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Legislative Assembly.

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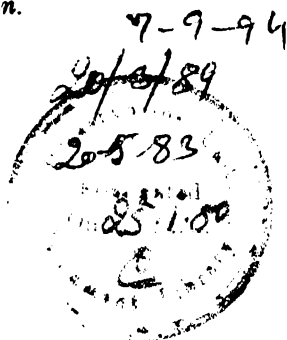
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LEGISLATIVE ASSEMBLY.

Thursday, 15th September, 1927.

The Assembly met in the Assembly Chamber at Eleven of the Clock, Mr. President in the Chair.

Mr. President : A short notice question has been sent by Mr. M. K. Acharya which the President has admitted and the Department has agreed to answer. The Honourable Member does not seem to be in the House to put the question.

Mr. A. Bangaswamy Iyengar : May I put that question, Sir, as it is an important question ?

Mr. President : The Honourable Member who gave notice of the question ought to be here.

Mr. A. Bangaswamy Iyengar : It is an important question, Sir.

THE SOCIETIES REGISTRATION (AMENDMENT) BILL.

Mr. N. C. Kelkar (Bombay Central Division : Non-Muhammadan Rural) : Sir, I rise to move the motion that stands in my name, namely, that the amendments made by the Council of State in the Bill further to amend the Societies Registration Act, 1860, for certain purposes, be taken into consideration.

Sir, the matter of this Bill is a very simple and small one, and I think I can explain it in a couple of minutes almost. This House will remember that it was pleased in February last to pass and sanction a Bill which I had introduced for the purpose of amending the Societies Registration Act for certain purposes. The point was about section 20 of that Act which defined certain objects of registration, but I found that the drafting of the section was defective or that rather it was not sufficiently enumerative, and I proposed that two additions to the objects mentioned in that section should be made. One was the addition of the words " political society ", and in order to carry this matter further and to put the matter beyond all doubt in regard to societies which had also a similar purpose, I had proposed to insert the words " any object of public utility " in section 20 of the Act. I had concentrated, however, on the words " political education " which I insisted must be included in section 20 in order that political societies should be allowed to register themselves and get all the benefits that emanate from incorporation. As I have said, this House was pleased to accept the Bill, and I need not refer to the debate which took place on that occasion. I would, however, briefly mention one or two points in order to give this House an idea as to what was the subject matter of the debate. On behalf of the Government the then Home Member tried to induce me and also to persuade the House to believe that my object could really be achieved under the Indian Companies Act. There was some debate on that point. I did not myself

[Mr. N. C. Kelkar.]

regard the point as debatable, and I think I succeeded in convincing him that it was not right to force political societies or bodies to register themselves under the Companies Act. I contended that a political society was not necessarily a company, because the objects of a political society were entirely different from those of a company. At the end of the debate, the Honourable the Home Member did not entirely give up his point, but I must acknowledge that he did not carry his objection too far. Ultimately he said this :

“ I will not oppose the consideration at this stage, but if I am advised by competent legal authority at a further stage that registration can and ought to be effected under the Companies Act, I may take action in another place ”.

Eventually, however, I find that his legal advisers did not advise him accordingly, and therefore Government in the other place did not press that objection.

There was one small objection taken by my friend Mr. Srinivasa Aiyangar at the time, and the reply given to him by Sir Alexander Muddiman was this :

“ I have only one observation to make, and that is, that my Honourable friend, the late Advocate General of Madras, tells us that he is against political societies being given corporate existence. I would ask him with the authority of his great experience of law to tell the House how they can hold property if they are not incorporated ”.

That shows, Sir, that the Honourable the Home Member accepted my position that it was impossible for political societies to hold property and function according to their objects unless they were registered. In that state of things the Bill was passed. The Government did put up some opposition to it, but it was not pressed, and the Bill as originally introduced by me passed through.

Then it was taken to the other House, and there they made small drafting amendments. They dropped one of the words or expressions which I had suggested but accepted the one upon which I had insisted. As I have just said, I had insisted on the words “ political education ” being included in section 20. That position of mine was conceded by the House and by the Government as well. This is what the Honourable Mr. Haig said in the other place with regard to his amendment :

“ The second point seeks to confine the amendment of this Act to the particular object which the Mover of the Bill had in mind. I understand, Sir, that in regard to this particular class of societies there is a sentimental feeling that they would prefer to be called ‘ society ’ rather than ‘ company ’, and in deference to that sentiment the Government of India have decided for their part to accept the amendment which will enable these societies to register themselves under the Societies Registration Act ”.

The words which were not recommended to be taken up were the words which also I had suggested, namely, “ any other purpose of public utility ”. I suppose it was regarded that those words were too wide, and one specific reason which was given by the Honourable Member in the other House was that the object of those words was fully served by somewhat similar words in the Indian Companies Act. Lastly, a small drafting amendment was made, and that was, the words “ political education ”, which were accepted and introduced into the body of the Bill, were transferred to the Preamble of the Act which, I think, was

necessary. These were the only three changes that were made in the other House. Therefore, I find, after all, that I have really no room to complain with regard to the Bill as accepted and amended by the other House. My chief purpose has been served, namely, that the words "political education" have been introduced into the body of section 20 which gives practically all that I want. The drafting amendment is quite necessary and reasonable, and with regard to the third thing, I have no quarrel. Therefore, the Bill comes back in that amended form, and I entirely accept it. I therefore move, Sir, that the amendments made by the Council of State be taken into consideration.

Mr. President : The question is :

"That the amendments made by the Council of State in the Bill further to amend the Societies Registration Act, 1860, for certain purposes, be taken into consideration."

The motion was adopted.

Mr. President : The question is :

"That this House do agree to the following amendments made by the Council of State in the Bill further to amend the Societies Registration Act, 1860, for certain purposes, namely :

In clause 2 :

- (1) before the words ' In section 20 ' the words ' In the Preamble to and ' be inserted ; and
- (2) the letter and brackets ' (a) ', the word ' and ', and the whole of sub-clause (b) be omitted."

The motion was adopted.

THE HINDU CHILD MARRIAGE BILL.

Rai Sahib Harbilas Sarda (Ajmer-Merwara : General) : Sir, I rise to move that the Bill to regulate marriages of children amongst the Hindus be taken into consideration.

The primary object of the Bill is to put a stop to child widowhood. No country in the world except this unhappy land presents the sorry spectacle of having in its population child widows who according to the customs of the country cannot remarry. Enforced widowhood is a feature peculiar to Hindu society, and when we consider that some of the victims of this pernicious—I had almost said inhuman—custom were babies 8 or 10 months old, Honourable Members will realise how urgent and imperative is the call for legislation in the matter.

Sir, the Bill before the house does not attempt to lay down the ages at which boys and girls should marry. For Hindus that was done by their law-giver, Manu, who laid down that a girl may marry 3 years after she attains puberty ; and Dhanwantri, the great Hindu authority on the subject, says that ordinarily girls attained puberty in India at 16. Social and domestic environment of the present day, and other things have perhaps slightly lowered the age of puberty in India. Yet, according to Manu, who allows marriage 3 years after puberty, even at the present day the marriageable age of a girl cannot be below 16 years.

Sir, as it stands, my Bill does not go against the spirit or the letter of any religious behest, for no Sastras, ancient or modern, enjoin that a girl must be married before she attains puberty. And it is an admitted

[Rai Sahib Harbilas Sarda.]

fact that girls do not attain puberty before they are 12 years old. Thus, while it does not come into conflict with any Sastras, the Bill removes what is probably the most oppressive burden under which Hindu womanhood is groaning. The Bill is a very modest attempt to recognise that female children even amongst Hindus have certain inalienable rights and that the State with any pretensions to civilisation will deem it its duty to protect them, without heeding the vagaries that masquerade in the guise of social customs.

Sir, a reference to the last Census Report will show how important the matter of the Bill is. That Report says that there were in India in 1921, 612 Hindu widows who were babies not even 12 months old, 498 between 1 and 2 years, 1,280 between 2 and 3, 2,863 between 3 and 4, and 6,758 who were between 4 and 5 years of age, making a total of 12,016 widows under 5 years of age. The number of Hindu widows between 5 and 10 years of age was 85,580 and those between 10 and 15, 2,33,533. The total number of widows under 10 was 97,596, and under 15 was 3,31,793. These numbers include Jain and Arya widows, for Jains and Aryas have been separately classed probably for political purposes; otherwise they are all Hindus and are governed by the same marriage laws. And if we include Brahmans and Sikhs, who are as much Hindus as the so-called Hindus, the total number of Hindu widows under 15 was 3,32,472 in 1921.

The gravity of the question will however be realised when we remember that out of every 1,000 Hindu married women 14 are under 5 years of age, 111 below 10, and 437 under 15 years of age. This means that a little over 11 per cent. of the Hindu women are supposed to lead a married life when they are below 10 years of age, i.e., they are mere children, and that nearly 44 per cent. of them lead married lives when they are less than 15 years of age, i.e., when they are not yet out of their teens and before they have attained true and full puberty and are physically utterly unfit to bear the strain of marital relations.

Sir, the secondary aim of the Bill is to remove the principal impediment to the physical and mental growth of the youth of both sexes and the chief cause of their premature decay and death. The measure I propose will help to remove the causes which lead to heavy mortality amongst Hindu married girls. The very high percentage of deaths among them is due to the fact that they are quite immature and are utterly unfit to begin married life when they actually do so. Speaking of the strain imposed on girls by married relations, Dr. Lancaster in his book "Tuberculosis in India", page 47, says :

"People forget the fearful strain upon the constitution of a delicate girl of 14 years or even less, which results from the thoughtless incontinence of the newly married boy, or still more, the pitiless incontinence of the remarried man. Serious as these causes of strain are upon the health of the young married girl, they sink into insignificance in comparison with the stress of maternity which follows. It is a truism to say that the process connected with reproduction which, from one point of view, may be regarded as the most important of human functions, should be allowed to take place under the most favourable conditions possible. Surely it would seem to be of fundamental importance that these processes should be delayed until the body as a whole shall have attained their full development and be prepared for this great crisis. For in no other crisis of life does the ultimate result depend so much upon the physical condition of the body."

And he pleads :

“ Let even so much as two years be conceded, and in place of 18 years which may be reckoned as the lower limiting age in ordinary cases of marriage in the west, let 16 years be the age which popular opinion shall regard as the normal one for marriage in this country. The result will be an incalculable gain in the health of the women of India as also in that of the children whom they bear.”

Sir, this is the opinion of an authority on the subject. My Bill falls far short of this aim : it is only a step towards this desideratum.

Leaving aside this—and I confess that I regard this as the most important aspect of the question—I think the Bill deserves the support even of those to whom nothing matters but the political emancipation of the country.

Sir, progress is unity, and if we are to make any advance, and the country is to come into line with, or nearly into line with the progressive countries of the West or to be completely free from their domination, a programme of social reform of a thorough going character, of which the abolition of child marriage will be a principal item, must be taken in hand along with the pursuit of political reform. Much of this social reform is no doubt the domestic or private concern of the people of the country and does not call for legislation. I believe, Sir, that just as the veil, with all that it connotes, has disappeared in the greater part of Turkey and is fast disappearing from the rest of it, so must the pardah, the Chouka, child marriage, enforced widowhood, the ban on inter-dining and intermarriage, caste in its present rigid and ossified form, and untouchability disappear from India, if we are to be in a position to hold our own in the international conflict of interests, the clash of colour, and the struggle for life that is raging furiously in the world. For we, must remember, Sir, that even political emancipation, freedom or Swaraj, by whatever name you call that one fact, droppeth not like sweet manna from heavens. It has to be won. It has to be wrested from unwilling hands, and so long as these evils exist in this country, we will neither have the strength of arm nor the strength of character to win freedom. Once these evils are gone, a spirit will arise in the land which no power on earth will be able to quench, a strength of arm to fight for freedom will be developed, which the might of the mightiest will not be able to resist. I am sure, Sir, that as the day follows the night, so will these evils disappear, and disappear soon. But there are certain matters of a serious nature in which considerations of humanity and the inalienable rights of a human being—and that human being, the innocent and helpless child—call for the immediate intervention of the Legislature. The present Bill, Sir, concerns one of those matters. In order to protect the inalienable rights of the innocent children and to concede to them the right to live—the life nature gives them—it is necessary that infant and child marriages must come to an end at once and that boys and girls grow up unfettered by marital ties and unburdened with family cares which have not only immensely accelerated the death rate amongst the young married people, especially girls, but have dangerously lowered the vitality of the race, stunted their growth, and barred their way to prosperity and happiness.

Sir, I will say one word more as to the utility of the measure I propose for enactment. The Bill, if passed, will give a real and effective protection to girls, which the Age of Consent Act does not do. That law

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is a sort of flank attack on the social and physical evil, I might say the crime, of child carriage. The law of the age of consent, so far as marital relations are concerned, is a dead letter, and has done little practical good except the slight educative effect which it has had on certain classes of people. The law regarding the age of consent has been in existence a pretty long time, but the last Census Report says :

“ There is little evidence in the Census figures to suggest that the practice of infant marriage is dying out.”

How long, Sir, shall we then allow this canker to eat into the vitals of our race ? Shall we stand by and see the race sink below the point when regeneration and resuscitation become impossible ?

Sir, in some quarters an objection has been taken to the provision in the Bill as to the function which the Magistrate has to perform in the working of the law. The fact is that the Bill provides 12 years as the minimum age of a girl for a valid marriage. In order, however, to disarm all opposition on the part of the orthodox people, the Bill provides that a valid marriage of a girl, even in her 12th year, may be performed if there be a conscientious objection to the postponing of the marriage any longer. Some machinery has to be devised for the operation of this provision, and I consider that the Magistrate of the District is the most convenient and safe agency through whom the law may be fulfilled. The Bill gives no discretion to him to grant or refuse a license. His function is purely mechanical. When a conscientious objection in the shape of an affidavit is filed, the law enjoins him to issue a licence. I may, however, add that the provision with regard to the Magistrate is not an essential or an organic part of the measure I propose, and there will be no objection on my part to a suitable modification of the provision, if it can be devised.

I have a word to say to Government as to their attitude towards this Bill. A heavy responsibility rests on them for the continuance of this evil. Government probably know that several Indian States, for instance, Soroda, Mysore and Bharatpur, have passed laws forbidding marriages of girls below 12. Recently, the state Kotah in Rajputana promulgated a new Marriage Act with effect from 1st July, 1927, prohibiting the marriage of girls under 12 and boys under 16, as well as of girls under 18 with men above double their age and of unmarried girls over 18 with men over 45. Even China has passed a law forbidding marriages of girls below 16 and boys below 18. Sir, this shows what attitude Governments really interested in and solicitous of the welfare of their people are taking in regard to child marriage, and the duty of the Government of India lies clear before them. I was taken aback when at the introduction of my Bill, the Honourable the late Home Member declared that he would oppose its passing but that he did not desire to break the convention that Bills should not be opposed at the introduction stage. That, Sir, was a surprise to me. For, had not this very Government, through its Home Secretary, though in an apologetic tone, expressed its sympathy with the measure in 1921 ? I read from the debates of the Legislative Assembly held on the 17th February 1921 :

“ Q. No. 123. Lala Girdhari Lal : Do the Government intend to undertake legislation forbidding marriages of girls before the age of 11 and that of boys before 14 ?

Answer by Mr. S. P. O'Donnell: The answer is in the negative. Government consider that under the present conditions, in a matter of this kind which intimately concerns the social customs and religious beliefs of the people, it is preferable that the initiative should be taken by non-officials rather than the Government."

Does this not show by clear implication that in 1921 the attitude of Government towards the question was one of sympathy, and by no means one of opposition? Sir, it was a surprise to me, as it was to most people, to see that a Government which professes to work for the good of the people, a Government that is representative of a nation that certainly is one of the most advanced in the world in wisdom and in the development of Justice and freedom, and claims—and I think rightly—that it has a great respect for womanhood, should take up such an attitude, and instead of welcoming and promising to support such essentially necessary legislation for children and helpless girls, declare its intention to oppose it. Sir, if Government had said that they had in their hands unimpeachable and overwhelming evidence that the bulk of Hindu public opinion was dead against the measure, and that therefore they could not support it, we could understand their position. The attitude of the late Home Member has been condemned in the country and constructions have been put upon it which I think are unjustifiable, but which Government would do well to prove to be groundless and unjustified by taking up a helpful attitude towards this Bill. For, after all, Government, like the humblest of men, would be judged by its acts and not by its professions. Take this month's number of the *Modern Review*, the premier magazine in the country. In an article entitled "Indian Social Reformers, etc." the editor, Mr. Ramananda Chatterjee, says:

"The abolition of child-marriage and child mortality and the raising of the age of consent within and outside marital relations would tend to make Indians a physically, intellectually and morally fitter nation. But British bureaucrats have all along been very unwilling to help Indian social reformers in effecting these reforms by direct and indirect legislation. They had no objection to abolish Suttee, probably because it was mainly a question of humanity;—the abolition of Suttee was not expected to promote the building up of a stalwart nation. But the abolition of child marriage, etc., is indirectly and almost directly a political as well as a social remedy. So in these matters our British bureaucratic friends fall back upon the cant of neutrality and non-interference in religious and socio-religious matters. As if Suttee, hook swinging, etc., were not such things, which the British Government have stopped by legislation"

He adds:

"And this mentality continues in spite of the following admission made in the Census Report of India for 1901 A. D. (Vol. I., page 434).

"Happily there is reason to believe that the leaders of Indian society are fully alive to the disastrous consequences, both to the individual and to the race which arise from premature cohabitation and are anxious to use their influence to defer the commencement of conjugal life until the wife has attained the full measure of physical maturity requisite to fit her for child bearing."

The editor further adds:

"Twenty six years have passed since this was written, yet the late Home Member of the Government of India declared that he would oppose Mr. Harbilas Sada's very modest Hindu Child Marriage Bill. It has to be seen whether his successor will carry out the threat."

Though I, for one, do not believe that British officers in India are inspired by such unworthy motives as are ascribed to them in their attitude towards legislation such as that on the anvil, still it is my earnest hope that Government would reconsider their attitude towards this

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question of child widowhood—the tragedy of child widowhood as the *Pioneer* in its issue of the 9th of this month calls it. I would beg the Honourable the Home Member not to say or do anything which would give the social reformers and workers in the country and the public generally, any plausible ground to charge Government with hostility based on political considerations, to all measures calculated to remedy social and physical evils which are a disgrace to all concerned and which effectually bar their way to physical or social welfare.

