

Thursday, 4th February, 1932

59

THE
LEGISLATIVE ASSEMBLY DEBATES

(OFFICIAL REPORT)

VOLUME I, 1932

(25th January to 17th February, 1932)

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THIRD SESSION

OF THE

**FOURTH LEGISLATIVE ASSEMBLY,
1932**



CALCUTTA: GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH
1932

Legislative Assembly.

President :

THE HONOURABLE SIR IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E.

Deputy President :

MR. L. K. SHANMUKHAM CHETTY, M.L.A.

Panel of Chairmen :

SIR HARI SINGH GOUR, Kt., M.L.A.

MR. ARTHUR MOORE, M.B.E., M.L.A.

SIR ABDUR RAHIM, K.C.S.I., Kt., M.L.A.

SIR COWASJI JEHangIR (JUNIOR), K.C.I.E., O.B.E., M.L.A.

Secretary :

MR. S. C. GUPTA, C.I.E., BAR.-AT-LAW.

Assistants of the Secretary :

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

RAI BAHADUR D. DUTT.

Marshal :

CAPTAIN HAJI SARDAR NUR AHMAD KHAN, M.C., I.O.M., I.A.

Committee on Public Petitions :

MR. R. K. SHANMUKHAM CHETTY, M.L.A., *Chairman.*

MR. ARTHUR MOORE, M.B.E., M.L.A.

SIR ABDULLAH SUHRAWARDY, Kt., M.L.A.

DIWAN BAHADUR HARBILAS SARDA, M.L.A.

MR. B. SITARAMARAJU, M.L.A.

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LEGISLATIVE ASSEMBLY.

Thursday, 4th February, 1932.

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

QUESTIONS AND ANSWERS.

SEIZURE OF BUILDINGS BELONGING TO THE CONGRESS.

158. ***Mr. Gaya Prasad Singh** (on behalf of Rai Bahadur Sukhraj Rai): Will Government be pleased to state:

- (a) the total number of buildings that have been taken possession of by Government as belonging to the Congress;
- (b) whether these buildings will be returned to the Congress after the termination of the movement;
- (c) whether Government will be responsible for the upkeep and maintenance of these buildings so long as these are under their possession; and
- (d) whether they will compensate the owners for any loss that may happen to these buildings during the period of their possession?

The Honourable Sir James Crerar: (a) I regret that I have not the information which the Honourable Member asks for.

(b), (c) and (d). I would invite the attention of the Honourable Member to the provisions of Ordinance No. IV of 1932 and, in particular to sections 3, 6 and 9 of that Ordinance.

CONGRESS PROPERTY SEIZED BY GOVERNMENT.

159. ***Mr. Gaya Prasad Singh** (on behalf of Rai Bahadur Sukhraj Rai): Will Government be pleased to state:

- (a) the total value of the properties that have been seized by Government as belonging to the Congress;
- (b) where and how these articles have been kept;
- (c) whether these will be destroyed or returned to the Congress when the movement is discontinued; and
- (d) whether any special instructions have been issued by them to the Provincial Governments for taking proper care of the valuable documents and other articles which can not be easily replaced?

The Honourable Sir James Orerar: (a) and (b). I regret that I have not the information which the Honourable Member asks for.

(c) I would invite attention to the provisions of sub-sections (2) and (3) of section 4 and of section 6 of Ordinance No. IV of 1932.

(d) No such instructions have been issued.

Mr. Gaya Prasad Singh: Is it not possible for the Honourable Member to obtain the information asked for in this question?

The Honourable Sir James Orerar: I must ask the Honourable Member to give me notice of that question. It is a somewhat complicated matter.

Mr. Gaya Prasad Singh: The question is already there, namely, the total value of properties that have been seized by the Government as belonging to the Congress. May I ask the Honourable Member whether it is not possible to obtain the information?

The Honourable Sir James Orerar: The question of the valuation of properties is a very complicated matter and I am afraid I cannot promise to give the Honourable Member the information without further consideration.

Mr. Gaya Prasad Singh: But on what point the Honourable Member wants further notice?

The Honourable Sir James Orerar: My reply was that I cannot now on the floor of the House promise to obtain this information, but I shall consider the possibility of doing so.

INCOME-TAX ASSESSMENTS ON INCOMES BELOW RS. 1,000.

160. **Mr. Gaya Prasad Singh** (on behalf of Rai Bahadur Sukhraj Rai): Will Government be pleased to state:

- (a) the total number of new income-tax assessments which have been opened on account of the lowering of the limit to Rs. 1,000 (one thousand);
- (b) how much income they expect to derive from these new assessments;
- (c) whether any instructions have been issued to make these assessments with sympathy and humanity this year as the assesseees are quite ignorant of the income-tax laws and rules; and
- (d) how will the assessments be made in the case of betel-shop-keepers, sweetmeat sellers and others who do not as a rule keep any account books?

The Honourable Sir George Rainy: (a) The Government have not this information. The number of new assesseees is expected to be about 4 lakhs.

(b) 108 lakhs in 1931-32 and 1932-33 together.

(c) It is part of the general instructions to Income-tax Officers to give all possible help to assesseees.

(d) The assessments on such cases must obviously be based on enquiries by the Income-tax Officer, as is usual where an assessee keeps no accounts.

ARRESTS MADE AND PROPERTIES CONFISCATED UNDER THE ORDINANCES IN THE NORTH-WEST FRONTIER PROVINCE.

161. ***Mr. S. C. Mitra** (on behalf of Seth Haji Abdoola Haroon): (a) Will Government be pleased to lay on the table a statement showing the actual number of arrests made and deaths which occurred while dealing with the unlawful instigation in the North-West Frontier Province, under the Ordinances recently promulgated by H. E. the Viceroy, up to 31st December, 1931?

(b) Were any of them punished with fines in addition to imprisonment and, if so, what were the amounts of fines imposed on each one of them?

(c) Have any properties been confiscated under the said Ordinances? If so, will Government please state reasons for such confiscations and whether Government are prepared to return the same to their respective owners when the Ordinances are withdrawn by H. E. the Viceroy and the present civil disobedience movement ends?

Sir Evelyn Howell: (a) The number of persons arrested is approximately 2,500 under the ordinary law and section 3 of the Emergency Powers Ordinance. The number of deaths which have occurred is 14.

(b) No.

(c) Only Congress flags and red shirt uniforms have been confiscated and these it is not proposed to return.

Dr. Ziauddin Ahmad: Is the Honourable Member aware of the fact that all the Red Shirts in the North-West Frontier Province do not belong to the Congress. In fact, some of them are anti-Congress, and in spite of that they have been arrested.

Sir Evelyn Howell: I thought the Honourable Member was making a statement.

Dr. Ziauddin Ahmad: But is the Honourable Member aware of this fact?

Sir Evelyn Howell: No, Sir.

Dr. Ziauddin Ahmad: Will the Honourable Member make an inquiry into the matter as this is a very important fact. The Honourable Member is in charge of the whole affair and he ought to know these things and he ought to make inquiries about it.

ALLEGED ASSAULTS ON STUDENTS AND TEACHERS IN CHITTAGONG.

162. ***Mr. S. C. Mitra** (on behalf of Pandit Satyendra Nath Sen): (a) Has the attention of Government been drawn to the report published in the *Liberty* of the 8th October, 1931, under the caption "Assaults on Students and Teachers" relating to outrages on some boys and teachers of three H. E. Schools in the District of Chittagong by some military officers?

(b) If so, have Government instituted any enquiry? If not, why not?

The Honourable Sir James Orerar: (a) Yes.

(b) An enquiry was instituted by the Local Government.

Mr. K. C. Neogy: Do I understand the Honourable Member to say that an inquiry has been instituted by the Local Government?

The Honourable Sir James Orerar: An inquiry was instituted by the Local Government.

Mr. K. C. Neogy: With what results?

The Honourable Sir James Orerar: A report was made and it is still under consideration.

Mr. K. C. Neogy: To what effect is that report?

The Honourable Sir James Orerar: I am not prepared at this stage to make any statement on the matter.

Mr. K. C. Neogy: Is it not a fact that these incidents form part of a Black and Tan experiment that was made in Chittagong?

The Honourable Sir James Orerar: No, Sir.

Mr. K. C. Neogy: Will the Honourable Member kindly inquire from the European Association whether what I have said is not a fact?

(No answer was given.)

CLASSIFICATION OF CERTAIN ROADS.

163. ***Mr. E. F. Sykes:** Will Government please say whether the roads between:

(a) Delhi and Ajmer,

(b) Agra and Ajmer,

are classified as:

(i) roads of All-India importance,

(ii) inter-provincial roads, or

(iii) any other classification?

The Honourable Sir Joseph Bhore: It is assumed that the Honourable Member refers to the following roads:

(a) Delhi-Muttra-Bharatpur-Ajmer,

(b) Agra-Bharatpur-Ajmer,

and that the Honourable Member is aware that a large part is common to both and that parts of both are outside British India.

There is at present no general and comprehensive classification of roads in India into the categories mentioned in the question, but an *ad hoc* classification of this nature is a consideration in making grants from the reserve with the Government of India in the road development account. In this sense it may be said that the roads in question have been deemed to be of the inter-provincial class.

INSTRUCTION IN LANDING FOR OFFICERS AND MEN OF THE AIR FORCE.

164. ***Mr. E. F. Sykes:** Further to my question No. 292 of 18th July, 1930, and the answer thereto (regarding death of Sergeant Wiltshire in landing in an aeroplane at Risalpur), will Government please say what progress has been made in the instruction of non-commissioned officers and men of the Air Force in landing?

Mr. G. M. Young: No action has been taken in the direction indicated by my Honourable friend. As I stated in my answer to his question on the 18th July, only those officers and men of the Royal Air Force are trained to fly whose duties require that they should be capable of piloting aircraft. I am afraid that it would be out of the question, financially and otherwise, to train every individual who might have to go up in an aeroplane during operations, sufficiently in flying to enable him to fly an aircraft home and land it safely, in the rare event of the pilot being put out of action, while the machine and the passenger were undamaged.

INFLICTION OF IMPRISONMENT AND FINES UNDER RECENT ORDINANCES.

165. ***Mr. Goswami M. B. Puri** (on behalf of Mr. S. G. Jog): Have the Government of India issued any instructions or advice to the Local Governments in the matter of inflicting punishments of imprisonment and fine on persons convicted under the Ordinances recently issued?

The Honourable Sir James Crerar: The Government of India are in constant consultation with Local Governments regarding methods of meeting the present situation, but the Honourable Member is mistaken if he suggests that there has been or will be any attempt to interfere with the discretion of the courts.

CASE FOR BERAR PREPARED BY THE BERAR ALL-PARTIES CONFERENCE.

166. ***Mr. Goswami M. B. Puri** (on behalf of Mr. S. G. Jog):
(a) Is it a fact that the Berar All-Parties Conference had prepared a case for presentation to the Round Table Conference and they had submitted that case either to the Government of India or the Foreign and Political Department to be forwarded to the Round Table Conference for consideration?

(b) Is it a fact that the said Berar case was not forwarded to the Round Table Conference?

(c) Is it a fact that the papers of that case were sent back to the All-Parties Conference authorities? If so, what is the reason?

(d) Is it a fact that the papers were sent back through a long channel and went through about 10 or 12 officers from H. E. the Viceroy and Governor General down to the village peon?

(e) Is it a fact that the papers were ultimately received by the sender after the Round Table Conference came to an end?

Sir Evelyn Howell: (a) A representation styled "Berar's position in Indian Federation" was received by His Excellency the Viceroy from the President, Berar All-Parties Committee, with the request that it might be forwarded to the President of the Indian Round Table Conference with the recommendations of the Government of India.

(b) Yes.

(c) The papers were transmitted, in accordance with the usual practice, to the Central Provinces Government with the request that the representation might be returned to the writer with an intimation that it could not be entertained by the Government of India, unless submitted through the local authority.

(d) and (e). The Government of India have no information on these points.

REALISATIONS FROM THE ADDITIONAL IMPORT DUTY ON SALT.

167. *Mr. S. C. Mitra: (a) Will Government please state the amount realised by the imposition of the additional import duty of four and a half annas per maund on imported salt?

(b) Will Government please state what amount was kept for the Central Government and the amounts distributed amongst the different Provinces?

The Honourable Sir George Schuster: (a) Total realisations from 18th March, 1931 to 31st December, 1931 amounted to Rs. 12,93,490-14-4.

(b) The total receipts up to the end of September 1931 amounted to Rs. 9,27,500. Out of this, a sum of Rs. 1,15,925, equivalent to one-eighth of the whole, has been retained by the Central Government and the balance distributed to the Provincial Governments concerned as follows:

	Rs.
Bengal	3,53,496
Assam	42,191
Bihar and Orissa	1,84,276
Burma	2,14,375
Central Provinces	579
United Provinces	5,568
Madras	144
Bombay	10,946
Total	8,11,575

The receipts for the period October 1931 to March 1932 will be distributed after the close of the year.

Dr. Ziauddin Ahmad: Have the Government issued any instructions to the provinces as to the manner of spending the contribution?

The Honourable Sir George Schuster: It would not be appropriate for the Government of India to issue instructions to Provincial Governments as to how they are to spend this money. We did however call the attention of the Provincial Governments to what was said in the course of the debate on the Salt Bill on the subject and that is what I undertook to do.

ELECTION OF A MEMBER TO THE COUNCIL OF THE INDIAN INSTITUTE OF SCIENCE, BANGALORE.

Mr. President: I have to inform the Assembly that Dr. Ziauddin Ahmad has been elected to represent the Assembly on the Council of the Indian Institute of Science, Bangalore. (Applause.)

PETITIONS RELATING TO THE HINDU WIDOWS' RIGHT OF INHERITANCE BILL.

Secretary of the Assembly: Sir, under Standing Order 78, I have to report that thirteen petitions, as per statement laid on the table, have been received relating to the Bill to secure a share for Hindu widows in their husbands' family property, which was introduced in the Legislative Assembly on the 17th February, 1931, by Diwan Bahadur Harbilas Sarada.

Petitions relating to the Bill to secure a share for Hindu widows in their husbands' family property which was introduced in the Legislative Assembly on the 17th February, 1931.

Number of signatories.	District or Town.	Province.
2	Tank	Bombay.
2	Tank	Bombay.
1	Surat	Bombay.
1	Benares City	United Provinces.
14	Nasik	Bombay.
12	Nasik	Bombay.
11	Benares Cantonment	United Provinces.
14	Wadhura City	Bombay.
4	Meerut City	United Provinces.
12	Ahmedabad	Bombay.
13	Ahmedabad	Bombay.
11	Benares Cantonment	United Provinces.
3	Meerut Cantonment	United Provinces.
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PETITIONS RELATING TO THE HINDU MARRIAGES DISSOLUTION BILL.

Secretary of the Assembly: Sir, under Standing Order 78, I have to report that twelve petitions, as per statement laid on the table, have been received relating to the Bill to remove certain doubts regarding the dissolution of marriages of persons professing the Hindu religion which was introduced in the Legislative Assembly on the 27th January, 1931, by Sir Hari Singh Gour.

[Secretary of the Assembly.]

Petitions relating to the Bill to remove certain doubts regarding the dissolution of marriages of persons professing the Hindu religion which was introduced in the Legislative Assembly on the 27th January, 1931.

Number of signatories.	District or Town.	Province.
2	Tank	Bombay.
2	Tank	Bombay.
1	Surat	Bombay.
1	Benares City	United Provinces.
7	Nasik	Bombay.
12	Ahmedabad	Bombay.
11	Ahmedabad	Bombay.
5	Meerut	United Provinces.
6	Benares Cantonment	United Provinces.
9	Benares Cantonment	United Provinces.
3	Meerut Cantonment	United Provinces.
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THE HINDU WIDOWS' RIGHT OF INHERITANCE BILL.

Mr. President: The House will now resume further consideration of the following motion moved by Diwan Bahadur Harbilas Sarda on the 26th January, 1932:

"That the Bill to secure a share for Hindu widows in their husbands' family property be referred to a Select Committee consisting of the Honourable the Home Member, Mr. R. K. Shanmukham Chetty, Mr. J. Ramsay Scott, Pandit Ram Krishna Jha, Mr. Hari Raj Swarup, Sirdar Harbans Singh Brar, Mr. S. C. Mitra, Mr. Muhammad Yamin Khan, Sir Hari Singh Gour, Mr. B. Sitaramaraju, Mr. A. Das and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, a very good case has been made out for a reference of this Bill to the Select Committee in the documents that have been placed before us. I have glanced through those documents, and I find that even those who have been opposed to the drastic, some of them call it the revolutionary, character of this Bill, have conceded that there is a necessity for extending a good deal of sympathy to the Hindu widows. Bangalore is a Brahminic centre in the Southern Presidency and the Brahmin widows of South India are the most unhappy, their plight being the most oppressed.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Question.

Mr. C. S. Ranga Iyer: There is my friend there who questions it. I do not, for a moment, deny that he has every right to question, because the problem before us, the problem that my friend the Diwan Bahadur has placed before us, is a controversial one. I do not for a moment state it is free from controversy. Even in this document I can see there is undiluted opposition from certain quarters to this Bill, but there is also a kind of diluted opposition, opposition diluted with sympathy for the Hindu widows, which sympathy my friend, the Raja Bahadur perhaps does not have.

Raja Bahadur G. Krishnamachariar: Not a bit of that sympathy.

Mr. C. S. Ranga Iyer: Then he has no sympathy for the Hindu widows.

Raja Bahadur G. Krishnamachariar: I deny what you say. I have not sympathy in the extraordinary manner in which you generally try to express that.

Mr. C. S. Ranga Iyer: Here is a gentleman from the sunnier South peopled with young widows. He says he has a good deal of sympathy, though his sympathy takes a different form to the sympathy felt for them by the social reforms on this side of the House. He did not care to enlighten us in his interesting speech what kind of sympathy he has, nor did he care to tell us what turn the sympathy in his case proposes to take.

Raja Bahadur G. Krishnamachariar: I did not know that my friend was going to deny my sympathy.

Mr. C. S. Ranga Iyer: As he stood up to deny the rights conceded for the Hindu widows in this Bill, it was up to him to say that he sympathises with them and to state in what manner he sympathises. His very attitude towards this Bill showed that he lacked the sympathy, but now that he has come forward to state that he has sympathy, when he gets another chance during the progress of this Bill, if this Bill is going to progress at all, he will show in what manner he proposes to show his sympathy. If he does not have that opportunity on the floor of this House, it will be for him to write to the newspaper or to deliver a lecture and show to the public in what manner the school of thought that he represents in this country sympathises with the Hindu widows. I do not for a moment deny it is a powerful conservative school of thought. I do not suggest that the Raja Bahadur was talking only for himself. I know there is a good deal of conservative opinion which is opposed to drastic social reform which the Diwan Bahadur contemplates, but I maintain that until and unless the other school comes forward with a practical proposition to ameliorate the condition of the Hindu widows, which is not satisfactory—even the Raja Bahadur, sympathising as he does as he now tells us, cannot for a moment deny that the condition of Hindu widows requires amelioration

Raja Bahadur G. Krishnamachariar: In what manner?

