great country.

"Mr. Chairman, it has been admitted even by those who are vehemently opposed to this Bill that there is gross mismanagement and maladministration in regard to many of the rich temples in the State. They admit the existence of widespread abuses in the present set-up, but even so, they say they are opposed to State interference in the name of secular State. If there are abuses in the management of any public institution, can there be a more just and impartial agency than the State to interfere in such matters?

"Sir, it has been made clear to us by innumerable instances that the Hindu Religious Endowment Board, as at present constituted, is helpless to exercise any real control or check over the management of temple properties and funds and set right matters. While that is so, no right-thinking person, unless his personal interests are so much at stake, can raise any objection to this Bill which only seeks to remedy the evils on the surface in the present set-up. It is for that reason that I consider this a modest measure. The old poojas, ceremonies and rituals remain and they will continue to be performed by the same class of poojaris. Surely it should not be made the eternal monopoly of any one class of people. They will continue to give trouble and will do their best to obstruct and frustrate the good intentions of the Government. I would, therefore, suggest that at the end of a given period, say 5 years or 10 years, the hereditary system of priesthood should be abolished. In the meanwhile, the Government should start colleges of religious instruction to train people for performing temple rituals and allow men of all classes of Hindu society to take training here. The best of men in character, piety, etc., should be chosen for the purpose. It is only then the archakas will command respect from

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the public. Unlike Christian Padhiris and Muslim divines, our priests have no respect in the eyes of the public at present. Why is that so? For, it is said:

*'Janmana Jayate Sudhra,
Karmana Jayate Dwija,
Veda Patena Vipranam,
Brahma Dyanena Brahmana.'*

meaning all people by birth are Sudhras, but by good deeds they become Dwija, by reciting Vedas become Vipra and by devotion become Brahmana. That is the true ideal. But, at present, we go by the hereditary principle. Anyone born to a Brahman is a Brahman and anyone born to a Panchama is a Panchama, and no value is attached to character or 'mental equipment' of a person.

"I would have certainly liked the Government to have embodied in the Bill some innovations and changes in the form of worship and rituals in the temple. I would have liked to see statutory obligation laid upon the wealthy temples and maths to conduct regular feeding of school children, and running of schools and free medical institutions for the benefit of the people round about their area. For ultimately, God manifests Himself in the form of service to suffering humanity, and there can be no better way of utilising temple money than service of the poor and needy in the land.

"If you want to redress social inequalities, the old caste distinctions must go. That means levelling up the Harijans; they should not remain Panchamas for all time. It must be within the reach of a Panchama if he has the qualifications and aptitude to take to professional priesthood in temples. Surely, my friend, Swami Sahajananda, is entitled to become an archaka.

"Sir, I have done. I conclude by giving my wholehearted support to the Bill. May this legislation prove an effective instrument for consolidating the Hindu religion and for making our temples real centres for the spread of faith in God, brotherhood of man and service of one's fellowmen."

SRI L. SUBBARAMA REDDI:—“అధ్యక్ష, హిందూ మత దేవాలయ ధర్మాదాయముల ప్రకారము నిర్వహణార్హము ఈ విల్లు చాలాకాలము క్రిందటనే వట్టుము చేయవలసియున్నది. అనేక ఆధ్యంతరముల నెదుర్కొని, చాలా పట్టుదలతో ఈ విల్లుకు ఈనాటికి ఈ స్థితికి జయప్రదముగా చేరినందులకు గౌరవనీయులగు మంత్రీ శ్రీ రాజగోపాలాచారి అభినందించుడు ఈ విల్లును బలపరచుచున్నాను. శ్రుతతత్వమువారిచే ప్రవేశపెట్టబడిన విల్లులో ఇంకను సవరణ చేయవలసిన విషయములు కొన్ని ఉన్నవి. ఇదివరలో శ్రుతతత్వమువారు ముట్టుముడట ప్రతిపాదించిన విల్లులోని క్లాజులకు, నెలకు వారు వసతికొని విల్లులోని క్లాజులకును, ఇప్పుడు మన ఎదుట ఉన్న విల్లులోని క్లాజులకును చాలా వ్యత్యాసము కనుపించుచున్నది. ముట్టుముడట విల్లులోని 40, 41 వ క్లాజులలో వంశపారంపర్యంగా ఉన్నటువంటి ధర్మకర్తల (trustees) హక్కులను గురించి ఉన్నది. కాని ఈ విల్లులో ఆ క్లాజులను సవరించి, ఆ విషయములలో కొన్నిటిని ఇప్పటి 39 వ క్లాజులో విస్తారు చేసినారు. ఈ విషయము మార్పుకు కారణమేమో తెలియదులేదు. జాస్తి వరుమానమువచ్చే దేవస్థానముల నేతలను పంక

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పారంపర్యంగా ఉన్నటువంటి బ్రహ్మీల స్వాధీనములో ఉన్నది. ఈ పెద్ద పెద్ద దేవస్థానములపై వచ్చు రాబడిని సక్రమంగా వినియోగించేటట్లు చూడవలసిన రాధ్యత ప్రభుత్వము వారిపై ఉన్నది. వంశపారంపర్యంగా వచ్చుచున్నటువంటి బ్రహ్మీలను తొలగించే సాధకాశాలు ఇవ్వకు లేని కారణంచేత అనేక సందర్భాలలో దేవస్థానములు దుర్వినియోగం చేయబడుచున్నవి. కొందరు ధర్మకర్తలు ఈ దేవస్థానములకు సంబంధించిన భూములను తమ స్వంతంగా భావించి విక్రయించడంకూడా జరుగుతోంది. తాత్కాలికంగా కొందరు ధర్మకర్తలు కొన్ని భూములకు తమ పేరనే పట్టాలు చట్టం ద్వారానడం, ఇతరత్రా అన్యాయకారితం చేయడంకూడా జరిగిన సందర్భాలు ఎన్నో ఉన్నవి. ఇటువంటి అక్రమాలను నిరోధించవలసిన అవసరము ఎంతో ఉన్నది. ఈ ధర్మకర్తలను, అడుపు ఆజ్ఞలలోపట్టే విషయంలో కొన్ని Constitutional difficulties ఉన్నవని కొందరు పెద్దలు అంటున్నారు. అటువంటి అటంకములేమీనా ఉన్నవో వాటిని తొలగించవలసియున్నది అవసరమైతే Constitution ను సవరించటానికూడా వెనుదీయకూడదు. వంశపారంపర్య వచ్చుచున్న trusts లను సక్రమంగా నడిచేటట్లు చేయలేకపోతే ఈ చట్టము చేసిన ప్రయోజనము వృథా అయిపోతుంది. చట్టము ఖోళ్లదేశమే సేరవేరదు. చిన్న చిన్న దేవస్థానాలకే ఈ చిట్లు వర్తించి, బాన్సీ వరుమానము వచ్చేటటువంటి పెద్ద దేవస్థానాలకు వర్తించకపోతే ధర్మకర్తలకుండదు. కాబట్టి అన్ని అడ్డంకులను తొలగించి, Constitution ను మార్చించి అయిత్తుటకై నను, అవసరమైన సవరణలుచేసి ఈ చిట్లువల్ల వూర్తి ప్రయోజనము కలుగునట్లుచేయవలసినదిగా ప్రభుత్వమువారిని కోరుచున్నాను. ఈ సందర్భంలో నేను కొన్ని సవరణలనుకూడా ఇచ్చి ఉన్నాను. వాటిని ప్రభుత్వంవారు అంగీకరించవలసినదని కోరుచు ఈ చిట్లును జలవరచుచున్నాను. మరాఠీపక్షం విషయములోకూడా మతముల వరుమానము సక్రమముగా వినియోగమునకు ఈ చిట్లులో మతములను చేర్చుట చాలా అవసరముగాన చేర్చుట మంచిది. నేను ఈ చిట్లును బలపరచుచున్నాను.”

SRI M. NARAYANA MENON:—“Sir, I rise to bless this Bill. The Government are entitled to the thanks of the people who were really expecting that this Bill would be passed in the near future. But even in blessing this Bill, I may point out certain irregularities and make a few suggestions for improvement. My hon. Friend Sri Bhima Rao has rightly pointed out that a wave of irreligion is passing over the country as it is passing over in all other countries. It is no doubt true. But has it omitted the people managing these maths and religious institutions? More waves of irreligion have passed through these institutions and made them more irreligious. In this state of things, it is absolutely necessary that the Government should take the management of the secular side of these maths and religious institutions, so that the properties belonging to these maths and religious institutions might be preserved and that when the wave of irreligion has passed away, they might be used completely and absolutely for the purposes of religion and for the improvement of these religious institutions. So the Government have rightly stepped in at this time. In doing so they have not touched the religious tenets of any religion or of any branch of Hindu religion. The Government has touched simply the secular management of these institutions, namely, the properties of these institutions.

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“Sir, it has been stated by some hon. Member here that in certain respect this Bill is communal because certain community is going to be very much affected by it. I certainly do not agree with this view point. There is no community at all in religion. Religion is for all, whether high caste or low caste men, whether rich or poor men. For all of them religion is the same. Religion is holy and pure and it ought to be thoroughly maintained as such. In that view, it cannot be said that any community is affected by the changes the Government propose to effect in the secular management of these institutions under the provisions of this Bill. After all what the Government have attempted is only a change in the management of the properties of the religious institutions and maths. How can this touch any community? It is the property of the math or of the religious institution or of a charitable endowment that is proposed to be managed properly. The properties of these are certainly not the property of any community or of any single individual. In that view nobody can say that any community is touched or will be touched. No more argument is necessary on this point. There is not a single word in the Bill which would affect the interest of any community either by implication or by expression. So we may not talk about it any further.

“Sir, with regard to the management, I think there is no doubt that some criticisms were harsh. I think there is nothing wrong in the proposed management of the properties by Government to warrant such harsh criticism. Unless the Government is strong and the Government officers are made strong to administer these institutions, the object, namely, the proper management of these secular side of these institutions cannot be achieved. They must exercise these powers. But in the exercise of these powers it may be pointed out to them: ‘Don’t ill-treat these people who were being treated before with certain considerations and sympathy and shown some regard. Please do so even now’ so that the officers of Government may treat them with consideration and sympathy. But that cannot go into the enactment. That may not go into the rules even. It can only be done by instructions and by Government assuming a super-religious position in the sense that the Government have a religion which is not Hinduism, which is not Muhammadanism, and which is not Christianity but a super-religion as it were, a religion of the religions. Such a religion the Government should have and in a sense the Government can give instructions to their employees to treat these old people, Mahants and trustees, with some consideration and regard. But I think we cannot introduce anything of that sort in the legislation itself. If any such thing is introduced in the legislation or rules, the result would be, there will be a claim or even a contention by some people that they were not so well treated as stated in the rules or as stated in the legislation and so on. All this must be avoided. I have not felt that the provisions are very harsh. They are good enough. But in the exercise of these, show sympathy and leniency. That is all what is wanted.

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"Sir, one of the greatest things that the Bill proposes to do is the utilization of the surplus income of these institutions. As a lawyer, in the course of my career, I have very often felt that in Malabar, I am not very much acquainted with the maths elsewhere, this money which is endowed or raised by, subscriptions at the instance of the Acharyas out of religious devotion to the maths and temples, has been spent in litigation, from the one end of Malabar to the other. I have known temples losing their properties on account of the litigations. They have been compelled to sell properties. The quarrels start between two persons claiming the title to the seat of the matadhipathi. One goes to the court claiming his right and the other contests it saying that he alone is entitled to be the matadhipathi. There are differing views and the disciples also differ as to who should be the matadhipathi. Of course such cases have even come to the High Court. (Interruption.) These quarrels may stop, after this legislation is passed. Even if they do not, they need not go to the courts. By quarrelling these people are spending not their money, but it is the money belonging to these public institutions, to these endowments that is being spent. This Bill certainly has satisfied me at least with regard to the utilization of surplus funds. By this all these litigations and wastage of money in various other matters will be stopped. Sir, another way in which the money is spent by these people is by the luxurious and expensive manners in which the religious festivals in temples and maths are conducted. Of course some festivals are necessary. Nobody will object to them. But at times people get excited and celebrate the festivals in an extravagant manner and lot of money is spent over that. The whole money is wasted and the next day only the smoke remains and nothing else. The money spent on such festivals and such other extravagances is a loss. It is therefore necessary that there must be some control on the expenditure of these religious institutions and over their incomes. Then only can these religious institutions and temples survive, and we can find the funds to maintain and also strengthen and improve them.

"Sir, according to clause 59 of the Bill, one important direction in which the surplus money can be utilized is for educational purposes. I am sure this is a wise direction and the one criticism about that is that the educational institutions would be uplifting all including non-Hindus. I certainly say that every citizen of the country, whatever may be the religion to which he belongs, must be allowed to have the benefit of the teaching of these institutions because it is never said anywhere in any of these endowments or anywhere in the *sastras* that no man other than a Hindu shall be educated with reference to the money belonging to these institutions and endowments. These were made for bettering the Hindu religion or in support of the Hindu religious temples and so on. But by giving proper education, and showing the proper light to the other people, even though they may be non-Hindus, we would be propagating the right Hindu religious ideals and that would certainly support the expectations of those persons who endowed these

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properties or charities. Therefore there will be no harm if we do that. I hope the other communities will begin to respond similarly and in course of time, that is to say, in a few years they would say that their surplus income may be made use of for education purpose of all. Then the surplus from all religious institutions and endowments will be at the hands of the Government which can be utilized for the benefit of the people. So it is a very wise provision so that the surplus must be utilized for the benefit of all, non-Hindus as well.

"Then, Sir, there are the maths. With reference to *pathakanikas*, it is provided that the matadhipathi must keep an account. But it has been said, Sir, that to call upon him to produce the account relating to these before the Commissioner, would be an act of impiety or disregard. I do not think so. Nobody objects to the provision in sub-clause (1) under clause 55 which says—

'The trustee of a math shall be entitled to spend at his discretion, for purposes connected with the math any ("pathakanika") that is to say, any gift of property or, money made as a personal gift to him as the head of the math.'

It is only to the second portion of the clause, namely—

'(2) The trustee shall keep regular accounts of all receipts and disbursements of the nature referred to in sub-section (1), and shall cause such accounts to be produced before the Commissioner or any person authorized by him in this behalf, whenever, so required.'

that there is objection. I think it is not very reasonable, because, if you want the trustees to maintain accounts, how do you know whether they are maintained or not unless you see them. The Commissioner must have a look into them or at the Commissioner's order somebody should do that. If you have a provision that the trustee must keep an account, then there must be a provision that account books can be looked into by authorities. Supposing the trustee has spent the money in an irreligious manner, what is the use of looking into the accounts? Therefore something will certainly follow from the keeping of the accounts and the looking into the accounts because even a matadhipathi can be removed for acts of irreligion and so on either by the Government or the people concerned. I therefore, Sir, say that this provision has been rightly inserted there and it should not be removed.

"One other small matter is with reference to nomination to the Area Committees. I think in this matter, the Government have shown sufficient wisdom as also the Joint Select Committee. Those familiar with the panchayat elections will realize that on account of these panchayat elections even family quarrels have arisen just as you know the family feuds in *Romeo and Juliet*. Such feuds have arisen in the villages. In respect of the panchayat administration, the Government have complete power and therefore can handle the situation, but in respect of these temples if you have elections then from the archaka down below to the head of the math, the matadhipathi, there will be quarrels. Participation in election will result in parties being formed and afterwards who will suffer, it is only the temples that would suffer because one party successful

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management would be much better in the hands of a matadhipathi of the same district. The object of my saying this is that I have had occasion of knowing first-hand about the management or the mismanagement of temples.

"Sir, this Bill has lost its original vigour and much of its brawn, so to say, has gone. The vigour is at its lowest ebb. I think and a large number of people also say that it has lost much of its flesh and now has only bones. If the Hon. Dr. T. S. S. Rajan who brought in this Bill had been a dictator and if he could have carried his wishes or will into action, the shape and form of this Bill would have been entirely quite different. It has been licked, not into shape but out of shape. Sir, I do not want to go into the merits or demerits of the Bill now. My object in speaking to-day is to say a few words about the Board's services. According to section 104, Sir, the services of the members are to be terminated. The proposal to terminate the services of all hands who were serving, apart from the President, the Commissioners and the Assistant Commissioners, seems to me unjust and unfair. The Board is a statutory body with quasi-governmental functions. The budget is sanctioned by the Government and the rules regulating the functions of the services are directed or supervised by the Government themselves. It is an established convention that no new rule or no new enactment should be passed which would adversely affect the services. The procedure of termination of services of the present staff, as it is adopted in the Administrator-General's office and the Official Assignee's office and even in the case of electricity concerns, was not followed."

MR. CHAIRMAN:—"Does the Bill refer to termination of the services? What is the section?"

DR. SYED TAJUDDIN:—"Section 104, Sir. Great harm will be done to the members of the Board if they should be sent out even with pensions because pensions cannot carry these unfortunate people very far. Now that everything is four times expensive, the wolf will be at their door always."

THE HON. SRI K. MADHAVA MENON:—"No, it will die."

DR. SYED TAJUDDIN:—"The education of children of these people will be difficult and their age would not be such as to enable them to enter any other service."

MR. CHAIRMAN:—"The section does not mean that everybody should be sent away. It means only those who cannot be absorbed. We hope the Government will absorb everybody."

DR. SYED TAJUDDIN:—"My point is even that one man should not be sent away because the Board has quasi-governmental functions and everything is controlled by the Government. They should not be treated like the zamindars."

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"They should not be classed with the staff of the zamindari offices. If at all they are disbanded, they should be absorbed in other offices at least."

"I have nothing more to say."

SRI N. VENKATACHALAMAJI:—"On a point of information, Sir? Has the hon. Member at any time gone to any temple for darsan?"

SRI B. NARAYANASWAMI NAYUDU:—"Sir, I wish to refer to the archakas and one or two matters."

"There are two sides to the affairs of a temple. The archaka or priesthood side is one. The Endowments Act came into existence about 25 years ago, dealing with the property side. I want to know from the Hon. Minister as to what has been done with regard to the archaka side. Is it that the archakas are such good persons that they require no reform? The Bill is silent about it. My suggestion is that the archakas are very vital parts of the temple and therefore nobody wants to touch them. Member after Member has stated on the floor of the House that the archakas are so hopeless that they do not understand even what they are doing. As my hon. Friend Dr. Lakshmanaswami Mudaliyar put it, by this Act you are merely petrifying the present state. I would on the other hand say, you are perpetuating the petrification. Petrification has set in and this Bill does not attempt to remove it. It merely aims at collecting the income from the temple properties. The Bill does not want to purify the religious side. What does this Bill do to revive the religious side? What have you done with regard to the priesthood? What about recruitment of the functionaries called 'priests'? Is there going to be an examination for them and selection made on the basis of marks obtained? Is there going to be examination for this service, as my hon. Friend Sri Suryanarayana Rao wants for recruitment to the other services? Are you thinking of recruitment on the basis of merit? Is it going to be a question of getting the best men for service as archakas after an examination? Or, is this service to be confined to the Brahman community? What about the legislation hanging fire for the last 25 years without any effort being made for improving the religious side? Why have you left this religious side to petrify? I am glad the President of the Endowments Board is here. He will say that the archakas of the temples are such nice men that they do not deserve to be criticized. But what is it that my friend has done? What does clause 48 say? The archakas are called hereditary archakas, meaning that succession to this service will come down from father to son. The qualification is that the man concerned should be the son of an archaka. What are his qualifications for it? No qualification is laid down in the Act that the son should have training and should get sufficient number of marks in a college of divinity. Is any such thing said? No. Then what is it? Clause 48 (2) says: 'In cases where the office or service is hereditary, the next in the line of succession shall be entitled to succeed'. Where, in this case, are the qualifications

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for recruitment to the other services of the State? Does not the absence of this prescription amount to corruption? Perhaps I may be told that there is no corruption involved here, because there is nothing here except making money? Is this the standard for the recruitment of archakas? Is there to be no college for archakas and examinations held and purification obtained and then appointments made? Or, are you going to purify the system of archakas, no matter how awkward and stinking the system is at present? Sir, is not any improvement on the priesthood side much more important than the property side of our religious institutions? I can understand your taking over the properties of these institutions. You can do that; but what is the meaning of doing that without reforming the religious side?