Another danger lies before Government, which a book and a speech in England have brought to light. Let it not furnish an excuse to its simpliminded critics to suspect it of helping to perpetuate conditions which the base traducers of fallen and subject nations gladly make use of. Just as there are slimy creatures who burrow in dirt, eat dirt and throw out dirt, so are there persons like that notorious writer of "Mother India", whose attempt to revile the "mother" has earned for her the contempt of all sensible people. While she will for a time enjoy the ill repute of a defamer of a nation, to future students of Indian constitutional history she will appear as one of those contemptible characters, who lend themselves to become tools in the hands of scheming opponents of a nation's aspirations.

Sir, there are Indians who think, whether or rightly or wrongly, that Government who is the guardian of India's interests does India an injury by conniving at the continued existence of child-widowhood in the country, as it exposes their motherland to the base lies and vile calumnies of a Filcher against a suffering class of womanhood, whose high character and sainted lives amidst suffering nobly borne, ought to put to shame those whose vile outpourings in no way enhance the dignity, the prestige, or the glory of the English race. Sir, Providence, as a just retribution for the woes and sufferings to which our passive acquiescence in the continuance of an evil custom subjects the child widows of this country, has condemned us to centuries of political servitude and national impotence, when in our utter helplessness we have silently to suffer the outrageous insults heaped on our womanhood. Sir, when an insult was offered to the Queen of France, the noble Burke in a memorable outburst of impassioned and noble eloquence, exclaimed that the age of chivalry had passed or ten thousand swords would have leapt from their scabbards to avenge that insult.

How fallen are we, and not we alone—pardon my saying so, Sir—but also some others who, having inherited the noble traditions of the English race and being custodians of the honour, the good name and the reputation of this country, allow without a protest the womanhood of India to be so basely traduced and grossly insulted—insulted in a manner which has moved at least one Englishman, a true missionary of Christ, to do public penance in Calcutta for the great crime of a countryman of his

Sir, if Government have no desire or have not the courage to initiate and carry through legislation prohibiting marriages of girls below 12 years of age, they might very well give this private measure their hearty support. But even if the Honourable the Home Member is not disposed to do this, as we think the representative of the *Ma Bap* Government

possessing a genuine solicitude for the welfare of the people ought to do, he will at least take up an attitude of neutrality, release Government Members from the Mandate handicap and permit them to vote according to their conscience, or let the fate of the Bill be decided by the vote of the Indian Members of this House who are principally affected by it. I hope Government have noted that all the amendments so far proposed by Honourable Members not only support the Bill but are directed towards making the provisions of the Bill go much further than I have ventured to do.

Sir, with your permission, I will read the report published in the *Times of India* of the 24th June 1926, of a heartrending incident, the direct result of a child marriage !

“ The sad story of how a young married Mahratta girl, eleven years old, named Bhingoobai, drowned herself in a well at Narayanpet Road Station, on the G. I. P. railway between Baichur and Wadi, while being sent back by her father to her husband at Shahabad has reached here.

The driver on No. 16 passenger train stated that while examining his engine near the water tank at Narayanpet Station, he noticed a girl get down from the third class bogie carriage and running to station well to jump into it.

The father of the girl told the police that his daughter Bhingoobai had been married to one Luxmon, four years back when she was about six years old. In accordance with the custom, she was sent to her husband's house two months after marriage. After remaining there two months, she returned to her parent's house, was sent back by the latter, but returned again.

This happened several times. Her father taking advantage of one of his relations named Yedoo going to Shahabad determined to send his daughter back to her husband with this relation and himself took her to the station and saw her entrained. While he and Yedoo were engaged in conversation on the platform he was informed his daughter had fallen in a well. He ran to the well with others and a cultivator, named Sambhu, jumped into the well and brought the girl out still alive but senseless. She expired soon after.”

Sir, this is not a solitary incident of its kind in this country. I have personal knowledge of one or two other similar sad things. Do Government with the knowledge of such happenings still feel justified in opposing or by proposing dilatory proceedings, in postponing the fruition of the labours of people who are endeavouring to alleviate the lot of innocent, defenceless girls who are done to death by ignorant, heartless custom, or a mischievously false notion of social decorum ?

Sir, before I resume my seat, I respectfully and with all the earnestness that I can command, invite the attention of Honourable Members on both sides of the House to the touching appeal of Mahatma Gandhi made at Madras on the 7th September, 1927, for the abolition of child widowhood. He said that there was no warrant for this kind of widowhood in Hinduism, and, he exclaimed with intense grief and agony of mental pain, “ I have often said in secret to God, ‘ If you want me to live, Oh, God, why do you make me a witness to these tragedies ? ’ ”

Kumar Ganganand Sinha (Bhagalpur, Purnea and the Santhal Parganas : Non-Muhammadan) : I sincerely congratulate my Honourable friend from Ajmer-Merwara who has brought forward this Bill to eradicate a deep-rooted evil from the Hindu society, namely, early marriage. Before I proceed further, I must make it clear that by early marriage, I mean marriage at an age at which it is contemplated to be stopped

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by the Bill which we are now considering. Every Hindu knows to-day that taken as a whole his race is on the downward path of physical deterioration attended by intellectual degeneration and is threatened with virtual extinction. The reasons for these are as much political, as much economic as social and my Honourable friend has attacked one of the aspects of our social system which contributes towards such a degeneration. I think he has brought this measure at a right time and in a right place. Any one who has taken care to study the growth of the Hindu society will bear testimony to the fact that taking into account the history of Hindu civilisation, comparatively speaking, the custom of early marriage is a matter of rather recent origin. But somehow it has taken a firm grip of the society, and to free ourselves from it we must struggle very hard. There are unfortunately persons amongst us who try to justify early marriages by quoting scriptures. To them I say that I have also taken care to read scriptures with a view to getting information on the point and have taken pains to discuss it with erudite pundits of our part of the country, and I have come across nothing that can justify the marriage below the age which this Bill seeks to fix as the marriageable age. I do not want, here, on the floor of this House, to enter into learned discussions and dissertations about our scriptures but I am prepared to join issue with anybody who says that what I have stated above is not a fact. There is to my mind no religious sanction behind a marriage of that kind. That is not all. If we look at the matter from other aspects also, it would appear that the reasons and arguments for stopping early marriages are much more convincing. Look at it as a source of increasing the number of young widows who cannot remarry and constantly cast a gloom on the family by reminding all elderly members of the family of the loss the family has sustained in the death of the husband; look at it from the point of view of the death of child mothers who conceive at a tender age and bring forth sickly babies; look at it from the point of view of child mortality of which child parentage is a potent cause, and I am sure you will say that you must root out the evil at all costs. It is sapping the vitals of our race, and to let this continue is to commit racial suicide. I would like to quote some statistics that will illustrate the evil of the custom from the various aspects I have indicated. I was looking into the statistics in the last Census Report and it is stated there that in the whole of British India the infant death-rate amounts to one-fifth of the total death-rate for all ages and about one-fifth of the children die before the age of one year. As to its cause, it is stated :

“ Special causes contribute to the high mortality of infants in India. Owing to the custom of early marriage, cohabitation and child-birth commonly take place before the woman is physically mature and this, combined with primitive and insanitary methods of midwifery seriously affects the health and vitality of the mother and through her of the child. Available statistics show that over 40 per cent. of the deaths of infants occur in the first week after birth and over 60 per cent. in the first month.”

Another remarkable fact that is revealed in the Report is this :

“ A marked feature of the statistics of the last 20 years has been the increase in proportion of female deaths since 1901.”

Although the Report does not refer to it, it is a matter of common knowledge that where provisions for midwifery are not adequate many

child mothers have to pay with their lives for their and their guardians' ignorance. That is often the remote cause but all the same that is an important factor in the mortality of child mothers. The doctors can bear testimony to this fact. There are in this land 216,237,797 Hindus, divided into 110,626,596 males, 105,611,201 females and out of these 20,218,780 are widowed females, and when I come to divide them according to age, the revelations are appalling. You will see that there are 597 widows of the age 1 and less. Between the ages of 1 and 2 years there are 494 widows, between 2 and 3 there are 1,257, between 3 and 4 there are 2,837, between 4 and 5, there are 6,707. The figures for higher ages are :

Age.				No. of widows.
5—10	..	..		85,037
10—15	..	..	..	232,147
15—20	..	..	..	396,172
20—25	..	..	..	742,820
25—30	..	..	..	1,163,720

Sir, it is stated in page 155 of the same Report that the large number of Indian widows is due partly to the early age of marriage, partly to the disparity in the ages of husbands and wives but chiefly to the prejudice against the remarriage of widows. The higher caste of Hindus forbid it altogether and as the custom is held to be a mark of social respectability, many of the more ambitious of the lower castes have adopted it by way of raising their social status. I ask, Sir, are these not ghastly revelations ? Are these not things which the House would like to remedy to-day ? Such a large proportion of child mortality, such a large proportion of child widows, such a large proportion of female deaths brought about sometimes directly and sometimes indirectly by early marriages ? Sir, these census reports are very valuable documents. They supply information with regard to almost everything about which we need them and here is a table that has been framed about early marriages. It is stated that in 1881, out of 1,000 males between the ages of 10 and 15, 843 were married ; in 1891, 841 ; in 1901, 860 ; in 1911, 866 ; and in 1921, 879. And between the ages of 15 and 20, in 1881 the number was 617 ; in 1891, 621 ; in 1901 650 ; in 1911, 665 ; and in 1921, 687. Now we come to the females between the ages of 5 and 10 in every 1,000 females in the year 1891 there were as many as 874 married girls ; in 1901, 893 ; in 1911, 891 ; and in 1921, 907. Again between 10 and 15 years their numbers are as follows :—In 1881, 481 ; in 1891, 491 ; in 1901, 559 ; in 1911, 555 ; and in 1921, 601. The House will note that the tendency towards early marriages is generally on the increase, though the increase has not been very large. But in spite of the efforts of social reformers who want to kill the custom of early marriage ; in spite of the abolition of early marriage being advocated in the Press and on platforms by the various social and quasi-religious organisations, we see that we have not been able to kill this evil. It has rather increased in spite of all our efforts during these decades than decreased. The practical effects of child marriage, as I have stated before, are twofold. First, it implies cohabitation at an immature age, sometimes even before puberty, and practically always on the first signs of puberty, resulting in grave physical effects upon the girl and in all the evils of premature child-birth ; and secondly, in the event of the husband

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dying the child wife is in the case of castes in which the remarriage of widows is prohibited, left a widow for life. I shall not take the time of the House by narrating what Hindu widowhood means. There is no Hindu who does not know it from practical experience in his household. It is a life of agony, pains and suffering and austerity. It is a life which has been inflicted not so much by Providence, not so much by the Shastras, as by social customs. I repeat, Sir, it is not difficult to imagine what a childwidow in a Hindu household means. Fancy, mothers seeing the sight of widowed daughters day after day in a helpless fashion, sharing their agony ! Shall it not break the heart of everybody who experiences it ?

Mr. President : Is the Honourable Member going to move his amendment ?

Kumar Ganganand Sinha : I will refer to it later. I am going to move for a Select Committee, not for circulation, Sir, I again congratulate the Member in charge of the Bill for bringing in this timely measure. but I regret that I cannot agree with the details of the provisions of the Bill. I differ from him in regard to some of the particulars. I am going to move that it be referred to a Select Committee and I hope that the Select Committee will go into the details and make the necessary changes which will make the measure acceptable to this House. I will refer first to the question of validity which has been raised in this Bill. It is against all the canons of Hindu law, and the Hindu Shástras, that a Hindu marriage duly performed should be challenged by any temporal authority. The Hindu Shástras prescribe remarriage under certain conditions and certain conditions only ; but our society has come to a stage in which even that is not possible. It is really inconceivable that a Hindu marriage once celebrated according to the Shástras could be invalidated by any authority whatsoever. At present no one can nullify a marriage once duly celebrated, even if the temporal authorities order it, because the society will never accept it, and in case of insistence there will be a great stir in the country which I do not think the House would like to cause. I then come to the question of age. So far as the age of females is concerned, I have nothing to say. It is just as it should be when we take into consideration the present day Hindu society as a whole. But so far as the age of males is concerned, I think the Bill ought to be amended a little. As a matter of fact in his Statement of Objects and Reasons the Member in charge of the Bill has himself stated that according to the Brahmanas, the most ancient and most authoritative book on Hindu law, the minimum marriageable age of a man is 24 years and of a woman 16 years. Regarding boys, he states further that the Shástras do not enjoin marriage at a particular age. But he thinks that public opinion amongst Hindus would fix 18 years as the minimum marriageable age for a boy. Sir, my own opinion is that the minimum marriageable age of the boy should be fixed at 18 years. That is the age of majority in most cases and I do not like that a marriage should be celebrated at a time when a boy has not attained the age of discretion. Below that age physical development is at a very early stage, and I am afraid that a marriage if celebrated before that age would be detrimental to his physical growth. Now, Sir, I seriously object on the same ground on which I objected to the question of validity raised in the Bill to the provision for granting licenses. I do not like that executive authorities should have anything material

to do with our social or religious matters. This piece of legislation is designed, I think, to help society and to help the formation of public opinion and it should not provide for anything which may give the power of interference to the Government. With some such imperfections removed, I think, the Bill will be acceptable to the House.

Sir, I move my amendment which is No. 3 on the agenda, namely, that the Bill be referred to a Select Committee.

Sir Purshotamdas Thakurdas (Indian Merchants' Chamber : Indian Commerce) : Sir, I rise to give my whole-hearted support to the motion before the House. As a rule, Sir, I am opposed to measures of social reform by legislation. Whilst we have had a number of figures put before the House, giving details and statistics regarding the number of child widows under the age of 10 and so on, my Honourable friend the Rai Sahib from Ajmer-Merwara will admit that this evil has been steadily decreasing during the last say 30 years, even in his part of the country, Rajputana, where I am afraid it can be said even amongst the middle and upper castes and classes child marriage is most prevalent at present.

The Honourable Member will admit however that the age at which girls are offered in marriage has a decided tendency to increase. What I think the Hindu conscience clearly revolts against now—and when I say Hindu conscience I mean, Sir, the consciences of all those who can think for themselves—is that any of those cases which occur at present should at all occur in the year of grace 1927. We feel that it is high time that this should be put a stop to, and I agree with the Honourable the Mover of the Bill that it is necessary to bring legislation in in order effectively to put a stop to child marriage or marriage of girls under 12. I do not wish to go into the details of how this custom of child marriage came to be and has continued all these years, it may be a very interesting subject, but I am afraid it is quite unnecessary to take the House through the various stages through which we have gone down to offering almost babies in marriage. I do not believe there can be a single Member in this House, or I venture to say a single thinking man in the Hindu society outside who deserves any consideration who would stand up and defend the marriage of a girl of four, five or even of ten years. But even the Honourable mover will realize that, owing to superstition, somehow or other a certain section of the Hindu community—and it does not go by caste but it goes by the extent to which education may have reached that section or not—a certain section of the Hindu community do unfortunately mix this up with their religion. It is therefore necessary if the Honourable Mover's very laudable effort is to meet with success, that the House should act firmly, as I admit they must and as I hope they eventually will ; but let us move with cautious steps. I, Sir, yield to none in my efforts to have child marriage stamped out from Hindu society. I am one of those who feel a humiliation, which I look upon as a great humiliation, when I am reminded that people who profess my creed and my religion have the heart to mar the happiness of their girls, knowing the dangers of child marriage. Bearing in mind the extent to which India is liable to plague, cholera and all the other diseases, none but an unthinking Hindu father alone, or none but a fanatic Hindu father alone can with a quiet conscience offer his girl in marriage at an

12 Noon.

[Sir Purshotamdas Thakurdas.]

age which is an age of babyhood and of childhood. We must however recognize facts as they are. I therefore would very much suggest to the Honourable Member to have a little patience and to agree to comparatively slow and cautious steps being taken. All that I would ask him to insist upon is that whenever the step is taken, it should be a firm one. The Honourable Mover has said that several Indian States have introduced measures similar to the one which he has put before the House. I think it would be useful to this House, constituted as it is not only of Hindus but also of Muhammadans, Europeans and Parsis, who are all intent upon saving Hindus from this severe drawback, if it is realised that these various communities and their representatives in this House require to be satisfied that the real and correct religious feelings of the Hindu community are not in any way injured. (Hear, hear.) I am inclined to feel, Sir, that when the Bill comes to the stage of consideration clause by clause, it would be possible to prove on the floor of this House that anybody who mixes up the correct Hindu religion in its purity with child marriage is either a person fit to be locked up in a lunatic asylum or one who has some vested interests connected with the continuance of child marriage ; but that stage, Sir, must be reached by the regular process. I therefore hope that whilst I am anxious to give my fullest support to the Bill at the stage at which it has now reached, the Honourable the Mover will not insist upon pushing it through this House to-day but will have patience and will see that when the House does eventually act, it will act firmly and without any fear. I hope, Sir, that the Government, if they carry the motion which I see on the agenda paper, will also take every possible step to see that as little delay as possible takes place in getting the opinions of all whose opinions we should have, and let us hope that at the next winter Session in Delhi this Bill will emerge from this House as a measure satisfactory both to the House and to the thinking section of the Hindu public. Sir, I have great pleasure in supporting the motion.

Mr. President : Is the Honourable the Home Member going to move his amendment ?

The Honourable Mr. J. Crerar (Home Member) : I move, Sir, that the Bill be circulated for the purpose of eliciting opinions thereon.

Mr. President, the zeal, the earnestness and the sincerity with which the Honourable the Mover has moved his motion have I think, been greatly appreciated by, and have left a deep impression upon, the House, and the impression is felt as much on this side of the House as among the Honourable gentlemen opposite. (Cheers.) No one can deny, no one could be disposed to deny, that the evils and the many ramifications of the evils to which the Honourable gentleman referred constitute in themselves a great problem and one which demands a solution. So far as the Honourable Member's Bill expresses the principle that one of the various means of approaching this problem should be by legislation of a civil character, that is a principle with which I myself have a very large measure of sympathy. Everyone, I think, will agree that our best hopes for progress and for a remedy must lie in the progress of enlightenment, in the support of enlightened and educated public opinion in these matters, and in the establishment of practices based upon public opinion.