Mr. C. S. Ranga Iyer: It is for him to state in what manner, because he says he sympathises. How does he sympathise, to what extent does he sympathise in what manner does he propose to show his sympathy? We, on this side, have clearly shown in what manner we propose to show that sympathy. He took a negative and destructive attitude. I want him to come forward with a constructive suggestion

Raja Bahadur G. Krishnamachariar: In what manner are they oppressed?

Mr. C. S. Ranga Iyer: My question is in what manner does he sympathise? For what does he show his sympathy? Is it because they are oppressed?

Raja Bahadur G. Krishnamachariar: Not because they are oppressed, but because they are denied some right.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhamadan): How do you meet that right?

Mr. C. S. Ranga Iyer: He concedes every sympathy because some right is asked for but it is denied. He sympathises with the asked-for right, though not in the manner in which it is asked for, because he realises that some kind of right is denied. Otherwise, why should he sympathise at all? People do not sympathise with those who do not need sympathy, that is our whole case. Even the Raja Bahadur cannot deny that the plight of Hindu widows requires amelioration. I will refer, Sir, to a competent authority—I do not want to put it higher than that—as the Raja Bahadur, coming from the same part of the world from which he comes. Competent authorities have observed that sympathy must be shown to the Hindu widows in a practical manner. I shall read to you the view which is held by the District and Sessions Judge of the civil and military station of Bangalore. He says:

“It is a necessary piece of legislation as it affords great relief to Hindu widows whose rights under the existing system of Hindu law are meagre and require to be enlarged in view of the rapidly changing conditions of the Hindu society in modern times.”

My friend the Raja Bahadur and the powerful school of thought that he represents in this House do not want the Hindu widows to be conceded the rights that modern civilisation and altered conditions compel that they should be conceded. Sir, this Bangalore authority

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhamadan Rural): Is Bangalore in British India?

Mr. C. S. Ranga Iyer: My friend Mr. Amar Nath Dutt wakes up. He asks if it is in British India. Bangalore is in British India and is not in British India.

Raja Bahadur G. Krishnamachariar: It is nowhere in British India. It is a part of the civil and military station which has been transferred to the administration of the Governor General in Council in his executive capacity and not in his capacity as Governor General in Council under the Government of India Act. Therefore it is not in British India.

Mr. C. S. Ranga Iyer: But all British laws are extended there.

Raja Bahadur G. Krishnamachariar: They do not apply *suo moto*. They are governed by British laws only if they are extended there.

Mr. C. S. Ranga Iyer: These interruptions are very interesting because my Honourable friend has conceded that there is an oasis in the desert, the civil station, which is controlled by some authority outside. I do not want to go into the legal quibble. All that I am concerned with is that here is a little bit of territory in the neighbourhood of Bangalore and he is a District and Sessions Judge who says what I read just now. But, Sir, he is not a whole-hearted supporter of this Bill and he makes out a case for this motion, namely, its reference to Select Committee. He says:

“I would, however, like that suitable provision should be made in the Bill to make it clear that a Hindu widow who takes an absolute estate in her husband's share of the joint family property under clause 3 (1) of the Bill takes it as long as she does not re-marry and that she is bound to return her husband's share to the heirs of her deceased husband as on the date of his death in case she re-marries.”

My friend Diwan Bahadur Sarada says he has taken notice of this fact and incorporated it in his Bill. Be that as it may, we shall now proceed to Diwan Bahadur Sarada's own little territory, Ajmer-Merwara. The authority here points out something which is also in favour of the reference of this Bill to Select Committee. Sir, it is a statement containing in summary the views of Diwan Bahadur K. L. Paonaskar, Munshi Shiva Charan Das, Special Additional District Judge, Ajmer-Merwara, the Municipal Committee, Beawar, the Commissioner, Ajmer-Merwara, the Judicial Commissioner Ajmer-Merwara, and the Municipal Committee, Ajmer, on the Hindu Widows' Right of Inheritance Bill. Diwan Bahadur K. L. Paonaskar is of opinion :

"that the difficulty will be largely solved if sub-section (1) of section 3 of the Bill is so amended as to entitle a widow to the profits of the share of the joint family property as her husband would under the Mitakshara law have been entitled to, had a partition taken place in his life-time provided she remains chaste during her widowhood; but in case she re-marries, she should be subject to the provisions of section 2 of the Hindu Widows' Remarriage Act, 1856. Further, he thinks that sub-section (2) of section 3 of the Bill would be made clearer if the words 'dies without leaving a male issue or adopting a son in his name' be inserted between the words 'Hindu family' and 'the widow' occurring in it."

Here again is a case for its reference to the Select Committee, so that what is considered objectionable in this Bill can be deleted and improved upon in the Select Committee.

Sir, I have now quoted a South Indian opinion from Bangalore about which my friend the Raja Bahadur was getting a little nervous because he does not tolerate difference of opinion in his own neighbourhood. I have also quoted an opinion from Ajmer-Merwara from a group which is not very enthusiastic about social reform as my friend the pioneer in the wilderness of Indian superstitions; but at the same time they are keen that some kind of protection should be given to the Hindu widows. Now I shall come to a Bengal opinion, which is also incidentally the opinion of a Judge of the Allahabad High Court. Justice Mukherji makes the following observations :

"Apparently the Bill is meant to apply only to the case of a widow where the deceased husband has left no son. If this is so the Bill should be made clear on that point."

It is for the Select Committee to make it crystal clear, and my friend Diwan Bahadur Sarada says he has no objection to it. But supposing he has objection to it, even then it is for us to go and fight him in the Select Committee and ask him to agree with us in this matter. Therefore Justice Mukherji has also made a case for the reference of the Bill to the Select Committee.

Now I shall go down again to Raja Bahadur Krishnamachariar's own country and quote the opinion of the Madras Government, for I am sure even the Raja Bahadur, conservative as he is, cannot deny that some kind of authority attaches to the opinion expressed by the Madras Government, and I find in their opinion something to help us in this matter. Diwan Bahadur T. Venkatanarayana Naidu, who is Secretary to the Government of Madras in the Law Department, writes to the Secretary to the Government of India in the Legislative Assembly Department, and his opinion is as important at any rate as that of Raja Bahadur Krishnamachariar :

"In the opinion of this Government it would be sufficient if the widow is allowed an equal share, along with the sons, of the property left by her husband and the whole of it in the absence of sons. I am to add that, as suggested by the Women's Indian Association, Tinnevely, provision may be made in the Bill to the effect that if the widow remarries the property will revert to her previous husband's heirs."

[Mr. C. S. Ranga Iyer.]

This, Sir, again is a matter for consideration and adjustment in the Select Committee, and I believe Raja Bahadur Krishnamachariar with his partial sympathy for the Hindu widow, ought to agree to serve on the Select Committee, instead of stirring up strife on the floor of this House.

And now, Sir, let me come to the Punjab and let us see what opinion is held in the Punjab. The Punjabis, I admit, are in many respects more progressive than the Madras people in matters of social reforms. It is in the Punjab that we have big social reform movements, such as the one led by Dayanand Saraswati. It is again in the Punjab that the great Sikh Gurus unfurled the banner of social reform, and therefore perhaps the Punjab opinion must be considered as very progressive generally in matters of social reform. But the opinion that we have got is fairly cautious. Mr. Ogilvie, the Home Secretary to the Government of the Punjab, in his communication to the Secretary of the Legislative Assembly Department says:

"I am in the first place to point out that the Bill is so loosely drafted that though it is apparently intended to apply to a childless widow only, its actual terms give a widow preference even over any children of her own by her late husband."

The loose drafting of the Bill is a matter for improvement in the Select Committee:

"Secondly no provision is made in the Bill for succession when there is more than one widow, and finally although the discussion in the Assembly dealt entirely with the case of the Hindu widow and the short title of the Bill is the 'Hindu Widows' Right of Inheritance Act', the Bill as introduced applies to Jains and Sikhs as well as Hindus."

These are very important matters, and I think there is a great deal of force in what the Punjab Government have stated; this is a matter which should be very carefully considered in Select Committee.

Then I shall proceed to the Central Provinces Government. The Vindhya Mountains stand between the superstitious and non-progressive South and the rather progressive North. The opinion of the Central Provinces Government will also be helpful to the motion before us, namely, its reference to Select Committee. The Central Provinces have taken a good deal of interest in recent times in matters of social reform. There was a touring commission which inquired into the question of early marriages, and now it is for us to consider here, in the light of what the Central Provinces have stated, the question of enforced widowhood which is an inevitable and unfortunate outcome of early marriages. Incidentally it is in the fitness of things that Diwan Bahadur Harbilas Sarda should have come forward with a motion of this kind, especially after the triumphant march of his Bill into an Act through the Southern Presidency where he broke many a heart of the orthodox people.

In this connection I may tell a very interesting story which is apposite. In one of the meetings held in a village in the neighbourhood of the residence of Raja Bahadur Krishnamachariar, a very vehement and very orthodox Hindu lady described rather maliciously Harbilas Sarda; of course she did not refer to Harbilas, she only said Sarda or Sarada; and Sarada in Madras is the name of a woman and she presumed that Sarada was a venerable lady with unmarried children and therefore she said this was a mischievous measure and arose in Sarda's domestic troubles

(Laughter). I am sure the same charge will be levelled against "Sarada" as they call him, but they do not understand that Sarada is a masculine gender. (Laughter.)

Raja Bahadur G. Krishnamachariar: "Have we got to die?"

Mr. C. S. Ranga Iyer: My friend inquires whether we have got to die

Raja Bahadur G. Krishnamachariar: "Sarada" in Tamil means "Have we got to die?"

Mr. C. S. Ranga Iyer: The Tamil language is as elastic as India rubber, as my friend suggests. However, another malicious suggestion will emanate from the same quarter, suggesting that Sarada has got a large number of widows in his family who are likely to be deprived of their property, and that is why he has brought forward this malicious piece of legislation. But, coming to the Central Provinces which ought to mitigate the superstitions of the South:

"The Governor in Council is opposed, in particular, to the provisions of section 3 which appears, perhaps unintentionally, to disinherit the sons, grandsons, and great-grandsons of a man who dies while not a member of a joint family and which leaves undecided what is to happen if a man leaves two widows of whom one subsequently adopts a son."

I admit here are complications and these complications are matters for the Select Committee to thrash out, and I am sure my friend the Diwan Bahadur, who is suggesting that a widow means a co-widow under the General Clauses Act, will agree that these are matters for him to bring forward in the Select Committee. I think if the Law Member were put in the Select Committee he might perhaps attack some other clauses, and my friend the Raja Bahadur is already looking sharply at the manner in which Diwan Bahadur Sarada is going about co-widows. But I think the Central Provinces Government's suggestion ought to be helpful in the matter.

My friend, Sir Hari Singh Gour, is getting very enthusiastic like my friend Diwan Bahadur Sarada about matters of social reform; and his enthusiasm is proving infectious on this side of the House because when social reform ideas used to play havoc when I was on this side of the House and my friend Sir Hari Singh Gour was on nearly opposite Benches, he did get a good deal of sympathy from this side of the House. Though I was a practical social reformer, I always held the view at the time, and even now I hold it, though I am now going to carry my view into practice by refusing to vote with them—my view always has been and is even now my private view, which I may express for the benefit of Members in this House, that so long as we are governed by an irresponsible system of government, so long should we be rather cautious in rapidly forging ahead with social reform legislation. The Government have no authority behind them; and then there are our friends like Raja Bahadur Krishnamachariar who cannot be lightly brushed aside; though he is a minority perhaps in our party for his orthodox opinion, in certain parts of the country he will, I think, be in an aggressive majority. Now when the reforms are in the melting pot, I think it will be well for us to ponder and not rapidly rush on with social reform legislations, for the very simple reason that it would be up to a self-governing country with responsibility to introduce such legislation because a measure of this kind would involve the fall of the government if the government did not enjoy the confidence

[Mr. C. S. Ranga Iyer.]

of the country. Social reform measures are passed through this House with what result? They are so many dead letters which cannot be acted upon. There is for instance the famous Sarda Act, which so far as the South is concerned is a dead letter. It is not acted upon; it is being defied and the defiance is being ignored, because the Government do not want to have two troubles at one and the same time; they have already the non-co-operation trouble and they do not want a sort of civil disobedience against immature social legislation. Mere passing of a legislative measure in this House has merely an educative value. It cannot enforce its will on the people, and unless we go to the country on a social reform measure of this kind and take the verdict of the country, this will all be mere paper legislation.

Raja Bahadur G. Krishnamachariar: Why do you not wait till then?

Mr. C. S. Ranga Iyer: My friend asks me, "Why do you not wait till then?" Personally if you will accept my present suggestion I am quite willing to wait till then. I consider all social reform legislation and every other legislation

Sir Hari Singh Gour: No, not my Bill.

Mr. C. S. Ranga Iyer: including my friend Sir Hari Singh Gour's Bill as a side issue, as side-tracking the major issue, as taking away the attention of the people from the constitutional issue, whether it is political development in a constitutional way outside or inside, or for that matter in an extra constitutional way. Why should this House in this transitional stage care to take notice at all of extremely controversial questions and try to take away the attention of the country from the issue about which we read every day in the newspapers?

Raja Bahadur G. Krishnamachariar: Hear, hear.

Mr. C. S. Ranga Iyer: If my friend over there who says "Hear, hear," will join me in this House in opposing every Government measure and throwing out grant after grant just as we rejected the Finance Bill, I will ask my friend Diwan Bahadur Harbilas Sarda not to proceed with measures of this description, however, important they may be. I reserve to myself the right of persuading this House to reject grant after grant on the issue of the rejection of the Finance Bill, and therefore the grants will have no legs to stand upon, on the issue that Mahatma Gandhi, being now in jail, you cannot proceed with the reforms, because the Round Tablers have not got a scrap of authority. That is the issue I propose to raise on the floor of the House when the time comes, because even when there is no united opposition in this House, as there was when Pandit Malaviya led the opposition which could by no means be described as an extremist opposition, this side of the House rejected many a grant. To-day the Oppositionists are on their trial here. If my friend Raja Bahadur Krishnamachariar will come forward and assist me, then I for my part may say that Diwan Bahadur Harbilas Sarda will do well not to rush through these social legislations. We cannot think of anything else than the main struggle which is before the country. We must be blind of one eye like Nelson who saw only the British flag of success, the British victory, when he said England expects every man to do his duty; even so, we see before us only one thing, the Indian flag, the Indian victory, the Indian struggle, India's duty—India expects every man to do his

duty. Such being the case I would strongly appeal to Members on this side, whether this Bill goes to the Select Committee or not, not to enthuse over social reform until the political question is settled. And when that is settled there will be a split in the country about social reform; the Conservatives on one side, as in England, and the Liberals and Radicals on the other, and then will be the time for us to bring forward social reform measures and go to the country with a raging tearing campaign enthusing public opinion. It may be that the Liberals may be in a minority; it may be that the Radicals and social reformers may be up in arms against the Conservatives, but there will be one common aim. That is the way to help forward the cause of social reform, that is the way to fight the battle of social reform, and not by introducing measures in this House which have only an educative value, which of course I appreciate. I have just now received a brief note from the leader of my party which I hope he will make adequate use of, through the Honourable Member in charge of this motion.

Raja Bahadur G. Krishnamachariar: I take up the challenge, Sir, just

Mr. President: You have already spoken.

Raja Bahadur G. Krishnamachariar: I do not want to speak again, but I simply want to say

Mr. President: I cannot allow you to make a speech again, but is it a personal explanation?

Raja Bahadur G. Krishnamachariar: Yes, Sir; it is only a personal explanation. I take up the challenge thrown out by my friend. I am very glad that the real object of my friend has been given out that all this legislation will go out when we get the new Government. We are quite prepared to fight the Government. So far I have always supported this side in all matters whenever I was convinced that Government were not in the right, and there is no use in asking me to make agreements in advance. I am opposing everything that is not good for the country, and so I want this motion to be withdrawn.

Rai Bahadur Lala Brij Kishore (Lucknow Division: Non-Muhammadan Rural): Sir, I rise to support the motion to refer the Bill to a Select Committee. The object of the Bill is to ameliorate the condition of the Hindu widows which is admittedly very deplorable at the present state of Hindu society. In some families the widows are, no doubt, treated with great respect but that is because of the love and affection in which they are held by individual members of the family. Their legal position, however, is practically nil, for they are at the tender mercy of their relations and male members of the family. I think the little comfort that a Hindu widow requires, which is very little indeed, should be ensured by giving her a portion of the family property by law. This Bill, if passed, will, in addition to doing good to the widows, help in strengthening the joint family system, for the widows, if not starved or oppressed and ill-treated, will remain in their families and keep the family together and keep up the old traditions of Hindu society. Thousands of widows are now driven away from their homes and the way they are forced to live is a standing disgrace to Hindu society. If they are given a distinct position and given a specific right to a portion of the family property, they

[Rai Bahadur Lala Brij Kishore.]

will add to the unity and the happiness of the whole family for as Manu truly says, "Where women are respected the families prosper and happiness reigns".

The Hindu widow is a very unlikely person to waste her portion of the family property; it will virtually remain with the sons and heirs, but it will ensure a peaceful position to her in the joint family. A happy and a contented widow will bring sunshine to a family otherwise darkened by shadows of family differences.

As to what should happen to the share in case she re-marries, that may be clearly set out by a clause in the Bill and such other defects as may be found in the Bill in its present form can be set right in the Select Committee.

I, therefore, heartily support the motion that the Bill be referred to the Select Committee.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadan Rural): Sir, I rise to oppose the Bill, and that for two reasons, firstly, on the ground that this Assembly, composed as it is of Members most of whom are ignorant of Hindu Shastras, have no right or at least should not be encouraged to deal with religious and social laws, and secondly, on the merits of the changes that are sought to be introduced. We have the greatest sympathy for a widow on the score of her widowhood; we have not only the greatest sympathy for her, but we have also the greatest reverence for her. In fact, a chaste widow is regarded as a deity. We repudiate the idea that a widow is not treated with proper consideration. As a matter of fact, almost invariably she is the mistress of the House. I have listened to the various speakers who have advocated the cause of the widow, and I have not the least doubt about their sincerity, but I am sorry they have utterly failed to appreciate the wisdom of our ancient sages. Sir, the grievances of the Honourable the Mover of this Bill in regard to the position of our Hindu widows are two-fold; firstly, that their position under the Mitakshara is worse than under the Dayabhaga, and in his attempt to remedy the supposed evil he has made a mess of things. The expression in clause 3 "under the Mitakshara law" will give rise to innumerable complications. If the expression were shifted to a different position, the matter would be improved no doubt, but still I would oppose the Bill because at any rate the demand should have come from those who are affected by the law or at least from a Hindu Member. (*An Honourable Member*: "The Honourable the Mover is a Hindu.")

Now, his second point is that the widow is not allowed an absolute right of inheritance. He has suddenly discovered this evil, but I ask him, is that the only thing which she is not allowed to enjoy? There are lots of other things which she is not allowed to enjoy. She is enjoined to eschew a mattress, a meat diet, betel-nuts, and lots of other luxuries. Does the Honourable Member intend to give her an absolute right of inheritance in order to enable her to procure these things? (*An Honourable Member*: "Why not?") Certainly not.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): The law nowhere forbids a widow from using a mattress. (*Pandit Satyendra Nath Sen*: "It does.") My object is

(At this stage Pandit Satyendra Nath Sen also was standing.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. Both cannot be on their legs at the same time.

