

18th September 1929

THE
LEGISLATIVE ASSEMBLY DEBATES

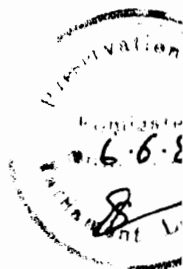
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Volume V

(18th September to 26th September, 1929)

FIFTH SESSION
OF THE
THIRD LEGISLATIVE ASSEMBLY
1929

Chamber Famigated...



SIMLA
GOVERNMENT OF INDIA PRESS
1930

Legislative Assembly.

President:

THE HONOURABLE MR. V. J. PATEL.

Deputy President :

MAULVI MUHAMMAD YAKUB, M.L.A.

Panel of Chairmen :

PANDIT MADAN MOHAN MALAVIYA, M.L.A.

SIR DARCY LINDSAY, KT., C.B.E., M.L.A.

SIR PURSHOTAMDAS THAKURDAS, KT., C.I.E., M.B.E., M.L.A.

MR. JAMNADAS M. MEHTA, M.L.A.

Secretary :

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

Assistant of the Secretary :

RAI SAHIB D. DUTT.

Marshal :

CAPTAIN SURAJ SINGH BAHADUR, I.O.M.

Committee on Public Petitions :

MAULVI MUHAMMAD YAKUB, M.L.A., *Chairman.*

MR. DWARKA PRASAD MISRA, M.L.A.

SIR PURSHOTAMDAS THAKURDAS, KT., C.I.E., M.B.E., M.L.A.

MR. DHIRENDRA KANTA LAHIRI CHAUDHURY, M.L.A.

NAWAB SIR SAHIBZADA ABDUL QAIYUM, K.C.I.E., M.L.A.

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LEGISLATIVE ASSEMBLY.

Wednesday, 18th September, 1929.

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

QUESTIONS AND ANSWERS.

HINDUS AND MUSSALMANS APPOINTED TO POST OFFICES IN THE BHAGALPORE DIVISION.

617. ***Mr. Siddheswar Prasad Sinha :** (a) Will Government be pleased to state the number of appointments of Hindus and Mussalmans separately, made in the Post Offices of the Bhagalpore division during the years 1921, 1922 and 1923 : stating also reasons, if no member or only a few members of any particular community were appointed ?

(b) What is the name of the officer who made these appointments ?

The Honourable Sir Bhupendra Nath Mitra : Government do not possess the information, nor do they propose to collect it as in their opinion no public purpose would be served by examining past records relating to events which happened six to eight years ago.

BARRING OF INDIANS FROM THE LOCO DEPARTMENT OF THE BENGAL AND NORTH WESTERN RAILWAY.

618. ***Mr. Siddheswar Prasad Sinha :** With reference to the reply to my starred question No. 1085 of the 18th March, 1929, will Government now state if it is a fact that the Bengal and North Western Railway has a standing rule barring Indians from apprenticeship in its Loco. Department ?

Mr. P. R. Rau : The Agent, Bengal and North Western Railway, reports that there is no such rule. I should add that this information was communicated to my Honourable friend in Railway Board's letter No. 7919-E. of the 3rd May, 1929, which has presumably not reached him.

SHORTAGE OF CATTLE FODDER.

619. ***Mr. Siddheswar Prasad Sinha :** (a) Are Government aware that shortage of fodder is one of the chief reasons for the deterioration of Indian cattle ?

(b) Will Government be pleased to state what action they have taken or propose to take to stop or to decrease export of oil-cakes and other articles of fodder from this country ?

Sir Frank Noyce : (a) Insufficient feeding is one of the causes of the unsatisfactory character of cattle in many parts of India.

(b) Government, as at present advised, do not propose to take the action indicated. The only cattle food other than oil cakes and oil seeds which is exported in any important quantity is rice bran, the average exports of which amount to 236,000 tons per annum, practically the whole of which is exported from Burma. Export restrictions on the exports of oil cakes, oil seeds and rice bran would be prejudicial to the interests of the growers of oil seeds and rice, without sufficient compensating advantage to the consumers of fodder. In this connection, the Honourable Member is referred to paragraph 87 of the Report of the Royal Commission on Agriculture, a copy of which will be found in the Library of this House.

SLAUGHTER OF COWS FOR THE ARMY.

620. ***Mr. Siddheswar Prasad Sinha :** (a) Is it a fact that on the 3rd July, 1805, General Lake, the then Commander-in-Chief of India, issued a general order prohibiting slaughter of cows in the lands of Braj ?

(b) Is it a fact that cows are now slaughtered or caused to be slaughtered by Government themselves in Muttra for the food of British soldiers in contravention of that order ?

Mr. G. R. F. Tottenham : (a) and (b). I have been unable to trace the order quoted, but I think the Honourable Member must be aware that the practice to which he refers is not confined to Muttra, nor is it a novel departure. It has been in existence for many years all over India.

EXPORT OF MANURES FROM INDIA.

621. ***Mr. Siddheswar Prasad Sinha :** (a) Is it a fact that several manures such as Amo. Sulph., fish manures, etc., are exported from this country at a lower price but imported at a comparatively higher price ?

(b) If the reply to part (a) be in the affirmative, are Government prepared to levy prohibitive duties on such manures or devise other effective measures to stop their export ?

(c) Is it a fact that the Government of India sent in a memorandum to the Royal Commission on Agriculture to the effect that no duty should be levied on manures exported from India ? If so, why ?

The Honourable Sir George Rainy : (a) A statement is laid on the table which will show that the declared values of imported manures are generally lower than the values of the corresponding exports.

(b) Does not arise.

(c) The answer to the first part of the question is in the negative. The second part does not therefore arise.

Statement showing the average declared value per ton of manures imported into and exported from India.

	1926-27.		1927-28.		1928-29.		April 1929.		May 1929.		June 1929.		July 1929.	
	Imports.	Exports.	Imports.	Exports.	Imports.	Exports.	Imports.	Exports.	Imports.	Exports.	Imports.	Exports.	Imports.	Exports.
Muriate of Potash	117 4 2	Not ex-ported.	119 14 0	Not ex-ported.	116 3 9	Not ex-ported.	116 3 7	Not ex-ported.	116 11 0	Not ex-ported.	121 2 3	Not ex-ported.	117 8 6	Not ex-ported.
Nitrate of soda	166 9 0	Do.	153 5 5	Do.	144 8 9	Do.	170 4 8	Do.	160 1 5	Do.	148 2 1	Do.	145 7 5	Do.
Superphosphate of lime	177 5 0	165 1 10	164 1 4	170 2 6	158 9 0	205 0 0	161 0 0		149 3 10		152 0 0		153 8 2	
Fish manures and guano.	101 8 4	124 6 5	89 8 6	122 7 3	83 14 9	119 14 8	87 7 6	117 7 8	103 6 4	103 14 6	83 5 1	111 0 8	89 2 9	117 11 0
Horsemul	180 7 8	180 0 0	208 8 6	162 8 9	137 5 10		139 14 9			142 10 0		140 3 4		124 11 3
Posses and bones meal.	Not im-ported.	97 12 2	Not im-ported.	99 10 1	100 2 10	Not im-ported.	Not im-ported.	94 5 9	Not im-ported.	83 10 6	Not im-ported.	97 15 6	Not im-ported.	104 6 10

COMPETITION OF STEAMER COMPANIES WITH THE EASTERN BENGAL RAILWAY.

622. *Mr. K. C. Neogy : (1) (a) Are Government aware that the authorities of the Eastern Bengal Railway had occasion, a few years ago, to place on record their considered opinion as to how the interests of the Railway were being prejudicially affected by the activities of the two Steamer Companies working under agreement with the Railway ?

(b) Is it a fact that the said authorities came to the following, among other, conclusions :

" While outwardly cordial, our relations with the steamer companies have not always been such as to produce a good understanding, our policy being one savouring more of concession than an equitable division of traffic, doubtlessly the outcome of a desire to show that we have no intention of crippling private enterprise. While the Railway has shown every desire to work fairly and amicably and with a view to the general good, the same can hardly be said of the steamer companies whose policy throughout has savoured of fleehing—unscrupulous it may seem, but desirable in the interests of the shareholders if they are to obtain a steady dividend."

(c) Is it a fact that on the same occasion the said railway authorities recorded the following observation :

" The steamer companies, not being barred from showing undue preference, can and do guarantee space to large despatchers in a way that the Railway cannot do There is no doubt that this affects the railway traffic adversely."

(d) Is it a fact that the said authorities referred to the system of rebates granted by the two steamer companies, particularly on jute traffic, which " places the Railway at a disadvantage " ?

(e) Is it a fact that, with particular reference to tea traffic, the said authorities referred to the system of block rates imposed by the two steamer companies which was characterised by the former as " a bit of sharp practice " ?

(f) Is it a fact, as stated by the said Railway authorities, that the steamer companies " can quote any rates without regard to maxima or minima, and are not obliged to give notice as railways are bound to do to competing Administrations of changes in rates," and that they " can further give consignors free passes, warehouses free of rent, and other concessions which railways cannot do " ?

(2) (a) Is it a fact that certain authorities of the Eastern Bengal Railway, on the same occasion, on a review of all circumstances, thought that, if the Eastern Bengal Railway were provided with a fleet of steamers, it could " fight the steamer companies by itself, and still show a profit on the working " ?

(b) Has the question been considered whether the financial position of the Assam Bengal Railway could also be improved if it were permitted to run certain steamer services in conjunction with its railway service ?

The Honourable Sir George Rainy : It is quite true that in the past, particularly about the year 1911, the authorities of the Eastern Bengal Railway have criticized the action of the River Steamship Companies and expressed the view that the interests of the railway were prejudiced thereby. But I have been unable to trace in the records of the Railway Board the communications from which my Honourable friend has drawn

his quotations, and I am therefore unable to reply to clauses (a) to (c) of part (1) of this question or to clause (a) of part (2).

(1) (f) The statement quoted, whether made by the railway authorities or not, appears to be correct.

(2) (b) Not by the Railway Board or the Government of India so far as I am aware.

Mr. K. C. Neogy : Is the Honourable Member in a position to state whether the position has been improved since 1911 ?

The Honourable Sir George Rainy : I do not quite understand what the Honourable Member means by " the position ".

Mr. K. C. Neogy : The Honourable Member has stated that, so far back as 1911, the railway authorities entertained some apprehensions with regard to the competition of steamer companies. That is what I understand the purport of his answer to be. If that be so, have the Railway Board inquired as to whether this particular position has improved since 1911 ?

The Honourable Sir George Rainy : So far as the relations between the Eastern Bengal Railway and the River Steamship Companies are concerned, I think the position has greatly improved.

Mr. K. C. Neogy : Will the Honourable Member make inquiries from the Eastern Bengal Railway as to whether the facts stated in this question of mine are correct or not ?

The Honourable Sir George Rainy : I think, Sir, before I give any undertaking as to making further inquiries from the Eastern Bengal Railway, I am entitled to ask the Honourable Member to inform me and the House as to the source of his quotations.

Mr. K. C. Neogy : I will certainly inform him if the Honourable Member desires.

The Honourable Sir George Rainy : If he will do so, I will consider the matter.

Mr. B. Das : Did the Honourable Member call for by wire from the Eastern Bengal Railway such records as might throw light on the subject instead of asking Mr. Neogy to state what his source of information was ?

The Honourable Sir George Rainy : I did not refer to the Eastern Bengal Railway with regard to this question.

Mr. B. Das : Is it the practice of the Railway Board to get a copy of every minute passed by every railway ? If that is not the case, will the Honourable Member ask the Eastern Bengal Railway to furnish him with information on the matter ?

The Honourable Sir George Rainy : I am quite unable to accept the Honourable Member's opinion as to the duties of myself and of the Railway Board in this connection.

TERMINUS STATION AT GOALUNDO GHAT.

623. ***Mr. K. C. Neogy :** (a) Will Government be pleased to state the amounts annually spent, during the last five years, by the Eastern Bengal

Railway in meeting the cost of shifting the terminus station at Goalundo Ghat and constructing temporary railway lines, owing to changes in the position of the river Padma ?

(b) Has any portion of the said cost been met by the steamer companies who exchange traffic at the said terminus station ? If so, in what proportion ?

Mr. P. R. Rau : (a) The amounts spent annually in the years 1925-26, 1926-27 and 1927-28 were Rs. 1,39,258, Rs. 32,981 and Rs. 42,122, respectively. The amounts for the years 1924-25 and 1928-29 are being ascertained and will be furnished to the Honourable Member later.

(b) Not directly, but ghat charges are levied on through traffic by the Railway and the Steamer Companies to meet the cost of ghat shifts. Such charges as are collected by the Steamer Companies are credited to the Railway. The charges collected for the three years, 1925-26, 1926-27 and 1927-28 were approximately Rs. 64,000, Rs. 78,000 and Rs. 81,000, respectively.

MEMORIAL FROM THE LINO. AND MONO. OPERATORS OF THE GOVERNMENT OF INDIAN PRESS, CALCUTTA.

624. ***Mr. S. C. Mitra :** (a) Will Government be pleased to state whether it is a fact, that in January, 1929, the Lino. and Mono. Operators, Government of India Press, Calcutta, submitted a memorial to the Government through the proper channel stating their legitimate grievances ?

(b) If the answer to part (a) be in the affirmative, will Government be pleased to lay on the table a copy of the said memorial ?

(c) Will Government be pleased to state what action, if any, they have taken or propose to take in the matter ?

The Honourable Sir Bhupendra Nath Mitra : (a) Yes.

(b) and (c). Government do not propose to place a copy of the memorial on the table. The matter is still under their consideration.

PAY OF THE LINO. AND MONO. OPERATORS OF THE GOVERNMENT OF INDIA PRESS, CALCUTTA.

625. ***Mr. S. C. Mitra :** (a) Is it a fact that all Government servants (in Government offices and factories) have got a fixed monthly pay with yearly increment according to a certain fixed scale ?

(b) Is it a fact that salaries of the Lino. and Mono. Operators of the Government of India Press, Calcutta, are subject to fluctuations every month ?

(c) If the answer to parts (a) and (b) be in the affirmative, will Government be pleased to state the reasons thereof ?

The Honourable Sir Bhupendra Nath Mitra : (a) No, but a number of Government servants receive fixed monthly pay regulated according to scales which provide for annual increments.

(b) and (c). The monthly earnings of the Lino. and Mono. Operators fluctuate according to their outturn. They are on a fixed scale of pay with

annual increments, but each man is granted a bonus when his monthly outturn exceeds a certain limit, and deductions are made from the pay when the average outturn over three consecutive months falls below a prescribed minimum.

PAY, HOURS OF WORK, ETC., OF EMPLOYEES OF THE GOVERNMENT OF INDIA PRESS, CALCUTTA.

626. ***Mr. S. C. Mitra :** Will Government be pleased to lay on the table a comparative statement showing the working hours, pay and yearly increment of the Lino. and Mono. Operators, the Computers, and the ordinary clerks of the Government of India Press, Calcutta, at present and before the 15th July, 1920 ?

The Honourable Sir Bhupendra Nath Mitra : The statement desired by the Honourable Member is being compiled and will be supplied to him.

PAY OF READERS IN THE GOVERNMENT OF INDIA PRESS, CALCUTTA.

627. ***Mr. S. C. Mitra :** (a) Is it a fact that subsequent to the revision held in 1920 eight junior readers of the Government of India Press, Calcutta, were placed in the grade of Rs. 45—3—75 along with nineteen revisers ?

(b) Is it a fact that a revision was again held in 1924 and Mr. F. D. Ascoli placed the readers in the grade of Rs. 60—4—100 ?

(c) Is it a fact that subsequently by the revisions held in July, 1928, the revisers have been placed in the grade of Rs. 60—4—100, the same grade as that of a junior reader ?

(d) (i) Is it a fact that work of a reader differs fundamentally from that of a reviser and entails greater responsibility and care than that of a reviser ; and (ii) is it a fact that this was admitted by the Honourable Sir B. N. Mitra in his reply to question No. 274 in the Legislative Assembly on the 30th January, 1929 ?

(e) Is it a fact that a distinction is observed between the revisers and the readers in the Bengal Government Press ?

(f) If replies to parts (a), (b), (c), (d) and (e) be in the affirmative, will Government be pleased to state the reasons for doing away with the distinction between the two classes in the Government of India Press, Calcutta ?

The Honourable Sir Bhupendra Nath Mitra : (a), (b), (c). Yes.

(d), (e), (f). I have nothing to add to the reply given by me to the Honourable Member to his starred question No. 274 on the 30th January, 1929.

PAY OF READERS IN THE GOVERNMENT OF INDIA PRESS.

628. ***Mr. S. C. Mitra :** (a) Is it a fact that a memorial was submitted to the authorities concerned in May, 1928, by the junior readers of the Government of India Press ?

(b) Is it a fact that a reply was given thereto in February, 1929, to the effect that the memorial was receiving consideration ?

(c) If replies to parts (a) and (b) be in the affirmative, will Government be pleased to state what steps Government have taken or intend taking in the matter ?

The Honourable Sir Bhupendra Nath Mitra : (a) The attention of the Honourable Member is invited to the reply given by me to part (a) of his question No. 270 on the 30th January, 1929.

(b) and (c). Government have no information, but are inquiring into the matter.

RULES OF THE WORKS COMMITTEE OF THE GOVERNMENT OF INDIA PRESS, CALCUTTA.

629. ***Mr. S. C. Mitra :** (a) Is it a fact that there is a Works Committee in the Government of India Press, Calcutta ?

(b) Is it a fact that the management have hitherto followed certain rules in the conduct of the said Works Committee ?

(c) Is it a fact that the present Manager is ignoring rules 6 (1) (B), 14 and 15 ?

(d) If replies to parts (b) and (c) be in the affirmative, will Government be pleased to inquire and state reasons therefor ?

(e) Will Government be pleased to lay on the table a copy of the 7th and 8th general meeting of the said Works Committee held in July and August, 1929 ?

The Honourable Sir Bhupendra Nath Mitra : An inquiry is being made and the result will be communicated to the Honourable Member in due course.

PROMOTION OF READERS IN THE GOVERNMENT OF INDIA PRESS, CALCUTTA.

630. ***Mr. S. C. Mitra :** (a) Is it a fact (i) that no fixed procedure is followed in the promotion of the Readers in the Government of India Press, Calcutta, and (ii) that it depends all on the will of the authorities ?

(b) Will Government be pleased to lay on the table a statement showing the date of appointment, qualifications, certificates and testimonials received for efficiency and good conduct from the authorities from time to time, period of service, promotions received during the period of service, and the last one year's attendance of the present Readers in the Government of India Press, Calcutta ?

The Honourable Sir Bhupendra Nath Mitra : (a), (i) and (ii). The attention of the Honourable Member is invited to the reply given by me to his starred question No. 278 on the 30th January, 1929.

(b) Government do not consider that any useful purpose will be served by collecting the information.

PAY OF PIECE-WORKERS OF THE GOVERNMENT OF INDIA PRESS, CALCUTTA.

631. ***Mr. S. C. Mitra :** (a) Is it a fact that the piece-workers of the Government of India Press, Calcutta, submitted a memorial to the Honourable Mr. McWatters, the then Member-in-charge, Department of Industries

and Labour, Government of India, through the proper channel, with reference to the orders dated 21st June, 1928, passed by the Department of Industries and Labour and communicated to the Manager, Government of India Press, through the Controller by the Deputy Secretary to the Department of Industries and Labour ?

(b) Is it a fact that the Honourable Sir Bhupendra Nath Mitra had a talk on the subject in February last with Sjt. S. C. Mitra, M.L.A., and Sjt. Kishori Lal Ghosh, late Secretary of the Press Employees' Association ?

(c) Is it a fact that as a result of that conference, (i) the Resolution in the Assembly which was then in session standing in the name of Sjt. Mitra regarding the said orders of 21st June, 1928, and the employees' memorial thereon was withdrawn ; and (ii) the Honourable Member agreed to consider the matter and take necessary steps ?

(d) If replies to parts (a), (b) and (c) be in the affirmative, will Government be pleased to state the steps that have been taken ? If not, why not ?

The Honourable Sir Bhupendra Nath Mitra : (a) and (b). Yes.

(c) The Honourable Member is fully aware that there was no formal conference. In the course of the conversation which took place between him and me, I stated that the memorials, when they reached me, would receive my careful consideration. What led him to withdraw his Resolution is more than I can say.

(d) I have dealt personally with a number of memorials and some of them are still under my careful consideration.

ALLEGED ACCEPTANCE OF BRIBES BY MAHOMED ASAN, A CHECKER IN THE GOVERNMENT OF INDIA PRESS, CALCUTTA.

632. ***Mr. S. C. Mitra :** (a) Is it a fact that the Government Servants' Conduct Rules as well as the Civil Service Rules and Regulations make provision for peremptorily dispensing with the services of any Government servant who may be found taking bribes ?

(b) Is it a fact that Mahomed Asan, a checker in the Government of India Press, Calcutta, takes bribes from the employees ?

(c) Is it a fact that (i) this fact was brought before the Works Committee of the said Press in July, August and September, 1926 ; and (ii) that the truth of the allegation was established thereat ?

(d) If replies to parts (a), (b) and (c) be in the affirmative, will Government be pleased to state whether the case of the said Mahomed Asan has been dealt with ? If not, why not ?

The Honourable Sir Bhupendra Nath Mitra : (a) No Government servant can be dismissed from his appointment on a charge of misconduct otherwise than after due inquiry.

(b), (c) and (d). The matter will be looked into and the result communicated to the Honourable Member in due course.

ILLNESS OF A GALLEY PROOF PRESSMAN.

633. *Mr. S. C. Mitra : (a) Is it a fact that on 15th August last a galley proof pressman of the Government of India Press fell down senseless in the chamber of the Assistant Manager ?

(b) Is it a fact that the authorities on the spot did not take any steps in the matter, the man being taken to his place at last by his co-workers ?

(c) Is it a fact that the Secretary of the Press Employees' Association, Calcutta, telegraphed to the Member-in-charge, Department of Industries and Labour, and the Controller of Printing and Stationery to the Government of India, on the 16th August, 1929, and sent a letter also to them on the 20th August, 1929 regarding this incident ?

(d) Will Government be pleased to lay on the table a copy of the telegram and the letter of the Secretary of the Press Employees' Association, Calcutta ?

(e) Will Government be pleased to state what steps Government have taken or intend taking in the matter ?

The Honourable Sir Bhupendra Nath Mitra : (a) and (b). Government have ascertained that the galley proof pressman reported to the Press doctor that he was suffering from toothache and asked for a few days' leave. The doctor treated him, but refused to recommend leave. After a few hours, the man walked into the Assistant Manager's office room and fell down. His heart and pulse were immediately examined by the Press doctor who found nothing wrong and declared that the man was malingering. On a subsequent examination by the authorities of the Medical College Hospital, it was found that the proof pressman had an alveolar abscess and that his tooth required extraction.

(c) A telegram and a letter were received by me from the Secretary of the Press Employees' Association. Similar communications were probably received by the Controller of Printing and Stationery.

(d) A copy of the telegram and the letter will be furnished to the Honourable Member.

(e) In view of the facts explained in reply to part (a), Government do not propose to take any further action.

EARNINGS OF DISTRIBUTORS OF THE GOVERNMENT OF INDIA PRESS, CALCUTTA.

634. *Mr. S. C. Mitra : (a) Is it a fact that the earnings of the distributors of the Government of India Press, Calcutta, are diminishing day by day ?

(b) Is it a fact that the distributors in the Government of India Press were formerly represented in the Works Committee of the Press ?

(c) Is it a fact that they are not now represented there ? If so, why ?

The Honourable Sir Bhupendra Nath Mitra : Inquiries are being made and the results will be communicated to the Honourable Member in due course.

MEMORIAL FROM CERTAIN EMPLOYEES OF THE EASTERN BENGAL RAILWAY PRESS.

635. ***Mr. S. C. Mitra :** (a) Is it a fact that the compositors, distributors, and binders of the Eastern Bengal Railway Press submitted a memorial to the Government of India on the 10th May last ?

(b) If the reply to part (a) be in the affirmative, will Government be pleased to lay on the table a copy of that memorial ; and also state what they have done or intend to do with regard to the matter ?

Mr. P. R. Rau : Government have received a copy of a memorial, dated the 23rd May. The Agent, Eastern Bengal Railway, has been requested to deal with this expeditiously. Government do not consider that there is any advantage in laying a copy of the memorial on the table till they have considered and passed orders on it.

