FIRST TANJORE & SOUTH ARCOT SANATHANA CONFERENCE

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PRESIDENTIAL ADDRESS

BY

M.R.Ry. Dewan Bahadur

V. MASILAMANI PILLAI AVL., B.A., B.L.

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AT THE

First Tanjore-South Arcot Sanathana Conference 1933.

Mr. Chidambaranatha Mudaliar and Members of the Reception Committee, Ladies and Gentlemen:—

My first duty is to offer my sincere thanks to you Sir and to the Members of the Reception Committee, for the very high honour, you have thought fit to confer on me, by asking me to preside over the deliberations of this Conference. I may assure you that it is with feelings of considerable diffidence, that I have accepted your invitation, for I feel sure that the choice of a President could have fallen on some other, who, by his equipment experience and a more intimate acquaintance with the momentous questions that await your decision, would have been far more competent than myself to guide you in your deliberations.

You are all aware of the purpose for which this conference has been convened. It is to consider the provisions of the "The Hindu Temple Entry Disabilities Removal Bill" introduced by Mr. C. S. Ranga Iyer into the Legislative Assembly with the previous sanction of the Governor-General. The Bill is solely directed towards securing admission into Hindu temples of castes till now excluded from admission.

Before proceeding to consider the Bill in all its aspects and the ultimate implications which the passing

of the Bill would involve, I feel bound to say, at the start, that there is not much legal force in the argument advanced against the introduction of the Bill in the Press in the speeches in the Assembly and elsewhere, that it is opposed to the solemn declaration of the policy of religious neutrality, guaranteed to the princes and peoples of this country in the Proclamation of Her Majesty Queen Victoria on the memorable occasion of her assuming the sovereignity of India and that it is opposed to the notification issued by the Government of India on the 16th May 1857. In my opinion there is no warrant for the position taken up by the opposers of the Bill that it is *ultra vires* of the Legislature to deal with the Bill.

I quote the relevent portions of the notification and the Proclamation:—

NOTIFICATION:—

"The Government of India have invariably treated the religious feelings of all its subjects with careful respect. The Governor-General-in-Council has declared that he will never cease to do so. He now repeats that declaration and emphatically proclaims that the Government of India entertains no desire to interfere in religion or caste".

PROCLAMATION:—

"We do strictly charge and enjoin on all those who may be in authority under us that they abstain from all interference with the religious beliefs and worship of our subjects on pain of our highest displeasure." * * "and we desire to protect them in all respects connected therewith, and we will see that generally in framing and administering the Law due regard would be paid to the ancient rights usages and customs of India."

The Legislative Councils of India constituted under the Government of India Act 9 and 10, George the V Chapter 101, are far more representative of the people

of the country than those constituted under the Indian Councils Act of 1861.

Under the Government of India Act Sec. 67 (2) as also under the Indian Councils Act of 1861 (24 and 25 Victoria Ch. 67), Sec. 17 and 43 power is conferred to introduce at any meeting of either Chamber of the Indian Legislature any measure affectnig the religion or religious rites and usages of any class of British subjects in India. But under both the Acts the power is hedged in by the condition that no such measure could be introduced without the previous sanction of the Governor-General.

It is significant to note that the other three classes of cases in which the previous sanction of the Governor-General is a condition precedent to the introduction of Bills at any meeting of either chamber of the Indian Legislature under Sec. 67 (2) of the Act relate to measures affecting (a) the public debt or public revenues of India, (c) discipline or maintenance of any part of His Majesty's Military,. Naval or Air forces and (d) the relations of, Government with foreign princes or states.

It may be safely assumed, that any attempt on the part of any member of either chamber, to introduce a Bill in respect of the above three matters would be jealously guarded against, except in cases where the measures propsed are absolutely innocuous in their scope and character. No person would view it with any surprise if the Governor-General in the interests of public policy declines to accord his sanction to the introduction of any bill relating to the above three matters.

Any proposed Legislation affecting or calculated to affect the religious rites and usages of any class of British subjects stands on a footing entirely different from the subjects referred to in the other three clauses of the sub-section.

It would be open to the members of the Assembly to say, that it is entirely competent to them to consider questions affecting the religion or religious usages and customs of the members of the several communities whom they represent, that they do not claim any delegated authority from the executive and that they are therefore not as a body, pledged to religious neutrality in matters on which by mutual discussion it may be possible for them to arrive at a workable solution. It may even be contended that the Governor-General in whom the power is conferred of according sanction to the introduction of a bill ought not to deny to the Assembly an opportunity of considering the proposals contained in the Bill.

The statement issued by the Government on the 23rd January 1933 on the occasion of the Governor-General according his sanction is as follows:—

> "The Governor-General is not prepared to deny to the Central Legislature an opportunity of considering these proposals and is therefore according his sanction to the introduction of the Bills. But the Governor-General and the Government of India desire to make it plain that in their opinion, it is essential that the consideration of any such measure should not proceed unless the proposals are subjected to the fullest examination in all their aspects not merely in the Legislature but also outside by all who would be affected by them. This purpose can only be satisfied if the Bill is circulated in the widest possible manner for the purpose of eliciting public opinion and if adequate time is given to enable all classes of Hindus to form and express their considered views. It must also be understood that the grant of sanction to the introduction of these Bills, in this as in other cases in which previous sanction is required, does not in any way commit the Government to acceptance or support of the principles contained in them

and that the Government of India retain a free hand to take at later stages such action in regard to these proposals as may upon a full consideration of the circumstances appear necessary."

