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COUNCIL OF STATE.

Thursday, the 15th March, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock.
The Honourable the President was in the Chair.

THE MALKHARODA AND GAONTIA VILLAGES LAWS BILL.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move:

"That the Bill to declare the law in force in certain territories of the district of Sambalpur and to provide that the past administration of those territories shall not be called in question on the ground that they were not included in the territories administered by the Government of the Central Provinces, be taken into consideration."

In moving for leave to introduce this Bill I gave a very brief outline to the House of its objects. I shall now briefly recapitulate them. In connection with the territorial reorganisations which were undertaken in the year 1905, the district of Sambalpur, which had till that time formed part of the Central Provinces, was transferred to the reconstituted province of Bengal. That transfer was, however, subject to certain exceptions. The exceptions were the territories known as the Chandarpur-Padampur Estate and the Phuljhar Jagir. At the time that that proclamation was issued there were two circumstances which had not been fully realised. The first was that the Malkharoda Jagir, which, at that time, was held by the Zamindar of Phuljhar, was not, as a matter of fact, an integral part of the Phuljhar Zamindari. The second point which escaped due notice was that in the territory known as the Chandarpur-Padampur Estate there were nine Gaontia villages. These villages were held not on the *malguzari* tenure, which is the tenure of the Chandarpur-Padampur Estate, but on the ordinary *Khalsa* tenure, which is prevalent in the rest of the district of Sambalpur. The consequence of that omission was that doubts arose as to whether retention of these territories within the jurisdiction of the Central Provinces was valid. Since 1905, the administration of these territories has been carried on *de facto* by the Government and by the officers of the Government of the Central Provinces; but the question of the precise legal status of these territories was raised in the Court of the Sub-Judge of Manbhum in 1919. The Sub-Judge claimed that he had civil jurisdiction over these territories. The case went on appeal to the High Court at Patna. The High Court did not, however, find it necessary to go into the question of jurisdiction; so far as the appeal to the High Court is concerned, this question of the legal status of these territories was not dealt with. The object of this Bill is now to validate the situation which was intended to be created in 1905 and to declare *de jure* the administration which has been carried on *de facto* in the manner which I have already explained. Those are briefly the legal facts of the situation.

Coming to the question of its administrative significance, I should inform the Council that the areas with which we are now concerned amount to about 85 square miles of country. They are cut off from that portion of the Sambalpur district which is now under the jurisdiction of the Government of Bihar and Orissa by a wide tract of country occupied by the

[Mr. J. Crerar.]

Rajgarh Estate and the Chandarpur-Padampur Estate which are under the control and jurisdiction of the Government of the Central Provinces. It will be a matter of very serious administrative inconvenience, a matter of very serious inconvenience and annoyance to the inhabitants of these areas if the jurisdiction over them should now be formally transferred to the Province of Bihar and Orissa—if, in short, the *de facto* state of affairs is not now duly validated. As an instance, I may mention that the distance between Malkharoda and the nearest police station in the Sambalpur district is 60 miles. I do not think I need add very much to that statement of the case.

But there is one important question on which I would touch, and that is, the wishes of the inhabitants of these tracts. With regard to that I have before me a report which shows that careful and sympathetic inquiry has been made of the wishes of the inhabitants of these tracts in connection with another inquiry but one in which precisely the same issue rises. *Malguzars* and tenants, educated and illiterate, have all been consulted. The Zamindar of Malkharoda emphatically protested against the suggestion of amalgamating the tract with the Province of Bihar and Orissa. He stated that the social conditions obtaining in Malkharoda are similar to those in the rest of the Bilaspur district. I may mention that Bilaspur is the district of the Central Provinces to which these areas are now attached. He emphasised the comparative proximity of Nagpur, as against Sambalpur and Patna. It appears that the people generally support this protest and declare their preference for the Bilaspur district and the Central Provinces. With regard to the Chandarpur area the feeling is the same, and preference for the present arrangement is unanimous. In Padampur there is indeed a considerable body of opinion in favour of the re-transfer of the tract to the Sambalpur district. That is accompanied by the impracticable proviso that Sambalpur should be re-transferred to the Central Provinces.

I think therefore we may safely conclude that there is a substantial unanimity—certainly a very strong preponderance of opinion—among the inhabitants of these tracts in favour of the maintenance of the *status quo* and the validation of the *status quo* is the object of the Bill which I now move should be taken into consideration.

The motion was adopted.

Clauses 1, 2, 3, 4 and 5 were added to the Bill.

The Schedule and the Preamble were also added to the Bill.

THE HONOURABLE MR. J. CRERAR: Sir, I move that the Bill be passed.
The motion was adopted.

THE INDIAN PENAL CODE (AMENDMENT) BILL.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move:
“That the Bill to give effect to certain Articles of the International Convention for the Suppression of the Traffic in Women and Children, as passed by the Legislative Assembly, be taken into consideration.”

The matters dealt with in this Bill have already come within the cognizance of the House. It will be within the recollection of Honourable

Members that on the 31st January 1922, my predecessor moved in this Council, on behalf of the Government of India, a Resolution in the following terms :

" This Council recommends to the Governor General in Council that India do sign the International Convention for the Suppression of the Traffic in Women and Children accepted by the Assembly of the League of Nations at its second session, subject to a reservation that, in applying Article 5 of the Convention, India will consider that 16 completed years of age is substituted for 21 completed years of age."

That Resolution was adopted. I will now briefly recall that, in consequence of a Resolution of the Council of the League of Nations, an International Conference was called early in the year 1921. That Conference proceeded to draft a Convention one of the objects of which was to give effect to the terms of the previous International Convention of the year 1910. The operative parts of the latter Convention, so far as our present purposes are concerned, and with the reservation that the Convention of 1921 raised the age from twenty to twenty-one years, are contained in Articles 1, 2 and 3 :

Article 1.—Whoever, in order to gratify the passions of another person, has procured, enticed, or led away, even with her consent, a woman or girl under age, for immoral purposes, shall be punished, notwithstanding that the various acts constituting the offence may have been committed in different countries.

Article 2.—Whoever, in order to gratify the passions of another person, has, by fraud, or by means of violence, threats, abuse of authority, or any other method of compulsion, procured, enticed, or led away a woman or girl over age, for immoral purposes, shall also be punished, notwithstanding that the various acts constituting the offence may have been committed in different countries.

Article 3.—The contracting parties whose legislation may not at present be sufficient to deal with the offences contemplated by the two preceding Articles, engage to take or to propose to their respective Legislatures the necessary steps to punish these offences according to their gravity."

The object of this Bill, Sir, is therefore to carry out the undertaking embodied in Article 3 of that Convention. In so far as the criminal law of India as it stands at present is concerned, that obligation entails upon the Government of India to propose to its Legislature the following two main provisions: (a) to make it penal to procure a minor girl for illicit intercourse by any means whatsoever, and (b) to make it penal to procure a woman of any age by force, compulsion, intimidation or abuse of authority. It will be apparent to the House that effect is given to these provisions by clauses 2 and 3 of the Bill. The question was referred in a general form to Local Governments for opinion and advice. At this stage it is perhaps as well for me to point out that the terms in which the Local Governments were consulted were very general terms and related mainly to the question of the expediency of India adhering to the terms of the Convention. I do not think at the present stage it is necessary for me to say more. If any further explanation is required it might perhaps be more conveniently given when the Bill is taken into detailed consideration. I now move that the Bill be taken into consideration.