EARNINGS OF BINDERS IN THE EASTERN BENGAL RAILWAY PRESS.

636. ***Mr. S. C. Mitra :** (a) Is it a fact that while the earnings of the binders in the Government of India Presses are increasing, the same people in the Eastern Bengal Railway Press are getting their earnings diminished day by day ?

(b) If the reply to part (a) is in the affirmative, will Government be pleased to state the reasons therefor ?

(c) Will Government be pleased to state whether the binders in the Eastern Bengal Railway Press are in inferior service and whether their brethren in the Government of India Press are not ? If so, why ?

(d) Will Government be pleased to lay on the table a comparative statement showing the highest and lowest income of the binders in the Government of India Press and the Eastern Bengal Railway Press for the last two years ?

Mr. P. R. Rau : The information required is being obtained and the Honourable Member will be communicated with when it is received.

RECRUITMENT OF THE MINISTERIAL STAFF OF THE IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH.

637. ***Mr. S. C. Mitra :** (a) Is it a fact that the pay, prospects and conditions of service of the ministerial staff of the Imperial Council of Agricultural Research are the same as those obtaining in any other Secretariat Department of the Government of India ? If so, will Government be pleased to state why the ministerial staff of the Council has not been recruited from among those who have passed the Public Service Commission examination as is the case with every other Department ?

(b) Is it a fact that the question of recruitment of the ministerial staff of the Imperial Council of Agricultural Research from among those who have passed the examination of the Public Service Commission is still under consideration while all the appointments have already been filled up ? If so, will Government be pleased to state why this question was not decided before any appointment was made ?

(c) Is it a fact that a decision on this question has been deliberately postponed to enable the Vice-Chairman to appoint some of his own men, who have not passed the Public Service Commission examination ?

Sir Frank Noyce : (a) Yes ; because the Council is not as yet required to recruit its ministerial staff only from among those who have passed the Public Service Commission Examination.

(b) Yes ; because the intention was and is to give the Council as much freedom as possible in regard to its internal administration, and the question as to whether it should recruit its staff through the Public Service Commission or not was not taken up till after the inaugural meeting of the Council, by which time the greater portion of the Council's existing staff had been recruited.

(c) Certainly not ; as will be seen from the answer given by the Honourable the Home Member to the Honourable Member's question No. 416 answered on the 11th September.

DIRECT RECRUITMENT OF A STENOGRAPHER TO THE VICE-CHAIRMAN OF THE IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH.

638. ***Mr. S. C. Mitra :** (a) Is it a fact that the Vice-Chairman of the Imperial Council of Agricultural Research has offered the post of his stenographer to one of his own men from Madras who has not passed the Public Service Commission Examination, while a number of suitable applicants who had passed such examination were available in Simla and, if so, why ?

(b) Is it a fact that the man who has been so appointed is a relative of the Vice-Chairman of the Council ?

(c) Will Government be pleased to lay on the table of the House a copy of the original application of the man in question, and also state his qualifications, number of years' service, pay and prospects of that man in his present appointment, and whether he is in Government service or not ?

Sir Frank Noyce : (a) Yes ; the post is really that of Personal Assistant to the Vice-Chairman, and in an appointment of this nature it is obvious that the Vice-Chairman should be in a position to choose a man who suits him. The Honourable Member, I may be permitted to point out, seems to be entirely wrong as to his facts. The Public Service Commission have not yet held any examination, so that neither the man appointed nor any one else could have passed the examination that was never held. Perhaps the Honourable Member is referring to the Staff Selection Board Examination ; if so, the last examination was held in 1924, and candidates with the Staff Selection Board qualifications available are all men of inferior educational qualifications, being either middle school men or matriculates.

(b) No ; the man the Honourable Member is objecting to is a non-Brahmin while the Vice-Chairman is a Brahmin.

(c) No, but I will gladly supply the information the Honourable Member seeks. Mr. Parthasarathi Mudaliar is a B. A. of the Madras University ; he has knowledge of shorthand and typewriting and is at present employed under the District Board, Tanjore. The latter is his first appointment and he has held it for the last two years.

RECRUITMENT OF THE STAFF OF THE IMPERIAL COUNCIL OF AGRICULTURAL RESEARCH.

639. *Mr. S. C. Mitra : Is it a fact that a number of men who have not passed the required examination of the Public Service Commission have been appointed to the Imperial Council of Agricultural Research, while men with better qualifications who had passed such examination were available, and if so, why ?

Sir Frank Noyce : The answer to the first part of the question is in the affirmative. Whether, if selection had been restricted to only such men as had passed the examination of the Public Service Commission, better qualified men could have been obtained is a matter of opinion.

VISIT TO HYDERABAD OF THE VICE-CHAIRMAN AND SECRETARY OF THE COUNCIL OF AGRICULTURAL RESEARCH.

640. *Mr. S. C. Mitra : (a) Will Government be pleased to state the object of the recent visit of the Vice-Chairman and the Secretary of the Council of Agricultural Research to Hyderabad ?

(b) Will Government be pleased to lay on the table of the House a statement showing details of the work done by both these officers during the visit in question and the cost to Government of that visit ?

Sir Frank Noyce : (a) and (b). Hyderabad being the first Indian State to express its readiness to co-operate with the Council and offer a generous donation to its funds, it was thought that it would be fitting if these two officers visited the State not only as an act of courtesy but also to explain the aims and objects of the Council to the authorities responsible for the development of agriculture in the State and to ascertain from them in what ways the Council could be of help to the State Department of Agriculture. No definite schemes of work were discussed, but the free and cordial exchange of views on both sides has paved the way for fruitful co-operation between the Council and the State Department of Agriculture in the future. Advantage was taken of the visit to inspect the Osmania University, the State Agricultural Farm recently started at Himayat Sagar, and other State institutions. The Vice-Chairman and the Secretary would, in any case, have had to attend an annual meeting of the Indian Central Cotton Committee at Bombay, as also a conference with the Bombay Minister of Agriculture at Poona, about the time when the visit to Hyderabad was decided upon, and, therefore, the latter involved merely a slight change in route. The extra cost involved in the travelling allowance of both these officers and their staff amounted to Rs. 516-10-6.

ORDNANCE TECHNICAL SCHOOL AT ISHAPORE.

641. *Mr. S. C. Mitra : (a) Is it a fact that there is an Ordnance Technical School at Ishapore established in 1928 ; and several students, who are sons and relatives of the employees of the local and neighbouring ordnance factories and residents of the neighbouring places and also from different other places have taken their admissions to this Technical School ? If so, will Government please state the number of boys who have been admitted in this school since it was started and what is their existing number at present ?

(b) What are the numbers of the teaching staff engaged for both practical and theoretical training of the students of this school, and what are their qualifications ?

(c) Is it a fact that the training is given to the students of this Technical School according to the requirements for their employment in the ordnance factories, and the Works Manager of the Rifle Factory, Ishapore, is the Principal of this school ? If so, does he take any class in this Technical School and supervise the practical training of students ? If not, why not ?

Mr. G. R. F. Tottenham : (a) Yes. The numbers are 133 and 97, respectively.

(b) Four. The Superintendent has passed the Intermediate Arts examination and full Student Apprenticeship of the Rifle Factory, Ishapore. He has also served as Improver for one year. The Fitting Supervisor has passed the Trade Apprenticeship course of the Rifle Factory, Ishapore. The Carpentry Supervisor is a selected first class craftsman from the Rifle Factory and the Instructor for English is a graduate of the Calcutta University.

(c) The training given to the students of the School is elementary instruction in the use of tools for wood working and metal working and in the principles of these trades. The training is not peculiar to the needs of boys destined for employment in ordnance factories, but it does produce boys suitably equipped to continue their training as boy artisans in these trades.

The Works Manager of the Rifle Factory is not the Principal of the School, but he takes a great interest in it in his spare time, and its success is very largely due to him.

The second part of the question does not arise. The answer to the last part is that it would be impossible for him to combine the duties of Principal with those of Works Manager.

EMPLOYMENT OF STUDENTS OF THE ORDNANCE TECHNICAL SCHOOL, ISHAPORE.

642. ***Mr. S. C. Mitra :** Is it a fact that Government have given a pledge in the rules of the Ordnance Technical School, Ishapore, to employ most of the students in the neighbouring ordnance factories on their completion of three years' course and obtaining a proficiency certificate therefrom ? If so, will Government please state, the nature of appointments that will be offered to the students of the Ordnance Technical School, Ishapore, on completion of their trainings and obtaining a proficiency certificate from that school ?

Mr. G. R. F. Tottenham : The answer to the first part of the question is in the negative. The second part does not, therefore, arise.

PROVISION OF A HOSTEL FOR STUDENTS OF THE ORDNANCE TECHNICAL SCHOOL, ISHAPORE.

643. ***Mr. S. C. Mitra :** Is it a fact that there is no hostel attached to the Ordnance Technical School, Ishapore ? If so, are Government prepared

to consider the advisability of providing a hostel for the students of this school ?

Mr. G. B. F. Tottenham : Yes. A hostel is not considered necessary as most of the students of the school are relatives of the factory employees and live in the neighbourhood.

EMPLOYMENT OF GRADE A APPRENTICESHIPS IN THE BENGAL NAGPUR RAILWAY WORKSHOPS AT KHARAGPUR.

644. ***Mr. S. O. Mitra :** (a) With reference to the answer to my starred question No. 820, in the Legislative Assembly on the 26th February, 1929, regarding Grade "A" Apprentices in the Bengal Nagpur Railway Workshops at Kharagpur, will Government please state why the number of recruits, viz., 26, shown in column 2 of the statement (Annexure "B") against the year 1928 does not tally with the total figure under 1928, viz., 19, in the statement (Annexure "C") furnished with the reply to my starred question No. 823, in the Legislative Assembly on 26th February, 1929 ?

(b) What were the grounds on which the recruits were discharged after they were retained for two years and more than two years in the case of recruits shown against the year 1924, three years and more in the case of four recruits shown against the years 1925 and 1928 in column 4 of the statement (Annexure "B") mentioned in the reply to my starred question No. 820, in the Legislative Assembly of 26th February, 1929 ?

(c) Were all these recruits, referred to in part (b) above, confirmed before they were discharged ?

(d) If the answer to part (c) is in the negative, will Government please state, in how many different branches or departments in the Railway Workshops at Kharagpur were they employed and tested, and what was their subsistence allowance at the time of their discharge ?

(e) Will Government please obtain and furnish the names and the addresses of all these discharged recruits shown in the statement (Annexure "B") at the time they were recruited ?

(f) How is it that during the five years (1924 to 1928 inclusive) only seven recruits against a total number of seventy-seven (*sic.*) shown in the statement mentioned in the answer to my starred question No. 820, in the Assembly of 26th February, 1929 (Annexure "B") have been employed and that only in the appointments of Improvers, on Rs. 45 per mensem only ? Do Government propose to direct the Agent, Bengal Nagpur Railway, to investigate into the matter, and redress the long-felt grievances of the Indian recruits, from "A" Grade Apprentices and also of the Indian "A" Grade Apprentices in particular ?

(g) How many Anglo-Indian and European recruits were employed from apprentices of their grade during this period of five years in the various capacities in the Kharagpur Railway Workshops and what was the pay at which they started and what is the pay they are drawing now, and what was their designation at the time of their first appointment and what is their designation at present ?

Mr. P. R. Rau : I have called for the information from the Agent, Bengal Nagpur Railway, and will communicate with the Honourable

Member on its receipt. As regards part (a) of the question, however, I may add that the discrepancy is probably to be explained by the fact that the figures in Annexure C required only to the Loco. and Carriage Departments, while those in Annexure B were for all the railway workshops, including, for instance, the electrical shops. The fuller explanation that I have called for from the Railway Administration will, I hope, satisfy the Honourable Member on this point.

CONSTRUCTION OF A DIRECT ROAD FROM NEW DELHI TO RAMJAS COLLEGE.

645. *Mr. S. C. Mitra : (a) Are Government aware that Ramjas College is the nearest College for the residents of New Delhi, but owing to the absence of a direct road between New Delhi and that College, the parents of the students residing in New Delhi experience considerable difficulty in sending their boys to this College ? In view of this difficulty, do Government propose to instruct the local authorities concerned to construct a direct road from Raisina to the Hill on which the institution is situated ?

(b) Is it a fact that Government give financial aid to the Delhi local authorities for the development of Qurawal Bagh known as the western part of Raisina ? If so, how is it that this important part of the scheme of linking the College with Raisina by means of a short and suitable road has not so far been undertaken ?

Sir Frank Noyce : The necessary information has been called for and will be supplied to the Honourable Member on receipt.

THE SIR HARCOURT BUTLER SCHOOL AND THE LADY IRWIN SCHOOL, SIMLA.

646. *Mr. S. C. Mitra : (a) Will Government please state whether the Sir Harcourt Butler High School and the Lady Irwin School in Simla are moving schools ? If not, do Government propose to make them moving schools ?

(b) Are these schools under the management of the Local Government ?

(c) Is the expenditure Imperial or Provincial ? If it is shared by both, what is the proportion of the Imperial to the Provincial contribution ?

Sir Frank Noyce : (a) and (b). The answer to the first part of the first question is in the negative. As the Sir Harcourt Butler High School is a school under private management, which is recognised and aided by the Punjab Government and with which the Government of India have nothing to do, and as the Lady Irwin School for Girls is also under private management, Government are unable to give effect to the suggestion of the Honourable Member.

(c) The expenditure on account of the grant-in-aid to the Lady Irwin School is met from Central Revenues.

ALLOTMENT OF QUARTERS IN SIMLA TO MEMBERS OF THE LEGISLATURE.

647. *Nawab Sir Sahibzada Abdul Qaiyum : (a) Will Government please state on what lines the allotment of quarters to Members of the Legislative Assembly are made now ?

(b) Is there a permanent division of quarters between the Council of State and the Legislative Assembly? If so, with whom does the allotment rest in each case?

(c) What were the lines on which the allotments of the Assembly quarters were made this time, especially with respect to the allotments of the orthodox quarters at Longwood and Cart Road?

(d) Does the bringing of families by Members give any preferential rights to them in the allotment of these orthodox quarters?

(e) Is the necessity of making special arrangements for diet, etc., and entertaining a largish establishment on medical grounds by Members in bad health, also considered a reason for preferential rights to Members asking for separate orthodox quarters?

(f) If no consideration is made in the cases mentioned in part (e) does it mean that the bringing of a family is more important than the coming up of a person in indifferent health for attending the Assembly meetings up here in Simla?

The Honourable Sir Bhupendra Nath Mitra : With your permission, Sir, I propose to answer questions Nos. 647, 649 and 650 on behalf of the Legislative Assembly Department.

(a) and (c). In allotting quarters to Honourable Members, preference is given to two or more applicants who are willing to share one quarter. When several Members apply separately for the same quarter, the allotment is made by ballot.

(b) No permanent division has been made. After the constitution of a separate Assembly Department a division on a temporary basis was made by agreement between the Secretaries of the two Houses, who make the allotments of quarters.

(d), (e) and (f). The answer is in the negative.

Nawab Sir Sahibzada Abdul Qaiyum : Are there any fixed rules on the subject, and could they be laid on the table?

The Honourable Sir Bhupendra Nath Mitra : I think I have said that there are no fixed rules, but I would suggest to the Honourable Member that if he wants any further information he should make inquiries from the Secretary of the Legislative Assembly Department. I am sure he will recognise that it is not possible for me to give offhand, on the floor of the House, information regarding the procedure followed by the Secretariat of the Legislative Assembly.

Nawab Sir Sahibzada Abdul Qaiyum : Will it not be more useful if rules are framed and circulated for the information of the Members so that they may not have to raise questions in the House every now and then?

The Honourable Sir Bhupendra Nath Mitra : I dare say the Legislative Assembly Department will consider that point, and in that connection they will probably also consider the recommendation which was at one stage made by the Committee of the Central Legislature regarding the formation of a Standing Committee to deal with questions of this sort.

RENTS OF QUARTERS OF MEMBERS OF THE LEGISLATURE.

648. ***Nawab Sir Sahibzada Abdul Qaiyum :** (a) Will Government please state on what consideration the rents of various quarters have been

reduced ? What rents were charged for the various quarters before and to what amounts have they been reduced now ?

(b) Is it a fact that some of the quarters at Summer Hill, when occupied by one Member in the past, were charged for at Rs. 110 each and that the same quarters, when now occupied by one Member, are to be charged for at Rs. 148 each, on the ground that each "set of quarters" is meant for two Members ?

The Honourable Sir Bhupendra Nath Mitra : (a) The Government of India, with the approval of the Secretary of State, have agreed to grant to Members of the Legislature, when occupying Government quarters on duty, the concessions permissible under rule 45-A of the Fundamental Rules. This accounts for the reduction in rent recently made.

The rents now charged and those previously charged are shown in the statement which is laid on the table.

(b) No. The rent previously was Rs. 220 per mensem per set of quarters, or Rs. 110 per mensem per Member, if the set was occupied by two Members. (The quarters are considered large enough for two Members.) The present rent is Rs. 148 per mensem per set, or Rs. 74 per mensem per Member if occupied by two Members.

Statement showing the rents of quarters of the Members of Indian Legislature in Simla.

Particulars of quarters.	Rent as now charged.	Rent as previously charged.	Remarks.
<i>Longwood New Block—</i>	Rs.	Rs.	
Quarters Nos. 33-36, 38-45 and 47-54 ..	66 p. m. each.	145 p. m. each.	
Quarters Nos. 37 and 46 ..	70 ..	155 ..	
<i>Longwood Range—</i>			
Quarters Nos. 18-21 and 23-25 ..	70 ..	155 ..	
<i>Cottages—</i>			
Nos. 26-27 ..	136 ..	300 ..	
Nos. 28, 29 and 30 ..	68 ..	150 ..	
Nos. 31-32 ..	136 ..	300 ..	
<i>Cart Road—</i>			
Quarters Nos. 1-8 ..	98* ..	150 ..	* These figures are approximate and subject to approval by audit authorities.
Quarters Nos. 9-20 ..	97* ..	140 ..	
<i>Summer Hill—</i>			
Each set of quarters intended for occupation of 2 Members.	Rs. 148* p. m. per set or Rs. 74 per Member.	Rs. 220 p. m. per set or Rs. 100 per Member	

(Mr. President called upon Mr. Siddheswar Prasad Sinha to put his question No. 651.)

The Honourable Sir Bhupendra Nath Mitra : Sir, there are other questions of Nawab Sir Sahibzada Abdul Qaiyum which I have to answer.

Mr. President : I thought the Honourable Member had answered them.

The Honourable Sir Bhupendra Nath Mitra : I have not yet answered question 649.

Mr. President : The Honourable Member said that he would answer questions 647, 649 and 650 together.

The Honourable Sir Bhupendra Nath Mitra : I am sorry if I made myself misunderstood.

Mr. President : Sir Abdul Qaiyum.

"SETS OF QUARTERS" FOR MEMBERS OF THE LEGISLATIVE ASSEMBLY.

649. ***Nawab Sir Sahibzada Abdul Qaiyum :** What is meant by the term "*Set of Quarters*" as used in the Legislative Assembly Department Circular, with respect to the Summer Hill quarters? Does it apply to each quarter and does each of these quarters provide enough accommodation for two Members, with two sets of private servants and separate kitchen arrangements? Is the present single lavatory and bath room arrangement meant for two Members?

The Honourable Sir Bhupendra Nath Mitra : Each block at Summer Hill consists of separate quarters and the term "*set of quarters*" means one such separate quarter. Each such quarter is a double quarter with sufficient accommodation for at least two Members, and is intended to be shared by at least two Members.

DIVISION OF QUARTERS BETWEEN MEMBERS OF THE COUNCIL OF STATE AND THE LEGISLATIVE ASSEMBLY.

650. ***Nawab Sir Sahibzada Abdul Qaiyum :** (a) Do Government propose to earmark the Summer Hill quarters for Members of the Council of State and the quarters at Longwood for Members of the Assembly, which will be more convenient for both in view of the situation of their respective Chambers?

(b) Are there any special and distinct rules about the allotment of these quarters and will Government be pleased to supply a copy of the same to each Member?

The Honourable Sir Bhupendra Nath Mitra : (a) There is no such proposal before Government. All the Longwood Range quarters, and four out of the five cottages in Longwood have been reserved for Members of the Assembly this year. The unorthodox quarters in Longwood Hotel, New Block, have been divided in suitable proportion between the Legislative Assembly and the Council of State.

(b) There are no prescribed rules governing the allotment of quarters to Honourable Members.

Maulvi Muhammad Yakub : Are Government aware that there is a lot of grumbling among the Members of the Legislative Assembly on account of this dyarchy in the allotment of quarters to them ?

The Honourable Sir Bhupendra Nath Mitra : So far as I am aware, there is no dyarchy.

Maulvi Muhammad Yakub : Are Government aware that quarters are allotted to the Members during the non-Assembly Session by the Public Works Department, and during the Assembly Session by the Assembly Department ? This is what dyarchy means.

The Honourable Sir Bhupendra Nath Mitra : If my Honourable friend was referring to that system, it is quite possible that there is what he styles dyarchy, but the Legislative Assembly Department refused to have anything to do with the allotment of quarters to Members who did not come here to attend the meetings of the Legislative Assembly. I think the Legislative Assembly Secretariat is probably justified in taking that attitude. That being the position, when Members come to Simla outside the regular Session, somebody has to make the allotment, and the Public Works Department is at present making the allotments.

Maulvi Muhammad Yakub : But why is this difference made when a Member is attending the meetings of the Assembly and when he is attending the meetings of some special committees appointed by the same Assembly ?

The Honourable Sir Bhupendra Nath Mitra : I do not know, Sir ; but that is the present arrangement.

Mr. President : Order, order. I think the Honourable Member is quite wrong in saying that the Legislative Assembly Department refused to have anything to do with the allotment of quarters to Honourable Members when they come to attend meetings of Committees. (Loud Applause.) However, I am looking into the matter and will ask the Secretary to make a representation to the Honourable Member.

The Honourable Sir Bhupendra Nath Mitra : I should like to add, Sir, that my information is to the contrary, and I shall be pleased to show the papers in my possession.

Mr. President : I am just informed by my Secretary that that is not so.

ENTRAINMENT OF PILGRIMS AT TEMPORARY STATIONS.

651. ***Mr. Siddheswar Prasad Sinha :** With reference to the reply to my starred question No. 885 of 4th March, 1929, will Government please state the objection they have to allow only those pilgrim passengers, to entrain at the temporary stations, who though holding tickets for a further journey, are allowed to alight there ?

Mr. P. R. Rau : I would invite the Honourable Member's attention to the reply sent to him by the Railway Board on the 29th June, 1929. The main objection is that the provision of facilities for selling tickets at these temporary stations, which are only open for 14 days in the year, involves a considerable expense which is not justifiable.

Mr. Siddheswar Prasad Sinha : The Honourable Member says that facilities will have to be provided for selling tickets on those stations, and the railway authorities will not be justified in doing so in view of the considerable expense it involves. But what objection can there be for allowing only those passengers who hold tickets for a longer journey but are allowed to break their journey and alight at these temporary stations to perform a compulsory religious ceremony for a few hours ?

Mr. P. R. Rau : I shall consider that point, Sir.

CONTRACT FOR COOLIES AT GAYA STATION.

652. *Mr. Siddheswar Prasad Sinha : (a) With reference to the reply to my starred question No. 593 of 19th February, 1929, will Government be pleased to state (a) the methods of registering the names of intending contractors, (b) the qualifications making a person eligible for selection, (c) the number of applicants from among which the present contractor of coolies at Gaya was selected, and (d) the name of the officer who made the selection ?

(b) With reference to part (a) will Government be pleased to state :

(i) If there is any scale of fee to be paid by the coolies to the contractors ? If so, what is the scale for Gaya ?

(ii) Are the scales fixed periodically ? If so, when was it last fixed for Gaya, and for what period ?

(iii) What punishment is awarded to contractors if they overcharge the coolies ?

(iv) How many cases of overcharge have been found in Dinapore Division during the last three years, and what punishment was awarded in each case ?

(v) For what period and when was the present man given the contract at Gaya ?

Mr. P. R. Rau : I am collecting the information required and will let the Honourable Member have it in due course.