"Then, Sir, who are these hereditary archakas? Why do you confine them to one line and community? This State is said to be free from communal feelings without caste distinction. You are erasing the words 'Brahman', 'non-Brahman' and so on from the official records? Will the temple authorities erase the word 'Brahman' from the service of archakas? Will they put in only what they call the 'Harijans' there? All are 'Harijans' and some are big 'Harijans'. But what is the reform introduced by this Bill in this respect? I ask my friend Sri Suryanarayana Rao. He is a secular champion; he is an efficiency champion and a champion for the admission to colleges on merit only. According to him, there is no question of Brahman and non-Brahman. Nothing of the sort. What does he say with regard to this priesthood?"

THE HON. SRI K. MADHAVA MENON: "How is it to be purified?"

SRI B. NARAYANASWAMI NAYUDU:—"You cannot improve a petrified mango. You can only take another mango. You cannot inject medicine into a petrified mango.

"The next question to be considered is, how to put in another person? Is this service to be confined only to one sect, even though you want that the caste name should be erased from the records? That is the fundamental question. Have you erased the words 'Brahman' and 'non-Brahman' from these religious institutions? Are you opening the priesthood to all classes? I ask, why has this not been done? Is it not the case that you do not want to touch certain aspects of the religious institutions? Then you provide that when a hereditary trustee is removed, a fit person should be appointed. But as in the case of village munsifs in certain cases the minor child of a hereditary archaka will be entitled to succeed. This is so in certain cases only. Why this distinction? I want to know whether 'a fit person' will include any person. Nandanar can be absorbed in the Hindu divinity, but can he be made a priest? You can make a God of him. Can you make a priest of him? Is 'any person' a 'fit person'? I want to know unequivocally whether the Government mean that

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a person will be fit if he is efficient on the basis of marks obtained, according to my friend Sri Suryanarayana Rao, or on the basis of his persuasion or on the basis of his caste and confined only to one community?

"Now, Sir, the real question is, are you not merely tinkering with the property question? If the Hindu religion is to be revived, the reformation of the priesthood is necessary. The priests must be placed on a higher footing and they must be persons who command the confidence of the worshippers. Hon. Members have condemned the present-day archakas as unfit to hold that office. What is the object of passing a Bill which shelves this question? Therefore I say this Bill serves no useful purpose, and leaves out one important point.

"Now I come to the other important clauses, viz., 76 and 104. One cannot help feeling, why should this Department be 'governmentalized'? I do not know what it means. I think the intention is to make it a Government department. I do not understand the need for it. If it is felt that the Government should get 5 per cent and not 1½ per cent of the revenue, this is necessary. From being a body corporate, the Endowments Board will become a Government Department and the officers will all be appointed by the Government. The chief man, the Commissioner, including the deputy and assistant commissioners who rise from the ranks will be there. What is the difficulty you experienced in the present Endowments Board formed under the Act of 1926? How has this Board been discharging its functions? What is the need for making it a department of the Government except for putting in there the nominees of the present Government? Is there any other reason? What is the efficiency you seek to create by changing the present personnel? Is it a case of no-confidence in the present personnel of the Board? Have they misused their power or transgressed it? Has their administration become contemptuous? As has been stated by Dr. Lakshmanaswami Mudaliyar, is it necessary to make the Board a Government Department? Could you not deal with a body corporate? To-morrow, if you want to say that the archakas could be selected from any community, the Government will say you are undertaking legislation on a sectional basis. But a body corporate, constituted as the Endowments Board is, will have full power to do such things. It cannot be accused of taking sides. It could assess the feelings of the Hindu community and say; 'with regard to archakas and certain others, we would effect some changes in regard to succession to the office'. I want to know, what benefit we derive by governmentalizing the Board except getting more money from the religious institutions and having on the establishment our own personnel? I ask again, what is wrong with the present Board which consists of 5 persons with concurrent jurisdiction administering the present Act? How is it going to be improved by having one man at the top with power to choose any person he

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likes, assisted by a number of deputy and assistant commissioners and holding office, as laid down in clause 104, 'at the pleasure of the Government'? This is what clause 104 (1) says—

'On the coming into force of this Act, such members of the Board including the President and such of its subordinates as the Government may consider suitable, may be appointed by the Government in their discretion to any offices provided for in this Act to which they may be deemed qualified; and the services of the rest shall be deemed to have been terminated.'

"Is it because you want 5 per cent revenue that you made this provision? Or, is it because you want to put in your own personnel everywhere including the area committees? Is this a genuine attempt to improve the administration and put in office A, B, C and D in the place of X, Y, Z and so on? What is the urgency about it? Is the present Endowments Board acting so flagrantly against the Constitution that you cannot stand it any more? What is the change you are effecting by this measure except making a body corporate into a department of the Government and granting pensions and allowances to the men there?"

"But still it is pertinent for me to ask why the Government want to abolish a body corporate which was supervising these religious institutions and vest the whole thing in the Government's control. The Government have not touched the vital matters connected with the religious institutions like the priesthood. They cannot condemn the administration of the Board as insufficient or inefficient or incompetent. Therefore, Clause 104 is merely intended to clutch at patronage which may be exercised by the Government according to their own ideas. I do not mean any disparagement when I say that Clause 104 and Clause 76 and the whole Act are conceived for nothing better than creating what may be called a superhuman agency by the Government and making it answerable to the Government themselves."

SRI N. VENKATACHALAMAJI:—“అధ్యక్షా, ఈ Hindu Religious and Charitable Endowments Act ను సమీక్షిస్తూ, ఇందలో గమనించడానికి కొన్ని విషయములు మనవి చేస్తున్నాను. ఇప్పుడున్న Hindu Religious Charitable Endowments Act వచ్చి ఇప్పటికి 28 సంవత్సరములైనది. అప్పటినుండి కూడ ఎక్కువ charities ఇవ్వబడినవి. వాటిని స్వీకరముగా వినియోగింపబడుటకు సరియైన చర్యలు తీసుకొనబడలేదు. ముఖ్యముగా పెద్ద charities స్వీకరముగా వినియోగింపబడునట్లు చూడవలసియన్నది. ఇందుకు ఉదాహరణంగా, విజయనగరంలోని కేరలవారు రెండు లక్షల రూపాయలు charity గా ఇచ్చియున్నారు. అందులో 25 వేల రూపాయలు ఇండస్ట్రియల్ స్కూల్కుగాను ఇచ్చియున్నారు. మరి 75 లక్ష రూపాయలు ధర్మస్వీకరమునకుగాను ఇచ్చియున్నారు. కాని ఈ ధనవంశయు వాటి నియమిత ధర్మములకు వినియోగింపబడక mis-use చేయబడినది. ఈ విషయమును ప్రభుత్వము నోటిసుకు తెచ్చినను విమి చర్య తీసుకొనబడలేదు. అందగించి నేనే ప్రభుత్వమునకు తోడ్పడలేనాను. అందుచేత ఈ duty లేకనే ఒక దావా తదవేయవలసిందని నాకోక జవాబు ఇచ్చినారు. అంతేకాని మరిల ప్రభుత్వము వారు విమి చర్య తీసుకొనలేదు. విమి విచారణకూడా జరుగలేదు. మరొక విషయములో, ఒక స్త్రీ, సిరియమ్మ అను యిది ఆ will ప్రామా, ధర్మ స్వీకరమునకు అయిదు లక్షల రూపాయలు ఇచ్చి నేని

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నది. కాని ఇదంతా mis-mánage చేయబడుటచే ఈ విషయము గవర్నమెంటు నోటిసుకు తెచ్చినప్పటికీ, ఇదివరకు విమి చర్య తీసుకోలేదు. ఈ Hindu Religious Endowments Board ఇన్ని విండుగా ఉండికూడా, ఈ charities సరిగా వినియోగింపబడునట్లు చేయలేకపోయినది. కనుక ఈ బిల్లు పాస్ అయినా, దీనిని సరిగా ఆమలు తోపెట్టి, ఇంకొకటి అయినా charities ముఖ్యముగా పెద్ద పెద్ద charities స్వీకరముగా వినియోగింపబడునట్లు చూడవలెనని మనవి చేయచున్నాను.

“తరువాత ఇప్పుడు బ్రష్టీలు, మరాధిపతులు ధనాన్ని చాలా mis-use చేస్తున్నారు బిల్లు తీసుకురావడం జరిగినది. ఇట్లుండగా, మరిల ఈ బిల్లులో ఆంటి hereditary trustees ఎందుకు పెట్టుచున్నారో అర్థము కావడంలేదు. ఆ పక్షమున పూర్వమునకును, ఈ బిల్లు పాస్ అయిన తరువాతకను ఈ విషయములో విమి చూపు విర్యము, లాభముగూడ ఉండదు. ఇంక, అర్హకులు గురించి, వారు సరిగా వారి కార్యక్రమాలను నెరవేర్చుట లేదని పలువురు సభ్యులు చెప్పియున్నారు. కాని ఈ అర్హకులు విమి చేస్తున్నది, లేనిది గ్రహించుటకు ఎవరికి తెలియదు, మరియు వారు సరిగా చేసినప్పటికీకూడా, ఎవరికిని అర్థము కావడములేదు. ఒకొక్కప్పుడు మంత్ర పుష్పములు వేయడానికి నీళ్లు ఇస్తే, కొందరు ఆ నీటిని తెలియక చక్కగా నోటిలో వేసుకొందురు. అలాంటప్పుడు ప్రజలకు కావలసినది సమ్యక్మే కాని, అర్హకులు విమి చేస్తున్నారో, లేదో అని కాదు. అది చాలా మందికి అర్థముకూడా కాదు. కనుక ఈ అర్హకులను మార్చవలసిన అగత్యము విమి కనుపించడములేదు. ఈ సంవత్సరమున మరొక విషయము చెప్పదలచుకొన్నాను కాశీలో ప్రజలు ఎవరికి వారు వెళ్లి దేవాలయములలో అర్చన వారే చేసుకొంటారు. మనకుకూడా అలాగే ఎవరికి వారు వెళ్లి అర్చన చేసుకోడానికి అవకాశము కల్పిస్తే ఈ అర్హకుల అగత్యమే లేకుండాపోవును. కనుక ఆ ప్రకారమే ప్రతి దేవాలయములోనికి వెళ్లి మనంతకు మనమే పూజచేసుకొనే అవకాశము కల్పిస్తే చాలా బాగుండుందని నా ఉద్దేశ్యము.

“తరువాత, Area committees నియమించుటలో, nominations చేయబడునని చెప్పబడినది. అయితే ఇట్టి nominations చేయటవల్ల ఇప్పుడున్నది Democratic Government లేక ప్రజా ప్రభుత్వము అని అనుకోవడములో అర్థము లేదు. కనుక, ఈ Area committees లు nominations తో గాక, elections మీదనే నియమించబడిన, వీటికార్యక్రమములు స్వీకరముగా నెరవేరుటకు అవకాశముండుందని మనవి చేస్తూ ఈ బిల్లును బలపరుస్తున్నాను.”

THE HON. SRI K. MADHAVA MENON:—“Mr, Chairman, I am grateful for the over-all general support that has been given to this Bill though the opinions varied as the pendulum of a clock from one end to the other. We can see the sharp differences of opinion in matters like this if we compare the views expressed by Sri Manjaya Hegde and Sri Bhima Rao on the one side and the views expressed by Sri H. M. Jagannatham on the other. One view is 'Take off your hands from all religious institutions; we do not want the profane hands of a secular Government to come anywhere near religious institutions.' On the other hand, Sri H. M. Jagannatham says that we should conscript the whole funds and utilize them for the ameliorative purposes of the whole community and that there should be no superstition. With these two extreme views, we can see the difficulty of finding a proper mean in matters like this.

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"Now I shall proceed to answer the objections raised by Sri Manjaya Hegde and Sri Bhima Rao. I am sorry that Sri Bhima Rao said that this Bill was the outcome of the clamour of a clique. It is unfortunate that he said so. He has not said what was the motive of the clique. May I not say, Sir, that the opposition to this Bill is the result of another clique? But I do not want to say that. Sir, Sri Narayanaswami Nayudu was not here when Sri Bhima Rao was speaking. Sri Narayanaswami Nayudu asked: What about the archakas, the priesthood; what about the petrification and the putrefaction that have set in here? I am sorry, Sir, that he did not read the preamble to the Bill and he has not heard what Sri Bhima Rao said. He said: 'Suppose a puja is going on by a matadhipathi or a pujari; however much I am for the removal of untouchability, however much I may have respect for Sri Muniswami Pillai and persons like him, if a Harijan enters when a puja is going on, what will be the feeling of other people?' That was what Sri Bhima Rao said. Sir, Sir, it is a matter of faith. It is not a question of whether Sri Narayanaswami Nayudu believes in temples or I believe in temples. It was asked: Could not a temple have sanctity if someone other than a Brahman is conducting the puja there? We know in Tirupathi, Kalahasthi and other temples who perform the puja every day. (Interruption.) I am only speaking of certain types of people. It is a question of the types of people. There are even hon. Members like Sri Bhima Rao who ask what would be the feelings of ordinary people if a Harijan enters when a puja is going on. If such a thing can come from a Member of this House

SRI B. NARAYANASWAMI NAYUDU:—"What was their feeling when the temples were thrown open to the Harijans?"

MR. CHAIRMAN:—"May I know who is the purohit of the hon. Member, Sri Narayanaswami Nayudu?"

SRI B. NARAYANASWAMI NAYUDU:—"There is no Kamma purohit, Sir."

MR. CHAIRMAN:—"I do happen to know the family purohit of the hon. Member."

THE HON. SRI K. MADHAVA MENON:—"When an hon. Member like Sri Bhima Rao can express an opinion like that, it is not very easy to give a definition of archakas and it is a very hazardous thing to give any definite opinion in the matter.

"Apart from that I shall now deal with some of the remarks made by Dr. Lakshmanaswami Mudaliyar and Sri Narayanaswami Nayudu. Sri Narayanaswami Nayudu raised two questions. One was about the archaka. He asked, 'What have you to say about this? Why are you keeping quiet? The question is, who is going to be the archaka. Why should there be this hereditary thing with regard to the pujari?' In fact, he put the question squarely and asked, 'Are you going to deal only with the properties of

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the institutions; are you not going to reform the religion and improve the religion and remove the putrefaction?" But unfortunately Sir, the scope of the Bill, as stated in the preamble to it is this—

"Whereas it is expedient to amend and consolidate the law relating to the administration and governance of Hindu Religious and Charitable Institutions and Endowments"

Pujaris or archakas in a temple doing strotram, ashtotram or sahasranamam is not a matter of administration of the endowments. That is not therefore in the scope of the Bill. That is my first answer. (Interruption.) That is a different matter. He asked me about this particular Bill. I would certainly welcome a person of the type of Nandanar being an archaka. Our sacred books do not say anything against it. In the Gita it is said—

‘पत्रं पुष्पं फलं तथैव यो मे भक्त्या प्रयच्छति ।

तदहं भक्त्युपहतमश्नामि प्रयतात्मनः’ ॥

The Lord says that whoever offers to Him a leaf, a flower, a fruit or water with devotion or bhukthi, He accepts it. Therefore, I do not see anything against it even in our fundamentals. According to our puranas, sage Vyasa who was responsible for the Vedas was the son of a fisherwoman. If things have happened like that before, it is quite possible we can find another Vyasa in another fisherwoman's son. An archaka must be qualified for it. That is the only definition of fitness. Nothing more. But it cannot be brought under this Act because this does not deal with the reform of religion. Even if we want to make a law like that, we may not be allowed to do so, for article 25 (2) (a) of the Constitution of India says that we can make a law only for 'regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice'.

"Whether archakas performing ashtothram is a secular activity associated with religious practice is the question. So we cannot make any such definition here. Whether it is a Brahman archaka or a non-Brahman archaka, the law, as it is contemplated here, can only deal with the administration of the endowments and the properties of the religious institutions and not with the religious practices. We have definitely said that we are not interfering and we should not interfere with the religious practices. The entire sacredness of a temple or any religious institution depends on the faith the people have in it. Faith in God is not a thing which we can measure by reason or logic. When reason or logic comes in, faith has no place there. Lakhs of people are going to Tirupathi and they are not people who know the nice distinctions and who have any feeling about whether the archaka who repeats the mantra repeats it with the proper vibhakti and strictly according to Panini's grammar. These people who go to Tirupathi and other temples are not concerned with Panini's grammar or other grammar because they themselves do not know

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iv. (Sri B. Narayanaswami Nayudu: 'It is all rotten.') But that is where we are. You proceed with your intellect and reason. They proceed with faith."

SRI B. NARAYANASWAMI NAYUDU:—"I have faith in God and not in the archaka."

THE HON. SRI K. MADHAVA MENON:—"If my friend has faith in God, he need not care for what the archaka repeats. God will bless him in spite of the archaka. But that is not the ordinary person."

"Thousands of people that go to the temples to-day are not really concerned about it. There is no use trying to quibble; persons who generally go to the temples with faith to worship in the temples, generally are not persons like some of us who might have learnt Sanskrit or who could understand at least whether the words are pronounced correctly. Every one cannot understand whether the words are pronounced correctly or not, because oftentimes we do not fully hear what is being recited. It is all a question of faith of those who go there; they do not go there for a meticulous dissection of the particular way in which the words are uttered. They want a particular person who is entitled to do it—according to them of course—to do it and they feel that then they get the blessing, at any rate, they feel they have done their duty if they pay for it and see that the right thing is done by the right man. Of course it is necessary that we must see that the correct thing is being recited, but that is a work which the religious leaders, the matathipathis and others should attend to; it is they that should see to it that the practice of reciting the correct things does not die and that there are no petrifications and putrifications. In that connexion, Dr. Lakshmanaswami Mudaliyar stated that the late Raja of Panagal was wise enough—because he knew the conditions of the times—to see to it that he only created the Board and to say that public opinion was developed only up to the extent of having the Board but no further. He is quite right. It is now 25 years after that, and public opinion as expressed by many of the Members here is changed to the extent that we should see that these properties of the temples are treated as trust properties. These properties have been given on trust by various religious-minded people, not only for the benefit of the institutions but for the benefit of the future generations; they believed that by donating or endowing properties to these institutions, they would be doing good not only to themselves but to others. They desired that these properties should be properly managed and should not be misappropriated, and the intentions of those great men who have created these trusts are now being carried out. That is all that is being done. The public feeling is definitely, not that you should not touch these things at all, but that you should regulate them and should support the decision of Government to do so. It is not with the idea, as Mr. Narayanaswami Nayudu suggested, of having thousands of persons appointed

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as members of area committees or as employees in the offices, not that because the elections are coming very soon, we want to fill up all places available with our own people and all that—it is not with any such idea that this measure has been brought before the House. 'I have a suspicion' he says: 'Samsoyathma vinasayathi'. Do not have suspicion in any man; it is always dangerous. What I say is this: when the suggestion was made in the year 1938 by the then President of the Hindu Religious Endowments Board practically on the same lines, did anybody anticipate an election to come off in the year 1951 and that before that all the places could be filled up? It is a thing which I may call imagination running riot, so far as that suspicion is concerned. My friend and I differ politically so much that I know that whatever is said by one of us will be viewed with suspicion by the other person; but I am glad to say that this proposal was first made years ago and even on the present occasion the measure has been before us for the past three years, and for one reason or another it had to be postponed from time to time. It so happens that it has come to us just now, and you cannot therefore say that there is the suspicion that the intention is not quite good, that we have a motive or any bad idea in our mind."

"As regards the criticisms of Dr. Lakshmanaswami Mudaliyar, comparatively they are very different from the criticisms we have had in the other House and from those of Mr. Hegde and Mr. Bhima Rao. It is not a plea for vested interests. He simply asked 'Is it the right way, are these reforms necessary?' He says that four things are prominent in the Bill. One is the faith of the Government in themselves. I may say at once that no Government can govern unless they have faith in themselves. Secondly he referred to the desire for patronage—that I have already answered. Thirdly he said that the courts were disregarded. Certainly there I join issue with him. It has become a sort of fashion nowadays to say whenever legislation is brought forward, that there is disregard of the courts. Where and how have we disregarded them, I want to know, and to what extent? If we are thinking of reforming certain age-long practices, then it is time to cry halt; there must be a limit to it and we may say 'thus far and no further'. What we have been trying to consider to the extent possible both in the Select Committee and in the House is that where a question of right or title to property is involved, the decision must be left with the court and not with the Government; but where it is a sort of dispute on small matters, merely for the satisfaction of the pride or prejudice of particular persons, and where the property of the institution which is trust property is touched and is likely to be destroyed or wasted away, then we say 'No; it is a luxurious litigation for the purpose of getting some petty satisfaction, we are not going to allow it, and the Legislature and the Government must cry halt to it'. I may say that not only this Legislature but every Legislature in the whole country is now saying 'thus far and no further' so far as

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these matters are concerned. If it is said that individual liberty is being restricted when you are told that you should not do this and should not do that, then the answer is necessarily that society wants that you can go only thus far and no further. Therefore I say, some limit is necessary. And we are putting such a limit only where necessary. I should like to have some specific instances where the courts have been disregarded. As I said at the time of my opening speech in the other House, as a matter of general policy, the Government have been trying to see that wherever the right to property or title to property or any question of right is involved, the decision is left with the court. That has been the criterion and my feeling is that we have stuck to it. We have never claimed we are omniscient in such matters, and we have left it to the people concerned who are accustomed to go to courts, to have the matter settled that way.