The above statement and the statement made by the Hon'ble Sir Harry Haig on behalf of the Government during the discussion of the Bill in the Assembly makes the position of the Government perfectly clear both at the initial and later stages.

It would in my opinion be fruitless to contend that the Government of India Act of 1919 enacted by the King's Most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in Parliament assembled in so far as the provisions therein contained enabling the Legislatures thereby constituted "to introduce with the previous sanction of the Governor-General any measure affecting the religion or religious rites and usages of any class of British subjects in India" depart from the words of the Queen's Proclamation, should be governed and controlled by the Proclamation.

It would also be constitutionally futile to contend that it would be *ultra vires* of the Legislatures constituted under the Act and under rules framed thereunder, to introduce any measures affecting the religion or religious rites of any class of British subjects in India as the power is by the Act of Parliament conferred on the Legislatures. It will also be futile from a legal standpoint to contend that the elected members of the Assembly have been returned to the Assembly by constituencies constituted of all castes and creeds, and that the Hindu members of the Assembly or at any rate many of them do not represent the orthodox section of the Hindu community.

It therefore devolves on us and on those that share our views on the questions involved in the Bill, to form and express our and their considered views and to sub-

mit them to the Government and I for my part feel confident that in case there should be a concensus of opinion from all parts of the country against the passing of the Bill into Law, the Government would be disinclined to ignore the volume and intensity of such opinion especially where such views are in conformity with fundamental legal principles laid down by authoritative text writers and by courts of law in this country and in England and by His Majesty's Privy Council and where the proposed legislation would not merely affect but would seriously interfere with the religion and religious rites and usages of a large body of British subjects expecially in South India.

I say especially in South India for it must be accepted by men of all shades of thought that there is considerable difference between the temples in the Tamil speaking country and the Temples in North India:—(a) as regards the architecture of the gopuram the praharas the mahamantapam, arthamantapam and the garbagriham, (b) as regards the design of stupis the details of stambas or pillars and in the arrangement of the main and subsidiary deities installed in the temple, (c) as regards the form of rituals and ceremonials observed during the foundation and censtruction of the shrines and in the consecration of the idols therein, (d) as regards the persons who are qualified and entitled to officiate in the worship, (e) as regards the form of daily and special worship in the shrines, (f) and as regards the Brahmotsavam and other Ootsavams in the Temple.

All these are based on the principles prescribed in the case of Saivite shrines by the Saiva Agamas and in the case of Vaishnava shrines by the Vaikhanasa and Pancharatra doctrines . The Agamas prescribing the forms of worship to be observed in the temples, also lay down rules as to what communities or castes should be permitted to worship and the places that should be

alloted to each of them in the Arthamantapam, Mahamantapam and near the Dwajasthambam and in the Prahara of the temples. The Agamas also prescribe what caste or communities should be interdicted from entering the portals of the temples. All through the centuries from the time of the foundations of these temples and in some cases for upwards 1500 years the forms of worship prescribed by the Agamas have been adopted and observed; all the communities coming within the fold of the Hindu religion have tacitly accepte the validity and sanctity of the rules prescribed by the Agamas relating to the admission into the main portals of the shrines and to the places the several communities should occupy after entering the temples.

There have recently been some attempts made by individuals and by members of certain communities claiming a higher place than the one assigned to them by the Agamas. But the courts have upheld the immemorial usage based on the Agamas. I shall deal with this matter in a later portion of my address.

It is difficult to understand the position taken up by those in favour of the proposed legislation as they would on the one hand accept the rules relating to the forms of worship prescribed by the Agamas and would on the other hand treat as nugatory the rules prescribed by the same Agamas relating to Temple entry.

It is a debatable question if the division of Hindu society into four castes by the Sanskrit writers would have application to the Dravidian races of South India.

The texts relating to the origin and division of castes are of a much earlier date than the peaceful penetration of Aryans into South India, and it could not be suggested that the Dravidians were or ever claimed to be of Aryan descent.

Assuming that the caste system as laid down by the Sanskrit text writers has any application to the

Dravidian races then it is evident that the excluded castes do not and could not come into any of the four divisions into which Hindu society has been parcelled out by metes and bounds. The Sanskrit writers have given them the name of Panchamas or a fifth caste; they are therefore outside the ambit of the four castes into which they have divided Hindu society. They are also called Avarnas or persons who have no varna or caste.

Unless and until these excluded castes are taken back into the fold of any of the recognised Hindu communities either by conversion or proselization or by the performance of what are called "Suddhi" ceremonies such as were done in the case of the American bride of an Indian Prince it is difficult to understand how these excluded castes could be deemed to be member of any of the four castes of the Hindu Community.