The HONOURABLE SIR MANECKJI DADABHOY (Central Provinces: General): Sir, this Bill is the result of a Resolution passed in this House as well as in the Assembly on the Convention of what is called the White Slave Traffic.

The HONOURABLE MR. J. CRERAR: Might I intervene, Sir, and suggest that it would be well to adhere to the precise terms by which that

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Convention, is now denominated, the Suppression of the Traffic in Women and Children?

The HONOURABLE SIR MANECKJI DADABHOY: I beg the Honourable Member's pardon; he is quite right; I made a mistake. The obligation which the Convention really imposed upon India's representative who was present at the Convention and which ultimately fell on the country was of a two-fold character. In the first instance, our obligation was to make it penal to procure a minor girl for illicit intercourse by any means whatsoever, not merely by force or compulsion; and secondly, we agreed to make it penal to procure for illicit intercourse a woman of any age by force, compulsion, intimidation or abuse of authority. I beg to point out that at the Convention the question of what constitutes minority was left entirely open. In this House when the Resolution was passed supporting the Convention or giving our adherence to the Convention, as well as in the Assembly when the Resolution was passed, it was distinctly stipulated that the age of 16 shall be substituted for the age of 21. The Legislative Assembly by a snatch vote of three Members passed Mr. Joshi's amendment raising the age from 16 to 18. I do not propose in this House to-day—indeed I have not the slightest desire to wreck this Bill here, but I must point out one or two facts to the House that in supporting this Bill, which the Legislative Assembly has passed, we shall be acting in an illogical and absurd manner; there is no getting over it. There are in the Indian Penal Code various sections, important sections, dealing with offences against minor girls, offences of a very heinous and serious character in which the age limit is kept at 16, while in this particular Act which refers to section 366A, which only relates to procurement of a girl, the age-limit is fixed at 18, and the Bill is passed. I beg also to point out that this question was never placed before the Local Governments for consideration, or before the general public of India for consideration. The matter on which the Local Governments' opinion was asked was relating to the procurement section, and it was pointed out in the reference that was made that it was desirable to fix the age-limit of 16. I am never opposed to any social legislation. I for one look forward to the day in India when young girls will receive that measure of protection and security against their person which the other civilised countries in the world have accorded. I am one of those who are sincerely anxious for the reformation of the country in this direction. But I have only to express this patent fact that in this country, inhabited by various races and by different classes of people, in this country where hundreds and thousands of castes and sub-divisions of castes exist, where the personal laws of the country are so divergent in many ways, in a matter of social legislation of this kind it is necessary that we should first proceed with a great deal of caution and in consonance with public opinion. I would also suggest that the Government should not make their penal laws ridiculous, illogical and absurd. If public opinion had given its support to the substitution of 18 for 16 I for one would have said nothing in this Council. I cannot do better on this point than read a passage from the Honourable Sir Malcolm Hailey's speech which correctly represents my views on this subject and which, I have no doubt, is the opinion of every Hindu Member in this Council.

The HONOURABLE MR. LALUBHAI SAMALDAS: No.

The HONOURABLE SIR MANECKJI DADABHOY:

"They obviously felt that the country is not yet ripe for an advance so great as that, and that is my own opinion. I put it that in all social legislation you must make your beginning, but your beginning should be a modest one, because, if legislation is to be effective, you must carry the common feeling of the country with you. Your legislature is nugatory unless you can do so. Your social laws must always be a little in advance of retrograde or uninformed opinion, but do not go so far in advance of it that public opinion generally will not follow you in giving effect to your Code. If you do that, you are legislating in vain. Make your beginning; when you have established that beginning, build upon it as the public conscience increases and the public demand grows. That is the true path of social legislation, the one we have followed in Europe, and the one which I commend to this House."

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI (Madras: Non-Muhammadian): When was that speech made?

The HONOURABLE SIR MANECKJI DADABHOY: In the Assembly the other day. I say I have not come across a more eloquent, a more significant and a more important utterance than this which gives expression to our feeling on this subject. I do not, therefore, propose to dilate on the subject any more. I give my consent to this Bill reluctantly. As I said I do not want to wreck the Bill, and I would not have given my consent to this Bill to-day but for the amendment which will follow and on which I shall speak again to-day. I ask Government to adopt a policy of consistency in their legislation. When for more serious and heinous offences which are in the Penal Code you have kept the age-limit at 16, you cannot with any consistency, with any show of reasoning, you cannot logically raise the age in section 366A from 16 to 18. I request Government at an early date to bring in a Bill for the revision of the Penal Code, and let the country pronounce its opinion, and as I understand the object of the amendment, which is to follow, is not to pass this Bill till the opinion of the whole country is ascertained, I give my conditional support to it.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadian): Sir, I give my hearty welcome to this Bill. Anything that is done to save the honour of womankind of India is a subject of the greatest importance to us. I have not been able to follow the arguments of my Honourable friend Sir Maneckji Dadabhoj in opposing the Bill

The HONOURABLE SIR MANECKJI DADABHOY: I am afraid perhaps I was incoherent.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Because his voice is not generally audible to back benches. But I must say that the provision for raising the age-limit from 16 to 18 should be welcomed by all.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadian): Sir, I welcome this Bill as it comes from the Legislative Assembly. I do not know whether I would be in order in referring to the division lists in that House, but I want to do so because my friend Sir Maneckji said that it was a snatch division. The division was 43 to 40, and the whole question was fully debated upon, and no less than 6 or 7 Hindu Members took part in it. It is therefore a calumny to say, Sir, that no Hindu approves of this Bill. If you look at the voting list, you will find that while 22 or 23 non-official Hindus voted for Mr. Joshi's

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amendment; about 12 non-official Hindus only voted against it. So the majority of non-official Hindus were in favour of Mr. Joshi's amendment. There was a time, Sir, when Government were bold enough to give their lead to social reform movements and take up the movement in right earnest. Those days are gone. We now find Government is too cautious, too circumspect, as regards social reform movements. So long as we had not the constitutional reforms and so long as the old Imperial Council was not supposed to represent the voice of the country, Government might have been justified in being overcautious, but since the Assembly, which, we take it, is a democratic body and which represents the public opinion of India, and since a majority of the Members of that body have after hearing arguments on both sides come to a final decision, we expected Government to accept their decision as final. I am not going to speak on the amendment, because I propose to speak on it later on. But I want to make it quite clear that Hindus as a class—I am talking of those Hindus who hold advanced views in these matters,—Hindus welcome this Bill, and I quite agree with my Honourable friend Rai Bahadur Ram Saran Das that when the question of the honour of Indian womanhood is concerned, we are all at one to support any measure that protects that honour.

The HONOURABLE SIR MANECKJI DADABHOY: Nobody questions it.

