

# PLIGHTED WORD

*Being an Account of the History  
and Objects of the Untouchability  
Abolition and Temple Entry Bills*

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## THE PLIGHTED WORD

**W**HEN the Yeravda Pact about the Depressed Classes was ratified at the Conference in Bombay on the 25th of September 1932, the following resolution was moved from the Chair and unanimously adopted :

“ This Conference resolves that henceforth, amongst Hindus, no one shall be regarded as an untouchable by reason of his birth, and that those who have been so regarded hitherto will have the same right as other Hindus in regard to the use of public wells, public schools, public roads and all other public institutions. This right shall have statutory recognition at the first opportunity and shall be one of the earliest Acts of the Swaraj Parliament, if it shall not have received such recognition before that time.

“ It is further agreed that it shall be the duty of all Hindu leaders to secure, by every legitimate and peaceful means, an early removal of all social disabilities now imposed by custom upon the so-called untouchable classes, including the bar in respect of admission to temples.”

In his statement of December 30, 1932, Gandhiji, referring to the above resolution, stated :

“When on the British Government’s acceptance of the Yeravda Pact I broke my fast, I solemnly assured Dr. Ambedkar and took a vow in the secret of my heart and in the presence of God that I would hold myself as a hostage for the due fulfilment of the resolution adopted in Bombay and the general carrying out of the Pact by the Caste Hindus. There can be no rest, therefore, for me or those who by word of mouth or show of hands silently endorsed the resolution, until untouchability becomes a thing of the past.”

## II

### THE NEED FOR LEGISLATION

IT has often been pointed out by eminent jurists that British courts and British law in India, by enforcing the established usages and customs of the Hindus, prevented the natural growth and evolution of Hindu customs. The intention was to guarantee to all communities the practice of their own religious faiths and the protection of their social institutions. The result, however, went beyond this. Usage and custom were hardened into law, and reform became impossible. Any departure from the custom was penalized or prevented by the law. It may not be generally known but it is a fact that the practice of untouchability is actually enforced with the help of British law and British courts. In the shape of corresponding legal rights of individuals and institutions of Caste Hindus the segregation of the Depressed Classes and their social

disabilities are rigorously enforced and maintained by the law. Reformers, therefore, even when they obtain for their proposals the consent of the majority of people in any locality, are unable to achieve their object, as at the instance of even one or two dissentients the law could be put into motion through courts to block reform.

The above can be illustrated thus: Even if the trustees and ninety per cent of the worshippers of a public Hindu temple agree that the so-called untouchables of the place desiring to join in the worship may be admitted into the temple, and proceed to take steps therefor, two 'orthodox' individuals could obtain an injunction from the civil court of the place prohibiting the trustees and others from taking any such action. If the trustees still persisted, the court would remove them from office or mulct them in damages. Section 40 of the Madras Religious Endowments Act as well as the ordinary law make it obligatory for the trustees of Hindu temples to exclude the so-called untouchables.

If the cleanest and the most pious Harijan entered a temple with the only object of silently joining in the worship of the deity, and all but one of the other worshippers had no objection, still that one individual could successfully prosecute him under the Penal Code and have him imprisoned as a criminal for having 'defiled' the temple.

This being the state of the law, it follows that if Caste Hindus should fulfil their plighted word in the Yeravda Pact, it becomes necessary to seek legislation.

## III

## UNTOUCHABILITY ABOLITION BILL

ON 1st of November 1932, in the Madras Legislative Council a resolution was moved and passed without any dissentient voice that the Government should recognize the growing public feeling for the removal of the disabilities of the 'untouchables' in regard to public worship and bring forward legislation removing doubts and difficulties of the trustees in regard to admitting the 'untouchables' into the temples in their charge.

ON 1ST DECEMBER Dr. Subbarayan, who had been Chief Minister of Madras when the Simon Commission was in India and who at present is the leader of the Dr. Subbarayan's Bill Opposition, presented a cautiously drafted Bill to the Government of Madras. This was the Madras Temple Entry Bill.

What the Bill sought to do was to provide machinery for ascertaining the opinion of the majority of the devotees now worshipping in any temple in regard to throwing it open to the 'untouchables' and to enable the trustee to act according to the decision of the majority. The Bill did not seek to annul the custom or compel reform. It provided that in each case there should be an appeal to the people concerned—what may be called local option—and the reform effected only where the vote was in favour of it. The Bill adopted for this purpose the widest franchise now available. The promoters of the Bill had, however, no objection to every adult worshipper of the locality being given a vote so that the decision may carry with it the largest measure of consent of the people interested in the temple.