Pandit Satyendra Nath Sen: Manu, our greatest law-giver, says:

"Bhāryā putrashcha dāsasheha traya evādhanāḥ smritāḥ."

"A woman has no absolute right to property."

Has the Honourable Member pondered over the principle involved in this injunction? The principle involved is manifold, or at least two-fold. One belonging to the weaker sex and therefore having a weaker mind should not be given an absolute right lest she might squander the whole property. It will also give rise to complications in this way. Suppose a widow remarries or deprives her reversioners, what will be the position of the reversioners? They will go on offering *pindas* to the deceased.

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): A widow cannot re-marry.

Pandit Satyendra Nath Sen: They can under the new law,—the so-called marriage of course, not a real marriage. The reversioners will go on offering *pindas* without the least chance of inheritance, and this will completely destroy the principle of the *pinda* theory which is:

"Pindadata dhanam haret."

Mr. S. C. Mitra (Chittagong and Rajshahi Division: Non-Muhammadan Rural): You say it is against Manu. What about Stridhan?

Mr. R. K. Shanmukham Ohetty (Salem and Coimbatore cum North Arcot: Non-Muhammadan Rural): Have you any objection to the Bill applying to the Mitakshara families?

Pandit Satyendra Nath Sen: You have combined them together, and this will give rise to complications which will not be very easy to solve. The Honourable the Mover told us the other day that he was himself a judge for several years and he ought to have known better.

Diwan Bahadur Harbilas Sarda: I know better and that is why I have come forward with this Bill.

Pandit Satyendra Nath Sen: To resume my argument, what is the position of a woman? A woman according to the Hindu Shastras is never an independent being; she is always under the protection of somebody. The same law-giver says:

"Pitā rakshati Kaumāre bhartā rakshati yauvane"

Rakshanti sthavire putrāḥ na stri svātantryam arhati."

"A woman is in the protection of her father during her infancy, in the protection of her husband in her youth, and in the protection of her son in her old age."

She is never an independent being, and what will she do with an absolute right to property? She is never a *swatantrā*, which in Sanskrit means "a libertine". So I hope that the House will reject this Bill altogether.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): Sir, I was very pleased to hear the speech of the last speaker. He is a great admirer of our law-giver Manu, and he has quoted two very

[Mr. B. V. Jadhav.]

excellent *slokas* from Manu Smriti. He is hugging to his heart the doctrines of Manu as far as women are concerned, but I am very sorry to observe that with regard to men he is quite oblivious to the texts of Manu. (An Honourable Member: "How?") May I throw one in his face?

Pandit Satyendra Nath Sen: You know the Shastras?

Mr. B. V. Jadhav: Yes. Manu says:

*"Yo nadheetya dwijo vedananyatra kurute sharamam
Sa jivanneva shudratvamashu gachchhati sanvayah."*

What does it mean?

Pandit Satyendra Nath Sen: It has nothing to do with the Bill under discussion.

Mr. B. V. Jadhav: It means, "A Brahmin who, neglecting the study of the Vedas, learns any other subject, in this very life becomes a Sudra; not only himself but with all his descendants". How many Brahmins in this House at all events will stand that test? (An Honourable Member: "None.")

Dr. D. K. Lahiri Chaudhury: Every one of them. May I inform the Honourable Member that it is only the Brahmins that can take part in politics. They are politicians, because Vasishtha was the Minister of Ramachandra.

Mr. B. V. Jadhav: I have read Ramayana and I realise the position of Vasishtha. Let him be there in the Ramayana and let him not come to this Assembly.

Mr. D. K. Lahiri Chaudhury: But this is politics.

Mr. B. V. Jadhav: Certainly, and according to the present day ideas every citizen has got a right to speak on politics.

Mr. D. K. Lahiri Chaudhury: Then every citizen is a Brahmin.

Mr. B. V. Jadhav: When thousands and thousands of Brahmins are willing to close their eyes to so many sayings of Manu, I do not know why my Honourable friend over there should insist upon bringing forward the worn-out argument that a woman does not deserve to inherit anything and that she should be under the protection of somebody during every stage of her life.

Mr. Amar Nath Dutt: Two wrongs do not make one right.

Mr. B. V. Jadhav: Sometimes they do.

Mr. C. S. Ranga Iyer: But two rights make one wrong. (Laughter.)

Mr. B. V. Jadhav: My Honourable friend has a very high regard for the widow, and I really sympathise with him. The lot of the widow is no doubt very pitiable, and the various opinions that have been elicited from the gentlemen to whom this Bill was referred show the sympathy and concern of these gentlemen for the welfare and betterment of the widow. Hindus do honour and cherish their widows, and almost in every family the widow is honoured, for one simple reason that she is the only cook in the family. (Laughter.) She will not eat the food cooked by others, and therefore she has for her own benefit to cook, and she does it for herself.

and also for the other members of the family. The lot of the widows in sacred places like Benares and Phandarpur is known to everybody, and I am not going to refer to it. Let not dirty linen be washed in this House at least. The lot of the Hindu widow is no doubt very miserable. This is due to her economic dependence upon somebody and when that economic dependence is taken away and she gets the right to hold property in her own right, then her miserable condition will improve. It may be a horrible thought to my Honourable friend to see a widow using a decent bed. For myself I have not got any horrors to see her comfortable. Perhaps the conscience of my friend may be touched if he sees her taking two meals a day. According to his ideas she ought to be satisfied with one meagre meal. I think for the good of the country and of its inhabitants, even including the Hindu widows, they ought to be in a comfortable position. They ought to get sufficient food. They ought to lead a life of ease. As we claim that between man and man there ought to be no distinction of caste, colour or creed, there ought to be no distinction between the superior sex and the inferior sex. Hindu law has been treating the weaker sex very badly up to this time and it is necessary now that the equality of the sexes should be established. Whether it is possible in India now remains to be seen. If it is possible in other parts of the world it ought to be possible in this country also. The proposal of the Diwan Bahadur is a very modest one.

(At this stage, there was a shout of *Inqilab Zindabad* from the Visitors' Gallery where some ladies were sitting.)

This is a voice raised by a woman. It has been raised claiming the right of equality for her own sex. As long as a woman lives with her husband and family she lives in great comfort, but as soon as her protector is taken away by misfortune, it is very hard upon her that she should be reduced to poverty and to privations. The Bill is a very moderate one and deserves the support of everybody. I give my support to the motion of Diwan Bahadur Harbilas Sarda.

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): I am not an orthodox Hindu of the type of Raja Bahadur Krishna-machariar. We in Bengal do not profess Hinduism of the orthodox type that prevails in certain parts of India, but, Sir, I oppose this Bill. If there is to be Hinduism in this country, and you cannot get rid of that, there must be its social structure as it has been for the last 5,000 years. The Bill as introduced now will be destructive of Hindu society and the joint family system, and will be destructive of the position of a Hindu woman in the Hindu household. What is the object of this Bill? We have been hearing from Mr. Ranga Iyer that all the defects which have been shown by various persons can be remedied in the Select Committee. Now, the first portion of the Statement of Objects and Reasons will show what the principle of the Bill is:

"The Present Bill proposes to give relief to Hindu widows by giving them a share in family property and making them sole owners of their deceased husband's personal property."

That is the principle of the Bill, and by accepting the motion to refer the Bill to the Select Committee, the Select Committee will be committed to the principle. They cannot alter that. Then what does the Bill itself say? It says:

"Where the husband of a widow was not at the time of his death a member of a joint Hindu family, the widow shall take all his property absolutely."

[Mr. S. C. Sen.]

Now this takes away the right of the husband to make a will. The testamentary right is also taken away by Mr. Sarda. How is that to be remedied? Is that a light thing to be contemplated by the Bill? Now, we are fighting for independence all over the country and the little liberty which we have in social matters is going to be taken away by this Assembly. This is a thing which we cannot allow. Let Mr. Sarda wait until there is a more favourable opportunity, when the reformed constitution will be at work, and then we shall see whether such a Bill can be passed or not. If the provisions of this Bill are passed today, all sort of complications will arise, for instance, the Hindu Widows' Remarriage Act will have to be remodelled and various other Acts will have to be passed. This is not a case where legislation can be made piecemeal. It ought to be taken up properly. The Bill is so dangerous, if I may say so, and so complicated, that in spite of the fullest sympathy for Hindu widows, I cannot allow such a Bill to be passed.

Mr. B. N. Misra (Orissa Division: Non-Muhammadan): I rise to oppose this motion very strongly and very vehemently and with all the strength that I possess. I was ashamed to hear my Honourable friend Mr. Jadhav saying that Hindu widows become cooks. He said he did not like to wash any dirty linen in public but that is what he did indirectly. No sooner a child is born than the mother allows her breast to be sucked and feeds the child. Which woman does not do it? In which country, in which clime and in which age is this not done? If she allows her breast to be sucked and she feeds the child and she feeds her grown up children and if she feeds other members of the family, what sin is there? What sin is there today if she can do it and if she does it? My friend, Diwan Bahadur Sarda, said that the position of a Hindu widow is bad. I have lived in this world nearly half a century, I do not know that a Hindu widow has a less respectable position in society than any other member of the family. She is called the "goddess" of the house, the *Grihalakshmi*. Even from the time of marriage a *Kanya* attains a position of great respect. From the time of marriage she is allowed to walk in front and first and then the husband *Bara* has to follow (Hear, hear), as everyone who knows a Hindu marriage can testify. Even from the moment she is married as a child—and of course we have child marriages—she is accorded all respect in the House by everybody. Now it is said that Hindu widows are not given a share in the husband's property. But, Sir, supposing a family consists of only a husband and a wife and the husband dies. The widow gets the possession of the entire property for her maintenance, but she has to perform all her duties towards her dead husband. Supposing she is a mother when she becomes a widow, supposing she has three or four children, what is the position? Though according to Hindu law the sons are entitled to the property, still the mother is the legal guardian. Where then is her position inferior? She has the enjoyment of the entire property, and she brings up the children, and she looks after their education and so on. Supposing a woman has four or five children and becomes a widow at the age of 20 or 25. What happens? Now the situation arising out of the passage of this Bill will be that many people will try to induce her to re-marry. Supposing she gets re-married and gets a share in the property, and gets children by the second marriage what becomes the position of these children whom she gave birth to by first husband and who become the children now of so and so. The only result will be a disruption in the family and gross neglect of the children,

because in the absence of the mother who re-marries and possibly goes away and gets children by the second husband the uncles and others naturally will not care for them so much as if she had remained on as part and parcel of the family of her deceased husband. Even in the joint family, there are other brothers and still the widow is there to look after those children, but if she gets a share, then naturally the other members would not look after the children and what will be the condition of the latter? If therefore she remains in the family, her position is in no way inferior or bad, although she may not get a specific permanent share in the property, because the children are there and they get the property of the father, and when they grow up they look after the needs and wants of the mother. Supposing however she has no children and becomes a widow, then even in that case the law allows her all necessary privileges, and she is entitled to maintenance, in fact to everything, and she is in no inferior condition. Of course, if she has children, she at the same time gets the exalted position of the mother and she commands additional respect. So, where is the worse condition attaching to the widow under the present system? Now this Hindu system has stood for no less than 5,000 years, and nowhere has any difficulty ever been felt. Of course, "spare the rod and spoil the child". If a person is not what she should be, if she is not behaving properly and her conduct is improper, certainly she deserves chastisement or punishment. That is what the Hindu law contemplates. The Hindu social system contemplates that where she does not follow the system of her religion, law and society, the maintenance cannot be continued. But in every case where she conforms to the rules and tenets of her religion, law and society, all her agnates or relations are supposed to maintain her. There is no torture or cruelty in this case. It all depends upon her conduct whether she is liked or disliked. If she does something which is forbidden and therefore disliked she suffers. She has no reason to complain justly. Innovations which were never contemplated by the Hindu Shastras and run counter to our religious principles are sought to be introduced by men who, after all, are only imitating and aping their neighbours or other nationalities, but, Sir, Hindu society has stood all these centuries the onslaughts of Muhammadan and other invaders and the onslaughts of social reformers. These onslaughts have become I regret to say more frequent in this Legislative Assembly, coming as they do from men imbued with the so-called reformed ideas. Nobody can say what is really beneficial to the society. Many minds think differently on the subject. There is a saying in my part of the country:

"Paraghara pitha dekhi rabaie khabaie ghasi phadakare goda madai chobaie".
 "If you feel jealousy when your neighbour makes cakes and you are anxious to eat cakes, do not take a piece of cow-dung and gnaw it with *goor* or sugar."

That is to say, one should not aspire to be what another is. For instance, the Christian society has a particular way of living, while the Hindu widows remain inside the house and observe the *purdah* system. But if I were to live like an English gentleman and walked with my wife outside in the streets, what would be my position? The Europeans have been observing that kind of life from time immemorial and if we were to ape or imitate them, it would not be right for me, and I would be isolated. So I maintain that there is no need for any law on the subject because the condition of the existing Hindu society does not need it. May I ask the Diwan Bahadur Harbilas Sarada, who sponsored the early child marriage Bill, whether it is not a fact that his own brother

[Mr. B. N. Misra.]

did not invite him to the marriage of his daughter? His name may be known to the whole world as that of a great reformer, but let him go to any village and find out how his law is being appreciated. I can only say that at the expense of the Hindu society he is trying to get very cheap notoriety without spending a pie. Sir, if a man builds a temple or a mosque, he becomes famous; if a man does something wrong in the street, he also becomes notorious, his name is tom-tomed. Similarly, if a man makes water in the street, he also gains notoriety. Therefore, I maintain, that the Hindu society should not ape others at all. I appeal to my Hindu friends and to all other Members of this House not to help the Diwan Bahadur in bringing disruption of the Hindu society but to allow the Hindu society to grow and develop as it has been doing for the last so many thousand years. Sir, with these words I oppose the Bill.

Mr. D. K. Lahiri Chaudhury: Sir, at the very outset, I would like to thank my Honourable friend, Diwan Bahadur Harbilas Sarda, for being so jubilant on the rescue of the widows. I admit that it is a fact that in many cases our widows are looked down upon, still I do think that this is not the proper time for bringing forward such measures when the country is passing through such a momentous period in its history. I would, for my part, like to impress upon the House that I do not stand in the way of anyone being given his or her share of liberty. The other day I was fighting for the same cause with the Government, namely, that everyone should enjoy the rights of citizenship. So, it is not from that point of view that I am arguing. My only point is, what would be the result if the Bill is passed as it stands. It gives an absolute right to the widow.

Under the present Hindu law, I am guided in Bengal by the Dayabhaga law, which really gives a share for the widow. If there is a widow with two sons, she is certainly entitled to get her maintenance. And if there is a partition of the property, then she is entitled to have an equal share along with her sons. For instance, if there are two sons, then the property will be divided into three equal parts—two parts will go to the sons and one to the widow. I am opposed to this Bill from another point of view. Suppose a man has two wives and the husband dies leaving a child by his first wife and the second without any issue, and if she inherits the whole property with an absolute right and if it happens that she does not pull well with her son, she may by deed of will dispose up her property to anybody whom she likes. Then her son who is really offering the *pinda* for his father will be deprived of the whole property because of the absolute right of the widow. Therefore, it seems to me that the Bill is not only misleading but extremely dangerous according to the Dayabhaga law. I do not propose to deal with the Mitakshara law. But so far as the widow's share in the property is concerned, my Honourable friend, who had been a Judge of the court, must be aware of the fact that according to the Dayabhaga law a widow is entitled to have some share of her husband's property. I am sure the Honourable the Law Member will enlighten the House on the subject; but there is no doubt of the fact that under the Dayabhaga law the widow has at least the right for her own maintenance.

I am glad Mr. Jadhav is here, because I was shocked to hear from him that our widows are looked down upon by our society and they are sometimes made the cooks of the family. I strongly protest against

this remark. Rather our widows are very highly respected in our Hindu society. Her pure, simple, chaste life stands as an ideal to our eyes. Nowhere in the world can widows have better respect and regard than in India. Sir, formerly it was a qualification for a woman in the Hindu society if she could cook well. May I just remind the House of the name of Draupadi who was supposed to be the best cook of her time and her only reputation was that she was a good cook. I fail to understand therefore that how the art of cooking can be minimised as merely a task of a cook in the family.

Sir, I repeat as I said at the very outset of my speech that this Bill ought not to be brought here on the floor of the House at this juncture. I am not against anybody, but I do most emphatically maintain that we should all concentrate our attention at the present time, as was remarked by my friend Mr. Ranga Iyer, on the political freedom of the country. The Round Table Conference sat and its Committees have already started their work and it is not right and proper that we should at this juncture interfere with our social life.

The Honourable Sir Brojendra Mitter (Law Member): Sir, I had no desire to take part in this debate had it not been for the fact that up to now certain aspects of this Bill have not been prominently brought before the House. The motion before the House is that this Bill be referred to a Select Committee. That means that this House is to be committed to the principles of the Bill and the details are to be settled in the Select Committee, and if there are any drafting defects, they should be remedied there. That is the implication of a motion for reference to the Select Committee. My initial difficulty is that I do not know what is the principle of the Bill. When I went through the Bill,—and I can assure my Honourable friend the Diwan Bahadur, I went through this Bill very carefully—I asked myself, does it apply to the Dayabhaga school of Hindu law or does it not. In my talks with the Diwan Bahadur I understood his intention was that Dayabhaga was to be included within the scope of the Bill and I shall proceed upon that assumption. If the Dayabhaga school is to be included, then under clause 3 the son, the grandson and the great grandson, who are the heirs of the deceased, would be excluded by the widow. The words are:

“Where the husband of a widow was at the time of his death a member of a joint family, the widow shall be entitled to such share of the joint family property as her husband would have got. . . .”

The clause does not say whether the Bill is dealing with a sonless widow or a widow with sons. I shall examine this clause on either hypothesis and see what the result is. The wording as it stands means, she may be a widow with sons or she may be a sonless widow. If she is a sonless widow, the clause is not necessary for the Dayabhaga law, because a sonless widow does inherit the property of her husband for the simple reason that in the Dayabhaga school, joint family is a tenancy in common and not a joint tenancy with survivorship. Every Member of a joint family has got a definite share and if a man dies without son, grandson or great grandson, his widow under the existing law inherits his share for the period of her life in what is known as the widow's estate. Therefore the clause is not necessary in the case of a sonless widow. But if it means a widow with sons, grandsons or great grandsons, under this clause, the sons, grandsons and the great grandsons would be excluded by the widow completely. The widow gets everything. That is the principle of this Bill.

Diwan Bahadur Harbilas Sarda: No.

The Honourable Sir Brojendra Mitter: Is this House to be committed to that principle? If it is committed to that principle, no amount of drafting ingenuity can shape it into a rational Bill.

Diwan Bahadur Harbilas Sarda: If the Honourable the Law Member had been present when I moved this Bill and stated what the object of the Bill was and what the principle of the Bill is, he would not have raised this objection. I distinctly stated that no son, no grandson or no great grandson or anybody, to whom the Mitakshara or Dayabhaga gives any right, shall be disinherited. It is only to give an equal share with the son to the widow that this Bill is brought forward. If it is not properly drafted, that is a different matter. I have been asking my Honourable friend for the past 18 months to help me in drafting. I am not a legal draftsman. If there is any defect, let it be corrected. I have no intention whatever of disinheriting anybody in the world who is entitled to inheritance under any law.