The HONOURABLE MR. LALUBHAI SAMALDAS: I am glad that my friend Sir Maneckji Dadabhoy has given his personal explanation. I expected that belonging to a community which is far in advance of us in matters of social reform, he would give us a lead. My friend says that the Bill is an illogical one. Let Government make it logical if that is so. I am not a lawyer, so I cannot say whether it is logical or illogical. What I want to say is that the Bill as passed by the Assembly represents the view of the majority of Hindus as was shown at the time of voting in the other House.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, I think that in the mind of my friend the Honourable Sir Maneckji Dadabhoy there has been a tussle between the lawyer and the social reformer, and I see that the lawyer has dominated over the social reformer. We may all agree that the law as it would stand, if the Bill is passed as it is, might give rise to some inconsistencies in the law of the land. But I do not want that social reform should be impeded simply because of certain legal subtleties and inconsistencies. Social reform and social adjustment always proceed on these lines. We cannot be always consistent in matters of social reform, and if by means of these inconsistencies we can take one step in advance in social evolution and social adjustment, I think that inconsistency is to be preferred to the present state of stagnation. It will be possible for Government to get over the inconsistency later; and I would rather have the inconsistency when we can secure social advance such as is proposed in the Bill than have consistency without it. I therefore support the Bill.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI (Madras: Non-Muhammadan): Sir, I had thought that as the Honourable the Home Secretary had of design put off discussion on this aspect of the matter,

Honourable Members who followed him might have observed the same restraint, but apparently we are going at this stage to discuss the question of age as well.

The HONOURABLE MR. LALUBHAI SAMALDAS : I did not, Sir.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI: Here I have a word of personal explanation to offer. It fell to me in 1921 when representing this country at the Assembly of the League of Nations to signify my assent, but with reservation as to age, to this Convention. At the time that the Convention was brought up for our consent, the age of 16 ordinarily remained as the majority age in our Code except for the statutory requirements which brought in 18. I thought it would not be right of me, as representing India, at that time to give my consent to the age of 21 without, in the first place, knowing how far Indian public opinion would support it and, in the second place, without Government taking measures to bring the general penal law on the subject into conformity with the new requirement. I therefore made a reservation as to age and, when I made that reservation, I found other eastern countries, Japan, Siam and China, doing the same. We, therefore, stood in that position at that time, but, personally, Sir, I have no objection whatever to raising the age from 16 to 21. I have explained that, notwithstanding that personal opinion of mine, as the representative of India I did make the reservation, but since I am talking in a legislative body in India, where the subject is opened up, I am at perfect liberty, I think, to support the present measure which does not still conform to the world requirement and falls short of it by three years, for we propose only to raise it to 18 and not to 21. I know, Sir, as well as the Honourable Sir Maneckji Dadabhoy, what a tremendous opposition was raised in this country to raising the age of consent before. I remember being myself a party in my younger days to the breaking up of a public meeting which sought to resist the raising of the age of consent. I know too that it is impossible for us to legislate on these matters much in advance of public opinion, but the Assembly has taken a deliberate judgment in the matter. I do not think, Sir, it was a snatch vote upon which the Government have come to us with this new proposal. It was a fully discussed matter and I am glad for one to give my consent to this Bill. I am not the less glad for the reason that the Government have not been quite as enthusiastic as the majority of the Assembly. The Government naturally felt a little hesitation in legislating on the matter piecemeal. It was pointed out, and I think with great cogency, that the general penal law must be brought into conformity with the new requirement before this law could be brought into force and, in order to gain time, therefore, for that purpose, we have got this amendment which postpones the commencement of this Act. I think the Honourable Sir Maneckji Dadabhoy may rest assured that that is a sufficient safeguard and that, when we put the other things before the country, the country will have abundant opportunities of telling the Legislature what exactly it would wish and what exactly it would tolerate. No harm, therefore, is done by our giving our consent to this Bill at this stage, as every effort will be made to put the legislative system of the country on a proper footing in exact conformity with public opinion.

The HONOURABLE SIR DINSHAW WACHA (Bombay: Nominated Non-Official): Sir, I am one of those who think that social reforms are better accomplished from within rather than from without, and that legislation is the last thing which should go to stimulate social reform. This

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is a very gruesome topic to talk upon in public, and I have my own opinion on the subject. I will say one thing only and it is this, that no doubt the intentions of the Government and of the Assembly are very good and that they mean well. But what this Council should see is what may be the effect of this legislation eventually on morality amongst the population of India. That is the crucial test. Sir, two or three years ago there was a good deal of discussion in the Bombay press on this subject. Happening to be in Simla in 1920 my old friend Mr. Booth-Tucker, of the Salvation Army, had a long conversation with me about it; in fact he particularly invited me to hear my opinion on the subject. His organisation, as you know, is a very widespread one and I think that Mr. Tucker was in possession of very excellent information of a more authentic character from his Intelligence Department in many respects than anybody else. I have always respected his views on Indian social matters because they are very authentic and minutely investigated before being put forward. Well, the opinions I then expressed to Mr. Booth-Tucker are the opinions I still hold. The question is whether amongst the larger portion of the Hindu and Muhammadan population the age of 18, if adopted, will do any good. My belief is that it will prove of doubtful utility, at least so far as I can anticipate. I do not want to be dogmatic on the subject, but I am of opinion that it is of very doubtful utility, for the reason that, as Mr Booth-Tucker himself told me, clandestine prostitution will be greatly encouraged rather than discouraged. Taking into consideration the standard of morality amongst the large population it is a question whether this Bill will have the beneficent effect which its authors and the Government expect. I do not want to oppose the Bill, neither am I going to vote against it. I shall rather remain neutral; but I myself have grave doubts as to the utility of this legislation. In the last instance the Council should remember that in every age moral standards rise and fall and the morality of the age is the reflection of the moral condition of its society. Therefore, if a society has a certain low moral standard, it signifies that the morals of society themselves are low. To go into the question of the moral standard and morals of the society in India at the present time is a very large and complicated question, which we must be very careful to enter upon. Whatever that may be, it is doubtless a physiological, sociological and philosophical question into which I do not want to enter. My own belief is that this measure may prove of very doubtful utility but I shall be only too glad if my present views are falsified and if eventually the legislation that may be passed to-day proves successful. That, Sir, is my opinion.

THE HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL-ULLAH KHAN (United Provinces: Nominated Non-Official): Sir, I cordially and strongly support this Bill. The question of age is one that very little concerns women in India. The state of women in India is poor and deplorable in the matter of education and they are all hidden in *pardah* so that they cannot understand what is good for them. So, the more protection they have the better. Therefore, I strongly support this Bill and I think the age of 18 is quite right.

THE HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern: Non-Muhammadan): Sir, I give my hearty support to this Bill and, so far as my information goes, it will be welcomed throughout the whole country. There was a time when people were very conservative in the

matter of social reforms; but what we find to-day is that everywhere there is a cry for social reforms. I quite endorse the opinion that has been expressed by the Right Honourable Srinivasa Sastri that, when the Age of Consent Bill was under consideration, a good deal of opposition was raised to it, but, since that time, the angle of vision has changed and everywhere I find that people are going to raise the age in marriages and the age relating to offences against women in the Penal Code. I therefore think the proposal to increase the age from 16 to 18 is a very good one and I heartily support the measure.