(Cheers.) But I do not deny that a great responsibility rests upon the Legislature and upon the Government to do all they can to promote the rapid development of public opinion on those lines. We have as a matter of fact undertaken penal legislation in the matter. A measure of penal legislation, which at any rate is to a certain extent germane to the question, will probably be before the House at a later stage to-day. The Honourable mover of this Bill has confined his attention to civil legislation, and I agree that the extent to which progress can be stimulated and to a certain extent aided by means of civil legislation is a question which merits very careful and very serious consideration. The Honourable Member stated that the Government of India have a great responsibility in this matter. I entirely concur. But one of the responsibilities and a very heavy one on the Government of India is to ensure that where measures undoubtedly impinge very deeply upon the religious ideas and the social customs of very considerable sections of the population, all legitimate interests and all legitimate opinion should be carefully, fully and fairly ascertain. Another part of the responsibility which rests upon the Government of India is to see as far as in them lies that such measures as are proposed are really conducive to the ends to which they are directed. Now, Sir, I do not intend to go into the particular merits of this Bill. Sir Purshotamdas Thakurdas in a powerful speech has just urged upon the House and upon Government to exercise caution in the matter. I confess that note of caution seemed to me to be a wise counsel. I think that before the House proceeds to consider this Bill in greater detail it ought to pass the motion which I move for further eliciting opinion thereon. Legislation, however well-intentioned, if it is hasty, is not likely in the end to promote the purpose for which it is intended. Legislation which is passed without due consideration may have consequences very remote from those which were intended. I am not opposed to the main principle of the Honourable Member's Bill on its merits, but I do appeal to the House to show that spirit of caution which is enjoined by Sir Purshotamdas Thakurdas. I ask the House to agree that this motion for the purpose of further eliciting opinion upon the Bill be passed.

Lala Lajpat Rai (Jullundur Division : Non-Muhammadian) : Sir, I really have no patience with those people who always want to proceed slowly and cautiously in matters of such vital importance for the well being of the community as the measure under consideration is. The voice against child marriages was raised in this country by a Hindu of very great pre-eminence whose name is honoured all over the country, by all sections of the Hindu community, I mean Raja Ram Mohan Roy, as early as 1830. He and his co-workers thought that the spread of education in this country would be so rapid and the conscience and intelligence of the community would be roused in such a short time that he and his colleagues would live to see the actual carrying out of this reform. But a foreign government has retarded the intellectual and social progress of this country by its very dilatory methods and by its slow and cautious measures—political, economic and social. If you study the Shastras and the Smritis, you will find, that the Hindus have always been changing their social laws according to the needs of the times, having had the power to do it by enacting legislation. Social reform is no easy task in any country ; it has not been easy in any age. Even in western countries, where education has filtered down to the masses and where bombastic claims are being made

[Lala Lajpat Rai.]

of enlightenment and purity of life, social reform is not an easy task. But social reform in a country like India which is governed by a foreign nation, a foreign power and a foreign race, is much more difficult; and even the recognition of a primary thing like this, takes so much time, and is always opposed by dilatory methods proceeding either from the Government or from those who bring in religion in every measure, conceivable or inconceivable. Sir, I do not pretend to have some knowledge of the Hindu religion. In my opinion such customs and manners have their origin, not in religion, but in certain political and economic causes, which bring about a change in the minds of the people who observe these customs and manners. Religion has nothing to do with it, and I emphatically repudiate the idea that the Hindu religion enjoins on anybody marriages of infants and children as have been going on in the immediate past and as are even now being celebrated in the name of religion. I beg to point out, Sir, that public opinion on this question has been sufficiently educated. At no time and at no stage will there be a lack of people who will oppose a measure of this kind in the name of religion. As long as legislative effect is not given to the desires of those who want this reform the opposition will go on. The question is simply this: Is the measure a right one or not? If it is a right one, it ought to be accepted by the Legislature: if it is a wrong one, it ought to be rejected. So far as the Government's attitude is concerned, they say that we should proceed cautiously and that the opinions of the people concerned should be obtained, so that there might be no infringement of their religious susceptibilities. I might point out that Government have not kept that principle invariably in view. The Government at least should not have the face to say that they care very much for public opinion in this country. Do they care for it in other matters? Certainly not. Public opinion has very often been expressed very strongly and clearly; but the Government have simply trodden over it, disregarded it and followed their own inclinations. The easiest method of ascertaining public opinion in this matter is that this measure which affects the Hindu community should be left to the Hindu Members of this Assembly; let them decide among themselves as to what should be done. The Government should not interfere. There are representatives of orthodox Hindu opinion here who have come from different parts of the country and there are representatives of those classes also who may be called heretics and who are reformers; there are representatives of all classes. It is for them to decide upon legislation in this matter. The easiest way to ascertain public opinion and to find out whether the community is in favour of or against the measure is to leave it entirely to their representatives here. But when the Government interferes, I submit, it takes a great responsibility and it lays itself open to those charges of mixed motives which have been levelled against it by such clear-headed people as the editor of the *Modern Review*; he is not given to bluffing; he is not given to exaggerating and he always expresses very balanced opinions on questions social, political, and economic. (*An Honourable Member*: "Moderate.") The feeling is very strong on this side of the House against the suggestion of the Home Member that more time is required for eliciting information in regard to this matter. But, even assuming that there is need for it; the motion of my friend, Kumar Ganganand Sinha, gives that opportunity. If you simply circulate this Bill for opinion now, it will not come up for consideration soon because eliciting public opinion is a huge

task. Some people will express and some will not express any opinion and the Government may not feel satisfied. I do not think my friend, Sir Purshotamdas Thakurdas is quite justified in saying that if this Bill were circulated for eliciting public opinion we would have an opportunity of finishing this legislation in the next winter Session. I do not think that is possible. But even if there are some people who are very anxious that the measure should not be proceeded with at once and that it requires closer examination in certain details their desire will be fulfilled by a reference to a Select Committee. It will give ample time to people who desire to express their opinion to do so. The measure has been before the House for several months now ; it has been discussed and commented on in the papers already and people have expressed their opinion in the public Press. It is not as if it is sprung as a surprise to-day or on a few days' notice ; it has been practically on the anvil for several months now ; therefore there has been sufficient opportunity for public opinion to express itself ; and if any further opportunity is required, the proposal of my Honourable friend, Kumar Ganganand Sinha, affords that opportunity. Reference to a Select Committee means that the Select Committee will meet, it will discuss and consider all the opinions submitted to it in a definite time and make its Report. The Report cannot be submitted in this Session, but it may be submitted in the beginning of the next Session. It will thus give us an opportunity to accept or reject this measure as may be decided upon by the majority of votes within a definite time. But, Sir, the acceptance of the proposal made by the Honourable the Home Member that the Bill should be circulated for public opinion will mean practically shelving the measure. I therefore strongly oppose the motion, and would ask the Hindu Members and other Members also who claim to be enlightened and broad-minded, not to vote for this amendment, but to accept the amendment proposed by Kumar Ganganand Sinha. At this stage I do not want to make any very lengthy comments on this measure, but I want to say one thing. If I had my way, I would raise the marriageable age of girls to at least 16 years. I would not be content with 11 or 12 years. I know that even in the most advanced countries of the world, the marriageable age of girls is not fixed, and I also know that even in India the early marriages are confined mostly to what are known in the Hindu community as the "higher castes". It is not such a widespread evil as some people think ; but even for those limited classes and for the general political progress of the country, the question is of the most vital importance and should be taken in hand as soon as possible. The Honourable Member has been very cautious, in fixing the marriageable age at 12. I am very sorry to say that even such a cautious measure is not acceptable to certain Members of the House and they still want to proceed slowly and cautiously. After eliciting public opinion, the Bill may or may not come up within any measurable distance of time. Sir, this measure being a very moderate one, the Government ought not to shelve it by insisting on their amendment to circulate the Bill for eliciting public opinion. I would ask the independent Members of the House to vote for the motion that it be referred to a Select Committee.

I will only add one word, and it is this. When I am supporting this motion, I should not be considered to admit that in India we have an extra dose of sin in our men and women in social matters. I do not want to go into details. Sir, all communities in the world are victims of social abuses. We have certain classes of bad customs, while others have got certain others.

[Lala Lajpat Rai.]

This is not the occasion for me to go into them, but I do not think that anybody can point his finger and say that we in India have got the greatest dose of sin in the world in the matter of bad social customs, social manners or morality. I do not defend the practice of child marriage, Sir, in any way or in any shape or by any explanation. It is simply indefensible. It cannot possibly be defended on any grounds, but at the same time I do not want it to be understood that we are, as I have already said, for that reason immoral people or even an unmoral people. I say, Sir, that we are victims of our social customs, as some other people are victims of their own social customs. We want to progress, and I am perfectly certain that this evil custom would have been simply stamped out of India if we had the legislative powers in our hands, earlier. In all these matters of social reform, a certain amount of coercion has to be used, success can be achieved only when the leaders of the community sit together in a Legislature and decide to exercise a certain amount of coercion in bringing about the necessary reform. But, Sir, we have been powerless in the past; we are powerless even now. Even if this measure is passed, some people will memorialise the Viceroy to veto it. Therefore, I would appeal to the Government Members not to throw in their weight in favour of shelving this measure, because it is of very great importance to the people of India. I am glad that in spite of this debate being misinterpreted in various ways by the enemies of political progress and of our political aspirations, in India or outside, we are staunch in the matter of pushing forward social reform, whatever may be the interpretation that may be put upon our speeches, methods or measures. We are determined, Sir, that the evil customs prevailing in our country, which are eating into the vitals of the nation and which stand in the way of our general and political progress, should be entirely stamped out. Sir, I am confidently able to say that the Hindu community as a whole has begun to realise the evils of child marriage and they want to get rid of it. But, there are always some people who are opposed to change and who are conservative to an extraordinary degree. They may be actuated by the best of motives, but they are the enemies of progress and their voice is not entitled to much weight. It is enough to follow the enlightened public opinion of the country. Therefore, I commend the motion made by my friend Kumar Ganganand Sinha for the acceptance of this House and not the one made by the Honourable the Home Member.

Mr. W. A. Cosgrave (Assam : Nominated Official) : Sir, I rise to support the amendment moved by the Honourable the Home Member, that the Bill be circulated for eliciting public opinion thereon. I have just listened with great interest to the speech delivered by my Honourable friend Lala Lajpat Rai, and I must say that I have hardly ever heard a more convincing speech in favour of the amendment that the Bill be circulated for eliciting public opinion thereon.

The first point I would mention is that my Honourable friend Lala Lajpat Rai said that he would like to raise the age of marriage to 16, while under clause 3 of this Bill, the proposed age is 12. If Honourable Members will read the amendments tabled on this list, they will see that there are many different proposals as to what the age should be under clauses 3 and 4. Personally speaking, I think that many of us are of the opinion that, as far as possible, the age of marriage ought to coincide with the

age of consent. But in view of the fact that my Honourable friend Lala Lajpat Rai thinks that the age should be raised to 16, and that other Honourable gentlemen have tabled amendments proposing other ages, I think that it is a very cogent argument in support of the fact that this Bill should be circulated for eliciting public opinion. I really owe an apology to the House for speaking on this Bill, because I agree in many ways for once at any rate at least with my Honourable friend Lala Lajpat Rai when he says that this is primarily a matter for Hindus to decide. And I think there is also another reason why the Bill should be circulated. How many Hindus are there in India? This is a Bill which will affect more than two hundred millions of people.

Mr. Amar Nath Dutt (Burdwan Division : Non-Muhammadan Rural) : Is not this House representative of the Hindus ?

An Honourable Member : Not entirely.

Mr. W. A. Cosgrave : There are very good representatives of the Hindus on the other side, I quite admit, but I think that a Bill which affects the social and religious, if I may say so, customs of more than two hundred millions of people should be circulated for opinion. I am speaking as a private Member, and I think that it might be possible that, if this Bill is circulated, some sort of undertaking might be given that it would come up for consideration again at a definite period. It is not for me but it is for the Honourable the Home Member to say as to whether this Bill will come up again at the Delhi Session or at the next Simla Session. But speaking as a Government officer who has spent 24 years in this country and who is very keen on every sort of social reform, I personally am entirely in favour of having some sort of law on the subject. I agree with my Honourable friend, Sir Purshotamdas Thakurdas, that social reform should as a rule be accomplished without legislation. But in these cases we seem to be able to do very little without some sort of legislation. Judging by the numerous Bills and Acts introduced by my friend, Sir Hari Singh Gour, it is almost impossible to get social reform without some form of legislation.

Another great defect, as far as I can see, in the present Bill—and in this matter I am speaking as a Government officer who is keen on social reform—is that there is no penalty provided in the Bill and that the only action left to the District Magistrate, who is supposed to be a sort of maid of all works in these social matters and other things, is to accept the affidavit which may be true or may be untrue. Well, Sir, I do not agree with my Honourable friend Kumar Ganganand Sinha that the Bill should be referred to a Select Committee at the present time. I hope it will come to a Select Committee later on, because personally I have the greatest sympathy with my Honourable friend Rai Sahib Harbilas Sarda in the motives which have led him to introduce his Bill. I notice that my Honourable friend Kumar Ganganand Sinha has as much dislike as I have for clause 6 of the Bill. And personally I think one objection to clause 6 of the Bill as it stands at present is that it is a loophole for all sorts of evasions of the Bill. I think, Sir, I have shown that there are many points in this Bill which require consideration by the country at large before the Bill goes to a Select Committee. I personally would have great sympathy with the Honourable gentlemen on the other side if they said that they did not want to have a District Magistrate

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interfering with Hindu marriages, and personally I think clause 6 will be practically either a dead letter or else it will give a convenient loop-hole for the evasion of the spirit of the Bill moved by my Honourable friend Rai Sahib Harbilas Sardar. And, Sir, I personally, as an apostle, if I may say so, of *laissez faire*, like to interfere with people's social customs as little as possible; I like to see people happy and contented, I don't like interference with my social customs and don't like to interfere with other people's social customs, and I think, Sir, this clause 6 is open, as the Honourable Kumar Ganganand said, to very serious objections. I think that this is a question that I can quite understand public bodies and other people who are consulted saying that they would rather have this clause omitted. And, Sir, I can also imagine that there are certain people who might possibly object to the definition of "Hindu" in clause 2. There are of course all sorts of Hindus but there are some people who might say that the term Hindus cannot include Brahmans as well as Buddhists. For all these reasons, Sir, the reasons that I have given that there is a great division of opinion as to what the age should be in this Bill, that there is a division of opinion as to what interference there should be by the district authorities as regards granting licenses on the basis of an affidavit or as to whether there should be a penalty in this Bill for disobedience to its clauses, for all these reasons, I consider that there is a very strong case for referring this Bill for the elicitation of opinion. I hope speaking again as an officer keen on social reform, I personally hope that the Bill in some form or other becomes law within a very short time. I do not want it to be considered that in any way I am unsympathetic to this great cause of social reform of which I think my Honourable friend Rai Sahib Harbilas Sardar is a very worthy champion.

Mr. M. E. Jayakar (Bombay City : Non-Muhammadan Urban) : Sir, I rise to support the motion made by my Honourable friend Kumar Ganganand Sinha and to oppose the one made by the Honourable the Home Member. I have listened very carefully to the speech of the Honourable the Home Member and I must say, in absolute frankness, that occasions like these in my opinion are the only test which show whether our Government is national in temper. We are often told, Sir, that the justification for a foreign government to be in this country and to be at the helm of affairs is that, although for political reasons it is for a time foreign in personnel, it is growing increasingly national in temperament. Often that claim is made before us as a justification for the anomaly of a preponderance of Englishmen on the Government Benches. But, when occasions like these come, Sir, the real weakness of the British Government as in sole control of this country, becomes apparent. I want the Englishmen on the opposite Benches to take up a proper attitude on such questions. I can quite understand, Sir, that dealing with questions of this complexity, as they must appear to Englishmen, their attitude would be as follows :—"I will not apply my own mind to this question to see whether the remedy wanted is right or wrong : I am told by certain sections of Hindus that it concerns their religion : that gives me a fright : I will not touch the matter ; let it go". That attitude, Sir, is the attitude of ignorance and timidity. A more natural attitude, if I may presume to speak for the benefit of my

English friends opposite, would be this. Let them judge this question from their inherent notions of right and wrong. Having judged all such questions as enlightened individuals and come to a determination that the matter is inherently right, then as forming the Government they are entitled to look for a certain measure of support from the enlightened sections of the community. We can never get, on any question of social reform, the whole of the country to agree. The Government are entitled to ask themselves after having decided that a Bill is a right measure, whether the enlightened sections of the community give their support to it. In every community there are enlightened and unenlightened sections and the enlightened section *ex hypothesi* is always a minority. I say the Government are entitled to seek for this measure of support for any social legislation. I am prepared to concede their claim that the enlightened section of the community should be with them. This is the only question to which the Government in such matters have to address themselves. This is the "Caution" of which the Honourable the Home Member has talked so much. He requires the ascertainment of public opinion. For what, may I ask? Is it for the elicitation of the obvious truth that the proper place for a child below 12 is the nursery and not the marriage bed? Is he going to ascertain public opinion on this important question—that such a child should, for its proper up-bringing be in the nursery or the play ground and not in the marital chamber? Does he want to ascertain public opinion on this obvious question? The Honourable the Home Member has a daughter, I suppose. I hope she is less than 12. If so, he can understand the force of my remarks. I am surprised at this frequent reiteration of caution, Sir, caution, yes. Caution that the right measure is before the House. Caution, that the advanced and enlightened section of India supports it. But caution, in this that we want on such a plain question to ascertain Hindu opinion, representatives of which opinion are gathered on this side except for a few! When the social fabric is on fire, we are asked to have "caution", to find out whether public opinion demands that the fire should be put out. Caution for what? That a child below 12 should play and grow instead of being married. Surely, he is an Englishman and he understands. I therefore think, Sir, that this advice of caution is absolutely misplaced in this case. Did Government consult public opinion when Mr. Macworth Young stated to this House the other day that after 12 years of service they would give young English I. M. S. men a gratuity of Rs. 37,000? Was public opinion consulted on that question? Did Government consult public opinion when such temporary English officers brought to this country, after six years of service, were given a gratuity of Rs. 12,000?

Mr. G. M. Young (Army Secretary) : The gratuity in question is given to Indians as well as Englishmen.