The Honourable Sir Brojendra Mitter: I was dealing with that point. Is it a drafting matter or is it a matter of principle? That was my point. If it be a drafting matter, I can well understand the Select Committee putting things right and remedying defects. But the Bill as it has been presented to this House embodies a certain principle and as I read the Bill it excludes the son. This is not a drafting matter. It excludes the son altogether. It excludes the grandson and the great grandson. To what principle is this House invited to be committed? That the son, grandson and great grandson should be excluded? The Diwan Bahadur now says it is not his intention. He has been very unfortunate in not expressing his intention adequately for ordinary people to understand. That is why I started by saying that my initial difficulty was that I did not know what the principle of the Bill was. Now I shall refer to another portion of that clause. At the end of sub-clause (1) it is said "as her husband would have been entitled to, under the Mitakshara law had a partition taken place in his life time, and may sue for partition" I ask myself, does it mean actual partition or notional partition. I take it it means notional partition because the clause says "and may sue for partition" which connotes that no partition had taken place but a partition which might have taken place. Now, Sir, compare that with clause 5. and that is where my puzzle comes in. Clause 5 says:

"A widow's claim to maintenance from the funds of a joint family shall cease on the partition and separation of her share as provided in this Act."

Just consider the two clauses together. The husband dies and the widow gets her husband's share but there is no partition, as clause 3 says. Till partition what happens to her maintenance? Clause 5 says the widow's claim to maintenance from the funds of a joint family shall cease on partition and separation, that is, actual partition. This is the principle of the Bill. Till actual partition takes place the widow gets a share and she gets her maintenance also. Is that the intention of this Bill? Is that the principle on which this Bill has been drafted? I am only placing my difficulties before the House because the House is invited to accept the principle of the Bill. And what is the principle? That till actual partition takes place the widow should get a share as well as maintenance or shall get a share only?

Diwan Bahadur Harbilas Sarda: No.

The Honourable Sir Brojendra Mitter: Then what is the principle? As I have shown, clause 3 certainly contemplates that no partition has taken place but she should get the share which the husband would have got had a partition taken place. There is no actual partition; clause 5 says that the widow goes on getting her maintenance till actual partition takes place. What happens in the meantime? What is the principle of the Bill and what is the Select Committee to do? This is not a drafting matter.

Mr. S. G. Jog (Berar Representative): As the other co-parceners are there she lives along with them.

Diwan Bahadur Harbilas Sarda: I wish to make a personal explanation.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member has his right of reply. He cannot disturb the speaker by such frequent interruptions.

The Honourable Sir Brojendra Mitter: That was the second difficulty I felt. I did not understand the principle underlying the Bill, the principle to which this House is invited to commit itself. I have mentioned these difficulties for which notwithstanding the interruptions of my Honourable friend I have not been able to find a solution. Then take clause 3. Clause 3 says that the widow gets a share which her husband would have got on a partition. What is her position in the family? Is it her position in the family that she continues to be a co-parcener till a partition actually takes place, because, under clause 5 she goes on getting her maintenance till then. Sir, it is one of the fundamental principles of Hindu law that a woman can never be a co-parcener in a joint family.

Sir Hari Singh Gour: That is perfectly right. Nobody questions that.

The Honourable Sir Brojendra Mitter: The Honourable Member may not. But for the satisfaction of the lay Members of this House I may just give this reference. I am quoting from Mulla's book. "No female can be a co-parcener under the Mitakshara law." If that be so, what is the principle underlying the Bill? Is she to become a co-parcener till partition actually takes place or what is she? I tried to solve the question myself and thought it might be that she would be a tenant in common. That would be her position in law. Well, I examined the Bill from that point of view. When I examined this Bill I examined it with the fullest sympathy, not with the intention of picking holes, but in order to understand the underlying principle to which the House is invited to be committed. Now, assuming that she is to be treated as a tenant in common, just consider the implication of that position. The implication is this that a Mitakshara joint family, which is a joint tenancy, is not by a voluntary act of any member of the family but by the accident of death of a member of the family automatically converted into a tenancy in common. The joint tenancy which, ordinarily, can be converted into a tenancy in common only by the voluntary act of a member of the family is here automatically converted by the death of a member into a tenancy in common. If it be said that the Hindu society has moved far enough to get rid of joint tenancies and let all joint tenancies be converted into tenancy in common, I pause and think that is a very big proposition, and all this is implied in this little Bill. Then, consider for one moment what is the position of the surviving male members of

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the family. Do they take by survivorship *inter se* as between themselves, or do they not? Are their rights to be affected? I am not quarrelling with the widow getting the share which her husband would have got. Let her take that share but why, in the process, do you cause a loss to the other members of the family by depriving them of the right of survivorship which they otherwise would have got? I am not thinking of the share which the widow has taken away or which the widow may be entitled to.

Diwan Bahadur Harbilas Sarda: The survivors are not deprived of any right under my Bill.

The Honourable Sir Brojendra Mitter: That is my difficulty. That is why I am examining the effect of the widow getting a definite share on the death of her husband. Directly you get a definite share in a Mitakshara joint family, then at that very moment the jointness is put an end to. The whole family breaks up. If they continue to remain together, it is a tenancy in common and not a joint tenancy. If they be tenants in common, then, there is no survivorship because, there is no such thing as survivorship in tenancy in common. Therefore I want to know what is the underlying principle. I read it in that way. The author of the Bill says that is not his intention. What is the Select Committee to do? Is this a drafting matter? When by applying the ordinary rules of law I come to one conclusion and the author of the Bill says that is not the effect which he wants to come out of this Bill, how is the Select Committee to know what the underlying principle is? My contention is this. It is not a measure fit to go before any Select Committee until these points are cleared up, and these points have not been cleared up by the language of this Bill or by the speech which the author made in moving his motion.

Before you send this matter to Select Committee the House will have to make up its mind whether it favours the policy of getting rid of joint tenancy upon death, because death must happen in every family. That is a thing which no family can avoid. If that be so, if the joint tenancy in every family automatically disappears and tenancy in common takes its place, then this House is invited on this little Bill practically to adopt a policy of doing away with joint tenancy altogether from Hindu law. Sir, I ask the House not to take such a big step without full consideration. It is a very risky business and that is why that sage, erudite lawyer Sir Sivaswami Iyer condemned the Bill. He has closely examined every clause of the Bill, gave constructive suggestions as to what ought to be done to secure the legitimate rights of widows and after a very careful and close consideration of all the clauses he comes to this conclusion:

"The Bill as introduced is an extremely crude, ill-considered and ill-drafted measure. The author would be well advised to withdraw it and entirely recast the Bill in the light of the considerations I have referred to."

Sir, I endorse every word of that opinion. From this Bill you cannot get any definite principle which is fit to go before a Select Committee. Directly you gather one principle from one clause, you are confronted by another clause which demolishes that first principle. As I have pointed out just now, in the case of maintenance, clauses 3 and 5 are contradictory. That being so, there is no principle on the basis of which the Select Committee can improve the drafting? This is not a drafting matter at all. It is a matter of policy, it is a matter of principle.

Now, Sir, take another. Under clause 3,—I shall put the most charitable construction on it,—under clause 3 it is intended that it is only sonless widow who would get her husband's share. Now, as I said, in the case of a Dayabhaga sonless widow such a clause is not necessary,—she does take it under the ordinary law. Now if you say, as the Diwan Bahadur, when he interrupted me, said that his intention was that even if there are sons the widow should get a share equal to that of a son or some share, what about the testamentary right of the deceased? Under the Dayabhaga school, every man has the right of disposing of his property by will. If you make an absolute provision that on his death his property goes to his widow, what about his right of disposing it by will? Is it the intention of the author of this Bill that that right should be preserved or that right should be taken away? What are you asking the Select Committee to do? How is this a drafting matter and how can any draftsman, however clever, reconcile the two positions of the existence of a testamentary right which the ordinary law gives to a Dayabhaga proprietor and statutory devolution of property under this Bill? Is the House now invited by the author of this Bill to agree to the policy that the testamentary right of a Dayabhaga Hindu is to be taken away. I should like the Diwan Bahadur to explain that. What is his intention? It could not be his intention that such a valuable right should be taken away, but that is the effect of clause 3. Then what is the Select Committee to do? Sir, that is another difficulty which I felt and over which the debate has thrown no light.

Mr. T. N. Ramakrishna Reddi (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): The testamentary right is not taken away under the clause. She takes from her husband whatever property he left behind at the time of his death.

Diwan Bahadur Harbilas Sarda: I will explain it later.

The Honourable Sir Brojendra Mitter: I anticipated this sort of explanation, but see the futility of it. A will speaks from the death of a testator. A will is never operative during the lifetime of the testator. He is entitled to dispose of the whole of his property by will. Here you say, no; when he dies his property will not go according to the provisions of his will but will go according to the provisions of section 3. Then, are you not taking away the testamentary right?

Diwan Bahadur Harbilas Sarda: May I explain, Sir?

Mr. President: The Honourable Member will have an opportunity of fully explaining his point of view later.

The Honourable Sir Brojendra Mitter: I like the interruption.

Diwan Bahadur Harbilas Sarda: I will explain the whole thing in a few minutes how it does not affect that right.

The Honourable Sir Brojendra Mitter: I am afraid that it is my fault that I did not probably express myself clearly. What I mean is this. What clause 3 says is this; the widow gets what the husband would have got as on a partition at the moment he died. That is what it says. He makes a disposition of his property by will; but that will cannot operate till after his death. Under this clause all that the husband had or might have had goes to the widow. If that be so, what about the husband's right to deal with his property by will?

Diwan Bahadur Harbilas Sarda: A very simple thing; I can explain it.

Mr. President: You can do so when you get your right of reply.

The Honourable Sir Brojendra Mitter: What I say is that this devolution of property under clause 3 is a devolution by force of law. Devolution by the voluntary act of a man in disposing of his property by will is not by force of law, but of his own volition. Devolution by force of law and devolution by volition of the owner of the property—these two come into conflict directly a man dies. Under this Bill the property goes by force of law to the widow. But under the ordinary rights which an owner has he disposes of this property by will. Which is to prevail?

Mr. S. C. Mitra: The latter one.

The Honourable Sir Brojendra Mitter: Why do you say that? That is my trouble.

Mr. S. C. Mitra: Put it in the Select Committee.

The Honourable Sir Brojendra Mitter: That is precisely my point; it is not a matter for the Select Committee; no draftsman can do it; you have got to make up your mind here what is the policy which you are going to adopt and what is the policy which is to be carried out. The Bill, as I read it, overrides the testamentary right because the Bill says so in so many words

Diwan Bahadur Harbilas Sarda: It does not if you understand it properly.

The Honourable Sir Brojendra Mitter: That is my difficulty. I have not been able to understand what this Bill is; and that is why I am placing my difficulties before the House

Mr. President: As the Honourable Member has made a very important point, I will, as a special case, allow Mr. Sarda to meet it now.

Diwan Bahadur Harbilas Sarda: I will deal with only that point; my Bill says that a woman shall be entitled, if she sues for partition, to such share in the property as her husband would have been entitled to if partition had taken place just before his death. If a man had made a testamentary will he could only have made it before his death; and if he had done so and willed away his property, then at the time of his death he would not be entitled to any property in the family of his own right and therefore the woman would get nothing; so this Bill in any case does not override any testamentary power of the husband. If he makes no testament or will during his life-time then he dies with a share to which he would have been entitled if partition had taken place just before his death and the woman will then get that share, so that so far as the testamentary right of a man is concerned, this Bill in no way contravenes that right; because the will can have been made only before he died, not after he died; and therefore she will be entitled only to the property which she could have got if the husband had divided it just before his death, if he had made a will and divested himself of his property, though the will would take

effect on his death. That is the only right. If there is any question of any legal wording, that is another matter; but the thing is plain and the principle of the Bill is simply this, as I have repeatedly said, to give the widow some share in the property of her husband. I shall not labour that point further now.

The Honourable Sir Brojendra Mitter: I am very much obliged. It is rather painful to have to talk elementary law when you are dealing with a Bill the implications of which are so complicated that a close study only increases one's puzzle. The elementary law is this; that a will is not operative during the lifetime of the testator. Therefore what happens is this. If he had made a will his executor is entitled to his properties but the will is not opened till the man's death; it is sealed up; at this moment the wife comes forward and says "Under clause 3 of this Bill the husband if he had been a separated member would have been entitled to one-third of these joint properties, being one of three brothers, and I am entitled to that share now".

Mr. T. N. Ramakrishna Reddi: A member of a joint family cannot make a valid will under the Mitakshara law.

The Honourable Sir Brojendra Mitter: The whole time I have been talking of Dayabhaga law. Probably the Honourable Member is not quite familiar with Dayabhaga law. A Dayabhaga member of a joint family of three brothers has got the right to deal with his one-third share. So at the moment of his death, if this Bill does apply to the Dayabhaga School, as I understood from the previous speakers that it did, then this brother would have been entitled to one-third share of the property as if partition had already taken place. The widow can claim that because this Act says she will be entitled to it. The executor comes forward and in the presence of respectable people he breaks the will open and says under this will the one-third share has been disposed of differently. Which is to prevail? If you say this law ought to prevail—and it must prevail because it is an absolute provision in the law, then that will be waste paper; and therefore you are taking away the testamentary right of a Dayabhaga member of a joint family; that is my point. Diwan Bahadur Harbilas Sarada seems to think that the will operates from the date that it is made; that is not so; it operates only when the man dies . . .

Diwan Bahadur Harbilas Sarada: I know that.

The Honourable Sir Brojendra Mitter: Then what is the point in saying that a man makes his will before his death; unless the date of making the will is relevant; what is the point of mentioning it at all. Under this Bill this positive provision of law will override the testamentary capacity; but the author of the Bill says that is not his intention. What is the Select Committee to do? What is Mr. Mitchell the draftsman to do? He cannot give effect to an unexpressed intention; he can only give effect to the expressed intention of the clause. He can remedy

drafting defects. What is the intention which is to be given effect to—that the testamentary right should override this provision or this provision should override the testamentary right? That is another puzzle. Therefore, my submission is this, that this Bill is not fit to go before a Select Committee; nothing is definite about it. It says one thing, while the intentions of the author are different. The explanation which the author has given in this House is absolutely contrary to

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what is expressed here. That being so, what is the Select Committee to do? To what principle or to what policy is the House invited to commit itself? Is it to the principle which is to be found here if any definite principle can at all be gathered from this document, or is it to the principle which was enunciated in introducing this motion? What is the principle which the House is invited to accept? That is my difficulty.

Let us examine another point. Sub-clause (1) of clause 3 deals with a man who was a member of a joint family. Sub-clause (2) deals with a man who was a separated member.

Now, look at the proviso which says, "should a widow adopt a son to her deceased husband, the personal law of adoption applicable to the widow shall take effect but to the extent of a moiety only of the family property". I have been trying to discover the meaning. I take this case; a widow does adopt after, say, two years. During these two years the widow, according to the Bill, is the absolute owner; I understand however, that the Diwan Bahadur in introducing his Bill said that he would be quite willing that the widow instead of taking an absolute interest should take a limited interest. I am not quarrelling with him at all on that point; I am not holding him to his language, I shall accept what he says. Very well, the widow does inherit under this law to her husband's property in the estate. She adopts a son two years later; then half the property goes to the adopted son, it must go absolutely because there is no such thing as limited interest in the case of a male heir. The son gets an absolute interest in a moiety and the widow gets a life interest in the other moiety. What is the meaning then of this expression "family property"? Where is the family property of the separated member? There was himself and his wife; he dies without a son and the widow adopts. What is the family property to which this division will attach? That is another puzzle to me.

Diwan Bahadur Harbilas Sarda: That is hair-splitting.

The Honourable Sir Brojendra Mitter: The point is this. Under this clause he is a separated member; there is no joint family; then where is the division? Where is the joint family property? Whose family? I see my friend Sir Hari Singh Gour shakes his head

Sir Hari Singh Gour: As my friend has referred to me and said that I was shaking my head, I must say that my friend is passing through a microscopic examination the various provisions of the Bill. This is not the time nor the occasion for it. The earlier part of his speech is perfectly sound, and I endorse every word of it, but what he is now trying to do is to go through the minutiae of the Bill, a thing with which we are not concerned now.

Diwan Bahadur Harbilas Sarda: Is there any Bill framed by the Legislative Department that can stand a microscopic examination? Every day lawyers in court tear it to pieces.

The Honourable Sir Brojendra Mitter: It is true that I am looking at the Bill through a microscope in order to discover a principle, but so far, I have failed to discover any. I have seen many conflicting principles in this Bill one destroying the other. As I say, clause 3 destroys clause 5, and clause 5 in its turn destroys clause 3. Then what is the principle which this

House is invited to accept? What is the principle which the Select Committee is to give effect to by drafting ingenuity? My microscopic examination is only to discover if there is any principle at all underlying this Bill. What I have discovered, in so far as any principle could be discovered, is destructive of Hindu law as we know it. As I say, it is destructive of joint tenancy, it is destructive of the rights of sons, grandsons and great grandsons, the widow excluding, the natural heirs of the man. These are the principles which I have discovered. And in so far as there are any principles at all, they are much too dangerous to be adopted by this House on a measure which is intended to give relief to a widow. On a measure like that it is much too risky to go to the length of destroying joint tenancy automatically and substitute tenancy in common in its place. On a measure like this where you want to give the widow some relief, to take away the rights of the son, grandson and the great grandson is a great step; on a Bill like this to take away the testamentary right of a proprietor is a very big step. So I say in so far as there is any principle discoverable here, these principles are much too dangerous. There are different principles mutually destructive, and my point is that in such a case this House should not send this Bill to the Select Committee. I would again remind this House of the observations of Sir Sivaswamy Aiyer. I will also draw the attention of the House to the opinion of that brilliant lawyer who occupies the high position of Advocate General in Madras at present—Sir Alladi Krishnaswami Aiyer. This is what he says at page 35:

“The Lawyer looking on the Hindu Law as a system from the scientific point of view may well feel apprehensive that the Bill may produce anomalous results and have the effect of converting the Hindu Law into a mongrel system without any basic principles to guide us. Piecemeal legislation on any particular topic in the field of Hindu Law which appeals to a particular legislator is sure to bring about inextricable confusion.”