ABOUT THE SAME time as Dr. Subbarayan's Bill was presented to the Government of Madras, another Bill was presented for introduction in the Assembly at Delhi, which is given hereunder:

Sjt. Ranga  
Iyer's Bill

## UNTOUCHABILITY ABOLITION BILL

WHEREAS it is increasingly felt by the Hindu community that the disabilities that are imposed by social custom and usage on certain classes of Hindus, commonly known as the Depressed Classes, and which have been in certain matters even legally recognized in the adjudication of rights and duties in civil and criminal proceedings, are repugnant to modern conditions and ideas of justice and social solidarity and should no longer be recognized by law or otherwise enforced, but should be severely discouraged,

It is hereby enacted as follows :—

1. This Act may be called the Untouchability Abolition Act and shall apply to the whole of British India.

2. Notwithstanding anything contained in any existing enactment, regulation or order, and notwithstanding any custom or usage or interpretation of law, no penalty, disadvantage, or disability shall be imposed upon or any discrimination made or recognized against any subject of the State on the ground that such person belongs to an untouchable caste or class among Hindus, and no court, civil or criminal, shall recognize any custom of untouchability or base its adjudication on such a custom.

## IV

## GOVERNMENT DECISION

**A**FTER prolonged consideration and consultation with the Secretary of State for India the Governor-General refused sanction for the introduction of the Madras Temple Entry Bill and sanctioned Sjt. Ranga Iyer's Bill. The following official statement was issued on Jan. 23, 1933 :

The Government of Madras have submitted for the orders of the Governor-General, under Section 80-A (3) of the Government of India Act, two Bills relating to the Central subject of ' Civil Law ', which two members of the Madras Legislative Council desire to introduce in that Council : (a) The Removal of Depressed Classes Religious Disabilities Act of 1933 proposed by Mr. Narayanan Nambiar, and (b) Temple Entry Disabilities Removal Act of 1933 by Dr. P. Subbarayan. These Bills, as regulating a Central subject, cannot be introduced in a provincial legislature without the previous sanction of the Governor-General.

The object of the Bills is to secure for certain classes of the Hindu community, the removal of the disabilities imposed by customs or usage in respect of entry into temples. The questions therein raised affect the religious beliefs and practices of the Hindu community generally. They are thus essentially of an All-India character, and cannot properly be dealt with merely on a provincial basis. This conclusion is reinforced by the fact that many of the temples of the Madras Presidency, which would be regulated by these Bills, are of much more than local importance and are places of worship and pilgrimage visited by Hindus from all parts of the country. On these grounds, the Governor-General after careful consideration and after

consulting all the Local Governments on a matter which could not fail to have important reactions in all provinces, has decided not to grant sanction to the introduction of these Bills in the Madras Legislative Council.

Mr. C. S. Ranga Iyer and other members of the Legislative Assembly have applied for sanction of the Governor-General to the introduction of a Bill entitled 'Untouchability Abolition Act', which requires the previous sanction of the Governor-General under Section 67 (2) of the Government of India Act as affecting the religion, religious rites and usages of a class of British subjects in India. This Bill is in more general terms than the Bills which it was desired to introduce into the Madras Council, but like them it affects the religious customs and usages of the Hindu Community as a whole.

The Governor-General is not prepared to deny to the Central Legislature the opportunity of considering these proposals, and is, therefore, according his sanction to the introduction of the Bill. But the Governor-General and the Government of India desire to make it plain that in their opinion it is essential that 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 it by all who will be affected by them. This purpose can only be satisfied if the Bill is circulated in the widest 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 Bills in this as in other cases, where 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 retains 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.

## V

## A WRONG ORDER

**T**HE GROUND on which the Governor-General has withheld the sanction to Dr. Subbarayan's Bill is so narrow that its untenability must be obvious even to a layman. A matter that can constitutionally be dealt with in a province does not become a central subject merely because other provinces have also to deal with the problem. It is only where a solution of the problem in one province will prejudicially affect another province that the centre can claim the right to legislate instead of the province. Nothing in Dr. Subbarayan's Temple Entry Bill could prejudice the welfare of people in other provinces. It would be obviously unjust to refuse opportunity even to a single province that might feel ready or courageous enough for a change.

Nothing is more familiar than Provincial Tenancy legislation, and though the troubles of landlords and tenants are present throughout India no single provincial legislation can solve the whole question for India. It was never claimed that the Central Assembly should deal with tenancy legislation on this ground. The analogy is complete, because even as land tenure and the condition of

the peasants and the difficulties of landlords vary in particulars from province to province, the incidence and varieties of untouchability and the forms of worship in temples vary from province to province. It is no less difficult for the Assembly to deal with a Bill to enable Harijan-entry into temples in South India than to deal with an Estates Land Act for Madras introduced in the Central Assembly.

The absurdity of the contention that the Central Legislature should deal with a Bill for temple entry in Madras will be patent when, in conformity with the Government decision, a Bill is introduced in the Assembly. It will have to deal with local conditions of temples in Madras, local forms of untouchability, varieties of exclusions according to local custom, and further with the rules framed and authorities constituted under the Religious Endowments Act of Madras. The administrative machinery under which the control and supervision of temples are carried on are different in different provinces. Public temples in Madras are placed under a Statutory Board. In fact the Bill was specifically described as intended to amend the Madras Religious Endowments Act.