I shall now deal with the aims and objects of the Bill generally before I enter into a discussion of the several clauses. What do the depressed classes want. I refer to the wants of the members of the community generally and not to the demands made on their behalf by their leaders. In South India at any rate, what they want or what they stand in need of is, food such as would keep them above starvation, clothing, houses to live in, wells for drinking water and tanks for bathing. They want the sanitation of their homes and surroundings to be improved. They want education to be imparted to them of such a character as will be of use to them in their avocation in life and not such as would withdraw them from their occupation and force them to face the question of unemployment and discontent which is eating into the vitals of the educated classes; they want occupation to be provided for them during the non-agricultural season; they would like to receive training as carpenters, masons, weavers, smiths, etc., which would attract and give work to the surplus popu-

lation of their village. They would also want their religious yearnings to be provided for; temples where they can worship, halls where they can hear religious discourses, the songs of the saints, the story of the Ramayana and Mahabara and other puranas and ithikasas.

I would deal with these matters later. But I put this simple question to the depressed classes and to those who seek to obtain for them all the amenities of life what possible advantage they would gain by forcing down the throats of the caste Hindus a legislative measure calculated to secure for them admission into their temples. Do they as a class want Temple entry as the be all and end all of their existence? Would they drift away from all their ancient moorings join the ranks of the Reformers and seek entry into Hindu temples without any amelioration of their material and economic condition on the lines above indicated.

In South India they have lived in absolute amity and good will with the caste Hindus for centuries in the past. They have never sought nor do they now seek entrance into the temples, I state it without fear of contradiction that they or at any rate an overwhelming majority of them abhor even the idea of setting their foot inside a temple. I am in perfect sympathy with any and every movement calculated to improve the social economic and moral condition of the depressed classes not mere lip sympathy but a genuine and heartfelt desire to ameleorate their condition on lines indicated by me and I hope and trust that I have before me gentlemen who share the same views with me on this subject. We all appreciate and admire the strenuous self sacrificing work of Mahatma Gandhi in the cause of the depressed classes and while we or many of us at any rate would lend and are bound to lend our whole hearted support to the work of elevating the depressed classes we do nevertheless feel that if that movement has not set down as an

item in its programme of work, the securing of Temple entry to the excluded castes there would be greater harmony and co-operation between the reformers and the orthodox party in the laudable work which Mahatma Gandhi and his followers have assigned to themselves. As stated by Sir Harry Haig in the course of the debate in the Legislative Assembly "it is possible to hold those views and yet to oppose the Bill".

But unfortunately even though the depressed classes have not themselves urged the question of Temple entry at any rate in this part of the country those who appear to be solicitous for their material advancement would place the question of temple entry in the forefront.

I shall now deal with the general provisions of the Bill. The preamble starts by stating that "it is increasingly felt by the Hindu community that the disabilities enforced by custom and usage on certain classes of Hindus in respect of entry into Temples should be removed."

It is no doubt true that the movement for the betterment of the depressed classes under the guidence and with the revered name of Mahatma Gandhi behind it is gaining in strength and intensity.. It is also no doubt true that the Indian news papers with a solitary exception do not support the orthodox view. But it must be admitted that neither the supporters of the movement nor the newspapers voiec the sentiments and opinions of the large sections of the community who are opposed to Temple entry by the excluded castes. And it is certainly not true that every person who is in favour of the social and economic progress of the depressed classes is in favour of Temple entry. It is likewise not true that it is increasing felt by the Hindu community that the prohibition should be removed.

"*Excluded caste*' is defined in the Bill to "mean any caste or class of the Hindu community excluded by

reason of established usage or custom from entering a temple." Under the excluded castes would come the Adi-Dravida, the scavanger the cobler and a number of other communities who have never accepted the form of worship prescribed by the Agamas and never worshipped or sought to worship in the temples above referred to. The usages and practices adopted by the members of the excluded classes as regards ceremonies at marriage and ceremonies at death are entirely different from the usages and practices accepted by members of the recognised Hindu communities. They do not follow or accept the authority and sanction of the Vedas, Puranas or Agamas. The position taken up in the Bill is that these excluded castes are entitled as of right to worship in the temples but for the fact that disabilities have been impoesd on them by custom and usage.

This is a gratuitous assumption for which it is not pretended that there is any foundatin in fact. It is not suggested that the members of the excluded castes at any time in the past ever enjoyed the right of worship in these temples or that the presumbale intention of the founders of these temples was that these institutions should serve the religious needs not only of the Hindu community proper but also of the excluded castes. The excluded castes had from time immemorial and still have their own temples their own special gods their own priests and their own modes and forms of worship.