In my search for the discovery of principles in this Bill,—unfortunately I have come to the same conclusion, that it will destroy principles without substituting a rational principle for what you are destroying. In the attempt,—and I say in the most praiseworthy attempt,—to secure to the widow some right in the family property, what you are doing is this; you are not giving her a right in the family property; you are destroying the whole structure. Give her a place, an honoured place, within the structure. I can well understand it; I can well sympathise with that object, but what you are purporting to do here, whatever your real intention may be,—and I daresay that is your real intention, to secure a place to the widow in the existing structure,—what you are purporting to do here can never be achieved by this Bill. A separate Bill will have to be brought in for that purpose. My point is this; do not pull down the structure in which you are going to give the widow a secure place; keep the structure intact; make internal re-adjustments in the structure, but do not destroy the structure. The effect of this Bill is to pull down the whole of that structure, the effect of this Bill is to do away with the right of survivorship, to do away with joint tenancy, the effect of this Bill is to do away with the testamentary right of persons

Sir Hari Singh Gour: Assuming that the Bill will have all that effect which you have enunciated; you can prepare a Bill conveying the principle that you are enunciating

The Honourable Sir Brojendra Mitter: I do not want to repeat myself. I again commend Sir Sivaswamy Aiyer's advice to this House; withdraw this Bill and bring in a proper measure in the light of the opinions which have been received. In the opinions which have been collected on this Bill there are valuable suggestions, and in the light of those suggestions if any of my Honourable friends prepares a more rational measure, a more consistent measure; then the Government will give their most careful consideration to that measure. But with regard to this Bill, there can be only one attitude which the Government can take,—an attitude of opposition.

An Honourable Member: Withdraw.

Diwan Bahadur Harbilas Sarda: Certainly not.

Several Honourable Members: Let the question be now put.

Mr. President: As no one has risen in his place to speak, I will call upon Diwan Bahadur Harbilas Sarda to reply.

(At this stage some Honourable Members tried to prevail on Diwan Bahadur Harbilas Sarda to withdraw the motion.)

Diwan Bahadur Harbilas Sarda: I am here to do my duty, and everybody has to do his duty. I will not be guided by anybody else except my own conscience.

Mr. President: Order, order. I have called upon the Honourable Member to reply.

Diwan Bahadur Harbilas Sarda: Very well, Sir.

Mr. President: How long are you likely to take?

Diwan Bahadur Harbilas Sarda: About 1½ hours.

Mr. President: The House will now adjourn till 2-25 P.M.

The Assembly then adjourned for Lunch till Twenty Five Minutes Past Two of the Clock.

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

Diwan Bahadur Harbilas Sarda: I find, Sir, that 15 Members have spoken on this Bill. Of these 5 have spoken against it. One has spoken against the Bill because, though he sympathises with the object of the Bill, he says it is badly drafted and therefore he is against it. Thus six Members including him are against the Bill and nine are in favour. The principal opponent of the Bill, who made a long speech, was Raja Bahadur Krishnamachariar, and I shall deal with a few points which he made in that speech. My friend referring to me said, I use his words:

"He said it is only a question of principle that is involved; the rest and the more important thing would be done by the Select Committee, that question of principle being or at least asserting that the Hindu widow is subject to all sorts of persecutions and tyrannies which human wit could devise."

These are his words. I do not know, Sir, if any man could more misrepresent what I said. My speech was delivered in the open House. I wonder if any one who heard me could say that the principle of the Bill was that the widow was subjected to all sorts of persecutions and tyrannies that human wit could devise. He then asks, "Has any widow complained to Mr. Sarada?". Yes. Several. And then we find every day in several provinces widows complaining of their hard conditions and asking for relief. I will read only two of the letters I have received. One of them is in Hindi and I do not intend to read it to the Assembly. I can only say that it is sent to me by the widow of an officer in Kotah who was Assistant Inspector General of Police there and she relates her harrowing tale of misery; how she has been driven out of the family without any provision being made for maintenance by her relations. The second letter which I received yesterday is this :

"Your active sympathy for the deplorable state of Hindu widows and your efforts to get them redress have inspired me to narrate you the pitiable condition of my daughter whose husband died some 5 months back. I belong to a Deccani Brahmin community. My daughter was married at the age of 16 to a young man of the same caste. He was an employé of the Imperial Bank of India at Dhulia drawing Rs. 150 per month. All of a sudden he was thrown off the service. This was a great shock to him. The result was he caught consumption and died of it after a protracted illness of one and a half year. My daughter could hardly enjoy the married life for 3 or 4 months. This is my only daughter. I spent for her marriage Ra. 4,000, Rs. 2,000 dowry and Rs. 2,000 for other expenses.

As she has now become a widow, her father-in-law who is a moneyed man would not allow her to stay with him though they were living jointly during the life time of her husband. In order to get maintenance allowance from her father-in-law I asked a local pleader to issue a notice on her father-in-law claiming maintenance at Rs. 25 per month, *Stridhan* for about Rs. 5,000, and Rs. 2,000 on account of the life policy of her husband. The pleader informed me that whatever property that belonged to her father-in-law was self-acquired and hence the father-in-law was not legally bound to maintain his daughter-in-law. It is only moral obligation. My daughter cannot therefore claim maintenance as of right under the existing Hindu law. If the opposition party could see with their eyes wide open they will see this sort of injustice towards widows in almost every Hindu family. Hindu widows at once become foreigners to the house which belonged to them during the life time of their husbands. By bringing forth a Bill in the Legislative Assembly for a share for Hindu widows in the husband's property you have certainly espoused the just cause of Hindu widows. May you be successful in your attempt."

If my Honourable friend thinks that the condition of the Hindu widows is that of very happy women, he must be living in a dreamland of his own. Then he said "of course any one could get some of these letters written but whether the writers understood the contents of those letters or not is a different matter". I had hoped that a man of Raja Bahadur's credentials would not stoop to make such unfair insinuations. I will not say much further than that on that point.

Speaking of Government's attitude towards social legislation, my Honourable friend, speaking of his leader Sir Hari Singh Gour's Bill on the divorce question, said :

"At that time the Home Member put his foot down very heavily and said that before Government decided to support that Bill, they ought to have before them strong cogent evidence that the community or a portion of the people affected would agree or welcome it."

I am willing to accept this attitude of Government towards social legislation. The Honourable the Home Member knows very well that the women of India demand this law. If Government want evidence "that the community or a portion of the people affected would agree or welcome it" what

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better evidence could there be than the fact that of 15 Members who spoke five opposed it and ten supported the Bill. Of these, two were Muslims and the rest were Hindus. So far as the Assembly goes, the Bill has been opposed by only 5 and supported by 10. An Honourable Member who spoke towards the end of the debate, Mr. Sen, seemed to deny the very basis upon which the Bill is based. He and Raja Bahadur Krishnamachariar did not admit or accept that the condition of the Hindu widow is at all miserable. They think that the widows are treated with every respect and consideration and nothing has to be done to ameliorate their condition. On this point the Raja Bahadur dismissed the Honourable Mr. Yamin Khan as being a non-Hindu and therefore absolutely ignorant of Hindu conditions. But as to the condition of Hindu widows, is not Justice Jwala Pershad a Hindu, when he says that the unfortunate widows of Hindus are left to the mercy of their husbands' relations? Are members of the Shivaji Maratha Society, Poona, who say that the plight of Hindu widows is extremely distressing and terrible, Hindus or not, and do they not know what the condition of Hindu society is? Is Rao Bahadur Kelkar—a most respectable man in the Central Provinces who says that the lot of the Hindu widow in joint Hindu family being left to the tender mercies of her unsympathetic relatives who consider that there is no justification for her deplorable condition after her husband's death, not a Hindu? Is Saligram Singh, the President of the Hindu Sabha, Ballia, not a Hindu, because he says that the condition of the Hindu widow has become proverbial in helplessness, that the treatment accorded to her is simply deplorable and repugnant to all sense of humanity and decency? Is not Mr. Justice Njamatullah, who has passed several years of his life on the Bench and became acquainted with the condition of all grades of society in the country, in a position to speak with authority on the question? He is supposed to know something about those people whom I have referred to. Are not the other gentlemen I have named not Hindus, including the President of the Hindu Mahasabha? And do not also other people who have had opportunities of studying the conditions of such people, although they are not Hindus, consider that the position of Hindu widows is bad? Sir, here in this Assembly Government allow all Members containing Hindus as well as others the right of voting and the right to make laws for the whole country concerning all people, and surely everybody's experience is valuable and everyone has a right to say what the condition of a particular section of society is, if he happens to have experience of that society.

Raja Bahadur G. Krishnamachariar: May I rise to a personal explanation?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Not now, unless the Honourable Member yields. After the Honourable Member has concluded his speech the question of personal explanation will be considered. There shall be no personal explanation at this stage.

Diwan Bahadur Harbilas Sarda: Sir, the Honourable Member then read out the opinion of Diwan Bahadur Sundaram Chetty, and he quotes him as saying:

"This Bill, which is designed with the object of ameliorating the position of Hindu widows in respect of their rights of inheritance over their husbands' estate, tends to effect drastic changes in the Mitakshara law now prevailing in India. Two of the basic principles of this school of law as understood and settled by a long course of

judicial decisions are the right of survivorship in the joint Hindu family and the qualified or limited ownership of a female heir in the property inherited by her. The present Bill cuts at the very root of these principles in order to better the status of Hindu widows."

Then he omitted important passages and quoted some further passages to suit his case; but you will find, Sir, that in what he has quoted from the opinion of Diwan Bahadur Sundaram Chettiyar he has employed all the tactics of an interested advocate and has quoted a few lines here and a few lines there out of their context and made a mosaic—as the Honourable the Home Member told us yesterday. (Laughter.) Now he omits these words:

"Judged from the standpoint of the Hindu widow alone, regardless of all other considerations which prevail in laying down the principles of the Mitakshara law, the Bill may seem to be a laudable measure.' I am not unmindful of the deplorable condition of the widow of a co-partner drifting from a state of affluence, respect and command on the death of her husband to a state of dependence on his surviving co-parceners for maintenance."

And then he goes on:

"Instead of being a maintenance-holder, the widow can have the benefit of enjoying her husband's share till her death, with limited powers of disposition, I would suggest that larger powers of disposition may be granted to the widow while she enjoys her husband's estate and a more liberal view of her disposing power may be taken. Her powers may be declared to be on a par with those of the manager of a joint Hindu family. This would be reasonable and serve the interests of the widow without affecting the reversionary rights."

Now, Sir, I have embodied all that in my own Bill; I have given her only a limited ownership and not absolute ownership cutting out the survivors or reversioners. I will now quote from another lawyer of the Madras Presidency, Mr. Venkatanarayana Nayudu Garu, C.I.E., Secretary to the Madras Government, Law Department, and he says:

"It would be sufficient if the widow is allowed an equal share along with the sons, of the property left by her husband and the whole of it in the absence of sons. I am to add that, as suggested by the Women's Indian Association, Tinnevely, provision may be made in the Bill to the effect that, if the widow remarries, the property will revert to her previous husband's heirs."

Now this is exactly what the provisions of my Bill amount to. The Raja Bahadur relies on the opinion of Sir Sivaswami Aiyar and he revels in quoting it. Now the fact is that Sir Sivaswami Aiyar as has been stated also by my Honourable friend, the Leader of my Party, is against the framework of the Bill. He says:

"It is, however, a settled law even in these Provinces that she cannot enforce partition but is entitled to a share only when partition takes place at the instance of sons or other male members or when the interest of a member is severed by a sale in execution. Though some of the text books speak of the co-ownership of the wife or mother, it is only in a loose sense inasmuch as the widow or mother has no right to enforce a partition of her own motion and cannot object to alienation by her deceased husband for consideration or even to a testamentary disposition by him."

This is what the law at present is. I may say that this law is the law made by English judges who did not know the language of the original texts and who did not know that the texts of the Hindu law went much beyond what was allowed at the time in England by English law. The fact is that the Shastras do not speak in a loose manner of rights of co-ownership, but it is the English judges who have interpreted the law that have seriously curtailed the Hindu women's right to property. Sir Sivaswami Aiyar simply accepts what the English judges tell him the Hindu law is. But we are not going to do that. There are foreign

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scholars who interpret the holy Vedas—I could quote passages—which all Hindus believe to be inspired, as songs of shepherds and goatherds. Will my Honourable friend accept this view of their sacred religious book which has been given by the European scholars? If not, why should we or he accept the interpretation of our laws given by those who were ignorant of the language of those Shastras?

Then, most of the criticism which was levelled by Sir Sivaswami Aiyar against the Bill applied to the old Bill which gave an absolute right to the widow in the property she got from the joint Hindu family and not to the present Bill which gives her only a widow's estate. The fact is that people like my Honourable friend, whose minds are cast in a mediæval mould, neither care for the law as laid down in the older books nor appreciate the changes the world is rapidly undergoing now. Their mental attitude reminds me of a story given in "Shakuntala" by Kalidas. It was becoming dark and a Brahman came and put a garland of flowers round the neck of a king. As it was dark, the king felt the coldness of the petals round his neck and thought it was a snake and cried out: "A snake is round my neck; save me, save me". He would not touch the garland to see whether it was a snake or not as it was dark and he was afraid of being bitten by it. This is the mentality of people who would not look into the texts themselves, who would not see what the Hindu law actually is as laid down in the Shastras, but who would simply cry out in the darkness of their ignorance: "Save our religion because it is in danger". The Honourable Member then says that I am a member of the Arya Samaj and therefore have no right to speak on Hinduism. A more preposterous remark was never made by a sensible man. In the first place, as I said the other day, my name does not appear on any register of the Arya Samaj. I am certainly connected with the society which was created as a trust by Swami Dayanand Saraswati, the founder of the Samaj, to administer the behests of his last testament. Because a man has got reformed ideas, believes in Vedas but does not believe in certain interpretations of them, because a man believes in Jain religion and its philosophy or he is a Siva and believes in Sivaism, or because he believes in Vishnuism, does he cease to be a Hindu or does he cease to be governed by the Hindu law? Can it be said that these people should not be governed by the Hindu law but by a separate law of their own? Every man who is subject to the Hindu law has a right to protest against any injustice that is done by that law. I want to leave the Honourable Raja Bahadur now. Before, however, I do so, I wish to say a word about the way in which he wanted to make capital out of some opinion which I was reported to have given on some Bill of Bakhshi Sohan Lal which was referred to me by Government for opinion years ago. He has not produced the Bill to show what it was. He has only quoted two passages from my speech and repeated one of those passages four times within 10 minutes as if he had nothing else to say. That passage is:

"As in the field of politics so in social matters, short-cuts and sudden leaps taken in defiance of the laws of evolution which govern complicated organisations as well as individual lives end in failure after causing endless suffering. In politics as well as in social matters the task before the people of India is laborious requiring unceasing labour, patience, sacrifice and intelligent direction."

Have I anywhere transgressed the lesson contained in these words? Do these words mean that because short-cuts and sudden leaps end in failure,

therefore no reform of any kind is to be effected, and no wrong of any kind is to be remedied? Does this mean that you should sit dumb and helpless and allow evils to flourish? Have I ever said that in social matters the task before the people of India is not laborious, requiring unceasing labour, patience, sacrifice and intelligent direction? Is not the fact that I had to work unceasingly and patiently with what little intelligence I possess for 4½ years before one Bill of mine, the Child Marriage Bill, was passed and has not this Bill dealing with a disability of a particular class of women, taken two years to reach the stage when I am able to move that the Bill be referred to a Select Committee? Have I done anything in the nature of a short-cut or a sudden leap? Have I proposed that the caste system as it obtains at present in Hindu society be made illegal and punished as an offence? That would have been a short-cut. Have I done so? Have I ever said that an act of a Legislature will make a man honest or it will purge society of all its evils? But, then, what is wrong in what I said? Have I now said: Pass an Act in this House and all will be well; all men will become honest and the Hindu society will be free from all evils? If I have attempted to get an Act passed to remedy a minor or major evil or remove a disability from which the Hindu widows suffer, have I done anything to give a lie to the statement quoted above? The task of purging the Hindu society of the evils it suffers from is difficult enough, is wearisome enough and is long enough, but it is the existence of men in that society with the notions of the cavemen, with the ideals of the Stone age, who wish to bring down humanity to the level of the obsolete old world, ideas that is making the task still more difficult, still more onerous, far longer and far more wearisome. Sir, I will leave it at that and also leave with it my Honourable friend Raja Bahadur Krishnamachariar.

I will now proceed to say a word or two about what my Honourable friend Mr. Lalchand Navalrai says. He says that he is not a reactionary and that he supported the Child Marriage Bill. He says that the present Bill is badly drafted and therefore he opposes it. As an illustration he says:

"So far as the giving of the share for Hindu widows is concerned the preamble says: 'A Bill to secure a share for Hindu widows in their husbands' family property' it does not define the share."

He complains that the preamble does not define that share. Now, may I ask him, if the preamble of a property Bill has ever defined a share? Then he says that the Hindu law divides the property, on partition, in particular shares and those shares are not shown in the Bill. He complains that my Bill does not show clearly what share a widow would be entitled to. This reminds me of a story which many Honourable Members may have read. The love romance of Yusuf and Zuleikha was recited by a poet and after it was finished and everybody had enjoyed it and said that it was very good, one of the hearers got up and said: "This romance is very good, Sir, but was Zuleikha a man or a woman?" This is how he understands things.

My Honourable friend Mr. Muhammad Azhar Ali says that he neither opposes nor applauds the Bill. He only wants to know why I have applied the provisions of the Bill to the Sikhs and Jains. Are they sub-sects of the Hindus? Are also the depressed classes Hindus? To use his own

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words, are both the higher classes and the depressed classes to be put under the Hindu religion. This is no occasion to enter into a philosophical examination whether Sikhism and Jainism are parts of Hinduism. But the widows amongst the Sikhs and Jains and the so-called depressed classes are in the same plight as those of the other Hindus and they are suffering under the same disability, and the only way to help them and ameliorate their lot is to include them in the Bill. I hope this will satisfy my Honourable friend.

I now come to the Honourable Sir Lancelot Graham. His speech, I am sorry to have to say, is not free from misrepresentations and wrong inferences drawn from facts. To begin with he remarked that he thought it right to intervene at an early stage of the debate to state the Government's position and he then stated it. I question the justification for a Government to intervene at an early stage of the debate on a piece of social legislation, unless the Government support that legislation or have to say that they are neutral. If the Government do not wish to support a measure but wish to be guided in their choice, whether to support or to oppose it, by the knowledge of what support the Bill has got in the House, they must wait till a majority of speakers have spoken in the Assembly. To intervene otherwise early in a debate is to give a lead to the Assembly to oppose a Bill which seeks to remedy a social evil, and Government have no right, I submit, to do so unless it is their intention to help to perpetuate an evil and they are resolved that the people of India shall not make any social progress, which I think is the foundation of all progress. My Honourable friend has misstated the policy and attitude of Government towards social legislation. He says that Government would not support any measure unless it is shown that the measure has a very very strong majority of opinion behind it. Is there any moral sanction for such a policy? And has that been hitherto the policy of the Government which it has pursued? Has the policy of the Government not been different? My Honourable friend Sir Hari Singh Gour has, by quoting instance after instance of social legislation undertaken by the Government of India, fully proved that the Government have initiated and supported social legislation that had, according to their view, moral sanction behind it, though those legislative measures were opposed sometimes almost unanimously by the people. In order to prove that the Honourable Member who spoke for Government has not presented the attitude of Government rightly, I would quote from the speech of a responsible Member of Government, the Honourable Sir James Crerar. Speaking on 4th September, 1929, in the Legislative Assembly when the Hindu Child Marriage Bill was on the anvil, he said:

"The real truth, Sir, with regard to the attitude of Government in this matter, as in other matters of social legislation, is one which I think I may state in a few words. It occupies, I frankly admit, a middle course. I suggest, indeed, I most strenuously contend, that in the extreme of rash, hasty and intemperate legislation and the opposite extreme of obscurantism and purblind conservatism the dangers which lie are hardly distinguishable in their magnitude. What I have always contended for is that, if important projects of social legislation are to be undertaken as they must be undertaken, it should be after a careful and deliberate examination of the evils which you are endeavouring to correct, and after the fullest ventilation and consultation of public opinion; and that in matters of that kind we should make every possible endeavour to ensure that, behind such measures as we undertake, we should have that degree of public support which is in fact essential to the effective administration of any legislation in such matters?"