The HONOURABLE MR. J. CRERAR: Sir, I do not at this stage propose to answer in detail all the arguments that have been brought forward on my immediate motion. Those with which I am directly concerned are really more relevant to the amendment which I shall shortly move. I desire only to make one observation with regard to what fell from my Honourable friend Mr. Lalubhai Samaldas, who accused Government, I think, of lack of enthusiasm.

The HONOURABLE MR. LALUBHAI SAMALDAS: Over-cautiousness.

The HONOURABLE MR. J. CRERAR: Lack of enthusiasm, I think, was the expression. If I misunderstood the Honourable Member, I accept his correction; but he certainly imputed to Government something in the nature of a luke warm attitude towards social legislation, and deplored the absence of an attitude of boldness and audacity with which he credited previous Governments. Well, with regard to that, I have only two observations to make. The first is that after all this Bill did come before the Legislature on the motion of the Executive Government; and in the second instance, if Government have deemed it desirable to adopt a more deliberate and more cautious attitude with regard to so serious a measure, they have received a very considerable measure of support both in the Assembly and in this House to-day. I do not propose to say anything further at this stage and I commend my immediate motion to the House.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to give effect to certain Articles of the International Convention for the Suppression of the Traffic in Women and Children, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

The HONOURABLE MR. J. CRERAR: Sir, I move as an amendment:

"That clause 1 be re-numbered sub-clause (1) of clause 1 and that to that clause the following sub-clause be added, namely:

'(2) It shall come into force on such date as the Governor General may, by notification in the Gazette of India, appoint.'

The HONOURABLE THE PRESIDENT: Did I hear the Honourable Member correctly? Is it the Governor General or the Governor General in Council?

The HONOURABLE MR. J. CRERAR: The Governor General, Sir.

In the few words which I have to say on this amendment I am afraid I may incur once more the charge of my Honourable friend Mr. Lalubhai Samaldas of undue caution, because as a matter of fact I propose to restrict myself almost entirely to one issue, the issue which is the principal object of my amendment, and that is, that Local Governments and the country

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at large should be given a further opportunity to consider the provisions of the Bill. In my opening speech I adverted to the fact that the terms in which Local Governments were consulted were very general terms, relating more particularly to the desirability of India's adhesion to the Convention being given. The very important question of the age at which consent becomes a material fact was considered as a rather subsidiary matter. Moreover the Local Governments were not then in possession of the precise form of the legislation which we proposed to enact. They had not the Bill before them, either the Bill as it went before the Select Committee or the Bill as it was laid before or as it has been amended by the Assembly.

Now, Sir, I think the House will agree with me that it is highly important when considered opinions in this matter are to be given they should be based on an informed estimate of the precise effect upon our penal legislation of this Bill and its very large implications. I do not propose to go over the whole of that ground. Nor do I propose to express any opinions, either personally or on behalf of Government, on the merits of the question as to whether the age of 16 or the age of 18 is the more appropriate. I deliberately refrain from doing so, Sir, because I think Honourable gentlemen will agree with me that on the eve of our consulting Local Governments it would be highly improper for me to make any express statement of opinion on that point. Nor do I desire to recapitulate certain obvious but nevertheless very important considerations, at too great a length. They were stated by the Honourable the Home Member in the Assembly, and his words have been quoted by my friend the Honourable Sir Maneckji Dadabhoy. However desirable an enactment designed to forward the cause of social progress may be, however convincing the case for such a measure, the Legislature will nevertheless be taking a rash course if it precedes by too large an interval the general volume of public opinion on which, above all in questions of this nature, both the Legislature and the Executive Government must rely if they are to be in a position to put their law effectively into operation. Well, Sir, I think that is a consideration which in itself makes it desirable that some further consultation of opinion with regard to the question in the more express form in which it now arises should be undertaken. We cannot overlook the fact that in a general measure of legislation of this kind, we are legislating for communities in almost every stage of civilisation—from the highest, certainly, I will not say to the lowest but certainly to almost the lowest stages of civilisation. You must in equity and fairness consider the effect which penal legislation of this kind will have on those communities whose
 12 noon. customs and whose public opinion have not kept pace with average public opinion, still less with the public opinion of the most advanced communities. It was pointed out in another place that it was by no means an uncommon thing to find in primitive tribes like the Gonds, the Khonds and others that sexual relations take place between young men and young women below the age of 18 which are not reprobated by the public opinion of those communities, but which nevertheless, if this Bill in its present form is passed into law, would set up penal offences, the punishment for which may extend to ten years' imprisonment. Well, Sir, I am not saying this either as deprecating the ultimate adoption of this age or as a reason for not moving further in the path of progress. But it is a reason for considering the matter in all its various aspects. It is mainly on considerations of that kind that Government propose to undertake a

further consultation of public opinion. I should also like to point out to Honourable gentlemen another consideration of great importance. There are at least two alternatives involved in the further disposal of this measure; there is the question whether the age-limit adopted by the Assembly should be confirmed or not; there is another question, and that is the question whether the age prescribed for cognate offences in the other sections of the Penal Code should be modified in order to bring it into conformity with the provisions of the present Bill. Both those questions will be questions on which opinion will be required.

Now, Sir, my Honourable friend Mr. Lalubhai Samaldas and I think other Honourable gentlemen also have very strongly affirmed that the decision in this matter of the Legislative Assembly does represent the public opinion outside the Legislature. I am not here concerned to question whether that is so or not; I merely say that if, on a further consultation with the Local Governments and a further exploration of non-official opinion, that opinion is confirmed we could then proceed with a much greater degree of confidence to put this measure on the Statute Book. I am not urging this in any spirit of antagonism to the measure before the House; I am merely wishing to impress upon the House the desirability of some deliberation before we place a penal enactment of this kind on the Statute Book, the desirability of obtaining that confirmation and corroboration which Honourable gentlemen who support the Bill as passed by the Legislative Assembly are so confident will be obtained from the country. That would be a most valuable asset to possess and by all means let us obtain it.

THE RIGHT HONOURABLE V. S. SRINIVASA SASTRI: Sir, the last speech of the Honourable the Home Secretary has left me in some doubt as to how I should vote on this motion. I had hoped that Government had overcome their hesitation in the matter and were going to accept the vote of the Assembly. But apparently there is still some reservation in the mind of Government and they intend in addressing Local Governments to open up this question again along with the references to other sections of the Penal Code. I think, Sir, that I cannot approve of that course, and it is because I think I cannot approve of that course that I proceed to put a question—what would be the effect of this Council throwing out the proposed amendment? I am not a lawyer, and have no clear opinion on the subject. I suppose if no reference was made to the time when an Act should take effect the implication would be that it would take effect on the Governor General's assent being given to it. If the intention of this Government is to go behind the vote of the Assembly and to find out by a reference to the public and the Local Governments whether they approve of the age of 18 in this Bill, then I should think I would rather vote against the amendment.