Mr. M. R. Jayakar : My point is did Government consult public opinion? "Caution" comes only where questions of India's national welfare are concerned. I do not want to be misunderstood. I understand the difficulties of a foreign Government. I am prepared to sympathise with them up to a certain point. But when they take their shelter under the advice of "caution" on questions which are only too obvious to the mind of any sensible man, I lose patience. The difficulty is, as I said before, the Englishman refuses to apply his mind to this question as he would in his own country. He is simply frightened by the attitude of the

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orthodox, which in every country must be opposed to social reform. It is here that my complaint against the British Government comes in ; not against their caution, but against the overdose of such caution. I agree, Sir, with the view of my Honourable friend Lala Lajpat Rai, that public opinion has long been agitated over this question. Since what time ? Long before some of us were born, and perhaps long before the parents of some of us were born. Since 1831 or thereabouts this question has been agitated, nearly 80 or 90 years ago, and yet the Honourable the Home Member gets up and says, " We want to ascertain public opinion ", after 80 years, to find out what is the proper environment for a child below 12 years. I can assure my Honourable friends opposite that when Swaraj comes—which seems to be doubtful under the present clouds—we would pass measures of this description in the very first sitting of our Legislature. I can assure my Honourable friends it would not take 10 minutes to pass such a measure if we were sitting on the Benches opposite under our own Government. (Laughter.) All the three readings will be gone through in the course of one day, perhaps in the course of a morning. (*Mr. D. V. Belvi* : " Question ".) There may be some Belvis even then. They are bound to be in any generation, but they will be in a most solitary minority. They may have a significance here before a timid Government. They will have no significance before a national Government that knows its own mind as to what the country needs. Their importance is heightened by the timidity of a foreign Government, if I may say so.

Mr. B. Das (Orissa Division : Non-Muhammadan) : They are Pandits and Gurus.

Mr. M. R. Jayakar : My Honourable friend Mr. Das says, " They are Pandits and Gurus ". But unfortunately Mr. Belvi is in neither of these categories. My Honourable friend Sir Purshotamdas Thakurdas also took the contagion and spoke of caution. I was surprised to hear that gospel preached by a person who always showed the courage of writing dissenting minutes and minority reports on Commissions. (Laughter.) Caution in social matters up to a certain point is good. Caution beyond that point is really misplaced caution. (*Lala Lajpat Rai* : " A crime ".)

Another thing which I should like to ask the Honourable Benches opposite is, do they really think that social reform could ever be had without some coercion ? If so, they are mistaken. A certain amount of coercion is absolutely necessary. All Governments exercise this coercion. The British have done it in India. Their Government was less timid years ago when its conscience was touched—in 1872, 1864, 1863 and 1859—and important messages of social advancement were preached to this country through British Indian legislation. I am surprised how those Governments could be more courageous than the present Government. They had not then the benefit of so many representatives of the people on the other side to advise them. May I ask the Englishmen opposite when you suppressed *suttee*, when you did away with all the disqualifications due to change of religion, when you dealt with crimes which were practised in the name of religion, when you dealt with all the disabilities which were regarded as of the essence of the Hindu religion—that glorious renaissance of British legislation which went on for 25 or 30

years, but which unfortunately absolutely ended with the Morley-Minto reforms, did you not take your courage into your hands: Governments were not so timid in those days. Look at the speeches which were made by Government Members on those occasions—names which have stood as beacon lights in the annals of British social legislation. I have no time to go into those speeches. We think that this measure is right and we supported it in that belief by the enlightened opinion in this country. That is enough for our purpose. We proceed on, taking the consequences. This is the right attitude for my friends opposite. Unless the Government show courage, no progress can be made. They show this courage in other pieces of legislation which affect the political affairs of the country. Take for example, the Reserve Bank of India Bill. How did Sir Basil Blackett take his courage into his hand and defy the Legislature? He did not say, "Let us circulate for ascertaining public opinion whether I am right in my view." That is because in such measures the Englishman applies his mind to the rights and the merits of the particular case. In questions like the present he refuses to do that. He is simply frightened by the orthodox in this country. I submit, Sir, that that is not the proper attitude. The Bill is a very cautious Bill. If I had my own way, I would do away with clause 6 entirely, and I do hope when the Bill goes to the Select Committee, it will be done away with. Government have the further assurance that in places like Baroda, Mysore, etc., where Swaraj obtains within certain limits, or pseudo-Swaraj obtains, whichever way one might take it, such measures have been passed. I may mention for the edification of my friends opposite that in Baroda this measure was passed long ago, and a section like section 6 stood in the Act providing loopholes. The State found that these loopholes nearly overran the provisions of the Bill, and a Commission has been appointed—I am stating my impression—a Commission has been appointed for the purpose of finding out ways and means by which these exceptions may be done away with. This is in backward Baroda and yet we are told in 1927, on the 15th of September, that the civilized British Government must want further elucidation of public opinion, further proof that public opinion wants such a measure. When more backward States have gone further and have progressed upon such a measure in a more drastic manner, this Government stands by in doubt and caution, I want the Government Members to consider this question very carefully. In the minds of people like myself, their present attitude will determine very largely the esteem and trust in which we regard this Government and its personnel. As I said in the beginning of my speech, these occasions are the test, whether this foreign Government can ever become national even in temper. The only safety of this foreign Government is to make itself more and more representative of enlightened national sentiment when questions like this come before the House. Personally speaking, I agree with Lala Lajpat Rai that the age should be raised to 18 (*An Honourable Member*: "16") to 16, and 18 in the case of boys. The amendment is there. I read the other day somewhere—unfortunately I have lost the cutting—that the average height of the English girl during the last few years has grown from five to six feet. My Honourable friends opposite must have read this. I may admit that we do not see many specimens of that description up here in Simla. What I am stating appeared in public print, and I am surprised that the height of the English girl should have gone up so much

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during a few years, I think it is 6 feet, I am merely quoting from memory. (*An Honourable Member* : "6 feet"). If that is so, surely the Englishman is aware that here the average height of Indian girls is about 4½ feet. We are here making a feeble attempt to raise it to 6 feet. Does he want to consider whether it is necessary for the benefit of the Indian girl that she should rise to that height by proper training and environment? Is that what he wants to ascertain public opinion on? And is he going to be frightened because certain men, certain orthodox men like my Honourable friend, Mr. Belvi, are opposed to this healthy measure? Will he be frightened by such men in his own country? (*An Honourable Member* : "No.") No, because there he will judge the measure on its merits and tell his friends, like my Honourable friend, Mr. Belvi, "You are out of date, four generations behind time."

Mr. C. Duraiswamy Aiyangar (Madras ceded districts and Chittoor : Non-Muhammadan Rural) : Would you like to imprison girls who are under 5 feet?

Mr. M. R. Jayakar : I do not know what my Honourable friend wants to know.

Mr. C. Duraiswamy Aiyangar : If a girl does not grow above 5 feet, will you put her in prison?

Mr. M. R. Jayakar : My Honourable friend has not followed the trend of my argument at all. I say the measure is ultimately calculated to give the Indian girl greater strength and better health than she has now. If my Honourable friend was not able to follow my argument, I am very sorry for him. I am sure the Government Benches see the point and agree with me. Let Government on a matter of this description not issue any mandate at all. Let it leave every Englishman free to vote as he thinks. I am sure that in questions of this character the Englishman has a conscience. Don't warp it by any mandate. Let every Englishman be free to vote and I have no doubt that when he knows the real significance of this measure, he will not be opposed to a measure by which we are making an attempt that our girls should rise to the same height and strength as the girls in his own country.

(Some Honourable Members moved that the question be put.)

Mr. D. V. Belvi (Bombay Southern Division : Non-Muhammadan Rural) : Sir, I am very thankful to you for giving me an opportunity to reply in my feeble way to the arguments advanced by such stalwarts as my esteemed friends, Lala Lajpat Rai and Mr. Jayakar.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : Put high heels on your shoes.

Mr. D. V. Belvi : Before I advance my arguments, I have to make a request through you, Sir, to my Honourable friend, Mr. Ahmed, who has no *locus standi* in the consideration of this question, who is not a Hindu in the first place, and who is....

An Honourable Member : He is an Indian.

(At this stage there were several interruptions.)

Mr. D. V. Belvi : Interruptions like these only show the unfitness of my Honourable friends to consider questions of this importance. I beg

to state that I yield to none in my zeal for social reform. I am a social reformer myself in my own way, and I beg to tell my Honourable friends who are posing here as social reformers, that I have got more daughters than one, and three of them were married after they had completed their 14th year. I am a believer in social reform, but I do not want to promote social reform through the medium of the Legislature.

Mr. B. Das : Why not ?

Mr. D. V. Belvi : My Honourable friend, Mr. Das, says that I should give him a reply as to why it should not be done. For the simple reason that we are a nation at different stages of civilisation. There are people of different castes, different creeds, who occupy different strata of education. That is one reason. Another reason is that this Bill strikes at the very root of the family law of the Hindus. Does the House understand the implications which are to be found in the bosom of this tiny Bill ? What is the notion of a Hindu as regards marriage ? Is marriage a sacrament, or is it only a contract among Hindus ? Is it a thing which can be set aside at pleasure ? Is that the notion of Hindus ? I do not care for those Hindus who have gone to England, and who have eaten beef and meat. No doubt I have great respect for them, and for my Honourable friends, Lala Lajpat Rai and Mr. Jayakar, who are highly educated and who have travelled much. But we have to realise that the large bulk of the people of this country are orthodox. We have to legislate for those people. Some of my Honourable friends are making a good deal of noise here. It reminds me of what I read in my college days from one of the books of Edmund Burke. He says :

“ Because half a dozen grasshoppers under a fern make the field ring with their importunate chink, whilst thousands of great cattle, reposed beneath the shadow of the British oak, chew the end and are silent, pray do not imagine that those who make the noise are the only inhabitants of the field ; that of course they are many in number ; or that, after all, they are other than the little, shrivelled, meagre, hopping, though loud and troublesome insects of the hour.”

My Honourable friend, Lala Lajpat Rai has told us that the Hindu law, rightly read, nowhere lays down the principle of early marriages. It is quite possible to find, after making a long research into our antiquities, authorities for the position which he has advanced here. If I were a member of the Arya Samaj as my Honourable friend is, or a member of the Brahmo Samaj of which the founder was Raja Ram Mohun Roy, I would have very willingly agreed with my Honourable friend, Lala Lajpat Rai ; but unfortunately for me and the large mass of the people who happen to be still orthodox Hindus, it is not the laws that are laid down in the Vedas that we are following. We must be taken as we are. We have got a certain set of tenets, a certain set of beliefs and customs. These must be respected, and the laws which you frame here must be suited to those customs and beliefs. Those customs may be wrong in their origin, but after all, you cannot put them down in a moment. If you take only the pristine purity of the Vedic religion, all that is advocated by my Honourable friends, Lala Lajpat Rai, and Mr. Jayakar, may be true, but we have to take the large bulk of the Hindu population as it now stands. You cannot afford to wound their feelings. Their feelings may be wrong, their customs may be bad, but you cannot root them out all of a sudden. My Honourable friend, Mr. Jayakar waxed eloquent and said that if he and his friends were on the opposite benches, a piece of legislation like this would have been passed in ten

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minutes. I may assure him that if he were to make a public declaration like that, he and his friends would be the last to be returned to the Legislative Assembly. (*Some Honourable Members* : " Oh ! ") I challenge you. If you go back to the country and contest the elections on this issue and get returned to the Assembly, I shall be the first to favour a piece of legislation like this. (*An Honourable Member* : " We will all come back. ") You are always on the top note, talking in hyperbolic language, and you do not want to consider the feelings of the millions of people who are outside this House. We are told that the house is on fire. It is not on fire, but if you were to pass a piece of legislation like this, you would be setting the house on fire. Do you know that there is a large magazine of gunpowder outside this Legislative Assembly, and do you mean to throw into it a lighted match ? You cannot do it with impunity. My Honourable friend says that enlightened public opinion is with Government. Are we to suppose that this enlightenment is confined to the four walls of this Legislative Assembly ? (*An Honourable Member* : " Question. ") Are we to suppose that there are no people outside who can lay claim to enlightenment and whose opinions should be heeded ? Are we to suppose that there is a monopoly of enlightenment and intelligence centred in this Assembly ? I refuse to yield to any proposition of that kind.

Mr. M. K. Acharya (South Arcot *cum* Chingleput : Non-Muhamadan Rural) : It is the monopoly only of the front benches.

Mr. D. V. Belvi : My Honourable friend, Mr. Jayakar, has twitted the Government with saying that it always does not choose to consult public opinion. That charge is not infrequently true, but there are things and things. When you interfere with the customs and the religious beliefs of a community, you are bound to be much more cautious than when you are dealing with a question of taxation or matters of that kind.

So far as the British Government is concerned, it is bound by a solemn document the Proclamation of 1858, and here for the benefit of my friends I will quote one passage from it. You know it but you very often forget it and it is better that your memories are refreshed. It reads thus :

1 P.M.

" We do strictly charge and enjoin all those who may be in authority under us that they abstain from all interference with the religious beliefs or worship of our subjects on pain of our highest displeasure."

That is the charter that was granted to us by Her Gracious Majesty Queen Victoria in 1858. You are now here trying to legislate upon questions of social reform and you wish to make our marriages merely contracts. Make it a contract if you like which can endure only for a certain number of years. Let a man be married to a woman only for three months and let the marriage be dissolved. That is not the idea of a Hindu marriage. I know personally that in my part of the country social reform is going ahead by leaps and bounds. I can give you the instance of a Brahman chief in my part of the country who married an educated lady of the age of 18. He married her openly and publicly. There are many of us who have celebrated the marriages of our daughters and our sisters after they completed their 16th year. My

friends here have no right to say that orthodox people should be coerced into accepting your view of social reform.

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadian) : Why should you coerce the woman ?

Mr. D. V. Belvi : If any woman is not willing to be married, she should not be coerced, but I do not want to have in India a good many maiden aunts.

Rai Sahib Harbilas Sarda : But you have thousands of child widows.

Mr. D. V. Belvi : I do not want to have a good many maiden aunts like Betsy Frotwood, a loveable character of whom we read in Dickens' David Copperfield. Our idea is that every Hindu girl must be married. That is a sacrament. My Honourable friends must appreciate the general belief in the country. It is better for them to go out of India or to occupy a particular part of India exclusively and then legislate for them in any way they like on social matters.

I have very great pleasure in supporting the motion made by the Honourable the Home Member. It is very rarely that I find myself in agreement with Members on the opposite benches, but there are occasions and occasions. (*An Honourable Member* : "You are a Swarajist.") Yes, I am a Swarajist in my own way. If Swaraj is granted, I shall be the last man to force on the people any measure against their will. Then, much was said about the abolition of *sati*. I really wonder why infanticide was not brought in. But those matters are on a different footing altogether from the question which is on the legislative anvil. Marriage is not the same thing among Hindus as consummation. They are two different things. Our idea of marriage is a religious sacrament. Marriage may take place but consummation may not take place for a number of years. Our idea is that when a boy is married to a girl or when a young man is married to a young woman the tie is indissoluble. It is only death that can part the couple. Much was said about so many Hindu widows of a certain age. Mr. President, I decline to go into this forest of figures which can be made to prove anything. It is very easy to enter into a maze of figures but it is not so easy to emerge from those figures. What are the two or three lakhs of young widows in a population of 330 millions and what guarantee is there that a girl who is married on the completion of the 12th year will not be a widow the very next day ? If there are widows, it is perfectly open to them to remarry a second time. Remarriage is allowed by custom and it is recognised by law. I am for remarriage but not for remarriage to be enforced by the Legislature. My Honourable friends may as well make a law that every widow must be remarried. It is said that Hindu widows are suffering a good deal. I do admit that there is a small number of Hindu widows who are extremely unfortunate and who suffer a great deal. But there are Hindu castes and castes. Remarriage is allowed in 99 cases out of a 100. There is no appreciable grievance. Suppose a Hindu girl's husband dies unfortunately within a month of her marriage. It is perfectly open to her parents to give her again in marriage to a suitable bridegroom any time they like. That is the usual custom. It is only among Brahmins who are considered to be at the head of the Hindu castes that the idea of remarriage is not very willingly tolerated.

Rai Sahib Harbilas Sarda : It applies to Vaisiyas and others also, not to Brahmins only.

Mr. D. V. Belvi : My friend has corrected me and I accept his correction. If that is the position, even then it is only a drop in the bucket. (*Honourable Members* : "No.") I do assert it is. You have no right to say that, simply because you are overzealous to associate your name with this Bill which you desire to see translated to the Statute-book. I tell you this is not the way to promote social reform. How many of you have addressed meetings publicly on social questions ? From how many platforms have you tried to enlighten the public ? It is all very well to come here and introduce a Bill. I know my friend Lala Lajpat Rai stands on a different footing. He is a reformer of the first water. He is a member of the Arya Samaj. I hold him in great respect. If there were more men like Lala Lajpat Rai and Bhai Parmanand all over India, there would be no difficulty whatever, but unfortunately we cannot bring ourselves to be members of the Arya Samaj. Of course their principles are very salutary, very good, but the people cannot be persuaded to accept them and, so long as the people remain ignorant, so long as they are unwilling, you have to put up with them. Education in India is in a very backward condition. That is a trite proposition. There are not even ten people out of a hundred who can sign their names even in the vernacular. It is better to advance education than to force social reform on an unwilling public through legislation of this kind. You will be doing better service if you promote education in the country. Sir, I believe it is only right that this measure should be sent down for circulation among the people. Let them know it. Let them study it. Let them discuss it. Let them hold thousands of meetings to consider this measure and if you find that there is a considerable bulk of opinion in favour of this measure I shall be the first to say with my friend, Rai Sahib Harbilas Sarda, that this measure should be passed into law. I am speaking in the name of the people. I am not personally opposed to the Bill, but I am only voicing the sentiments of the Hindu people who are very many in number and who are unfortunately not within the walls of this Legislative Assembly. I associate myself fully and heartily with the amendment which has been moved so eloquently by the Honourable the Home Member.