Does this enunciation of policy stipulate that a measure to receive support from Government must have an overwhelming majority of opinion behind it and that it is not for Government to consider whether it is a good or a bad measure. The Honourable the Home Member lays down three propositions, that the Bill should be proposed after a deliberate examination of the evil it seeks to remedy, secondly, public opinion should be consulted and thirdly there should be reasonable support of public opinion behind it. Has Sir Lancelot Graham not completely ignored the first two conditions when he enunciated his policy and exaggerated out of all recognition the third? Sir, my Bill proposes a remedy to stop an evil the existence of which is admitted by the highest authorities in India and not denied by Government. This Bill has been before the public for over two years. Government have circulated the Bill and consulted public opinion about it and I claim that it has a majority of public opinion behind it. Not only is the majority of those consulted by Local Governments in favour of the Bill as now proposed, but the majority of the speakers in the Assembly are in its favour, which fact alone is an index that public opinion in this country supports the Bill. The Bill therefore fulfils the conditions laid down by the Home Member in his Simla speech to be entitled to Government support. The Honourable Member speaking on the same Bill further said :

"At any rate, Sir, I wish to make my position, the position of Government, perfectly clear beyond any shadow of doubt. It is this. We are convinced that this evil exists; we are convinced that the measure of Rai Sahib Harbilas Sarada is, at any rate, a first step in the direction of seeking a practical remedy. Where we find so great an evil and where we find a promising remedy, we feel that we must support what we think to be right."

My Honourable friend was a little unfair to Mr. Yamin Khan. He said that Mr. Yamin Khan supported the Bill because he was a gentleman and a barrister. He has ignored the reasons given by Mr. Yamin Khan for supporting the Bill. He had said :

"I have come to know many cases in which the Hindu widows suffered a great deal. I have appeared on their behalf and I found them in the most miserable condition and I found a great deal of injustice was done in the name of law and religion."

Further on he said :

"I am glad Mr. Sarada supports my views, that these social laws are made for the time being to suit society. . . . I have seen a good many widows deprived of their food while they really enjoyed great luxury in the time of their husbands. If it is joint family property, the reversioner or the brother of the deceased does not treat the widow with as much cordiality as is her proper share. It is a pity that a woman, as soon as she loses her husband, loses not only her partner in life, but also loses her right of enjoyment, and she becomes dependent on the charity and goodwill of the relations of the deceased husband. . . . In many cases they are not treated like human beings."

This is the reason why Mr. Yamin Khan supported the Bill and not because he was a gentleman. Does the Honourable Member mean to say that those who do not support the Bill are not gentlemen? My Honourable friend further said :

"The debate has been a listless debate and if it is permissible to mention the galleries a singular emptiness in the galleries."

He then compares this state of things with the enthusiasm evoked by the Child Marriage Bill. You can see, Sir, that conditions are now quite different from what they were three years ago. In 1929 there was no

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upheaval in the land, there was no serious agitation, no grave unrest and the women had only their domestic duties to attend to. But the state of affairs is quite different today. There is an upheaval in the country the like of which was never seen in the memory of the present generation, unrest is universal: disaffection stalks in the land, trade is ruined and the jails are filled, taxes are high and the Government exchequer is empty. Is this the time when women will come out or even the men will enthusiastically come forward to support a social measure. But so far as the women are concerned, every women's conference in the country held since the introduction of this Bill has whole-heartedly supported it. The women's associations throughout the country have without exception demanded the passing of this Bill. I will read here a few of the letters and telegrams that have come to me. Let me read here a few of the opinions of the women's associations in the country.

"Whole-hearted support to Mr. Sarđa's Bill to establish the right of inheritance by widows was recorded at a meeting held under the joint auspices of all the Indian Women Associations of Bengal at the Mary Carpenter Hall, Mrs. Kamini Roy took the chair. The hall was fully packed and the attendance, besides a large number of Marwari ladies, including Mrs. P. K. Roy, Lady Bose, Mrs. Kalyani Mukherji, etc."

They passed a Resolution whole-heartedly supporting this Bill. It would do good to the Honourable Members from Bengal to read the report published in the *Liberty* of the 25th February 1930, for their benefit.

I will now read a few telegrams which I have received during the last three days. Here is one from Bombay:

"All-India Women's Conference at Madras sessions strongly supported Hindu Widows Inheritance Bill. Letter follows. Social Secretary, A.-I. W. C."

Then from Dr. Muthulakshmi Reddi, Madras:

"Women's Indian Association supports Sarđa Bill secure widows' share in family property."

Another telegram is from Rani Rajwade of Gwalior, the Organising Secretary of the All-India Women's Conference:

"Sir Graham expressed doubts in the Assembly regarding volume of support behind Sarđa Hindu Widows' Inheritance Bill. I wish to apprise you of the general support obtaining throughout constituencies of All-India Women's Conference to this measure in view of which conference in annual session Madras strongly protested against existing legal disabilities of Hindu women in respect of personal property and property rights and even demanded appointment of All-India inquiry committee in this behalf. Therefore request Government should lend whole-hearted support. Literature follows."

This is a letter from the Conference of Delhi women and their Resolution is this:

"This conference of Delhi women lends its whole-hearted support to any legislative measure which may be designed to recognise and enforce the right of Hindu women to private property and inheritance."

Then a telegram from that honoured lady, Sharifa Hamid Ali:

"Konkan Women's Conference urges Government not accept amendments Sarđa Act. Support Bill securing share Hindu widows. Urges legislature make provision mothers, sisters, daughters."

These are the telegrams which I received yesterday :

"Baroda Women's Association heartily supports your Bill."

The Bihar constituency of the All-India Women's Conference wire as follows :

"Women of Bihar assembled in meeting whole-heartedly support Hindu Widows' Inheritance Bill and request Government to support it or at least give freedom of vote to official members."

This is from Madras :

"Madras constituency All-India Women's Conference request Government support Widows' Inheritance Bill."

This is the copy of a message sent to the Private Secretary to the Viceroy :

"Please convey our message to His Excellency. The women of Amraoti assembled in public meeting whole-heartedly support Hindu Widows' Inheritance Bill and request Government to support it or at least give freedom of vote to official Members. Secretary Berar Women's Conference."

I will now read some of the Resolutions passed by women's associations. This is from Hyderabad (Sindh) :

"This Conference gives its whole-hearted support to R. S. Harbilas Sarda's "Hindu Widows' Inheritance Rights Bill" to be discussed at the Delhi session of the Assembly and urges the Members of the Central Legislature to help the speedy passage of the Bill and thus ameliorate the lot of the long-suffering Hindu widows."

Under the auspices of the local Committee of the All-India Women's Conference a public meeting of women was held at Karachi, at which the following Resolution was passed :

"This meeting of women of Karachi strongly supports Bai Saheb Harbilas Sarda's Hindu Widows' Inheritance Rights Bill to be taken up at the Delhi session of the Assembly."

Another meeting held at Karachi under the Presidency of Begum Haji Abdulla Haroon passed this Resolution :

"This public meeting of the women of Karachi assembled together as a sub-constituent Conference of the all-India Women's Conference strongly supports R. S. Harbilas Sarda's Hindu Widows' Inheritance Rights Bill to be taken up at the Delhi session of the Assembly."

This telegram has just come :

"Representative gathering of seven women's associations whole-heartedly support your Bill and request Government to support it or at least give freedom of vote to official Members. Wire sent Viceroy. Faridoonji."

This is Mrs. Faridoonji, who is Secretary of the Women's Conference and General Secretary of the All-India Women's Education Fund.

I do not know if I should read the 20 or more Resolutions passed by different women's associations in different provinces from Andhra, Hyderabad, Karachi, Sukkhur, Bombay, Indore, East Punjab, Hoshiarpur, Mysore, Tamil Nadu, etc. This telegram is from the Secretary of the Kotah Women's Conference. They are coming as I am speaking :

"Kotah Women request you to do all you can for Hindu Widows' Inheritance Bill. Wish success."

An Honourable Member: But Kotah is not in British India.

Diwan Bahadur Harbilas Sarda: This is from Mrs. Kitchlew, President of the Gwalior Association :

"Women of Gwalior assembled in public meeting whole-heartedly support Sarda's Hindu Widows' Inheritance Bill and earnestly appeal to Government to support same."

Speaking on the 26th January, the Honourable Sir Lancelot Graham said :

"The Honourable gentleman himself certainly displays his sympathy for the Hindu widow and would like to do something for her. He is not alone in that attitude; we all share it. But the question is whether this is the right method and this the right time, and that is where we join issue with the Honourable the Mover of this Bill."

Lip sympathy all this! Damning with faint praise, as they say. What is the right method please if not this? Will the Honourable gentleman promise to take the right method at once, and I propose to give up this Bill.

The Honourable gentleman again did me less than justice when he said or rather reported me as saying :

"My Honourable friend said that this little sheaf of opinions was not as large as it ought to be, and I think he indicated that that is the fault of Government."

I never said in my speech that the sheaf of opinions was not large. All I said was :

"Of the opinions recorded all are of men or bodies of men except 3, two of which opinions are of individual women, and one of a women's association. This shows that the circulation of the Bill was unfair and that injustice has been done by Government by not inviting the opinions of the class for which the Bill is intended. The Bill ought to have been circulated to all Women's Associations and prominent women in the country. Had this been done, there would have been a chorus of approval of the Bill in the country as the entire womanhood of India would have been found in favour of the Bill ; this is clear from the unanimous support which all the women consulted have given to the measure. They all heartily support the Bill. The Bill has also received support from one and all of the Women's Associations that have come to know of this Bill."

I did not say a word of what the Honourable Sir Lancelot Graham represents me as saying, that I was sorry that the sheaf of opinions received was not large, and that more opinions in favour should have come. I never said that. All I said was that the Government had not circulated the Bill to women's associations as it should have been done, because it is the women who are really affected by this Bill. This is all I said. To interpret this as a regret that the sheaf of opinions was not large is a travesty of facts. Then he says; if people are not interested, you cannot make them write opinions to Government about Bills. Is this not a misleading statement? Are not Government at fault if they have not consulted prominent women of India in the matter, especially when we know that women are considered fit to work on the Round Table Conference and on the Committees appointed to supplement the work of that Conference, and are considered fit to go as members of a commission to the South African Government? If the Bill was not sent to them and they did not send their views to Government, who is at fault? Government alone can call for those opinions. Are then Government at fault or any-body else?

But what will astonish every one and what surprised me most was the conclusion to which the Honourable Member arrived. He said:

"The attitude for which Government stands is that there must be evidence that there is a very strong feeling in the Hindu community before they will lend any support to proposals to interfere radically with the Hindu Law. On those grounds I, on behalf of Government, oppose the motion."

On what process of reasoning, on what canons of logic does the Honourable spokesman for Government rely when he says that because he does not find sufficiently large support from the Hindu community to the Bill, he will not support the Bill and, therefore, he will oppose it? Government have sympathy with the object of the Bill; Government do not oppose the proposal to give a share to a widow in the family property; Government will only support social legislation if it has the strong support of the people; but as Government do not find strong support they will actively oppose it. Is there any reason why you must injure a man because you do not love him? Why cannot Government say that they cannot support the measure and stop there? Why should Government join hands with those who are against all social reform, however useful or necessary and who have no sympathy with widows in their disability? Why cannot Government remain neutral: Why cannot Government say, well, they will not take the responsibility of supporting or opposing it and will therefore stand aloof and let the non-official Members of the Assembly or those who alone are affected by it decide the issue and they will allow the Bill to be passed or rejected as that vote decides? In the alternative, if Government are not opposed to all social reform, they can let the Bill go to the Select Committee and then ask for re-circulation of the Bill as it emerges from the Committee if it is found necessary to do so and await the verdict of the public. Why must they oppose its being sent to a Select Committee?

Sir, before I sit down I want to say a word or two with regard to what fell from the Honourable the Law Member. The Law Member was not present at the debate last time and evidently he has been put up by Government now, as what fell from Sir Lancelot Graham was not enough to convince the Members of the soundness of the Government's case. We all know what an eminent advocate the Law Member was before he came to the Government of India. We know how cleverly, how skillfully he can put up a case which is lost from the very beginning. The Honourable the Law Member does not say that the object of the Bill is bad. He says the Bill has been so badly drafted that he does not know what the principle of the Bill is, that he has been searching for it with a microscope but has not been able to find it; and therefore he says it cannot go to the Select Committee. He made one or two further observations with which I shall deal later.

Now, Sir, Government have not provided any form which could, before the provisions are given, say in the margin that the principle of the Bill is so and so. You have to take the principle of the Bill from the provisions of the Bill, from the Statement of Objects and Reasons, from what the author of the Bill says is the principle.

"Tasrif ra Musannif niko kunad bayan."

Which means 'The author can best explain what he has written.'

This is what is said in Persian. And when I say what the principle is, and the Statement of Objects and Reasons says what that principle is,

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that should be taken as the principle of the Bill. After stating what the legal status of widows is, I stated in the Statement of Objects and Reasons that this Bill "proposes to give relief to Hindu widows by giving them a share in family property and making them sole owners of their deceased husband's personal property". The object of my Bill is quite clear from this. Then in concluding my speech on the 26th January I said this:

"In conclusion, I wish to emphasise that by accepting my motion, the House only accepts the principle of the Bill, which is that the lot of a Hindu widow, who at present neither gets a share in her father's property nor in her husband's, should be ameliorated by giving her some right in the property which belonged to her husband, for her support in her widowed life."

The principle of the Bill is only that some share in the property which was her husband's should be given to her to ameliorate her lot during her widowhood. I further said:

"How much is to be given and in what shape, are matters not vital to the Bill and will be decided by the Select Committee and this Honourable House. It is the business of the Select Committee to improve the draft where necessary and make clear any point that may be obscure and define the extent and nature of the right that the Bill gives to the widow. This may be necessary in view of the fact that when a man leaves a widow and one or more sons under the Dayabhaga law, a son does not become a co-parcener by birth though he does under the Mitakshara law. The Bill has absolutely no intention to disinherit any son. I appeal to the Honourable Members of this House—to my European and Muslim colleagues, that this Bill attempts only to give to the Hindu widow only a part of what their own laws already give to widows governed by those laws. . . ."

Then the Honourable the Law Member said that clauses 3 and 5 were in conflict and that the Bill over-rode the testamentary right of a Hindu. Clause 3 gives a Hindu widow a share in the joint family and defines what the extent of that share would be. Clause 5 says that:

"a widow's claim to maintenance from the funds of a joint family shall cease on the *partition and separation* of her share as provided in this Act."

I do not see what the difficulty is. As regards maintenance, my Honourable friend said it was not clear whether in certain instances she would get both the maintenance and her share. I do not say how that view can be justified by reading this clause. This clause plainly says that a widow under the present law has a right of maintenance. Until she invokes the new law and gets a partition of the property made and she is put in possession of that property, she will get maintenance only, because till then the law contained in this Bill would not have been given effect to. There is no occasion when both the maintenance and the share which she can get may be given to her.

As for testamentary right, I think I will repeat what I have said before. If a man makes a will, it is after his death that his widow succeeds to property and she will be entitled only to the property to which her deceased husband was entitled at the time of his death. Though the testament will take effect only after his death, still during his life-time he had given away his rights to the property, and therefore the widow will get nothing and the testament will take effect. Then it must be remembered that, except in Bengal, people in the whole of India are governed by the Mitakshara law, and that law does not allow a man to give away his right in a joint family property by will or testament,—he has no right to make that will. In Bengal the thing is different. But if the man makes a will, that will take effect, and this law will not take effect.

As I have said, Sir, I am no legal draftsman. If the object is clear, if the principle of the Bill is clear, if the wording does not adequately convey the proper intentions of the Bill, it ought to be altered properly to express it. After all, I come here with a certain remedy for a certain disability. If I say this is my remedy and if the words I use do not exactly express, it, then the Government draftsman and the Select Committee appointed by this House have every opportunity to put in proper form the intentions of the author, and this House can agree or disagree with the principle. Take any law and try to analyse it, you will find a lot of interpretations can be put on its sections. As my friend, the leader of my party, said, look into the provisions and the details of any Bill with a microscope, you can never find unanimity of opinion. What is done in these courts? What do our eminent lawyers do? They are there because the words of the law are differently interpreted by different people. The Bills framed by the Legislative Department of the Government of India admit of such different interpretations being put by men of superior intellects that we have every day battles of wits in courts. Whatever human ingenuity may devise, there will still be differences of opinion with regard to the interpretation of any particular Bill or any particular statement. The reason is that the human mind travels faster, and it goes much further than human language can express; human language can never keep pace with the activity of the human mind, and so long as this state of things lasts, and this will last till the end of the world, different interpretations will continue and you cannot say that any law is perfect and free from all doubts.

My friend laid stress on the words "family property" contained in the proviso to clause 3 of this Bill. The sole object of this proviso is this. If a man dies leaving a widow and instructions to her to adopt a son, and the widow in obedience to her Lord's wishes adopts a son, that son shall get half the property left by his adoptive father. The widow shall not remain the owner of the whole of that property; she shall share it with the adopted son. Of course, as I said in my speech, it would be understood that if a man leaves a son he will have his share. A man under the Mitakshara law becomes a coparcener by birth and therefore he will get a share, and the widow will get a share equal to the son. If the man does not leave a son and there is an adopted son, still that adopted son will get the same share in the property as a natural son would have got. As regards family property, I quite admit that the phrase "family property" may be differently interpreted, but my object was only to show the origin, the nature of that property, I simply mean the property which was part of the undivided Hindu family and which came to the widow as her share on her claiming her deceased husband's share which this Bill gives her. The Honourable the Law Member said that it was not possible to make this Bill all right, by re-drafting it, and he meant evidently to say that the Bill would be so entirely changed that the nature of the Bill would be different. In the first place, I say that the nature of the Bill will not be changed. But supposing the Bill is materially changed, the Government will be at liberty, this House will be at liberty, to re-circulate the Bill for fresh opinions from the public and then bring the Bill again before the House. I want to ask Government, did they raise any objection on this ground, when they converted a civil measure into a criminal measure in the Select Committee? When they could conscientiously convert a civil Bill into a criminal measure (*An Honourable Member*: "Shame")—in the Select Committee with the aid of the Government draftsman—what earthly reason is there against this Bill being

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so amended as to meet the requirements of the objectors so as to make its provisions clear. The only thing is that the principle of the Bill should not be changed.

In conclusion, I will only say that this Bill affects a very large number of the women of the country. The womanhood of India has become conscious of its position and will no longer suffer indignity and oppression. If the Government will oppose this measure and throw it out, this will not be the last they will hear of it. There will be found means to agitate the matter to assume proportions and in quarters to which the Government will have to listen with respect. Government can only retard social progress; they cannot stop it, they cannot scotch it, they cannot smother it. Let this Government not go down to history as a Government that treats with contempt and scoffing the weak and the humble, and bows with submission to the strong. (Applause.)