THE POINT RAISED that the great temples in South India are pilgrimage centres for All-India has no material bearing on the question. The objection to the entry of 'untouchables' is everywhere a localized prejudice both in theory and in practice. The South Indian Caste Hindu does not bother himself whether the North Indian visitor is a 'touchable' or an 'untouchable'. So also North Indian pilgrims will not be horrified at the admission of 'Pallars' or 'Chukkilis' in the Conjeevaram or Srirangam temple; Pilgrims and

All-India  
Pilgrims

worshippers from abroad cannot claim and have never claimed a voice in matters of reform that must necessarily be introduced from time to time in the temples. Many changes were made in olden times in ancient temples without consulting orthodoxy in parts of India other than where the temple was situated. The Madras High Court dismissed a suit some years ago on the ground that Sjt. T. R. Ramachandra Iyer, though he could go as a pilgrim to a temple in Tellicherry, was not sufficiently interested in it to file a suit. The big temples in South India cannot be confiscated and made the property of the Centre merely because they attract devotees from Northern India and *vice versa*. A reform in Kashi Vishvanath temple must be possible without consulting orthodoxy in South India.

THE GOVERNOR-GENERAL'S action on the whole amounts to an infringement of the right of the province to regulate the affairs that fall properly within its constitutional compass. It is a warning to those who build on promises of provincial autonomy and residuary rights of component states.

A Warning

## VI

### TEMPLE ENTRY LOCAL OPTION BILL

**I**MMEDIATELY on the issue of the Governor-General's order refusing sanction for Dr. Subbarayan's Bill Sjt. Ranga Iyer gave notice of a Bill in the same terms as Dr. Subbarayan's Bill but amended for introduction in the Assembly, and sought sanction for it. This was accorded on January 30, 1933,

The fact that the Governor-General has sanctioned the Temple Entry Bill for introduction in the Assembly does not affect the criticism on the refusal of permission for introduction of the Bill in the Madras Legislative Council.

Be this as it may, there is now a Bill before the Assembly for Temple Entry based on the principle of local option. The terms of the Bill are as follows:

DR. SUBBARAYAN'S BILL AMENDED FOR  
INTRODUCTION IN THE ASSEMBLY

*A Bill to remove the disabilities of the so-called Depressed Classes in regard to entry into Hindu temples.*

WHEREAS it is increasingly felt by the Hindu community that the disabilities imposed by custom and usage on certain classes of Hindus in respect of entry into their temples should be removed,

AND WHEREAS doubts have been entertained whether trustees and others in charge of the management of such temples have power to make any innovation contrary to the established custom or usage of the temples,

AND WHEREAS it is expedient that the law as administered by the courts should no longer prevent a trustee from allowing to any class of Hindus, who might have been excluded from a temple under his management, entry into such temple, if the Hindu community in the locality is generally minded to allow such entry,

AND WHEREAS it is necessary to provide legal machinery for the ascertainment of the opinion of the Hindu community in regard to such entry,

AND WHEREAS the sanction of the Governor-General has been obtained to the passing of this Act,

It is hereby enacted as follows:

1. (1) This Act may be called the Temple Entry Disabilities Removal Act, 1933.

(2) It shall come into force on—

2. In this Act, unless there is anything repugnant in the subject or context,

(1) 'Board' shall mean the Board of Commissioners constituted under section 10 of the Madras Hindu Religious Endowments Act 1926 [or any similar authority constituted in other provinces;]

(2) 'Excluded caste' shall mean any caste or class of the Hindu community excluded by reason of established usage or custom from entering a temple;

(3) 'Temple' shall mean a place, by whatever designation known, used as of right as a place of public worship by the Hindu community generally except the excluded castes;

(4) 'Trustee' shall mean the person, by whatever designation known, in whom the administration of a temple is vested; and

(5) 'Voters' shall mean—

(a) When used in connection with a temple having an annual income of Rs. 500/- and above, the Hindu voters in the electoral roll of a Municipality, or a District Board or a Taluk Board, or any other local authority constituted under the Local Boards Act, within the area of which it is situated; and

(b) When used in connection with a temple having an annual income of less than Rs. 500 the Hindu voters in the electoral roll of the Municipal division of the City or the Municipal Ward in the Municipal area in the mofussil or of the Panchayat area in which it is situated.

3. (1) After the commencement of this Act, a written requisition signed by not less than 50 voters may be made to the trustee of a temple asking him that the question of throwing open a temple to any excluded caste may be referred for decision to the general body of voters.

(2) Upon such requisition, the trustee shall forthwith refer the question to the voters for decision in the manner prescribed.

(3) The decision of a majority of the voters who have recorded their opinions shall be binding on the trustee of the temple and on all worshippers therein.

(4) Where the decision is in favour of allowing the entry of any excluded caste into the temple, the trustee shall publish an order in the manner prescribed that the excluded caste shall have a right of entry into such temple.

4. (1) Notwithstanding any law, custom or usage to the contrary, it shall be open to the trustee of any Hindu temple to publish in the prescribed manner a notice that unless an objection is lodged with him under section 6 within a period of one month from the date of publication of the notice, he will make an order allowing an excluded caste, mentioned by him in the notice, to enter into such temple.

(2) Within one month after the publication of such notice by a trustee, objection signed by not less than fifty voters may be lodged with the trustee, objecting to such entry. Upon the lodging of such objection, the question whether the excluded caste concerned shall or shall not be allowed entry into the temple shall be referred to the voters under sub-section (2) of section 3 as if a requisition had been made under sub-section (1) of that section.