I shall now refer to certain judicial decisions of the High Courts in India of the Courts in England and of the Privy Council which lay down as fundamental principles of law ;

(a) that where a temple or a church is founded and endowed by or for the benefit of a particular class of worshippers no other

person has a right of worship in the said temple or church;

(b) that where by long and immorial usage and custom certain castes or communities have been excluded from worship in the temple the presumption will be that the temple was founded and endowed for the benefit of the communities who have been admitted to worship therein and that the excluded community or communities could not claim the right to worship;

(c) where certain sections of a community or class of worshippers secede from the principles and practice of the church or temple those who secede could claim no right of worship in the church or temple;

(d) that the majority who have seceded could not control the minority who cling to the tenets of the original foundation.

In *Venkatachalapathi* v. *Subbarayadu* reported in I.L.R. 13 Mad. p. 293 the plaintiff who was a Smartha Brahmin but had married a widow had been obstructed and prevented by the committee in charge of the temple from entering the inner shrine where orthodox Brahmins usually make their offerings on the ground that he was disqualified to enter by reason of his having married a widow. The suit was for a declaration of his right to enter the inner shrine to make his offerings and for damages for infringement of his rights.

The plaintiff who was the appellant in the High Court based his contention on the provisions of Act XXI of 1850 and of Act XV of 1856. His Lordship Justice Muthuswami Iyer in the course of his judgment says at page 298:

"It is on these provisions of law that the contention is rested, but they do not appear to support it. They were clearly not intended to repeal the usage of Hindu temples or of religious or *quasi* religious institutions controlling and regulating their management and prescribing rules as to the place where offerings are to be made," and citing the pronouncement of their Lordships of the Privy Council in *Greedhareedas* v. *Nandi-kishore Dos Mohant* 11 M.I.A. p. 405 and *Genda Puri* v. *Chatar Puri* L.R. 13 I.A. p. 100, the learned Judge observed that "the law to be applied in the case of succession to management of mutts which are *quasi* religious institutions is what is indicated by their usage. A rule of determination is looked for in the case of such institutions in their usage because it is an index of the intentions of those who founded and endowed them and who have since kept them up. A compliance with such intention is the accepted basis on which those who claim the benefit of worshipping in those institutions can sustain their right to such benefit."

At page 305 of the same judgment the learned Judge observes:

"There is no State church in India. Nor is there any recognized Ecclesiastical Court and the Hindu religion is not the State religion. The only jural basis on which their respective relations to religious or caste institutions can rest is that of viewing them as endowed institutions or voluntary associations founded or formed for caste or religious purposes as evidenced by their immemorial usage, endowment deeds, if any, and the presumable intentions of those who founded them. It is in such intention or the original trusts of the institutions that a rule of decision must be found in the case of a dispute between the orthodox party and the dissenters. The same principle was laid

down in *Attorney-General* v. *Welsh* where an endowment was made for a society of Presbyterians in communion with the Church of Scotland and the ministers and majority of the congregation seceded to the Free Kirk. It was held that the minority who still clung to the Church of Scotland was entitled to keep the endowments and to appoint another minister. Hindu temples being religious institutions founded, endowed, and maintained for the benefit of those sections of the Hindu community who conform to certain recognized usages as those of the castes for whose benefit the temples are by immemorial usage dedicated as places of worship; persons who conform to those usages stand to the managers for the time being in the relation of *cestuis que trustent* by reason of an implied contract; and if a few secede and transgress such usages, the managers would be acting within their rights if they could say: "We have according to the usage of the institution to admit into the inner shrine for the purpose of worship only those Brahmans who conform to the general usages of their caste; you have transgressed the caste usage in respect of marriage and we cannot admit you to that part of the temple to which those who conform to the usage are alone admitted according to the original trusts of the institution. I do not desire to be understood as detracting from the merits of those that secede from the orthodox usage. The secession may possibly mark an era of progress and reform and it may in time produce important results, raise the condition of Hindu women and prove beneficial to the Hindu community. But these are considerations with which Courts of justice have nothing to do if they are foreign to the original trusts of the temple in question. The only question which we have to consider is what was the usage of the temple in dispute as regards admission into the inner shrine for the pur-

poses of worship at the date of the suit, or the presumable intention of the religious foundation as regards such admission and whether according to such usage or presumable intention of the foundation those who secede from the caste custom as to re-marriage of women are outside the class of beneficieries as regards the specific right in contest, viz., of admission into the inner shrine of the temple for purposes of worship."

In *Rajeswara Dorai* vs. *Sankaralinga Nadar* and others I.L.R. 31 Mad. p. 236, P. C. the plaintiff as heriditary Trustee of a Hindu temple dedicated to the worship of Siva at Kamuthi a village in the Ramnad Zamindari sued defendants who were of the Nadar or Sanar caste as representatives of that community. The community alleging immemorial usage claimed a right to enter and worship in the temple. The suit was to exclude them from such entrance and worship on the ground that the presence of persons belonging to the defendants' caste was repugnant to the religious principles of the Hindu worship of Siva and to the sentiments of the caste Hindus who worship there and that it was contrary to custom for them to enter and worship there. The defendants had a temple of their own in thier village where they worshipped. The judicial committee confirming the decrees of the High Court and of the Subordinate Judge held that the fact that the defendants worshipped by themselves in a temple of their own and that their evidence completely failed to prove any resort by persons of their caste to the temple in dispute, entirely negatived the case of the defendants so far as the assertion of the immemorial usage was concerned, but strengthened the plaintiffs contention that the separation in worship between the two classes was not accidental or voluntary but rested on a deeper ground. Their Lordships moreover held that the plaintiff had succeeded in proving that by custom the defendant were

not among the people for whose worship the temple in suit existed.