ISSUE OF CHEAP RETURN TICKETS ON RAILWAYS.

653. *Mr. Siddheswar Prasad Sinha : (a) Will Government please state how, by issuing third class ordinary return tickets at one and a half fares, fraudulent travelling will be increased when it is not so done by week-end return tickets at one and a quarter fares ?

(b) What are the reasons for not issuing third and intermediate class return tickets at single fares as is done in cases of first and second class tickets during Durga Puja, Christmas, Easter and Moharram ?

Mr. P. R. Rau : (a) A single ticket has the date stamped on it and can only be used on that date. The return half of an ordinary return ticket can have no date stamped on it and is available on any date for a long period ahead and if it is not given up it can be used several times. The chance of week end return tickets being used more than once is minimised as the period during which they are available is short.

(b) The main reason for the issue of reduced return tickets during holiday periods is the anticipation of an increase in the number of passengers sufficient to more than compensate for the reduced fare. The

question of these reductions is carefully considered by Railway Administrations from time to time and the reductions made, if any, necessarily vary on different railways according to local conditions on each railway. Owing to the volume of ordinary lower class traffic however, if the same reduction for those classes were made as for the upper classes, it is feared that the loss on the ordinary traffic would not be made up by the gain on the additional traffic obtained and the final result would, it is estimated, be a considerable loss in revenue.

Mr. Vidya Sagar Pandya : In the case of first and second class passengers, the concession is given and the tickets are actually issued and the Government are thus able to base their calculations on the actual number of tickets issued. But in the case of third class passengers, return tickets have never been issued. I would like to know what basis or authority Government have to say that there will not be increased traffic if third class return tickets are issued during these periods ?

Mr. P. R. Rau : It is only an estimate. The ordinary passengers travelling by upper classes are comparatively small in number, while the number of lower class passengers is ordinarily very high, and the additional traffic secured will bear only a small proportion to the ordinary traffic.

Mr. Vidya Sagar Pandya : Sir, that is begging the question ; it has never been tried.

Mr. P. R. Rau : As I have already said, it is an estimate made by the railways.

Mr. Siddheswar Prasad Sinha : Will the Honourable Member say how the difficulties arise only with regard to third class passengers and not with regard to the higher class passengers ?

Mr. P. R. Rau : Is the question with regard to (a) or (b) ?

Mr. Gaya Prasad Singh : It arises out of the Honourable Member's answer.

Mr. Siddheswar Prasad Sinha : I am referring to (a).

Mr. P. R. Rau : The only answer to that question is—that ordinarily it has been found that the practice of fraudulent travelling is more prevalent among the third class passengers than among the higher class passengers.

Diwan Chaman Lall : May I ask the Honourable Member whether it is not a fact that third class return tickets are issued for servants of higher class passengers and there is no fraud committed by them ?

Mr. P. R. Rau : I must ask for notice of the question.

Diwan Chaman Lall : If it is a fact that no fraud has been noticed in connection with third class return tickets issued to servants, on what does the Honourable Member base his impression that there would be fraud if third class return tickets are issued to ordinary third class passengers ?

Mr. P. R. Rau : That is a hypothetical question.

Diwan Chaman Lall : May I ask the Honourable Member to direct his attention not to hypothesis but to the facts of the case ?

The Honourable Sir George Rainy : The Honourable Member began his question with an "if"; hence a certain suspicion arises that it is hypothetical.

Diwan Chaman Lall : It seems to me that the Honourable Member's answer is a hypothetical one. May I ask him whether he did not say that it was the presumption of the Railway Board that there would be fraud and that he had no facts to go upon?

Mr. P. B. Rau : An answer may be hypothetical. It depends on the question.

Diwan Chaman Lall : Is it not a fact that the answers of the Railway Board are always hypothetical?

Mr. P. B. Rau : That depends upon the question.

Mr. A. Rangaswami Iyengar : Is it not a fact that in some railways third class return tickets have been issued in the past and that there has been no trouble?

Mr. P. B. Rau : I think that is a fact.

Mr. A. Rangaswami Iyengar : Then why do the Railway Board hesitate to apply the same principles to the railway in question?

Mr. P. B. Rau : It is a matter for consideration as regards each railway with regard to local conditions.

Mr. A. Rangaswami Iyengar : Is it to be taken that there is more fraud in some areas and less fraud in some other areas with regard to third class passengers?

Diwan Chaman Lall : Do I take it that the Railway Board possess an open mind and a blank mind in regard to this matter?

The Honourable Sir George Rainy : I should be prepared to say that I have an open mind, but not a blank mind. Obviously the matter interests the House and therefore I will look into it.

Mr. Gaya Prasad Singh : The Bengal and North-Western Railway do not issue third class return tickets. Are the third class passengers travelling on the Bengal and North-Western Railway more prone to commit fraud in the matter of return tickets?

Mr. President : The Honourable Member has promised to look into the matter.

NUMBER OF CASES OF ABDUCTION, RAPE, ETC., IN CERTAIN YEARS.

654. ***Mr. Siddheswar Prasad Sinha :** (a) Will Government be pleased to state the number of cases of abduction, enticement, rape and other offences against the modesty and honour of women in each province of British India separately for the years 1926, 1927 and 1928?

(b) Are Government aware that in some provinces these offences are committed by organised gangs and for definitely set purposes? If so, what steps have been taken for their prevention?

The Honourable Sir James Crerar : (a) I would refer the Honourable Member to the returns of cognisable crime in Statement A, Part I of

the Annual Police Administration Reports of the provinces for the years mentioned.

(b) I have no information that would suggest that in certain provinces the offences in question are committed by organised gangs for definitely set purposes. It is for the Local Governments to take such action as is necessary and I have no reason to think that they are not fully alive to their responsibilities in this matter.

STRIKE OF TINPLATE WORKERS AT GOLMURI.

655. *Mr. Ram Narayan Singh : (a) Are Government aware of the fact that almost all the employees, about 3,000 in number, of the Tinplate Company of India, Ltd., at Golmuri, near Jamshedpur, in the Province of Bihar and Orissa, have gone on strike since the 7th April, 1929 ?

(b) Has there been any correspondence between the Central Government here and the Bihar Government in connection with this strike, and if so, will Government be pleased to place the same correspondence on the table ?

(c) Is it a fact that a deputation consisting of Messrs. M. Daud, V. V. Giri, W. R. Naidu and J. N. Mitra waited on the Honourable Sir B. N. Mitra on the 5th July, 1929, during his last visit to Jamshedpur and prayed for his intervention in this matter ?

(d) Will Government be pleased to state whether the Honourable Member did anything in this matter, and, if not, why not ?

(e) Is it a fact that the Union of workers at Golmuri represented the whole situation of the strike to the Chief Secretary to the Government of India on the 6th August, 1929, and if so, with what result ?

(f) Are Government aware of the fact that the said Union of workers at Golmuri has also represented the whole situation of the strike to the Right Honourable Mr. Wedgwood Benn, the Secretary of State for India, on the 6th September, 1929 ?

(g) Has there been any correspondence on the subject between the Government of India and the Secretary of State for India, and if so, with what object and result ?

(h) Are Government aware that the local officers of the Government of Bihar and Orissa now stationed at Golmuri in connection with the strike there have been openly helping the Tinplate Company in every possible way and that against the strikers ?

(i) Will Government be pleased to inquire into the allegations mentioned above ?

(j) Are Government aware that the strike in the Tinplate Company at Golmuri is developing into an all-India question and that there has already been a sympathetic strike at Budge Budge in Bengal ?

The Honourable Sir Bhupendra Nath Mitra : (a) Yes. Of the strikers, some subsequently resumed work and others have been replaced by new hands.

(b) Government do not consider that it would be in the public interest to place on the table a copy of the correspondence which has taken place

between the Central Government and the Government of Bihar and Orissa in connection with this strike.

(c) No deputation waited on me, but I had an informal talk with the gentlemen referred to by the Honourable Member.

(d) I endeavoured to ascertain the position by informal conversation with both parties and to give such advice as might help some of the men who were out of employment to secure employment at the works.

(e) A letter addressed to the " Chief Secretary to the Viceroy " was received from the Golmuri Tinsplate Workers' Union. The Union was informed that under section 3 of the Trade Disputes Act, 1929, the question whether a Court of Inquiry or a Board of Conciliation should or should not be constituted in connection with the strike rested entirely with the Local Government.

(f) Government have no information.

(g) Yes ; some correspondence took place between the Secretary of State and the Government of India in connection with a question in the House of Commons relating to the matter and also in connection with a deputation which the Secretary of State received from the Trade Union Congress General Council.

(h) The Government of India have no information beyond what they have seen in the press reports of the debate on the motion for adjournment in the Bihar Council early this month.

(i) The Government of India do not propose to interfere in a matter which is essentially the concern of the Local Government.

(j) Government are not aware that the strike in the Tinsplate Company at Golmuri is developing into an all-India question. The strike of oil workers at Budge-Budge is said to have been brought about partly in sympathy with the Tinsplate Workers' Strike.

STRIKE OF STUDENTS OF THE INDIAN SCHOOL OF MINES, DHANBAD.

656. *Mr. D. V. Belvi : Will Government be pleased to state :

(a) If they are aware of a general strike of the students of the Indian School of Mines at Dhanbad from 5th June, 1929 to 18th June, 1929 ;

(b) If the Principal of the said School then closed the school indefinitely and thus virtually declared a lock-out ; and

(c) If Government made or propose to make an inquiry into the causes of the strike ?

The Honourable Sir Bhupendra Nath Mitra : Sir, I propose, with your permission, to answer questions Nos. 656 and 657 together. The information asked for by the Honourable Member will be found in the statement regarding the temporary closing of the Indian School of Mines, Dhanbad, during June, 1929, supplied to Mr. K. C. Neogy on the 4th September, 1929, with reference to his starred question No. 105. A copy of the statement is available and will be placed in the Library of the House.

Mr. Gaya Prasad Singh : Are Government aware that one of the main causes of the strike is the absence of suitable careers for the students after the completion of their studies in the school ?

The Honourable Sir Bhupendra Nath Mitra : The Government are aware of that fact, Sir.

Mr. Gaya Prasad Singh : What steps have Government taken to give the students suitable careers after they have finished their studies in the school ?

The Honourable Sir Bhupendra Nath Mitra : Obviously it is not possible for Government to guarantee suitable careers to boys. The Government can only provide a certain amount of education and training.

Pandit Madan Mohan Malaviya : If Government are aware that the education provided there does not secure a career to students, is it not time that Government undertook, on a larger scale, some scheme of technical and industrial education so that employment may be found for the boys after they have undergone training in the school ?

The Honourable Sir Bhupendra Nath Mitra : I have failed to grasp the full force of my Honourable friend's question. Here Government are trying to provide technical education on a small scale and these students feel that they have not got sufficient careers before them. If education were to be given on a much larger scale, it seems to me that there would be greater difficulty in the matter of providing careers for those students.

Pandit Madan Mohan Malaviya : Does not that show that there is need for different kinds of industrial and technical education ?

The Honourable Sir Bhupendra Nath Mitra : I am not quite sure whether that question is really relevant to the question to which I have already given an answer.

Maulvi Muhammad Yakub : Do the Government propose to make the students common carriers or water carriers ? (Laughter.)

The Honourable Sir Bhupendra Nath Mitra : I have undoubtedly grasped the wording of my Honourable friend's question, but I do not understand to which students he is referring. Does he refer to the students mentioned by my Honourable friend Pandit Madan Mohan Malaviya or to the students now being educated in the Dhanbad School of Mines ?

Maulvi Muhammad Yakub : I mean the students of the Dhanbad School of Mines for whom Government are not prepared to provide any other career suitable for them ?

The Honourable Sir Bhupendra Nath Mitra : My Honourable friend is under a misapprehension. How can Government provide appointments and careers for anybody and everybody ?

Maulvi Muhammad Yakub : Then, why do not Government open technical schools ?

(No answer was given.)

GRIEVANCES OF THE STUDENTS OF THE INDIAN SCHOOL OF MINES, DHANBAD.

†657. ***Mr. D. V. Belvi** : (a) Has the attention of Government been drawn to a leading article under the heading " Broken Pledge " and to a letter " Story of Broken Pledges " published in the *Bombay Chronicle* in its issue of the 6th June, 1929 and to a leaderette under the caption " Dhanbad School of Mines " in the same newspaper in its issue of the 24th June, 1929 ?

(b) Were the allegations made in the said leading article, the leaderette and the correspondence on which they were based ever contradicted by the authorities of the school ?

(c) Have Government made any inquiry into the alleged grievances of the students of the school ?

(d) If they have, what is the result of the inquiry ?

(e) If not, do they propose to make an inquiry ?

NUMBER OF MINES AND COLLIERIES IN BRITISH INDIA.

658. * **Mr. D. V. Belvi** : Will Government be pleased to state :

(a) the total number of mines and collieries in British India ; and

(b) the number of collieries and mines owned by Britishers and other foreigners in British India ?

The Honourable Sir Bhupendra Nath Mitra : (a) The number of coal mines and of mines other than coal mines worked under the Indian Mines Act in British India during the year 1928, was 556 and 1,392 respectively.

(b) Government have no information and regret that they cannot undertake to collect it as it would involve an amount of time and labour disproportionate to the result.

EXAMINATION AND TRAINING OF STUDENTS AT THE INDIAN SCHOOL OF MINES, DHANBAD.

659. ***Mr. D. V. Belvi** : (a) Is it a fact that only such students as have passed at least the Intermediate Science examination or an equivalent test are allowed to appear for the entrance examination of the Indian School of Mines at Dhanbad, that a selection is made out of those that pass the entrance examination, and that the selected students have to undergo theoretical and practical training for at least four years in the school of mines at an annual cost of about Rs. 1,000 ?

(b) Is it a fact that, out of the 120 students in the schools about 40 students are post-graduates ?

The Honourable Sir Bhupendra Nath Mitra : (a) I would refer the Honourable Member to the Prospectus of the School which gives the required information and a copy of which is available in the Library of the House.

(b) Of the 118 students at present in the School, 23 are graduates.

†For answer to this question, see answer to question No. 656.

COST OF THE STAFF OF THE INDIAN SCHOOL OF MINES, DHANBAD.

660. ***Mr. D. V. Belvi** : Will Government be pleased to state the amount of public money spent on the maintenance of the staff of the Dhanbad School of Mines, and if it is a fact that there are about 30 monthly scholarships in the school each of about Rs. 100 ?

The Honourable Sir Bhupendra Nath Mitra : The estimated cost on account of pay of the superior and subordinate staff of the School for the current financial year is Rs. 1,20,800. There are 17 scholarships tenable at the School varying from Rs. 40 to Rs. 100 per month.

PROSPECTS OF STUDENTS OF THE INDIAN SCHOOL OF MINES, DHANBAD.

661. ***Mr. D. V. Belvi** : (a) What is the average salary on which a graduate or the holder of a diploma from Great Britain, of the same qualifications as successful students of the Dhanbad school, starts on his service in British India ?

(b) Is any proposal or scheme pending before Government at present for improving the prospects of the successful students of the Dhanbad school ? If so, will the proposal or the scheme be laid on the table ?

The Honourable Sir Bhupendra Nath Mitra : (a) The question is too indefinite to enable me to give a precise answer. It is not possible for me to say what exact diploma or degree of a particular institution in Great Britain is equivalent to the Certificate or the Associateship of the Indian School of Mines and the starting pay of an officer appointed to a service in India does not depend on the nature of the diploma or degree which he holds.

(b) The attention of the Honourable Member is invited to paragraph 4 of the statement placed in the Library of the House in reply to Mr. K. C. Neogy's starred question No. 105 of the 4th September, 1929.

NUMBER OF INDIANS IN THE MINES DEPARTMENT, ETC.

662. ***Mr. D. V. Belvi** : (a) Is it not a fact that the Government of India have opened the school of mines at Dhanbad for training Indian students for employment as officers in the Provincial services and also in the Imperial Geological Survey of India and the Department of Mines, as stated by Sir Henry Hayden in his evidence before the Public Service Commission in 1913 ?

(b) What is the total number of officers at present in the State Collieries, the Geological Survey of India and in the Indian Mines Department, respectively ? How many of them are Indians in each of these Departments ?

The Honourable Sir Bhupendra Nath Mitra : (a) The School has been established with a view to provide training for the professions of Mining Engineer and Geologist and also to help to solve the problem of recruitment of young men of this country for the Geological Survey of India and the Indian Mines Department.

(b)

	Total No. of Officers.	No. of Indians.
State collieries ..	30	Nil
Geological Survey of India	36	16
Indian Mines Department ..	10	8

SPEECH OF HIS EXCELLENCY THE VICEROY AT THE INDIAN SCHOOL OF MINES, DHANBAD.

663. ***Mr. D. V. Belvi** : Will Government be pleased to lay on the table a copy of the speech of His Excellency the Viceroy delivered at the opening of the Indian School of Mines, Dhanbad, on the 9th December, 1926 ?

The Honourable Sir Bhupendra Nath Mitra : A copy of the speech has been placed in the Library of the House.

COST TO INDIA OF THE GARRISON IN PERSIA SAFEGUARDING THE INTERESTS OF THE ANGLO-PERSIAN OIL COMPANY.

664. ***Mr. D. V. Belvi** : (a) Is any amount of money annually spent from the Indian Treasury on a garrison in the Persian Gulf to safeguard the interests of the Anglo-Persian Oil Company ? If so, what is the total amount ?

(b) Does India get any return for her money ? If so, how ?

Sir Denys Bray : (a) Not a pie.

(b) Does not arise.

SHORT NOTICE QUESTION AND ANSWER.

PROHIBITION OF THE BURNING OF THE BODY OF A DECEASED HINDU IN THE BELGIAN CONGO.

Mr. Gaya Prasad Singh : (a) Has the attention of Government been drawn to a letter from the Administrateur Territorial of Belgian Congo to Mr. Chhotalal Kurji of Kigoma, published in the daily *Tanganyika Opinion* of the 27th August, 1929, in which it is stated that the "incineration of deceased is prohibited in the Belgian Congo. The followers of Hindu religion are buried in a place reserved to the Asiatic population" ?

(b) Are Government aware that this order is an outrage on the religious rites and ceremonies of the Hindus ?

(c) Have Government taken any steps, and do they propose to take any now, to have this order rescinded at as early a date as possible ?

Sir Denys Bray : (a), (b) and (c). Yes.

I am indebted to the Honourable Member for drawing my attention to this extraordinary affair yesterday. His Majesty's Government have been requested by telegram to impress on the Belgian authorities the gravity of their order and the urgency for its cancellation.

Mr. Gaya Prasad Singh : Sir, I thank the Honourable Member for taking steps so promptly, but may I know whether the result of this representation will be communicated to me or to the House in any way ?

Sir Denys Bray : I shall see that it is communicated to the public.

Mr. Gaya Prasad Singh : Thank you.

UNSTARRED QUESTIONS AND ANSWERS.

OVERPAYMENT OF A MONEY ORDER BY THE POSTMASTER, IGATPURI POST OFFICE.

183. **Mr. N. C. Kelkar :** (a) Will Government be pleased to state whether a telegraphic money order was overdrawn by the Postmaster, Igatpuri Post Office, on the 28th April, 1927, and an excess of Rs. 445 was paid to one Mr. Sandford Bilimora ?

(b) Is it a fact that the Postmaster immediately communicated by wire and by letter with the different officers of the Department for the recovery of the amount overpaid to the payee ?

(c) Is it a fact that no action whatsoever was taken by the Department to recover the amount ?

(d) Is it a fact that money orders were passing through the same post office payable to Mr. Sandford to the extent of nearly Rs. 900 after the incident ?

(e) Is it a fact that the Postmaster General, Bombay, refused to apply the provisions of the Post Office Act for the recovery of the amount ?

(f) Is it a fact that the case was allowed to drag on for 22 months before the Director General issued his decision for the recovery of the difference from the Postmaster ?

(g) Is it a fact that the Postmaster was refused permission to recover the amount from Mr. Sandford by instituting civil proceedings against him ?

(h) If the answer to part (g) be in the affirmative, do Government propose to request the Director General to reconsider his decision, to refund the amount recovered from the said Postmaster and to apply the provisions of the Post Office Act for the recovery of the loss sustained by the Department from the payee ?

The Honourable Sir Bhupendra Nath Mitra : Government have no information on the subject, but inquiries have been instituted and the result will be communicated to the Honourable Member in due course.

APPOINTMENTS OF STAMP VENDORS.

184. **Mr. N. C. Kelkar :** Will Government be pleased to state whether it is a fact that an assurance was given to the Standing Finance Committee, when the pay of stamp vendors in post offices was revised, that the question of converting their appointments into superior service would be taken up by Government ? If so, will Government be pleased to lay on the table their decision in the matter ?

The Honourable Sir Bhupendra Nath Mitra : In the memorandum placed before the Standing Finance Committee in January, 1928, in connection with the revision of pay of stamp vendors, it was stated that new recruitment for this class of officials would be confined to postmen if the service was made pensionable, a question which would be taken up for separate examination. The question is under consideration, and no decision has yet been arrived at.

THE TRANSFER OF PROPERTY (AMENDMENT) BILL.

The Honourable Sir Brojendra Mitter (Law Member) : Sir, I beg to move that the Bill further to amend the Transfer of Property Act, 1882, for certain purposes, as amended, be passed.

Mr. D. F. Mulla (Bombay : Nominated Non-Official) : Sir, I beg to move :

“ That in clause (2), the words beginning with the words ‘ for the words ’ and ending with the words ‘ be substituted, and ’ be omitted.”

This has relation to paragraph 3 of section 54. Paragraph 3 related to voluntary registration ; by the Bill it was proposed to be omitted. It is now to be restored.

The motion was adopted.

Mr. D. F. Mulla : Sir, I beg to move :

“ That in clause 5, the words beginning with the words ‘ for the words ’ and ending with the words ‘ be substituted, and ’ be omitted.”

This amendment stands on the same footing as the first amendment.

The motion was adopted.

Mr. D. F. Mulla : Sir, I beg to move :

“ That clause 17 be omitted.”

The effect of the omission will be to restore the original section 54 relating to sale in its entirety.

The motion was adopted.

Mr. D. F. Mulla : Sir, I beg to move :

“ That in clause 20, sub-clause (a) be omitted and sub-clauses (b), (c) and (d) be re-lettered as sub-clauses (a), (b) and (c), respectively.”

This, Sir, has reference to the definition of “ mortgage money ” and the words “ if any ” which occurred in the original section and which were omitted are not proposed to be restored by this amendment.

The motion was adopted.

Mr. D. F. Mulla : Sir, I beg to move :

“ That in clause 21 :

(1) sub-clause (a) be omitted, and

(2) sub-clauses (b) and (c) be re-lettered as sub-clauses (a) and (b), respectively.”

In sub-clause (a), the words “ Where the principal money secured is one hundred rupees or upwards ” were omitted. They are now proposed to be restored. They have reference to section 59 which deals with execution of mortgages.

The motion was adopted.

Mr. D. F. Mulla : Sir, I beg to move :

“ That in clause 23, sub-clause (c) be omitted and sub-clauses (d) and (e) be re-lettered as sub-clauses (c) and (d), respectively.”

This, Sir, has reference to section 60 which deals with redemption, and by the Bill the words “ (where the mortgage has been effected by a registered instrument) ” were sought to be omitted. They are now proposed to be restored.

The motion was adopted.

Mr. D. F. Mulla : Sir, I beg to move :

“ That in clause 27, the words ‘ in the mortgage deed ’ be omitted.”

This clause has reference to section 63 which deals with accretion, and since voluntary registration has now been restored, it is necessary to omit these words in the mortgage deed.

The motion was adopted.

Mr. D. F. Mulla : Sir, I beg to move :

“ That in clause 28, the words ‘ in the mortgage deed ’ be omitted.”

This has reference to the new section 63A which deals with improvements to mortgaged property and the proposed amendment stands on the same footing as the last.

The motion was adopted.

Mr. D. F. Mulla : Sir, I beg to move :

“ That in clause 38 :

- (i) sub-clause (d) be omitted,
- (ii) in sub-clause (f), the words ‘ in the mortgage deed ’ be omitted, and
- (iii) sub-clauses (e) and (f) be re-lettered as sub-clauses (d) and (e), respectively.”