(3) The decision of a majority of the voters recording their opinions shall be binding on the trustee and the worshippers of the temple.

(4) Where an objection has been lodged under sub-section (2) and the decision of the majority of the voters recording their opinions is in favour of allowing the entry of

the excluded caste into the temple, or where no objection is raised after the expiry of the period mentioned in the notice under section 4, the trustee shall publish an order in the manner prescribed, that the excluded caste shall have a right of entry into the temple.

5. On the publication in the prescribed manner of an order by the trustee under sub-section (4) of section 3 or sub-section (4) of section 4, it shall be lawful for any member of the excluded caste referred to in such order to enter into the temple for the purpose of worship therein, subject to such general regulations for the maintenance of order and cleanliness and the due observance of the religious ceremonies in the temple as may be made in that behalf by the trustee.

6. Where a reference has been made to the voters under sub-section (2) of Section 3 or sub-section (2) of section 4, and the majority of voters who have voted have decided against the throwing open of a temple to any excluded caste, no written requisition under Section 3 can be made or notice under Section 4 be published for a period of one year from the date on which such reference was made.

7. The trustees of a temple may with the previous approval of the Board, where such a Board has been constituted under law, make regulations

(1) for the maintenance of order and cleanliness in the temple; and

(2) for the due observance of the customary religious ceremonial in the temple.

8. (1) The Local Government shall have power to make rules for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, the Local Government shall have power to make rules prescribing—

(a) the form of the requisition by the voters for a referendum and the manner of its presentation to the trustee,

(b) the manner of publication of the notices and orders of the trustee,

(c) the method of obtaining the opinions of the voters, and

(d) the decision of disputes regarding the ascertainment of such opinions.

#### STATEMENT OF OBJECTS AND REASONS

The custom of segregation of certain classes of the Hindu community as untouchable and the social disabilities they suffer from have been the subject of universal condemnation. There has been continuous agitation on the part of leaders of these classes as well as on the part of reformers among Caste Hindus to do away with the custom and remove the disabilities. Recent events have brought this agitation to a head, and there is at present a great wave of feeling throughout India for the removal of these disabilities of the Depressed Classes as they have been commonly called. Public agitation is specially focussed on the exclusion of these classes from entry into the ordinary Hindu temples along with Caste Hindus. Public Hindu temples being places of more or less free and equal association of all sections and denominations of Caste Hindus in the worship of their common gods, it is felt that these Depressed Classes should also be given the right of entry into these temples for purposes of worship. In spite of great advance in public opinion, established usage is in

force as law to the prejudice of these classes, and no change or innovation is permitted. Not only have courts treated the entry of members of these classes into Hindu temples as a defilement thereof punishable by the Indian Penal Code, but doubts have been felt as to the authority of trustees in charge of temples peacefully to permit such entry even when they feel that public opinion among the worshippers favours such entry. In the opinion of many trustees, the law of the land, and Sec. 40 of the Madras Religious Endowments Act II of 1927 in particular, stands in the way of any change. It is, therefore, necessary to enact a law of a permissive character enabling the removal of the bar where local public opinion favours such reform.

## VII

## GANDHIJI'S RESOLVE

*As soon as the Governor-General's decision was announced, Gandhiji issued the following statement from prison on January 24, 1933.*

**H**AVING READ the Government decision on the two Bills about untouchability now before the country, I cannot help expressing my regret on general grounds that the Government could not see their way to allow both the Bills to be discussed by the respective legislatures and the country. Dr. Subbarayan's Bill restricts itself to one particular issue of temple entry, and that too in the

The Easier  
Solution  
Withheld by  
Government

Madras Presidency, and the opening of each temple depends on the will of the majority of those entitled to temple entry. It, therefore, reduces the possibility of a clash between party and party to a minimum, and to zero if the reformers play the game, *i. e.*, allow for the religious scruples even of a microscopic minority, as my compromise proposal does. But this was not to be. From the strict *Sanatanist* point of view, the Madras Bill was perhaps the lesser of the two evils as they would put it. It was easier for the reformer to cope with, and for me personally too as the fasting hostage. The Viceregal sanction would have in all probability successfully prevented a fast over Guruvayur.

But the Government of India had willed otherwise. I must try to trace the hand of God in it. He wants to try me through and through. If He does, He will have to give me adequate strength as He has always vouchsafed to those who would surrender themselves wholly to Him. THE ALL INDIA Bill is short and sweet. Being of a negative character, in one way it gives no direct aid to the reformer.

A Challenge      It merely refuses to aid any and every individual *Sanatanist* who would come to seek the assistance of secular courts to impose his will on the whole of Hindu society and to enforce a custom, which the latter may consider to be repugnant to Hindu Shastras and the innate moral sense of man. It abolishes legal untouchability, leaving the social and religious to its fate. The sanction given to this Bill is an unintentional challenge to Hinduism and the reformer. Hinduism will take care of itself if the reformer will be true to himself. Thus considered, the Government of India's decision must be regarded as a Godsend. It clears the issue. It makes it easy for India and the world to understand the tremendous

importance of the moral struggle now going on in India. It takes it at one sweep to its natural platform to which it was timidly advancing.