In *Gopala Moopanar* vs. *Subramaniayyar* reported in 27. M.L.J. p. 253, Sadasiva Iyer an ardent supporter of social reform expressed himself as follows:—

"Agamas and Tantras which regulated the worship in the temple laid down rules as regards what caused pollution to the temple and as regards the ceremonies for removing pollution thus caused. As the temple priests have a special Saivavite initiation of Diksha which entitled them to touch the innermost image, the touch of persons who have got no such initiation even though they be Brahmins was supposed to pollute the image. Even Brahmins, other than the temple priests were in many temples not allowed to go into the Garbagraha. In one of the Agamas it is said thus: Saivavite Brahmin priests are entitled to worship in the Antrala portion. Brahmins learned in the Vedas are entitled to worship in the Arthamantapam; other Brahmins in the front mantapam and so on."

In the course of the same judgment, the learned Judge quotes with approval the judgment of the Subordinate Judge in *Rajeswara Dorai* vs. *Sankaralinga Nadar* and others.

"Courts of law have recognized and enforced customs of this character although they may be repugnant to generally received notions of what is just and proper. It is not for the Court to examine whether doctrines or usages obtaining in a particular temple are defensible from the logical or equitable standpoint in the light of modern enlightment and civilization, but to ascertain correctly so far as the materials placed at its disposal permit that the custom and usage is as observed by the community, for whose benefit the temple which is the subject of litigation, is dedicated and to be guided by them.

The same principles of law have been laid down in a number of other cases decided by the High Courts in India and in a number of cases in England. In *Attorney-General* vs. *Pearson* 36 *E.R.* 135 at page 150 Eldon Lord Chancellor observed.

"If it turns out that the institution was established for the express purpose of such forms of worship or the teaching of such particular doctrines, as the founder has sought most conformable to the principles of the Christian Religion, I do not apprehend that it is in the power of individuals having the management of that institution at any time to alter the purpose for which it was founded; or to say to the remaining members 'we have changed our notions and you who assemble in this place for the purpose of hearing the doctrines and joining in the worship prescribed by the founder shall no longer enjoy the benefit he intended for you unless you conform to the alteration which has taken place in our opinions.' In such a case therefore, I apprehend considering it as settled by the authority of the case, I have already referred to, that where congregation became dissentient among themselves the nature of the original institution must alone be looked to, as the guide for the decision of the Court and that to refer to any other criterion as to the sense of the existing majority would be to make a new institution which is altogether beyond the reach and inconsistant with the duties and character of the Court." Later in some case, His Lordship observed:—

"I must here again advert to the principles, which was, I thought, settled in the case to which I referred the other day as having come before the House of Lords on appeal from Scotland, namely, that if any person seeking the benefit of a trust for charitable purposes, be inclined to the adoption of a different system from that which was intended by the original donors and founders and if others of those who are interested, think proper

to adhere to the original system, the leaning of the Court must be to support those adhering to the original system and not to sacrifice the original system to any change of sentiment in the persons seeking alteration however commendable their proposed alteration may be."

In *General Assembly of Free Church of Scotland* vs. *Lord Overton* (1904) A.C. 515 the question was whether it was open to any body to change, to give up the old faith and still retain the benefits intended for those who still believed in the old faith. The following passages are extracted from the judgment of the House of Lords:—

(1) "Speaking generally, one would say that the indentity of a religious community described as a church must consist in the unity of its doctrines. Its creed, confessions, formalities, tests, and so forth are apparently intended to ensure the unity of the faith which its adherents profess, and certainly among all Christian churches the essential idea of a creed or confession of faith appears to be the public acknowledgement of such and such religious views as the bond of union which binds them together as one Christian community. A Court has simply to ascertain what was the original purpose of the trust. My Lords, I do not think we have any right to speculate as to what is or is not important in the views held. The question is what were, in fact, the views held, and what the founders of the trust thought important."

(2) "The principles for decision thus propounded have been recognised and acted upon ever since, and it would seem that it may be laid down that no question of the majority of persons can affect the question but the original purposes of the trust must be the guide."

(3) "The question in each case is, what were the religious tenets and principles which formed the bond of union of the association for whose benefit the trust was created? I do not think that the Court has any test or touchstone by which it can pronounce that any tenet forming part of the body of doctrines professed by the association is not vital, essential, or fundamental, unless the parties have themselves declared it not to be so. The bond of union, however, may contain within itself a power in some recognised body to control, alter, or modify the tenets and principles at one time professed by the association. But the existence of such a power would have to be proved like any other tenet or principle of the association."