Raja Bahadur G. Krishnamachariar: Sir, on a point of personal explanation. I have only one word to say. My Honourable friend began his speech by stating that I misrepresented his enunciation of the principle. What I said was:

"He said it is only a question of principle that is involved; the rest and the more important thing would be done by the Select Committee, that question of principle being or, at least asserting that the Hindu widow is subject to all sorts of persecutions and tyrannies which human wits could devise. Being in that position, something must be done in order to give her relief."

That is what I said. I wish to draw the attention of the House that he himself said the same thing in winding up his speech

Mr. President: That is not a personal explanation. You cannot reply on the debate.

Raja Bahadur G. Krishnamachariar: I am only drawing the attention of the House.

Mr. President: Order, order. This is not a personal explanation. The question which I have now to put is:

"That the Bill to secure a share for Hindu widows in their husbands' family property be referred to a Select Committee consisting of the Honourable the Home Member, Mr. R. K. Shanmukham Chetty, Mr. J. Ramsay Scott, Pandit Ram Krishna Jha, Mr. Hari Raj Swarup, Sirdar Harbans Singh Brar, Mr. S. C. Mitra, Mr. Muhammad Yamin Khan, Sir Hari Singh Gour, Mr. B. Sitaramaraju, Mr. A. Das and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the Committee shall be four."

The Assembly divided:

AYES—25.

Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir.
Anwar-ul-Azim, Mr. Muhammad
Brij Kishore, Rai Bahadur Lala.
Chetty, Mr. R. K. Shanmukham.
Cocke, Sir Hugh.
DeSouza, Dr. F. X.
Gidney, Lieut.-Colonel Sir Henry.
Gour, Sir Hari Singh.
Harbans Singh Brar, Sirdar.
Hari Raj Swarup, Lala.
Ismail Ali Khan, Kunwar Hajee.
Jadhav, Mr. B. V.

Jog, Mr. S. G.
Joshi, Mr. N. M.
Maswood Ahmad, Mr. M.
Mitra, Mr. S. C.
Mody, Mr. H. P.
Pandit, Rao Bahadur S. R.
Rajah, Rao Bahadur M. C.
Rastogi, Mr. Badri Lal.
Reddi, Mr. T. N. Ramakrishna.
Sarda, Diwan Bahadur Harbilas
Scott, Mr. J. Ramsay.
Ziauddin Ahmad, Dr.

NOES—55.

Abdul Qaiyum, Nawab Sir Sahibzaid
 Acott, Mr. A. S. V.
 Allah Baksh Khan Tiwana, Khan
 Bahadur Malik.
 Allison, Mr. F. W.
 Azizuddin Ahmad Bilgrami, Qazi.
 Bajpai, Mr. R. S.
 Banerji, Mr. Rajnarayan.
 Bhore, The Honourable Sir Joseph.
 Bhuput Singh, Mr.
 Brown, Mr. R. R.
 Clow, Mr. A. G.
 Cosgrave, Mr. W. A.
 Crerar, The Honourable Sir James.
 Dalal, Dr. R. D.
 Deo, Thakur Mahendra Nath Shah.
 Dudhoria, Mr. Nabakumar Sing.
 Fazal Haq Piracha, Shaikh.
 French, Mr. J. C.
 Ghuznavi, Mr. A. H.
 Graham, Sir Lancelot.
 Gunjal, Mr. N. R.
 Gwynne, Mr. C. W.
 Howell, Sir Evelyn.
 Ishwarsingii, Nawab Naharsingii.
 Ismail Khan, Haji Chaudhury
 Muhammad.
 Jawahar Singh, Sardar Bahadur
 Sardar.
 Krishnamachariar, Raja Bahadur G.

Lahiri Chaudhury, Mr. D. K.
 Lalchand Navalrai, Mr.
 Macqueen, Mr. P.
 Misra, Mr. B. N.
 Morgan, Mr. G.
 Mujumdar, Sardar G. N.
 Mukherjee, Rai Bahadur S. C.
 Noyce, Sir Frank.
 Parsons, Sir Alan.
 Puri, Mr. Goswami M. R.
 Rafiuddin Ahmad, Khan Bahadur
 Maulvi.
 Rainy, The Honourable Sir George
 Rama Rao, Diwan Bahadur U.
 Ryan, Mr. T.
 Sahi, Mr. Ram Prashad Narayan.
 Sant Singh, Sardar.
 Santos, Mr. J.
 Schuster, The Honourable Sir George.
 Seamen, Mr. C. K.
 Sen, Mr. S. C.
 Sen, Pandit Satyendra Nath.
 Sher Muhammad Khan Gakhar, Cap-
 tain.
 Sohan Singh, Sirdar.
 Sukhraj Rai, Rai Bahadur.
 Sykes, Mr. E. F.
 Wajihuddin, Khan Bahadur Haji.
 Wood, Sir Edgar.
 Young, Mr. G. M.

The motion was negatived.

THE HINDU MARRIAGES DISSOLUTION BILL.

Sir Hari Singh Gour (Central Provinces Hindi Division: Non-Muham-
 madan): Sir, I do not propose to tire this House, especially in view of
 the fact that I do not think there will be any serious opposition to the very
 moderate Bill that I ask this House to accept the principle of. The mo-
 tion that I move is as follows:

"That the Bill to remove certain doubts regarding the dissolution of marriages of
 persons professing the Hindu religion be referred to a Select Committee consisting of
 Mr. R. K. Shanmukham Chetty, the Honourable the Home Member, Diwan Bahadur
 Harbilas Sarda, Mr. C. S. Ranga Iyer, Mr. B. R. Puri, Sardar Sant Singh, Lala
 Hari Raj Swarup, Dr. Zia-ud-din Ahmad, Mr. Jadhav, Mr. Sitaramaraju, Mr. R. S.
 Sarma, Sir Lancelot Graham and the Mover and that the number of members whose
 presence shall be necessary to constitute a meeting of the Committee shall be four."

Honourable Members will recall the fact that I had introduced a simi-
 lar measure some four years back when it was circulated for the purpose
 of eliciting public opinions thereon. If Honourable Members have not
 got a copy of the compilation of opinion let me assure them that while the
 opinions are bulky, women's organisations and women themselves were
 not at all consulted with the result that opinions are all one-sided of the
 mere man. During the four momentous years that have since elapsed, a
 great advance has been made in the direction of the emancipation of
 women and only recently in the very progressive Indian State of Baroda a

[Sir Hari Singh Gour.]

Hindu Divorce Bill has become law, and I shall read to you the main provisions of that Bill or rather law. The Maharajah has now given his assent to the enactment of legislation which provides:

"That a married man or woman will be able to seek relief by the annulment of his or her marriage if his or her partner is missing and not found for seven years or is converted to another faith or is initiated into asceticism or constantly for three years treats her or him with cruelty, or deserts her or him or is constantly under the influence of drink or drugs or other women or men. Marriage will also be annulled if one is able to prove that his or her partner was at the time of marriage suffering from a disease or was deaf, mute, blind, mad or was converted or was under-age or that he or she was tricked into marriage."

Now, this is the Baroda Hindu Divorce Act; and I understand that upon the lines of this Act other progressive Indian States like Mysore, Indore and Gwalior have either enacted or are about to enact divorce laws of their own. I therefore feel, Sir, that whatever may have been the fate of the pioneer of similar legislation in this House in 1928, the seed then sown has germinated and is bearing fruit. I therefore feel that we in British India, profiting by the example of the Indian States, should once more reconsider our view and give to the women of India that relief which the sages of old, centuries ago, had given them, and which, as I shall presently point out, they are entitled even today to receive, though in a circuitous manner.

An Honourable Member: Then why do you want a law?

Sir Hari Singh Gour: I shall very briefly recapitulate the present condition of law in this country and then answer the question of my interrupter. The present state of the law is this. As Honourable Members know, Hindu society is divided into four castes. The last of these is known as Sudras. Now these have since time immemorial had the custom of divorce. Secondly, even in judicial decisions this custom of divorce among Sudras is well recognized. Leaving therefore the vast bulk of the Sudra community out for the present, we have the three higher castes known as the twice-born or Dwijas. Among these, the practice of divorce is regulated by local customs Honourable Members who hail from Malabar or its vicinity will testify to the fact that the dissolution of marriages and the system of divorce are practised also in parts of Malabar; and those who hail from the further north will tell you that a similar custom prevails in the Terai of the Himalayas and in all the tracts on the Himalayas influenced by the Buddhist religion. Apart, however, from class or local custom, the law of divorce is applicable to those who have married under the Special Marriage Act of 1872 or under the amending Act XXX of 1923. There are others who are entitled, whether men or women, to divorce their spouses under what is known as the Native Converts Dissolution of Marriage Act of 1866 under which, when a person is converted to Christianity, he becomes entitled to demand through the court the restitution of conjugal right upon his conversion; and if the spouse refuses the restitution asked for, he or she is then entitled under the Statute of 1866 to obtain a divorce. I know of two cases within my knowledge where Hindu women have become converted to Christianity with the sole object of obtaining release from their husbands under this Act. Apart therefore from the customary law there is a loophole provided in the Act of 1866 that with the renunciation of the Hindu religion and conversion to Christianity, you obtain the privilege of

securing a divorce as provided in the Act of that year. I need hardly remind Honourable Members that such conversions are not becoming and I do not think there is a single Member in this House who would encourage such conversions to which I refer.

(At this stage Mr. President vacated the Chair, which was taken by Mr. Deputy President.)

Then, again, Sir, those of my lawyer and other friends who have read the Indian Evidence Act will remember that there is the rule
4 P.M. of evidence that if the husband or the wife has disappeared and is not heard of for a period of seven years then there is the presumption of death and in that case the other party to the marriage becomes entitled to contract another marriage.

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): Is my Honourable friend not aware of the Bhawal case?

Sir Hari Singh Gour: My Honourable friend is perfectly right that where a householder renounces his status and becomes an ascetic and disappears, the Hindu law recognizes his conversion to asceticism as civil death.

Mr. D. K. Lahiri Chaudhury: But if he again comes back to society and asks to be reinstated?

Sir Hari Singh Gour: Sir, I may point out that when a householder becomes an ascetic, he loses under the Hindu law not only his property but his wife as well. (Laughter.)

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Let him come back again to the Arya Samaj.

Sir Hari Singh Gour: This, Sir, is briefly the state of the law relating to the dissolution of marriages. I wish to point out to Honourable Members that even within the narrow confines of custom, and custom so well recognized as it is in the case of the Sudras, the courts give decisions based on the facts in each individual case, and it is a notorious fact—a fact which has been recognized, as I have said, in the numerous decisions of the various courts—that if a party goes to court for a declaration that the marriage of the parties has been dissolved under the customary law and by the caste Panchavat, the court still demands evidence the quantum of which naturally depends upon the caste of the parties. But even assuming that the case is based on evidence, the municipal courts of our country do not yet possess matrimonial jurisdiction: all that they can do is to declare a fact, if it is a fact, and they cannot do anything more. That is a very limited jurisdiction of a general character, not appropriate to the dissolution of matrimonial ties. I therefore think that even in the case of persons who under the present customary law are entitled to the right of divorce, the courts possess an inadequate machinery for enforcing those rights. And that in itself requires an amendment of the law. But I am not here to ask you merely to rectify a processual defect in that machinery. I have come here to ask you to give your concurrence to vindicate the rights of the women of India, by which I mean the women of the Hindu society, who, for ages past, have suffered intolerable wrongs by the one-sided law made by men, by the one-sided custom which has grown up and become encrusted upon the more equitable provisions of the written text. In the Statement of Objects and Reasons appended to my Bill I have given quotations from two great sages, Narad and Vashisth and have

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pointed out that both these law givers of antiquity recognised the righteousness of divorce in certain cases: and, as they were merely recording the then current custom, and were not innovating a new principle of law but re-affirming and giving publicity to what was then the tribal and general custom. I submit that that custom with which we started in the mediæval age has become obscured and encrusted by the encroachments of our sex upon the primary and primitive rights of womanhood. I am therefore asking you to-day to do nothing more—a great deal more women deserve—to give nothing more than to re-establish the law and to reaffirm the principle for which Narad and Vashisth, the two law givers of antiquity, stood in a generation now long since passed. That, I submit, is a very bare elementary right which I ask this House to concede to the Hindu women of this country.

Those who belong to more advanced religions and are subject to more modern law will easily sympathise with the moderate demand that I make in this Bill. For what do I demand? If Honourable Members will turn to the operative clause of my Bill, they will find that all that I ask them to do is to give sanction to the annulment of a marriage and to the dissolution of the marriage on the ground of the impotency of the husband, his imbecility, at the time of the marriage or the fact that he was suffering from sanious or ulcerous leprosy. These are the three fundamental facts amongst many more upon which the ancient Hindu wife was entitled to divorce her husband. Honourable Members will find in the quotation I have given in the Statement of Objects and Reasons that the ancient law of divorce was far juster and more generous to the women than my present Bill. As I pointed out I am one of those who believe in the doctrine of *festina lente*, which means move slowly, and I wish to carry with me the bulk of my fellow Hindu opinion in favour of this Bill. Therefore, rather than draft my Bill upon a more ambitious basis, I have confined it within the very narrow limits enunciated in clause 2.

Sir, I have pointed out what the ancient law is and I have pointed out the inadequacy of the present law. Let me point out to the Honourable Members that apart from the Shastric law, apart from the customary law, the custom which has now taken the place of law and dominates the laws of Hindus has given to men the right of polygamy; it has given to the man the right of discarding his wife or wives at his pleasure but it has given the wife no corresponding relief against her husband, even though that husband be congenitally an idiot, even though that husband suffer from leprosy of a highly contagious character and even though that husband be congenitally incompetent. Now, Sir, I ask any Member of this House whether, on a broad ground of equity, the proposition I am enunciating is not irresistible and it is upon that solid rock that I base my case. I have already pointed out to the Honourable Members that the Indian India is getting far in advance of the tardy progress we have made in British India in the matter of social reforms.

Now, let me recall to my Honourable friends one fact. It is a recognised rule of civil law that marriage creates an International status and by the International law and by the comity of all nations the contract of marriage in one country is recognised as amounting to a contract of marriage in other countries. As marriage creates an international status so does divorce. If you are to resist the passing of my moderate amendment,

the result would be that there would be a rush to places where the principle of divorce has been accepted. It has already been accepted in Baroda and, I believe, also in Mysore and other Indian States. Therefore, a man marrying here would go there and comply with the law of domicile, which is a very easy thing to do, and obtain divorce in that court. And when he comes back, all that he will say is some unmentionable things about the British matrimonial law which drove him to an Indian State to obtain and secure the elementary rights to which he was entitled.

Therefore, I think that even apart from the other considerations that I have mentioned, to merit international status, the British Indian Legislature must assimilate its law, as far as possible, to the laws enacted in its neighbourhood. If it did, it will go much further than the provision of my Bill. Another point that I wish to draw the Honourable Members' attention to is this: that when we made our laws, or rather when custom and the habits of the people created laws, women were regarded as mere chattels. I do not regard this as any blot upon Indian civilisation because in the patriarchal days that was the lot of the weaker sex in the western countries as well. But the fact remains that while the women of the West have secured larger rights with the passage of time, the women of India on account of their infirmity and ignorance have been driven to the wall. There is only one grand epoch, the red-letter day in the history of India and that is the period of the efflorescence of Hindu culture and Hindu civilisation, when the doctrine preached by Gautama Sakya Muni was the dominant religion of this country, and for a period of 1,200 years when reformed Hinduism typified in Buddhism was the national creed and when those 1,200 years coincided with the national religion, we had a national Government when the rights of men and the rights of women were equal and those who have gone to Burma will realise the equality of the sexes that prevails in that Buddhist and other Buddhist countries. Therefore I say that your ancestors and mine were not opposed to the rights of women. The history of India for 1,200 years has been the history of culture and civilisation the like of which the world has never seen. I therefore want that you conjointly with us should once more recall and revive the glories of your ancient civilisation (Applause). It is inspired by that faith, firm in that belief that I venture to stand before you and ask you in the name of your own civilisation, in the name of your own hoary traditions inscribed in the sacred books and laws and also in the name of civilisation and humanity to concur in the modest motion that I wish to place for your concurrence (Applause.)

Mr. B. Das (Orissa Division: Non-Muhammadian): Sir, I had not desired to participate this session in these social legislations because my mind and soul are occupied in other grave matters which affect our national interests in the present juncture. The whole of this morning, in fact the whole of this day into my ears have been dinned the speeches of my Honourable friend Diwan Bahadur Harbilas Sarda and also of my Leader, Sir Hari Singh Gour, on alleged grievances of women. The one spoke for the discontented widows and the other spoke for the discontented wives. I do not know how far either of these two gentlemen are or were in the confidence of discontented widows and discontented wives, I would not have risen to speak but as especially certain observations were made by my Leader, Sir Hari Singh Gour, about the women of India which will no doubt exult the heart of that vulgar American woman Catherine Mayo, and probably in her next supplementary volume to "Mother India", she will quote from the speech that was made either by

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Sir Hari Singh Gour or Rai Bahadur Harbilas Sarda. (*Mr. B. Sitaramaraju*: "Diwan Bahadur"). Even that title stinks in my nostrils. (Laughter). Much has been spoken about women's rights and wives' rights. Sir, my Leader Sir Hari Singh Gour knows that we are on the threshold of new reforms. Everybody knows that women are going to be enfranchised. Why does he not wait for two years when women will sit in the Assembly and they will legislate for themselves?

(At this stage, Mr. President resumed the Chair.)

If there are really discontented wives, who are tired of their husbands and who want a fresh trial, they will separate themselves after 8 months from a husband who is alleged—he has quoted from Narada and Vasishtha—to suffer from impotency. Who is to judge of the impotency of a husband? Doctors are now too many and there are also too many lawyers in India. Are the lawyers to prosper at the cost of husbands and wives? Are the doctors to thrive at the expense of discontented wives? The Honourable Members on the Treasury Benches have sometimes been judges and if a discontented wife goes before a court, the judge will say: "Bring a doctor's certificate whether the man is really a potent or an impotent husband". The wife will have to pay the doctor's fees and also lawyer's fees. Most of the Honourable Members of this House are lawyers and they will draw larger fees. (*Mr. Gaya Prasad Singh*: "What about Engineers?") The Engineer will give you sound advice and for God's sake go with him to the correct lobby. Everybody knows that now women are getting modernised. I do not understand much of the modern woman but the tendency of modern womanhood is to get dissatisfied with everything and get discontented and probably as we know of modern lives, women are never satisfied with their husbands or their condition of living or with what their husbands allow them. A modern woman may discard her husband after six months of marriage on some pretext, as proposed by my Honourable friend Sir Hari Singh Gour and seek fresh ones. At the beginning of my speech, I said I had no intention of participating in the debate on this Bill and I advise Honourable Members, with all respect to my Leader Sir Hari Singh Gour, to wait for two or three years. Let us have a few discontented wives on the floor of this House and let us hear their views and their experience, and if they advise that such legislation is necessary, I, for my part, will whole-heartedly support those discontented wives.