AS A LIFELONG reformer and fighter I must take up the challenge in all humility. And so must every Hindu who was directly or indirectly party to the resolution adopted under the Chairmanship of the revered Pandit Madan Mohan Malaviya.

The Plighted  
Word

The resolution bears repetition :

“ This Conference resolves that henceforth, amongst Hindus, no one shall be regarded as an ‘untouchable’ by reason of his birth, and that those who have been so regarded hitherto will have the same right as other Hindus in regard to the use of public wells, public schools, public roads and all other public institutions. This right shall have statutory recognition at the first opportunity, and shall be one of the earliest Acts of the Swaraj Parliament, *if it shall not have received such recognition before that time.*”

“ It is further agreed that it shall be the duty of all Hindu leaders to secure, by every legitimate and peaceful means, the early removal of all social disabilities now imposed by custom upon the so-called untouchable classes, including the bar in respect of admission to temples.”

LET THE READER carefully note the words printed in italics. The resolution contemplates, if at all possible,

No Invoking  
of the Law

removal of legal untouchability even before the establishment of the Swaraj Parliament. The opportunity has now offered itself. No Hindu who is jealous of the honour of Hinduism or the word given to Harijans, dare let the opportunity slip. Even the *Sanatanist*, if he will read the All-India Bill as I do, may not resist it. For, has he not said to me, has he not said it even in his writings, that he has no quarrel

with the political and civic rights being given to Harijans on the same terms as Caste Hindus? In other words, he has no objection to Harijans being treated as equals with the rest in the eye of the law. If he is not in the eye of religion, that is a matter for the *Sanatanist* and his conscience. The law's assistance must not be summoned to aid him to enforce his conscience against a fellow-being.

The *Sanatanist* Shastris, whom I had the pleasure of meeting, have been able only to cite to me verses to the effect that if any one is polluted by the touch of an 'untouchable' he has either to take a sip of water or have a bath. There seems to be nowhere any mention of punishment to an 'untouchable' entering a public place including a temple. And in no case should the aid of secular law be summoned for punishing an 'untouchable' guilty of mere infringement of a sacerdotal rule. The present Bill rightly renders such an interference by law impossible.

THE OPENING of temples to Harijans would, under the Bill, be regulated by mutual adjustment. Where the opinion of the temple-going population is not ripe for the reform, naturally Harijans cannot enter the temples. Where the opinion is ripe, the law cannot be invoked by individuals to thwart the will of the majority. But whatever the *Sanatanists* may decide, the movement for temple entry now broadens from Guruvayur in the extreme south to Haridwar in the north, and my fast, though it remains further postponed, depends not now upon Guruvayur only, but extends automatically to temples in general. That is to say, the fast becomes dependent upon the action of the reformers not regarding the Madras Bill, which was to cover Guruvayur

only, but regarding the All-India Bill which covers all temples including Guruvayur.

And so it has been throughout my life. One step has naturally led me on to another, even in spite of myself. I was confining my attention to the Madras Bill. It was enough for me. Even on Saturday last, that is, the 21st instant, when the Associated Press correspondent asked for my opinion of the A. P. Delhi correspondent's forecast, I declined to commit myself to any opinion on the All-India Bill as compared to the Madras Bill. I was not prepared to face a bigger and graver contingency. But now that it comes upon me as an accomplished fact, I dare not flinch.

THE GOVERNMENT pronouncement would leave one to think that the Bill will be one long drawn out agony, and may never become the law of the land. They are right from their standpoint in being over-cautious. But if Hindu conscience is really roused against untouchability, as the latter is practised to-day, the Bill can become law in no time. The Government cannot resist the unequivocal expression of Hindu opinion in favour of it. In spite of *Sanatanist* opposition my belief is that a vast mass of Hindu opinion is against untouchability even though it may not take energetic steps to remove it. It is that faith which sustains me. No further ordinary propaganda will convince the Hindu mind of a sense of the wrong of untouchability, if it is not already convinced by years of work in that behalf. It requires, then, as it has done before now, the extraordinary propaganda of penance. It may be that it needs the stimulus of a fast on the part of one who has made his life one with them. If so, they shall have it. They must either remove untouchability or remove me from their midst.

Gandhiji's  
Faith

LET ME PROCLAIM it for the thousandth time that for me, as with my co-workers, removal of untouchability is an indispensable religious need; and the opening of temples to Harijans being a pure spiritual act is an indispensable test of that removal. It is the one thing that alone can give a new life, and a new hope to Harijans as mere economic uplift can do. Economic and all other uplift will follow temple entry as light follows dawn. The one single act of opening temples to Harijans will purify Hinduism, and will open the hearts of both Caste Hindus and Harijans to receive new light. The message of the temples will penetrate every Harijan hut; the message of economic and educational uplift will touch only those to whom it is personally brought. This proposition of mine can be easily understood by those who, like me, believe in temples as an integral part of Hinduism as churches and mosques are of Christianity and Islam. It is not necessary that every Harijan should at once enter the temples. It is enough and necessary if he knows that he has acquired that right. And in this religious conception of Hinduism, fasts and the like take their natural and necessary place. They are then no more coercion than any *bona fide* cry of love divine is.