(4) "It is, indeed, almost a truism that an unestablished religious association is free from State control as regards doctrine, government and discipline. But that freedom which differentiates a voluntary association from an established Church is not inconsistent with that adoption by the association of certain tenets which distinguished it from similar bodies. The right of the Assembly to impose any innovation from established doctrine on a dissentient minority, and the limits of such right (if any) must be found in the constitutional powers of that body, and must be proved by evidence."

(5) "It is worthy of remark that the Church is not a positive, defined entity as would be the case if it were a corporation created by law. It is a body of men united only by the possession of common opinions, and if this community of opinion ceases to exist, the foundations of the Church give way. But difference of opinion to produce this result must be in respect of fundamental principles and not of minor matters of administration or of faith."

Lord Alverstone concluded his judgment in the same case as regards the rights of the minority and those of the majority at pp. 720—721:—

(6) "It only remains to consider the position of the appellants and their rights as a minority of the ministers and elders of the Free Church representing congregations or portion of congregations who are not prepared to join the United Free Church. It is not contended that they have changed their principles; it is not suggested that they have departed from any fundamental or essential principle of the Free Church; it is not alleged that they are not faithfully carrying out the objects of protest of May 18, 1843. The respondants are threatening to attempt to eject them from their churches and manses, and to deprive them of the right to participate in any funds of the Church, simply on the ground that they decline to become members of the United Free Church. The decisions of the Court of Session is *Craigie* v. *Murshall* and *Couper* vs. *Burn* unless overuled by you Lordship's House, are wholly inconsistent, in my opinion, with any such right on the part of the respondants, and I am unable to support a judgment which would deprive the persons forming a minority of their rights simply upon the grounds that they are unwilling to become members of a body which has not only abandoned a fundamental principle of the Church to which they belong but supports a principle essentially different from that on which that Church was founded."

If that be the law governing Churches in England it would be clear that the principle of the decisions would apply with even greater force to Hindu temples If as in the above case, it should ever happen, that a majority of Hindus are in favour of temple entry for the excluded castes and the officiating priests in the

temple share in the view of the majority, it would be open to the orthodox party even though that party be in the minority to take possession of the temple and its endowments and to appoint to own priests who would conform to immemorial usage and the rules laid down in the Agamas.

Sections 2, 3, 4 and 5 of the proposed Bill prescribe that for the purpose of securing admission of the excluded castes into a temple with an income of Rs. 500 or upwards per annum the opinion of the majority of voters in the electoral roll of a Corporation of a city, or in the electoral roll of a municipality, District Board or Taluk Board or any other similar local authority constituted under the Local Boards Act and within the area of which the temple is situate and who attend and vote shall make it incumbent on the Trustees of the temple to throw open the doors of the temple for the worship of the excluded castes. In the case of temples with a income of less than Rs. 500 a year a much smaller electorate is provided for, and the decision of the majority of voters in the electorate attending and voting shall be in the nature of a command to the trustee to throw open the doors of the temple for worship by the excluded classse. It is not clearly stated but as the Bill stands it seems to be the intention that the members of the excluded castes, who might be on the register of voters in the electoral area are competent to join in the requisition referred to in Sec. 3 clauses (1) and (2) and shall also be competent to record their votes as provided in sub-clause (3).

If the voters of the excluded class or classes happen to be in the majority in the electoral area, they could by the exercise of their power automatically decide the question of their entry into the temple.

One important circumstance is completely lost sight of in prescribing electoral areas under Sec. 2.

Many of the temples in South India, some of them situated in out-of-the way villages in the Presidency are classified as *padal peira kshetrams* in that one or more of the four Saiva Acharyas in the case of Siva temples or one or more of the Alwars in the case of Vishnu temples have composed songs in worship of the diety in the shrine. These Siva and Vishnu temples are a class by themselves. Siva temples of that class are 256 in number of which 249 are in South India. There are 108 Vishnu temples of that class of which 97 are in South India. Important occasions in these temples attract a very large number of pilgrims and worshippers from other parts of the Presidency. Some of the temples have an all India importance. The rule prescribed for throwing open such temples to the excluded classes leaves the decision in the hands of a very narrow electorate. This would cause considerable hardship and irritation. Apart from this circumstance the electoral roll based as it is on property qualification would contain only a portion of the temple going Hindus in that particular electoral area.

The electoral rolls are framed to enable the electors to send their representatives to the Taluk Board, District Board, or to a municipal corporation in a City. It is rather anamalous that a constituency that is formed under the Local Boards Act or the Municipal Act with reference to Local or Municipal administration should be given powers to determine what temples in South India should be thrown open for the worship of the excluded classes. The suggestion that the majority shall rule, although found very effective and efficient in the administration of public affairs, ought not to be made to control the destinies of religious institutions. It has been repeatedly laid down in judicial decisions both in this country and in England and by authoritative text writers, that no question of majority

can determine matters relating to temples or churches but that the original purpose of the trust must be the only guide.