***U. Hla Tun Pru** (Burma : Non-European) : Sir, while I congratulate the leaders of the Hindu community on bringing forward this Bill, I must support the Honourable the Home Member in his motion for referring it to the country for more opinions. In the first place, this Bill is not sufficiently known in Burma, and secondly the term Hindu should not include all Buddhists. I find that Muhammadans have been left out of this Hindu Bill, and the Burmese Buddhists are likewise not governed by the Hindu law of India at all ; they are governed by the Burmese Buddhist law. That law has its origin in the institutes of Manu, but centuries have made it entirely different in spirit and they will strongly resent a set of laws which apply to Hindus being made applicable to Burmese Buddhists. Also there is a large community of Chinese Buddhists in Burma who are certainly not governed by the Hindu law. As a matter of fact also the Burman boy marries at the age of 24 and the

* Speech not corrected by the Honourable Member.

Burman girl at 16 years, and the law to a certain extent will be superfluous. The conditions which obtain in Burma do not hold in India and *vice versa*. I must therefore strongly urge that even if this Bill is referred to a Select Committee, neither the Burmese Buddhists nor the Chinese Buddhists should be included under the term "Buddhists".

Mr. M. S. Aney (Berar Representative) : Sir, it pains me to rise on this occasion to express views which are somewhat at variance with those expressed by my friends Lala Lajpat Rai and Mr. Jayakar. I am at one with my friend the Honourable Mr. Sardar in wishing an early death to the pernicious custom, child marriage, which has undoubtedly been eating into the vitals of the Hindu society. The principal question which I want this House to consider is not one of a religious nature. Whether the religious significance of the question should be made much of or not is a point on which I do not want to enlarge at this stage. I want you to consider the question arising out of the Bill like practical politicians, like men whose vote is going to turn the Bill into a law and will consequently affect the destinies of those very people whose interests you are here to further and promote. What I find in this Bill is this. I say without hesitation that the Bill is entirely ill-conceived. The Bill is avowedly intended to render certain marriages invalid. Now you must certainly understand what that means. Marriages under certain ages are going to be declared invalid. Now what is a marriage ? If certain ceremonies prescribed by the Shastras are duly gone through, then those ceremonies confer the status of married life on the persons who have undergone those ceremonies. If by any law you are going to declare that status as null and void, are you not interfering with the religious beliefs and religious understanding of the people ? Are you going to tell them that the ceremony which has been sanctioned in the Shastras as calculated to confer a particular status upon the persons of a certain society has not got any religious significance ? Are we to accept your word as the word of persons who understand the Shastras and the scriptures ? My friends here have quoted this and quoted that. I do not want to fight over the question of the age. That is a different question. But when you here want to legislate that even when the ceremony under the Shastras has been gone through and that status which it is bound to confer has been conferred, it should be declared null and void by virtue of a Statute which you have passed here, it virtually means, Sir, that you are interfering with what has been considered by us as a sacred belief of religion. But leaving aside that question altogether, I am not going to take the Smritis and Srutis from those persons whose knowledge of religious works is no more than a mere smattering, and whose knowledge of those books is probably obtained through translations and commentaries in foreign languages. Those that have read those books in the original form themselves are in a position to understand and say what the position is. Notwithstanding the eloquent plea put forward by my friend Mr. Jayakar, I beg to join issue with him and say that the essence of a particular socio-religious status consists in going through a particular ceremony prescribed by the Shastras. That is the meaning of the ceremony. As regards the age you are clearly on a different plane. But if the ceremony is gone through, although you can punish the man who is responsible for it, you cannot take away the status which it confers without interfering with the essential features of the religious ceremony which is undoubtedly a part of the time-honoured religion. Leaving aside that question, I

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want to take a practical view of this matter. The practical question is this. Suppose you have married a girl under a particular age, and by virtue of this law the marriage is declared invalid. What is the position of that girl if this Bill is passed? Under the law she is legally unmarried. Are you prepared to say that the entire Hindu community outside is prepared to accept that status and give their boys in marriage to that girl? If public opinion on that point is not ready what is going to be the fate of that girl? Out of sympathy with so many child-widows, whose fate everybody in this House and elsewhere is bound to bemoan, you think that a measure of this nature is necessary. Unless you are satisfied that there is a strong public opinion which will regard the marriages of girls declared under this law to be invalid as really invalid, and with whom the other members of the Hindu community are prepared to enter into relations of marriage and so on—unless you are satisfied that that is the state of public opinion, I am afraid, it will be dangerous to make a law of this nature. Probably you will unconsciously be creating a new kind of evil in the form of widowhood *de jure* in addition to the widowhood *de facto* which is already in existence. There will be husbands who under the law will not be married men. There will be wives who under the law will be un-married virgins. Other people in the society or castes will however refuse to accept and treat these women as unmarried, and what will be their position, legal and moral? Is it not best for you seriously to consider whether you should not first consult public opinion in the country, to see whether it is ready and ripe to accept legislation of this nature? I believe that the Honourable the Home Member has properly realized the grave responsibility that lies upon him, as the representative of the Government of India in a matter of this nature and he is therefore perfectly justified in insisting on circulating this Bill. It is of no use to him or even the society concerned that the champions of the cause of social reform in this House, who ignore these obvious issues, to call upon the Government to rush through each and every measure which savours of the progressive principles of social reform. That is unfortunately the doctrine for which my leader has stood. He has expressed great impatience at the spirit of caution advocated by some Honourable Members along with the Government in this matter. But what I strongly desire to protest against is the indecent haste with which he urges this House to pass such measures, simply because the music of social reform rings in his ears and he seems to hear some faint echo of it in the Bill in question. He is too impatient to obtain the opinion of the multitude of his countrymen who are going to be affected by this measure. For these reasons, Sir, with great reluctance I have to oppose the motion for a Select Committee and support the motion of my Honourable friend Mr. J. Crerar, with whom it is my good fortune to agree for once.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. President in the Chair.

Mr. S. Srinivasa Iyengar (Madras City : Non-Muhammadan Urban) :
Mr. President, I wish to oppose the motion of the Honourable the Home

Member for circulation. I appreciate entirely the point of view of my Honourable friends, Mr. Belvi and Mr. Aney, in this matter, but I take a view intermediate between the purely rationalistic view and the orthodox view, for I hold that Hindu religion compels such a measure of legislation as this to be enacted. If I really felt that Hinduism was in danger if this Bill was enacted into law, undoubtedly I would join my friends. But on the other hand we know perfectly well—and I have had the good fortune not to be subject to the criticism of Mr. Aney, having some little acquaintance with the Smritis myself—that the criticism is not at all deserved that religion is in danger. That is a very ordinary cry, and Members of this House with all their responsibility must realize that the time has come for them to appreciate that there has been a very considerable change in Hindu opinion during the last two decades. Time was when as a budding social reformer I had to face a storm of opposition in my own province in connection with some varieties of social legislation ; but I find to-day, moving amidst people—and I claim to have as much acquaintance with the people of my own province as anyone else—and moving on the most intimate terms with orthodox members of the community, and with the masses of the population, I say with a full sense of responsibility that Indian opinion has very considerably changed in this matter. But there is opinion and opinion. If opinion is left to express itself then it expresses itself soundly, but there is such a thing as interference with opinion, and if you do propaganda, you can easily manufacture any opinion for one view or another. Except in political matters, where public opinion is crystallizing itself and hardening itself against the Government, in all matters which are purely economic, educational or social, opinion is in a fluid state. However, there is no doubt of the fact that the Bill is in many respects defective. While I congratulate the Honourable the Mover of the Bill on the courage and the public spirit with which he has moved this Bill and on the fervent appeal which he has made to this House, I cannot agree with him as to the two ages which he has fixed for boys and girls, myself being of opinion that no marriage of a girl should take place unless she was really of a marriageable age, and I cannot understand the distinction sought to be made between boys and girls. I think that the average age for puberty being thirteen in this country, one year after that is the proper minimum age for marriage ; and if I had my own way, I would certainly fix it at fourteen. That is caution—not the caution of Sir Purshotamdas Thakurdas, who wants the circulation of this Bill and whose caution of course deserts him in other fields of life—but my caution undoubtedly is that fourteen is the proper minimum age for marriage. I know, for instance that in many cases the assumption is made that in India child marriage is the rule. They do not realize that child marriage is the exception. All the speakers with the exception of Lala Lajpat Rai made that assumption, and he was the only one who pointed out that the great majority of marriages are not child marriages, and therefore it is absurd to suppose that the Hindu religion is against what is known as post-puberty marriages. The majority of orthodox people, the high-caste people, the Sellala Mudaliars and Pikais, the high-caste Naidus and even the high-caste Brahmans on the Canara side and in various other parts of India, without the least fear of excommunication, of social or other ostracism, marry their girls after they attain their puberty and marriages do take place in other cases after fourteen or fifteen. We know perfectly well that Indian society is accommodating itself to the changing conditions,

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and to say that this little Bill which will only affect, of the huge millions of India, comparatively a minor section of the population, should be opposed in the name of orthodoxy is, I submit, a belated protest. Sir, I yield to none in my admiration for Hinduism. I am not an Arya Samajist but, a Sanatanist, we must differentiate between a Vedic rule and a Smriti rule. We all know that Smritis contain really a mixture of morality, of religion, of legal rules, and they contain descriptions of states of society and of customs and practices at the time when they were made. That is really the case with all the Smritis, and it is not right to say that what is laid down in the Smritis is really part of the Hindu religion. If they were part of the Hindu religion, then no Smriti rule can be abrogated by man-made custom, but as every lawyer knows as my Honourable friend Mr. Belvi knows, my Honourable friend Mr. Aney knows and the orthodox men and the lawyers in all the courts know perfectly well, custom can be pleaded in favour of inter-marriages, in favour of post-puberty marriages, in favour of many other things which are *prima facie* prohibited in certain particular Smritis. Therefore, man-made custom can be abrogated by man-made legislation. That is why the Mimansa rule says clearly that it is only Vedic vidhi that is not capable of alteration by custom. When a rule is laid down in the Vedas, that is not capable of alteration by custom, and no amount of immemorial custom could abrogate that rule. But a Smriti rule is easily set aside, and therefore it is that I contend that it is not a question of religion at all, it is a question merely of usage and practice which has been in existence in certain communities, and this has not been observed by the whole of the Hindu society. Therefore, the fact that the majority of the orthodox Hindu society does not follow this custom of child marriage shows that the reform which my Honourable friend Mr. Harbilas Sarada seeks to effect to-day is a reform which is consistent with the genius of the purest and the highest type of Hinduism. I submit equally that the reform which he advocates is one which is enjoined in the most ancient Grihya Sutras and you will find there that the girl must be of a marriageable age, because they show that she must be one fit to enter into marital relations with a husband. Therefore it is not a question of Arya Samajists and Sanatanists, it is not purely from the point of view of rational social reform, but I say, speaking purely from the point of view of Sanatan Hinduism and what is the true Hindu religion, that this reform is a very much needed reform, and it does nothing but merely set aside a man-made custom, which, as Lala Lajpat Rai has so graphically described, is really due to political or economic causes. I myself have made some researches, and I consider that it is due to economic causes and causes due to disturbed states of society that this practice came into existence in mediæval and post-mediæval times. You go back to the Svayambara period, where there was no such practice. You turn to the Vedic period, where do you find this custom observed, or in the Puranic period? These are later customs, and we know perfectly well that in the Smritis, which are like acts of a Legislature, there have been any number of amendments, and it appears as if we, reading to-day all these texts, think them to be of contemporaneous and equal validity, whereas those who have had any experience know that these were just like amendments introduced by subsequent legislation, and we cannot say now even the date of these amendments in many of these Smritis. The Smritis do not enjoin child marriage

either except Parasara Smriti. To regard these law books as having religious value is to deny the capacity of this Legislature to amend Hindu law. We have allowed, for instance, in many matters of Hindu law our rights of inheritance to be seriously affected by legislation. When you have given to the Legislature, foreign made and mixed as it is, the power to make laws, national or otherwise, when you have given the Legislature the power to abrogate the rules of the Hindu law of succession, the law relating to a son's liability for his father's debts and great varieties of laws which are of equal validity with the texts which deal with this question of reform, surely it cannot be said that these laws cannot be abrogated by this Legislature. Therefore I deprecate this idea that there is anything at the back of the minds of social reformers of these days—that they want to put down orthodoxy and somehow get this thing done. On the other hand the nationalist of these days is one who wants to reconcile the changing conditions of society with Hinduism as far as possible and wants to take them both together ; and taking that view I contend this Bill does not require any circulation for opinion. What is the opinion of the country ? We are all men who have been returned as representatives of thousands and tens of thousands of people in various parts of the country.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran : Non-Muhammadan) : But not on this issue.

Mr. S. Srinivasa Iyengar : We have not been returned on any issue. As a matter of fact I do not know on what issue we have been returned. I say this that the idea that the opinion of our countrymen differs from ours in this matter is really a mistaken idea. The times do require that sometimes Members of this Legislature must create an opinion ; and in matters of this description the opinion must go down from the Legislature to the populace rather than from the populace to this Legislature. There are matters on which undoubtedly the opinion of the community at large must be consulted before legislation is undertaken ; but this is not a matter for opinion because admittedly the custom is against you and you want to change the custom ; and if you ask the people, you will get wildly discordant opinions. One set of people will say one thing and another set of people will say another thing ; and what will be the assistance that the circulation for opinion will give to the Members of this Legislature I hardly know. We will be no wiser after reading the volumes of opinions that may be gathered than we were before reading them. Therefore, I think it is our duty to understand whether really we are hurting Hindu religion, whether we are really hurting Hindu society. I am not speaking merely of political interests. I know perfectly well that the Hindu society has survived the shocks of centuries and numbers of innovations and numbers of religious and other conflicts ; and I know the physical and moral and mental basis of Hindu society is sound ; but I do believe in race improvement and I do believe in arresting any deterioration and I do say that eugenics and heredity require that, in the minority of cases in which the child marriage institution is still in existence, it is necessary that we should set aside that custom and that we should boldly without flinching undertake this piece of legislation. Only, I would deprecate laying down the minimum age at 12 for the girls—but that is a matter which should be gone into in Select Committee if the House agrees to that course. I also associate myself with Lala Lajpat Rai and Mr. Jayakar in thinking that reference

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to the Select Committee will be a good compromise because it will give sufficient time ; and as the Bill must necessarily come up to be discussed only at the Delhi Session of the Assembly it will give sufficient time for those of our friends in the Assembly who feel that public opinion must be consulted. But, as I said, in this matter there are those social reformers who think it is a principle with them that they must go in for this legislation ; there are others who think that orthodoxy and religion are in danger. I take an intermediate view ; I do not think Hinduism is in danger if this Bill is passed any more than the Bill which enabled widows to remarry. It does not in the least interfere with the Hindu religion. As I said the Hindu religion has survived five hundred changes and this little Bill of Mr. Har Bilas Sarada is not going to affect the Upanishadic interpretation of the universe ; it is not going to affect the Gita interpretation of Hinduism ; it is not going to affect the Karma and Samsara doctrine ; and coming to the popular type of Hinduism, I cannot understand how it is going to affect temples and other rituals. Therefore, Sir, this Bill seeks to affect nothing but a little custom which exists, a custom which I think is quite out of date, which was forced on a former state of society when owing to war and disturbed conditions, owing to the love of the *pater familias* to dispose of his girl in marriage and to prevent her from giving herself in marriage, owing to a variety of other causes, this post-mediæval custom sprang into existence ; and that is all that this humble little Bill seeks to remove. Therefore, Sir, I give my heartiest support to the general principle of the Bill, though I do not certainly agree with the age mentioned in it.

I would appeal, if I can appeal at all, to the Honourable the Home Member and to the Leader of the House, who is not here, that the official bloc should remain neutral. That is the least they can do. They should give freedom to vote for their Members in this matter ; but if they do not give freedom to vote, at least they should remain neutral. There is a great deal of force in the admirable speech my friend from Bombay, Mr. Jayakar, made. I have often said that the Government stands in the way of social legislation ; but I have grown wiser. Time was when I was a reckless social reformer. Now I have come to the conclusion that we must take the people with us and that it will not do by hasty legislation to force very much the pace of social reform. But this particular matter is one upon which we all feel most strongly and I consider that the majority of the community is in full sympathy with it. So there will not be any rebellion, there will not be any revolution ; there will be no communal riots and you will not have to call in the police or military ; and I can assure the Honourable the Home Member that no question of law and disorder will arise and no question of putting the Criminal Law Amendment Act into force or anything of that kind. I say therefore to this Government "Hands off. Why do you interfere?" When the non-official Members of this Assembly say that this is the only way in which it is possible for them to discuss this small Bill dealing with a very much needed reform in Hindu society, when they want to improve their race, they want to put down this tragedy of child marriage and to minimise the evil of child widowhood, when they want also to prevent the greater tragedy of child motherhood, when they want to prevent all this, why do you, who claim

to be very humanitarian, very rational in outlook and very up-to-date and progressive in ideas, why do you claim yourselves to be the custodians of Hinduism and the custodians of the sacrosanct usages of the dumb millions of India? Why do you claim that? We are there to take upon ourselves the full responsibility. If the Government does not want to take the responsibility it can remain neutral; it need not give freedom to vote, but it can remain neutral. By remaining neutral they can acquit themselves of any responsibility; but by opposing this measure by this dilatory motion of circulation for opinion—for it is nothing but a dilatory motion I consider—they are certainly trying to interfere with the freedom which ought to exist among members of the Hindu society by their own majority to enact their own laws. I would also appeal to other Members of the House. I am not putting it as if it concerns Hindus only. Situated as this Assembly is, every one of us is entitled to vote and speak on all these matters; and I certainly think that matters touching Hindu society are matters which touch, if not to that extent, at least to a lesser extent, my Muslim friends and other European friends also. I do contend that it is not their duty at all to say that in the name of preserving the present customs and in the name of moving with that wondrous caution—a word which I have seen nowhere at all except in the transactions of this body—I say that the fact that we are told that the Government would oppose this Bill or support a dilatory motion of this character, tells me that Mr. Jayakar is perfectly right in saying that time and again this Government stands in the way of progress in Hindu society; and I would appeal to my orthodox friends in this House that even if I am mistaken there is no harm done. What after all do you do? What is it you do if you allow a girl to be married only after she is 12 years of age? Personally I would prefer 14; and I shall remain neutral if it is less than 14. It does not mean that the Bill proceeds on a wrong basis. What is the great danger? Let us realise that we who stand up for Hinduism have also a duty to see that Hinduism promotes the growth of a virile race of men and efficient race of girls who will become the mothers of a greater India. I do believe, Sir, that the time has come for race improvement, and I honestly feel that this Bill does not interfere with the Hindu religion. With all the diffidence that I have got from the knowledge that able and conscientious men think otherwise, I have still the right to make to them the appeal to reconsider the position and not to think that religion is in danger by this Bill. On the other hand, religion will be strengthened by a race of grown up men and women and by allowing them a little freedom in the matter of marriage. It was the Śvayambara period when religion was certainly not in danger. Are we to say that in the Vedic period religion was in danger? Sir, we all contend that the Vedas are the only revelation to us, and those who do not believe in them are Nastikas, and I would appeal to them on Vedic authority to support the Bill and not to rely on the Smṛiti texts which modern lawyers imagine are to be regarded as really part of religion. Smṛiti texts are no more important than Acharans or customs which can be set aside. Manu Smṛiti says that the texts can be set aside when Parishads and learned persons find that the times do require a change, and Hinduism and Hindu society have progressed very considerably and have made deliberate changes in those customs which are not the framework of the Hindu society and which do not touch the fundamental tenets of Hinduism which are enshrined in the Upanishads, in

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the Gita and in other works. I would therefore most cordially support the Bill and oppose the motion that it be circulated for eliciting public opinion. I would once more beg my Honourable friend the Home Member, if he cannot accept the motion for taking this Bill into consideration, he should at least allow this motion to go to a Select Committee, where we can discuss this matter and come to a proper conclusion.