## VIII

## A BASELESS CHARGE

IT HAS BEEN suggested in some quarters that the temple entry issue had been raised for increasing Congress prestige and to canvass Depressed Class support for Congressmen in the future Councils. Nothing can be more untenable than the idea that the Congress, by taking up this question of religious reform and bringing down the ire of orthodoxy on itself, calculated on an increase of influence. If that were possible, Congressmen challenge other political parties to do the same. They would welcome all the parties in the Councils and the Assembly to come forward and similarly canvass Depressed Class support, and increase their own prestige and influence by joining in the temple entry movement. The fact that Congressmen desired that the emancipation of the Depressed Classes should take place in a public manner by temple entry, helped by permissive legislation in the present Councils manned by non-Congress parties, is a conclusive proof that what Congressmen want is reform and not mere political self-advancement.

The Congress is committed to the abolition of untouchability for over twelve years past. Service to the poor and the depressed must increase prestige and influence. But nobody can grudge this. What must be repudiated emphatically is the suggestion that the present attitude and agitation in regard to the 'untouchables' and their entry into temples is dictated by party political motives, and not by a sincere desire for reform. Opponents wish to have it both ways. In the same breath they claim that the temple entry movement has not the support of the majority of the people and is opposed by the vast body of

Caste Hindus, and they also allege that we bring up this proposal in order to gain popularity and influence. If the measure is so unpopular, we must be hurting ourselves by this movement. Our opponents have one logic to oppose the Bill, and quite another to impute motives. As a matter of fact, we know we are fighting for justice at the risk of offending influential vested interests and losing our influence with them. If we desired only to conserve or enhance our influence politically, we should have, like other political parties in the country, tried to avoid the issue and sit on the fence, or somehow got rid of the trouble. But what we are doing is to launch on perhaps the bravest of struggles that have been conducted in this land during many years past, relying on the justice of the cause and without being moved by fear or favour.

## IX

## THE BOGEY OF TRUST LAW

**I**T IS SOUGHT to make out that the proposed legislation would amount to a diversion of trust property or confiscation of property rights. This objection is based on the analogy of the Church of Scotland case. This case distinguished between fundamentals and non-fundamentals in matters of doctrine. It should be remembered that in order to remove the difficulties and to set right the situation created by the decision in this case, a statute was passed at once (Statute 5, Edward VII, Ch. 12). On the same principle of welfare of the community we seek legislation to remove the legal difficulties. There is no attempt whatever in the Bills to claim any property or management. It would be a disastrous blow to the Hindu

Property  
Rights

community if all its ancient and great temples have to be declared as the property of a minority denomination and that the worship conducted in it should not be available to Hindus as a whole when a majority of the worshippers require it to be so made available.

There are no trust deeds or documents. The dedication as well as the conditions are only to be inferred from immemorial usage. History points to the founding of many new denominations, and the temples were not shut against those who accepted changes. In the case of a large number of temples there is a periodical admission of the 'untouchables' even under present practice. The 'untouchables' are admitted to worship at defined spots or on certain occasions and during festivals outside the walls and sometimes inside the walls also. Their offerings are freely received. The reform sought for is an improvement of procedure in favour of the 'untouchables' and not a fresh admission into the fold.

THE IMMUTABILITY of ancient trusts as a legal objection to any change in the usages of Hindu temples is only another form of the objection based on the unalterability of the Shastras. Both are exaggerations of a good principle beyond the measure that is consistent with life and growth. It is necessary that the rules of conduct prescribed by religion are to be observed with reverence and loyalty so that society may hold together and be saved from disintegration. They should not be relaxed at the behest of individual advantage or at the mere touch of new conditions. A certain measure of rigidity and resistance against change is a necessary safeguard in order that the rules and conventions may serve their true purpose. But it is fatal to

progress and really a perversion of the original intent and purpose to invest them with immutable authority and continue to apply them under totally changed conditions. It is an undeserved libel on our ancestors' common sense and mental calibre to claim such rigid applicability for the shastras and reduce them to absurdity. Exactly the same error is committed by the lawyers if they ignore the true intent and purpose of our temples and treat them as trust property and, reading the present usages as rigid conditions laid down by the original donors and benefactors, apply the English law of trusts to interpret every alteration as a confiscation. We should thereby prevent all reform, and render the temples useless or worse than useless for changed conditions and times.

LAWYERS AND judges are not the best legislators. They cannot easily escape the obsession of the existing rule.

An Obsession Whenever they legislate, they have a feeling that they do violence to the law. It is a mental exertion for them to remember that they are in the legislature to make—not to interpret—laws. The Trust law become a great bogey to them when any reform is proposed and any tangible property or endowment is bound up with the practice or usage under consideration. They forget that the welfare of Hindu society is the pre-eminent purpose and overriding condition of the whole trust. To convert the rules laid down for purification after unintended pollutions, according to the then prevailing ideas, into permanent prohibitions against sections of Hindus, even when we desire no longer to regard them as untouchable, is to convert public Hindu temples into denominational or sectional institutions, wholly contrary to the purpose of the original founders.