“ Dr. Lakshmanaswami Mudaliyar then referred to financial commitments, but he did not develop it and did not argue in what way it was not right. The Finance Minister was not then here, but luckily he came afterwards. Mr. Mudaliyar said that Government had not considered what would be the financial commitments in this respect and perhaps they were committing themselves to spend large amounts which they ought not to. On the other hand, Sir, I may assure him we have some idea of the financial commitments. The Board has been working these years with the 3 per cent contribution it is getting; and what is the amount it is likely to get in the future? We have not said ‘ 5 per cent ’ straightway; we have simply said ‘ any sum up to 5 per cent ’. It may be 2 or even 3 per cent as now. In the clause relating to finance, i.e., clause 76, we have stated that all the necessary expenses would be met by contribution. We shall not certainly strain the finances of the State for the purpose of managing or superintending the administration of the religious and charitable endowments.

“ Then, Sir, Sri Suryanarayana Rao, Sri Adityan and others who were in the Select Committee referred to the Area Committees. In the original Bill as introduced at the time when the motion was made for referring it to a Select Committee, there was no question of any committees at all—area committee or any other. But people who knew the conditions of the temples and who were in touch with their management, told the Select Committee that there must be local or Area Committees. We discussed to a considerable extent the question whether we should leave membership of these committees to election. In the case of Tirupathi for instance, it is not only a Madras State temple, it is an All-India temple and it will not be right on our part to leave it to the worshippers in the Tirupathi local area to have the election for the purpose. Are we to allow the people in that area alone to be the voters? Perhaps, as Dr. Mudaliyar himself said, the nearer the temple, the farther away from God; and that may be the case in respect of local people being taken as voters. The main idea is

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that people must have faith in the temples. Mr. Narayana Menon was saying that there was a wave of irreligion going on and if that is so, we must give sufficient consideration to this question. This question as I said, was discussed in the Select Committee and it was decided that there need be no elections. It may be that if we put it to elections, people who want to destroy these temples may come in. So, the Government were anxious that in the earlier stages at least, these committees should be appointed and then, as time goes on, if we feel there is nothing wrong or dangerous in putting it to elections, we can have the change. When we heard the speech of Mr. Narayanaswami Nayudu, with regard to archakas, I was reminded of one of the speeches I heard during the days when there was an agitation going on for temple entry. I remember a particular person was very forcefully asking for the opening of the temples. He did not say anything about entry by all castes or any such thing; he said that our temples are such that the Gods are located (Interruption : In a zenana) in the sanctum sanctorum where there is no fresh air; he said we must certainly relieve our Gods from suffocation, that if necessary the walls should be thrown down so that there might be more of convenience given to our Gods, and that therefore the agitation should be for the opening of temples— not that all people should be allowed to worship, but with a view to give the Gods greater convenience and more of air. That is the speech I heard. If that is the idea underlying the speech of Mr. Nayudu when he referred to the question as to who should be the archaka, then I must say, it is a matter of faith. If the general body of worshippers is satisfied that anybody who is a proper person, whatever may be his caste or creed, can do it properly, certainly that time will come. At the same time, Sir, we need not rush the reform in such a way as to destroy our temples in order to remove the putrifaction. By doing so, we will be removing not the putrifaction but the temples themselves. It may be nice or it may be putrid, we cannot say, because we do not know much about of the things that are being done.

“ Then with regard to the question of hereditary trustee, the Bill as it came out of the Select Committee did not contain this provision. When the Select Committee was sitting and before the Select Committee finished its work, the Constitution was passed. At the time of its sittings the implications of the various Articles of the Constitution were not before the Select Committee. Further, even after the introduction of the Select Committee Bill in the other House, even after the general discussion was over and after six clauses were passed, we had to take time and get the matter examined in detail by our legal advisers, the Advocate-General and other legal talents. In the matter of these hereditary trustees, we were advised it would be wrong to remove them except where natural justice demands it, that a hereditary trustee can be removed only in case a scheme was to be prepared for the temple. So, Sir, that is my answer to Mr. Subbarama Reddi—that because our

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legal advisers wanted that it should not be done, we thought it wiser to accept their advice and not to rush in, in regard to this question of Constitution where even angels fear to tread.

"As regards hereditary archakas, the question arises only where there are archaka inams. These inams have been given for service to be rendered. Clauses 30, 31 and 32 specifically provide that where a hereditary archaka refuses to do or does not do the service for which the inam has been granted to him, the inam can be resumed and can be given to anybody. Clauses 30, 59 and 85 also make provision to the effect that there must be proper teaching given to the archakas, and that the temple funds may be utilized for training the archakas, the adhyapakas and the vedaparanikas. So, it is not a question of hereditary trustee alone that we are attaching importance to; we must see that the archakas and others are also properly trained. There are temples where there are hereditary archakas. There are hereditary archakas of temples and the question does not arise in their case. In every place there is a lot of service inams and the question how far their rights can be taken away by a mere ukase of the Legislature will come in. In the other House I heard the pleadings of hon. Members of our want of sympathy for the archakas and for the good work done by them. I am sure, Sir, you would have heard the other side of it also. I would appeal to my hon. Friends here to read the proceedings of the other House, so that they may know both sides of the question.

"Then, Sir about the question of maths, Dr. Lakshmanaswami Mudaliyar said that there was a difference between the old Act and the new Act. The main objection of the hon. Member was to clause 55, sub-clause (2) and Mr. Suryanarayana Rao also raised very great objection to it, but I cannot really understand such objections if we refer to the clause itself. Clause 55 (1) is all right, but the objection is to sub-clause (2) which says: 'The trustee shall keep regular accounts of all receipts and disbursements of the nature referred to in sub-clause (1)'. Mr. Suryanarayana Rao's amendment is to the effect that the first part of the sub-clause may remain, while the latter part should be omitted. The gravamen of the charge is, in the words of Dr. Lakshmanaswami Mudaliyar, the position of the matadhipathi has been made undignified by saying that he shall produce the accounts before the Commissioner or any person authorized by him. Now, according to sub-clause (1) the trustee of a math shall be entitled to spend at his discretion, for purposes connected with the math any 'pathakanika', etc. The Government want to know that the moneys spent are for purposes connected with the math. I do not see how it can be seen whether expenditure has been incurred for the purposes connected with the math. If really you are earnest in seeing that the money should be used only for purposes connected with the math, then somebody must know that and that can be known only by seeing the accounts whether the expenditure has been incurred for the purposes of the math or

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otherwise. After all, what is the purpose of keeping the accounts? Are they to be kept in a prayer room for the purpose of prayer? Was that the idea of the Select Committee in saying that the trustee shall keep regular accounts? Is it intended to be kept as a part of the prayer? It is not so. The idea of the Select Committee was that 'pathakanika' can be spent by the trustee at his discretion. Matadhipathis are 'sanyasins' and they have no attachment for wealth. (Sri B. Narayanaswami Nayudu: 'De jure.') They are expected to have no attachment to wealth. In fact, I do not want them to be attached to this world by considerations of material wealth and things like that and we should not put more difficulties in the way of their spiritual duties so that they may be thinking of 'pathakanikas'. As a matter of fact, lakhs of rupees are put at their feet but sanyasins as they are, they do not know anything about the money that is received; other clever people are there who take away that money. So, the sanyasi does not know how that money is spent. That is the experience. So, it is really to relieve the sanyasi of temporal matters, we propose, that the money shall be spent for purposes connected with the math. As I said, it is not he that spends the amount, but it is other people that are about him that spend the money. If he says 'I have given a charity of a lakh of rupees for a particular purpose' of course, nobody is going to question his discretion to spend, but let us know whether it is done for that purpose or whether it has been swindled by anybody else (Sri B. Narayanaswami Nayudu: 'Or spent on a mistress.') If charity for a mistress is a purpose connected with the math, according to my Friend's explanation, then the sanyasi is perfectly entitled to do it, but it must be for purposes connected with the math, that is to say, the accounts must be seen by somebody, if so required. If the Commissioner has information to believe that it has not been spent for purposes connected with the math, but spent on a mistress, as Mr. Narayanaswami Nayudu fears, certainly he must know whether it has been done so. That is why the provision has been made that the accounts must be available for inspection if called for.

"Sir, these are some of the main objections that have been raised by hon. Members and I think I have generally answered them. Of course, Dr. Lakshmanaswami Mudaliyar criticised 'profession of faith in Hindu Religion' and asked 'what is profession of faith?' And you asked him, Sir, 'You are a professor yourself'. He says that is the position in the Old Act. What is faith in Hindu religion, he asks. How are we to measure faith? It is difficult to say what is faith in one's religion. We can only go by certain tests whether a person professes the Hindu religion or not. Of course, there must be some sort of yard-stick to measure faith and that is why we have provided that a person must be professing Hindu religion to enable him to be appointed to posts mentioned in the Bill. Another objection of Dr. Lakshmanaswami Mudaliyar is that the rule-making powers which are

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proposed to be taken under clause 106 are very wide and that the rule-making powers are powers galore. I may point out, Sir, that under the rule-making powers, no rules can be made which are inconsistent with the provisions of the Act. He said that clause 106 was the most outrageous one. The clause says—

‘If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty.’

The wording is identical to that in the previous Act when it was amended in 1944; namely,

‘If any difficulty arises in giving effect to the provisions of this Act or of the said Act as amended by this Act, the Provincial Government, as occasion may require, may, by order do anything which appears to them necessary for the purpose of removing the difficulty.’

“It does not mean that the State Government can legislate. It has been laid down by the Supreme Court, in respect of a legislation that was passed by this House and also by another State, where it was said that the Government could by notification, extend its life for another year, that that power was wrong. That is extension by order. When that is so, how can we do anything which will go against the fundamental principles of the Act. Then, why this provision has been made in the Bill is, we are repealing the original Endowments Act, the Tirumalai-Tirupati Devasathanams Act and half-a-dozen other Acts and so when the existing things have to be dovetailed into the machinery that has been created under this Act, we have to see that they are done in a way which will not be inconsistent with the existing law. That is the reason why they put in that clause in 1944 and that is why we also put it now in this Bill and it is not because we want to take any powers. In fact, even when the Legislature has given the power to extend the Act for a year it has been held improper by the Supreme Court. So, it is wrong to imagine that a clause like that is likely to be put into improper use. If that was the intention of the Government and the Government legislate like that, they would be facing every day litigations like that. So, Sir, whatever the nature of the Bill or any law that we pass, it will depend on the way in which it is being worked and the persons who work it. Let us hope, Sir, this Bill will be worked properly and we will get sufficiently good persons to work it.

“The whole difficulty was, when great teachers of religion came, no question of property arose, but when the question of property arises, question of administration and management comes in and when the question of administration and management comes in, the teachings of religious people of old have to be given the go-by. It has been said that St. Paul, the great apostle of Christ, was the person who went most against the teachings of his Master. Lord Christ did not want to punish a person who committed adultery. The old law was that the person who committed adultery was punished by stoning. But Lord Christ said to those who were present ‘Let him that hath not sinned cast the stone’.

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Everybody went away because they could not say they did not commit sin. The Lord then said ‘Go thy way and sin no more’. But, what did St. Paul say in the Epistle and in the Corinthians, when he was asked whether a member of the Church or the Priest who came in possession of property for administration and committed a mistake could be punished? He said ‘Punish him’ and he was against Lord Christ in saying that he was for punishing persons who committed sins. So, Sir, when the question of administration comes in, administration is a very material thing with which the State is concerned—it is for the State alone to see that the property given by great men for particular purposes are utilised for the purposes for which they were intended. We have a right to do that. Then, Sir, everything depends on the way in which it is being worked and on the persons who work it. Let us pray we work it properly and with proper persons.”

MR. CHAIRMAN:—“The question is—

‘That the Bill to provide for the better administration and governance of Hindu Religious and Charitable Institutions and Endowments in the State of Madras (L.A. Bill No. 10 of 1949), as passed by the Assembly, be taken into consideration at once.’”

The motion was carried and the Bill was taken into consideration.

MR. CHAIRMAN:—“Consideration of the Bill clause by clause will be taken up to-morrow.”

THE MADRAS LEGISLATIVE COUNCIL.

Tuesday, the 23rd January 1951.

The House met in the Council Chamber, Fort St. George, at eleven of the clock, Mr. Chairman (THE HON. SRI R. B. RAMAKRISHNA RAJU) in the Chair.

THE MADRAS HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BILL, 1949 (L.A. BILL NO. 10 OF 1949), AS PASSED BY THE ASSEMBLY—*cont.*

MR. CHAIRMAN:—"The House will now take up the consideration of the Hindu Religious and Charitable Endowments Bill, 1949 (L.A. Bill No. 10 of 1949), clause by clause."

Clauses 2 and 3 were put and carried and formed part of the Bill.

Clause 4.

Sub-clause (a).

SRI R. SURYANARAYANA RAO:—"Mr. Chairman, Sir, I move—

In clause 4 (a) add at the end the following words:—

"the administration of which for the time being is such in the opinion of the Government as to require such exemption or."

"Sir, in asking for the adoption of this amendment, I wish to point out to hon. Members of this House that the clause empowering the Government to grant exemptions in certain cases after consulting the Board finds a place in the old Act also.

"Another circumstance that I want to point out is that the old Act dealt with only religious endowments. This Bill is going to deal with charitable endowments as well. That is why I urge that this power should be given to the Government to exempt certain endowments and religious institutions under certain circumstances. Sir, even the Venkataramana Rao Committee which went into this question did not take objection to this power vesting in the Government, but all that it said was that they should be very careful in granting such exemptions and laid down certain conditions and circumstances under which such exemptions should be granted. That Committee did not suggest that this power should be taken away altogether from the Government.

"Sir, what would happen if the Government do not retain any such power of exemption in their hands? In that case, even such endowments like the Ramakrishna Mission may be brought under the provisions of this Bill. Sir, if I am not disclosing anything that happened in the Joint Select Committee, because I do not think that I am permitted to read from any papers which were supplied to the members of the Select Committee and which are not supplied to hon. Members of this House,—but, however, as this has a particular relevancy in this connexion—I may say, that my hon. Friend Sri T. S. Avinashilingam Chetty took strong objection to the insertion of this clause, because he felt that no charitable institution which is being conducted properly should be brought within the operation of this Bill. Sir, my submission is that we are

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vesting this power of exemption only in the hands of the Government and nobody else and it is simply restoring them the power which they once possessed in respect of religious endowments. Now charitable endowments are also being sought to be brought under this Bill. As such, I feel that this power also should vest in the Government, so that they might exercise it in suitable cases. Therefore, Sir, I feel that by accepting this amendment, they are in no way giving up the principle underlying this Bill, even as they are prepared to retain the power of exemption in respect of endowments under the Administrator-General or the Official Trustee. After all, Sir, the Government *may* exercise this power by notification, or they may not exercise it at all. The discretion to exercise it rests with them. Therefore there is no harm in having this power. If suitable cases are brought to their notice, they may exercise their power of exemption by notification. Otherwise they need not exercise that power at all. I strongly feel, Sir, that this is a power which the Government should have, to be used for a good purpose and in good cases.

"Some of my friends have been telling me that I seem to have a pathetic faith in the Government. I feel, Sir, that a Government is a Government, with full authority and power behind them, whoever may be occupying the Treasury Benches for the time being. Unless we have that faith in the Government in power, it will not be possible for the State to be properly administered. And here, Sir, I am asking only the Government to have the power in their hands, in order to use it in suitable cases. I am not asking them to use that power compulsorily, by using the word 'shall' instead of 'may' in my amendment. If the circumstances brought to their notice demand such exemption, they can exercise that power. I do not want to adduce many arguments in support of my amendment, because I want to get through this Bill as early as possible in order that it may be placed on the Statute Book. I plead once again, Sir, with the Government in all earnestness to accept this amendment which is not inconsistent with the provisions of this Bill."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—"I second the amendment, Sir."

THE HON. SRI K. MADHAVA MENON :—"Mr. Chairman, Sir, I am sorry I cannot accept the amendment. My hon. Friend Sri R. Suryanarayana Rao said that some of his friends here were rather surprised at the pathetic faith he had in the Government and at his absolute confidence in them. But, Sir, I can say that there are also some people who have no confidence in the Government and who feel that the Government will never do the right thing and even such friends moved this identical amendment in the other House and their reason was, that though the Government may not be doing a wrong thing, yet they could be prevailed upon to grant exemptions in respect of certain endowments under certain circumstances. So when such friends who have no confidence in the Government also want such a power to

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be retained in their hands, we should be doubly careful; but all the same, we feel gratified that my hon. Friend Sri R. Suryanarayana Rao has so much confidence in the Government.

"Sir, it is true that a provision like this was there in the 1925 Act. There was also considerable opposition to it at that time, but the sponsors of that Bill wanted to go slow and so they made a provision that the Government might exempt such of the institutions as they thought proper. But now there is no necessity to have such a power in the hands of the Government. All the speeches made and all the objections raised in the general discussion of the Bill yesterday point to the fact that too much power is being retained in the hands of the Commissioner, the Deputy Commissioner and the Assistant Commissioners who were characterized as super-area committees and super-officers and hence, Sir, it is a great mistake to clothe the Government with this power also, because the same arguments will be extended in the case of the Government also. There is no necessity to make any exemptions even in the case of charitable endowments and my hon. Friend Sri R. Suryanarayana Rao is not right when he said that this power of exemption is more necessary to be vested with the Government on the ground that charitable endowments are also included in this Bill. What we have said in clause 3 which relates to the power of the Government to extend the Act to charitable endowments is this. Clause 3 says—

'Where the Government have reason to believe that any Hindu or Jain public charitable endowment is being mismanaged and are satisfied that in the interests of the administration of such charitable endowment it is necessary to extend thereto all or any of the provisions of this Act, and of any rules made thereunder, they may, by notification in the *Fort St. George Gazette*, extend to such charitable endowment the said provisions and thereupon the provisions so extended shall apply to such charitable endowment as if it were a specific endowment.'

"Charitable institutions do not come within the purview of this Bill. The provisions of the Bill will have to be extended by notification to charitable endowments. Therefore, the exemption is there already. The Bill will apply to those charitable endowments which are notified by the Government. Therefore there is no necessity to take this power of exemption. If at any stage the Government should feel that there is need to have the power of exemption, the confidence that is now shown in the Government will encourage the Government to come to this House and ask for that power. I oppose the amendment, Sir."

MR. CHAIRMAN :—"The question is—

'In clause 4 (a) add at the end the following words :—

"the administration of which for the time being is such in the opinion of the Government as to require such exemption or,"'

The amendment was lost.

Clause 4 was put and carried and allowed to stand part of the Bill.

Clause 5 was put and carried and allowed to stand part of the Bill.

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Clause 6.

SRI R. SURYANARAYANA RAO :—" Sir, I move—

'In clause 6 (19) insert the following words within brackets after the word "known" :—

"(including the Board of Trustees appointed under section 39)."

Sir, the words in the amendment which I have now moved were there in the Bill sent up by the Joint Select Committee. I do not know how these words came to be removed. I do not know whether these words were removed by an amendment moved in the Assembly. It may be argued that 'trustee' means any person or body by whatever designation known, and that the Board of Trustees being a body, is already there in the definition of the word 'trustee'. It is only as a measure of abundant caution that the members of the Joint Select Committee suggested that these words 'including the Board of Trustees appointed under section 39' should be put in brackets after the word 'known'. I am only asking for the restoration of the recommendation of the Joint Select Committee, which does not in any way interfere with the scheme of the Bill. It only makes explicit what the Hon. the Minister may well say is already implicit in the clause. I may here speak on clause 7 also, Sir, because both these clauses are inter-related. In clause 7, I would like to add the words 'Board of Trustees' as one of the authorities prescribed. Like the Area Committees the Board of Trustees is an institution which we are introducing in respect of certain temples whose income is above a certain figure. The Board of Trustees is given certain powers in the Bill. We want that institution also to be mentioned as one of the authorities prescribed for the management of these temples. These words were introduced at the Joint Select Committee stage. I do not know how they came to be deleted when the Bill was passed in the Assembly. I am not aware whether the deletion of the words was because of an amendment to that effect. I had no time to go through the proceedings of the Assembly though the Government were pleased to supply us with the proceedings relating to this Bill almost in full. We were very particular at the Joint Select Committee stage that the Board of Trustees should be included in clause 7. The Board of Trustees is an authority that possesses certain powers and plays a certain part in the scheme of things adumbrated in the Bill, Sir, I suggest the addition of the words 'including the Board of Trustees appointed under section 39' within brackets, in clause 6 (19). I also suggest the addition of the words 'Board of Trustees' in clause 7."