This has reference to section 72 which deals with the rights of mortgagees. The words “ in the mortgage deed ”, which were added in the clause, are now proposed to be omitted.

The motion was adopted.

Mr. D. F. Mulla : Sir, I beg to move :

“ That in sub-clause (d) of clause 45, after the words ‘ to execute and ’ the words and brackets ‘ (where the mortgage has been effected by a registered instrument) ’ be inserted.”

This has reference to section 83, which deals with money deposited by a mortgagor in court and the words have to be inserted because voluntary registration has now been restored.

The motion was adopted.

Mr. D. F. Mulla : Sir, I move :

“ That clauses 18 to 64 be re-numbered as clauses 17 to 63.”

The amendment, Sir, is a formal one.

The motion was adopted.

Mr. D. F. Mulla : Sir, I move :

“ In clause 63, so re-numbered, for the words, figures and brackets beginning with the figure ‘ 2 ’ and ending with the figures ‘ 63 ’, the following words, figures and brackets be substituted, namely :

‘ 3, 4, 9, 10, 15, 18, 19, 27, 30, clause (c) of section 31, sections 32, 33, 34, 35, 46, 52, 55, 57, 58, 59, 61 and 62 ’.”

The motion was adopted.

Mr. President : The question is :

“ That the Bill, as finally amended, be passed.”

The motion was adopted.

THE TRANSFER OF PROPERTY (AMENDMENT) SUPPLEMENTARY BILL.

The Honourable Sir Brojendra Mitter (Law Member) : Sir, I move that the Bill to supplement the Transfer of Property (Amendment) Act, 1929, as amended, be passed.

Mr. D. F. Mulla (Bombay : Nominated Non-Official) : Sir, I move that :

“ In clause 6, in proposed new Rule 11—

(a) in sub-rule (a) (i), for the words ‘ fixed in the mortgage-deed, or, if no rate has been so fixed ’, the words ‘ payable on the principal, or, where no such rate is fixed ’ be substituted ; and

(b) in sub-rule (a) (iii), for the words ‘ fixed in the mortgage-deed, or, if no rate has been so fixed ’, the words ‘ agreed between the parties, or, failing such rate, at the same rate as is payable on the principal, or failing both such rates ’ be substituted.”

This, Sir, has reference to Order XXXIV, rule 11, which is proposed to be inserted in Order XXXIV. It relates to interest, and both these amendments are consequential amendments.

The motion was adopted.

Mr. D. F. Mulla : Sir, I move that :

“ In the Schedule, in clause 1 (i) of Forms Nos. 3, 5, 7 and 7-A, for the words ‘ as provided in the mortgage-deed or, if no rate has been fixed ’, the words ‘ at the rate payable on the principal or where no such rate is fixed ’ be substituted.”

The motion was adopted.

Mr. D. F. Mulla : Sir, I move that :

“ In the Schedule, in clause 1 (iii) of Forms Nos. 3, 5, 7 and 7-A, for the words ‘ fixed in the mortgage-deed or, if no rate has been so fixed ’, the words ‘ agreed between the parties, or, failing such rate, at the same rate as is payable on the principal, or failing both such rates ’ be substituted.”

This stands on the same footing as the last amendment.

The motion was adopted.

Mr. President : The question is that the Bill, as finally amended, be passed.

The motion was adopted.

THE HINDU CHILD MARRIAGE BILL—contd.

Mr. President : The House will now resume further consideration of clause 2 of Mr. Sarda's Bill and the four amendments moved on Monday last.

Pandit Madan Mohan Malaviya (Allahabad and Jhansi Divisions : Non-Muhammadian Rural) : Sir, I rise to support the amendment of my friend Kumar Ganganand Sinha that the word “ twelve ” be substituted for the word “ fourteen ” in the clause in question. I crave the indulgence of the House while I try to state my reasons for supporting the proposal. I wish the House to take note of what this amendment means, and of what it does not mean. It does not mean that the Bill will not be passed. It does not mean that the evil of early marriages will be left undealt with ; but, it means, that the question of the age which should be prescribed as the age a marriage below which will entail penal consequences

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should be further considered. Now, Sir, I wish to ask the House to remember that this legislation is meant to affect the whole of British India, an area nearly as large as Europe *minus* certain portions of it. There are in it various grades of society, communities at various stages of progress; and therefore in passing legislation, a violation of which is to carry penal consequences, the House is justified in considering what age would be most suitable in the circumstances of the case for the country as a whole. If the matter was to be dealt with province by province, opinion prevailing in the provinces would undoubtedly be a great help and guide to the Legislature. But as it is, in a vast country like India, the various provinces being in different stages of progress, the matter assumes a more difficult aspect; and I submit that the House has, by this time, learned sufficiently that in different provinces the stages at which this question stands differ. For instance in the Punjab and in Sind, the age at which puberty discloses itself is higher than it is in Madras and Bengal and Bombay. Therefore what may be a perfectly legitimate and reasonable proposal in certain parts of the country will not be equally legitimate and reasonable in other parts; and I ask the House not that they should for that reason drop the Bill, but that they should very carefully consider what is the proper maximum age that should be fixed in a Bill of this character.

I submit that the age of consent and the age of marriage are different in many countries. This is a legislation in which for the first time a Legislature is not only fixing the marriageable age, but also laying it down that if a person marries below that age, or if anybody assists in bringing about a marriage below that age, he will be visited with penal consequences.

This is the first time, Sir, in the history of the world, so far as I am aware, that penal provisions are being attached to a departure from the age of marriage fixed by Statute. In no country that I am aware of have any such provisions ever before been attached to the infringement of the age of marriage fixed by law.....

Mr. Abdul Haye (East Punjab : Muhammadan) : You have got it in Egypt.

Pandit Madan Mohan Malaviya : In no country, Sir, that I am aware of,—excepting possibly the one that my friend now mentions, of which I have not sufficient information,—have any penal provisions been attached to an infringement of the age of marriage fixed by law. Where the age of marriage is fixed, if a person marries before that age, the marriage is held to be null and void. But it is not prescribed anywhere that if a man marries before the age fixed by law, or if a man officiates at or helps in the performance of a marriage before the age fixed by law, he shall be visited with penal consequences of imprisonment or fine or both. I request the House to bear this fact in mind in considering the amendment before the House.

Secondly, Sir, I wish the House to remember that in this country this custom or practice of early marriages has come down from a very long time. The hesitation of the Government so long to fix the age of marriage by law has been due unquestionably to the fact that in this

country, as everybody is aware, marriages at early ages have been common for a very long time past. When you find that these customs have come down from a very long time, when you remember that education is yet very far from being universal, that very great ignorance prevails in the land, that 90 per cent. of the people are still steeped in ignorance, when you also remember that it is the humblest classes among whom marriages at very early ages are very common and that they will be most affected by this Bill, and also that hitherto no such serious step as it is proposed to take now by this measure has ever yet been taken in any other country, then, I submit, the case for caution becomes strong. You are going to enact for the first time a penal provision in a country where these customs have prevailed for a very long time, in a country where the people are still very ignorant, where no adequate efforts have been made to educate them in the evils which flow from early consummation or early marriages, and I submit, therefore, that it is the duty of the Legislature very carefully to consider what should be the maximum age that should be prescribed in this first legislation in this direction. Now, Sir, the question before the Assembly at this moment is whether that age should be 14, or whether, as my friend Kumar Ganganand Sinha has urged, it should be 12. In favour of the lower age, I submit, in addition to the considerations which I have placed before the House, there are many others. In many other countries which are more advanced in the modern sense of the word, and which cannot be condemned by any Western writer or speaker as backward or wanting in civilization, the age of marriage fixed by law is below 14. A statement of the age of marriage which obtains in other countries is given in Appendix XB at page 343 of the Age of Consent Committee's Report. I find from it that the minimum age, subject to no exception, which is fixed in Great Britain, Greece, Hungary, Irish Free State, Italy, New Zealand, South Africa, Uruguay and Venezuela is 12 years. It has been said that, in England, there has been legislation under consideration to raise this age from 12 to some higher figure.....

Mr. E. L. Price (Bombay : European) : To 16.

Pandit Madan Mohan Malaviya : In England they are now considering raising the age from 12 to 16. But that is coming, Sir, in the year of grace 1929. Up to this time the legal age of marriage in England has stood at 12. I submit, it still stands at 12 in Greece, Hungary, Irish Free State, Italy, New Zealand, South Africa, Uruguay and Venezuela. Now, I submit, Sir, that these countries cannot be condemned as backward in civilization, and if these countries have thought it fit to keep the legal age of marriage at 12 for all these centuries, it is not an unreasonable proposition, at least an entirely unreasonable proposition to ask the Legislature of India, in view of the totality of circumstances existing in this country, to fix the age of marriage at 12 in the first instance. This does not mean, Sir, that people will be compelled or encouraged to marry at 12. It does not mean that those who have received modern education and hold advanced ideas and who marry their daughters or grand-daughters at the ages of 14, 15, 16, 17 or 18 will cease to marry them at those ages and begin to marry them at 12. It only means that those many lakhs of our humble countrymen who have been marrying their girls at 4, 5, 6, 7, 8, 9, 10 or 11 will be helped to postpone the date of marriage to 12. It means that the large number of children who are likely to suffer from marriages being contracted below the age of 12 will be saved from the evils of such marriages. It means that, for the first time, the Legislature will proclaim

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to the Indian world that no marriages should take place below the age of 12. It will, therefore, be a perfectly appropriate measure to adopt in the first instance.

I may remind the House that the British Indian Government for the first time laid down the age of 10 as the age of consent in 1860. Before 1860 there was no law made by the British Government in India prescribing the age of consent. In 1860 the age of consent was fixed at 10. 31 years after that period, the Government raised the age of consent to 12, and again after a long period, in 1925, the age of consent was raised to 13. Now, Sir, in this matter of fixing the age of marriage, the Legislature ought to follow the same cautious procedure, namely, they should not fix, what in the circumstances of the country is a high age in the first instance; they should proceed cautiously. If the Legislature will fix the age at 12 on this occasion, it does not mean that the matter cannot be considered a few years later. It can be considered later when public opinion will have been better educated, when educative propaganda will have prepared the minds of the people in a better way to understand the evils arising from early marriages. The matter can certainly be considered again, but it is important that, by this first legislation fixing the age of marriage, a shock should not be caused to large sections of the community.

It may be objected, Sir, that the age of marriage and the age of consent should not be very different. I may mention that I am in favour of the age of consent recommended by the Age of Consent Committee, that is 15 years. I will support that proposal if I am here at the time when that measure comes before the House.

The age of consent being fixed by law at 15, I submit, gives stronger reason in support of the proposal which I am at present pleading for before the House. It may be said that these ages should not be different, but that is not supported by the experience of other countries. In many countries the ages of consent are much higher than the ages of marriage. With a few exceptions, the age of consent fixed by law is everywhere higher than the age of marriage. I will mention a few instances. They are to be found at page 340 of the Report of the Age of Consent Committee. For instance, in Switzerland, the age of consent varies in different cantons from 12 to 16. In France it is 13 as it is in India; in Belgium it is 15; in Germany it is 14; in Italy it is 13 as in India; in Spain it is 12; in Sweden it is between 13 and 15; in the British Dominions, New South Wales, 17; Queensland 17, Tasmania 17, Iowa 17; Indiana 16, and so on. So we find that the ages of marriage and the ages of consent fixed by law in the different countries vary and that the age of consent is fixed at a higher figure than the age of marriage. I submit that protection is given by the existing penal legislation which relates to the age of consent, to all girls up to the age of 13, and it will be given to girls up to the age of 15 if the recommendation of the Age of Consent Committee is carried, as I have no doubt it will be carried in this House. The proposal that the age of consent should be raised affords great protection and legitimate protection to all tender girls, and that protection being provided by penal legislation, there is greater reason why the age of marriage should not be fixed at too high a figure.

Sir, there are other reasons why the age of marriage should not be fixed too high. I have mentioned what ages obtain in Europe and America and other countries. I beg now to mention that in many of the Indian States which have legislated on this subject, the age of marriage has been fixed at 12 years. You will find this in the Appendix to this Report. For instance, in Indore the age of marriage for girls is 12 years; in Kotah it is 12 years; in Mysore it is 8 years; in Baroda 12 years. In Bikaner, which is not mentioned here, but about which I have information, it is 12 years also. So that you have the States of Indore, of Kotah, of Mysore, of Baroda, and of Bikaner,—all these Indian States have fixed the age of marriage at 12.... (*An Honourable Member* : "Mandi"; Last year it enacted 15. Kotah has 12 years, Rajkote has enacted 15 years for females. Baroda, my Honourable friend tells me, has accepted a higher age. I am told that Baroda has not yet accepted a higher age, but that it is under consideration to raise the age above 12. I say that Baroda has acted wisely, that Indore has acted wisely, that Bikaner has acted wisely and so also Kotah, in fixing 12 years as the marriageable age in the legislation which they have passed. And this age has stood in Baroda for many years. Therefore, I submit, in view of the totality of circumstances, with these instances of so many European countries fixing the marriageable age at 12, with so many Indian States fixing the marriageable age at 12, it is not unreasonable to ask this Legislature to fix that age at 12.

There are two classes of people who will be particularly affected by this legislation. Among a number of people the age of marriage is already above 12. They will not be affected by this legislation, but there are two classes of persons who will be. The largest class which will be affected is what we describe as the depressed classes. The other large section which will be affected is the orthodox people who believe that, according to the Shastras, it is incumbent upon them to bring about the marriage of their girls before they begin to menstruate, though the period of consummation is in these cases postponed to a much later date. First, then, to take up the depressed classes. I invite the attention of the House to the statement contained at page 27 of the Age of Consent Committee's Report. In paragraph 57, the Members of the Committee say :

"According to the Census of 1921 the Chamars (depressed class) who form 1,140,000 of a total Hindu population of 9 millions, get 175 out of every 1,000 girls married before the age of 12. The Rajputs who are nearly two millions married 98 of their girls below that age. The Kumhars with a population of 574,000 married 135 girls, the Kanets married 138 girls, the Lohars 124 girls and the Julahas 121 girls below 12. The custom of early marriage is thus seen to be more largely prevalent among the menial castes than among the higher ones."

That is with regard to the Punjab. Let us see what is stated at page 33 in regard to the Delhi Province. It is said :

"The Marwaries appear to marry their girls below 12 and the Jains after 14. As regards Muslims, it seems that their girls are married at about the age of 13 or 14. The lower classes amongst them however effect child marriages which are sometimes performed at 3, 4, 7 and 8 years of age."

That is, the lower classes amongst the Mussalmans will be affected by the change. That shows what is the state of things in the Delhi Province. Let us see now what obtains in other Provinces. In Bombay it is stated at page 37 :

"The age of puberty in the Presidency ranges from 12 to 15. The age is slightly lower for Gujerat and higher for Sindh, within these limits. The practice of *Ans*

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or *Garbhadhan* or *Ritu-shanti* generally prevails in many parts of the country and actual consummation is usually postponed till puberty. Among the lower castes, consummations before puberty are not however uncommon, in some castes."

So that there also it is the lower castes who are the victims of this custom to a great extent.

You have it stated at page 38, that :

"As education is spreading and social reform is making advance, the age of marriage is rising steadily."

But education is not spreading much among the lower castes. In the Deccan and Karnatak the same story is repeated. In the Deccan it is stated in paragraph 99:

"In rural areas, there has been a tendency for the age of marriage to rise. It appears that the depressed classes are the worst offenders in this respect. They marry their girls at the age of 2, 4 or 6. The backward classes in general effect the marriages of their girls before 10. For the remainder of the population, the average age of marriage is between 10 and 11, while the Indian Christians marry at about 14 or 16."

In Gujerat also we hear the same story. In paragraph 108 of the Report, the Committee say :

"These remarks apply more particularly to the town of Ahmedabad. Among them the marriage age does not appear to be below 13. Agricultural and artisan classes, Audich Brahmins, Ghanchies, Kunbis and Kolies marry early and so also do the lower classes of Muslims. The marriage age for the girls of these classes is anywhere between 4 and 10."

They tell you the reason for this. It is stated in paragraph 109 of the Report. It is this :

"If once a partner is offered and rejected, the panchayats ostracise the person rejecting and he stands the danger of having no offer at all in future. As a result he has to marry his daughter at an early age."

So, the custom is seated deep among the people. I submit that all these cases show that it is the depressed, the more humble and backward classes, of our people that suffer most from the evils of early marriage ; it is they who marry their girls at the age, of 3, 4, 5, 6 and 7, and that, therefore, to advance the age all at one to 14 will be a very shocking legislation to them. I submit we are not justified in inflicting such a high standard at one stroke upon those classes who have not received any education, and who are still under the governance of their caste panchayats. If we have any real sympathy with these classes we ought to proceed slowly. I am not suggesting that we should encourage them to continue marrying early. I am only pointing out that, situated as these people are, it will only be a merciful consideration to them if, in their case, the marriage age is not fixed beyond 12, at least in the first instance.

The other classes of persons who will be affected by the proposed legislation are the orthodox people, the higher caste Hindus particularly in Madras and Bengal. Now, an important fact to remember in the case of Madras particularly is that which is recorded on page 53 of the Report. The Committee say that :

"Madras is one of the provinces in which the custom of early marriage is least prevalent, a fact which may cause considerable surprise to those who have been impressed by the volume of the opposition proceeding from that part."

That applies not merely to the Brahmins and Kshatriyas, but also to the humbler classes or castes as they are unfortunately called. Even among them early marriages are seldom heard of before the age of 10. So that Madras stands in the for-

fortunate position of not being much afflicted by the evil of marriages being celebrated of girls below ten. We find there the orthodox people also following the practice of marrying their girls before the age of puberty which sets in in some cases in the twelfth year and in the largest number of cases after 12. In only 12 per cent. of cases according to an Appendix given in this Report do girls menstruate before the period of 12. In 88 per cent. of cases they menstruate after the age of 12, some in the 13th, some in the 14th and some in the 15th and some even in the 16th year. The Brahmins, the orthodox people and the higher castes, including non-Brahmins also, marry their daughters just before the age of puberty, between the ages of 10 and 12. Now, this practice has not been productive of those evil results which we all deplore in the case of marriages of tender girls in other provinces. In Madras, though the marriage ceremony is celebrated at the ages of 11, 12 and 13, the actual *gauna*, when the wife goes to live with the husband, is postponed to the age of 15 or 16. That is why, though the custom of marriages before puberty is said to prevail in Madras almost universally, the evil results of early marriages have been largely absent from the Presidency of Madras. I will read one passage in this connection. It is on page 56 of the Report. It shows what is claimed, and rightly claimed, for this custom, which obtains in Madras under which the marriage takes place before puberty, but the actual living of the husband and the wife together is postponed for a period of 3 or 5 years in some cases. Diwan Bahadur T. R. Ramachandra Aiyar, of the Madras Bar, says :

“ In the case of Brahmins, from time immemorial, for the past thousand years, marriages have continued to take place before puberty and consummations after puberty, and the Brahmin community is physically, morally, intellectually and spiritually as good as, if not better than, any other community ”.

That is a point which the Madras orthodox community press upon the attention of this House. I submit that you have to take into account the custom which has come down among them from a long time. Every system has its advantages and disadvantages. The system of late marriages prevalent in Europe and America has some advantages, but no Member sitting in this House will deny that it has its disadvantages also, which are pressing themselves more and more upon the attention of parents and guardians, of the manhood and womanhood of those countries. I think most Members of the House are aware that the disadvantages are pressing themselves very hard upon the attention of speakers, philosophers, doctors and other persons in those countries. Therefore it would not be wrong on the part of this Assembly if it hastens slowly and legislates cautiously.

If it will allow this custom of marriages about or after the age of twelve to continue and raise the age of consent to fifteen, that would afford a very solid, very substantial, very real protection to girls of tender age; but if marriages after twelve are not banned, if marriages are allowed to take place after twelve, it will enable those who believe in this custom which has come down for ages that girls should be married about the time that they attain puberty, to continue this custom with its concomitant, the postponement of the actual period of consummation for three or five years,—it will enable them to live under the custom and to continue to gain all the advantages which for ages have accrued from them. I venture to think, Sir, that if this House will consider the matter in the cold light of reason, without undue passion or feeling, it will recognise

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that this custom of marriages about the period of puberty, with the concomitant of the period of consummation being delayed for three or five years, has also a great deal to be said in its favour. I am sure all my European friends and all my Indian friends who have lived in this country are aware that, under this custom that has prevailed in Madras and in several other parts of the country, we have not had the worst evils of early marriages to complain of. I do not claim that there have been no cases of departure from the correct rule, because lapses from the right rule occur in every country, and every reasonable man will make allowance for them. But I claim with great respect and humility that this custom of marriages taking place about twelve and the *gauna* taking place at fifteen or sixteen has had its good side, that morality has not been adversely affected by it, but on the contrary has reached a high degree, that the happiness of the people, according to the experience of those who have lived under it, on the whole has been as great if not greater than under the system under which marriages take place late. I submit therefore that in their case also it is not unreasonable to ask the Legislature to show consideration for their feelings.

I also submit, Sir, that the amendment I support is prompted by an earnest desire to see that the reform which this legislation aims at should succeed. No one will dispute that for the success of such a measure carrying penal consequences with it the greatest amount of co-operation and public support is needed. I think most of my friends here will agree with me that this legislation will either be worked rigidly or will not be worked. If it is enforced rigidly, it will lead to much evil in many cases, and people will be unwilling to start prosecutions and to support them. It will be likely therefore by its very severity to fail in its object. If on the other hand the age is fixed at twelve and if the people's sympathies are enlisted, the largest measure of co-operation is likely to be secured by the educative propaganda, which the Age of Consent Committee have recommended and which I very strongly support, to be carried on throughout the country, through the panchayats and other bodies for educating the people in the evils of the present system. If we shall ask them to co-operate in popularising a moderate measure, the chances are that we shall get the largest measure of co-operation from the public. I submit, Sir, that that co-operation and public sympathy will enable us to raise the marriageable age to the extent that is desired, but if the age is fixed at fourteen, and if a man, because he has married or allowed his son or grandson or nephew or grand-nephew to be married below that age, and the man who has officiated at such a marriage, are to be prosecuted and imprisoned or fined, then the result will be that there will be a very strong agitation against the measure; and, Sir, as often happens in such cases, those who will oppose the measure will probably get more support than those who will be in favour of it. In the result, in many places it will be urged that the Legislature and the Government had interfered with the personal law of the people by this legislation. It is not a question in a case like this of a majority of people holding one view and a minority holding another view: it is a question of a personal law. If I have inherited a personal law, I am entitled not only under this Government but under all civilised Governments to be protected in the exercise of my personal law so long as it does not offend against morality, and I submit therefore that, even if

there is a large volume of public opinion in favour of the higher age of fourteen, or even of fifteen or sixteen, which some of my friends have advocated, the Legislature will not be right in the existing circumstances in laying down that age of fourteen or any higher age as the age below which a marriage will carry penal consequences. I submit, the Legislature is only justified in fixing such an age as is likely to meet with general support. We should also remember that this is not the last time that the Legislature is asked to deal with a social question like this. The Legislature, I expect, will be enlarged, and will be much more representative of the people than it is today when the further reforms come into effect a year hence or so. That Legislature which will represent all classes and communities of the people in a larger measure than this Legislature does, will be better able to take up a question like this and to amend the Act if the united sense of the representatives of the people leads them to think that it should be amended. Two years or four years or six years is not a long period in the history of a country. While we secure protection to children up to the age of twelve, the question of raising the age above twelve can, I submit, with reason be left to the discretion and sense of duty of the Legislature which will succeed this Legislature. I therefore think, Sir, that no wrong will accrue even to the cause of social reform. On the contrary, the cause of social reform stands to gain by public sympathy, by the sympathy of the largest number of people being secured in favour of this reform. That sympathy is much more likely to be secured if the age of twelve is substituted for the age of fourteen in the section which we are discussing, and for that reason I very strongly urge that the amendment of my Honourable friend Kumar Ganganand Sinha should be accepted.

Now along with this the only other matter to which I have invited attention is the need of a large measure of education. So long as the people remain steeped in ignorance as they are at present, to inflict a measure like this upon them—I submit it will be nothing but an infliction—will certainly give rise to strong feelings, and we ought to place ourselves, the Members of this Assembly, in the position of the men who will be affected by it. I have mentioned two classes, Sir, the orthodox class and the backward classes. Among the orthodox class the feeling is strong that their personal law is being interfered with. That feeling will rankle in their minds.