THE HONOURABLE SIR HENRY MONCRIEFF SMITH (Secretary: Legislative Department): Sir, when my Honourable friend moved his amendment, you yourself drew attention to the fact that the amendment proposed to vest the Governor General, as distinct from the Governor General in Council, with the power to appoint a date on which this Act should come into force. It was no doubt in your mind, Sir, that powers of this nature to appoint a date for commencement of legislation are as a matter of practice and for obvious reasons vested in the Government and not in the Governor General. At the time, since I had nothing to do with the drafting of the Bill or of the amendment, I was not aware whether there

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was any deliberate intention to make a departure from the usual practice, but I have since been in communication with the draftsman and I understand that so far as his instructions went there was no intention to depart from the usual practice. He suggests that possibly there is a misprint in the List of Business; however that may be, we have the amendment as it stands on the paper and I would therefore, with the indulgence of the House and without any notice at all, propose to move an amendment to my Honourable friend's amendment to the following effect:

"That after the words 'Governor General' the words 'in Council' be inserted."

The HONOURABLE THE PRESIDENT: Does the Honourable Mover of the amendment, who is also in charge of the Bill, object on the ground of want of notice?

The HONOURABLE MR. J. CRERAR: No, Sir.

The HONOURABLE THE PRESIDENT: Further amendment moved:

"That in the amendment originally moved, after the words 'Governor General' the words 'in Council' be inserted."

That amendment and that amendment alone is at present open to discussion by the Council. I may point out that I drew the attention of the Government to this point not merely for the reason my friend the Honourable Sir Moncrieff Smith has mentioned, but for this reason also that this Council has power by Resolution to make recommendations to the Governor General in Council; it has no power to make recommendations to the Governor General.

The HONOURABLE MR. LALUBHAI SAMALDAS: Sir, I do not object to the insertion of this amendment and that only for one reason. My Honourable friend Mr. Crerar gave two reasons, one of which I do not think was . . .

The HONOURABLE THE PRESIDENT: I do not wish to interrupt the Honourable Member, but the only point now before the Council is whether the words 'in Council' should be inserted in the original amendment or not.

The amendment was agreed to.

The HONOURABLE THE PRESIDENT: The amendment before the House therefore is that the following sub-clause be added, namely:

"(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint."

The HONOURABLE MR. LALUBHAI SAMALDAS: I am sorry, Sir, I did not quite catch the way in which you put the amendment, and that hence I began to refer to the original amendment. As I was going to say, I am prepared to accept the amendment but not for both the reasons that the Honourable Mr. Crerar gave us. He said that the Government of India wanted to consult Local Governments on the subject. He further said that the Local Governments were consulted in a general way but not particularly for the clause as it stands now. May I refer him to the various replies received from the Local Governments? First I shall quote the

reply of my own Government of which, I believe, my Honourable friend was a Member at that time. Bombay says:

"Opinions elicited indicate strong preponderance in favour of acceptance for India of age of 21 adopted by European parties to Convention. Governor in Council concurs and recommends adhesion to Convention without reservation for such an age limit for India."

That is the opinion of advanced Bombay. Now, what do the Central Provinces, which my friend Sir Maneckji represents, say? They say that "the Judicial Commissioner considers that there is no possibility of objection to the raising of the age of consent to 21 years". Even the Central Provinces which, I hope my friend Sir Maneckji Dadabhoy will agree, is not as forward as Bombay, even they say that the age should be 21. Some of the provinces say that the age should be 18 and some say it should be 21. I am not therefore diffident as regards the replies from the Local Governments when a direct question is put as suggested by the Honourable Mr. Crerar. Personally, I think such a question is not at all necessary. I take it that there is a general agreement amongst the majority of the Local Governments in favour of increasing the age-limit from 18 to 21 and therefore it should be accepted as applicable to this clause also. The only reason for which I am prepared to support this amendment is that Government may have an opportunity of amending the other clauses in the Penal Code so as to bring them into conformity. (*The Honourable Sir Maneckji Dadabhoy*: 'Hear, hear'.) My friend Sir Maneckji Dadabhoy says, 'Hear, hear,' but I want to make it quite clear that I am not in favour of levelling down but am in favour of levelling up, and I hope my friend Sir Maneckji Dadabhoy will support me in getting that done.

THE HONOURABLE SIR MANECKJI DADABHOY: Sir, I cordially support this amendment, and I congratulate the Honourable the Home Secretary on the great restraint, moderation and impartiality with which he has placed the case in support of this amendment. I am afraid, Sir, there is some misunderstanding with reference to our objection. I never said that I am not in favour of raising the age-limit, I never said a word to that effect. I said that I would cordially welcome such an innovation if the public opinion demands that innovation, that reformation; I said I would cordially welcome it and vote for it, but there seems to be some misunderstanding as regards the interpretation of section 866. We are not legislating in this section the age of consent, as some Members seem to think. We are punishing a procurer, a go-between, who decoys young women of 16 and under and we bring him within the purview of that section. The point is that while other serious offences such as hiring of women, seducing women under 16 are only punishable under the Penal Code, you are raising the age-limit here, and that was the objection which was raised, but unfortunately it was not comprehended by some of my friends. What does the present amendment seek to do? It does seek, as the Right Honourable Srinivasa Sastri has put it, to reserve the power of Government to reconsider the matter, but it is admitted that the issue before the Local Governments when the Bill was referred to them, was not the specific issue, but the Bill was referred in general terms, and it is no use my friend Mr. Lalubhai Samaldas quoting the authority of the Bombay Government or of the Judicial Commissioner of the Central Provinces in support of his contention. We want the authority of his own countrymen. Has he drawn the attention of the Council to the views

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expressed by any public bodies in India, or of any Hindu Associations or Hindu gentlemen of experience who are in a position to express their opinion? Of course, I admit that one or two people have expressed their views, but that is not enough. We want the general opinion of the country as a whole, and I say if the public opinion wants it, let us certainly change the law, and I shall willingly support any alteration in that law. At the same time I would suggest that Government should remove the inconsistency which prevails in other sections and make the whole Penal Code logical and sensible and one that will be acceptable to reasonable judgment. That is my position. I do not object, in fact nobody really objects in this Council the enhancement of age-limit. Nothing is lost by accepting this amendment. What I say is, if the volume of public opinion is in favour of it, then Government will be in a much stronger position to enforce this Bill than they would otherwise be. But if the Government has not got at their back the volume of public support, what will be the result? The Bill will be rendered nugatory, and it will have no force. Offences will be committed, and there will be no detection of those offences, because discovery of those offences will be difficult as there will be no support or co-operation from the large body of public opinion in this matter. I say therefore the demand put forward by Government is exceedingly proper and I hope the Council will accept it.

The HONOURABLE MR. LALUBHAI SAMALDAS: May I rise to make a short personal explanation, Sir? I merely want to draw the attention to the fact that the reply of the Bombay Government says that public opinion was elicited.