A people, whose philosophy condemned 'mine' and 'thine' even in regard to ordinary property and tolerated such an idea only as an illusion, could not have intended their spiritual inspirations to be treated as denominational or sectional property.

APART FROM this, even English jurists are against the 'dead hand' controlling human affairs. They consider it absurd that law should enable men who died centuries ago to govern us against our will. As a writer in the Harvard Law Review has said, "It frequently happens that although the provisions made by the founder are in accordance with the best standards of the time, in course of time standards change, and the strict observance of the provisions would destroy the institution or at least retard its development."

'GRAMMAR SCHOOLS' were established in England in the sixteenth century. Three centuries afterwards people desired to extend the curriculum of these schools so as to include arithmetic and modern languages. Lord Eldon held that this could not be done, because the founders had shown their devotion to the classics, and the will of the founders must be respected! But Parliament came in later and saved the schools from becoming worse than useless for modern times, and enacted laws providing a simple method, whereby changes could be made in spite of the founders and benefactors not having contemplated the study of modern languages, arithmetic or science. Similarly Parliament has empowered the Universities of Oxford and Cambridge to make such changes as should be necessary to enable these centres "to awake from the dreams of the

middle ages and adjust themselves to the needs of modern society."

The doctrine of 'Cypres' cannot be the last word on the subject. Our difficulties are not because the accomplishment of the founders' purpose has become impossible or illegal, but because it would be inexpedient to carry it out. Our adherence to the donor's purpose should not be such as to defeat his real purpose. To render institutions useless for changed times is really to defeat the intention of the founders. It is a kind of loyalty which the ghosts of our forefathers would like to be saved from. The legislature must exercise the power of revision if the law stands in the way.

THE MATTER came up for very thorough consideration in connection with educational institutions in England and a

Implied Condition	Statutory Commission recorded it as their opinion that "it should be clearly laid down as a principle that the power to create permanent institutions can be recognized only on the condition, implied if not declared, that they be subject to such modifications as every succeeding generation shall find requisite."
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It may be apprehended that unless we adhere most strictly to the directions of donors, they will be dissuaded from making charitable gifts. Experience in England has, however, proved otherwise. Charitable gifts were never more common in England than in the early days of the Reformation, when Henry VIII's action against the monasteries was fresh in the minds of every Englishman. It is also true that bequests to the English universities actually increased after Parliament had authorised departure from the directions of their founders and benefactors.

A CLEAR LINE may not be drawn between a departure from the letter of the founders' directions and confiscation.

Reform, Not Confiscation      The difference is, in the last analysis, a difference in degree. This, however, is true of practically all differences in the law. The difference between what is reasonable and what is unreasonable, between what is right and what is wrong, is often but a distinction in degree. To refuse to allow what is reasonable and right because of our aversion to what is unreasonable and wrong is to deny all progress.

WHATEVER MAY be the view taken about the existing law, the welfare of society as a whole demands the emancipation of the so-called untouchables by legislation, overriding such law if necessary. The right of the people to legislate in the interests of the welfare of the community cannot be blocked by any interpretation of the law of trusts or endowments.

Existing Law Is No Objection to Legislation

## X

### OTHER OBJECTIONS ANSWERED

TWO BILLS are now before the Assembly. The Untouchability Abolition Bill is drafted to cover the ground that the law of any civilized Government must cover. It is negative. It is not drafted to amend positively any social or religious institutions. It only withdraws the cooperation of the State in the enforcement of a custom which is indefensible and is against public policy. The

Untouchability Abolition Bill

reformers want no help from the legislatures except that no criminal or civil court and no officer acting under Government authority should base any judgment or order on a recognition of a custom by which some human beings are, by reason only of their birth in particular castes, deemed as polluting what they touch or approach.

IT IS WELL KNOWN that some immoral practices are themselves tolerated without punishment or prohibition, but the authority of courts or Government officials cannot be invoked to enforce contracts and obligations based on such practices. If this withdrawal of State aid is secured, untouchability is certain to die a natural death in the atmosphere of modern life. But law as it is now administered, instead of being strictly neutral, throws its weight on the side of the custom.

THE GREAT POINT raised is the principle of non-intervention of the State in regard to matters religious.

The peculiarity of Hinduism, and perhaps its boast, is that everything in Hindu daily life is associated with and governed by religion. Non-interference to the extent claimed by objectors would result in a fatal block to all progress. There is much misconception in regard to the true meaning of non-interference. If British courts and law did not give positive support by enforcement of the old usages, there would have been no demand for legislative enactment to make reform possible. Wherever the State is enforcing the existing usage, no change would be possible without an amendment of the law. It is the existing interference that makes legislation necessary. Over and above preserving peace, the British Indian Government is enforcing customs as positive civil law. To refuse any fresh amending

Withdraw  
State-aid from  
Untouchability

'Religious  
Neutrality'

legislation, but to continue rigorously enforcing the existing custom, is not real non-interference.