They will carry on agitation against it and we should not treat that agitation lightly. It is not given to any Member representing a popular constituency to say that he does not care what opinions they entertain. If he thinks so, he had better sit at home and not undertake to represent the people. Those who have undertaken to represent the people have to remember that, among those whom they represent, there are various classes and grades of people, at different stages of progress, and they ought to be tender in considering the sentiments of them all. Those who hold the orthodox belief are as genuine, as honest, as sincere, as any Member of this Assembly. We have no right to disregard their personal feelings and opinions. Those who are in the backward classes are in a much more pitiable condition. They have not received the benefit of education. To a very large extent they live in an unprotected state of society. Their rights are at present disregarded; in fact, they are supposed to possess very few rights. Therefore, if they have, according to a custom which has come down from ages, married their girls at tender ages for reasons

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which have commended themselves best to their communities, I submit that, while we are justified in asking them to raise the marriage age to a certain standard, we are not justified in proposing too high a step. It will be a very difficult thing for them to accept that high standard at once. And, Sir, bearing in mind the circumstances which exist in the country, the absence of a birth register for a number of years, the finding out of the ages of the girls will be a matter of great difficulty. The Age of Consent Committee also draw attention to this fact. In paragraph 44, page 20, they say :

"The difficulty in ascertaining the age of the girl is another impediment to the efficient working of the law. Excepting the literate classes, few people can give the correct age of the girl ; and when cases come to court, the oral evidence of the witnesses regarding age is likely to be uncertain. The registration of births, excepting in a few places, is defective, particularly in rural areas. It is not certain that all births are registered ; the name of the child does not appear in the register ; and there is no sequence of birth given regarding the particular child entered therein. All these things tend to make the ascertainment of the age of the child difficult and uncertain. No doubt, medical evidence and X-ray apparatus may help to overcome these difficulties, but doctors often differ."

They speak of the X-ray apparatus being resorted to, but even this apparatus, should the Court think it fit to subject a girl to it, does not ensure a determination of the exact age.

Now, Sir, I submit that, in view of these difficulties, a law like this which makes it penal for anybody to marry before the age fixed by law, will be very hard in its operation if it is put into effect. On the other hand, if the public sympathy is ensured and enlisted, it will be quite easy, in the course of the next few years, to get the ideas established in the minds of the people that marriages up to the age of 12 are prohibited, and that girls should not be married until they have completed their twelfth year. This, I submit, will be a great advance, and in the totality of the circumstances existing in this country, I very earnestly commend the amendment of my friend to the Members of this Assembly.

The Honourable Sir James Crerar (Home Member) : Sir, I propose to say only a very few words at this juncture in the debate in order very concisely to explain why the Government support the age proposed in the Bill. It will, of course, be quite apparent, and that obvious fact has been reflected in the discussions on this clause, that the age fixed in the Bill is a matter of the most vital importance to the Bill. The age adopted by the Select Committee was adopted after very careful consideration. Honourable Members will observe that in the Report of the Select Committee the matter was dealt with in the following terms :

"For girls we considered the ages of eleven, twelve and fourteen, and finally, came to the conclusion that we should adopt the age of fourteen. We recognise that these ages will be regarded by many people, whose opinion is entitled to great weight, as being too high ; but we also recognise that there is a strong body of opinion, particularly among those who advocate social reform, which will not willingly accept any lower age."

That opinion was confirmed in stronger words in the Report of the second Select Committee which said :

"The Committee, however, were emphatically of opinion that any such reduction would nullify the whole object of the Bill."

The same views have been strongly expressed in the report of the Age of Consent Committee after a very careful examination of the whole question.

Now, Sir, the case for reducing the age from that proposed in the Bill could not, I think, have been more persuasively or more powerfully argued than it has been argued by Pandit Madan Mohan Malaviya. I cannot follow the Honourable Pandit in his comprehensive and learned argument, and I propose to deal only with a few points which seem to me to be the salient points. The Honourable Pandit emphasised very strongly that when, for the first time, you introduce penal legislation for a thing which hitherto has been exempt from penal legislation, very great caution is necessary. Now, I submit that a very great deal of caution has been exercised in the preliminary point of the age proposed in the Bill. The Honourable Pandit, with justification, emphasised the necessity for caution for not making too precipitate an advance. That has been recognised and not only in respect of the age. I would invite the attention of the House to the fact that this consideration has been given full effect to in the nature of the penalties proposed. It has been given effect to in such provisions as that in the case of a fine inflicted under clause 3 of the Bill, the Court shall not be empowered to impose imprisonment as an alternative penalty. In particular, it has been recognised in the careful provisions regarding the jurisdiction of the Courts which shall have power to deal with these cases. It has been recognised in the very strict provision for preliminary inquiry, and so forth. The Criticism has, indeed, been made in many quarters that these safeguards are so extreme that they will go a great way to make the Bill ineffective. I am not prepared to accept that conclusion myself, but I do think it is a very strong indication that the Honourable Pandit's point for the necessity of caution in the introduction of penal legislation has been very fully considered and been very effectively carried out. (Applause.) Another point on which the Honourable Pandit laid emphasis was the long intervals at which the age of consent has been modified in the Indian Penal Code, from 1860 to 1925. That, Sir, is perfectly true. It is perfectly true and I think the Honourable and learned Pandit is aware that that very fact has been the ground of very strong attacks upon the Government. I, myself, have been an advocate, and incurred much criticism therefor, of caution. But I do not think that, having regard to the present state of public opinion in India—I do not suppose the Honourable Pandit himself would argue that—the long intervals which have occurred in the past ought in future to be interposed between the various stages of the promotion of social reform by legislation. I would suggest,—it is at any rate my own view of the matter,—that, even in the course of the last four or five years, there has been so material a change in public opinion, so great an awakening of the public conscience in these matters, that, realising as we must, that in order to bring legislation of this kind into full practical effect, there must be a large body of public opinion behind it—I would suggest that during the last four or five years, there has been a sufficient awakening of the public conscience, a sufficient advance in public opinion to justify the Honourable Mover of this Bill in asking the House to accept his proposed legislation. I do not desire to detain the House at any further length. The issues which have been raised on this particular point of the age to be accepted in the Bill have been discussed at very great length, and I restrict myself,

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as I say, to touching on only one or two salient points which persuade me at any rate that it would be unwise to change the quite avowed compromise which finds its place in the Bill as it stands.

Several Honourable Members : The question may be now put.

Mr. President : The question is :

“ That the question be now put ”.

The motion was adopted.

Rai Sahib Harbilas Sarda (Ajmer-Merwara : General) : Sir, I should like to say a few words in reply. If you think it is not necessary, I shall sit down.

Mr. President : The Honourable Member is entitled to say whether he supports the amendments or opposes them.

Mr. Amar Nath Dutt (Burdwan Division : Non-Muhammadan Rural) : What becomes of my amendment ? I support it.

Rai Sahib Harbilas Sarda : I am opposing all the amendments. While I appreciate the motives, which the Honourable Members who have tabled these amendments have in their minds, while I am perfectly convinced that they think that it is in the best interests of the community that they propose these amendments, I am very sorry that I am unable to accept any of these amendments.

Mr. President : The question is :

“ In clause 2 (a), for the word ‘ fourteen ’ the word ‘ eleven ’ be substituted ”.

The Assembly divided :

AYES—2.

Ayyangar, Mr. M. S. Sessa.

| Dutt, Mr. Amar Nath.

NOES—72.

Abdul Aziz, Khan Bahadur Mian.
Abdul Haye, Mr.
Ayyangar, Mr. V. K. Aravamudha.
Bajpai, Mr. R. S.
Bhargava, Pandit Thakur Das.
Birla, Mr. Ghanshyam Das.
Booth, Mr. J. R. T.
Bower, Mr. E. H. M.
Chalmers, Mr. T. A.
Chaman Lall, Diwan.
Chatterjee, The Revd. J. C.
Chunder, Mr. N. C.
Cosgrave, Mr. W. A.
Covernton, Mr. S. H.
Crerar, The Honourable Sir James.
Ferrera, Mr. V. M.
French, Mr. J. C.
Ghazanfar Ali Khan, Mr.
Gidney, Lieut.-Colonel H. A. J.
Haji, Mr. Sarabhai Nemchand.
Hans Raj, Lala.
Hira Singh, Brar, Sardar Bahadur,
Honorary Captain.
Iyengar, Mr. A. Rangaswami.
Jannadass, Seth.
Jawahar Singh, Sardar Bahadur Sardar.
Jayakar, Mr. M. R.
Jogiah, Mr. V. V.
Keane, Mr. M.
Kelkar, Mr. N. C.
Kidwai, Mr. Rafi Ahmad.
Kunzru, Pandit Hirday Nath.

Lalehand Navalrai, Mr.
Lindsay, Sir Darcy.
Mehta, Mr. Jannadas, M.
Misra, Mr. Dwarka Prasad.
Mitra, Mr. S. C.
Mitra, The Honourable Sir Bhupendra
Nath.
Mitter, The Honourable Sir Brojendra.
Mody, Mr. H. P.
Moonje, Dr. B. S.
Mukharji, Rai Bahadur A. K.
Mukhtar Singh, Mr.
Mulla, Dr. D. F.
Nehru, Pandit Motilal.
Noyce, Sir Frank.
Pai, Mr. A. Upendra.
Pandya, Mr. Vidya Sagar.
Philip, Mr. J. Y.
Porter, Lieut.-Colonel L. L.
Price, Mr. E. L.
Rainy, The Honourable Sir George.
Rang Behari Lal, Lala.
Rao, Mr. G. Sarvotham.
Rau, Mr. P. R.
Roy, Mr. K. C.
Roy, Mr. S. N.
Sarda, Rai Sahib Harbilas.
Sarma, Mr. B. S.
Schuster, The Honourable Sir George.
Shah Nawaz, Mian Mohammad.
Siddiqi, Mr. Abdul Qadir.
Singh, Mr. Gaya Prasad.

NOES 72—*contd.*

Singh, Mr. Narayan Prasad.
 Singh, Rai Bahadur S. N.
 Sinha, Mr. Siddheswar Prasad.
 Stevenson, Mr. H. L.
 Stewart-Smith, Mr. D. C.

Sykes, Mr. E. F.
 Tin Tut, Mr.
 Tottenham, Mr. G. R. F.
 Winterbotham, Mr. G. L.
 Yusuf Imam, Mr.

The motion was negatived.

Mr. President : The question is :

“ That in clause 2 (a) of the Bill for the word ‘ fourteen ’ the word ‘ twelve ’ be substituted ”.

The Assembly divided :

AYES—19.

Acharya, Mr. M. K.
 Ayyangar, Mr. M. S. Seshu.
 Das, Mr. B.
 Das, Pandit Nilakantha.
 Dutt, Mr. Amar Nath.
 Ghaznavi, Mr. A. H.
 Jannadass, Seth.
 Jogiah, Mr. V. V.
 Kelkar, Mr. N. C.
 Lahiri Chaudhury, Mr. D. K.

Malaviya, Pandit Madan Mohan.
 Misra, Mr. Dwarka Prasad.
 Mohammad Ismail Khan, Haji
 Chaudhury.
 Moonje, Dr. B. S.
 Naidu, Mr. B. P.
 Neogy, Mr. K. C.
 Singh, Mr. Gaya Prasad.
 Sinha, Kumar Ganganand.
 Sinha, Mr. Rajivarajan Prasad.

NOES—68.

Abdul Aziz, Khan Bahadur Mian.
 Abdul Haye, Mr.
 Ayyangar, Mr. V. K. Aravamudha.
 Bajpai, Mr. R. S.
 Belvi, Mr. D. V.
 Bhargava, Pandit Thakur Das.
 Birla, Mr. Ghanshyam Das.
 Booth, Mr. J. R. T.
 Bower, Mr. E. H. M.
 Chalmers, Mr. T. A.
 Chaman Lall, Diwan.
 Chatterjee, The Revd. J. C.
 Chunder, Mr. N. C.
 Congrave, Mr. W. A.
 Covernton, Mr. S. H.
 Crerar, The Honourable Sir James.
 Ferrera, Mr. V. M.
 French, Mr. J. C.
 Ghazanfar Ali Khan, Mr.
 Gidney, Lieut.-Colonel H. A. J.
 Haji, Mr. Sarabhai Nemchand.
 Hans Raj, Lala.
 Hira Singh, Brar, Sardar Bahadur,
 Honorary Captain.
 Iyengar, Mr. A. Rangaswami.
 Jawahar Singh, Sardar Bahadur Sardar.
 Jayakar, Mr. M. R.
 Kartar Singh, Sardar.
 Keane, Mr. M.
 Kidwai, Mr. Rafi Ahmad.
 Kunzru, Pandit Hirday Nath.
 Lalchand Navalrai, Mr.
 Lindsay, Sir Darcy.
 Mahta, Mr. Jannadas M.
 Mitra, Mr. S. C.

Mitra, The Honourable Sir Bhupendra
 Nath.
 Mitter, The Honourable Sir Brojendra.
 Mody, Mr. H. P.
 Mukharji, Rai Bahadur A. K.
 Mukhtar Singh, Mr.
 Mulla, Mr. D. F.
 Nehru, Pandit Motilal.
 Noyce, Sir Frank.
 Pai, Mr. A. Upendra.
 Pandya, Mr. Vidya Sagar.
 Philip, Mr. J. Y.
 Porter, Lieut.-Colonel L. L.
 Price, Mr. E. L.
 Rainy, The Honourable Sir George.
 Rang Behari Lal, Lala.
 Rao, Mr. G. Sarvotham.
 Rau, Mr. P. R.
 Roy, Mr. K. C.
 Roy, Mr. S. N.
 Sarda, Rai Sahib Harbilas.
 Sarma, Mr. R. S.
 Schuster, The Honourable Sir George.
 Shah Nawaz, Mian Mohammad.
 Siddiqi, Mr. Abdul Qadir.
 Singh, Mr. Narayan Prasad.
 Singh, Rai Bahadur S. N.
 Sinha, Mr. Siddheswar Prasad.
 Stevenson, Mr. H. L.
 Stewart-Smith, Mr. D. C.
 Sykes, Mr. E. F.
 Tin Tut, Mr.
 Tottenham, Mr. G. R. F.
 Winterbotham, Mr. G. L.
 Yusuf Imam, Mr.

The motion was negatived.

Mr. President : The question is :

“ That in clause 2 (a) of the Bill, for the word ‘ fourteen ’ the word ‘ thirteen ’ be substituted.”

The motion was negatived.

Mr. President : The question is :

“ That in clause 2 (a) of the Bill, for the word ‘ fourteen ’ the word ‘ sixteen ’ be substituted ”.

The motion was negatived.

Mr. President : We now come back to the original motion. The question is :

“ That clause 2 stand part of the Bill ”.

Mr. M. K. Acharya (South Arcot *cum* Chingleput : Non-Muhamadan Rural) : Sir, I beg to move the following amendment :

“ That for sub-clause (b) of clause 2 of the Bill the following be substituted :

‘ child marriage ’ means the lawful living together under some recognised ceremony or declaration, as man and wife of parties of whom either is a ‘ child ’, but does not include the marriage sacrament as distinct from consummation of a girl not under ten years of age ’.”

I consider it may duty to place this definitely before the House. The House has just accepted the age of fourteen as the minimum statutory age of marriage and I consider that it is the duty of this House to define what exactly is meant by marriage, because whatever may be the case in other countries, here we do understand the word marriage in more senses than one. In the Madras Presidency to which I have the honour to belong, we generally, especially the Hindus, mean by the word marriage what we call in Sanskrit the *Vivaha Samskara* or the sacrament of marriage, and the marriage is not followed by consummation for a number of years. Therefore it would be quite open to say that a girl is married or had her marriage performed at 12 or 13 ; while another may say that the girl was not married at 12 or 13, but only had her marriage sacrament or *Vivaha Samskara* performed at that age. Therefore, Sir, instead of going to the law courts, and leaving it to the Judge to decide what the meaning of marriage is, I think it is better to decide here once and for all what marriage means ; and my own humble submission is that marriage means some ceremony on or immediately after that date leading to the lawful living together as man and wife of parties either of whom is a child, but should not include the marriage sacrament as distinct from consummation ; and if that be so defined I would submit that marriage sacrament as a sacrament must be exempted ; and my submission is for two reasons : firstly, and I attach the greatest weight to that reason and I beg of all Honourable Members of this House to give their most serious consideration to it, this House has no right, this Government has no right, absolutely no right whatever to interfere in the religious sacrament of any class of His Majesty's subjects ; the sacrament may be sane or insane according to the view of some ; but in the sacramental portion of it, in the religious portion of it, neither Government nor this House has any right to interfere ; and if I or the community to which I belong are so stupid as to follow a bad custom, it is open to others to go and persuade us to go back on it ; but this House and the Government cannot legislatively, through a penal law, tell that community that they have no right to follow a certain sacrament. That, Sir, is my first and strongest reason, that this Government or this House has no right to interfere with a purely religious sacramental portion of marriage as performed by a Muhammadan, Hindu, Christian or any other subject of His Majesty. Secondly, on what I call the rational ground, even if this Government or this House had the right, which they

have not at present, I would ask them to consider that the sacrament of marriage, the sacred bond being created between a girl of 11 or 12, a short time before she attains her puberty, which is the first time which determines her fitness for wifehood or motherhood, a little time before that the girl being brought into holy wedlock with a boy of 17, 18 or 20, and the two being made to live together, is too sacred an ideal. Again, the scientific opinion, so far as I have been able to gather it as expressed by first rate European and American scientists, goes to prove that early puberty consummation is the healthiest for the individuals, and the most productive for the society and the community and the race. It is held by great scientists that there should be early puberty consummation, and I would put the age as between 14 and 16 for the girl and 20 or 25 for the boy. It must be preceded by a period of two or three years when the Shiva and Shakti must grow and the two become united to form one ideal couple until the girl is 15 or 16 and the boy is 22 or 23, these two forming the ideal couple, that should never be penalised. I hope, Sir, that nobody in this House will say that that man is a criminal and should be sent to jail who says that his daughter and son-in-law should grow the highest ideal of marriage. Sir, we are fighting for great ideals,—I do not want to make a long speech, because I know I am not a *persona grata* with this House,—I know it. Therefore, on the two grounds that I have mentioned, the definition of child marriage should not be left in ambiguous state. It is good to have giant's strength, but it is very bad to use it. Let there be no widows before 10, let there be no connection between 14 which result in numerous evils like early wifehood and so forth which I greatly deplore as much as anybody else. But let us not penalise the ideal. If I am incapable of protecting my property, it cannot be said that I should not own property. I must take every possible care to protect my property, but because there are difficulties in protecting it, it should not be said that I must have no property. Similarly, since there are difficulties in the way, it cannot be said that there should be no ideal. Therefore, Sir, on these two grounds the definition of child marriage should not be left to the sweet mercies of the Judges before whom the case goes to be asked to interpret in any way they like. Instead of leaving it at that stage, we ought to define what child marriage is, and in defining it I would beg of the House to take into consideration what I would call the worldly aspect of it, but they should not interfere with the religious aspect of it. I claim that we have a right to say that a girl before 13 or 14 should not be admitted to live with her husband. That right I claim we have, but we have not got the right to say that there must be no sacrament.....

Pandit Thakur Das Bhargava (Ambala Division : Non-Muhammadan) : You claim the right to make widows before 14.

Mr. M. K. Acharya : I make no widows, I make none. Therefore, Sir, I would place my amendment before the House for its very careful and serious consideration, and here let me warn the Government that they should not interfere with the sacred and religious aspect of our national life, and if they do so, they will have to take the consequences. I give them this warning.

Mr. Lalchand Navalrai (Sind : Non-Muhammadan Rural) : Sir, I oppose this amendment. After our having fixed the marriageable age

[Mr. Lalchand Navalrai.]

at 14, it appears to me that there is no ambiguity or any difficulty in understanding the word "marriage". I do not understand what my friend really means when he says that there is some ambiguity or difficulty in understanding the meaning of the word marriage in sub-clause (b) to clause 2. That marriage is a sacrament there is no doubt, and it is known to everybody what marriage is. A Brahmin comes and utters some *mantras* and there is the *Sapthapathi* performed. That is how marriage is performed even in Madras, I believe. It is said that in Madras there is a custom that, after the marriage takes place, the bride is kept in the house of the father and she is given away after two or three years or at some time which is mutually arranged by performing some ceremony. Therefore, everybody understands what is meant by marriage, and when only the sending of the girl to her husband's house is postponed, or in other words, when consummation is postponed even if some other ceremony has yet to be performed, it can not be said that no marriage has taken place. But, Sir, that custom is also dwindling down in Madras and there does not seem to be any necessity for defining the word "marriage". Sir, I will refer for a moment to what the Age of Consent Committee say at page 54 in this connection about Madras :

"Pre-puberty consummations are not common in this province. Such cases do occur among the early marrying communities. The practice of consummation soon after puberty is however extensively prevalent among them. Witnesses have spoken of their being postponed to 6 months or even a year, but from a careful consideration of the evidence, it is clear that this healthy practice is confined only to a few families."

Therefore, I say, the custom apart, even in Madras no difficulty will arise in understanding what marriage means. For these reasons, I would without taking any more time, ask the House to reject the amendment.

Maulvi Muhammad Yakub (Rohilkund and Kumaon Divisions : Muhammedan Rural) : I move, Sir, that the question be now put.

The motion was adopted.

Mr. President : The question is :

"That for sub-clause (b) of clause 2 of the Bill the following be substituted :

'child marriage' means the lawful living together under some recognised ceremony or declaration, as man and wife of parties of whom either is a 'child', but does not include the marriage sacrament as distinct from consummation of a girl not under ten years of age'."

The Assembly divided :

AYES—7.

Acharya, Mr. M. K.
Ayyangar, Mr. M. S. Sessa.
Badi-uz-Zaman, Maulvi.
Dutt, Mr. Amar Nath.

Ghuznavi, Mr. A. H.
Mohammad Iemal Khan, Haji
Chaudhury.
Shafee Daoodi, Maulvi Mohammad.

NOES—49.

Abdul Aziz, Khan Bahadur Mian.
Ayyangar, Mr. V. K. Aravamudha.
Bajpai, Mr. R. S.
Bhargava, Pandit Thakar Das.
Birla, Mr. Ghanshyam Das.
Booth, Mr. J. R. T.
Bower, Mr. E. H. M.
Chalmers, Mr. T. A.
Chaman Lall, Diwan.
Chatterjee, The Revd. J. C.

Chunder, Mr. N. C.
Cosgrave, Mr. W. A.
Covernton, Mr. S. H.
Crerar, The Honourable Sir James.
Ferrals, Mr. V. M.
Ghazanfar Ali Khan, Mr.
Gidney, Lieut.-Colonel H. A. J.
Haji, Mr. Sarabhai Nemchand.
Hans Raj, Lala.
Hira Singh, Brar, Sardar Bahadur,
Honorary Captain.

NOES—69—contd.

Iyengar, Mr. A. Rangaswami.
 Jawahar Singh, Sardar Bahadur Sardar.
 Jayakar, Mr. M. B.
 Jogiah, Mr. V. V.
 Kartar Singh, Sardar.
 Keano, Mr. M.
 Kidwai, Mr. Rafi Ahmad.
 Kunzru, Pandit Hirday Nath.
 Lalchand Navalrai, Mr.
 Lindsay, Sir Darcy.
 Mehta, Mr. Jannadas M.
 Misra, Mr. Dwarka Prasad.
 Mitra, Mr. S. C.
 Mitra, The Honourable Sir Bhupendra Nath.
 Mitter, The Honourable Sir Brojendra.
 Mody, Mr. H. P.
 Moonje, Dr. B. S.
 Mukharji, Rai Bahadur A. K.
 Mukhtar Singh, Mr.
 Mulla, Mr. D. F.
 Munshi, Mr. Jehangir K.
 Nehru, Pandit Motilal.
 Noyce, Sir Frank.
 Pai, Mr. A. Upendra.