The HONOURABLE SIR MANECKJI DADABHOY: Very doubtful.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Sir, I am a layman, and so I have not been able to quite follow the aim which the Honourable the Home Secretary has in moving this amendment. As far as I can gather, it means that the Bill which has been passed by the Legislative Assembly and which is about to be passed by this House should not come into force until the opinions of the Local Governments are received. As far as I know, the Local Governments are in favour of fixing the age at 16, and if the Government thinks it necessary to ask their opinions for increasing the age to 18, I think it would be much better if the consideration of this Bill be postponed until such time as all the opinions of the Local Governments are received. I think it does not look well for Government to get this Bill through the Assembly and here and then to evade its enforcement by a new and novel method. As far as India is concerned, morality is its greatest asset, and anything which we can do to maintain its supremacy would be welcomed by all classes of people, so there should be no delay in taking steps in this direction. In case I am in order I would suggest that the consideration of this Bill should be postponed

The HONOURABLE THE PRESIDENT: The Honourable Member is distinctly out of order in making his motion when we are on the detailed consideration of the Bill. He should have moved it on the motion that the Bill be taken into consideration.

The HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Then, Sir, I oppose the amendment.

The HONOURABLE MR. V. G. KALE: Sir, so far as the merits of this amendment are concerned, I do not think that I should support it. I do not see why the Government should move this amendment when it should be their object to give effect to the public opinion such as has been expressed in another place and as may be expressed in this House. If we are asked to state what our opinion is as representing the opinion of the large community outside, on this matter, I think the country at large will support us if we consent to the raising of the age from 16 to 18. What is it that the Government seeks to attain? Do they want that the judgment of the Assembly and also of this House should be revised? If that is the object, then I certainly oppose the amendment. I do not see what Government is going to gain by proposing this amendment. If the law as it will be made if this Bill is passed is found unsatisfactory, or if there are any inconsistencies which have got to be rectified, it will be open to the Government to take such steps as may be found necessary for the purpose but confining ourselves to the question which has been raised by this amendment, namely, postponing the reform which has been already approved of by the other House, I think we should not support the amendment.

The HONOURABLE SIR DINSHAW WACHA: Sir, I think I will support the amendment. It is simply a question of the Government in a matter of this kind moving very cautiously, and I think the Government are doing the right thing in further eliciting a larger body of reliable and respectable opinion than they have done hitherto. Whether that opinion will go against the Government or whether it will be in favour of it is a different question. Let the Government first of all elicit a larger body of respectable opinion than it has done hitherto. That is the right thing to do.

Another thing which I fail to understand is why we should all try to follow the command, or whatever you may call it, of the League of Nations. What are these Conventions? Why should the League of Nations always try to goad India. The conditions of India are vastly different to the conditions of Europe and of the far western countries, and why should we have to apply the terms of Conventions drawn up by the League of Nations to Indian labour and Indian social conditions? I have referred to this before and I refer to it to-day again. I think the Government of India ought not to be guided or blindly carried away by whatever the League of Nations says. India is only a single nation in the League of Nations; and arrayed against her there are perhaps 21 other nations. Why should we follow like sheep the lead given by the League of Nations? I condemn that League because it knows nothing of India and those who represent India on that League know nothing about India. They give their own personal opinions.

Then the Right Honourable Srinivasa Sastri spoke about the constitutional question. That is a different matter, whether the Assembly will agree to our amendment and whether they will take further steps, I do not know. I am not going into the constitutional question at this stage at all; but I do believe that the Government are doing the right thing in trying to get a larger body of public opinion than they have done hitherto. My own view, practically speaking, is to keep the age at 16 and try to make severer your Penal Code. Let the punishments for the social offence be so deterrent as to effectually discourage this disgusting girl

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traffic. Mr. Tucker told me of things that are being done with impunity and in defiance of legislation now prevailing. I am afraid to tell the House exactly what he said. It is so shocking that I will not repeat them to the House. But he was very emphatic on this subject. What he wanted was a severer and more drastic punishment for the rascals who seduce and traffic in poor helpless girls under 16. Make the punishment so severe and deterrent as to greatly encourage morality than lower it; that will be far better than this sort of humbug.

The HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN (North-West Frontier Province: Nominated Non-Official): Sir, I will support the amendment on the ground that the state of civilisation in every province is not the same and some provinces may object to this; so it would be much better that the opinion of the Local Governments should be ascertained before any action is taken, because there may be some provinces and some people who may not agree to it. It is much better that their opinion should be taken and it should be definitely known what they think of this Bill. We are legislating for the whole of India and not for certain provinces. My Honourable friend Mr. Lalubhai Samaldas quoted the opinion of Bombay. Well, I do not think that the opinion of Bombay will have any great weight in the North-West Frontier Province. We should like that inquiries be made of all Local Governments and, after those inquiries, if any action is taken, my province will have no objection. But what we want is that these inquiries should take place and that people should be able to give expression to their opinions.

The HONOURABLE MR. V. G. KALE: Your province has supported it.

The HONOURABLE MAJOR NAWAB MOHAMED AKBAR KHAN: I am supporting the amendment of the Home Secretary and opposing yours. The opinion expressed by my province was in connection with the Bill for the suppression of the traffic in women and children and not on the present Bill.

The HONOURABLE THE PRESIDENT: The Honourable Member must address his remarks to the Chair.

The HONOURABLE DIWAN BAHADUR S. M. ANNAMALAI CHETTIYAR (Madras: Non-Muhammadan): Sir, I shall only read the opinion from the North-West Frontier Province. It runs as follows:

"The majority of Indian opinion consulted in this province would appear to favour an age limit of 18 years, but in most cases the suggestion is offered with diffidence, and I am satisfied that a higher age limit would receive support. I consider that in this matter conformity with the practice of other countries is desirable for many reasons, and I recommend, therefore, that the limit be fixed at 21 years."

The HONOURABLE LALA SUKHBIR SINHA: Sir, when I first looked at this amendment, I thought it was a minor amendment because it sought to provide that the Governor General in Council may appoint a date on which this Act should come into force; but the speech made by the Honourable the Home Secretary is quite different. He has said that the Government of India is still doubtful as to whether the Bill, if passed into law, should be brought into force and that the Government of India will consult Local Governments and local bodies again about this age limit. If some Local Governments or some local bodies differ from this, what will be the position of the Government of India or what action the

Governor General in Council will then take is a question. The amendment only seeks to provide that the Governor General in Council will appoint a date on which this Act will come into operation, but, if the Local Governments differ, then what will be done by the Government of India? That is a question to which I should like an answer from the Home Secretary. If he means that by this amendment all that is intended is that the Governor General in Council will fix a date on which this Act will come into force, then I have no objection, and I will give my support to it; but, if he means to say that the Government of India will again take opinions from the Local Governments, who will in turn consult local bodies, and then the Government of India will take action, I strongly oppose the amendment and differ from his opinion.

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL-ULLAH KHAN : Sir, I should like to ask the Council whether a similar provision is not to be found in some other cases. In many Acts I have seen a similar provision to the effect that the Act shall come in force when the Governor General in Council will declare it to be so.

The HONOURABLE THE PRESIDENT: The Honourable Member must not conduct conversations with other Members. He must address his remarks to the Chair.

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL-ULLAH KHAN: Anyhow, I do not see any harm in making this provision and it does not mean that the Governor General in Council will stop this measure altogether. It will give some time before this law is declared by the Governor General in Council to come into force. All that I understand from the Honourable the Home Secretary's speech is that Government wants to make more certain that this measure is wanted by the country. They are not ignoring this measure; they are not throwing it into the waste paper basket. After they ascertain the public view fully they will declare when it shall come into force. All that they want is more information.