MR. CHAIRMAN :—" Why does the hon. Member think that the Board of Trustees is not included? "

SRI R. SURYANARAYANA RAO :—" The Hon. the Minister may say that the term 'body' includes the Board of Trustees. But as a measure of abundant caution we wanted that the Board

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of Trustees should be mentioned as an authority in clause 7. We also suggested the addition of the words 'including the Board of Trustees appointed under section 39' in brackets, in clause 6 (19). The addition of the words 'Board of Trustees' in clause 7 will show to the public that the Government are not taking all powers to themselves. Now people are thinking that the Government are taking all powers to themselves in the name of Area Committees. The Government, by including the Board of Trustees in clause 7, will show to the public that the association of the people in the management of the temples is not taken away. With these words, Sir, I move the amendments to clauses 6 and 7, together, because both are inter-related, though you may put them to vote separately. If one amendment goes the other amendment also goes. I wish to suggest that you may put the amendment to clause 7 to vote first and then the amendment to clause 6 (19). It is only a matter of adjustment. My amendment to clause 7 is—

'In clause 7, add as sub-clause (d) the following and renumber the existing sub-clause (d) as (e) :—

"(d) Board of Trustees." "

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I second the amendments, Sir."

THE HON. SRI K. MADHAVA MENON :—" Sir the particular sentence referred to by the hon. Member Mr. Suryanarayana Rao was there in the Bill as revised Joint Select Committee. That was removed by an amendment deliberately moved by me for the reason that that sentence was absolutely unnecessary and redundant. The term 'trustee' has been defined as any person or body by whatever designation known in whom or in which the administration of a religious institution is vested, and includes any person or body who or which is liable as if such person or body were a trustee. In clause 39 it will be seen that the Board of Trustees is a body to be created by the Commissioner. Further, the term 'trustee' is defined in clause 6 (19) to include any person or body in whom the administration of a religious institution is vested. The Board of Trustees automatically comes under this definition. Even though it may be implicit in the earlier portion of sub-clause (19), it is explicit in the later portion. Therefore, there is no necessity for the amendment. The hon. Member Mr. Suryanarayana Rao wanted the addition of the Board of Trustees in clause 7 as one of the prescribed authorities. The Commissioner and the Deputy Commissioner are controlling authorities, but the Board of Trustees is not a controlling authority. The authority of the Commissioner, Deputy Commissioner and the Assistant Commissioners is in respect of all temples taken together, while the Board of Trustees is only for individual temples and not for the State as a whole. If that were so, we will have to say that an executive officer is an authority and an archaka also is an authority. That is not what is meant. The authorities mentioned in clause 7 are those in whom powers of supervision over all temples in specified areas are vested, while Boards of Trustees are only for individual temples."

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MR. CHAIRMAN :—" The question is—

' In clause 6 (19) *insert* the following words within brackets after the word " known " :—

" (including the Board of Trustees appointed under section 39)." ' ' "

The amendment was put and lost.

Clause 6 was put and carried and allowed to stand part of the Bill.

Clause 7.

SRI R. SURYANARAYANA RAO :—" Sir, I move—

' In clause 7, add as sub-clause (d) the following and renumber the existing sub-clause (d) as (e) :—

" (d) Board of Trustees." ' ' "

The amendment was duly seconded.

MR. CHAIRMAN :—" The question is—

' In clause 7, add as sub-clause (d) the following and renumber the existing sub-clause (d) as (e) :—

" (d) Board of Trustees." ' ' "

The amendment was put and lost.

Clause 7 was put and carried and allowed to stand part of the Bill.

Clauses 8, 9, 10, 11, 12, 13, 14, 15 and 16 were one by one put and carried and allowed to stand part of the Bill.

Clause 17.

SRI R. SURYANARAYANA RAO :—" Sir, I move—

' After the words " of section 12 " insert the words " or the members of the Committee cease to function their term of office having expired " and after the word " abolition " insert the words " or the members of the Committee cease to hold office " ' ' "

Sir, clause 17 makes provision for the reconstitution or creation of a new Area Committee when one is abolished. My amendment seeks to impose on the Government the duty of reconstituting or appointing an Area Committee when the term of office of the members thereof expires. The term of office of the Committee, if I am not mistaken, is three years. When the Area Committee is abolished, of course the Government have to set up a new Area Committee. What I feel is this. When the term of office of an Area Committee expires, there is no obligation within six months at least to appoint another Area Committee. They may, of course, appoint and they will appoint. But here it is laid down that when an Area Committee is abolished, the Government must appoint a new Area Committee within six months. I want the Government

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to appoint also a Committee when one ceases to function by efflux of time. In the same way, I suggest also the insertion of the words ' or the members of the committee cease to hold office '. It is only to insist upon Government that within a particular period they should bring the new Area Committee into existence. I have not interfered with the period that is fixed. All that I wish to say is that it must be incumbent on Government to reconstitute a committee when the term of office of the committee expires. It is only in that view I have moved my amendment."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I second the amendment, Sir."

THE HON. SRI K. MADHAVA MENON :—" Sir, there is no necessity for this amendment. Clause 17 makes provision for the constitution of a new committee where one has been abolished. My hon. Friend will see from the Local Boards Act and the District Municipalities Act that before the term of the council expires, the Government are bound to see that a new body is brought into existence. A special contingency may arise on abolition, because abolition of a committee may be for many reasons, say, misconduct or faction. Originally, the time fixed for reconstitution was one year. The Joint Select Committee reduced the period to six months. The maximum time now is only six months. But when the committee has served its term of office, other persons must be there to take up the position to which they are appointed. Therefore, no particular provision in this regard is necessary. The Government are bound to constitute a committee. I oppose the amendment."

SRI R. SURYANARAYANA RAO :—" May I be enlightened whether there is no such provision in the Local Boards Act or in the District Municipalities Act? I think there must be a provision, in order not to leave things in the air, that the Government should reconstitute the Area Committee."

THE HON. SRI K. MADHAVA MENON :—" I cannot quote from memory, Sir, but my recollection is that there is no particular provision that it must be reconstituted. It is provided in clause 12 (1) (a) that the Government shall constitute an Area Committee for all temples."

MR. CHAIRMAN :—" If necessary, I think it may be provided in the rules framed under this clause."

THE HON. SRI K. MADHAVA MENON :—" If there is any doubt, we shall provide for it in the rules."

SRI R. SURYANARAYANA RAO :—" I hope that they will do it."

MR. CHAIRMAN :—" Yes, they will certainly do it."

The amendment was, by leave, withdrawn.

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Clause 17 was put and carried and allowed to stand part of the Bill.

Clause 18.

Sub-clause (4).

SRI R. SURYANARAYANA RAO :—" Sir, I move—

'For the word "him" wherever it occurs substitute the words "the party".'

I am not a lawyer, Sir. It is said—

'The Commissioner shall not pass any order prejudicial to any party under sub-section (2) or clause (b) or clause (c) of sub-section (3), without hearing him or giving him a reasonable opportunity of being heard.'

If I am not mistaken, I think even the Area Committee comes in here. Therefore, the Area Committee also should be given a reasonable opportunity of being heard. Here the word 'him' may only mean the trustee. I do not know if lawyers will say that 'him' also includes the Area Committee. It is only with the object of including the Area Committee also for being given an opportunity of being heard that I have suggested this amendment."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I second the amendment, Sir."

THE HON. SRI K. MADHAVA MENON :—" Sir, I think this amendment only substitutes a noun for a pronoun. The word 'him' is quite sufficient for the purpose. I do not think the amendment is necessary. The word 'him' may possibly mean the Area Committee also. It has been provided in sub-clause (1) as follows :—

'The Commissioner may call for and examine the record of any Deputy or Assistant Commissioner, of any Area Committee, or of any trustee not being the trustee of a math or of a specific endowment attached to a math, in respect of any proceeding under this Act (not being a proceeding in respect of which a suit or an appeal to a court is provided by this Act), to satisfy himself as to the regularity of such proceeding, or the correctness, legality or propriety of any decision or order passed therein.'

The President of the Area Committee is the Assistant Commissioner. So, any action of the Area Committee will be taken through the Assistant Commissioner. Sir, the use of the words 'the party' here instead of 'him' is not happy."

SRI R. SURYANARAYANA RAO :—" What does 'him' mean? "

THE HON. SRI K. MADHAVA MENON :—" 'Him' means hearing the party. I think there is no difficulty in interpretation."

SRI R. SURYANARAYANA RAO :—" If it means the trustee, I agree it is all right. But the Area Committee is a corporate body which we are creating."

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THE HON. SRI K. MADHAVA MENON :—" Here the word 'him' refers to it also."

MR. CHAIRMAN :—" The opinion of lawyers always differs. The Government seem to think that 'him' also refers to party."

The amendment was, by leave, withdrawn.

Clause 18 was put and carried and allowed to stand part of the Bill.

Clause 19 was put and carried and allowed to stand part of the Bill.

Clause 20.

SRI R. SURYANARAYANA RAO :—" Sir, I move—

'Before the words "the provisions of this Act" insert the words "the control of the Government and".'

Sir, as the Government have got general power of superintendence through their officer, namely, the Commissioner, in the original clause it was stated 'Subject to the control of the Government and the provisions of this Act'. I do not know why the words 'the control of the Government and' have been omitted now. I do not know if it has been done with a view not to offend any Article of the Constitution."

MR. CHAIRMAN :—" I think the Commissioner is always subject to the control of Government."

SRI R. SURYANARAYANA RAO :—" I want that the old provision should be introduced again."

MR. CHAIRMAN :—" But why should you say it in the Bill? "

SRI R. SURYANARAYANA RAO :—" I do not know whether any Article of the Constitution will be offended against."

MR. CHAIRMAN :—" Government's power of superintendence is also included in the Bill."

SRI R. SURYANARAYANA RAO :—" Therefore, I suggest the words 'subject to the control of the Government and the provisions of this Act' would read better."

MR. CHAIRMAN :—" The hon. Member may hear the Hon. Minister."

The amendment was duly seconded.

THE HON. SRI K. MADHAVA MENON :—" Sir, the Joint Select Committee has recommended the provisions contained in

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Chapter II of the original Bill, namely, 'The Provincial Government and their powers'. Clause 7 of the Bill as it came to the Select Committee gave power of general superintendence to the Government. The clause provided—

'Such superintendence shall include the power to pass any orders which may be deemed necessary for the proper maintenance or administration of any religious institution or endowment.'

Clause 8 also gave power to the Government to call for records and pass orders. This Chapter was omitted by the Government by an amendment moved by us, on the advice of Legal Officers. Consequent on that, Sri K. Bhashyam moved an amendment that the words 'control of the Government' might be omitted. We felt that it was sufficient to say 'Subject to the provisions of this Act'. Whatever control is exercised can only be under the provisions of this Bill. There is no necessity for the words 'Subject to the control of the Government' to be there. This will be consistent with the amendment we have moved."

The amendment was, by leave, withdrawn.

Clause 20 was put and carried and allowed to stand part of the Bill.

MR. CHAIRMAN :—"The idea in putting to vote clause by clause is to give hon. Members an opportunity to speak on the clauses if they want. So, I will hereafter put together those clauses to which no notice of an amendment has been received and if any hon. Member wants to speak on any clause, he may do so."

Clauses 21, 22, 23, 24, 25, 26, 27, 28 and 29 were put and carried and allowed to stand part of the Bill.

Clause 30.

Sub-clause (2).

SRI R. SURYANARAYANA RAO :—"Sir, I move—

'In line 4, omit the word "also" and add at the end the words "unless the Commissioner directs otherwise".'

The clause will then read as follows :—

'In incurring such expenditure, the trustee shall be guided by such general or special instructions as may be given by the Commissioner or in the case of an institution over which an Area Committee has jurisdiction, by such Committee, unless the Commissioner directs otherwise.'

Sir, I want the Area Committee to have real power in respect of institutions within its jurisdiction in regard to the incurring of expenditure. This and the other amendments that will follow are intended to strengthen the powers of the Area Committee and to give it as much voice as possible in the administration of the temples entrusted to its charge. In the case of an institution over which an Area Committee has jurisdiction, I suggest the trustee shall be guided by such Committee unless the Commissioner

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directs otherwise. The Commissioner has got over-riding powers. If he does not over-ride the decision of the Area Committee, its decision shall prevail. The omission of the word 'also' is intended to achieve this purpose. If not, the trustee will have to be guided by the instructions of the Commissioner as also the Area Committee. This may lead to a conflict. But if the Area Committee's decisions are allowed to prevail, unless the Commissioner otherwise directs, it will be in consonance with the purpose that we have in view. That is the object of my amendment."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—"I second the amendment, Sir."

THE HON. SRI K. MADHAVA MENON :—"Sir, if the amendment is accepted, there will be this difficulty."

MR. CHAIRMAN :—"The Commissioner will have no power."

THE HON. SRI K. MADHAVA MENON :—"Over and above the instructions issued by the Commissioner, the Area Committees may also issue instructions, for instance, in respect of sanitation. They cannot be inconsistent with the instructions of the Commissioner. Since the Area Committee has jurisdiction over a smaller area, it may pass orders over and above the instructions issued by the Commissioner. The result of inserting the words 'unless the Commissioner directs otherwise' will be that the trustees are guided only by the instructions of the Area Committee and they cannot obey the Commissioner's orders unless they are contrary to the Area Committee's directions. That will create a difficulty that even the Commissioner's orders will not be valid in so far as there is an Area Committee."

MR. CHAIRMAN :—"The question is—

'In line 4, omit the word "also" and add at the end the words "unless the Commissioner directs otherwise".'

The amendment was lost.

Clause 30 was put and carried and allowed to stand part of the Bill.

Clause 31.

Sub-clause (2).

SRI R. SURYANARAYANA RAO :—"Sir, I move—

'For the words "Deputy Commissioner" substitute the words "Area Committee".'

Sir, in respect of institutions which are under the control or within the jurisdiction of Area Committees, I would like the Area Committees to have the power of determining in what respects the surplus funds should be utilized. Otherwise, the Area Committees will be merely henchmen of the Deputy Commissioner and other

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officials. My object is to repose trust and confidence in these committees by giving them sufficient powers and an opportunity to show that they can shoulder responsibility and act in a responsible manner.

"Over-riding powers are given to the Commissioner. He can always over-ride the decisions of the Area Committee. So, let the Area Committees be invested with powers and let them too play their part. As things are at present, we feel and suspect that these committees would not function properly and would not rise equal to the responsibility that we are giving them without some powers. That is my main idea."

The amendment was duly seconded.

THE HON. SRI K. MADHAVA MENON :—"The Deputy Commissioner will be more or less acting in a quasi-judicial capacity and so . . ."

MR. CHAIRMAN :—"The point is, whether the Area Committees are not even to be consulted in respect of certain matters."

THE HON. SRI K. MADHAVA MENON :—"Of course, it is a matter to be considered and if necessary we shall provide for it in the rules. The idea is that the responsibility and initiative must come from the trustees and the Area Committee's jurisdiction comprises only in respect of temples and not other charitable institutions or mathas."

MR. CHAIRMAN :—"Regarding diversions, I think it will affect the institutions under them."

THE HON. SRI K. MADHAVA MENON :—"Those mentioned in this clause or clause 56 or so are perhaps unconnected with the temple or other institutions. So, the Deputy Commissioner is subject to an appeal. It is in a quasi-judicial capacity that the Deputy Commissioner acts."

MR. CHAIRMAN :—"I think the Area Committees can be consulted."

THE HON. SRI K. MADHAVA MENON :—"We shall try, Sir."

MR. CHAIRMAN :—"I think the hon. Member is not pressing his amendment."

SRI R. SURYANARAYANA RAO :—"Sir, I do not think that it can be provided in the rules as suggested by the Hon. Minister."

MR. CHAIRMAN :—"If the Area Committees are to be the authority to decide about diversion, then, certainly it must be provided in the Act. But if the Deputy Commissioner should be the authority ultimately to decide, he may consult anybody he likes."

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SRI R. SURYANARAYANA RAO :—"Sir, certain restrictions are there for diversion and other particular purposes."

The amendment was put and lost.

Clause 31 was put and carried and allowed to stand part of the Bill.

Clauses 32, 33 and 34 were put and carried and allowed to stand part of the Bill.

Clause 35.

SRI R. SURYANARAYANA RAO :—"Sir I move—

'That in sub-clause (2) (d) (i) and (ii) and Provided, for the words "District Collector" wherever they occur, the words "Board of Revenue" be substituted;

'that in line 2 of sub-clause (2) (f) for the words "District Collector", the words "Board of Revenue" be substituted.'

Since I gave notice of these amendments, I have seen the definition of the words 'District Collector' in the Estates Land Act, 1908. It means also Revenue Divisional Officers. It is curiously defined there like that. Still, I would like that in this matter an appeal should lie to the Board of Revenue as against the decision of the Collector. It is a question involving the property of inams, either resumption or regrant of inams. I am sorry that I have mentioned that the words 'District Collector' have been defined as Revenue Divisional Officer. It is not so. Only the word 'Collector' is defined like that. Therefore I suggest that wherever the words 'District Collector' occur, the words 'Board of Revenue' should be substituted so that an appeal may lie to the Board of Revenue."

MR. CHAIRMAN :—"In the Estates Land Act, is the word 'Collector' or the words 'District Collector' that is defined?"

SRI R. SURYANARAYANA RAO :—"Sir, I made a mistake in saying first that the words 'District Collector' are defined there. But subsequently I have corrected myself and said that the word 'Collector' is defined there. The words 'Board of Revenue' may be substituted so that the persons aggrieved on account of resumption or regrant of inam lands intended for the performance of some charity or service may appeal to the Board of Revenue which is not influenced by local considerations; even in regard to the appointment of village officers, the Board of Revenue is the authority. I know that in respect of even assignment and alienation, all papers go to the Board of Revenue and finally in some cases to the Government too. I would therefore like the substitution of the words 'Board of Revenue' for the words 'District Collector' wherever they occur."

The amendments were duly seconded.

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THE HON. SRI K. MADHAVA MENON :—" Sir, for the very reasons given by Sri Suryanarayana Rao, I think the words 'District Collector' or the word 'Collector' must remain. Not only in the Estates Land Act, but also in the General Clauses Act it is like that. The definition of District Collector or Collector under section 3 of the General Clauses Act is also the same as that found in the Estates Land Act. Collector includes an officer who for the time being is authorized to exercise the powers of the Collector, District Collector or even the chief local officer in charge of the revenue administration of the district. If an order is passed by the Revenue Divisional Officer, then there is an appeal to the Collector. If according to the amendment, the words 'Board of Revenue' are substituted for the words 'Collector or District Collector', then there will be no appeal to the Collector. I therefore think that the present position is advantageous to the parties concerned."

SRI R. SURYANARAYANA RAO :—" As I said, after giving notice of this amendment, I had occasion to look into the Madras Estates Land Act where the word 'Collector' is defined as a Revenue Divisional Officer. What I would like to suggest is this. If the rules permit, further appeal to the Board of Revenue can be provided. It is a question of a person losing the inam and a question of granting inams to others. It is a matter where property is involved. Cannot the Government provide for appeal to the Board of Revenue also? "

THE HON. SRI K. MADHAVA MENON :—" Sir, in clause (d), it is said, 'any party aggrieved by an order of the Collector under clause (a) may appeal to the District Collector within such time as may be prescribed, and on such appeal the District Collector may, after giving notice to the Commissioner and each of the persons mentioned in clause (b) and after holding such inquiry as may be prescribed, pass an order confirming, modifying or cancelling the order of the Collector'. So, the difference is made very clear there itself. In fact all the orders that may be passed by the Revenue Divisional Officer will be subject to an appeal to the District Collector. Sri Suryanarayana Rao wants that there should be a further appeal to the Board of Revenue. We shall consider that suggestion. However, I do not think it would be necessary in such matters as resumption of inams and things like that. Anyway, we will see what can be done."