Pandya, Mr. Vidya Sagar.
 Philip, Mr. J. Y.
 Price, Mr. E. L.
 Rainy, The Honourable Sir George.
 Rang Behari Lal, Lala.
 Rao, Mr. G. Sarvotham.
 Rau, Mr. P. R.
 Roy, Mr. K. C.
 Roy, Mr. S. N.
 Sarda, Rai Sahib Harbilas.
 Sarma, Mr. R. S.
 Schuster, The Honourable Sir George.
 Shah Nawaz, Mian Mohammad.
 Siddiqi, Mr. Abdul Qadir.
 Singh, Mr. Gaya Prasad.
 Singh, Mr. Narayan Prasad.
 Singh, Rai Bahadur S. N.
 Sinha, Mr. Siddheswar Prasad.
 Stevenson, Mr. H. L.
 Stewart-Smith, Mr. D. C.
 Sykes, Mr. E. F.
 Tin Tut, Mr.
 Tottenham, Mr. G. R. F.
 Winterbotham, Mr. G. L.
 Yusuf Imarh, Mr.

The motion was negatived.

The Assembly then adjourned for Lunch till a Quarter to Three of the Clock.

The Assembly re-assembled after Lunch at a Quarter to Three of the Clock, Mr. President in the Chair.

Mr. President : Mr. Yamin Khan.

(The Honourable Member was absent.)

Mr. President : Mr. Das.

Mr. B. Das (Orissa Division : Non-Muhammadan) : I beg to move the amendment standing in my name :

“ That to clause 2 of the Bill the following be added :

‘ (e) ‘ widower ’ means a male who has lost his wedded wife by death ’.

(f) ‘ widow ’ means a female who has lost her wedded husband by death ’.”

This amendment is a consequential amendment to the amendment to clause 4 of which I have given notice and I hope Honourable gentlemen who seem to be in a reforming spirit will accept that amendment to clause 4 when I move it. This amendment.....

Mr. President : The best course for the Honourable Member is to move his amendment when clause 4 is reached.

Mr. B. Das : I will accept that and I shall move it if you give me permission then.

Mr. M. S. Sesha Ayyangar (Madura and Ramnad cum Tinnevely : Non-Muhammadan Rural) : I beg to move :

“ That to clause 2 the following be added at the end :

‘ The affidavits of the parents or the guardian or respectable relations of the child, male or female, will be *prima facie* evidence of the age of the child in question ’.”

[Mr. M. S. Sesha Ayyangar.]

This amendment only provides for the machinery of ascertaining the real age of the child in question whenever there is unfortunately a prosecution coming up. Medical experts are clear on the point that it is difficult to fix, with any amount of certainty, the ages between 11 to 16 or 17. This House, having accepted the age of 14, in the case of the girl and the age of 18 in the case of the boy, it becomes really difficult in a prosecution to ascertain with any amount of certainty the ages of the parties concerned. Unfortunately this Bill also provides for the arraigning as accused of those persons who are most competent to speak to the age of the child in question. The parents and guardians will be arraigned as accused in cases laid under this Bill; and it is a well-known principle of criminal jurisprudence that persons arraigned as accused cannot be examined on oath; and the best available testimony would be only the affidavit of the parent or guardian. Now, there might be cases where very respectable relations of the child in question happen to be officials in Simla for instance. It might be very undesirable and perhaps inexpedient to drag them from the giddy heights of Simla to a Court somewhere in Tinnevely and to examine them in the course of the prosecution. In that case, the very position that they occupy in Simla would be *prima facie* warrant for accepting their affidavits as evidence of the age of the child in question. This would obviate the necessity for examining them on oath. So far as the first two classes are concerned, they are precluded from being examined on oath under the Criminal Procedure Code. So far as the third category of persons is concerned, if they happen to be far away and outside the jurisdiction of the Court, in such cases, the affidavits of those persons should be *prima facie* evidence as to the age of the child in question. That is why I say, "respectable relations of the child, male or female". I hope the amendment will be acceptable to the House.

The motion was negatived.

Mr. M. S. Sesha Ayyangar : Sir, I move :

"That to clause 2 of the Bill the following be added :

'The solemnisation of marriage as distinct from consummation, of any girl below fourteen years of age shall not be deemed to be child marriage as defined above.'

Sir, a part of this amendment was covered by Amendment No. 24 moved by Mr. Acharya. But there is another category of cases which is outside the operation of that amendment and that is why I am moving this. In moving this amendment, the same reasoning is adopted, but I would submit a few words. This would afford a reasonable reconciliation of the two opposite schools of thought on this question; and I was wondering as to why it was that the Honourable Mover of this Bill was so insistent upon his Bill, and I find.....

Rai Sahib Harbilas Sarda : On a point of order, Sir.

Mr. President : I have already allowed Mr. Sesha Ayyangar to move this amendment.

Mr. M. S. Sesha Ayyangar : In paragraph 76 of the Age of Consent Committee's Report, as regards the practice that prevails in Ajmer-Merwara, wherefrom the Honourable Mover hails, I find that, soon after marriage is performed, it is a common practice there to lock up the husband

and the wife in a room for a night. That no doubt leads to very abnormal and very undesirable results. Being accustomed to that sort of thing in his own place, I thought the Honourable Member was very keen on passing this Bill. But so far as Madras, wherefrom I come, is concerned, I may tell the House that the consummation ceremony is entirely distinct from the marriage sacrament or the betrothal or *kanyadhanam* as it is called. This fact is borne out by the Report of the Age of Consent Committee itself. In Madras, Sir, we have got a very healthy state of things and that is testified to by the Report of the Committee itself. We are entirely free there from the custom of pre-pubertal congress of the bride and the bridegroom before they are scientifically and medically fit to submit themselves to that operation; and this fact has been commented upon by my Honourable friend and leader Pandit Madan Mohan Malaviya this morning. Having fixed the age at 14, I hope the House will take to this amendment kindly and allow it to be passed. That would certainly conciliate a very large section of orthodox opinion which I have the privilege to represent in this House. Sir, in this connection I have to correct a certain statement made by the Honourable the Home Member when he said that he had really behind him the greater section of the people, when he supported this Bill. I would only refer him to one of the opinions which he has got in his hand; I refer to page 61 of Paper No. 3, in which the Collector of Madras has given his opinion. I am only reading, with your permission, two sentences from this:

"I find that not only orthodox and conservative communities object with all the force of which they are capable to the Bill, but moderate enlightened opinion is equally opposed to the root principle of the Bill. Those who have replied (Muslims of Labhai and Rowthar persuasion) also object strongly to the Bill on principle. The proposal for legislation to restrict the marriageable age of boys and girls emanates from a small band of social reformers who to my mind are long ahead of their time and clearly command no genuine following. The possible bad results of the existing system are a far less evil than the vital shock that a reform on these lines would give to the religious conscience of practically the whole of India."

Sir, I submit therefore that at least, so far as Madras is concerned, the mass mind is opposed to this Bill, and the best way of making this Bill workable and of conciliating the orthodox section, would be to accept this amendment which would make the Bill proceed with the least resistance.

The motion was negatived.

Clause 2 was added to the Bill.

Mr. President: The question is:

"That clause 3 stand part of the Bill."

Mr. M. S. Sesha Ayyangar: Sir, I beg to move:

"That for clause 3 of the Bill the following be substituted:

'Whoever, being a male above eighteen years of age and below twenty-one, knowingly contracts marriage (a) with a girl aged less than ten shall be punishable with fine which may extend to five hundred rupees, (b) with a girl aged between ten and fourteen shall be punishable with fine which may extend to one hundred rupees.'

Sir, in moving this amendment I have virtually adopted the opinion of the House in having fixed the age at fourteen, but I have tried to discriminate by this amendment between two classes of cases. One is, where the girl is aged less than ten. In that case no doubt it requires a heavier punishment than the one which the House would be inclined to give to persons who may marry girls between ten and fourteen, which is less

[Mr. M. S. Sesha Ayyangar.]

heinous. I want, with the permission of the House, to make some differential treatment between these two classes of cases. One no doubt is a gross case of misbehaviour, but the other is not so heinous, and therefore it is that I propose differential treatment, because it is a question of the offences varying only in matters of degree and there is also one other merit. The second portion of my amendment seeks to produce an excellent educative value also, if you want to make this Bill popular ; for example, making it punishable with a lenient punishment would have an educative value which would go far towards conciliating that class of people by dealing with them, in the initial stages of the operation of this Bill, in a sympathetic manner, dealing with them leniently. It is therefore that I move this amendment.

The motion was negatived.

Mr. Amar Nath Dutt : Sir, I move :

“ That in clause 3 of the Bill, the words ‘ being a male above eighteen years of age and below twenty-one ’ be omitted ”.

I think it is useless to adduce any argument here in this House, constituted as it is. If we are to take a census of the men that come here as representatives of the people, we will find that no less than 40 are nominated, and of the remaining 104 more than 40 belong to communities other than the great Hindu community.

Mr. President : Will you kindly come to the amendment ?

Mr. Amar Nath Dutt : The majority of the Members are not Hindus, but if you take into account, the number of Hindus and the number of Muhammadans opposed to this Bill, you will find the number to be higher than the supporters and that most of the supporters who style themselves Hindus have no place in Hindu society.

Mr. President : Including yourself ?

Mr. Amar Nath Dutt : No, Sir, certainly not.

Mr. President : You had better come to the amendment.

Mr. Amar Nath Dutt : Sir, I move my amendment, as it is my duty to move it.

The motion was negatived.

Mr. D. V. Belvi (Bombay Southern Division : Non-Muhammadan Rural) : Sir, the amendment which I wish to move runs as follows :

“ That in clause 3 of the Bill for the words ‘ and below twenty-one ’, the word ‘ knowingly ’ be substituted ”.

Now every criminal lawyer will admit that it is necessary in a criminal case to prove the element of intention. A young man may perhaps be led into marrying a girl, without knowing that she was less than the prescribed age. In such a case there would be no offence, but in order to make the law precise and clear I move my amendment so that, if a man commits

the offence knowingly, wilfully, and deliberately, then only he should be punished. That, Sir, is the main reason I urge in support of my amendment.

Mr. M. S. Aney (Berar Representative) : Sir, I think the House will perhaps see the reasonableness of the amendment

3 P.M.

which my Honourable friend, Mr. Belvi, has moved. Just consider the position, Sir, of the boys who are to be married. Most of them are in colleges learning somewhere, and marriages for them are settled by their parents. The boy has to accept the age of the girl with whom he is to be married and all other information given to him either by his parents or by somebody else. It may be that the girl may not be of the age which is required by this law, and yet this boy may believe or may take that information to be true. Under these circumstances, unless there is the word "knowingly" there is every danger that the boy will be run in for an offence which he never meant to commit and which he has never intended to commit. To obviate that difficulty and unnecessary prosecution of the boy, this amendment has been moved. I believe the Honourable Mr. Belvi's suggestion will receive careful consideration at the hands of those who want this law to be reasonably administered and to be reasonably understood also. Sir, I support the amendment.

Mr. President : Will Mr. Kelkar move his amendment ?

Mr. N. C. Kelkar (Bombay Central Division : Non-Muhammadan Rural) : Yes, Sir. I beg to move :

"That in clause 3 of the Bill after the words 'twenty-one' the words 'knowingly or having reason to believe' be inserted".

Sir, Mr. Belvi's amendment is confined to the word knowingly, and my amendment takes the matter a little further.

The question involved here is a matter of jurisprudence. The prosecution ought to take upon itself the burden of proving that the boy who contracts child marriage must know, in the first instance, that he is doing so. But it will sometimes be difficult for the prosecution to prove that the boy had a positive knowledge that he was contracting child marriage. Therefore, I am making it a little more easy for the prosecution to prove by circumstantial evidence, if not by positive knowledge, that the boy knew that he was contracting a child marriage. It may be sometimes difficult to prove positive knowledge, but it may not be so difficult to prove the circumstances by which it can be brought home to the boy and to the conviction of the Court that the boy had good grounds to believe that he was contracting a child marriage. My amendment, therefore, carries the matter a little beyond Mr. Belvi's amendment and gives the prosecution one more chance to do the same thing by proving, by circumstantial evidence, that the boy knew that he was contracting a child marriage. I think it is an elementary principle of jurisprudence and the burden of proof must be borne by the prosecution itself. Therefore I have inserted the words, "knowingly or having reason to believe".

Mr. E. L. Price : It does not make English.

Mr. N. C. Kelkar : The accuracy of English is left to you, the English people ; we are not concerned with it. It is quite enough for our purpose if we make our meaning quite clear. I will leave the matter there. Everybody knows what I mean by my amendment. I hope the House will not ride

[Mr. N. C. Kelkar.]

rough-shod over these minor amendments and will be in a mood to accept at least this amendment.

Mr. Gaya Prasad Singh (Muzaffarpur cum Champaran : Non-Muhammadan) : Sir, I also wish to support this amendment of Mr. Belvi. I prefer the amendment of Mr. Belvi to the amendment of Mr. Kelkar.

Mr. President : The Honourable Member opposes the amendment of Mr. Kelkar and supports the amendment of Mr. Belvi.

Mr. Gaya Prasad Singh : Yes, Sir. I support the amendment of Mr. Belvi because I think it is preferable to the amendment of Mr. Kelkar. My reasons for doing so are that the circumstances in which most of our boys are married are such that there must be some safeguards left in order to protect them from the operation of this clause. Some of the students are, at the time of their marriage, reading in schools and colleges and in most of such cases their parents or their guardians arrange marriage on their behalf and it is not possible for the boys to know exactly the age of the girls. So, if a safeguard is inserted here, it will be statutory, and put upon the prosecution the onus of proving that the boy "knowingly" contracted a child marriage, and that he knew the age of the girl. It is very necessary to put in a safeguard like that, and I do not think my Honourable friend, Rai Sahib Harbilas Sarda, or the Government will have any objection to putting a clause like that.

Mr. President : How do you know ?

The Honourable Sir James Orerar : Sir, I have only one or two words to say in regard to these amendments. In the first instance, with regard to Mr. Kelkar's amendment, I share the difficulty which has been felt in some quarters of the House as to what the words "knowingly or having reason to believe" refer to. It seems to me that it hangs entirely in the air and it would be a very difficult matter for construction. Apart from that, when we come to the question of the insertion of the word "knowingly", I feel myself that, in the circumstances of each case, in regard to any person who comes into a court on a charge under this Bill, the burden of proof should lie upon him.

Mr. E. L. Price : Hear, hear.

Mr. Amar Nath Dutt : Is the Honourable the Home Member aware, that bridegrooms generally are not allowed to see the bride till after the marriage ? That is the social custom of the orthodox Hindus at least, who have not gone out of the pale of orthodoxy.

Rai Sahib Harbilas Sarda : I am sorry, Sir, I cannot accept these amendments. I cannot accept Mr. Kelkar's amendment because it throws on the prosecution the impossible burden of proving whether the accused "knowingly" did it or whether he had reason to believe it. Consequently, I cannot accept it.

Mr. President : The question is :

"That in clause 3 of the Bill after the words 'twenty-one' the words 'knowingly or having reason to believe' be inserted".

The motion was negatived.

Mr. President : The question is :

“ That in clause 3 of the Bill for the words ‘ and below twenty-one ’, the word ‘ knowingly ’ be substituted.”

The Assembly divided :

AYES—21.

Aney, Mr. M. S.
Anwar-ul-Azim, Mr.
Ayyangar, Mr. M. F. Sesha.
Belvi, Mr. D. V.
Das, Mr. B.
Das, Pandit Nilakantha.
Dutt, Mr. Amar Nath.
Ghuznavi, Mr. A. H.
Iyengar, Mr. A. Rangaswami.
Jamaadas, Seth.
Jogiah, Mr. V. V.

Kelkar, Mr. N. C.
Mohammad Ismail Khan, Haji
Chaudhury.
Mukhtar Singh, Mr.
Murtuza Sahab Bahadur, Maulvi Sayyid
Naidu, Mr. B. P.
Neogy, Mr. K. C.
Singh, Mr. Gaya Prasad.
Sinha, Kumar Ganganand.
Sinha, Mr. Rajivaranjan Prasad.
Sinha, Mr. Siddheswar Prasad.

NOES—58.

Abdul Aziz, Khan Bahadur Mian.
Ayyangar, Mr. V. K. Aravamudhu.
Bajpai, Mr. R. S.
Bhargava, Pandit Thakur Das.
Birla, Mr. Ghanshyam Das.
Booth, Mr. J. R. T.
Bower, Mr. E. H. M.
Chalmers, Mr. T. A.
Chaman Lall, Diwan.
Chatterjee, The Revd. J. C.
Chunder, Mr. N. C.
Cosgrave, Mr. W. A.
Covernton, Mr. S. H.
Crerar, The Honourable Sir James.
Ferrers, Mr. V. M.
French, Mr. J. O.
Ghazanfar Ali Khan, Mr.
Gidney, Lieut.-Colonel H. A. J.
Haji, Mr. Sarabhai Nemchand.
Hans Raj, Lala.
Hira Singh, Brar, Sardar Bahadur,
Honorary Captain.
Jawahar Singh, Sardar Bahadur Sardar.
Jayakar, Mr. M. R.
Jinnah, Mr. M. A.
Kartar Singh, Sardar.
Keane, Mr. M.
Lalchand Navalrai, Mr.
Lindsay, Sir Darcy.
Mehta, Mr. Jamnadas M.

Mitra, The Honourable Sir Bhupendra
Nath.
Mitter, The Honourable Sir Brojendra.
Mody, Mr. H. P.
Mukharji, Rai Bahadur A. K.
Munshi, Mr. Jehangir K.
Nehru, Pandit Motilal.
Noyce, Sir Frank.
Pal, Mr. A. Upendra.
Pandya, Mr. Vidya Sagar.
Philip, Mr. J. Y.
Price, Mr. E. L.
Rainy, The Honourable Sir George.
Rang Behari Lal, Lala.
Rau, Mr. P. R.
Roy, Mr. K. C.
Roy, Mr. S. N.
Sarda, Rai Sahib Harbilas.
Schuster, The Honourable Sir George.
Shah Nawaz, Mian Mohammad.
Shervani, Mr. T. A. K.
Siddiqi, Mr. Abdul Qadir.
Singh, Kumar Bananjaya.
Stevenson, Mr. H. L.
Stewart-Smith, Mr. D. C.
Sykes, Mr. E. F.
Tin Tut, Mr.
Tottenham, Mr. G. B. F.
Winterbotham, Mr. G. L.
Yusuf Imam, Mr.

The motion was negatived.

Mr. M. K. Acharya : Sir, I do not move my amendment No. 36.*

Mr. Amar Nath Dutt : Sir, I beg to move :

“ That in clause 3 of the Bill for the word ‘ thousand ’ the word ‘ hundred ’ be substituted.”

Sir, I do not understand the reason that led the Honourable Mover of this Bill to fix the fine at rupees one thousand, except that it was his own salary when he was in judicial service. There are people who draw less than Rs. 100, and I appeal to the Honourable Mover to accept this amendment.

* “ That in clause 3 of the Bill after the words ‘ contracts a child marriage ’ the words ‘ or the guardian responsible for such child marriage ’ be inserted ”.

Mr. M. K. Acharya : Sir, I do not move my amendments Nos. 38* and 39†.

Mr. N. C. Kelkar : Sir, I beg to move :

“ That in clause 3 of the Bill for the words ‘ one thousand rupees ’ the words ‘ two hundred, and fifty rupees ’ be substituted ”.

This clause applies to persons who are of very early age in life. A man who is over 18 and below 21 is generally a man who has no means of his own and he is perhaps being more sinned against than he is a sinner. If he is punished with a fine of Rs. 1,000, perhaps he will be ruined all his life because he is just on the threshold of his life. Economically he cannot be self-supporting at the time when the punishment is sought to be inflicted upon him. Therefore I do not want that the maximum punishment should be so heavy as is prescribed in the Bill, and I want to make the punishment as light as possible and reduce it to Rs. 250.

Mr. M. S. Sesha Ayyangar : I do not want to move my amendment No. 41.‡

Mr. President : The question is :

“ That in clause 3 of the Bill, for the word ‘ thousand ’, the word ‘ hundred ’ be substituted ”.

The motion was negatived.

Mr. President : The question is :

“ That in clause 3 of the Bill, for the words ‘ one thousand rupees ’, the words ‘ two hundred and fifty rupees ’ be substituted ”.

The motion was negatived.

Clause 3 was added to the Bill.

Mr. President : Clause 4. **Mr. Acharya :**

Mr. M. K. Acharya : Sir, I beg to move :

“ That clause 4 of the Bill be omitted ”.

Sir, this clause refers to punishment with respect to a male above twenty one years of age. I thought that—perhaps my lawyer friends would know better—I thought that in the eye of law all persons above the age of 18 were accepted to be major and they were held to be responsible for whatever act they did. Therefore, I think for the first time in this Bill a distinction is sought to be drawn between majors between the ages of 18 and 21 and those above the age of 21. A higher punishment is sought to be imposed on those who are above 21 years of age, and it seems to me that that is a distinction which is not very reasonable. Of course in awarding fine the Magistrate will take care whether he should impose a low fine or a heavy fine according to the age and circumstances of the supposed culprit. In any case imprisonment of this kind seems to be awful and it may be necessary, according to some people, to pass this into law ; but those who want the law to work smoothly will consider how far it is desirable to send them to jail and make heroes of them. Therefore in that view I move

* “ That in clause 3 of the Bill, for the words ‘ one thousand rupees ’, the words ‘ two hundred rupees ’ be substituted.”

† “ That in clause 3 of the Bill, for the words ‘ one thousand rupees ’, the words ‘ two hundred rupees ’ be substituted.”

‡ In clause 3 for the words ‘ one thousand ’ the words ‘ five hundred ’ be substituted.”

that clause 4 of the Bill be omitted in the interest of humanity and of wisdom.

Mr. President : The question is :

“ That clause 4 of the Bill be omitted ”.

The motion was negatived.

Mr. M. S. Sesha Ayyangar : Sir, I beg to move :

“ That for clause 4 of the Bill the following be substituted :

‘ Whoever, being a male above twenty-one years of age, contracts a marriage (a) with a girl less than eight shall be punishable with simple imprisonment which may extend to one month, (b) with a girl aged between eight and fourteen shall be punishable with fine which may extend to two hundred rupees ’.”

In moving this amendment, I beg to observe that, though I am against imprisonment being given in these cases, yet in this amendment I support imprisonment in the case of marriages with girls less than eight because I consider that to be a heinous offence. Therefore, in that case, I provide for imprisonment which may extend to one month. But in the latter category of cases I have suggested only a fine of two hundred rupees, because, as I said, some preferential treatment is necessary in considering this class of cases. The House will also consider that it will take some time for the law to diffuse into the villages, and until that stage is reached, the House must take care to see that the law must be known throughout the length and breadth of the country, after which we may provide for greater punishment for this class of cases. I submit that this amendment may be accepted.

The motion was negatived.

Mr. M. S. Sesha Ayyangar : Sir, my previous motion having been negatived, I beg to move :

“ That in clause 4, the words ‘ with simple imprisonment which may extend to one month, or ’ be omitted ”.

I move this only with the view of saying that, at least in the beginning of the operation of this Act, let us take care to see that we do not visit offenders with any kind of imprisonment. With that view I beg to move it.

The motion was negatived.

Mr. B. Das : Sir, I beg to move :

“ That to clause 4 of the Bill the following sub-clause be added :

‘ (a) Whoever being a widower above forty years of age marries any woman who is not a widow shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both ’.”

Sir, this amendment of mine is the acid test of the reformers. Sir, I have known Rai Sahib Harbilas Sarda for many years ; I knew him when he introduced his Bill and wanted to confine the marriage of Hindu children to 12. Since he has been thrown into the good company of Sir James Crerar and his following, my friend the Rai Sahib has completely changed and he is now a mad reformer.

Mr. President : The Honourable Member should confine himself to the amendment.

Mr. B. Das : Sir, this Bill wants to prevent early widowhood, but what about the young girls who will become widows even when they are

[Mr. B. Das.]

married at the age of 14 ? What will happen when men of 40, 50, 60 and even 70 are married to young girls of 11 ? I think everybody in this House is aware of that particular incident in Benares when an old man of 72 married a young girl of 11, and all the men of India were condemning the action of that particular man. I know the Muslims have no such prohibition to the marriage of widows in their society. But I am speaking here not as a Hindu but as a non-Muhammadian Indian, because I am sorry to find that this Bill of my Honourable friend has roused a lot of communal feeling in this House. I saw similar feeling exhibited in this House when the Resolution about reforms for the North West Frontier Province was discussed here, and this Bill has evoked similar communal feeling here (*Cries of "No, no."*) That is my opinion and my view and I stand by my opinion.