Mr. President: There is an amendment standing in the name of Pandit Satyendra Nath Sen and I call upon him to move it.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadan Rural): Sir, although I gave notice of an amendment for circulation, I have decided to oppose the Bill outright, firstly because I now find that opinions had been collected on the self-same Bill on a previous occasion, and secondly because I find that the Bill has been condemned by an overwhelming majority of those opinions. At the outset let me deal very briefly with the antecedents of this Bill. The Bill was introduced in the year 1928 on the 22nd March, and a motion for circulation was adopted on the same day. It was taken into consideration on the 8th September of the same year, and it was vehemently opposed by prominent personages like the late Lala Lajpat Rai. The result was that the Honourable the Mover thought it advisable to withdraw it. Sir, the Honourable the Mover during the debate in 1928 threw out a challenge to the Honourable Members

to come forward and say on what grounds the Bill was opposed, and he has quoted Shastras in his favour. Sir, if you will bear with me for some time I hope I shall be able to prove to the satisfaction of the Honourable Members that the ideas of the Honourable the Mover and his followers, if any, are quite misconceived. In the Statement of Objects and Reasons he has tried to develop the idea that disqualified persons cannot or should not procreate children and therefore their marriages should be declared null and void. He begins thus:

"Under the Hindu law the main object of marriage is the procreation of a male offspring. It was so necessary that that result was obtained by the practice of *Niyog* which provided the wife with a companion when the husband himself was imbecile or impotent."

Sir, as regards the main object of marriage the procreation of a male offspring may be the main object, but not the ultimate object. The ultimate object is *pinda*. And I ask the Honourable the Mover, the son whom the woman is going to have will offer *pinda* to whom? To his former father or to his present father, to his procreator or to the former husband of his mother who is nobody to him now?

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): The two fathers will settle that among themselves. (Laughter).

Pandit Satyendra Nath Sen: If it is argued that the *pinda* will benefit the mother and not the father, then I say in reply that *pinda* is not at all necessary for the mother. The mother attains heaven not by virtue of *pinda* but by virtue of her chastity. The Shastra says:

"*Patim shushrushate yena tena swarge mahiyate*"

and the Shastra is clearer below:

"*Swargam gachchhatyaputrapi yatha te brahmacharriah.*"

Even without an issue she will go to heaven.

Now as to *Niyog*. The system of *Niyog* has been discontinued, but why has it been discontinued? It has been mentioned no doubt in the Shastras but not without a bit of condemnation. It has been prescribed as the last resort in extreme cases, for example, the extinction of a race, and so forth. And when this has been discontinued, what is the Honourable the Mover going to give us as a substitute? A much worse thing,—procreating innumerable sons pushing aside the old man whom she had taken as her lifelong companion.

Then he says:

"As that practice has fallen into disuse, it is necessary that wives married to such persons should obtain relief; since, if they can no longer practice *Niyog* they should be free to adopt the only honourable course open to them of securing their release from the bondage of such marriages."

He continues:

"This is all the more necessary, since under Hindu law both the husband, suffering from any of these disabilities and his wife are excluded from all rights in property."

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Sir, I am not a lawyer, but so far as my knowledge goes these disabled persons are excluded from the right to property but they are certainly entitled to maintenance. And although they are not entitled to inheritance their sons will come in again, in their due course, to inherit their grandfathers' property.

An Honourable Member: Even the son of an impotent man?

Pandit Satyendra Nath Sen: I will come to that. The Shastra says: "*Tesham utpanna-tāntunam apatyam dayam arhati.*"

This is, the grandsons, wherever possible will inherit. As to impotent men, my explanation is that although the system of *Niyog* has been discontinued, the system of adoption is still there. He can adopt a son, and as to adoption I should like to quote the Honourable Member himself.

"If at all, adoption is to him a greater necessity, otherwise, since his sufferings in this life are due to the sins he had committed in his past life, if he dies with obsequial rites unperformed he will be exposed to even greater torments in his next life against which adoption is the only cure."

My point is that the marriages are not illegal and when these marriages have once been performed you cannot back out. It may not be very desirable that one should give away his daughter to such persons, but when the marriage is performed it cannot be revoked. I also think that the statement that wives are excluded from all rights to property is not correct, because the wife is not excluded from the rights to which she is otherwise entitled. Now, he quotes some texts in his favour. He quotes Narad, Chap. XII, verses 8, 16, 19, 24, 37, 97, etc. I shall take up verses 8, 19 and 37 together. These three verses 8, 19 and 37 only advise careful examination of the prospective bridegroom and say nothing about the position of the couple after the marriage has been performed. I am giving my own comment. I shall come to the Shastric texts later on. I submit that such advice was very necessary, because if the marriage was once performed the Shastrakara meant that the marriage could not be dissolved and therefore he advised such careful examination. The next three verses, namely 16, 24 and 97 speak not of a married couple but of a betrothed couple, as I shall presently prove. One of the verses runs thus:

"When a bridegroom goes abroad after having espoused a maiden, let the maiden wait till her menses have passed three times, and then choose another bridegroom."

"Till her menses have passed three times" means only three months. Does it stand to reason that a life-long relationship is to be given up after waiting for three months only? (Mr. B. Sitaramaraju: "That is about the duration of the Assembly session".) Yes, and if that be the case, then many Honourable Members who have come here without family will have a sad experience before long. (Laughter.) That the reference is to a betrothed couple is not my explanation, nor of certain ingenious Pandits but it has been made abundantly clear by Narada himself, the author of the Shastras quoted by the Honourable the Mover. Some members are curious to hear from me the original verses—I tried to avoid them—but in order to satisfy their curiosity I shall quote some of them. The author says that marriage consists of two parts:

"*Stripumsayastu sambandhad varanam prag vidhiyate.*
Varanam grahnam pānēh samikāroṭha dvitakshanam.
Tayo rani yatsam prakram. varanam doṣa-darśhanād
Pāni grahana-mantrabhyam niyatam daralakshanam."

I shall read out the translation, the English translation of Professor Julius Jolly, a celebrated German scholar:

"When a man and woman are to unite (as wife and husband), the choice of the bride must take place first of all. The choice of the bride is succeeded by the ceremony of joining the bride and the bridegroom's hands. Thus the ceremony (of marriage) is two-fold.

"Of these two parts (of the marriage ceremony) the choice of the bride is declared to lose its binding force, when a blemish is (subsequently) discovered (in either of the two parties). The Mantra (prayer), which is recited during the ceremony of joining the bride and bridegroom's hands is the permanent token of matrimony.

Then comes the translator's own comment which runs as follows:

"The choice of the bride or betrothal being dissoluble on the discovery of a blemish (in either party), it follows that the act of joining the bride and bridegroom's hands, i.e., the ceremony of marriage, must be indissoluble."

That is the comment that has been added by the celebrated German scholar as he understood the Shashtra. The ceremony of marriage must be held to be indissoluble. In this connection I might add that this view has been very clearly supported by the texts of Manu also. He says:

"Tesham nishtha tu vaktavya vidvadbhih saptame pade."

"The marriage is to be regarded as complete—that is, there is no backing out, when 'the seventh step' has been taken. That is the culmination."

And he also made it clearer in that memorable verse—

"Sakrit ansho nipetai sakrit kanyā pradīyate."

"A girl is given away in marriage only once and not more than once."

My Honourable friend quotes Vasishtha in his favour and quotes him as saying:

"And she is called remarried who leaving an impotent outcast or mad husband takes another lord."

The word "remarried" is a synonym supplied by the translator. The word used in original work is "Punarbhū" and it is a technical word which cannot be translated into any other language. It means a woman who again becomes—becomes what?—a so-called wife for a second time. Now, what is her position? The Honourable the Mover has suppressed some portion from this quotation (Laughter) and I shall supply that omission and that will explain the position clearly.

Punar-vivaha is not recognised by the Shastras and therefore it is that they purposely use a technical word for the purpose.

"She is called *Punarbhū*, etc., etc."

The next portion is "after the death of her husband". The original full text is—

"Ya cha klivim unmattam va bharttaram utarijya anyam pātim vindāte tā punarbhāh bhavati."

So, the position of such a girl is no better than that of a girl who has remarried again after the death of her husband; and that position has been

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made clearer by one of the twenty principal law givers, named Angiras: he tells us that 'the food served or supplied by such a girl is unacceptable because she is a *punarbhū*'—

"Tasyashchannam na bhoktavyam punarbhuh sā pragiyate."

Now, I come to the "grounds" adduced. The three grounds are—impotency of the husband, imbecility, and the fact that he was suffering from sanious or ulcerous leprosy. Instead of giving my own views, I might quote some opinions which will abundantly illustrate the merits of these points. I forgot to quote the opinions in the very beginning and I think I may quote them now. I shall simply refer to a few opinions and show that this Bill has been condemned by an overwhelming majority of those opinions, and it is refreshing to note that this Bill has been condemned not merely by the orthodox people who are naturally against such a measure but it has been condemned also by men who are highly cultured in the modern sense of the term, men who are in close touch with western ideas and who hold very important positions under the Government. This is what has been said by Mr. Justice Sen of the Allahabad High Court.

"This Bill is directed against the basic principle on which the marriage of a Hindu is founded. Under the Hindu law marriage is not a contract. It is a sacrament and under the shastric text the holy knot once tied is not dissoluble till death. Apart from the popular sentiment the broad principle which calls for determination is whether it is competent to the British Indian Legislature to introduce such a drastic change affecting the foundation of Hindu marriages. Supposing that there was nothing wrong with the husband at the time of the marriage, that marriage was consummated, and that the couple lived happily together for sometime, but subsequently the husband becomes impotent, will that be a valid ground for the dissolution of the marriage? The impotency of the husband may not be of a permanent character. The term 'imbecility' does not admit of a clear definition, and even the very best medical experts are divided in their opinions as to how far and in what respect the absence of intelligence in its application to the normal conditions of life will constitute imbecility.

The Act is intended to afford protection to the Hindu wife. Leaving out of consideration the ideal Hindu wife of the *Purana*, it is very much open to question how far the proposed Bill will commend itself to 99.9 per cent. of the average Hindu wives in this country.

"At the present juncture when the country is in a state of ferment produced by causes political and economic the introduction of this Bill is most inopportune."

This is the opinion of Mr. Justice C. C. Ghose of the Calcutta High Court:

"I have considered the provisions of the Bill, and I am opposed to the same. It is unnecessary to go into the detailed reasons because the Bill is of a most revolutionary character and will be strenuously opposed by orthodox Hindus all over the country."

Again, Sir, this is the opinion of Mr. Justice M. N. Mukharjee:-

"The tie, to her conception, is knit by God and is indissoluble. To introduce the idea based on principles of contract which are entirely foreign, to the conception of a Hindu marriage, will be to destroy the peace and happiness of many a home and will bring incalculable suffering to the offsprings. It is true that there are cases in which the Hindu wife has to suffer, but they are few and far between. Once the door is opened, all the deplorable consequences that divorce laws have brought in their train in other countries will appear in Hindu society and the society will be altogether undermined.

I am of opinion that the Bill if passed into law, will notwithstanding that it is meant to be a merely enabling measure, be a source of very serious evil."

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order: May I draw the attention of the Honourable Member to the time and ask him whether at this late hour it is desirable that he should read from opinions obtained which have been supplied to Honourable Members.

Pandit Satyendra Nath Sen: These opinions have not been supplied this year. These are opinions which were collected on the previous occasion.

Mr. President: And supplied to the House?

Pandit Satyendra Nath Sen: Not now. There are also some new Members and I want to read only a few opinions for their information. I want to speak at some length, because I desire not only to oppose the Bill but also even such an innocent thing as the circulation motion also.

Nawab Sir Sahibzada Abdul Qaiyum (Nominated Non-Official): Why not say that all those precautions should be taken before the marriage is made? (Laughter.)

Pandit Satyendra Nath Sen: Exactly so, Sir, I will finish soon now.

Mr. C. S. Ranga Iyer: On a point of order, Sir. I should like to know whether it is not in order for the Honourable gentleman to talk on this Bill as long as he likes on the subject?

Mr. President: He will be perfectly entitled to talk for a whole day if he likes to do so. I merely wanted to draw his attention to the fact that at this late hour he should abstain from reading opinions which are in possession of the House.

Mr. C. S. Ranga Iyer: I only want some information, Sir. I should like to know whether it is in order for the Honourable Member—I want your ruling in the matter,—to read legitimate opinions from papers which he has in his hand and which most of us have forgotten?

Mr. President: The Honourable Member need not have asked that question. I said that the Honourable Member is entitled to read all the opinions as other Members have been doing on previous occasions. I merely wanted to ask him whether, having regard to the lateness of the hour, he should, in the exercise of his discretion, continue to read opinions which are already in the possession of the House.

Pandit Satyendra Nath Sen: Very well, Sir; then I shall read only the main points, and this will minimise my own task. This is from the opinion of the late Mahamahopadhyaya Pandit Haraprasad Shastri of Calcutta:

“There is no such word as divorce, or dissolution of marriage in the Hindu Sastras. Marriage being a sacrament cannot be dissolved. The marriage formulae are to the effect that between the husband and this wife, there is complete union; the bone of the husband is the bone of the wife; the blood of the husband is the blood of the wife; the flesh of the husband is the flesh of the wife. The wife in this fusion, leaves her own *gotra* and takes that of her husband, thus making the fusion complete. Their union is fixed, unchanged and unchangeable as the position of the pole-star. It is with such *mantras* that marriage is solemnized among the Hindus. Such solemnisation precluded all possibilities of dissolution. Neither the husband nor the wife can dissolve marriage. The king has no power to order for such dissolution. That is as fixed as the pole-star.”

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Now, I have almost finished, Sir. The Honourable the Mover said in his speech that the opinions of Hindu women have not been collected, and some of my friends are anxious to collect such opinions. I shall present this House with a short opinion of Hindu women. Honourable Members know that these women think much but speak little, and in one short sentence they have expressed their view. This is the opinion of the Hindu Mahila Samaj:

"The Hindu Mahila Samaj at a meeting held on the 9th instant resolved that it cannot support the Bill, 'Dissolution of Hindu marriages', by Sir Hari Singh Gour."

Sir, having read these opinions, I may cut short my own remarks on the "grounds" which are shrouded in mystery, and I think they have been kept vague on purpose.

As to the reference to leprosy, we are reminded of the story of the leper sage Mandavya,—we know how he was served by his faithful wife who tried to please her husband in all possible ways. And I ask the Honourable the Mover if a faithful wife is not to stand by the side of her husband in times of need, who else will do that? If he advises that he should be taken to the hospital so that he may be attended by a nurse and if a nurse can attend on him, why not his faithful wife? Of course, we may take exception to a leper procreating at such a stage, but, Sir, sexual pleasure is not the only ideal of marriage, that is not the only object; there are other objects and other utilities as well. This is what Ramchandra described about the utilities of marriage. He refers to Sita Devi and says:

*"Kāryeshu mantri Karaneshu dāsi.
Dharmeshu patni kshmayā dharitri
Sneheshu mātā śhāyaneṣu rāmā
Rāge sakhi Lakshmana sā priyā me."*

—In counsel she is my counsellor, in action she is my servant, in religious observances she is my partner, in affection she is like unto my mother, and in amusement she is my companion.

Mr. B. V. Jadhav: Not amusement—it is a mistranslation.

Pandit Satyendra Nath Sen: I now proceed to give the true Sastric view. Marriage is not a contract to the Hindus, but a sacrament, a *samskar*. I may point out to Honourable Members that the two words "samskar" and "sacrament" come from the same origin. They are derived from the root *kri* which means "to do", and the prefix *sam* means perfection or purification—the dental *sa* comes in, in the sense of purification or decoration, by a special rule of grammar. What is the exact nature of these *samskaras*? They are purificatory ceremonies. These purificatory ceremonies have effect not only in this life but also in the life to come. They have been described as

"Pavanah pritya cheha cha."

They are purificatory not only in this world, but also in the next world, and the effects of these ceremonies cannot be dissolved in this world because they will survive even after death. Marriage mantras also, which have been referred to by the late Mahamahopadhyaya Haraprasad Shastri, in his opinion,—make it clear that there is a unification of the two bodies

and of the two souls of the husband and the wife. "The husband is made to utter this mantra :

*"Yadetad hridayam tava tadastu hridayam mama
Yadidam hridayam mama tadastu hridayam tava."*

"Let your heart be mine, and let mine be yours." So, there is unification of everything; in fact, the wife takes the *gotra* of her husband on the completion of what is called the *chathurthihoma*. (An Honourable Member: "What about people having more wives?") It does not arise now. I shall deal with it if it comes before the House.

Mr. President: I should like to ask the Honourable Member how long he is likely to take to finish his speech.

Pandit Satyendra Nath Sen: About 15 minutes.

Mr. Gaya Prasad Singh: Half an hour.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I think the House will prefer to adjourn at this stage. But before adjourning the House, I should like to consult Honourable Members. The programme which has been supplied to them shows that Friday and Saturday are off days, while on Monday or Tuesday we will have to meet according to the day on which the Ramzan Id falls. Honourable Members are aware that the day of the Ramzan Id remains uncertain till the last moment, and therefore the Chair has been considering in consultation with party leaders whether some arrangement could not be made by which that uncertainty may be removed and Honourable Members may know definitely when they will have to meet again. It has been suggested that the House should meet on Saturday next when according to the original programme it was not intended to meet and that both Monday and Tuesday next should be off days. If the House accepts that suggestion (*Honourable Members:* "Yes")—I take it that the House does so. In that case I will adjourn the House till Saturday next, and then to Wednesday. That being agreed to, I will call upon the Leader of the House in the light of this arrangement to announce the programme for the next week.

STATEMENT OF BUSINESS.

The Honourable Sir George Rainy (Leader of the House): I desire to make a statement, Sir, with regard to the probable course of
5 P.M. Government business in the eight days beginning Saturday the 6th. On Saturday the 6th we shall put down business in the following order:

- (1) A motion for leave to introduce a Bill to extend the operation of the Wheat Import Duty Act, 1931;
- (2) Motions to refer to Select Committee the three Tariff Bills which I introduced yesterday;
- (3) A motion to refer to Select Committee the Bill to provide for the administration and discipline of the Indian Air Force introduced by Mr. Mackworth Young yesterday.

It is desirable, as the House will realise, that these motions should be made as soon as possible as the latter part of the session is likely to be

[Sir George Rainy.]

extremely congested and it is desirable that all these Bills should be passed before the end of the session. The next day for Government business is Friday the 12th, on which date we propose to put down any business not concluded on Saturday the 6th and to resume the discussion of the motion to refer to Select Committee the Bill to supplement the Bengal Criminal Law Amendment Act, which was left unfinished yesterday. Thereafter the Honourable Sir George Schuster will move to take into consideration, and, if that motion is accepted, to pass the Bill which he introduced yesterday to amend the Indian Finance Supplementary and Extending Act, 1931; and I propose to move a similar motion in respect of the Bill to extend the operation of the Wheat Import Duty Act, 1931, if the House permits me to introduce it on Saturday. This will be followed by the motion to take into consideration the Partnership Bill as reported by Select Committee. Honourable Members are already aware that Wednesday the 10th has been allotted for non-official Resolutions and Saturday the 13th has been allotted for non-official Bills.

The Assembly then adjourned till Eleven of the Clock on Saturday, the 6th February, 1932.