Society enjoys the assistance of the State in the enforcement of customs and usages on unwilling as well as willing individuals. The principle justifying the coercion is the implied consent of the majority to the custom or usage. When that consent is expressly withdrawn by the majority of the people, or, which comes to the same thing, a demand is made by the majority for a change, it would be wrong for the State to continue its assistance in the enforcement of the old custom, refusing to permit an alteration of the law. The people concerned have an inherent right to alter their lives and change their customs. To block the exercise of this inherent right is not non-interference but the most serious form of interference.

It is a fallacy to think that the authority of customs enforced as law is based on a kind of statutory authority of the Shastras or on the recognition of Pandits as an ecclesiastical legislature. It is the consent of the people to the custom that forms its real juristic basis. When this is absent or withdrawn by a deliberate demand for reform on the part of the majority, legislation should be permitted to replace custom.

WHETHER SUCH legislation should be made by the present legislatures or should be postponed to the coming legislatures, expected to be based on a wider franchise, is one of the questions raised.

Precedents  
against

Postponement

Many legislative measures making important inroads into customs, usages, vested interests, and trusts have been passed before this both in former times and recently. There is no special reason why reform as regards the status of the 'untouchables' should

be postponed. Legislation that abolished the custom of *Satee* was passed in spite of strenuous objection. The law to permit widow marriages was objected to but was passed. The Caste Disabilities Removal Law protected the property rights of persons as well as their joint family rights in spite of apostasy and secession from caste. Religious endowments and trusts have been the subject matter of laws passed from time to time. Recently the Madras Religious Endowments Act was most vehemently objected to, but was passed, placing all the temples and other religious institutions of Madras under a secular Board with wide powers. The Civil Marriages Act dealt with immemorial custom regarding marriage, first among those who subscribed to the formula renouncing Hinduism, and latterly among Hindus as such. The Sarda Act interfered with and altered the law regarding marriage in a matter regarded as essential by religious usage. These are instances of laws allowed to be passed and assented to. The Nambudri Bill and the Marumakkattayam Bill have been passed by the Madras Council and are awaiting the assent of the Governor. These two measures affect the oldest and the most widely spread socio-religious customs in Malabar affecting family life, property, and the mode of enjoyment thereof. No objection was raised to the present or previous legislatures dealing with such matters, and a wider franchise should not be demanded only to deal with the present question.

SJT. RANGA IYER'S second Bill based on Dr. Subbarayan's Madras Bill contains provisions which are an answer, not

A Conclu-  
sive Answer

only to the argument that the legislation should be postponed to a legislature based on a wider franchise, but also to the contention that the issue should be placed before the

electorate to authorize the representatives to legislate in a matter of this kind. No temple can be opened under the Bill to the excluded classes unless the question is put before the body of worshippers in the locality in accordance with the rules and procedure prescribed by the Local Government and a majority of them approve of this step. The appeal to the electorate with the widest franchise possible is contained in the provisions of the Bill itself, each time occasion for its use arises. The Bill seeks to facilitate reform but does not throw open any temples by itself. Objections that can be taken to a Bill positively seeking to carry out reform by its own force cannot apply to a bill that makes popular assent a condition precedent at every step.

THE GREATEST objection to postponement is that a reform of the status of the 'untouchables' should not be postponed when there is a wave of feeling throughout the country favouring such a step. It would be a double injustice to the Caste Hindus desiring to set their house in order and fulfil their pledge, and to the 'untouchables' suffering under great disabilities on account of their outcaste status. Gandhiji in his statement of January 24 has forcibly pointed out the importance of temple entry in fixing the status of the people concerned. The social segregation affects opportunity for employment and economic freedom at every turn in life.

Postponement  
Unnecessary  
and Unfair

## XI

## CONCLUSION

**P**ERMISSION for Harijans to enter into temples is really objected to only because of pollution imagined to take place in respect of the men who have to enter along with the Harijans into the temple. No one really imagines that the worship would suffer or that the deity objects to such entry. The Shastras are positively against the notion of touch-pollution inside or even in the vicinity of temples. In fact there are strict prohibitions in the Shastras against anybody attempting to bathe on account of such imaginary pollution.

**A**S REGARDS other customs, changed circumstances and conditions of life have induced a great deal of laxity and change of practice in present day life. The Orthodox Elastic Shastras are not quoted in respect of them, and orthodox people tolerate such laxity even in their homes and among their own children and relations. In fact orthodoxy is practical enough to accept laxity in regard to many phases of pollution whenever self-interest and private comfort demand such laxity under present day conditions. What reformers want is that this tolerance and this practical wisdom should also be applied in regard to matters where the public welfare demands changes. When orthodoxy permits entry into temples of the numerous castes of Hindus with their differences in customs and diet and standards of cleanliness, it is unreasonable and unwise in modern times for all the castes to combine together to keep only the Harijans out.

Even ultra orthodox Hindus are quite alive to the changed conditions of our times and the need for readjustment

and reform. But they would wait for changes to come by compulsion rather than by deliberate choice. There is a regular philosophy of God's will about it, and all the shastraic authorities quoted in the controversy are over-ridden by it. This it is, that saves Hinduism from fanaticism and turmoil. But reform is different from and preferable to this kind of ultimate surrender or unwilling adjustment. Reform and deliberate adjustment are a sign of life and a nourishment therefor, whereas surrender to the compulsion of *vis major* is a sign and portent of death.