Mr. President : Will the Honourable Member speak to the amendment ?

Mr. Das : Sir, although there is a Widow Re-Marriage Act, that does not help the widows. I am not in a position to bring widows to the gate of the Assembly Chamber to convince Members of their case. But I may say that it is an injustice to young girls to be forced to marry a man who is above 40 years. Any man above 40 years, if he enters matrimony, must seek widows.

Mr. Amar Nath Dutt : What was your age when you married ?

Mr. B. Das : My age was 38 when I married ; and had I been above 40 I would have married a widow.

An Honourable Member : You cannot get widows.

Mr. B. Das : There are enough widows ; you have only to look at the Report and the list in which my friend Pandit Thakur Das Bhargava and my friend Maulvi Muhammad Yakub have classified the widows. I hope the reformers will come and give their full support, and I know Government will support this amendment because their predecessors were parties to the Widow Re-Marriage Act. Sir, if this House accepts this amendment of mine, it will have to accept the consequential amendments which I have put down on the paper but about which I did not speak, about the definition of widow and widower. The reason for my amendment is this : that we are living in modern days and we find that the school of free love has sprung up. Probably there is nobody on this side of the House who belongs to the school of free love ; but there may be somebody on that side of the House who may belong to that school of free love.....

Mr. President : What has that got to do with the amendment ?

Mr. Das : All of us are aware of the commotion created by Miss Pankhurst about the school of free love.....

Mr. President : Order, order : the Honourable Member is wholly irrelevant.

Mr. B. Das : Sir, I only want to say this. I think somebody might question what widow and widower means, and for that purpose I wanted to define those words. That is all. I commend my amendment to the support of the House, especially the reformers.

Pandit Nilakantha Das : On a point of order, Sir, is this amendment within the scope of the Bill ?

Mr. President : The question is :

“ That to clause 4 of the Bill the following sub-clause be added :

‘ (a) Whoever being a widower above forty years of age marries any woman who is not a widow shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both ’.”

The Assembly divided :

AYES—4.

Das, Mr. B.
Dutt, Mr. Amar Nath.

Sinha, Mr. Rajivaranjan Prasad.
Sinha, Mr. Siddheswar Prasad.

NOES—52.

Abdul Aziz, Khan Bahadur Mian.
Ayangar, Mr. V. K. Aravamudha.
Bajpai, Mr. R. S.
Booth, Mr. J. R. T.
Bower, Mr. E. H. M.
Chalmers, Mr. T. A.
Chaman Lall, Diwan.
Chatterjee, The Revd. J. C.
Chunder, Mr. N. C.
Cosgrave, Mr. W. A.
Covernton, Mr. S. H.
Crerar, The Honourable Sir James.
Ferrers, Mr. V. M.
French, Mr. J. C.
Ghazanfar Ali Khan, Mr.
Haji, Mr. Sarabhai Nemchand.
Hans Raj, Lala.
Hira Singh, Brar, Sardar Bahadur,
Honorary Captain.
Jawahar Singh, Sardar Bahadur Sardar.
Jayakar, Mr. M. R.
Kartar Singh, Sardar.
Keane, Mr. M.
Lalchand Navalrai, Mr.
Lindsay, Sir Darcy.
Mehta, Mr. Jamnadas M.

Mitra, The Honourable Sir Bhupendra Nath.
Mitter, The Honourable Sir Brojendra.
Mody, Mr. H. P.
Moonje, Dr. B. S.
Mukharji, Rai Bahadur A. K.
Nehru, Pandit Motilal.
Noyce, Sir Frank.
Pai, Mr. A. Upendra.
Pandya, Mr. Vidya Sagar.
Philip, Mr. J. Y.
Price, Mr. E. L.
Rai, The Honourable Sir George.
Rau, Mr. P. R.
Roy, Mr. S. N.
Sarda, Rai Sahib Harbilas.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Shah Nawaz, Mian Mohammad.
Singh, Rai Bahadur S. N.
Sinha, Kumar Ganganand.
Stevenson, Mr. H. L.
Stewart-Smith, Mr. D. C.
Sykes, Mr. E. F.
Tin Tut, Mr.
Tottenham, Mr. G. R. F.
Winterbotham, Mr. G. L.
Yusuf Imam, Mr.

The motion was negatived.

Clause 4 was added to the Bill.

Mr. President : The question is :

“ That clause 5 stand part of the Bill ”.

Mr. M. K. Acharya : Sir, I am not moving my amendment*.

Mr. M. S. Sesha Ayyangar : Sir, I move :

“ That clause 5 be omitted.”

Clause 5 reads thus :

“ Whoever performs, conducts or directs any child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both, unless he proves that he had reason to believe that the marriage was not a child marriage ”.

Sir, I beg to mention to the House that this is rather a serious amendment. What the clause aims at is to cast the net rather too wide

* “ That clause 5 of the Bill be omitted ”.

[Mr. M. S. Sesha Ayyangar.]

and to bring under the operation of this Bill all persons who perform, conduct or direct any child marriage. In fact, these words "perform, conduct or direct" are not defined in the Bill. So these are very indefinite and comprehensive words, which, if only the blackmailer chooses to do so, will enable him to bring under the category of this section all sorts of persons as offending against this section. That is the first ground. Secondly, it widens the scope of the Bill somewhat unnecessarily, because what the House seeks in enacting this measure is to prevent the evils which the House wants to set right; but why cast the net too wide and bring in persons who, after all, may not have offended really against this law? So that it would be unnecessarily widening the scope of the Bill. It would also give rise to a multiplicity of criminal proceedings against many persons. Already the House has definitely set its face on the age 14, and as I have already said, the age being somewhat difficult even for medical experts to determine, I already visualise a great vista of perjury. Why should you unnecessarily and vexatiously multiply criminal proceedings against people who may be brought under this Act? It also places a great premium on blackmailers. There may be very many prosecutions unnecessarily undertaken only with a view to blackmail. It also places people under a great obvious disadvantage by the addition of this clause. For these reasons, Sir, I move the amendment.

Mr. President : The question is :

"That clause 5 be omitted".

The motion was negatived.

Mr. N. C. Kelkar : Sir, I beg to move :

"That for clause 5 of the Bill the following be substituted :

'5. Whoever knowingly or having reason to believe, performs or conducts or directs any child marriage shall be punishable with fine which may extend to five hundred rupees.'

Sir, this is the next best thing I am trying to get after the rejection of the last amendment. The Bill seeks to throw the net rather too wide, in my opinion. This clause obviously applies to priests and such other people who take part in a marriage. Now, the question is, should not the moloch of this Bill be content with the victims of the boy, his parents or guardians, etc.? Must it necessarily victimise also an innocent priest who is called in to officiate at a ceremony when he is not supposed to know exactly what the age of the girl is? I think this is very unfair to the priests and other people who take part in the marriage. Under this section also managers who are entrusted with the functions and duties of carrying out the preparations for the marriage will come in. The question is whether they should be penalised. After the rejection of the last amendment, I am seeking to make it a little more easy for the priests and others who will be taking part in a marriage. I want to take away the provision about the substantive punishment and I want to substitute only a fine up to Rs. 500. In deserving cases that should be deterrent enough and therefore I move my amendment.

Pandit Thakur Das Bhargava : Sir, I beg to move :

"That in clause 5 of the Bill, after the word 'Whoever', the words 'knowing or having reason to believe that either of the contracting parties to a marriage is a child' be inserted."

This amendment and the amendment of my friend Mr. Kelkar have something in common but his amendment is more general, whereas in the amendment moved by me the House will see that the knowledge or reason to believe, which are to be proved, have reference to the fact whether either of the contracting parties to a marriage is a child or not. In this connection, I would submit that I agree that those who perform, conduct or direct any child marriage should come within the ambit of the law and should not be allowed to go scot free, because, in a proper case, it may be that the priest or the Qazi himself may have instigated the marriage or may have conducted or directed it with the full knowledge that either of the contracting parties to the marriage was a child. But my experience shows that, in Hindu marriages, it is not the family priest alone who conducts or directs the marriage. Generally speaking, in a marriage there are four or five people who conduct or direct the marriage operations. Among the Muhammadans also, who observe purdah, more strictly than the Hindus, the Qazi comes in and he does not see the face of the wife. He may be any person, and it is not necessary that a particular Qazi or a family Qazi, if there is one, should be called in. According to Muhammadan law every person is competent to celebrate a marriage; similarly, among Hindus also any Brahmin or set of Brahmins can celebrate the marriage. It may happen that the family priest of the bridegroom may not be taken where the marriage is celebrated, and even if he is taken, the family priest of the girl may not know the age of the girl, and in respectable families who even now observe purdah, the family priest of the bridegroom is not supposed to know the age of the girl. Under these circumstances, I think, if you do not insert these words, the law will be laying the net rather too wide. Moreover, it is an accepted canon of criminal law that the burden of proving "knowing or having reason to believe" lies on the prosecution.

In regard to clauses 3 and 4 and the next clause 6, I can understand that the boy who is above the age of 18 and below, is supposed to know the age of the girl, whereas a priest who may be unconnected with the family is not supposed to know the age of the girl. Under these circumstances, I submit that these words should be inserted, especially when the words "conducts or directs" are not defined. Further, under the law of abetment, intention or knowledge has to be found. Under section 107 of the Indian Penal Code a person is said to abet who instigates, or enters into a conspiracy or intentionally aids. In the present clause the element of knowledge or having reason to believe is absolutely wanting. It may be said on the other side that the last words of the clause, "unless he proves that he had reason to believe that the marriage was not a child marriage" give the men some sort of protection. When the Bill was in the Select Committee I raised an objection and asked that a positive knowledge or reason to believe might be required to be proved, but it was not accepted and these words were inserted. That is why I have written in my minute of dissent that the words I have recommended should be inserted. The accepted canons of criminal law will be offended against if, in this case, the burden of proof is thrown upon an innocent man. I therefore move that these words be inserted.

Mr. Amar Nath Dutt : I beg to move :

“ That in clause 5 of the Bill for the words ‘ performs, conducts or directs ’ the words ‘ is actually instrumental in bringing about ’ be substituted ”.

My reason for moving this amendment is this. The words here are, “ Whoever performs, conducts or directs ”. Now, in the performance of a marriage—my Honourable friend behind me expressed a pious hope, let them all go to jail—there are at least half a dozen priests officiating at these functions. (*An Honourable Member* : “ Special jails will have to be built ”.) Besides, I do not know what is the custom in the Bombay Presidency ; at least my reformer friends in Bengal will bear me out, there is a ceremony called the “ *Chanlatola* ”—at least I hope the Honourable the Law Member knows it.

The Honourable Sir Brojendra Mitter : It is no part of the marriage ceremony.

Mr. Amar Nath Dutt : How are we to discriminate what is part of the marriage ceremony and what is not when it takes place at the same time and at the same place, while *mantras* are recited. (*An Honourable Member* : “ Not the same house and not the same place ”.) Sometimes the bridegroom is taken from this place to that place, and that is part of the marriage. And even the barber who is there with only a jar of water can be convicted according to my Honourable friend. Many of my friends have no experience of village life, but I have ample experience of it, and also I have some glimpse of the life lived in the former metropolis of India. Formerly bridegrooms used to be carried in palanquins. The palanquin-bearers can also be said to “ perform ” because they take the bridegroom to the bride’s place and bring him back to his own house. All these things form part of the marriage and they are not separable. If they are separable, we ought not to have in the Bill “ Whoever performs, directs or conducts ”, but those words are there. “ Directs ”. What is meant by directing ? I may say, “ Get your son married ” and that is directing. There is village opinion, there is public opinion in the society which may say, “ You ought to marry your girl or son ”. That is also directing. So, instead of having such clumsy wording, I have put down, following in the footsteps of the reformers whose Veda is the Age of Consent Committee’s Report,—I have put down in unambiguous language the real intention of the section, by substituting the words “ is actually instrumental in bringing about ”. Then he cannot but be the guardian or the father.

Then, again, in *Boubhat* ceremony hundreds of people are invited ; that is part of the marriage also, and any one taking part in that dinner or in the dinner which is given on the day of marriage, are liable to be prosecuted. Again, you have the *asirbad* ceremony before the actual marriage takes place. Therefore, I submit that the clause should be more clear and unambiguous, if it is really intended to prosecute the people who are really responsible for child marriages. Let them be prosecuted and punished, and for that purpose I have made it clear by my amendment.

Mr. M. S. Aney : When I was reading this Bill, I became convinced that the members of the Select Committee were more concerned with the question of fixing the age than with anything that they might draft in the Bill. They were simply satisfied when they fixed a certain age, and

after that was done, the other matters which were incorporated in the Bill were not matters for serious consideration to them.

As my Honourable friend Mr. Amar Nath Dutt has put it, it is perfectly true that, so far as the Hindu marriage is concerned, it consists of more than one ceremony beginning with the *Vagdan* ceremony, which begins just before the actual marriage takes place, and ending with the *Barat* ceremony when the girl is taken to the house of the bridegroom. There are five or six ceremonies, and we do not know which is the ceremony intended by this Bill in this clause? (*An Honourable Member* : "Any one would do.") (*Another Honourable Member* : "All.") (*An Honourable Member* : "Even dinner?") Has my Honourable friend any idea of how many persons are invited for each of these ceremonies? (*An Honourable Member* : "You need not invite them all"). A number of persons are invited for witnessing the *Vagdan* ceremony and they pronounce their blessing. It is their duty to pronounce their blessing. Are they to be supposed to have taken part in the conduct of that marriage? (*An Honourable Member* : "No.") How do you say "No"? Was it not possible for you to find out a language that... (*An Honourable Member* : "What word should be used?") (*An Honourable Member* : "The words are clear.") They conduct the ceremony on account of having chanted some *mantras* and can that ceremony be said not to have been conducted by them at all? In fact, it is the Brahmins who conduct the ceremony by reciting *mantras*, and you cannot say they are not conducting the ceremony. (*An Honourable Member* : "They are conducting.") According to the intention of the clause, the ceremony should be one which is essential for the validity of the marriage, or one which will make a marriage irrevocable. If so, you ought to have explicitly stated it and it is not a thing which can be understood by using the general word "marriage". Therefore, by keeping the words so vague, you are involving a number of persons who could not be expected to know the age of the girl or of the bridegroom. Any one of them could be brought within the category of offenders under this clause, particularly because the word "marriage" is not defined. When an Honourable Member tried to make a distinction between betrothal and marriage, he was ridiculed by the House, and it was said that the meaning of the word marriage was obvious. But many persons do not know what the marriage of a Hindu means and what the marriage of a Mussalman means. Each one has an idea of marriage in his own mind according to his own conception. Therefore, I really feel that some words at least, which would require knowledge, on the part of those persons who conduct or perform or take any part in any marriage, of the ages of the bridegroom and the bride, must be added. From that point of view, the amendment moved by my Honourable friend Pandit Thakur Das Bhargava seems to be a very eminently reasonable proposition, and the House should see that it is accepted.

Mr. President : The question is :

"That for clause 5 of the Bill the following be substituted :

'5. Whoever knowingly or having reason to believe, performs or conducts or directs any child marriage shall be punishable with fine which may extend to five hundred rupees.'

The motion was negatived.

Mr. President : The question is :

“ That in clause 5 of the Bill, for the words ‘ performs, conducts or directs ’ the words ‘ is actually instrumental in bringing about ’ be substituted ”.

The motion was negatived.

Mr. President : The question is :

“ That in clause 5 of the Bill after the word ‘ whoever ’ the words ‘ knowing or having reason to believe that either of the contracting parties to a marriage is a child ’ be inserted.”

The motion was negatived.

Mr. President : Mr. Amar Nath Dutt.

(The Honourable Member was absent.)

Mr. D. V. Belvi : I do not think I should move any of the amendments in the present mood of the House. (The Honourable Member remained seated while speaking.)

Mr. President : Will the Honourable Member get up and speak ?

Mr. D. V. Belvi : I do not want to move any of my amendments, except one.

Mr. M. S. Sesha Ayyangar : I move :

“ That in clause 5, the words ‘ unless he proves that he had reason to believe that the marriage was not a child marriage ’ be omitted ”.

The absurdity of this clause is apparent. Just now we have been fighting for the fact that the onus must lie on the prosecution to prove. That fell through just now. The clause as it stands represents an abnormal state of things of throwing the onus on the accused ; and I do hope that the House, even in its present mood, will accept this amendment at least.

The motion was negatived.

Pandit Thakur Das Bhargava : I do not propose to move amendment No. 64*.

Clause 5 was added to the Bill.

Mr. President : The question is :

“ That clause 6 stand part of the Bill ”.

Mr. N. C. Kelkar : I am not moving my amendment†.

Mr. Amar Nath Dutt : I move :

“ That in sub-clause (1) of clause 6 of the Bill the words ‘ or permits it to be solemnised, or negligently fails to prevent it from being solemnised ’ be omitted ”.

I submit that these words have been introduced negligently, not knowing what would be their consequences, by those who are responsible for drafting this Bill. Little need be said about their drafting skill. In order that the House may appreciate the meaning of my amendment, I would read clause 6 :

“ Where a minor contracts a child marriage, any person having charge of the minor, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to promote the marriage or permits it to be solemnised, etc., etc.”

I know people are punished for words which are defamatory or seditious, but here you want to penalise other words. I was not aware up till now that any other words were penal. Of course genius has grown ! The enactment is clumsily worded and no sensible man will credit you with intelligence or common sense.....

* “ That in clause 5 of the Bill, the words ‘ unless he proves that he had reason to believe that the marriage was not a child marriage ’ be omitted.”

† “ That clause 6 of the Bill be omitted.”

Mr. President : What have I got to do with it ?

Mr. Amar Nath Dutt : You might have ruled this out. Although

4 P.M. it is not within the four corners of the Standing

Orders, the President has got inherent powers. I hope, Sir, the House will accept the amendment I have moved.

The motion was negatived.

Pandit Thakur Das Bhargava : I beg to move :

"That in sub-clause (1) of clause 6 of the Bill the words 'or negligently fails to prevent it from being solemnised' be omitted".

There is a difference between this amendment and the amendment moved by my friend Mr. Amar Nath Dutt. My amendment is more restricted in its scope. Proviso 2 to the clause reads thus :

"For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that, where a minor has contracted a child marriage, the person having charge of such minor has negligently failed to prevent the marriage from being solemnised."

The upshot of this provision is that the burden of proving that a parent or guardian has negligently failed to solemnise the marriage will be always thrown on the accused. The words "negligently failed to prevent the marriage from being solemnised" are too vague. They do not convey any special significance to the parent or guardian whose want of act is sought to be controlled. It may happen that there may be a dispute between the father and mother of the boy or the girl and one of them may agree to the marriage and the other may not. It may happen that one of them succeeds in getting the boy or girl married. The burden will be on the accused. The accused will not be able to show that he did his very best to prevent it. After all, we know how the defence evidence in criminal cases is treated. Then again it may happen that the father is not in his house. He might have gone away to some other town or village or he may have left the country. Even then it can be argued that he negligently failed to perform his duty. So far as the positive acts of a guardian go, the words "who does any act to promote the marriage or permits it to be solemnised" are wide enough. The phrase "who does any act to promote" is wider than the word "promote" and the phrase "permits it to be solemnised" is by itself so wide that it really covers all possible cases of any positive act. I would therefore submit that we are really making the law rather too wide, thereby enmeshing a number of persons who may be absolutely innocent. In these circumstances, I beg to move that these words may be deleted.

The motion was negatived.

Mr. President : Mr. Sesha Ayyangar :

Mr. M. S. Sesha Ayyangar : I am not moving it, Sir.

Mr. Amar Nath Dutt : Sir, I move :

"That in sub-clause (1) of clause 6 of the Bill the words 'with simple imprisonment which may extend to one month, or' be omitted."

I appeal once more to this House to accept the amendment, (Laughter), though I believe that the House was not serious when it introduced a Bill like this. The Honourable the Home Member was also not serious.....

Mr. President : Order, order. The Honourable Member must speak to the amendment.

Mr. Amar Nath Dutt : I have read the amendment, Sir, and I am addressing the House. Of course, if you do not want some oratorical efforts...

Mr. President : Go on.

Mr. Amar Nath Dutt : What is the use of having imprisonment ? With your jail rules and jail codes, if you think you will be able more to tyrannize the people who oppose your methods of Government, you are welcome to do it, but before that you should also acquaint people with what rules prevail in your jails, and that, if they go to jail, they will be treated in one way if they are black-skinned, and if they are white-skinned, in quite a different way. (*Mr. K. Ahmed :* "What difference is there ?") Many people have not actual experience of jail life and they should be apprised of what it is. Namely, that in their jails there is racial discrimination in the jail code about treatment, food and raiment. So I appeal to my Honourable friends on this side, who pose as ardent reformers and who, I believe, have been carried away by their reforming zeal, not to perpetrate this outrage upon the orthodox community. I hope they will at least appreciate why imprisonment ought not to be inflicted. I hope the House will see its way to support my amendment.

The motion was negatived.

Mr. President : Mr. Belvi.

Mr. D. V. Belvi : I am not moving my amendment*, Sir.

Mr. Amar Nath Dutt : Sir, my amendment runs : (*An Honourable Member :* "Why move it ?")

Mr. President : Go on.

Mr. Amar Nath Dutt : My candid friend was advising me not to move it, but the Chair has ordered me, and I must obey the Chair. Sir, I move :

"That in sub-clause (1) of clause 6 of the Bill, for the words 'one thousand rupees, or with both' the words 'one hundred rupees' be substituted."

The arguments which I adduced previously in favour of the reduction of the fine apply *mutatis mutandis* to this amendment, and I hope the House will accept this amendment.

The motion was negatived.

Mr. President : Mr. Amar Nath Dutt.

Mr. Amar Nath Dutt : I do not move No. 72†, Sir.

Mr. M. S. Sesha Ayyangar : Sir, I beg to move :

"That clause 6 (2) be omitted."

That clause reads thus :

"For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that, where a minor has contracted a child marriage, the person having charge of such minor has negligently failed to prevent the marriage from being solemnised."

I submit to the House, Sir, that the absurdity of this clause is apparent. Suppose a boy's father is staying in Madras and his son is studying in the Delhi University. The son is a minor of the age of seventeen. He con-

* "That in sub-clause (1) of clause 6 of the Bill, the words 'with simple imprisonment which may extend to one month, or' be omitted."

† "That the proviso to sub-clause (1) of clause 6 of the Bill be omitted."

tracts a child marriage in Delhi. How is the father ordinarily expected to know that his minor boy in Delhi, while pursuing his scholastic studies there, has contracted a child marriage? It is for the prosecution to prove in these cases that the guardian who had charge of the child was committing a child marriage offence. Instead, this clause 6 (2) makes the onus rest on the father to prove the contrary, and he has to start with the initial presumption against him that he knew that the child had contracted a child marriage as I, in moving my amendments, have to face the initial dead weight of Government strength. Sir, to make the guardian start with the dead weight of this presumption is not fair, and we ought to tone down the rigour of the Bill against the dead weight of Government. I submit that, at least this sub-clause (2), the House will agree in eliminating.

Mr. President : The question is :

“ That clause 6 (2) be omitted.”

The Assembly divided :

AYES—22.

Aney, Mr. M. S.
Ayyangar, Mr. M. S. Sessa.
Belvi, Mr. D. V.
Bhargava, Pandit Thakur Das.
Das, Pandit Nilakantha.
Dutt, Mr. Amar Nath.
Ghuznavi, Mr. A. H.
Iyengar, Mr. A. Rangaswami.
Jogiah, Mr. V. V.
Kartar Singh, Sardar.
Kelkar, Mr. N. C.

Lalchand Navalrai, Mr.
Malaviya, Pandit Madan Mohan.
Misra, Mr. Dwarka Prasad.
Mukhtar Singh, Mr.
Murtuza Saheb Bahadur, Maulvi Sayyid.
Naidu, Mr. B. P.
Neogy, Mr. K. C.
Singh, Mr. Gaya Prasad.
Sinha, Kumar Ganganand.
Sinha, Mr. Rajivaranjan Prasad.
Sinha, Mr. Siddheswar Prasad.

NOES—57.