(Several Honourable Members moved that the question be put.)

Mr. M. Ruthnaswamy (Nominated : Indian Christians) : Sir, if I venture to take part in this debate, it is to repudiate the suggestion made by my Honourable friend Mr. Belvi in answer to an interruption of my esteemed friend Mr. Kabeer-ud-Din Ahmed. When he said that Muhammadans have no *locus standi* in this discussion, I suppose he included all who were not Hindus in that suggestion. Sir, I want to repudiate that suggestion, because, as Members of the Legislative Assembly, whether we are Hindus, Muhammadans or Christians, officials or non-officials, we are bound to take an interest in whatever question is brought before this Assembly. Apart from that, Sir, whatever hurts a Hindu hurts a Muhammadan, hurts a Christian and hurts the country all along the line. The logical conclusion of Mr. Belvi's suggestion would be a sort of variant of the dog in the manger policy. Because my home is beautiful ; I hope that the homes of other people are ugly. Sir, no Indian who has an interest in the progress of this country can accept the suggestion of Mr. Belvi which, to say the last, is suicidal.

Then, Sir, the suggestion that this Bill should be circulated for eliciting public opinion seems to rest on a misunderstanding that we are concerned with the promotion of social reform. Certainly when social reform is somewhat in advance of public opinion it may be necessary to consult public opinion so that we may have public opinion with us. But to me, Sir, this Bill of my Honourable friend Rai Sahib Harbilas Sarda is not a Bill which aims at the promotion of social reform so much as at the obliteration of the ghastly social deformity which, as so many Hindu speakers who have preceded me have acknowledged, defaces the social system of this country. In order to penalise a crime, we do not suggest that opinions should be elicited, and I think it is a social crime that is sought to be removed by the Bill advocated by Mr. Harbilas Sarda. (*An Honourable Member* : " Exactly so. ")

Now, Sir, the suggestion of the Honourable the Home Member that this Bill be circulated for eliciting public opinion thereon, if he will allow me to say so, is a mere dilatory proceeding. (*Several Honourable Members on the Government Benches* : " No, no. ") It reminds me, Sir, of a character in one of George Lloyd's novels—I think it was *Middlemarch*—who was a boy credited with a comprehensive knowledge of Latin. But when it came to translating any particular Latin passage into English, it dwindled into nothing. We have heard of philanthropists who pose as friends of the human race, but when it came to helping their neighbour, it was quite a different story. Now, the argument that this Bill should be referred to elicit public opinion smacks something of that character. Here is an opportunity for Government for improving the social system of a vast majority of the population of this country. There is an enlightened demand for it, and it seems to me, Sir, that Government, instead of

delaying the response to that demand, should encourage and meet that demand, because, Sir, as every one will acknowledge, whatever political reform we may be aiming at will be thwarted and delayed by these social abuses which are a blot on the social system of this country.

Pandit Madan Mohan Malaviya (Allahabad and Jhansi Divisions : Non-Muhammadan Rural) : I am sorry, Sir, I was not here this morning when some of my friends spoke on this subject. (*Several Honourable Members* : "Louder please".) A public duty had taken me to another place, and so I lost the advantage of hearing their speeches. But I have heard some speeches this afternoon, and I am struck with amazement by some of the opinions which my esteemed friend, Mr. Srinivasa Iyengar, has given expression to. If there was a proposal not to consult public opinion on a matter of political importance which affected the people of this country, if there was a proposal to enact any law which affected the political opinions of the people without consulting public opinion, my friend, Mr. Srinivasa Iyengar, would have lashed his tongue much more vigorously than he has done to-day. But in dealing with a matter which affects the socio-religious ideas of a vast majority of the people of this country he holds that the Bill should not be sent out for eliciting public opinion thereon, and that legislation should be proceeded with straight off, regardless of the feelings of the people who will be affected by it. I submit, Sir, that the blame which has been laid upon the Honourable the Home Member that he had the temerity to propose that this Bill which affects vast numbers of His Majesty's subjects on a very tender point should be sent out, for eliciting public opinion, is most unjustified. Sir, I have great pleasure in supporting the motion made by the Honourable the Home Member. (Cheers from the Government Benches.) (Mr. Belvi at this stage whispered something to the Honourable the Pandit and some non-official members gave some decisive cheers.) This is not the first time I have been cheered by my friends. (*Some Honourable Members* : "The cheers are for Mr. Belvi.") I am grateful to Mr. Belvi for trying to help me when there is so much need for help because the volume of opinion that has been expressed against the proposal of the Honourable the Home Member seems to be so overwhelming, so desperately overwhelming that I do need the support of every Member of this House in trying to bring the House to a sensible consideration of the task that lies before them. Sir, what is the matter that we are dealing with ? My friends who are anxious to promote the physical well-being of the Hindu community are entitled to respect. They have not merely my sympathy, but my respect. Whether they are Hindus, Mussalmans, Christians or any others, their wishes for the physical well-being of their fellow-countrymen are deserving of respect. But let not zeal carry us beyond what is right and proper. We desire social reform. We desire a reform of the marriage law. Let us proceed about it in the manner in which we should proceed in bringing forward a piece of legislation which will affect the lives and the happiness and the future existence of a large number of our fellow subjects. I submit, Sir, that the object of the Bill which my friend Rai Sahib Harbilas Sarda has introduced here has my fullest sympathy. I have myself given notice of a Bill to effect somewhat the same object. But I do submit, Sir, that the Bill of such an important character, it seeks to effect such a revolution in Hindu society—(*An Honourable Member* : "Does it seek to effect a revolution ?") Yes, it

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does, it will give such a shock to Hindu sentiment to a large extent in the country that I am surprised so many of my Honourable friends, sitting on this side, should, speaking as responsible men, urge that the Bill should not be circulated for opinion and that it should be sent straight off to a Select Committee. I am surprised at it. I wish, Sir, to point out that the object which my friend has in view will have the support of a large number of people. But the problem is of greater importance and delicacy than my friend has, in his laudable desire to prevent child marriages, thought. What does he propose? He proposes that marriages of Hindu girls below the age of 12 years shall be invalid, subject to the qualification he has put in one of the clauses of his Bill. Does my friend imagine that the mere passing of a law in this Assembly will effect such a change in the ideas of vast masses of the people of this country that they will avoid such marriages all at once? (*An Honourable Member*: "Yes.") I submit, no. I claim to know the country at least to the same extent as my friend does, and I think it is wrong to think that the mere passing of a law like this seeking to promote a reform in marriages will go down to the masses all at once and will be accepted by them all at once so as to avoid the evil results of the legislation which is proposed.

Mr. M. Ruthnaswamy : What about political reform ?

Pandit Madan Mohan Malaviya : I am not here, Sir, to instruct my friend on the question of political reform. He must await some other opportunity for it. But I submit the question that is now before us is—whose fault will it be if parents marry two children of tender ages at 9 or 10? What fault is it of the boy or of the girl who has been married that their marriages which are indissoluble should be held to be invalid? What consolation will it be to them that such a legislation as is proposed has been passed? I submit that the proposal does require more serious consideration. It does require that it should go out to the public for opinion, and that those persons and bodies should consider this question who are entitled to speak and that those who are in a position to take an impartial view of it should be requested to help the Legislature by an expression of their opinion. It has been said, Sir, that the Government has often stood in the way of social legislation. I am sorry I cannot endorse that view. What is the social legislation that we are responsible for? What is the measure of social reform that we ourselves have brought about? Put on one side the reform that has been brought about by our earnest day to day work, and put on the other side the many pieces of social legislation which have been passed by the Government and which have affected or helped social reform. And secondly, it has been said, Sir, that the Members of the House on the other side, the Government Members, should abstain from voting to-day on the motion if they cannot support the measure. I hope they will not accept the advice easily. I hope they will weigh the responsibility which rests upon every member of the House, European, Mussalman, Christian, Hindu, every Member of the House, to think of how this legislation is going to affect our humble uneducated or largely uneducated masses of fellow subjects in the country. If they feel that such a legislation should be passed without any reference to the country at large, if they feel that without asking for opinions, such opinions as are asked for on all legislation which is undertaken by this Assembly as a rule, that this is a special measure on which

no opinions should be elicited, that the opinions of those present here should be held to be sufficient to decide the matter, well they are at liberty of course to vote according to their judgment. But I do hope they will consider that this is a matter which does affect a very large number of our fellow subjects and that they will not yield to the appeal that has been made to them to abstain from voting on this motion as they think right.

Now, Sir, I wish to make it clear, I have said it already, but I wish to emphasise the fact that I am not less keen than my Honourable friend Rai Sahib Harbilas Sarada to see some legislation through which will put an end to the evils of marriages at very tender ages. These evils are well known and have been widely deplored. Though the age of marriage has been steadily though slowly rising in the higher classes of the community, the extent to which marriages still take place at too early ages is alarming, and I wish the House to consider the question not as affecting merely Hindus but also as affecting Mussalmans and Christians and Sikhs and Aryas and other sections of the population of this country. It is a question on which the legislation should be general and not confined to the Hindus, as I hope Honourable Members of this House will very soon be satisfied, when I have drawn their attention to a few facts. A statement prepared from the Census Report of 1921 shows that in that year there were 1,10,684 males and 2,18,463 females of ages up to five years, and 7,57,405 males and 20,16,687 females of ages between 5 and 10 years who were married; that there were 23,44,006 males and 63,30,207 females of the ages of 10 to 15 years who were married; that there were 40,77,400 males and 96,35,340 females of the ages of 15 to 20 years who were married.

Mr. President : Order, order. The Honourable Pandit was not here this morning. These figures have been repeatedly quoted in this House by the previous speakers.

Pandit Madan Mohan Malaviya : Thank you, Sir. These figures do not include widows. They show that the largest number of marriages take place between the years 15 and 20 and after that between the years 10 and 15. But it is clear from the figures that 8,68,089 males and 22,35,150 females, that is 31,03,239 children had been married at the ages of 10 years or earlier. The number of children who were married before they commenced their 12th year is not separately given. But the total number of children who were married between the ages of 10 and 15 years was 86,24,273 of whom 63,30,207 were females, and it may safely be assumed that at least one-fifth of these, that is more than 17,34,854, were children who had not entered upon their twelfth year, that is to say, roughly about 48 lakhs of children were married before they entered upon their twelfth year.

Now, Sir, that shows the great need of a Bill effectively to discourage marriages at such tender ages. And to support the point that it is not merely Hindu children who suffer but that children of all classes suffer, I wish to draw the attention of the House to the number of married males and females in India below the age of 15 in the different communities and classes, as the Census Report of 1921 gives it. The total number of children, who were married, of all religions, below the age of one year was 15,625. Among these, Sir, there were Hindus, 5,995 males and 7,938 females; Arya, 4 males and 5 females; Sikh, 1

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male and 10 females ; Jain, 35 males and 51 females ; Buddhist, 1 male ; total Hindus, 13,940 ; Christians, 55 males and 53 females, (i.e., those married under one year), total 108 ; Mussalmans 639 males, 935 females, total 1,574 ; *between the age of 1 and 2 years*, Hindus 5,665 males and 9,863 females ; Arya 19 males, and 2 females ; Sikh 2 males and 1 female ; Jain 40 males and 65 females ; total Hindus 15,675 ; Christians 43 males and 55 females, (i.e., 98 in all) ; Mussalmans 767 males and 1,386 females. *Between the ages of 2 and 3 years*, Hindus 13,827 males and 26,726 females ; Arya 2 males and 16 females ; Sikh 26 males, 12 females ; Jain 74 males and 156 females ; Buddhist 5 males and 5 females ; total Hindus 40,849 ; Christians 78 males and 167 females, total 245 ; Mussalmans 1,892 males and 4,410 females, total 6,302. Between the ages of 3 and 4 years—and so on. Sir, I will put in the statement with your permission, because I want to save time. The total number of children, who are married, under the age of one year, is 15,625 ; between the ages of 1 and 2, 17,909 ; between 2 and 3, 47,400 ; between 3 and 4, 87,799 ; between 4 and 5, 1,53,950 ; between 5 to 10, 27,41,647. I submit, Sir, that this shows the great need of introducing a piece of legislation which will save children, not merely Hindu children but children of all classes of the Indian community from the evils of marriages at such tender ages. One of these evils is the large number of child widows we have in this country. I have got a statement before me giving the number of widows below the age of 15. It is distressing to find that there were widows under the age of one year, not merely among Hindus but also in other communities. There were 612 widows among the Hindus under the age of one year, 127 among Mussalmans, 5 among Christians.....

Mr. President : Order, order. We are not concerned now with Mussalmans and Christians. The Bill before us exclusively applies to Hindus.

Pandit Madan Mohan Malaviya : Yes, Sir. That is one of my objections to the Bill, that the Bill should not apply exclusively to Hindus ; that while there is need for a measure which will protect the children of all communities, of all religions, the Bill seeks to protect children of Hindus only. That is one of my objections to the Bill. (*An Honourable Member :* "You are not concerned with them.") I thought only a while ago an appeal was made to every Member to take an interest in the Bill, and that every Member was asked to feel a concern in the interest of our children. I am as much concerned to protect my Mussalman sisters and daughters as my Hindu sisters and daughters. (Applause.)

Mr. K. Ahmed : Speak on your Bill when it comes on.

Pandit Madan Mohan Malaviya : I have reminded you that you have widows under one year—612 Hindus, 127 Mussalmans and 5 Christians ; between 1 and 2 years, 498 Hindus, 84 Mussalmans and 7 Christians ; between 2 and 3 years.....

Mr. President : The Honourable the Pandit persists in quoting figures about other communities. I have already pointed out that this Bill applies exclusively to Hindus.

Pandit Madan Mohan Malaviya : With great respect, Sir, I submit that I am perfectly entitled to put the facts and arguments, which I am putting forward, before the House in order to ask the House not to accept the motion that the Bill be referred to a Select Committee but decide that it should be circulated for opinion so that the opinions I am expressing might find expression elsewhere too. That is the reason why I am putting these facts before the House, Sir, and I submit that it is essential for my part of the argument to show that it is not only Hindu children who are affected, but that children of the Mussalman community, the Christian community and the Sikh community are also affected, and that therefore.....

Mr. President : Does the Honourable Pandit realise that nothing he can do or say could extend the scope of this Bill ?

Pandit Madan Mohan Malaviya : I submit, Sir, I am more hopeful than you seem to think I should be, that when I have brought these facts to the notice of my Mussalman friends and my Christian friends, and through them of the country, they will ask for a Bill which will protect children of all communities. That is my object.

Mr. President : We are not concerned with any other Bill that might in future come up. We are concerned at present with the Bill that we have before the House.

Lala Lajpat Rai : There is no use circulating then. Reject it if you please.

Mr. M. R. Jayakar : How will circulation cure this defect ?

Pandit Madan Mohan Malaviya : I have said enough, Sir, to show that this Bill needs amplification and an extension of its scope in order to meet the situation in the country. What I wish to point out now is the objection to the Bill being sent to the Select Committee without eliciting opinions. I have already drawn attention to the fact that it seeks to make marriages invalid. I submit, Sir, this is a very strong measure to adopt when the Government and the educated people of this country have allowed early marriage to take place as they have taken place for generations, when they have not up to this time taken sufficient steps to educate public opinion on the evils of early marriages. (*An Honourable Member.* "We have done enough.") You have not done enough. I say it deliberately.

Lala Lajpat Rai : We have been doing that for over 100 years.

Pandit Madan Mohan Malaviya : I know what we have done, Sir. It is no good telling me that I do not know what we have done. We have delivered speeches, we have published pamphlets ; we have passed resolutions, but we have not gone from house to house to bring the evils of early marriages home to the people at large. We have not carried on such an agitation. We have not carried on even such an agitation as the temperance people are carrying on in some places against drink. We have not carried on an agitation commensurate with the enormity of this evil, and we are not entitled to claim that we have done all that we could. What I submit is that it is wrong to the community at large, when the Government of the country and the educated men of the country have allowed the custom of early marriages to go to the extent they have allowed it to go, that

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they should, all of a sudden, decide to introduce a law which makes early marriages among Hindus invalid. I entirely endorse the view which my friend Mr. Aney has expressed on this question. It is not a small matter, it is not a matter of small consequence to the Hindus that a marriage should be declared invalid. The consequences have been so well described by Mr. Aney that I do not wish to take up the time of the House by dwelling on them again. But I say that if my friends in their zeal for the good of the Hindu community are carried away to-day to urge that the Bill should be referred to the Select Committee without being circulated for opinion, if they go and meet popular audiences, they would find their position untenable. (*Mr. M. R. Jayakar* : "Question.") Until the matter is put to the test, you can well question what I say. But I speak not with disrespect. I do not mean any disrespect to any of my friends. But I submit that the proposal that marriages among Hindus should be made invalid by a piece of legislation without its being referred to the public for an expression of their opinion, would not find support on any platform on which the Hindus are properly represented. I therefore submit that the motion of the Honourable the Home Member should be accepted by this House. No harm will be done by a little delay that must be necessarily involved in doing so. We want to put on the Statute-book a piece of legislation which will commend itself to the general body of thoughtful people in this country. I feel that if the Bill is circulated for opinion there will be some opposition undoubtedly to the age that has been proposed. Some will ask that the age should be lowered by a year, and others may ask that the age should be increased by a year or even two. But I submit it is likely that, when the facts are put before the public properly, there will be a general agreement that in view of the calamitous state of things which exists at present, under which lakhs of our children are subjected to the disadvantages and evils of marriage, at too tender an age—when these facts are properly presented to the people, I expect that there will be a very large measure of general support to the object of the Bill. I submit that the great point to be considered is whether at this stage the right thing is to make marriages below a certain age invalid, or whether we should proceed in a less drastic fashion. I recognise that we have to introduce some penalty in order to prevent marriages below a certain age. There have been different suggestions put forward. In the Mysore State there is a law under which imprisonment is inflicted upon those who take part in marriages below the age which has been prescribed in it. My friend Mr. Ranglal Jajodia sought to carry a Bill in this House in which he also urged that a violation of the law should be punished with imprisonment. The provision he suggested was that no Hindu boy should marry until the age of 16 years and the male guardian of a Hindu boy marrying below the age of 16 or who may arrange or take part in such marriage shall, on conviction by a court of competent jurisdiction, be punished with simple imprisonment which may extend to 12 months or with fine not exceeding Rs. 1,000 or both ; but he had the good sense to provide that :

" Nothing herein contained shall invalidate any marriage which is otherwise valid under the law by which the boy is governed."