MR. CHAIRMAN :—" Usually, I think the Collector's orders are subject to revision by the Board of Revenue."

SRI B. NARAYANASWAMI NAYUDU :—" There is right of suit."

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SRI R. SURYANARAYANA RAO :—" I do not press my amendments, Sir. Moreover they will be absurd." (Laughter.)

The amendments were, by leave, withdrawn.

Clauses 35, 36 and 37 were put and carried and allowed to stand part of the Bill.

Clause 38.

SRI L. SUBBARAMA REDDI :—" నా కేసు ఉన్న మంది ఈ సవరణకు గురవుచున్నారని తెలుసుకొంటున్నాను—

'After clause 38 insert the following new clause :—

"For every religious institution included in the list published under section 39, the Commissioner shall constitute a Board of Trustees and appoint a salaried Executive Officer, notwithstanding that the institution has hereditary trustee or trustees or that the scheme settled or deemed to be settled for the institution under this Act, contains provision to the contrary."

"జాబ్బి వరుసగాను విచ్చేసేటటువంటి అనేక దేవస్థానములు సంశ్లేషపరచుకొని ఉన్న ట్రస్టుల సభ్యులను ఉన్నది. అనేక సాధనములలో ప్రాథమిక ట్రస్టులు, తాత్కాలిక భర్తీకర్తలుగా దేవాలయ యాచారులు రిజిస్టర్డ్ కాళ్ళకు యిచ్చినవాటిని ఖచ్చిత భర్తీకర్తలు అన్యాయము చేయడం, వికలమైనదం, తమ కేసుల స్వంత వట్టలను పుట్టించుకొనడం జరుగుతోంది. దేవాలయాలు స్వేచ్ఛగా నడుపుతున్నాయి. అదాయము దుర్వినియోగం చేయబడుతోంది. ఈ దేవాలయాల సక్రమ నిర్వహణనీ, దేవాలయ యాచారుల పాత్రపాత్రలూ దూరదూరకీ ప్రభుత్వమువారు ప్రయత్నించాలని నా మనవి. కాళ్ళ, నా సభకు అంగీకారం జరిగినదిగా మౌలికంగా కోరుకున్నాను."

SRI N. VENKATACHALAMAJI :—" Sir, I second the amendment."

MR. CHAIRMAN :—" I think that it would be better if this amendment comes as an amendment to clause 39 instead of to clause 38. The hon. Member wants the constitution of a Board of Trustees and the appointment of a salaried Executive Officer in respect of every religious institution included in the list published under section 39. So, I think that this amendment must come only under clause 39. What does the Hon. Minister think about this? "

THE HON. SRI K. MADHAVA MENON :—" I think this amendment must legitimately come under clause 39, Sir."

MR. CHAIRMAN :—" So, let us consider this amendment of the hon. Member along with his other amendment for clause 39. Now let us dispose of clause 38."

Clause 38 was put and carried and allowed to stand part of the Bill.

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Clause 39.

MR. CHAIRMAN :—" Let hon. Member Sri L. Subbarama Reddy move his amendment."

The amendment shown under clause 38 on previous page was, by leave, withdrawn.

SRI L. SUBBARAMI REDDI :—" Sir, I move—

For clause 39 substitute the following new clause :—

" 41 (1) Where the institution in the list aforesaid has no hereditary trustee, the Board of Trustees shall consist of not less than three nor more than five persons appointed by the Commissioner.

(2) Where the institution has a hereditary trustee or trustees, such trustee or trustees, or where their number exceeds five, five of them elected by the whole body of the hereditary trustees in such manner as may be prescribed, shall be members of the Board; and in addition to them, the Commissioner shall appoint to the Board a number of non-hereditary trustees exceeding the number of hereditary trustees by one.

(3) Every trustee appointed under sub-section (1) or sub-section (2) by the Commissioner and every hereditary trustee elected as aforesaid shall hold office for a term of five years, unless in the meanwhile the trustee is removed or dismissed or his resignation is accepted by the Commissioner or he otherwise ceases to be a trustee."

" ఈ సవరణకు నేను ప్రతిపాదించుచున్నాను. Hereditary trustee లు ఒకరు గాని, అంతకంటే ఎక్కువగా ఉన్నప్పుడు వారందరు కలసి వారిలోనుంచి అయిదు మందికి మించకుండా ఎన్నుకుని, వారిని ఒక ఏర్పాటు చేయవలెను. ఈ ఏర్పాటునకి పై విధముగా ఎన్నుకొనబడిన వారి సంఖ్యకన్న ఒక్కరు ఎక్కువగా సభ్యులను ప్రభుత్వమువారు nominate చేయించి ఏర్పాటు చేయవలెను. ఈ విధంగా చేయడంవల్ల Hereditary trustee లు ఇప్పటివలె దేవాలయాల వరుసనాన్ని దుర్వినియోగంచేసే వరిస్తే వారిపైను ఈ బిల్లుయొక్క ఉద్దేశము సరిచేరగలదని మనవి చేయుచున్నాను."

THE HON. SRI K. MADHAVA MENON :—" Though the amendment is not seconded I will explain the position, Sir."

MR. CHAIRMAN :—" The Hon. Minister can take it that all the amendments are seconded."

THE HON. SRI K. MADHAVA MENON :—" I will explain the position. Identical clauses as suggested in the amendment were there in the Bill as it emerged from the Joint Select Committee, namely, the old clauses 40 and 41. My hon. Friend

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will see they are in clarendon type. But these were omitted by the Government by specific amendments. If I had the power I would have certainly insisted on the clauses remaining there as it came from the Select Committee. But we were definitely advised that where there are hereditary trustees, to remove them and then put in their place any nominated trustees would be a violation of Article 26 (d) of the Constitution and the clause will be invalidated altogether. So there was no other way. In case the hereditary trustees did not manage the properties properly there is a provision in the Bill to notify the temple or religious institution and the Deputy Commissioner can then frame a scheme. I understood from the Telugu speech of my hon. Friend that without this particular clause as suggested by him, the whole Act will be useless because the hereditary trustees in many cases are guilty of so much of misconduct and mismanagement. As regards very many of the temples, if it is so, we have provided for the notification of these temples and the framing of schemes for such temples and religious institutions in which case fresh trustees will come in. The clause as it stood in the original Bill and the amendment now suggested by my hon. Friend will offend the Constitution. That is why the original clause was given up."

SRI R. SURYANARAYANA RAO :—" My hon. Friend the mover of the amendment does not intend to take them away without proper reasons but it is only to add to the hereditary trustees . . ."

MR. CHAIRMAN :—" The amendment practically suggests taking away the hereditary trustees. That is the first amendment of the hon. Member."

The amendment was, by leave, withdrawn.

Clause 39 was put and carried and allowed to stand part of the Bill.

Clause 40 was put and carried and allowed to stand part of the Bill.

Clause 41.

Sub-clause (1)—Proviso.

SRI R. SURYANARAYANA RAO :—" Sir, I move—

That in proviso under sub-clause (1) of clause 41 before the word "appoint" in line 2, insert the word "either" and add the following words at the end :—

" Or a board of trustees consisting of not more than three persons."

" Sir, I do not know why the Government should think of restricting the discretion of the Area Committee when they

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decide to appoint the trustees. The Government have given the power to the Area Committee to appoint the trustees but where there is no hereditary trustee they say that the Area Committee should appoint only one single trustee. The Government say: 'Provided that the Area Committee may, in the case of any institution which has no hereditary trustee, appoint a single trustee.' If it is necessary, in the case of a temple or an institution, where there is no hereditary trustee, the Area Committee if it thinks of appointing more than one trustee if the properties involved necessitate that, and want to bring together a number of people interested in the temple or the institution to take interest in them, why should the Government restrict the discretion of the Area Committee, by asking them to appoint only a single trustee? If they appoint a board consisting of more than one trustee it does not in any way offend the Act or the scheme adumbrated in the Act. My amendment simply says: 'Give the power to the Area Committee to appoint a single trustee or a board of trustees consisting of not more than three persons.' That is all the purpose of my amendment. The appointment of a single trustee or a board of trustees will be dependent on the circumstances of each case. If they think that three should be appointed they must be able to do so. But to tie down the hands of the Area Committee and say: 'You shall not appoint more than one trustee' is not fair to the Area Committee. I think the Area Committee should be allowed to use its powers in order that the temples placed in its charge may be properly managed and by proper persons. That is the object of my amendment, Sir."

The amendment was duly seconded.

THE HON. SRI K. MADHAVA MENON:—"Sir, my hon. Friend has read the proviso only without reading sub-clause (1) of Clause 41. This vests in the Area Committees power to appoint trustees similar to that vested in the Commissioner under Clause 39, that is, not less than three and not more than five persons, for any temple within its jurisdiction. There may be very small temples for which there may be no necessity to have three to five trustees. So, under the proviso, an additional power is given to the Area Committee to appoint a single trustee, where the temple or the institution concerned is small or insignificant. Clause 41 says: '(1) In the case of any religious institution over which an Area Committee has jurisdiction, the Area Committee shall have the same power to appoint trustees as is vested in the Commissioner in the case of a religious institution referred to in section 39.' This power the Area Committee has and, in addition, power is given to it to appoint a single trustee also where the temple concerned is small and it is unnecessary to have three to five trustees and where there are no hereditary trustees. It is not restricting the power of the Area Committee."

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SRI R. SURYANARAYANA RAO:—"Does this not restrict the powers of the Area Committee?"

THE HON. SRI K. MADHAVA MENON:—"It does not, Sir. It gives additional powers. The Committee is not bound to appoint five trustees. In the case of small temples it may even appoint one."

SRI R. SURYANARAYANA RAO:—"I do not accept the interpretation of the Hon. Minister."

The amendment was put and lost.

Clause 41 was put and carried and allowed to stand part of the Bill.

Clauses 42, 43 and 44 were put and carried and allowed to stand part of the Bill.

Clause 45.

Sub-clause (3).

SRI R. SURYANARAYANA RAO:—"I do not propose to move the amendments to sub-clauses (1) and (2) of clause 45. I move the amendment to sub-clause (3) that—

'In sub-clause (3) of clause 45, after the words "The Deputy Commissioner" in line 2, insert the words: "in consultation with the Area Committee in respect of a religious institution over which an Area Committee has jurisdiction."'

"Sir, the sub-clause as per the amendment suggested by me will read:

'(3) Pending the disposal of the charges framed against the trustee, the Commissioner or the Deputy Commissioner, in consultation with the Area Committee in respect of a religious institution over which an Area Committee has jurisdiction, may place the trustee under suspension and appoint a fit person to discharge the functions of the trustee.'

All that I say is that the Area Committee should be consulted in all such cases. That is also the principle that the Government have accepted and enunciated, namely, that the Commissioner or the Deputy Commissioner should not do anything without consulting the Area Committee or obtaining its views. It is only in a consultative capacity that I want the Area Committee to be recognised in such matters."

THE HON. SRI K. MADHAVA MENON:—"I cannot accept the amendment, Sir. You will find in clause 45, Sir, that in respect of any action that is to be taken, it is provided that the Deputy Commissioner in the case of any religious institution over which an Area Committee has jurisdiction, shall also consult the Area Committee before passing the final order. Under sub-section (2). Sub-clause (3) envisages an emergency situation, the necessity of putting a man under suspension. Such a particular matter involving misappropriation and mismanagement comes to

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THE HON. SRI K. MADHAVA MENON :—" Sir, you have already answered on my behalf. The eloquence of my hon. Friend would have been more useful in another case. Under sub-clause (1) the Deputy Commissioner will consult the Area Committee before passing orders and under sub-clause (5) an appeal against such order may go to the Commissioner. At every stage the Area Committee is consulted. In another clause an appeal is provided even against the orders of the Commissioner. First the Deputy Commissioner consults the Area Committee and then orders are passed and the records go to the Commissioner at that stage. These are cases of malfeasance, misfeasance and misappropriation. If still some clarification is necessary, the Commissioner may consult the Area Committee and the Deputy Commissioner and pass orders. So, Government do not accept the amendment, Sir."

MR. CHAIRMAN :—" The question is—

' After sub-clause (5), add the following new sub-clause (6) :—

" (6) In respect of a trustee of a religious institution over which the Area Committee has jurisdiction, the Commissioner shall also consult the Area Committee before modifying, annulling or confirming the order of the Deputy Commissioner." "

The amendment was lost.

Clause 45 was put and carried and allowed to stand part of the Bill.

Clauses 46 and 47 were put and carried and allowed to stand part of the Bill.

Clause 48.

Sub-clause (4).

MR. CHAIRMAN :—" The motion is—

' That clause 48 do stand part of the Bill.' "

SRI R. SURYANARAYANA RAO :—" Mr. Chairman, Sir, I beg to move—

' After the words " against the order to " in lines 3 and 4, of sub-clause (4), insert the words " the Area Committee in respect of a religious institution over which the Area Committee has jurisdiction and in other cases to " .'

Sir, this is in respect of orders passed by the trustees. Sub-clause (4) with my amendment will read like this :

' (4) Any person affected by an order of the trustee under sub-section (3) may, within one month from the date of the receipt of the order by him, appeal against the order to the Area Committee in respect of a religious institution over which the Area Committee has jurisdiction and in other cases to the Deputy Commissioner.'

I want that this Area Committee should have some voice whether in making appointments or in dealing with the office-holders and

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servants of a religious institution over which they have control. All that I suggest is that an aggrieved party must first appeal to the Area Committee in respect of the institution under the control of the Area Committee and in other respects to the Deputy Commissioner."

MR. CHAIRMAN :—" I think there will be an Area Committee for all institutions getting less than Rs. 20,000 income."

SRI R. SURYANARAYANA RAO :—" That is why I suggest that the appeal should go first to the Area Committee."

MR. CHAIRMAN :—" But, why do you say ' in other cases to '."

SRI R. SURYANARAYANA RAO :—" I will make only a distinction."

The amendment was duly seconded.

THE HON. SRI K. MADHAVA MENON :—" My objection is this, Sir. The functions under clause 48 are judicial and quasi-judicial. The rights of a hereditary trustee, whether a person is the proper guardian in the case of minors, etc., are all essentially judicial and quasi-judicial functions which a Commissioner or a Deputy Commissioner performs and it is not proper that we should entrust these functions to the Area Committee. In all these matters, an appeal is provided against the order to the Deputy Commissioner and then to the Commissioner. It is better that such matters are entrusted to persons like the Deputy Commissioner and the Commissioner who may be in a position to judge better than the Area Committee."

MR. CHAIRMAN :—" The question is—

' After the words " against the order to " in lines 3 and 4 of sub-clause (4), insert the words " the Area Committee in respect of a religious institution over which the Area Committee has jurisdiction and in other cases to " .'

The amendment was lost.

Clauses 48 and 49 were put and carried, and allowed to stand part of the Bill.

Clause 50.

SRI R. SURYANARAYANA RAO :—" Mr. Chairman, Sir, I gave notice to move—

' For the words " notwithstanding anything contained in " substitute the words " subject to ", and delete the words " to the contrary " in line 8.' "

THE HON. SRI K. MADHAVA MENON :—" Sir, can a negative amendment be moved? "

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SRI R. SURYANARAYANA RAO :—" That is one way of moving amendments, Sir."

MR. CHAIRMAN :—" Yes, it is a negative amendment."

SRI R. SURYANARAYANA RAO :—" Sir, I do not think we will be wise in interfering with any decree or usage, which may lead to further litigation. I thought, Sir, that decrees or usages or schemes settled under the Act, should be respected. I thought, Sir, that this clause was going beyond the powers of this House. I feel it may lead to litigation which is not worthwhile."

The Hon. Sri K. Madhava Menon rose.

MR. CHAIRMAN :—" Hon. Member Sri Suryanarayana Rao has only opposed the clause and not moved his amendment."

Clause 50 was put and carried, and allowed to stand part of the Bill.

Clause 51.

Sub-clause (4).

SRI R. SURYANARAYANA RAO :—" Mr. Chairman, Sir, I beg to move—

'That in sub-clause (4), for the words "Deputy Commissioner", substitute the word "Commissioner".'

Sir, I would like that an appeal from the Area Committee should go to the Commissioner. The sub-clause with my amendment will read thus—

'(4) Against an order made by the Area Committee under sub-section (3), the trustee or any person having interest may, within one month from the date of the receipt of the order by the trustee, appeal to the Commissioner.'

This is an important matter dealing with the fixing of the standard of scales of expenditure and when the Area Committee tries to interfere with it, perhaps for good reasons,—and the Area Committee constituted under the Act is entrusted with certain duties and responsibilities,—and thinks it necessary to interfere with the dittam or the scale of expenditure, it is a serious matter which should be dealt with only by the Commissioner and not by the Deputy Commissioner. Sir, I may say why not the matter be dealt with by the Government themselves, if it is possible. But the Government will be flooded with applications. Therefore, I suggest, Sir, that the appeal should be to the Commissioner and not to the Deputy Commissioner. The people aggrieved can go and appeal to the higher authority, but the person to deal with, as against the Area Committee, should be the Commissioner. As I already said, Sir, my anxiety is to make the Area Committee as important a body as possible."

The amendment was duly seconded.

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THE HON. SRI K. MADHAVA MENON :—" Sir, it is practically impossible for a Commissioner who has jurisdiction throughout the State, to hear appeals from the Area Committees. The Commissioner has revisionary powers on the orders passed by the Deputy Commissioner and can send for the records for review and revision. Any party aggrieved may move the Commissioner for review and revision. But, if appeals are to go to the Commissioner, I am afraid one Commissioner may not be sufficient and we may have to provide for half-a-dozen Commissioners."

MR. CHAIRMAN :—" Officially the Deputy Commissioner also may help him."

THE HON. SRI K. MADHAVA MENON :—" The Commissioner has got the revisionary powers, Sir."

MR. CHAIRMAN :—" The question is—

'That in sub-clause (4), for the words "Deputy Commissioner", substitute the word "Commissioner".'

The amendment was lost.

Clause 51 was put and carried, and allowed to stand part of the Bill.

Clause 52 was put and carried, and allowed to stand part of the Bill.

Clause 53.

Sub-clause (1).

SRI R. SURYANARAYANA RAO :—" Mr. Chairman, Sir, I beg to move—

'That in sub-clause (1), for the words "the Assistant Commissioner" in line 12, substitute the words "the Commissioner or the Deputy Commissioner".'

This chapter is a very important chapter which seems to have exercised the minds of many Members of the other House. Here I would like you, Sir, and the hon. Members of this House to read clause 53 carefully. It is about filling up of vacancies in the office of the trustee of a 'math', not an ordinary temple or a small religious endowment. Who is given the power? It is the Assistant Commissioner, the man in the lowest rung of the ladder. All I suggest is that it should be the Commissioner or the Deputy Commissioner."

THE HON. SRI K. MADHAVA MENON :—" It is only with regard to custody of the property."

SRI R. SURYANARAYANA RAO :—" When it can be Assistant Commissioner, why not a Deputy Commissioner? I

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have not put 'Commissioner' because his headquarters will be at Madras and it is difficult always to run up from Madras and take charge of the property."

MR. CHAIRMAN:—"Assistant Commissioner, I suppose, 'is the man on the spot'."

SRI R. SURYANARAYANA RAO:—"He is a small man, Sir. We are dealing with 'maths'. If all the other provisions apply to 'maths' without a separate chapter, that is a different matter. I am not a follower of a matadhipathi or anybody. When many specifically recognized maths deserve a special consideration as separate institutions, should we not at least see that a higher officer of the position of a Deputy Commissioner or Commissioner takes this action? Large properties and endowments will be involved. If a trustee dies and if there is nobody to succeed to take possession of the properties immediately, the Deputy Commissioner can take action. Is the Assistant Commissioner going to be available on the spot? He too has jurisdiction over some districts and he too cannot run to the place immediately. I feel it is an important matter and the man who is to take possession of the property should have some status."

MR. CHAIRMAN:—"How many Deputy Commissioners will there be? I think there will be more than one for the entire department."

SRI R. SURYANARAYANA RAO:—"There are going to be more Deputy Commissioners than we imagine there would be."

MR. CHAIRMAN:—"Will there be more than one?"

THE HON. SRI K. MADHAVA MENON:—"There will be more than one. Sir, here the Assistant Commissioner is asked to take steps for the temporary custody and protection of the endowments of 'math' and forthwith report to the Commissioner regarding further action to be taken. We cannot leave the property to be destroyed and some person who is easily available will certainly be the Assistant Commissioner and not the Deputy Commissioner who may have larger jurisdiction than the Assistant Commissioner. The temporary custody must be taken by the person who is immediately available and that is necessary, Sir."