It is not safe, just or equitable so lightly to brush aside by legislation, fundamental principles recognised by law as authoritative and laid down by eminent judges in England and in India as affording the basis for determining questions involving the interests of churches and temples and the interest of the communities by or for whom these churches and temples have been founded and endowed. It would cause considerable hardship irritation and suffering not only to the orthodox party but to the very large majority of the temple going Hindus who still have an abiding faith in their religion and who honestly believe that the rules laid down in the Agamas relating to the admission or to the forbidding of admission into temples should be scrupulously observed and who accept as inviolable the mandates of the Agamas that purifactory ceremonies should be performed where such rules have been violated before the worship in the temple could be resumed and conducted.

In the framing of the Indian Penal Code originally darfted by Lord Macaulay the Legislature has recognised the existence of such prohibition and has made a voliation of it an offence.

If the Bill is passed into law knowing as we do the intensity of religious feeling not only in the orthodox party but more so, in the large body of temple going Hindus in South India there is bound to be considerable friction between the caste Hindus and the excluded classes each trying to have a mastery of the situation over the other, the caste Hindu relying on the law, on long established usage and custom and the excluded classes resting their case on the legislation that has successfully swept aside the law and the long

established usage and custom. One has to view with dismay the never ending conflict between class and class which the future may have in store. That men so intently anxious to advance the political interests of the country, to secure solidarity and union among the various communities inhabiting this land who have streneously worked to bring about harmonious relations between the Hindus and Mussalmans should have chosen the present occasion as the fitting opportunity for bringing in a measure calculated to undermine the amity and goodwill that has prevailed for centuries between the caste Hindus and the depressed classes and which even now exists, is very much to be deplored. That the movement to push on the Bill should be sponsored by Mahatma Gandhi is really very difficult to understand but one has to reconcile oneself to the situation by a study of his recent utterances.

In 1932 he said:

> "Restriction on inter-caste dining and marriage is no part of the Hindu religion. The reform is coming sooner than expected. Dining and marriage restrictions stunt Hindu society."

Then again in the Harijan of the 11th February 1933 he said:—

> "It is highly likely that at the end of it all w will find that there is nothing to fight against Varnashram. If even then Varnashram looks an ugly thing the whole Hindu society will fight it."

But in 1921 he said:—

> "To ask to inter-marry and interdine is tantament to asking Hindus to give up their religion."

> "Prohibition against inter-marriage and inter dining is essential for the rapid evolution of the soul."

One can understand such rapid evolution of ideas in an ordinary man but it is difficult to understand it in the Mahatma whose actions and utterances are prompted as the dictates of his inner conscience.

But Mahatma Gandhi the accredited leader of the movement Mr. Ranga Iyer the author of the Bill and Mr. Rajagopalachariar the able lieutenant of Mahatma Gandhi are left far behind in the race by Dr. Ambedkar the foremost member of the community he represents. He is not prepared to accept temple entry as the ultimate solution of the problem.

"What is required is to purge (Hinduism) of the doctrine of Chathurvarna. Do Mahatma Gandhi and the Hindu reformers accept this as their goal and will they show courage to work for it. But whether they are prepared for this or not let it be known once for all that nothing short of this will satisfy the depressed classes and make them accept temple entry".

After this deliberate pronouncement in the nature of an ultimatum made by one who is more competent to speak for the Depressed classes than any other including Mahatma Gandhi, why should the mountain go into labour when not even a mouse would come out of it, in sptie of the careful and incessant doctoring of Mahatma Gandhi, Mr. Rajagopalachariar and Mr. Ranga Iyer.

In the appeal issued under the auspices of your conference you have drawn forcible attention to the necessity of convening conferences such as this for the purpose of setting on foot a wide agitation to turn the tide of communism that is spreading over the land. You also demand that a fundamental clause should be embodied in the new constitution which would guarantee non-interference by the legislatures and the

executive Government with the religions, religious rites and usages of the various communities castes and creeds inhabiting this country; you also want immunity from such interference in respect of the social life and the personal laws and culture of any of the communities.

It is absolutely necessary for every community that is desirous of placing its considered opinions on any matter affecting its interests either political social or religious before the public or before the authorities or before the councils of the Empire that such community should form organisations calculated not merely to convene occasional conferences such as this but also to carry an steady and sustained work through out the year, to educate the members of the community with regard to questions affecting their interests, to convene public meetings in several local areas to give expression to the ideas and opinions of such community regarding those matters and also to convene conferences where these questions may be discussed and where resolutions embodying the considered opinions of the community may be passed, and transmitted to the authorities or to the councils. The public press is fully engrossed with matters affecting the interests of the country as a whole, and its policy is guided by various considerations; it would be therefore necessary if the community should desire that its aims objects and opinions on matters affetcing its interests should be placed before the public to have a newspaper of its own with a defined policy and programme of work.

You refer in your appeal to the tide of communism that is sweeping over the country. That spirit which aims at destroying differences between man and man as a member of the social organisation is rampart not only in our country but throughout the world and the culmination of it has been reached in the country where

the autocratic rule of the Czar till recently guided the destinies of that country.