That was Mr. Ranglal Jajodia's Bill who was a Member of the last Assembly.

There is another proposal, and that is, whether our object should be at this stage more to educate public opinion on the subject than to severely punish those who carry out or celebrate marriages below a certain age. In view of the fact, which is indisputable, that the Government and the educated prominent men of the Hindu community and other communities have not yet put in their proper share of work to educate the general public on the evils of early marriages, I submit.....

Lala Lajpat Rai : I deny that charge.

Pandit Madan Mohan Malaviya : But I am sorry I have to make it—I ask whether in view of the fact that the Government and the men of light and leading in this country have not either separately or together made an effort commensurate with the enormity of the evil of early marriages, we should not proceed by adopting less drastic methods, whether in the first instance not only should marriages not be declared invalid, but whether in the first instance even imprisonment should not be avoided, and whether we should not be content for some years at least with inflicting merely a fine where a marriage takes place below the age which is prescribed by law. If this proposal should commend itself to the public and to this House, I would suggest the substitution of one simple clause in place of clauses 4 to 6, like this :

“ Any one who may bring about or take part in the marriage of a girl who has not completed the age of 11 years or of a boy who has not completed the age of 18 years, shall, on conviction by a Magistrate within whose jurisdiction the marriage takes place, or either party to the marriage resides, be liable to punishment with a fine which may extend from Rs. 50 to Rs. 1,000 ”.

Now, Sir, I am fully aware that this will be regarded by some of my friends here as a very mild measure, but I have been taught to believe that the mild dose is sometimes the strongest in its effect. I submit that a piece of legislation like this will be of very great educative value. It provides for a fine of Rs. 50 in the case of the humble man, and I wish to inform the House that our humblest fellow-subjects or the so-called depressed classes are the largest victims to this evil of early marriages. I wish to provide for their case. It will take some time to educate them about the law, and every effort should be made to educate them and the general public and to enlist the support of the various communal societies to affect the reform as early as practicable. There should be a propaganda throughout the country to proclaim the new law in order that people may support it, and I venture to think that if they know that cases of the violation of the law shall be punished with fine, they are likely to accept it and support it. Such a law will be of great educative value and it will not upset the people very much and it will largely effect its object. I suggest this for the consideration of Members of this House. I know that my Honourable friends who are oppressed by a thought of the evils resulting from early marriages will perhaps think that my proposal is of too mild a character. I ask them to consider it in the light of the arguments which I have presented and to consider it from the point of view of moving forward one step and a large step. I am most anxious—no words can express the anxiety that I feel—to prevent marriages of girls who have not yet completed even their eleventh year. I suggest eleven years not because I like the girls to be married at that age. The Hindu law does not enjoin that marriages should take place at a very tender age. Manu, the greatest of our law-givers, laid it down that a man of 30 years ought to marry a girl

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of 12 years, and I want that the marriageable age should be raised to 12 years, not as the latest age of the marriage of a girl, but as a great advance, an enormous advance upon the position that exists to-day. But I wish that that advance should be attained in such a manner that it will be acceptable to the people. In the medical works of Hindus it is laid down that until a young man has attained the age of 25 and a girl of 16..... (*An Honourable Member* : " You are not correct.") I am absolutely correct—they should not live together as husband and wife. What I have quoted from Manu is also unquestionable. What Manu laid down with reference to the marriages of girls of 12 years, was not that they must be married at the age of 12, but that they should not be married until they attained the age of 12. And *Sushruta*, our great medical writer, prescribed that the age at which a young man and a young woman should begin to live as husband and wife should be 25 for a young man and 16 for a girl. Bagbhatta, who is another great medical authority among us, laid it down that until a girl has completed the age of 16 years and a young man the age of 20 years, they should not begin to live as husband and wife. I wish that the age of consummation of marriage should be raised even when marriages take place at an earlier age. I submit therefore that it will be a great gain to humanity, and a great piece of good service to the whole of India, if we can prevent marriages by law until the girl has completed the age of 11 years and until a young man has completed the age of 18 years.

For these reasons, Sir, in order that the matter should be fully investigated and examined in all its aspects and in order that we should be able to think calmly and dispassionately as to what will be acceptable to the community as a whole and what will make for the good of the community as a whole, I strongly support the motion that the Bill be circulated for opinion.

Munshi Iswar Saran (Lucknow Division : Non-Muhammadian Rural) :

Sir, it is only a strong sense of duty that makes me differ from one whom, in all truth and sincerity, I hold in the greatest veneration, one whose life is worthy of all respect and admiration. The speech of the last Honourable speaker has not come to me as a surprise. I know his views on the subject. He wishes that when you introduce any social reform, the reform should be such as to be acceptable to the vast majority of your countrymen and countrywomen. I say with great respect that when you come across a case like this, where according to the figures which have been quoted children under one year of age are being married, it does not matter at all whether the reform proposed is acceptable or not. It becomes the positive duty of those who call themselves their leaders—the leaders are really the servants of the people—and the Government to tell the people, if they oppose " You are talking nonsense. We will not allow you to ruin yourselves." Sir, I submit that the Hindu race is dying and one of the causes responsible for our slow decay is early marriage. (*Lieut.-Colonel H. A. J. Gidney* : " You are quite right.") Sir, it will be the sheerest impertinence on my part to offer any observations on Shastric rules in opposition to Pandit Madan Mohan Malaviya, but I shall say one thing quite clearly. I do not care at all what the Shastras say ; if the Shastras come into conflict with the natural laws of God, the Shastras must go.

I do not wish to say one word on this subject which may hurt anybody, in spite of the fact that I have committed the sin of having gone to Europe twice. Here is Pandit Madan Mohan Malaviya, one of the most orthodox men in the country. He approves of the principle of the Bill and here we have two excited friends, one the Secretary of my Party and the other a prominent member of the Swaraj Party. They have got terribly excited. They abused right and left. They brandish their hands and I felt secure here because I was at a distance from them. Here is Pandit Madan Mohan Malaviya who deplures the present condition. (Here Mr. Aney made a remark which was inaudible.) He said, "Educate public opinion". Suppose you accept the motion of the Honourable the Home Member, how will you educate public opinion? Will the Honourable the Home Member undertake to go from house to house as Pandit Madan Mohan Malaviya said and speak to men and women? Will he exhort the people and say "Please see the dangers, please see what harm you are doing to your own children, please become sensible and accept this Bill." What will happen? In a few months you will have the views of the various Local Governments and the various public bodies. Where, I ask Panditji in all humility, is the question of educating public opinion? The question of educating public opinion will come if this Bill is passed. Let the Bill be passed and let all of us under the inspiring leadership of Pandit Madan Mohan Malaviya go about and explain to the people and tell them that it is in their interest and it is for their good that this measure has been adopted. You can then tell them, "Please accept it and follow the lead that has been given by the Legislative Assembly."

Then there is another point I want to make. Let me say quite frankly that there will be very great opposition to this measure and it is inevitable. Now, if every party was convinced that a girl under 12 or 14 should not be married, there would be no such marriage and there would be no necessity for legislation to prevent it. I submit with all respect that unfortunately in this country you will find a large number of people who will be up in arms, as indeed they are up in arms against any measure of social reform. Certain societies even to-day are passing resolutions against widow marriage. The Act legalising widow marriage is on the Statute-book. I submit that we shall have to take our courage in both hands. We shall have to go into Select Committee and discuss all the various provisions that are incorporated in this Bill. It may be that we may have to make very drastic changes. Let us make those changes, but, when the case has been proved to the hilt that the present practice is ruinous, is making our condition hopelessly and desperately pitiable, I submit it is time that we proceed with this legislation. I submit there are no points involved which require elucidation. Sir, in the year 1927, to ask public opinion whether a girl of 12 or 13 should be married or a boy of 14 or 15 should be married! You might as well ask whether a girl of 12 or 14 should have a drop of water to drink or a crump of bread to eat. We know the harm that the practice has done. We know the havoc it has created. What are we to-day? We are feeble and weak, not morally but certainly physically, because of this early marriage. You have to grapple with this problem in right earnest. There is one word more which I want to say. (Here an Honourable Member made an interruption.) If you interrupt me, please do so in the proper fashion. I submit that the motion moved by the

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Kumar Sahib can be made to serve both ends. Surely the Committee will not meet to-morrow and finish its labours before this Session is over. It will meet in the Delhi Session. In the meantime all discussions can take place. It will be open to the various representative bodies to submit their opinions, either to the Legislative Department or to the Home Department. I do not know the technicalities, but in the meantime it is open to the Home Member to write to various organizations and various Governments inviting their opinion and fixing a date by which those opinions should be submitted to Government. Let all those opinions be collected and in the meantime let all those that are inclined to carry on propaganda carry it on; then let us get together and be done with this question once for all. There is one thing I shall say—and I have already submitted that I shall say nothing in anger—I shall beg my Honourable friends not to use expressions which they do not really believe in. Marriage is a sacrament. May I pause here, Sir, and say—I hope the House will forgive this personal reference—I do not yield to anybody in this House in my love and attachment to Hinduism. But my Hinduism does not represent a system which is an obstacle to progress. My Hinduism instead of being a hindrance is an inspiration for me to get along. I do myself feel that the marriage tie according to the Hindu religion is a sacrament. I should be very sorry if it was looked upon as a contract. A sacrament, yes. But I ask you to remember that a child of one is brought forward and is married to another child of two, and you say that is a sacrament. Do they understand what they are going through? I know that sometimes the child is asleep; it cannot be kept awake because it is brought along and married at 2 o'clock in the morning. And you call it a sacrament. You do not really believe that. Hindu society is living to-day because it has been undergoing changes with the changing times. Hindu society would have been dead long ago if it were so narrow, so hidebound, so illiberal as some of my Honourable friends represent it to be. Take all the old original rules of Hindu society. I should feel very happy if all the Brahmins would get out of my profession. All the Kshatriyas and Vaisvas would be very happy because there would be no competition with Brahmins and others who now invade their professions. Let us look facts in the face.

It is a most terrible question which we are considering to-day. I beg you most earnestly, to realise its gravity. I beg you not to make it a sort of party question. Even if I knew that I might not be elected next time for this speech of mine, still I should every time make this speech and not come back to this Assembly. One Honourable Member has said that if Mr. Jayakar had made a declaration to this effect, he would never have been returned. May I say that Lala Lajpat Rai is notorious throughout India for being a social reformer, and still at the last general election he carried an amount of influence which I know to my own advantage, for he helped me and I got in. Please let me assure the House that our people are not so narrow as we imagine them to be. I have gone about and talked on this question. Many a man has come to me and said, "What you say is right, but the difficulty is about *ex-communication*"; or "I quite see it, but if I do it, my uncle will get very angry." No one trots out the theory of a sacrament unless it be some educated man with a felt cap and with glasses. He has not the courage

to accept the reform, and he says, " You forget that Herbert Spencer has said somewhere that reform should not be violent. It should be in keeping with the general feeling of the people ". And I have told him, " Please let Herbert Spencer alone. Let us get into grips with live issues."

Pandit Madan Mohan Malaviya very rightly said, if I may be permitted to say so, that in this question, not only Hindus, but Muhammadans, Christians and Europeans are all interested. I was surprised to hear it said that a Muhammadan has no *locus standi* in this matter. What I said jokingly, I hope, will be true one day. Suppose we had a Swaraj Government with Mr. Jinnah as our Prime Minister. And if this question came up, would my friends go up and say, " Now, Mr. Jinnah, you are Prime Minister, but being a Muhammadan you have nothing to do with it." I hope my friends will notice that Pandit Madan Mohan Malaviya has said that it is the duty of everybody here to take up this question and see that we come to a right solution. May I say a word to Government Members? Many of you say, " Oh, you are educated people, the intelligentsia. We move in the districts, we go about camping; we are in touch with the masses",—whom you are pleased to call the dumb millions—" we are their friends; we look after them and their interests; it is we who can be expected to do something for them ". Then here is the chance. Do it now. The educated people have already given up the practice. I can assure you I am not going to marry my girl at the age of 12. It is the ignorant man in the villages who sticks to this practice, who is one of the dumb millions, dumb millions being in inverted commas. Will you help him now? If you are his friend, help him now. This measure will benefit those people more than it will benefit the hated intelligentsia.

Mr. A. H. Ghuznavi (Dacca Division : Muhammadan Rural) : I will not detain the House more than one or two minutes, but my two minutes will be unlike my Honourable friend, Munshi Iswar Saran's " one word " which ended in a speech extending over nearly half an hour. Sir, I want to associate myself entirely with my Honourable friend Pandit Madan Mohan Malaviya. He has given us a graphic description of the whole position, and I support the Honourable the Home Member in the motion for circulating this Bill. I do so on principle. I believe that no Bill should be introduced without its being circulated, and a Select Committee should not rush on with a Bill without eliciting public opinion. It is not fair that any Bill should be so rushed through. There is a considerable feeling amongst the Hindu community—I am told by my friend Mr. Ahmed that a Mussalman has no right to say anything about this Bill—I say that there is a considerable feeling amongst the orthodox Hindus, particularly in Bengal, and the Pandits of *Navadwips* there should have their say in this matter. After all, what does circulation mean? The Select Committee cannot sit before the next Session at Delhi, that is 5 months hence. Why cannot you circulate the Bill now and elicit all views throughout India and get them ready for the Committee to consider? In asking for that I do not think the Honourable the Home Member has asked for anything more than what the House ought reasonably to agree to. With these words, I beg to support the Honourable the Home Member's motion.

Mr. M. K. Acharya (South Arcot *cum* Chingleput : Non-Muhammadan Rural) : Sir, I thank you and I thank my colleagues here for their cheering. I take it they do recognize, that humble as I am, yet on

[Mr. M. K. Acharya.]

this question where the orthodox man has been so much maligned I have probably got something to say which they may with advantage hear. Sir, I wish to be very brief. (Hear, hear.) I am aware that I do not possess and cannot emulate the rhetorical flourishes of either Mr. Jayakar or Munshi Iswar Saran or the vehement indignation of Mr. Belvi ; and yet some of the sweeping assertions made by them call for a reply. Sir, when I hear words like these, " can the laws of God be over-ridden by man-made law " and so on, I am puzzled, Sir. I doubt if there is any one here who claims to have seen God or to have heard from Him His Laws ; if so, I should certainly throw away all my sacred texts including the Vedas and sit at the feet of any Lala or Munshi who has seen God and learn humbly from him God's law. Therefore such empty platitudes will not do in a case like this. And yet, Sir, to-day my soul also is among the prophets, and my humble orthodox self proposes to be for a little while among—I am afraid to use the word—among the reformers, to a little extent at any rate, because, Sir—and I wish to speak in a very matter of fact way—I recognize that the measure before us is one which is of very great national importance. I am not going to admit, because I do not believe, that the marriage system obtaining among Hindus has been the most baneful, the most pernicious system. Sir, I claim to have studied the Hindu system, to have read the history of other systems also, as far as was possible to my limited intelligence; and comparing other ideals with the marriage ideals of the Hindu, I am here bold enough to assert that no other community either in the past or at present has or can put forth an ideal which recognizes and teaches the girl the highest ideal of womanhood, and trains her from her childhood to suck it along with her mother's milk almost ; that teaches the girl to think and say : "*Rajā vā rajya hīnō vā yē mē bharthā sa mē prabhuh*"—" Prince or beggar, he, that is my wedded lord, is my god ". Nowhere else has any such ideal been taught as part of a girl's every day religion. Indeed, Sir, with all the defects mentioned, it has been possible for India to this day to produce so many—, I believe they are not one, two or three thousands but as many millions—of my sisters and my daughters, living to this day up to the highest ideal of womanhood ! (Inaudible interruptions), Yes. Here marriage is not a matter that is to be settled after the ecstasies of the ball-room or the ethics of the divorce court, but has to be settled as a sacred function. (*Mr. T. C. Goswami* : " In the marriage market.") I am very sorry that here is a brother of mine claiming to be born a Hindu who thinks like that ; I fear within his Hindu body lives a European soul ; I am sorry for him, but I am not going to be offended. He is doing an injustice to his own sisters and mothers. Sir, the marriage market exists everywhere ; where does it not exist ? This world everywhere is very very imperfect ; and therefore, comparatively speaking, where is the society, where is the community where marriage does not take place with a pecuniary element in the background, nay in the foreground ? But there is much less profiteering here, very much less ; because our girls may not later on say as those married under a contract : " I was given a false notion of his wealth and position and was misled into marrying him, and therefore now want a divorce ". There is no such thing here. However, we are dealing now with child marriages and not with marriage markets. Sir, the whole point is this. It has been very well admitted even by my esteemed friend, Pandit Madan Mohan Malaviya, that unfortunately child-marriage is too often the case.

Although in my own part of the country I do not believe that a child of over two years is married—I am not aware of that—yet it has come to our notice; and these things are very sad records. I agree with the last speaker, that these early marriages ought to be prohibited, and I do not believe that orthodox Hindu opinion, that regards marriage as a sacrament, that regards the bond of wedlock not only as of the bodies of the two together but as of the two souls, will seriously object or will at all object to any law that says that marriage before a certain minimum age will be regarded as null and void.