MR. CHAIRMAN:—"The question is—

'That in sub-clause (1), for the words "the Assistant Commissioner" in line 12, substitute the words "the Commissioner or the Deputy Commissioner".'

The amendment was lost.

Clause 53 was put and carried and allowed to stand part of the Bill.

Clause 54 was put and carried and allowed to stand part of the Bill.

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Clause 55.

Sub-clause (2).

SRI R. SURYANARAYANA RAO:—"Sir, I move—
'Omit all the words after the words and figure "sub-section (1)"'

"Sir, I contend that the Government have no business to introduce the words and the figure 'sub-section (1)', as they were not adopted by the Joint Select Committee. I do not know how they crept in. It may be said that this addition is consequential. But, I remember that the Select Committee simply said, on the motion of my hon. Friend Sri Adityan, that the matadhipathi should be asked to keep accounts of all receipts and disbursements on a complaint from the sishyas that a matadhipathi is not using the endowments he gets as pathakanika for the purposes connected with the math. But here the provision is that the accounts are to be produced before any person authorized by the Commissioner. I would have accepted it if the provision had been to the effect that the Commissioner can call for accounts. As it is, any person, the Assistant Commissioner and even the Inspectors can call upon the matadhipathi to produce his accounts. It is not fair that this should be done."

MR. CHAIRMAN:—"But he may not demand the accounts in an offensive tone." (Laughter.)

SRI R. SURYANARAYANA RAO:—"When men are clothed with authority, they adopt such a tone even against all of us and much more so against the poor matadhipathi who may not know, as the Hon. the Minister for Law said, what sort of accounts are kept by his agent. If such accounts are to be produced before the Commissioner, there can be no objection. But, to ask the matadhipathi to produce his accounts before any officer authorized by the Commissioner is not fair."

MR. CHAIRMAN:—"Not before 'any officer', but before 'any person'."

SRI R. SURYANARAYANA RAO:—"We had no idea of asking for the submission of accounts when Sri Adityan moved that pathakanikas should be accounted for, etc. It is not from an orthodox point of view that I am asking that this should be deleted. We never wanted this. First of all, in the Select Committee we wanted to exclude pathakanikas from the accounts and then Sri Adityan suggested that these should be included in the accounts. But we never authorized any person to call for accounts."

MR. CHAIRMAN:—"I suppose the accounts must be capable of being looked into by somebody. You are not objecting to the whole clause."

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SRI R. SURYANARAYANA RAO :—" I am agreeable to sub-section (1)."

MR. CHAIRMAN :—" What is the offending portion? "

SRI R. SURYANARAYANA RAO :—" I am opposed to the last three lines."

MR. CHAIRMAN :—" You are not opposed to accounts being looked into when occasion arises."

SRI R. SURYANARAYANA RAO :—" Whenever necessary, let them put in, as the Select Committee did not take any decision on this point. But how did they introduce these words in the Select Committee report? It is a very serious matter. If you refer to the report, you will find it stated there: 'The Legal Department may draft suitably.' They added one more power to the Commissioner by the insertion of the words 'any person authorized'. I am not against the keeping of accounts. But we never gave this power either to the Commissioner or to any person authorized by him. In fairness to the Joint Select Committee, they ought not to have introduced these words. I would like the Government to stand by the report and withdraw this addition."

THE HON. SRI K. MADHAVA MENON :—" Sir, in this matter also there are various amendments. If we are to take the view that the purpose of this Bill is to cause annoyance, indignity, trouble and harassment, then no clause will be acceptable to anybody. On the other hand, if we take a sympathetic attitude, we will readily agree that the purpose behind the Bill is to help proper management of our religious institutions so as to create confidence and faith in them, and the feeling that the Bill causes indignity will disappear."

"Now, what is the meaning of the words in the second line of sub-clause (1), 'for purposes connected with the math'? If we simply say: 'The trustee of a math shall be entitled to spend at his discretion', he can do anything with the funds. The Select Committee, therefore, put in the words 'at his discretion for purposes connected with the math'. But, who is to decide whether a certain purpose is one connected with a math or not? I was asked yesterday by Sri Narayanaswami Nayudu whether a particular act of a matadhipathi will be treated as coming within his discretion."

MR. CHAIRMAN :—" What happens if the sums are paid as Hasthakanikas and not as Pathakanikas? "

THE HON. SRI K. MADHAVA MENON :—" We do not contemplate such things. Even if a kanika is put on the head, it goes by the name 'pathakanika'. As the head is considered too sacred to be touched, the offerings are made at the feet."

MR. CHAIRMAN :—" There are also cases of pathabhi-shanam."

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THE HON. SRI K. MADHAVA MENON :—" That is the reason for putting in the words 'for purposes connected with the math'. The Legal Department was asked to carry out the intention of the Select Committee. Their intention can only be that there must be somebody to look into it. If Sri Suryanarayana Rao's amendment is accepted things will be left vague. Our intention has to be made clear. Any person authorized by the Commissioner does not mean that the matadhipathi will take the accounts or keep the accounts himself. We have provided that he must appoint a manager or other person to do this and he will have at least a peon to take the accounts to the Commissioner. It may even be that the Commissioner will go and see the accounts himself. What we have provided is that there must be at least someone authorized by the Commissioner to see the accounts. If this is viewed in this light, there will be nothing in it to find fault with. The authors and the Legal Department have done nothing against the wishes of the Select Committee. The department has only faithfully carried out the directions given to them."

The amendment was put and lost.

Clauses 55, 56 and 57 were put and carried and allowed to stand part of the Bill.

Clause 58.

Sub-clause (1).

SRI R. SURYANARAYANA RAO :—" I beg to move—

'After the words "a religious institution" wherever they occur, insert the words "other than a math or a specific endowment attached to a math".'

"Sir, I agree that it is good to give power to the Deputy Commissioner to frame schemes in respect of institutions other than maths or specific endowments attached to a math too. My first amendment is to the effect that, when the Deputy Commissioner has reason to believe that in the interests of the proper administration of a religious institution other than a math or specific endowment attached to a math a scheme should be settled, he should have power to settle a scheme. As regards the maths and specific endowments, I have given notice of another clause. I gave notice of this amendment because under clause 54, even in fixing the standard of expenditure or dittam, the Commissioner is not the ultimate authority."

THE HON. SRI K. MADHAVA MENON :—" Is my hon. friend moving an amendment to sub-clause (1) or to sub-clause (3)? "

SRI R. SURYANARAYANA RAO :—" I am moving an amendment to sub-clause (1)."

THE HON. SRI K. MADHAVA MENON :—" But that sub-clause does not apply to maths."

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SRI R. SURYANARAYANA RAO :—" But unless I exempt them here, under sub-clause (3) it will become a general question and all these clauses can be applied to these endowments.

" In clause 54, in respect of maths, even the scale of expenditure has to be sanctioned by Government and their orders are final. In preparing a scheme, the Government may be the final authority in respect of a math. In clause 58, in the place of sub-clause (3), I have suggested that—

'When the Commissioner has reason to believe that in the interests of the proper administration of a math or a specific endowment attached to a math a scheme should be settled for the institution or when five or more persons having interest make an application in writing, stating that in the interests of the proper administration of the math or the specific endowment attached to a math, a scheme should be settled for it, the Commissioner shall consult in the prescribed manner the trustee and the persons having interest, and if, after such consultation, he is satisfied that it is necessary or desirable to do so . . .'

" These are the words taken from their own clause—

' . . . he shall frame a scheme of administration for the institution and submit the same to Government who shall pass orders thereon.'

" It would be consistent with the principle if in respect of maths, even the scale of expenditure is to be approved by Government. When they want to prepare a scheme in respect of an institution other than a math or specific endowment attached to a math, let there be the existing provision. I have suggested new clause 58-A in place of sub-clause (3) which includes all the sub-sub-clauses of sub-clause (3). Under it, it is only the Government that will decide these things. A distinction is made by me in respect of maths and specific endowments connected with maths. In respect of these a scheme shall be framed by the Commissioner and sanctioned by the Government. My amendment to sub-clause (1) must be read with my amendment to sub-clause (3) in order to understand the whole scheme which is different from clause 58. We have to put together all the maths under sub-clause (3) as also the general scheme for other religious institutions. I am separating them by having a separate clause 58-A. It is consistent with the position we have taken in regard to maths that special consideration should be shown to them. When a scheme has to be prepared and the appointment of an executive officer has to be made, the Government should be the final authority. This will remove a lot of unnecessary discontent created by the manner in which officers have been empowered to deal with the maths for which we want to show special consideration and have devoted a separate chapter. That is my whole point in this consequential amendment. I have also suggested a consequential amendment, namely—

'Renumber sub-clauses (4) to (7) as sub-clauses (3) to (6) and omit sub-clause (8).'

Sub-clause (8) says—

'(8) The powers conferred by this section shall, in respect of maths, be exercised by the Commissioner or by a Deputy Commissioner to whom powers in this behalf have been delegated by the Commissioner under section 10, sub-section (2).'

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I want to give even that power to the Government. The Government should settle the scheme in respect of maths and specific endowments. That is the whole scheme that I have put forward."

SRI S. B. ADITYAN :—" Sir, this is one of the clauses in which it was decided that the Government should have no power. Now, the hon. Member Sri R. Suryanarayana Rao argues that the Government should take the power to frame the schemes. That matter was fully considered and it was decided that the court should have a final say in the matter."

SRI R. SURYANARAYANA RAO :—" I am also going to give it to the court."

THE HON. SRI K. MADHAVA MENON :—" We have ourselves given it to the court, Sir. This is a judicial function and we cannot ask the Government to do a judicial function. The Government have not got the final voice. There is a right of suit given and this is a judicial matter. The Deputy Commissioner may initiate the matter, but the parties aggrieved have got a right to go to court."

The amendment was put and lost.

Clause 58 was put and carried and allowed to stand part of the Bill.

MR. CHAIRMAN :—" It looks as if we will take the rest of the day for this Bill. The food debate can come off to-morrow. We have gone through half the Bill. The House will now adjourn and re-assemble at 2-30 p.m."

(After lunch -2 30 p.m.)

The House re-assembled at 2-30 p.m. with the Deputy Chairman (Sri K. Venkataswami Nayudu) in the Chair.

Clause 59.

SRI R. SURYANARAYANA RAO :—" Sir, I move the following amendment :—

(1) In clause 59, for the words " Deputy Commissioner " wherever they occur, substitute the word " Commissioner ".

(2) At the end of clause 59, insert the following proviso :—

" Provided in respect of a math or a specific endowment attached to a math, the order of the Commissioner shall be subject to the approval of the Government."

If the clause is amended as I have suggested, it will read—

'59. (1) The Commissioner may, on being satisfied that the purpose of a religious institution has . . . become impossible of realization . . . by order, direct . . .'

(2) The Commissioner may, at any time, by order, modify or cancel any order passed under sub-section (1).

(3) The order of the Commissioner under this section shall be published in the prescribed manner and on such publication shall be binding on the trustee, the executor and all persons having interest."

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"The object of my first amendment is this. This Chapter deals with inquiries, and any order passed must be by an appropriate authority. This clause deals with appropriation of endowments and it is better that the orders are passed by a more responsible officer like the Commissioner. It may be argued that an appeal lies to the Commissioner. You will see, Sir, I have later on provided for appeals to the Government. My amendment to substitute 'the Commissioner' for 'the Deputy Commissioner' does not disturb the plan of action proposed in the Bill. Only in cases where severe action has to be taken, I want that a more responsible officer should take such action. On that, there should be an appeal to the Government. Therefore, I want, Sir, that wherever the words 'Deputy Commissioner' occur, the word 'Commissioner' should be substituted."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I second the amendment."

THE HON. SRI K. MADHAVA MENON :—" Clause 59 is the same as clause 64 in the Bill appended to the report of the Select Committee. The amendments of Sri R. Suryanarayana Rao to clauses 59, 60, 61 and 62 are all more or less the same. He wants that wherever the words 'Deputy Commissioner' occur the word 'Commissioner' should be substituted and wherever the word 'Commissioner' occurs, the word 'Government' should be substituted. It goes against the scheme of the Bill in regard to this matter. In clause 59, we are dealing with institutions whose purpose has from the beginning been, or has subsequently become, impossible of realization. In such cases, the Deputy Commissioner may direct that the endowments of the institution be appropriated to all or any of the purposes mentioned in the clause. In such cases, the initial work need not be done by the Commissioner or the Government. It can be done by a responsible officer and we have suggested that the Deputy Commissioner should initiate proceedings, that there should be an appeal to the Commissioner and that the matter should be finally decided by the court. Why should the Government come in here? The Government should not come in here at all. The final authority is the court in this matter. The Deputy Commissioner initiates proceedings and there is an appeal to the Commissioner. In clause 99, the Government have got revisionary powers. Finally, any party aggrieved by the order may file a suit in court and we have provided for an appeal also to the High Court. But the initial duty should not be cast on a higher officer. It will be against the scheme of the Act to substitute the word 'Commissioner' for the words 'Deputy Commissioner'."

The amendment was put and lost.

Clause 59 was put and carried and allowed to stand part of the Bill.

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Clause 60.

SRI R. SURYANARAYANA RAO :—" Sir, I move the following amendment :—

'For the words "Deputy Commissioner" wherever they occur, substitute the word "Commissioner".'

'Add the following proviso at the end of clause 60 :—

"Provided in respect of a math or a specific endowment attached to a math the order of the Commissioner shall be subject to the approval of the Government."

"Sir, I have to advance the same arguments which I advanced in connexion with the previous clause and the Hon. Minister for Law will advance the same counter-arguments. My whole object is, as was the object of the original Bill, to avoid litigation as much as possible. If a higher officer passes orders and they are subject to the approval of the Government, the prospect of people going to a court of law will be lessened. I do not say that there are not cantankerous trustees who will go to courts for no reason at all. But if the orders are passed by persons of superior status, and if in cases where a math or a specific endowment attached to a math is concerned, the orders are subject to the approval of the Government, it would be difficult for a party to indulge in litigation. My object is to make the authority as high as possible and thereby lessen the prospect of litigation. It is with that object I gave notice of the amendment to clause 59 and I have given notice of the same amendment to this clause also. The fact that the party can go to a court need not prevent us from making such arrangements as to make the order passed by the authority undisputed and frivolous litigation impossible. Even the courts will hesitate to give injunctions, if they are sought by aggrieved parties, when the order has been issued by the Government or when the Commissioner's order has been subject to the approval of the Government. Thereby the prospect of orders being set aside will be lessened. It is with this idea I gave notice of the amendment. It will not disturb the plan of action proposed in the Bill if we substitute the words 'Deputy Commissioner' for the 'Commissioner' and make the order of the Commissioner subject to the approval of the Government."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I second the amendment."

DEPUTY CHAIRMAN :—" Does the hon. Member want to press his amendment? "

SRI R. SURYANARAYANA RAO :—" The Government themselves may realize later on that I am wiser, Sir."

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THE HON. SRI K. MADHAVA MENON :—" It is not a question of anybody being wiser in this matter. Clause 60 refers to defunct institutions. There again the question is, who should initiate proceedings and whether a higher authority should initiate them. We say that the Deputy Commissioner may initiate the proceedings. In clause 61, an appeal is provided to the Commissioner. In clause 99, power of revision is allowed to the Government in any matter for which a suit or appeal is not provided. Whatever the hon. Member Sri Suryanarayana Rao wants—appeal to the Commissioner and the Government—are all there. Of course, the language used is not 'appeal' to the Government. It is revision by the Government. There is appeal to the Commissioner and revision by the Government. Clause 62 provides that any party aggrieved by an order passed by the Commissioner may file a suit in the court against such an order and then appeal to the High Court also. If you put the Commissioner instead of the Deputy Commissioner, you may be avoiding one tier in this series. But these defunct institutions may be in any part of the State and the Commissioner cannot initiate proceedings in respect of all of them; it is enough if the initial proceedings are taken by a responsible officer. We have said that it should be done by the Deputy Commissioner. The Government should not come in with regard to such matters, because we have said that the court must deal with such matters as right to property is involved."

The amendment was put and lost.

Clause 60 was put and carried and allowed to stand part of the Bill.

Clause 61.

THE HON. SRI K. MADHAVA MENON :—" The amendments of Sri Suryanarayana Rao to this clause also go automatically."

Clause 61 was put and carried and allowed to stand part of the Bill.

Clause 62.

THE HON. SRI K. MADHAVA MENON :—" The amendments to this clause also go. They are consequential."

Clause 62 was put and carried and allowed to stand part of the Bill.

Clause 63.

Clause 63 was put and carried and allowed to stand part of the Bill.

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Clause 64.

Sub-clause (5).

SRI R. SURYANARAYANA RAO :—" Sir, in this amendment which I move, I have suggested the addition of another sub-clause, viz.,

'After sub-clause (4), add the following new sub-clause (5) :—

"(5) Any party aggrieved by the notification may, within ninety days from the date of its publication, file an application in the court against such notification; and the court may confirm, modify or cancel such notification."

While the Government have no doubt taken the power to, 'at any time, on an application made to them, cancel the notification', the notification will be in force for a period of five years from the date of its publication. What I suggest is that an aggrieved party may be allowed to file an application in the court. With regard to suits and appeals under clause 62, I find no reference is made to this clause which relates to notification. I feel, therefore, that a provision like this giving the aggrieved party a right to go to a court of law in case he is not satisfied and in case even when he moves the Government, he has not got redress, is necessary. As the Hon. Minister knows, this has been subjected to a good deal of criticism. All that I seek is that the Commissioner should possess the powers that are vested in him, but if an aggrieved party wants to go to a court of law, he may be enabled to do so and assert his rights, if he has any."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I second the amendment."

THE HON. SRI K. MADHAVA MENON :—" Sir, to give the court plenary jurisdiction in a matter like this which is purely temporary in its nature will defeat the very purpose of the measure in case of proved mismanagement. You will find, Sir, in clause 63 :

'Where the Commissioner has reason to believe that such institution is being mismanaged and is satisfied that, in the interests of its administration, it is necessary to take proceedings under this Chapter, the Commissioner may, by notice published in the prescribed manner, call upon the trustee and all other persons having interest to show cause why such institution should not be notified to be subject to the provisions of this Chapter.'

Even if he uses the power to notify and takes steps to manage the institution, it automatically lapses at the end of a fixed period, or the Government may cancel the notification even before the period lapses. The very idea of notification is to rectify mistakes and mismanagement, and it is only for a temporary period. If we are to give plenary powers to the court even in cases of temporary arrangement, then, the very object of the notification will be destroyed. The present Act of 1926 specifically includes a similar provision. As I said, the very object is to rectify and meet a temporary emergency and you cannot make it more temporary by saying that the court can interfere with it."

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SRI R. SURYANARAYANA RAO:—"If I may be permitted to say a few words, Sir—I have no right of reply—I may say that as a result of this clause 64, a number of consequences will ensue, such as those mentioned in clauses 65 and 66 relating to the appointment of salaried executive officers, etc. The period of five years is not short; it is the maximum no doubt; but if an aggrieved party thinks that there is no case of mismanagement, that the Commissioner has been misled and has not got sufficient reasons to justify the action—of course from his own point of view—he can go to a court. If the Commissioner has sufficient materials to proceed in the matter, he can satisfy the court and the court will not easily be led away by the aggrieved party to grant him relief unless it is satisfied that the Commissioner's order is not justified in the circumstances. I therefore feel it will remove a great deal of heart-burning if my amendment is put in, and that is why I have stated . . ."

THE HON. SRI K. MADHAVA MENON:—"I don't think he can make a regular reply, Sir."

The amendment was put and lost.

Clause 64 was put and carried and allowed to stand part of the Bill.

Clauses 65, 66, 67, 68 and 69 were put to the House and carried and allowed to stand part of the Bill.

Clause 70.

Sub-clause (4).

SRI R. SURYANARAYANA RAO:—"Sir, this is again an attempt on my part to give a better status to the Area Committees. When an Area Committee passes an order, I want that an appeal should lie to the Commissioner and not to the Deputy Commissioner. My object in giving notice of this amendment is to improve the status of the Area Committee and make it a real Area Committee with a status worthy of the responsibilities thrown on it. It is with that purpose that I have suggested that the appeal should lie to the Commissioner and not to the Deputy Commissioner, against the order passed by the Area Committee. I move—

'That in sub-clause (4) of clause 70, for the words "Deputy Commissioner" the word "Commissioner" be substituted.'"