It is the same spirit that underlies the movement that was started in this Presidency and in the Presidency of Bombay which has during recent years embittened the relations between the Brahmins and the non-Brahmins. The same spirit is at the foundation of the movement calculated to secure a higher status for women not only in public affairs, and in the councils of the realm but also in the Home. The Hindu Law of Inheritence (amendment) Act II of 1929 which gave to certain female members and their sons a place in the line of heirs, is the outcome of the same spirit. This legislation is no doubt an inroad on the principles of Hindu law relating to succession and inheritance, but the changed idea of Hindu Society has set its seal of acceptance on this departure from the principles of Hindu law. The Child Marriage Restraint Act was passed into law in the teeth of the pronounced opinion of large sections of the Hindu, Mussalman and Jain communities; but such opinion though entertained generally by the members of the communities concerned failed to be effective for want of sustained and organised work. But it had the support of English educated Indian ladies imbued with the ideas of the West and of the opinion that the institutions of the country though hallowed by age-long tradition and convictions should be brought into line with the 'advanced' views of Western nations.

Fresh inroads in the field of Hindu law are threatened. Some of them calculated to subvert Hindu social institutions and to run counter to long cherished ideas and opinions not only of the orthodox party—which would never accept any departure from the law as laid down in the Smritis Srutis and the text writers or from the usages and practices that have been

handed down from generation to generation—but also by many large sections of the Hindu community who would tolerate deviations where they consider such deviation to be in conformity with progressive ideas, while not involving any violation of the fundamental principles of their religion or usage.

If we want that our ideas and our opinions on matters affecting our religion, our law, usages and customs should be heard and respected and their proper weight assigned to them it will be necessary for us to carry on organised propaganda on the lines referred to above.

At the same time we ought to act with considerable caution in our attempts to stem the tide of reform where such reforms are dictated by the changed and changing conditions and the progressive ideas of the country.

Let us whole heartedly co-operate in all proposals calculated to improve or ameliorate the condition obtaining amongst the various sections of our community.

In matters materially affecting our laws, our religion, religious practices and usages and the constitution of the Hindu social order we have to step in to make our opinions felt appreciated and enforced.

But before resuming my seat I desire to address you on the human aspect of the question that has brought us together.

We in South India must recognise the fact that the face of the country is what it is to day by reason of the work and toil during the ages that have gone of the

excluded castes. Call them what you will either with the names assigned to them by the Sanskrit text writers or by the name which you have given to them in your own language, you cannot deny the fact that through the centuries that have passed away and even in the present time that community constituted and still constitutes the bulk of the agricultural labourers. The Zamindars in the cultivation of their home-farm lands, the rich land holders in the Zamindari and ryotwari tracts in the cultivation of lands owned by them depend on the labour and toil of the members of that community. They represent the labour and you represent the capital and the return you expect from the cultivating tenant is in some places 2|3 and in other plaecs 1|2 of the gross produce in kind. It is their labour and toil that has kept the owner of the land above want and in some cases in comparative luxury. I feel that it is our duty in some measure to ameliorate their condition. The agencies that draft Indian labour chiefly Indian labour from South India into other parts of the world provide homes for their living, medical assistance for the sick and in some cases educational facilities for the children of the emigrants. Should we be unmindful of the duties we owe to them here in our own country? I have in an earlier portion of the address sketched out the directions in which we could improve their present condition. So I do not go into details thereof again.

I take this opportunity of making a fervent appeal to the Zamindars and to the rich landholders in the Presidency that apart from the humanatarion stand point an obligation is imposed on them to improve the condition of this large body of agricultural labourers in the country.

I would also appeal to the Heads of the Mutts in this Presidency founded on endowed for the advancement of South Indian literature

learning religion and culture, that they should found schools and colleges for the study of the religion, literature and culture of the communities in whose interest and for whose benefit those institutions have been established.

May I take this opportunity of soliciting their help and guidance for the propagation and diffusion of the knowledge and learning that may be imparted in such schools and colleges, by organising and sustaining work on lines adopted by Western Missionaries not only for the benefit of the Hindu Communities proper but also for the benefit of the depressed classes.

We in South India have recognised the greatness of the Soul without regard to the outer mortal coil which the soul has chosen for its earthly stay. We have recognised the spiritual greatness of Nanda and Tirupanalwar and have assigned places to them in our temples, and have provided for puja to be performed for their images installed in the temple.

We have been tolerant on religious matters in the past when the Hindu religion and the Hindu culture were all-pervading. Among the Nayanmars of the Saivite faith and the Alwars of the Vaishnavite faith there are members of various castes and creeds. Some of them are from communities low in the scale of Hindu Society. We have nevertheless recognised their spiritual greatness and have allotted to them places in our temple.

Should we in our generation be less tolerant than those who lived in the centuries long past when the dictates of Hindu religion and the principles of Hindu culture were more largely adopted, followed and practised than at present.

Let me close with a translation of the words and sentiments of one of our own Sages:—

Let righteousness be ever on the increase

Let the Gods be worshipped

Let all sentient beings be happy

Let the beneficient rain come down on the land

Let the King prosper more and more

Let all that is of Evil sink down to the bottom

Let the name of God be on our lips.

All these that the world may be rid of misery.