With these remarks I support the amendment.

The HONOURABLE MR. J. CRERAR: Sir, I shall first reply to the questions put to me by my Honourable friend Lala Sukhbir Sinha. He asked me what the intentions of Government were in proposing a further reference to Local Governments and what they intended to do when they received those opinions. I think I have already made clear what the purpose of the reference to Local Governments was; but I will elaborate that a little, especially in view of what fell from my Honourable friend Mr. Lalubhai Samaldas. He indicated that I had not quite correctly represented the facts in my allusion to the first reference that was made to the Local Governments, and that as a matter of fact they had replied on the matter of the age of consent. What I really intended to convey was this, that although the age of consent was undoubtedly an important item in the question we laid before Local Governments on the first occasion, what we particularly desire now is that Local Governments should have the Bill before them, giving the precise effect of the penal measures proposed and showing incidentally its effects on and its relation to the existing criminal law. In other words, the case will now be put in a much more complete and concrete form, and the opinions to be obtained are therefore

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likely to be more relevant and useful to the Government of India and the Legislature in their further proceedings. That is the object of the reference.

As to what the Government of India will do on receipt of those opinions, well, naturally a very great deal will depend upon the nature and purport of those opinions; but if, as many Honourable gentlemen so confidently anticipate, and I daresay with reason, if public opinion elicited on this subject is preponderantly in favour of the measure in its present form, then I have no doubt the decision of the Government of India will be very materially influenced by that consideration.

My Right Honourable friend opposite (Mr. Sastri) said that he felt some hesitation in voting for my amendment having heard the reasons I adduced in support of it. In particular I understood him to urge the objection that a conclusion of the Legislative Assembly should not be further subjected to the consideration of public opinion. Sir, I have the utmost respect for the authority and the dignity of the Legislative Assembly but I cannot go quite so far as to say that the conclusions of that Chamber are so sacrosanct that they are not even to be submitted to the public opinion from which the dignity and authority of that Chamber are themselves derived.

The HONOURABLE SIR MANECKJI DADABHOY: Or this Council.

The HONOURABLE MR. J. CRERAR: I was about to add, Sir, that if these decisions of the Legislative Assembly are to this degree sacrosanct, what of the functions that are vested in the Council of State? If these decisions are not to be subjected to review at all, not even by this Council, why, are we here? I go further and ask, if the decisions of the Legislative Assembly and the Council of State are in no circumstances to be subjected to the touchstone of public opinion outside the Legislature, what becomes of the democratic basis on which both these Houses have been constituted? Indeed, Sir, I think my Right Honourable friend and those who have supported him show a rather unnecessary solicitude for the sacrosanctity of the decisions of the Legislative Assembly and for the susceptibilities of that body. I desire to point out that the Honourable the Home Member; speaking on this matter in the Legislative Assembly, made perfectly clear to that Chamber the course which Government proposed to take in regard to this measure and in particular with regard to the amendment which I have now moved. That question was considered by the Legislative Assembly, and so far from showing any reluctance to that course being taken, so far from showing a reluctance, which I confess would have been a little strange, to having their opinion corroborated by the overwhelming weight of public opinion outside; so far from showing any reluctance of that kind, the motion moved by the Honourable the Home Member was adopted without a division and with hardly a dissenting voice. If that is so, Sir, if I have shown that we are not really trenching upon the legitimate prerogatives of the Legislative Assembly in employing our own prerogatives, if I have made out a reasoned case for the further exploration of public opinion on this important question, then I venture to say there is very little that can be urged against the amendment which I now commend to the House.

The HONOURABLE THE PRESIDENT: The question is:

"That the clause under consideration be re-numbered sub-clause (1) of clause 1 and that to that clause the following sub-clause be added, namely:

'(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, appoint.'

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Clauses 2 and 3 were added to the Bill.

The HONOURABLE MR. J. CRERAR: Sir, I move as an amendment that the following clause be added after clause 3:

"In the Second Schedule to the Code of Criminal Procedure, 1898, after the entry relating to section 366 of the Indian Penal Code the following entries shall be inserted, namely:

366A	Procurator of minor girl.	May arrest without warrant.	Warrant	Not bailable	Not compoundable.	Imprisonment of either description for ten years and fine.	Court of Session.
366B	Importation of girl from foreign country.	May arrest without warrant.	Warrant	Not bailable	Not compoundable.	Imprisonment of either description for ten years and fine.	Court of Session."

This, Sir, is an amendment which is necessary in order to make good an inadvertent omission in the passage of the Bill in the Legislative Assembly. Certain new offences have been created by the Bill and it is necessary to make provision in the second Schedule of the Code of Criminal Procedure with regard to the consequential proceedings. This has been done entirely in accordance with the treatment of the cognate offences already appearing in that Schedule and I do not think it is necessary for me to give any further reasons.

The motion was adopted.

The Preamble was added to the Bill.

The HONOURABLE MR. J. CRERAR: Sir, I move:

"That the Bill, as passed by the Legislative Assembly and amended by the Council of State, be passed."

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI: Sir, at the outset I will say that I am going to vote in favour of this motion; but having voted against the amendment which is a very important part of this Bill, it is incumbent on me to say why I vote in favour of this Bill. My objection is certainly not drastic; it does not go to the root of the Bill. But I must take exception to the course which the Executive Government propose to adopt in respect of this measure. After the vote of the Assembly it is not, it certainly seems to me, regular for the executive Government to try in an indirect manner to resubmit it to public opinion. Some constitutional importance does attach to that procedure. I do not say that the decisions of the Legislative Assembly or of the Council of State or of the Assembly and the Council put together even when they completely agree, are sacrosanct at any time from public opinion. They

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are always liable to the play of public opinion. Nothing is final; but it is a question whether, after the executive Government had tried to oppose this Bill in a House and the House had recorded its judgment in a piece of legislation against the executive Government, it is correct for the executive Government from a constitutional point of view to seek to take the opinion of the public upon this subject. Sir, I can understand such procedure, such hesitation, such delay in a matter where a House passed a Resolution which is not binding on the executive. This is a piece of legislation and it appears to me that the regular course for the executive Government is, if they are still hesitant as to the wisdom of the measure, to try and influence the action of the Governor General when the time comes for his giving assent to the Bill. It is for him to say whether it is in accord with the soundest principles of legislation and whether this legislation has satisfied the sound principle of conformity to public opinion. The executive Government in this particular matter took a view adverse to the vote of the Assembly; they were beaten on it; they now come to the Council and ask the Council's judgment upon it; but they ask it in a very peculiar way; they ask the Council to confirm the judgment of the Assembly, because they do not propose to change 18 to 16; they do not propose to put the age back where it was before the Assembly voted upon it; but they ask the Council to confirm the judgment of the Assembly and at the same time inform the Council that it is their intention to resubmit the vote of the Assembly, confirmed by the vote of the Council, to public opinion. That, Sir, it seems to me to be a course the irregularity of which requires more justification than the Honourable Home Secretary has shown. It is from that point of view that I objected to that amendment and still object to it; nevertheless I allow the Bill to go forward because I am of opinion that when Government consults the Local Governments and public opinion as to the desirability of bringing the other sections of the Penal Code into conformity with this, they will anyhow be indirectly raising the issue, and it does not matter one whit from the point of view of the substance of the matter whether they do it one way or the other; but I must protest against the way in which the executive Government, having taken the vote of the Assembly and requested the Council of State to confirm that vote, still have a mental reservation and wish to go to the country and to the Local Governments on the subject matter of that vote.