Mr. T. Prakasam (East Godavari and West Godavari *cum* Kistna : Non-Muhammadan Rural) : Is it a marriage before the age of one ?

Mr. M. K. Acharya : I say Hindu orthodox opinion will not object to our legislating that marriages before a certain minimum age—my own opinion is that it must be ten at the present day—is against the *Shastras*, and so null and void. Therefore I think that, though Pandit Madan Mohan Malaviya is very right in the view he has advanced, that we must take our people with us, nevertheless this question has been agitating the minds of many men, and I believe our women have been talking about it also more than ourselves. I have had, Sir, many a talk with my good old woman at home (Loud Laughter); and I do believe that the opinion of my sisters is quite in favour, as far as I have enquired, of such a kind of legislation, and that is why I have ventured on this occasion to go so far as to support this Bill warmly. Some of my proposed amendments indeed to this Bill go in one respect farther than Rai Sahib Harbilas Sarda's draft; I think that marriage should not be, generally speaking, among the bulk of the Hindus, celebrated before fourteen; provided however that a Hindu girl of not less than ten years should be allowed to be betrothed according to the tenets of her religion or sect. Sir, the whole trouble is a trouble of words; because as soon as the word "marriage" is uttered, to a non-Hindu the impression is conveyed that the boy and girl would be living together as man and wife; it is not so in Hindu society. Among us, this betrothal is the real sacrament....

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : May I ask the Honourable Member if marriage is sacred to the wife or to the husband? I am only seeking information.

(*An Honourable Member* : "To the husband.")

Mr. M. K. Acharya : The truly ignorant can certainly be educated, but the seemingly wise cannot be. If however my friend really wants the information, he can have it : the Hindu ideal is that the man and wife become one indissoluble unity and there is no husband apart from the wife, nor wife apart from the husband. (Some inaudible interruptions). I refuse to give way to these interruptions; they are not the points before the House. Now, to the best of my knowledge, orthodox Hindu opinion is against the unorthodox and irreligious manner in which baby girls are given away in marriage; and therefore legislation for making marriages below a certain age invalid will, I think, be acceptable to my orthodox community. There will be some difficulty, I recognize, in the case of certain sections in Northern India, particularly where it has become a bad custom to celebrate very early marriages. There may be some difficulty in these people adjusting themselves to the new law; but that cannot be helped. There will always be some little trouble in enforcing a new law; but I hope that they will soon

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come into line with the legislation we are making. That, Sir, is the whole purpose of the legislation before the House, as I understand it. For the rest, I think we ought to leave out all these comparisons of ideals and customs as beside the point. The tears of the widow certainly are very tragic; but they are not more tragic than the sighs of the unmarried; and if in India there are so many widows resigned to their lot, in other countries there are so many restless maids running, panting, hankering after husbands and not succeeding in catching any. Which is the greater social evil? We are not here to set the world aright. As Swami Vivekananda well said, if you drive rheumatism from the head, it goes to the neck; if you drive it from the neck, it goes to the loins; and if you drive it from the loins it goes to the foot, likewise in this world some amount of evil there is and there will always be; we cannot help it; we are not God. God himself has created this world as a mixture of good and evil; and it is impossible to eliminate all the evils in society, no matter what amount of rhetoric my friends over there may indulge in. We can only correct some of our own mistakes. Therefore, I am supporting the general principle of this Bill. Of course the Bill is not very satisfactory as it is drawn; and my difficulty in agreeing to send it for circulation is this: that I fear people would not approve of the Bill as it is. I do not, in the first place, like the magistrate being brought in here; and I do not think that the age of 12 is a proper one to be applied to all communities. The Bill, as it is, is not likely to elicit a very favourable public opinion—that is my fear. Probably with some of the amendments which have been suggested the Bill may receive very much more favourable comment from many people than the Bill as it is drawn. Therefore, Sir, as somebody has suggested, I would like to know if the Government will not kindly undertake to circulate the Bill for opinion, while the Select Committee is being appointed. The Committee is not going to meet for the next five months. Government have obliged Sir Hari Singh Gour and circulated his very objectionable Bill for opinion even before the Bill came up here. I may say that this is a Bill on which we are all much keener than on Sir Hari Singh Gour's Bill. So, if the Government will kindly meet the wishes of the House, and circulate the Bill for opinion, and if meantime the Select Committee is also appointed, we may be able to put our heads together, and in the next five months I hope we shall be able to obtain the intelligent co-operation of all sections of the Hindu community, so that we may be able to pass this measure as early as possible. I have been here these four years, and Pandit Madan Mohan Malaviya knows probably more than I do, that it is very difficult to get a non-official Bill passed and put on the Statute-book. It has to pass through our House and then to go through the other House, and then there are the gods above! And all these stages cannot be got through within the life-time of this Assembly unless we hurry up. Therefore let this be said to the credit of Pandit Madan Mohan Malaviya, that before he becomes too old to come into this House again—that this measure has been placed on the Statute-book with his co-operation and with the co-operation of all the others who feel like him. As an orthodox Hindu, I do say that there is nothing in this Bill which can be said to be against the *Shastras*, which can be said to be against the orthodox opinion rightly interpreted. I do not wish to go into all those questions about the Vedic texts and the

Upanishadic and the Smritic texts and all that. If I do, you, Sir, will come down upon me for having taken up so much time. Even if I had seven days given to me I could go on lecturing about the subject if my friends had the patience to listen; but I shall not do so because it will not be relevant, that is the unfortunate thing about it. For the reasons I have advanced, Sir, I support my friend, Kumar Ganganand Sinha's motion that the Bill be referred to a Select Committee; and I would ask the Government to help us by circulating this and getting the opinion of those who are qualified to give an opinion; and I would lastly earnestly appeal to my friends, the reformers, not to be so very sure that they alone or always are sane.

Maulvi Muhammad Yakub (Rohilkund and Kumaon Divisions : Muhammadan Rural) : Sir, I do not agree with the remarks which have fallen from the lips of one Honourable Member of this House that because this Bill relates only to Hindus, therefore Muslims have no *locus standi* in the matter. Sir, I believe that a measure which relates to the well-being of the bulk of the population of this country relates to the Muslims as well as to the Hindus. The late Sir Syed Ahmed always used to say that India was a beautiful bride and that Hindus and Muslims were her two eyes and if one eye of the bride was disfigured her face would be spoiled and disfigured. So the measure which relates to the well-being of the bulk of the masses of this country is one in which both the communities are interested equally.

Now, Sir, as regards the motion before the House I submit that none of the Honourable Members who have spoken in favour of sending the motion for eliciting public opinion have said that a measure like this is not urgently required. My Honourable and esteemed friend, Pandit Madan Mohan Malaviya, has himself quoted such appalling figures which show the very necessity and urgency of such a measure as the present one. Now, Sir, they say that because this is a very important Bill, therefore let it go for circulation for obtaining public opinion. Now may I ask him, what does he mean by public opinion? Does he mean the opinion of the educated classes in India or of the uneducated masses in the villages who are altogether ignorant of the ways and manners of social reforms? If he means by public opinion the opinions of the Judges of High Courts, members of Bar Libraries and other institutions in the country (*An Honourable Member* : "Chambers of Commerce."), I submit, he is not right when he says that their opinion has not been obtained on the subject. Is there anybody who will say that the educated classes in this country are against the principle of the Bill before the House? Now, Sir, Honourable gentlemen have said that we have not yet obtained the opinion of the public on the subject. There too, I respectfully submit that the statement is not correct. Have you not been holding social conferences along with the Indian National Congress for many years—at least for the last twenty years—and have you not discussed this question very thoroughly and elaborately in those conferences and passed resolutions in favour of such a measure? Was that eliciting public opinion or not? Was the opinion expressed in those conferences public opinion or not? If you have got a volume of public opinion expressed for the last twenty years, I do not understand what good it will be if this Bill is again sent out for circulation to get the view of a few High Court Judges and a few Judicial Secretaries to Local Governments and Bar

[Maulvi Muhammad Yakub.]

Libraries. They cannot say anything more than what is on the record already. If, on the other hand, by public opinion you mean the opinion of the ignorant masses in the villages, then I submit that you will never get an opinion in your favour from them and you will find that they are against this measure and if, in spite of the urgency and necessity of this measure which you yourself claim for, you rely upon such opinions, you will have to drop the measure. Will you drop it because the ignorant masses are against it? (*An Honourable Member* : "It will have to be dropped.") (*Another Honourable Member* : "They are not against it.") I submit not. Therefore, I say it is no use to delay a measure like this ; it is no use sending it out for eliciting public opinion. Measures about which public opinion has not been ascertained are sent out for eliciting public opinion. But here we are already in possession of full public opinion on a question like this, and therefore I say that it is impossible to add anything more to the knowledge which you have already got on this question. Why do you want to attempt an impossibility and say "Send this Bill for eliciting public opinion?" As my Honourable friend, Mr. Acharya has said, it is very difficult to get a non-official measure through the Legislature. Do we not know that Bills, of which notice was given three years and even four years ago, have not yet reached the Select Committee stage ?

I do not think that if you delay the passage of this Bill, if you send it out for the purpose of eliciting public opinion, you will be able to pass this Bill during the life time of this Assembly. Now, tell us once for all whether you want this measure or you do not want it. If really the Hindus do not want it, if they are really against the raising of the marriageable age, then let them drop the matter altogether. It is not for me to say that you should either accept or reject this measure, but if you really think that it would be a beneficial measure and that it must be put on the Statute-book, then, Sir, it would be futile to say that the Bill should be sent out for eliciting public opinion. Let us hurry it up, and let us pass this Bill as soon as we can. With these words, I support the motion.

Mr. Amar Nath Dutt : Sir, I had no intention of wasting the time of this House by speaking on this Bill and expressing my views whether it should be circulated for eliciting public opinion or whether it should be committed to a Select Committee, firstly, because I get so little an opportunity of speaking here that I thought I had better not open my lips ; secondly, because I have already earned an unenviable reputation in Trans-Atlantic countries for my views upon legislation of this type ; and, thirdly, because there were so many important Bills to come after this, that I was naturally anxious that this Bill should be disposed of quickly in order that we may have some amount of non-official legislation at least in the present Assembly. As my friend, Maulvi Muhammad Yakub. has pointed out, it is not possible for any non-official Bill to be enacted into law in this House if the Government chooses to oppose it. In fact, I do not know if up till now after the reformed constitution has been at work during the last seven years, any non-official Bill has become law, firstly because it is very difficult to get it passed here, and, secondly,

if we can at all pass it here, there is the House of our Elders where the members of the bureaucracy are in a majority and so it is impossible to have it passed there ; and even if we succeed in getting it passed there, there is the certifying power of His Excellency the Governor General. Therefore, Sir, I do not think that either my friend Rai Sahib Harbilas Sardar or those friends who are so eager to have such legislation would at all regret that it is proposed that this Bill should be circulated for public opinion. I can well understand the reason of the Government for making such a proposal, and it is this. In measures of this character, the Government does not want to irritate—if I may use that expression—a certain section of our community whom my friend Mr. Jayakar has characterised as the unenlightened portion of our community ; and evidently my friend Mr. Jayakar thinks that people of enlightened views like ourselves, should thrust our views upon the unenlightened masses. That is not exactly my view, Sir. I have said this more than once in this House, that social matters should not be made the subject of legislation. That is my view, and it was unfortunate that my friend Mr. Harbilas Sardar, a life-long official, should have taken pains to draft a Bill of this character, because he cannot forget that he has ceased to be an official now and that he is sitting here as a representative of the people. Clauses 5 and 6 of the Bill would require me, Amar Nath Dutt, to go with folded hands to the Magistrate, (Laughter), to my friend over there, Mr. Donovan, and take his permission to allow me to marry my daughter—of course I have no daughter now to be married as I have already married her (Laughter)—but I have a grand-daughter, and I shall have to take his permission. (Laughter.) That is the thing ; that is the official mind. Sir, I object that any such legislation should at all be considered in this House. (*An Honourable Member* : “ Quite so ”.) The Bill should be thrown out. But when I find that at least a dilatory motion has been brought forward which in due course of time will kill this Bill, I should like to side with the members of the bureaucracy and support the motion that has been brought forward by the Honourable the Home Member, because, as you know, Sir, adversity makes strange bed fellows. Sir, I regret that the House has wasted a whole day on such a simple question like this, namely, whether this Bill should be circulated for public opinion or whether it should go to a Select Committee, because as Honourable Members are aware, we had only two non-official days for Bills. As my friend has pointed out, we all know what sort of public opinion the Government elicits in matters of this kind. But when I found that elders whom we have been hearing from our childhood have with the advance of age become more garrulous and taken up the time of the House, I thought that I should also make myself bold to submit my own views before this House, risking my reputation of being a very orthodox Hindu, though I am not one. I do not know whether there is any one in the galleries or elsewhere who may have materials for another book a year or two later and who will do me the honour of quoting me. Be that as it may, Sir, I oppose the motion that the Bill be taken into consideration, and failing that, I support the motion made by the Honourable the Home Member.

Mr. Vidya Sagar Pandya (Madras : Indian Commerce) : I move, Sir, that the question be now put.

Mr. President : The question is that the question be now put.

The motion was adopted.

Mr. President : The original question was :

“ That the Bill to regulate the marriages of children amongst the Hindus be taken into consideration.”

Since which two amendments have been moved :

(1) “ That the Bill be referred to a Select Committee ”,
and

(2) “ That the Bill be circulated for the purpose of eliciting opinions thereon.”
The question I have to put is :

“ That the last amendment be made, namely, that the Bill be circulated for the purpose of eliciting opinions thereon.”

The Assembly divided.

AYES—51.

Abdul Matin Chaudhury, Maulvi.
Abdul Qaiyum, Nawab Sir Sahibzada.
Ahmad, Khan Bahadur Nasir-ud-din.
Aiyangar, Mr. C. Duraiswamy.
Alexander, Mr. William.
Aney, Mr. M. S.
Ashrafuddin Ahmad, Khan Bahadur
Nawabzada Sayid.
Ayangar, Mr. V. K. Aravamudha.
Ayyangar, Mr. K. V. Rangaswami.
Ayyangar, Mr. M. S. Sessa.
Ayyangar, Rao Bahadur Narasimha
Gopalaswami.
Bajpai, Mr. G. S.
Belvi, Mr. D. V.
Bhuto, Mr. W. W. Illahibakhsh.
Blackett, The Honourable Sir Basil.
Bray, Sir Denys.
Coatman, Mr. J.
Coegrave, Mr. W. A.
Courtenay, Mr. B. H.
Crerar, The Honourable Mr. J.
Crofton, Mr. B. M.
Dakhan, Mr. W. M. P. Ghulam Kadir
Khan.
Dalal, Mr. A. R.
Dalal, Sardar Sir Bomanji.
Donovan, Mr. J. T.

Dunnett, Mr. J. M.
Ghuznavi, Mr. A. H.
Haigh, Mr. P. B.
Irving, Mr. Miles.
Jowahir Singh, Sardar Bahadur Sardar.
Kabul Singh Bahadur, Captain.
Keane, Mr. M.
Kelkar, Mr. N. C.
Kirk, Mr. R. T. F.
Lahiri Chaudhury, Mr. Dharendra Kanta.
Malaviya, Pandit Madan Mohan.
Mitra, The Honourable Sir Bhupendra
Nath.
Mukherjee, Mr. S. C.
Neogy, Mr. K. C.
Parsons, Mr. A. A. L.
Purshotamdas Thakurdas, Sir.
Rainy, The Honourable Sir George.
Sams, Mr. H. A.
Singh, Mr. Gaya Prasad.
Singh, Rai Bahadur S. N.
Suhrawardy, Dr. A.
Sykes, Mr. E. F.
Tonkinson, Mr. H.
Wright, Mr. W. T. M.
Yamin Khan, Mr. Muhammad.
Young, Mr. G. M.

NOES—56.

Abdul Haye, Mr.	Joshi, Mr. N. M.
Abdullah Haji Kasim, Khan Bahadur Haji.	Kartar Singh, Sardar.
Acharya, Mr. M. K.	Kidwai, Mr. Rafi Ahmad.
Badi-uz-Zaman, Maulvi.	Kunzru, Pandit Hirday Nath.
Bhargava, Pandit Thakur Das.	Lajpat Rai, Lala.
Chalmers, Mr. T. A.	Moore, Mr. Arthur.
Chaman Lall, Diwan	Muhammad Nawaz Khan, Lieut. Sardar.
Chunder, Mr. Nirmal Chunder.	Mukhtar Singh, Mr.
Cocke, Mr. H. G.	Naidu, Mr. B. P.
Crawford, Colonel J. D	Pandya, Mr. Vidya Sagar.
Das, Mr. B.	Prakasam, Mr. T.
Das, Pandit Nilakantha.	Rajah, Rao Bahadur M. C.
Dutt, Mr. Amar Nath.	Rajan Bakhsh Shah, Khan Bahadur Makhdum Syed.
Dutta, Mr. Srish Chandra.	Rang Behari Lal, Lala.
Farookhi, Mr. Abdul Latif Saheb.	Rao, Mr. G. Sarvotham.
Ghazanfar Ali Khan, Raja.	Roy, Mr. Bhabendra Chandra.
Gidney, Lieut.-Colonel H. A. J.	Ruthnaswamy, Mr. M.
Goswami, Mr. T. C.	Sarda, Rai Sahib Harbilas.
Gour, Sir Hari Singh.	Shah Nawaz, Mian Mohammad.
Gulab Singh, Sardar.	Shervani, Mr. T. A. K.
Haji, Mr. Sarabhai Nemchand.	Siddiqi, Mr. Abdul Qadir.
Ismail Khan, Mr.	Singh, Kumar Rananjaya.
Iswar Saran, Munshi.	Singh, Mr. Narayan Prasad.
Iyengar, Mr. A. Rangaswami.	Singh, Mr. Ram Narayan.
Iyengar, Mr. S. Srinivasa.	Sinha, Kumar Ganganand.
Jayakar, Mr. M. B.	Sinha, Mr. B. P.
Jinnah, Mr. M. A.	Sinha, Mr. Siddheswar.
Jogiah, Mr. Varahagiri Venkata.	Yakub, Maulvi Muhammad.

The motion was negatived.

Mr. President : The question I have to put is :

“ That the first amendment be now made, namely, that the Bill be referred to a Select Committee.”

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Friday, the 16th September, 1927.