SRI M. D. T. KUMARASWAMI MUDALIYAR:—"I second it."

THE HON. SRI K. MADHAVA MENON:—"On a former occasion in connexion with a similar amendment, I have explained the position. If you put an appeal for every order of the Area Committee to the Commissioner in the matter of budget for instance, it will end in a breakdown, because an officer like the Commissioner will not be able to attend to the work, since the

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number of temples with an income of less than Rs. 20,000 is large. At present when the Area Committee or the Assistant Commissioner passes an order, the trustee is given the right to appeal to the Deputy Commissioner. We know that the Area Committee is presided over by the Assistant Commissioner; and if the appeal is to the Commissioner and not to the Deputy Commissioner, then it means that the Commissioner will have to hear the appeal for years together and the whole administration will practically come to a standstill. In all these matters an appeal can certainly be taken to the Deputy Commissioner who can *suo motu* call for the records. If however an appeal is to be provided for to the highest authority, the work will become impossible."

The amendment was put and lost.

Clause 70 was put and carried and allowed to stand part of the Bill.

Clauses 71, 72 and 73 were put and carried and allowed to stand part of the Bill.

Clause 74.

Sub-clause (6).

SRI R. SURYANARAYANA RAO:—"Sir, I move—

'Omit sub-clause (6).'"

This power vested either in the court or in the Government to stop the coming into operation of an order pending disposal of the application or appeal, is being sought to be taken away by this sub-clause, and it is wrong to do so. I think lawyers will agree that it is necessary that the court or the Government should have this power to stop an order which *prima facie* may be considered to be beyond the powers of the authority passing the order or is not desirable in the interests of the institution in respect of which the order is passed, pending the disposal of the application or appeal. After all, it may be concerned with a rectification of defects disclosed in audit or an order of surcharge against the trustee. Even in the District Municipalities Act and the District Boards Act, surcharge orders are passed by the Inspector of Local Fund Accounts and the Government do withhold them—if I remember aright—pending further consideration. Or if an appeal is filed in court, the court grants an injunction pending final disposal of the appeal against the order. I am not suggesting anything novel, but I am only suggesting a procedure which is already followed in respect of other institutions. Why in the case of these institutions the same privilege should not be accorded I am not able to understand. I therefore move that sub-clause (6) of this clause 74 be omitted."

SRI M. D. T. KUMARASWAMI MUDALIYAR:—"I second it."

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THE HON. SRI K. MADHAVA MENON :—" Sir, we have already passed clause 62. Sub-clause (1) of that clause says that 'the court shall have no power to stay the Commissioner's order pending the disposal of the suit.'

If this is right in that particular clause, it is much more necessary in this case where a surcharge is made after enquiry and after giving an opportunity, after the audit report and after the recommendations of the Area Committee and when the Commissioner is satisfied that the trustee or any other person was guilty of misappropriation or wilful waste of the funds of the institution or of gross neglect resulting in a loss to the institution, and also after 'considering his explanation'. There is no use giving him more time. We have already given him the power to appeal to the court against the Commissioner's order, and he may choose either the court or the Government for appeal, and when he takes one remedy, he cannot take the other. A specified time is given to him to do it. After that, it is stated here that the court or the Government should not stop that order, so that the money that has been illegally taken away may be taken back as it belongs to a trust or religious endowment; we must necessarily guard against any possible loss of the money. That is why it is necessary that although he may have the right of appeal or any other remedy, the order of the Commissioner should not be set aside pending disposal of the appeal. As a matter of fact, this power is more necessary here than in clause 62."

The amendment was put and lost.

Clause 74 was put and carried and allowed to stand part of the Bill.

Clauses 75, 76 and 77 were put and carried and allowed to stand part of the Bill.

Clauses 78 and 79 were put and carried and allowed to stand part of the Bill.

Clause 80.

SRI R. SURYANARAYANA RAO :—" Sir, I move—

'That at the end of sub-clause (3) (c), the following be added :—

"subject to such delegation of powers as the Government may by general or specific order provide."

Sir, this clause relates to a temple with which you are connected. If I remember aright, in your criticism of the provisions relating to the Tirumalai-Tirupathi Devasthanams, you stated that at present this Devasthanam enjoys a certain privileged position which is now sought to be taken away. The only good thing the Government have done is to say that the Deputy Commissioner and the Assistant Commissioner shall not visit this Devasthanam with all their orders. Their powers and duties under the Act have been assigned to the Commissioner instead. But

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I want that even the Commissioner should exercise only such powers as are delegated to him by the Government. The importance of the position of the Devasthanam Committee—which in future is to be called the Board of Trustees—does deserve better consideration at the hands of Government. It is granted that the Deputy Commissioner and the Assistant Commissioner will not have anything to do with the Board. It may be argued that the Commissioner under the present Bill will possess more powers in respect of the Devasthanam than now; but what I want is that the Commissioner should exercise his powers in the future only in so far as they have been delegated to him by the Government either by general or specific order.

"It may be that by a general order the Government may say the Commissioner shall exercise all the powers under this Act in respect of this Devasthanam or they may say, in respect of some matters only the Commissioner may exercise the powers, but I am not so much in favour of the Commissioner being given all the powers that are now given under the Act to the Deputy and Assistant Commissioners, and in addition to the powers which he has under the Act as the Commissioner. That is the only thing I wanted to say. On the other hand, if the Government think they can repose confidence in their Commissioner, they may give him all the powers they possess, but I would like, at least for some time to come, the Government not to hand over all their powers to the Commissioner, but allow the Board of Trustees of the Tirumalai-Tirupathi Devasthanam Committee to function without undue interference by the Commissioner."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I second it, Sir."

DEPUTY CHAIRMAN :—" Is the hon. Member moving the other amendment? "

SRI R. SURYANARAYANA RAO :—" Sir, I also move the other amendment of mine—

'To sub-clause (4) of clause 80, add at the end of sub-clause (4) the following words :—

"subject to the final approval of the Government." "

"The same arguments I have advanced in respect of the previous sub-clause holds good here also. Even here I would like the orders of the Commissioner to be subject to the prior approval of the Government, because, as you said, this Devasthanam is a peculiar institution with large endowments. So, I feel that in respect of this Devasthanam before any orders are passed by the Commissioner and they are given effect to Government should have a say in the matter."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I second it, Sir."

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THE HON. SRI K. MADHAVA MENON :—" Sir, what my Friend means was not quite clear when I read the amendment. The result of passing the amendment will be just the reverse of what he intends. Under clause 60 and other clauses, wherever the Deputy Commissioner is mentioned, he wants the substitution of 'Commissioner'. Here his intention seems to be that wherever the Commissioner is mentioned, it should be only the Government. Now, let us see what he proposes in the amendment. He wants at the end of sub-clause (c) to add the words: 'subject to such delegation of powers as the Government may by general or specific order provide'. If this is read with the clause, it reads thus:

'All powers and duties assigned by the provisions aforesaid to a Deputy or an Assistant Commissioner shall be deemed to have been assigned to the Commissioner instead, subject to such delegation of powers as the Government may by general or specific order provide.'

" 'Provide' to whom, Sir? Is it to the Commissioner? The intention of the hon. Member is that only the Commissioner must act and for that he must have specific authorization. If the Commissioner wants to act, it will be by a general or specific order provided. If that is the intention and if it should be by a general or specific order, it spoils the whole effect of it, because the Government may by general order authorize the Commissioner. (Sri R. Suryanarayana Rao: 'As I said the Government may do.') I do not think it is necessary. Certainly we have given a separate status to the Tirumalai-Tirupathi Devasthanams. Though the designation of the person may be the executive officer, instead of the Commissioner now, hereafter the position he will enjoy under this clause will be almost analogous to the position which the Board holds now and nothing more. So, we have not given any more powers to the Commissioner than the Board has over the Tirumalai-Tirupathi Devasthanams now. So, I do not think that in all these matters the Government should come in in the initial stage, but the Government should be the final authority. Clause 99 gives the power of revision to the Government. So they should be the final authority and not the only authority."

The amendments were put and lost.

SRI B. NARAYANASWAMI NAYUDU :—" Sir, before you put the clause to vote, I just want to know one thing. Sub-clause (2) (c) says: 'The Government shall have power to appoint a salaried executive officer for the Devasthanams, and shall have power to suspend, remove or dismiss him from office.' So far as the Tirumalai-Tirupathi Devasthanams is concerned, the power of appointment of the executive officer is vested in the Government. I suppose that is correct. With regard to other institutions the super-matadhipathi has got the power, but that so far as the Tirupathi Devasthanam is concerned, the super-super authority has got the power of appointment. I just want to know what is the position of the executive officer. As at present constituted, there is no executive officer for the Tirupathi Devasthanam. He

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will come into being after this Bill becomes an Act, but what is to become of the person who is at present holding the executive authority and what becomes of his appointment after this Bill becomes an Act and comes into force? With regard to the appointment of other officers, it is said 'for such period as the Commissioner may determine', but so far as this Devasthanam is concerned, this clause does not specify any period. It simply says, 'the Government shall also appoint a salaried executive officer'. For what period? Nothing is mentioned. Is it for all time that he should hold office? Is there any limitation? Again, what happens to the person who now holds the position of executive authority? Does he become defunct, or should he go home or beg of the Government? What is it that has been provided in respect of these matters? I want to know these things before I give my assent to this clause."

THE HON. SRI K. MADHAVA MENON :—" Sir, under the present Tirumalai-Tirupathi Devasthanams Act, section 18, the Provincial Government shall appoint a Commissioner who unless sooner removed by them for sufficient cause, shall hold office for a period of three years. The outgoing Commissioner shall be eligible for reappointment. Here in clause 81 of the Bill, we have provided 'If the executive officer is an officer in the service of the Government, the Devasthanams shall pay his salary, allowances and such contributions towards his pension, provident fund, and leave allowances as may be required under the rules prescribed by the Government in this behalf.' Again items (u) to (x) of sub-clause (2) of clause 100 relate to the Tirumalai-Tirupathi Devasthanams and the qualifications, method of recruitment, pay, grant of leave, leave allowance and travelling allowance, personal conduct and punishment of officers and servants constituting the establishment of the Tirumalai-Tirupathi Devasthanams. So, Sir, qualifications, terms, pay, etc., can be determined by the rules to be made hereafter under the Act."

" My Friend asks me, what is to become of the present incumbent. I am not an astrologer to make any prophesy in this matter. Sir, the legal position is, the present incumbent is only a temporary person, because under section 18 of the existing Act, his appointment is ordinarily for a period of three years unless determined earlier. The Government can continue him if they want or appoint a fresh person instead. Whatever it is, the question of the present incumbent is not a matter which we need worry about now. But, in regard to the other things, they are to be decided by rules. We have specially provided rule-making powers in regard to this Devasthanam and under those powers service conditions and other things will be drawn up and the present incumbent will come under those conditions. As I said the executive officer for the Tirumalai-Tirupathi Devasthanams will be appointed by the Government."

SRI R. SURYANARAYANA RAO :—" Sir, the rule-making powers deal only with the qualifications, method of recruitment,

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etc., of the officers and servants constituting the establishment of the Tirumalai-Tirupathi Devasthanams, but there is nothing relating to the executive officer. Since there is a lacuna, why not the Government make the necessary provision as they did on another occasion?"

THE HON. SRI K. MADHAVA MENON :—" It is specifically laid down that the executive officer shall be appointed under the provisions of this Act."

SRI R. SURYANARAYANA RAO :—" I think it is not the intention of the Government to treat this executive officer in the same way as other executive officers are treated, but in a different manner. I think, my hon. Friend, Mr. Narayanaswami Nayudu raised a pertinent point in regard to the existing officer. It is left to the Government to appoint him to the new post or remove him; but, as the new appointment has to be made soon after the Bill is passed, they should define the period of his appointment."

THE HON. SRI K. MADHAVA MENON :—" I have nothing more to add to what I have already stated, Sir."

Clause 80 was put and carried and allowed to stand part of the Bill.

Clauses 81 and 82 were put and carried and allowed to stand part of the Bill.

Clause 83.

Sub-clause (3).

SRI R. SURYANARAYANA RAO :—" Sir, I move the following amendment which stands in my name, namely :—

'For the word "Commissioner" in line 3, substitute the word "Government".'

" Sir, my amendment, I think, has your sympathy, but you cannot show it, because you are sitting now in the Chair. I only suggest that any appeal against the orders of the Board of Trustees may lie to the Government and not to the Commissioner. Now that we are treating the Board of Trustees of the Devasthanams in a different manner, I suggest that in the matter of appeal against the orders of the Board of Trustees, who are a responsible body whom you are going to appoint to manage the temples of this huge Devasthanam, it should not be to the Commissioner, but to the Government. That is the whole point of my amendment, Sir. I am sure, Sir, if you are not sitting in the Chair, you would have supported my cause. After all, it is agreed that an appeal should lie against the orders of the Board, but what I say is, it should be to the Government and not to the Commissioner."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I second the amendment, Sir."

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THE HON. SRI K. MADHAVA MENON :—" Mr. Deputy Chairman, Sir, the position is that what powers the Board possessed are now taken by the Commissioner and I do not see anything derogatory in it. We have taken away the powers of the Board practically and the powers that are exercised by the Board are to be exercised by the Commissioner because he takes the place of the Board. I do not feel that has made any difference."

SRI R. SURYANARAYANA RAO :—" There is one appeal provided by the clause to the Board; against the orders, if any, of the executive officer and against that of the Board the appeal lies to the Commissioner."

THE HON. SRI K. MADHAVA MENON :—" It is the Board of Endowments now."

SRI R. SURYANARAYANA RAO :—" The position of the Board of Endowments is that of a quasi-judicial body; though the Hon. Minister said that the Deputy Commissioner is going to act in a quasi-judicial manner, I feel that he is nothing more than an executive officer of the Government. In a like manner, the Commissioner also will be just like any other head of a department like the Director of Agriculture or the Commissioner of Labour or the Director of Industries. Only we are delegating to him certain powers under the Act. Therefore, I felt, Sir, that against the orders of the Board of Trustees, a second appeal must lie to the Government because the Board of Trustees is an important body created for the purpose of managing the affairs of the Tirupathi Devasthanams."

The amendment was put and lost.

Clause 83 was put and carried and allowed to stand part of the Bill.

Clauses 84 and 85 were put and carried and allowed to stand part of the Bill.

Clauses 86, 87 and 88 were put and carried and allowed to stand part of the Bill.

Clause 89.

Sub-clauses (4) and (5).

SRI R. SURYANARAYANA RAO :—" Mr. Deputy Chairman, Sir, I am against the compounding of offences contemplated in sub-clauses (4) and (5). The Commissioner may accept from any trustee who has committed or is reasonably suspected of having committed any of the offences . . . by way of composition of such offence, a sum of money not exceeding one thousand rupees. I feel, Sir, it is very unfair to allow this. If the trustee has committed any offence and has failed to comply with the provisions of the Act, he should be dealt with as anybody else and why should the Commissioner be given the power of compounding the offences? I know there are such provisions in the Forest

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Act but I do not think that it must find a place here. Even taking the question of compounding the offences, why should there be a restriction on the discretion of the Commissioner by saying that he shall only take Rs. 1,000? Having regard to the nature of the offence, he may take Rs. 2,000 and let him take as much money as possible. The idea of the Government may be that they do not want to have prolonged prosecutions before a court of law; I appreciate their position but I do not think that this power of compounding of offences can be allowed to be there. I move, Sir,—

'Omit sub-clause (4) and omit the words "or any money payable by way of compensation under sub-section (4)" in lines 1 and 2 of sub-clause (5).'

THE HON. SRI K. MADHAVA MENON:—"Mr. Deputy Chairman, Sir, I very much want my hon. Friend Sri Suryanarayana Rao to consider what the offences are in respect of which compounding is permissible; it is not for misappropriation or loss of property. What is meant is only neglect or failure to comply with sections 25 and 26, namely, maintenance of registers, verification of the registers, submission of returns and so on. If he neglects or refuses to submit the returns or does not submit them in time, action will be taken under this clause, not in respect of the first default. It is not a case of falsification of accounts for that will be an offence under the Indian Penal Code. If he fails to submit the returns or causes obstruction to the inspection by the Commissioner, these are not offences involving moral turpitude and can be settled in the first place by administering a warning and if things do not improve, instead of taking the matter to court and getting him fined, the Commissioner puts the fine. These are not serious matters, as I said, in which moral turpitude or loss of property to the institution is involved and so, we say, instead of the magistrate doing the thing, the Commissioner makes the enquiry and goes into the matter and says: 'You should not do things like this' and he compounds it. An offence of this nature does not seem to be a case where we need be very much against compounding."

The amendment was put and lost.

SRI B. NARAYANASWAMI NAYUDU:—"Mr. Deputy Chairman, Sir, the Hon. Minister said that this is another way of fining the trustee. Instead of saying that this is another way of fining him, why not you straightway take the power of fining him? You can prosecute him and if you want, you may not do it and take some money by way of composition. I say, Sir, this is an extraordinary way of what is called blackmailing. Is it not Sir? You say they must submit returns. Well and good. Why not you fine immediately you see they do not do it? That will be a direct way of doing it. You fine them and be done with it. On the other hand, what is it that you do here? You put the threat of prosecution over his head for failure to submit returns and so on and naturally he wants to escape. At that moment, you

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say: 'let there be a composition; give me so much and I will not take action against you. Otherwise, I will haul up before a court of law.' Jurisprudence I have known but the ingenuity of the Government to make provisions of this sort passes my comprehension. It must be deemed to be an abuse of the powers vested in Government to say like this. You fine and be done with it; why do you give him a threat and say: 'Come along and salaam me and pay me something and I will not take you before a court; but do not do it in future.' Why not, I ask, Sir, have the courage of taking the thing to court, prosecute and get a conviction? This is not a half-way-house. I must say, Sir, that even Henry VIII did not devise this kind of imposts."

THE HON. SRI K. MADHAVA MENON:—"Mr. Deputy Chairman, Sir, my hon. Friend said that it was blackmailing but let me point out to him that it is very easy to use such words. My Friend must have remembered the very many occasions on which he would certainly have appeared for the parties in which according to the provisions of the Abkari Act and the Forest Act composition would have been effected, and he would himself have advocated it then. Is that blackmailing, Sir? It is not as if we are saying: 'We will prosecute you if you are not going to pay so much; you have committed an offence and it is open to me to send you to jail.' It is not, Sir, after all a case in which you should either go to the magistrate or send the trustee concerned to prison. What he will be told is only this: 'You have committed an offence; you must pay for that so that you may not do it hereafter.' Is that blackmail, Sir? If the dictionary meaning is taken, you will find that it must always be accompanied with threats which is not in existence here. The person must also say: 'I shall tell something about you which is not true,' and secondly, money must be taken by unfair and improper means; then it is blackmailing. Of course, Sir, this provision may not be to the interests of the person concerned, but that is a provision in law according to which money is taken and it cannot at all be blackmailing. I may also submit, Sir, that even my hon. Friend Sri Suryanarayana Rao did not interpret this provision so badly. In the alternative amendment suggested by him, he wanted the power to compound the matter before or even after the institution of proceedings. It is not, I submit, blackmailing but a legitimate and right way of doing things. As I submitted, Sir, it is not as if on the very first occasion of default this will be thought of and he will be sent to jail at once if no composition is effected. That may be the jurisprudence and the conception of law of my hon. Friend and that may be the law of Medes and Persians of those days and probably of Henry VIII but not of the present day where we have different conceptions of treating offenders in such matters."

Clause 89 was put and carried and allowed to stand part of the Bill.

Clauses 90, 91 and 92 were put and carried and allowed to stand part of the Bill.

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Clause 93.

SRI R. SURYANARAYANA RAO :—" Mr. Deputy Chairman, Sir, the first amendment which I propose will perhaps be accepted, because the mistake has crept in due to the printer's devil. I propose, therefore, that—

' In sub-clause (2) of clause 93, omit the semi-colon after the words " in this Act " in line 4.'

It is wrongly printed and I hope that the Government will at least accept the amendment and that perhaps will be the only amendment with which you will be prepared to go to the other House as the amendment suggested and accepted in the Upper House."

THE HON. SRI K. MADHAVA MENON :—" I need not go to the other House to correct a printer's mistake."

SRI R. SURYANARAYANA RAO :—" In the House of Commons, Sir, I have known occasions when a Bill had to be taken back to it for want of proper punctuation.

" Sir, I move the next amendment—

' Add the following as new sub-clause (2) to clause 93 :—

" (2) Nothing contained in this section shall affect the right of the trustee of a religious institution to institute a suit to enforce the pecuniary or proprietary rights of the institution or the rights of such institution as beneficiary."