The HONOURABLE DEWAN BAHADUR V. RAMABHADRA NAIDU (Madras Non-Muhammadan): Sir, it also appears to me that the procedure that is going to be adopted by the Government so far as the amendment is concerned is a novel one and I quite endorse the opinion of my Right Honourable friend Mr. Srinivasa Sastri.

The HONOURABLE MR. B. N. SARMA (Revenue and Agriculture Member): Sir, I fear that the Right Honourable Mr. Sastri was led to make the remarks that he has made because he has not quite followed the procedure that was adopted in another House. The Government very carefully considered their position with regard to this Bill when the Legislative Assembly adopted the age limit of which there was some reason for the Government of India to entertain—I will not say a doubt—but an apprehension as to whether that correctly represented the views of the Local Governments who have to put the law into force and the views of the public who would have to submit to the Bill as passed by the Legislative

Assembly. It was perfectly open to the Government and to the Honourable Member in charge of the Bill not to have moved any motion whatever for the passing of that measure, but the Government did not want to adopt that attitude. There was no question of a mental reservation such as has been suggested. They had distinctly stated through the Honourable Home Member to the Assembly that it was subject to this condition laid down in the amendment now proposed in this House that they were making that motion. The Government might not have made that motion asking that the Bill should be passed into law; they might have dropped it, if there was any reasonable ground for the Assembly to have said "No." It was distinctly intimated to the Assembly that it was on that understanding and that understanding alone that the motion for the passing of the Bill was made. There were certain remarks made, but the Assembly agreed or at any rate did not demur to the passage of the Bill on that condition which was laid down by the Home Member

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI: Had the Assembly an opportunity of stating its opinion on that condition?

The HONOURABLE MR. B. N. SARMA: The Members of the Assembly, Sir, did make their remarks after the Honourable the Home Member gave the House the views of the Government and it was after a discussion on the subject that the Bill was passed unanimously—I take it—by the Assembly. Therefore, there was no question of any unconstitutional or irregular method having been adopted by the Government. The only proper course would have been either to have dropped the Bill or to have promised further consideration in the manner suggested by the Honourable the Home Member. Sir, having been attached to the social reform movement for a large number of years, I can readily understand and appreciate the force of the feeling exhibited both in the Assembly and in the Council of State. The Government appreciate the enlightened opinion of India and is in hearty sympathy with what they themselves conceive to be the right method for adoption. But I hope Honourable Members will not be impatient if the Government which has to maintain law and order, which has to take the Local Governments with them, which has to do nothing which is likely to be construed as a serious departure from the social customs of the country, if in a matter of that description Government are anxious; I think they would be doing wrong if in matters of social legislation, whatever may be the enthusiasm exhibited here or elsewhere or outside, they do not proceed cautiously. There can be no manner of doubt whatsoever that, composed as the Government of India is, has been and will be, there will always be a desire on their part to promote the cause of social reform in so far as it may be possible consistently with the peace and orderly government of this country. But Honourable Members will sympathise with the Government when they demand that they should be assured that no reasonable objection would be taken by the country at large on a measure on which they feel there has not been sufficient consultation. That is the reason why the Government have chosen to adopt the attitude which they have in this respect. If Honourable Members have considered the other provisions of the Penal Code which are cognate to the sections which have been amended, they will realise that they have a considerable bearing upon the amendments which are now suggested, and it will be desirable that the whole Code should be brought into conformity with the views as expressed in this House as well as in the other House without there being anything glaring or incongruous inconsistencies between one section and another. It was for

[Mr. B. N. Sarma.]

that reason also that Government felt that this Bill should be brought into operation at a future date which may be fixed by the Government.

The RIGHT HONOURABLE V. S. SRINIVASA SASTRI: That point of view has our entire approbation.

The HONOURABLE MR. B. N. SARMA: That is the effect of this clause. This Bill will come into force on such date as the Government may fix. That clause has no further operation, and I think Honourable Members may rest assured that the Government after proceeding in the manner suggested by the Honourable Mr. Crerar will give effect to this and if possible to the other clauses of the Penal Code so as to bring the whole Code into conformity with the wishes of the country as may be expressed.

The HONOURABLE MR. LALUBHAI SAMALDAS: Sir, I welcome the Bill even with the amendment. I think that there has been some misunderstanding as regards the attitude adopted by the Government in the final stages of the Bill. I do not think that Government ever wanted either to flout the opinion of the Assembly or do anything unconstitutional. The Honourable the Home Member said at first 'I do not at present make a further motion. Sir,' and there the matter had ended. Thereafter he laid all his cards on the table, and in moving the third Reading of the Bill, he said that he was going to move an amendment so that the Government of India may have time to make inquiries. He made no secret of it; the Assembly knew it, and as my Honourable friend Mr. Sarma said, the Assembly did not demur to it. The Leader of the Democratic Party told me that although he did not quite approve of the action proposed to be taken by Government, yet he was prepared to accept it. It will thus be seen that the Government of India have not done anything unconstitutional. Now that the Government of India are asking for the opinion of Local Governments, we trust that when they are in possession of the views of the Local Governments and of the Indian general public they will be as ready as we are to take action and give us the lead. I think my Right Honourable friend, after he has heard the speech of the Honourable Mr. Sarma, is satisfied that there was no desire on the part of the Government to take any unconstitutional action. If he is satisfied then there is nothing more to be said. Sir, I welcome the Bill.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill to give effect to certain Articles of the International Convention for the Suppression of the Traffic in Women and Children, as passed by the Legislative Assembly, and as amended in this House, be passed."

The motion was adopted.

STATEMENT OF BUSINESS.

The HONOURABLE SIR HENRY MONCRIEFF SMITH (Secretary, Legislative Department): Sir, I understand that you have fixed Wednesday the 21st for the next meeting of this Council. That will be a day for the disposal of Government Business, Sir, and on that day on behalf of Government a Resolution will be brought forward dealing with Immigration to Mauritius. A Bill will also be introduced or leave will be asked to

introduce a Bill somewhat of a private nature dealing with the estate of one Mahendra Partab. If the annual Finance Bill is passed by that time in another place, it will be laid on the table here on that day, and the question of a date for its consideration in this House can then be mentioned.

The HONOURABLE THE PRESIDENT: I have only one remark to make in addition to what the Honourable the Representative of the Leader of the House has said, and it is this. There was a meeting of this Council fixed for Monday, but there was only one item of business on the paper, and that has fallen through. Therefore, it seems unnecessary to hold a meeting on Monday, and in this view the House will doubtless concur. The House therefore now stands adjourned till Wednesday, the 21st March, 1925.

The Council then adjourned till Eleven of the Clock on Wednesday, the 21st March, 1925.