" This defect was pointed out to us in some of the literature handed over to us in connexion with this Bill. I felt, Sir, that while barring suits, for purposes of enforcing the pecuniary or the proprietary rights of the institution, the general right of every trustee of a religious institution to go to court should not be taken away. I also felt that the addition of this sub-clause will not in any way take away the force of the present clause 93. The Legislature must recognize that in case the right of a trustee has been affected by any order issued under the provisions of this Act, he should be entitled to go to court to establish his claim."

The motion was duly seconded.

THE HON. SRI K. MADHAVA MENON :—" Sir, the semi-colon is a printer's devil. But that does not in any way affect the meaning of the clause. So at any time it can be corrected. When the Bill is being printed afresh after it is passed in this House, that mistake can be corrected. So I do not wish to accept the amendment formally for the purpose of saying that an amendment has been accepted in this Council and so the Bill should go back to the other House before being finally passed.

" Then, Sir, regarding the other amendment, I do not agree that matters relating to pecuniary rights or proprietary rights of an institution should be referred to courts to be decided. Further, this clause is delightfully vague. If this clause is to be accepted,

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first the courts will have to decide whether pecuniary rights or proprietary rights of an institution are involved, and then only courts will have to decide the suit on the merits of the case. Sir, this clause gives a roving permission to file a suit. Sir, on a previous occasion, Mr. Suryanarayana Rao said that in passing this Bill, we should see that as far as possible unnecessary litigation should be avoided. Now, if we are to accept this amendment we will be only giving room to unnecessary litigation. Sir, we have in other places said that courts shall have jurisdiction only over such and such matters. Beyond that, we are not going to concede. So, Sir, we cannot accept this amendment."

The amendments were put and lost.

Clause 93 was put and carried and allowed to stand part of the Bill.

Clauses 94, 95, 96, 97, 98 and 99 were put and carried and allowed to stand part of the Bill.

Clause 100.

DEPUTY CHAIRMAN :—" I will put clauses 100 to 104 to the vote of the House."

SRI B. NARAYANASWAMI NAYUDU :—" Sir, with your permission I have to submit that I am not going to accept clause 104; I am going to challenge it to a division."

DEPUTY CHAIRMAN :—" Then I shall put clauses 100 to 103 to the vote of the House; the hon. Member may then speak on clause 104."

Clauses 100, 101, 102 and 103 were put and carried and allowed to stand part of the Bill.

Clause 104.

SRI B. NARAYANASWAMI NAYUDU :—" Sir, I oppose the passing of clause 104. For, this clause proposes to abolish the Hindu Religious Endowments Board, which has been in existence for the last 25 years. The whole establishment of it also goes with it without notice. The entire servants of that establishment also go out of office with it. Their services are terminated without notice. The President and the Commissioners and such of their subordinates as Government may consider suitable may be appointed by Government in their discretion to any offices. Government might like to appoint some of them, and the services of the rest of the staff shall be deemed to have been terminated. My submission is, this is absolutely unwarranted. There are several institutions which Government have scrapped or taken over; and have they not provided for those staffs elsewhere? Are there not corporations created by statute and have not their staffs? Even so, this Hindu Religious Endowment Board and the staff have been in existence for the last 25 years;

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and so, they cannot be abolished without notice. Otherwise, what is the meaning of the words 'the services of the rest shall be deemed to have been terminated'. Sir, when the British Government quitted this country, what did they do with their huge establishment? Did they say, the services of their staff shall be deemed to have terminated, the moment they quit India, and did they say the huge establishment should run after the Prime Minister of India for being appointed? So, I ask, is this the way of dealing with the establishment of the Board? My friend, Mr. Suryanarayana Rao, has not left one opportunity to champion the cause of elementary school teachers in this Council. He has taken care to table a number of amendments on this present Bill under several clauses. But strangely enough, he has accepted the stand of Government in the present clause. I wonder how it has escaped his notice and he has not given any amendment to this clause. Is it good for a popular Government, is it wise for a popular Government to terminate the service of the establishment of the Board and make their appointment afresh a matter at the pleasure of the Government? Sir, I cannot accept this clause. I oppose it with all my force."

SRI R. SURYANARAYANA RAO:—"Sir, Mr. Narayanaswami Nayudu was perfectly justified in questioning why I have not tabled any amendment to this clause. Sir, if he has only the patience to go through the proceedings of the Select Committee, he would have seen that Member after Member moved amendments and he would have seen also what amount of discussion there was then, in order to safeguard the interests of those who are already in the service of the Board. He will be surprised to see that we took great interest, in fact, much more interest than he has done, by tabling several amendments. And as a result of a great deal of consideration, Government themselves brought forward this present clause, embodying therein the suggestions we made. Though we felt the Government amendment was not quite satisfactory, yet we felt that Government were fairly considerate in the treatment of the establishment. For, look at sub-clause (3) of the present clause. It says: 'To those not so appointed the Government may accord such relief by way of pension, gratuity, provident fund or leave with allowances as they may in their discretion deem fit.' Again look at sub-clauses (2) and (4) of clause 100. They grant pensions or gratuities to officers and servants of the Board who retired before the commencement of this Act and gratuities to the heirs of deceased officers and servants of the Board including those who had retired before the commencement of this Act. So when the Government had come forward with such a generous offer, we in the Select Committee thought that Government would use their discretion very fairly and justly, and so we accepted this clause.

"Then, Sir, I may also tell my hon. Friend that we in the Select Committee consulted those who are likely to be affected by this clause and they felt that in view of the assurances given by

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the Government they had no objection to it. Then, Sir, I do not know whether another point has been noted by hon. Members. We pointed out to Government that they have made rules for the absorption of persons employed in the several zamindari estates when those estates are abolished. We found them somewhat generous and so we suggested to the Government that on those lines, rules may be framed with regard to the Board's employees so that they may not be hard hit. Since the Government promised to consider their case sympathetically, I did not want to disturb the present clause, and that is why I did not table any amendment to it. Mr. Narayanaswami Nayudu was perfectly right in asking us why we did not table any amendment to this clause and we owe him an explanation for it. I think, in the Select Committee stage, almost the whole of half a day was spent in discussing this matter. Government, as far as I can see, were anxious to do justice to them. We considered the relevant clause in Mr. O. P. Ramaswami Reddiyar's Bill as well as in Dr. Rajan's earlier Bill. With a view to meet all the points of view, Government came forward with the present clause, which we felt was reasonable as well as the sub-clauses I referred to in clause 100 above. I thought Government had conceded a great deal, and we wish they would do more than what is contained in clause 104. I therefore plead that this clause is not so harsh, nor are the Government so hard-hearted as my friend thinks they are."

SRI M. NARAYANA MENON:—"Sir, on general principles, when an institution ceases to exist, its employees must cease to be employed. That is the first principle. But in this matter Government have taken a very fair stand in providing them, if possible, with employment. Not only that. Government want to employ the officers of the Board not necessarily in the machinery to be set up in the place of the present Board, but they want to provide for them, if possible, in the institutions to be formed under the new Act. Then there is the provision for giving pension, gratuity and such other things. Therefore it is clear Government have not forgotten the employees under the present Board. It is also clear that they want to provide them with employment or give some relief to them. So it is not fair to call this Government as unsympathetic or unfair."

THE HON. SRI K. MADHAVA MENON:—"Sir, Mr. Narayanaswami Nayudu has threatened dire consequences as he proposes to call for a division of the House under this clause."

SRI B. NARAYANASWAMI NAYUDU:—"Perhaps the Hon. Minister has no idea of the results of the exercise of constitutional weapons!"

THE HON. SRI K. MADHAVA MENON:—"Certainly a threat like that cannot easily deter me from my path."

SRI B. NARAYANASWAMI NAYUDU:—"Nor do I expect it." (Laughter)

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THE HON. SRI K. MADHAVA MENON :—" But that apart, Sir, my hon. Friend said that Government do not care for the staff of the Board which has been in existence for the last 25 years, and so he wants the deletion of this clause. The House should for one moment consider what will be the consequence if we accept his suggestion. The consequence will be that all the staff will go without any employment; because when this Bill is passed, the Endowments Board will be abolished and the whole establishment will be thrown out of employment. So unless something is provided for them, the ordinary law of the land will prevail. So the consequence of the acceptance of his suggestion will be the very thing which he wants to avoid. The entire establishment of the Board will be stranded in the streets."

SRI B. NARAYANASWAMI NAYUDU :—" I do not want that to happen."

THE HON. SRI K. MADHAVA MENON :—" Merely saying that he opposes this clause, that the clause should not be passed and that he will ask for a division on the motion that the clause do stand part of the Bill will not achieve the object which Sri B. Narayanaswami Nayudu has in view. I can understand his asking for a mandatory provision to the effect that the staff of the Hindu Religious Endowments Board should be absorbed under this Act. A mere negative demand to omit the clause will not achieve his object. Abrogation of this clause is a very dangerous thing and it will go against the desire of all of us because we want to see that the staff of the Board who have been serving faithfully and doing their work properly should not be thrown out of employment because of the accident of the Government passing a new Act to replace the existing Hindu Religious Endowments Act. That is only proper and natural justice. Those appointed to the posts of the members of the Board and the Commissioner are not permanently appointed; they are appointed for a term of three or five years as the case may be. Even without this Act, it is open to the Government to continue their services, as they have done in the past, beyond the term for which they are appointed, if their work is found satisfactory. We have provided that the tenure appointment-holders also might be absorbed as far as possible. Certain saving clause like that might be there, as Sri R. Suryanarayana Rao wanted. Clause 90 of the Bill as introduced provided that on the coming into force of this Act, the Board shall be deemed to have been abolished, and the service of all its subordinates shall be terminated. Many Members of the Joint Select Committee made various suggestions and moved amendments to provide that the persons who have been serving the Board for the last so many years should not be sent away because of the accident of the passing of a new Act. Hon. Members will find in the Bill as amended by the Joint Select Committee the relevant clause, clause 104, printed in clarendon type. In the place of the provision in the original Bill providing for the termination of the services, we have provided that as many

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as are qualified may be absorbed. We have even gone further and provided that the conditions of service of persons so absorbed shall be regulated as if they had entered the service of the Government on the date of their first appointment under the Board and that to those who are not absorbed, the Government may accord such relief as they may in their discretion deem fit. Of course, the discretion is left to the Government. The Government must be expected to act reasonably and use their discretion properly. The very object of inserting this clause is to see that the services of the members and staff of the Board are not terminated but continued under this Act, credit being given for the services that they have already put in. So there is no need to remove the clause from the Bill."

SRI B. NARAYANASWAMI NAYUDU :—" My legal adviser tells me that I should stand corrected and therefore I stand corrected."

Clause 104 was put and carried and allowed to stand part of the Bill.

Clauses 105 and 106, Schedules I, II and III and Clause 1 and the Preamble were put and carried and allowed to stand part of the Bill.

THE HON. SRI K. MADHAVA MENON :—" Sir, I move—
'That the Bill be read a third time and passed.'

"I do not want to make any long speech at this stage of the Bill. We have had exhaustive discussion in the other House and very good and helpful discussion in this House. Very little heat has been generated over this Bill in this House as compared with the other House. I must say that the discussion in this House went on on an absolutely different line altogether and with the object of trying to understand and improve the Bill and not from the point of view of any vested interest affected by the Bill. It is really gratifying. It is not with the idea of attacking any vested interests that this Bill has been brought forward. The Bill has gone through various vicissitudes. I was told that the Bill which became the 1927 Act was the one Bill in the annals of the Madras Legislature for which were tabled more than three hundred amendments. For this 1949 Bill, we had four hundred or even more amendments and we have scored a mark. That shows that the Bill has considerable stakes."

"If we go through the history of this Bill from 1938 onwards, we will find that changes have been made at every stage. After the working of the Hindu Religious Endowments Act of 1927 for a number of years, the Hon. Dr. Rajan when he was a Minister in 1938 found that a new Act was necessary because the objects with which the 1927 Act was passed could not be fully achieved with the powers that that Act gave to the Board or the Government. It was found that without further powers, nothing substantial could be done. So a Bill was prepared. But it could

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not be moved as the Ministry resigned and the Advisers' ~~Bill~~ came into existence. Even the Advisers' Government, who would not like to interfere in a religious matter especially when there was no legislature, passed an Amending Act in 1944 as they found that the 1927 Act did not give sufficient power to the Board or the Government to act in a way that will be for the good of religious institutions. We went on renewing the Act year after year and it is due to expire on 31st April 1951. Before the expiry of that Act, we have brought forward this Bill. When this Bill was drafted, our Constitution was practically on the anvil. As we proceeded with the Bill and the Joint Select Committee was considering it, a good portion of the Constitution had been passed though the Constitution as a whole had not been passed. After the Constitution was passed, we had to re-examine the Bill as it emerged from the Select Committee. It is with considerable care that the Government have been proceeding with this Bill. We have been working on the principle that it is better not to do any harm though we cannot do anything good. I must once again say that the idea behind this Bill is to preserve the religious institutions, in all their pristine purity and glory and to maintain the faith that we have got in the temples. Towards that end we must work. We are taking for granted that everything that is there is bad. It is wrong to take a prejudiced view like that. Our idea should be to work the Bill for the good of religious institutions. If that idea is understood, we can certainly see that the Bill can be worked for the good of the religious and charitable institutions and through them for the good of the community as a whole. If we suspect that everything has been done with a motive and that no good could come out of it, then we see only bad and dangerous things. It is very difficult to satisfy people who want to see only bad aspects. People who view the Bill with sympathy and understanding can take it from me that the Government's idea is to use the Bill for the proper management, improvement and safety and not for destruction of the religious institutions in our country which we have been holding sacred for the past so many generations."

SRI R. SURYANARAYANA RAO:—"Sir, the other day the Hon. Sri Madhava Menon said that Dr. Rajan was hoping to be present in the House before our deliberations on this Bill would be over. We are very sorry that he is not able to be present on this occasion. Those of us who were associated with this Bill in the Select Committee stage, as I said the other day, know the amount of hard work that he had put in in connection with this Bill and the tact he displayed in getting through the work without in any way preventing those who had a point of view to express it forcibly and allowing the Select Committee to consider it. I hope the Hon. Sri Madhava Menon will convey to Dr. Rajan our feeling as to how much we miss him to-day. I was told that he felt that this Bill was his life as it were and that before he retired from politics he was very anxious to put the religious and charitable

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institutions in a position wherein their good administration would be ensured. We are very grateful to Dr. Rajan. In spite of his age and poor health, he piloted the Bill in all its stages during the last two years.

"We are also grateful to the Hon. Sri Madhava Menon, who as his trusted lieutenant, has dealt with all the amendments that we moved. Whether we agreed with his point of view or not, he was fair to those who moved the amendments. Especially in this House he must have been surprised to find that most of the amendments should come from one who is not opposed to the Bill. My object in moving the amendments was to improve the Bill and make it as less offensive as possible to those that are opposed to any reform in the management of religious institutions. As I followed the proceedings of the Select Committee, I felt that the force of most of the criticism might be taken away if the Bill was improved in the manner in which I wanted it to be improved. Even now I wish that the Government had accepted at least those of my amendments relating to maths, as that would have in a way satisfied many of those who wanted the Chapter relating to maths to be removed altogether from this Bill.

"However, Sir, I am grateful to the Government for the patient hearing they gave in the various stages of the Bill and I once more request my Hon. Friend Sri K. Madhava Menon to convey to the Hon. Dr. T. S. S. Rajan the regret we have felt for his inability to be present here to-day on account of his illness and also our wish and prayer that we all hope to see him again when the Council meets next, hale and hearty, coming forward with some other Bill of the department with which he is now concerned."

SRI M. NARAYANA MENON:—"Mr. Deputy Chairman, Sir, the Bill is ~~not~~ so far as it goes and my desire is, and I am sure that is the desire of many hon. Members who have anything to do with these religious institutions and endowments, that the law on the subject should go further and deeper so as to conserve all the properties of these religious institutions in order to foster the growth and development of the Hindu religion and Hindu culture and Hindu thought. As has been stated very emphatically by my Hon. Friend Sri K. Madhava Menon, who is now the Leader of this House, this Bill is only intended for helping these institutions to carry on with their work properly and efficiently and it is our wish and hope that all the matadhipatis and trustees of these religious institutions would co-operate with the Government and see that the working of this Bill is made a great success."

THE HON. SRI K. MADHAVA MENON:—"Mr. Deputy Chairman, Sir, let me also associate myself with the sentiments expressed by my hon. Friend Sri R. Suryanarayana Rao and others regarding my Hon. Colleague Dr. T. S. S. Rajan who is the sponsor of this Bill. The speeches that he made in the Assembly when he originally introduced this Bill and subsequently when he

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introduced the report of the Joint Select Committee and also his speech at the third reading of the Bill,—all these will show, as my hon. Friend Sri R. Suryanarayana Rao has said, that he considered this measure as a sort of his life's ambition and as a crowning piece of work in his long and useful career of service to the country and that is why he has taken the deepest interest and the greatest concern for the welfare and proper administration of these temples and religious institutions, because he is anxious to see that they retain their ancient glory and usefulness. I am sure, Sir, that it will certainly gladden his heart to read in the papers about the passage of this Bill through this House and how his services have been appreciated by this House and how the work which he began two years ago, and which he pursued with such astute cleverness, courage and tact has been crowned with success, and how the deep interest and enthusiasm and wonderful patience which he displayed through the various stages of the Bill, whether in the Select Committee, or whether in the course of the examination of witnesses or whether in following the long course of discussions in the other House, have all been appreciated by hon. Members of the House—all these things which will appear in the papers will considerably hearten him and restore him to health much more quickly than we have wished for.

"Sir, let me also take this opportunity to thank my hon. Friend Sri O. P. Ramaswami Reddiyar who was the sponsor of the original Bill and whose enthusiasm for the reform of religious endowments is so well-known. Though the present Bill has undergone certain material changes from the Bill he originally introduced and though some of the provisions in the present Bill may not be to his entire satisfaction, yet, nobody will question the sincerity of his intention to see that the religious institutions and charitable endowments are administered properly, and I am sure he will also certainly feel glad that the Bill, which he was so anxious to see put on the Statute Book, has been passed by this House and therefore it is our duty to express our gratitude to him also on this occasion, for the efforts he has taken in this matter."

DEPUTY CHAIRMAN:—"Before I put the motion to the vote of the House, I should also like to associate myself with the various sentiments expressed by hon. Members of the House for the great work which Dr. T. S. S. Rajan has achieved in getting this Bill through both the Houses of Legislature. It is perhaps a sheer accident of luck that I happen to occupy the Chair at this juncture, particularly when this Bill, of which I am most concerned, is being passed into law. I know that my Hon. Friend Dr. T. S. S. Rajan who is a great devotee himself, has taken the keenest interest in this matter and it was the greatest liking of his heart that this Bill should be passed through both the Houses of Legislature as quickly and as smoothly as possible and placed on the Statute Book, and therefore, I am sure, he will be very glad to hear that it has passed through this House also within the shortest possible time. At the same time, we must also thank the

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Hon. Minister for Law, who has so ably piloted this Bill through this House and who has helped us in the quick passage of the same and finally I should say that both the Hon. Dr. T. S. S. Rajan and the Hon. Sri K. Madhava Menon as well as the Members of the Joint Select Committee have shown their greatest concern for public opinion and whatever concessions were possible have been given and so we are grateful to all of them. And lastly, I must also thank hon. Members of this House for the way in which they have co-operated with the Government to get this Bill through this House as quickly as possible. It is certainly a great credit to our sense of adjustability and our deep concern for this measure and in particular, we must be thankful to my hon. Friend Sri R. Suryanarayana Rao who has taken such a great interest in this Bill and given notice of a number of amendments, with the sincere desire of making the Bill as perfect as possible, and though his amendments were not accepted, yet I am sure, it is he who feels the greatest satisfaction in seeing that this Bill has been passed. Let us all pray that this measure will prove to be a great harbinger for the good of our religion and for the good of our community as a whole. Now, I have great pleasure in putting the motion to the vote of the House. The question is—

"That the Madras Hindu Religious and Charitable Endowments Bill, 1949 (L.A. Bill No. 10 of 1949), be read a third time and passed."

The motion was carried and the Bill was passed.

DEPUTY CHAIRMAN:—"I now adjourn the House to meet again at 11 o'clock to-morrow to discuss the Food Situation in the State."

The House then adjourned to meet again at 11 a.m. on Wednesday, 24th January 1951.





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