Abdul Aziz, Khan Bahadur Mian.
Ayyangar, Mr. V. K. Aravamudha.
Bajpai, Mr. R. S.
Birla, Mr. Ghanshyam Das.
Booth, Mr. J. R. T.
Bower, Mr. E. H. M.
Chalmers, Mr. T. A.
Chatterjee, The Revd. J. C.
Chunder, Mr. N. C.
Cosgrave, Mr. W. A.
Covernton, Mr. S. H.
Crerar, The Honourable Sir James.
Ferrers, Mr. V. M.
French, Mr. J. C.
Ghazanfar Ali Khan, Mr.
Gidney, Lieut.-Colonel H. A. J.
Haji, Mr. Sarabhai Nemchand.
Hans Raj, Lala.
Hira Singh, Brar, Sardar Bahadur,
Honorary Captain.
Jamnadass, Seth.
Jawahar Singh, Sardar Bahadur Sardar.
Jayakar, Mr. M. R.
Keane, Mr. M.
Kunzru, Pandit Hirday Nath.
Lindsay, Sir Darcy.
Mehta, Mr. Jamnadas M.
Mittra, The Honourable Sir Bhupendra
Nath.
Mitter, The Honourable Sir Brojendra.

Mody, Mr. H. P.
Mukharji, Rai Bahadur A. K.
Munshi, Mr. Jehangir K.
Nehru, Pandit Motilal.
Noyce, Sir Frank.
Pai, Mr. A. Upendra.
Pandya, Mr. Vidya Sagar.
Phillip, Mr. J. Y.
Price, Mr. E. L.
Rainy, The Honourable Sir George.
Rang Behari Lal, Lala.
Bau, Mr. P. R.
Roy, Mr. K. C.
Roy, Mr. S. N.
Sarda, Rai Sahib Harbilas.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Shah Nawaz, Mian Mohammad.
Siddiqi, Mr. Abdul Qadir.
Singh, Kumar Rananjaya.
Singh, Mr. Narayan Prasad.
Singh, Rai Bahadur S. N.
Stevenson, Mr. H. L.
Stewart-Smith, Mr. D. C.
Sykes, Mr. E. F.
Tin Tüt, Mr.
Tottenham, Mr. G. R. F.
Winterbotham, Mr. G. L.
Yusuf Imam, Mr.

The motion was negatived.

Mr. E. Ahmed (Rajshahi Division : Muhammadan Rural) : May I draw your attention to the fact, Sir, that it is now half past four ?

Mr. President : Order, order.

Clause 6 was added to the Bill.

Maulvi Mohammad Shafee Daoodi (Tirhut Division : Muhammadan) : Sir, I am not moving the amendment* standing in my name because.....

Mr. President : It is not necessary to give reasons.

Clause 7 was added to the Bill.

Mr. President : The question is :

“ That clause 8 stand part of the Bill.”

Pandit Thakur Das Bhargava : I beg to move :

“ That in clause 8 of the Bill, for the words ‘ Presidency Magistrate or a District Magistrate ’ the words ‘ Magistrate first class ’ be substituted.”

Sir, I understand that the number of cases which will come under this Act will be fairly great, and I do not think any District Magistrate would be able to cope with the work which he will have to discharge if the number of cases is very large. The second reason that I wish to advance in this connection is that the cases under this Act will be very simple ; only two questions will arise in respect of the offences under this Act. The first question will be about the *factum* of the marriage, which will not be difficult to prove in many cases and will be an admitted fact in a number of cases. The other question will be about the age, which will be the only question that will remain for decision. Even now the first class Magistrates decide many cases in which the question of age does arise, *e.g.*, cases under section 366, etc. Again there is no reason why a first class Magistrate, who will be an Indian, will not be able to judge of the equities of a case of the nature. I, therefore, submit that this amendment be accepted.

The motion was negatived.

Clause 8 was added to the Bill.

Mr. President : The question is :

“ That clause 9 stand part of the Bill.”

Mr. Amar Nath Dutt : Sir, my amendment runs as follows :

“ That in clause 9 of the Bill after the word ‘ complaint ’ the words ‘ of the lawful guardian of the child ’ be inserted.”

Sir, clause 9 runs as follows :

“ No Court shall take cognisance of any offence under this Act save upon complaint made within one year, etc., etc.”

I want to add after the word “ complaint ” in the above clause, the words “ of the lawful guardian of the child ”. I want to add these words for this reason. It is only persons who are interested in the welfare of

“ That after clause 6 of the Bill the following new clause be added :

‘ Notwithstanding anything contained in clauses 5 and 6 of the Bill, no Muslim father or grand-father will be liable to any punishment under the Bill for performing the *Nikah* or the matrimonial contract of his daughter or grand-daughter below 14 years of age ’.”

their children, it is only these men who are to see whether there has been any violation of this law. My Honourable friends who are not lawyers may not be aware, and I beg to inform them, that any one can set the criminal law in motion. That being so, it will give a handle not only to the system of blackmailing, as has been apprehended by several of us, but also to wreak private vengeance, and destroy the peace of society by attempting to victimise families of respectable neighbours. The jackals whose tails have been cut will try to drag respectable families to the category of cut-tail jackals. So, Sir, the only person that should be entrusted with the task of lodging a complaint under this law should be.....

An Honourable Member : The person who commits the offence.

Mr. Amar Nath Dutt : Well, my Honourable friend says, should be the man who commits the offence under clause 6 of the Bill. Of course my Honourable friend's zeal for social reform will induce him to say anything and everything and insinuate also many things. But he ought to remember that there are men who make penance for their own sins. He ought to remember, as a Hindu son and also as a Hindu father, that there is such a thing as *praschit*. Ardent follower as he is of Mahatma Gandhi, he should have known that Mahatma Gandhi practises penance not only for his own sins but also for the sins of others. I think it should not sound strange to my Honourable friend if there are people who commit sins but who would have their sins expiated. So far for the interruption of my Honourable friend.

My reason for this amendment is this. You say, you are more interested in the well being either of the minor girl or the minor boy. This reminds me of that old old saying which says that one who professes to love a child more than its mother is a witch. Do not go that length so that your action will be characterised as that of a witch who commits manifold injuries upon human society. If this amendment is not passed the clause as it stands will destroy the peace of orthodox homes and will destroy the purity of society. I am not speaking of those homes where there have been a straying away from orthodox society.

With these words, I beg to submit that these words " of the lawful guardian of the child " should be inserted.

Mr. President : The question is :

" That in clause 9 of the Bill after the word ' complaint ' the words ' of the lawful guardian of the child ' be inserted ".

The motion was negatived.

Pandit Nilakantha Das (Orissa Division : Non-Muhammadan) : Sir, I beg to move :

" That in clause 9 of the Bill for the words ' one year ' the words ' three months ' be substituted ".

Sir, my amendment is a simple one and my reasons also are simple. The Government of Bihar and Orissa, the province from which I come, say that in their opinion the Bill when passed into law will be set in operation only by blackmailers, if at all by any one. I am not a lawyer myself. I do not know the real significance of many of the clauses of the Bill.

Mr. President : The question is why the sentence should be three months and not one year.

Pandit Nilakantha Das : I am giving my reasons. There are certain clauses which are very objectionable and it appears that, as soon as a complaint is lodged against a man, he is convicted. All the burden of proof is on the accused. Therefore for these reasons, that a father or a guardian should be protected from the hands of blackmailers and that they should not be harassed for so long a time as one year, it is for these reasons that I move the amendment. If the period is one year, then a Damocles sword will be hanging over their heads for the length of a whole year.

Mr. President : The Honourable Member does not mind three months ?

Pandit Nilakantha Das : If there should be any period at all, it may be three months.

Mr. President : Why not support one month as proposed by Mr. Amar Nath Dutt in his amendment ?

Pandit Nilakantha Das : That would be much better. Three months was what I said in my note of dissent in the Select Committee and it is only with that idea I put in my amendment.

Mr. President : Let Mr. Amar Nath Dutt move his amendment.

Pandit Nilakantha Das : I think three months being a compromise between one month and one year may be better acceptable to the House than one month or one year. That is my idea in moving this amendment in preference to Mr. Amar Nath's.

Mr. Amar Nath Dutt : Sir, I beg to move :

“ That in clause 9 of the Bill for the words ‘ one year ’ the words ‘ one month ’ be substituted ”.

Sir, people who are engaged in the profession of law need not be reminded that, in civil law, there is such a thing as the law of limitation. People whose practice is solely confined to criminal courts will probably also recall that there is such a thing as a stale prosecution. Now, what are stale prosecutions ? We know that that depends upon the whims of a particular judge. When it is the case of sedition brought forward under the orders of my Honourable friend over there, probably the courts will have sixty years' time as limitation. But when it is a question of an offence committed by loyalists and the victim is a poor Congress worker, probably the Courts will think that the limitation should be a week. The courts will say, “ Oh, you did not complain earlier ”. Ordinarily those who practise in criminal courts know that even if a complaint is late by two or three days, the courts demand an explanation as to why the complainant is late in laying the complaint. My Honourable friends over there—at least those who have got criminal practice in mofussil courts—will bear me out, at least that is the practice in every court in Bengal, that you must file a complaint on the day of occurrence ; if not then on the next day. Unless you do so, the magistrate will invariably demand an explanation, and my Honourable friend over there, who holds the Commerce portfolio, may have had some experience of this in his earlier years of service. One has invariably to explain why one filed the complaint after such a lapse of time. In fact I can tell you, Sir, that my Honourable friend over there would not have admitted any complaint after the lapse of seven or eight days. He would have asked for a police inquiry. He

would have said that there must have been some motive as to why this case was brought so late and he would have dismissed the complaint under section 203.

Mr. President : That will do.

Mr. Amar Nath Dutt : You will ask the House to use its discretion and vote in favour of this amendment.

Mr. President : The question is :

“ That in clause 9 of the Bill for the words ‘ one year ’ the words ‘ three months ’ be substituted ”.

The motion was negatived.

Mr. President : The question is :

“ That in clause 9 of the Bill for the words ‘ one year ’ the words ‘ one month ’ be substituted ”.

The motion was negatived.

Mr. M. S. Sesha Ayyangar : Sir, I beg to move :

“ To clause 9 the following be added at the end :

‘ No one is entitled to complain unless he is a resident of the locality in which the marriage has taken place or he belongs to the sect or sub-sect to which the parties to the marriage belong ’.”

Sir, this is a very necessary amendment. Clause 9 no doubt restricts the time within which complaints can be lodged, but it does not restrict the person who is entitled to complain. It is a cardinal rule of criminal jurisprudence that any one is entitled to complain in respect of any offence committed. The Criminal Procedure Code lays down certain specified persons who are entitled to complain in certain circumstances. For instance, the husband alone is entitled to complain about the adultery of his wife. So in cases under this Act I want to restrain the classes of person who should be entitled to lodge a complaint. I shall at once make the absurdity of the present rule apparent by giving an instance. Suppose a marriage takes place in far-off Tinnevely. Is a person resident in Simla entitled, as a matter of course, to complain about that marriage ? That would leave a loophole for blackmailers to indulge in any kind of prosecution and also to a person who may be willing to injure his friend at such a long distance. Therefore, it is, in order to minimise the chance of irresponsible prosecutions being indulged in, that I want to restrict by this amendment the class of persons who will be entitled to complain. For that I am making provision for two classes of people. If he happens to be a resident of that locality there is a fair presumption that he knows something about the ages of the persons contracting the marriage. That would be *prima facie* some warrant for assuming in a court of law that that man at least having some knowledge of the local state of affairs comes with a fairly good case to start with. Then I also extend it to a person belonging to the sect or sub-sect to which the parties to the marriage belong. I want to shut out irresponsible people not belonging to that sect and knowing nothing about the contracting parties from indulging in frivolous, malicious and irresponsible prosecutions. I submit this is a very healthy amendment which, at least being the last of my amendments, the House would be willing to accept.

Mr. President : The question is :

“ That to clause 9 the following be added at the end :

‘ No one is entitled to complain unless he is a resident of the locality in which the marriage has taken place or he belongs to the sect or sub-sect to which the parties to the marriage belong.’ ”

The Assembly divided :

AYES—15.

Aney, Mr. M. S.
Ayyangar, Mr. M. S. Sesha.
Belvi, Mr. D. V.
Das, Mr. B.
Dutt, Mr. Amar Nath.
Ghuznavi, Mr. A. H.
Jamnadass, Seth.
Kelkar, Mr. N. C.

Mohammad Ismail Khan, Haji
Chaudhury.
Moonje, Dr. B. S.
Mukhtar Singh, Mr.
Neogy, Mr. K. C.
Singh, Mr. Gaya Prasad.
Sinha, Mr. Rajivaranjan Prasad.
Sinha, Mr. Siddheswar Prasad.

NOES—59.

Abdul Aziz, Khan Bahadur Mian.
Ayyangar, Mr. V. K. Aravamudha.
Bajpai, Mr. R. S.
Bhargava, Pandit Thakur Das.
Birla, Mr. Ghanashyam Das.
Booth, Mr. J. R. T.
Bower, Mr. E. H. M.
Chalmers, Mr. T. A.
Chatterjee, The Revd. J. C.
Chunder, Mr. N. C.
Cosgrave, Mr. W. A.
Covernton, Mr. S. H.
Crerar, The Honourable Sir James.
Ferrers, Mr. V. M.
French, Mr. J. C.
Ghazanfar Ali Khan, Mr.
Gidney, Lieut.-Colonel H. A. J.
Haji, Mr. Sarabhai Nemchand.
Hans Raj, Lala.
Hira Singh, Brar, Sardar Bahadur,
Honorary Captain.
Hussain Shah, Sayyed.
Jawahar Singh, Sardar Bahadur Sardar.
Jayakar, Mr. M. R.
Kartar Singh, Sardar.
Keane, Mr. M.
Lindsay, Sir Darey.
Mehta, Mr. Jamnadas M.
Mitra, The Honourable Sir Bhupendra
Nath.

Mitter, The Honourable Sir Brojendra.
Mody, Mr. H. P.
Mukharji, Rai Bahadur A. K.
Munshi, Mr. Jehangir K.
Noyce, Sir Frank.
Pai, Mr. A. Upendra.
Pandya, Mr. Vidya Sagar.
Philip, Mr. J. Y.
Price, Mr. E. L.
Rainy, The Honourable Sir George.
Rang Behari Lal, Lala.
Rao, Mr. G. Sarvatham.
Rau, Mr. P. R.
Roy, Mr. K. C.
Roy, Mr. S. N.
Sarda, Rai Sahib Harbilas.
Sarma, Mr. R. S.
Schuster, The Honourable Sir George.
Shah Nawaz, Minn Mohammad.
Shervani, Mr. T. A. K.
Singh, Mr. Narayan Prasad.
Singh, Rai Bahadur S. N.
Sinha, Kumar Ganganand.
Stevenson, Mr. H. L.
Stewart-Smith, Mr. D. C.
Sykes, Mr. E. F.
Tin Tut, Mr.
Tottenham, Mr. G. R. F.
Winterbotham, Mr. G. L.
Yamin Khan, Mr. Muhammad.
Yusuf Imam, Mr.

The motion was negatived.

Clause 9 was added to the Bill.

Mr. President : The question is :

“ That clause 10 stand part of the Bill.”

Pandit Thakur Das Bhargava : Sir, I do not propose to move my amendment.*

Clause 10 was added to the Bill.

*** That clause 10 of the Bill be omitted.”

Mr. President : The question is :

“ That clause 11 stand part of the Bill.”

Pandit Thakur Das Bhargava : Sir I beg to move :

“ That clause 11 of the Bill be omitted.”

This clause 11 provides for security to be taken from the complainant whenever he brings a complaint, irrespective of the fact whether the court thinks that the complaint is well founded or otherwise except for reasons to be recorded by the court. The previous sections, sections 8 and 10, in my opinion provide ample safeguards against frivolous or vexatious complaints. Section 8 has provided that it is only the District Magistrate or the Presidency Magistrate who shall take cognizance of a complaint, and section 10 has gone further and made a preliminary inquiry compulsory. Even there it has to a certain extent changed section 202 and it is only a first class Magistrate who is competent to make the inquiry under section 10 ; so that before the accused is summoned on, the complaint will have passed through two sieves, first of all the District Magistrate must have examined the complainant under section 200, and subsequent to that a preliminary inquiry must have taken place either at the hands of the District Magistrate himself or by a first class Magistrate. After all that, to insist that security should be taken from the complainant is to insist, in my opinion, rather too much. So far as the success of this Act is concerned, as I submitted two or three days back, unless and until Government provide the machinery for working this Act, this Act will remain as a pious wish of this House. In that connection I have tabled two other amendments, and I shall move them at the proper time ; but I fail to see even if these amendments are not carried, why obstacles should be placed in the way of those who have public spirit in this matter and who are actuated by the best of motives to restrain these people from solemnising child marriages. This clause 11 puts a sort of obstacle in the way of such persons and I submit that placing of such an obstacle in the way is quite unnecessary and is to be deprecated. Even now the provisions of section 250 of the Criminal Procedure Code and sections 182 and 211 of the Indian Penal Code are quite sufficient in the matter and they themselves serve as a check against frivolous complaints. A question like this was considered by the Age of Consent Committee, and at page 138 their opinion will be found. They also oppose any provision of this nature, and as I have submitted that, although I am also in favour of providing safeguards which have already been provided in this Act, I am strongly opposed to making this Act absolutely inoperative. I want to know if there are people who have got that public spirit that they will come forward and deposit one hundred rupees or more. If there are people like that, why should child marriage remain in this land ? In my humble opinion these safeguards, which have already been provided for, are quite sufficient and we should not insist on a handicap of this nature.

Mr. Amar Nath Dutt : Sir, I rise to oppose this amendment. This is the first time I have to oppose an amendment, at least with respect to this Bill. I am surprised that the zeal for reform of my friend should carry him farther than what was suggested by the Select Committee. He says, “ Any one who has any public spirit in him will support him in all these things.” If by public spirit he means doing away with our old social institutions, if by public spirit he means doing away with all that is held

[Mr. Amar Nath Dutt.]

sacred by a certain section of our community and trampling under foot their sacred beliefs, if by public spirit....

Mr. President : Please come to the amendment.

Mr. Amar Nath Dutt : Sir, I oppose it ; I was just replying to him. These social reformers, I believe, are fifty years ahead of the times. With their new Veda, the Age of Consent Committee's Report, they might have waited for fifty years and allowed us to die before they came with such outrageous laws and amendments.

Mr. President : The question is :

“ That clause 11 of the Bill be omitted.”

The motion was negatived.

Mr. B. Das : Sir, I beg to move....

Mr. M. Keane (United Provinces : Nominated Official) : Sir, on a point of order, will it be in order for Mr. Das to move any amendment after the decision that the House has just come to, that clause 11 should stand part of the Bill ? The House has now decided that clause 11 shall not be omitted in any circumstances.

Mr. B. Das : Yes ; but it can be amended.

Mr. M. Keane : No. Clause 11 shall stand as it is : that is the decision of the House—that clause 11 as it stands will remain.

Mr. President : The House has decided that clause 11 shall not be deleted but in what form it should remain is another question.

Mr. M. Keane : You could not have put clause 11 if it were still in embryo form ; we could not have taken any decision on it : we decided on clause 11 in the form in which it is now before the House and the House, I understand, has decided that it shall remain.

Mr. President : All that the House has decided is that clause 11 shall not be omitted ; it has not yet decided that clause 11 as it stands should remain.

Mr. B. Das : I move, Sir :

“ That in sub-clause (1) of clause 11 of the Bill, for the words ‘ At any time after the words ‘ Prior to ’ shall be substituted.”

This clause, Sir, provides against frivolous complainants and blackmailers. I want to simplify the process and the work of the District and Sub-Divisional Magistrates ; by this amendment and the subsequent amendments which I have put down I want to lighten their burden. In the volume of opinions that have been supplied to us we find various people are of opinion that the blackmailers only will prosper from the Sarda Bill. As I come from the province of Bihar and Orissa, I shall quote the opinion of the Governor in Council over this matter. Sir, on page 36 of Paper No. II, “ Opinions on the Hindu Child Marriage Bill ”, the following are the conclusions of the Governor in Council acting with the Ministers who are our popular representatives. I will read the relevant portion only :

“ A further difficulty is that the complaint necessary to put the law into motion will be made not by one whose object is to protect the child wife, but generally by some enemy of the family of the husband or wife, and an unlimited field for extortion

and corruption will be thrown open. Finally, the difficulty of proving the husband's or wife's age in these cases is notorious, and if the law is put into motion at all extensively, the courts will be flooded with extra work, the cost of which will be far greater than any benefit secured. On the whole, the Local Government are of opinion that the Bill, if passed into law, will remain a dead letter unless it is put in force by blackmailers."

Sir, I come from the province of Bihar and Orissa and I stand by the opinion of the Government of that province, that it will enhance the work of the courts and also increase the cost if the blackmailers bring in as many cases as they like. Of course, I may ask the Honourable the Home Member if he has circulated the Report of the Age of Consent Committee to the Provincial Governments and has got any opinion on it from them. He has supplied no other opinions of the Local Governments except what have been circulated on the Report of the Select Committee on the Hindu Child Marriage Bill. I am quite sure the Local Governments still hold that opinion. There is not one who will be in favour of unnecessarily increasing the cost of prosecution. In fact, I find that, although the Government of the Punjab have approved of the principle of the Bill, they want some reserve power to enforce that particular law in that particular area. If that be the case, I do not see why my Honourable friend the Home Member should be in such haste. He has not consulted the Local Governments as to what will be the cost if the Sarda Bill is enforced. Who is going to bear all these costs, the Provincial Governments or the Central Government? Is the Central Government going to finance all costs of prosecution and also all cost of propaganda in order to bring to the notice of the furthestmost village in a district the object of the Sarda Bill when it is passed into law and becomes Sarda Act?

Pandit Thakur Das Bhargava : What has that got to do with the amendment?

Mr. President : The Honourable Member is wholly irrelevant.

Mr. B. Das : My purpose is that the magistrates should not be influenced by backstair gossips, and so, whenever anybody wants to complain against another, he must deposit the money, and before the magistrate hears the alleged complaint from the complainant, he should ask him to deposit the money. Whenever anybody goes and makes a complaint in a court of law, he has to deposit a certain amount, before the District Magistrate or the Sub-Divisional Magistrate looks into the complaint. Why should not such a procedure be introduced in these cases also? I feel that this Bill will benefit the lawyers and the doctors.

Mr. President : The question is :

"That in sub-clause (1) of clause 11 of the Bill for the words 'At any time after' the words 'Prior to' be substituted."

The motion was negatived.

Pandit Thakur Das Bhargava : Sir, I beg to move :

"That in sub-clause (1) of clause 11 of the Bill, for the words 'shall, except for reasons to be recorded in writing' the words 'may for reasons to be recorded in writing' be substituted."

The words in clause 11 run thus :

"At any time after examining the complainant and before issuing process for compelling the attendance of the accused, the Court shall, except for reasons to be recorded in writing, require the complainant to execute a bond, with or without sureties", etc.

[Pandit Thakur Das Bhargava.]

This means that it is compulsory on the courts to ask the complainant in every case to furnish security.

An Honourable Member : Except for reasons to be recorded in writing.

Pandit Thakur Das Bhargava : That is only for reasons which are to be recorded the court may in certain cases be exempt from asking a complainant to deposit security.

5 P.M.

Now, Sir, a perusal of this section will show that the preliminary inquiry shall have been completed before the process is issued, and under section 202, the court shall have to find that there is a case against the accused before issuing a summons or a warrant. Therefore, as soon as a court finds that there is a good case, it shall be obliged to ask for the security unless there are reasons to the contrary. A more logical course would have been this. As soon as a court finds that there is a case, unless there are reasons to the contrary, it should not ask for a security of this kind. After all, what is the security ? The security is for the purposes of section 250. Now, in ordinary cases, this provision in section 250 comes into operation when the court believes or comes to the conclusion that the complaint was frivolous or vexatious. I do not know of any law in which the court starts with the presumption that the complainant has come before the court with unclean hands. Therefore, I submit that a presumption of this sort is certainly not justified, when a complainant comes before a court and makes a statement on oath it must be believed. There is no reason why the court should come to an initial conclusion that the complaint which is laid before it is frivolous or vexatious. I do not see why this deposit should be made compulsory. With these observations I leave the amendment in the hands of the House.

Mr. Amar Nath Dutt : Sir, only one word will dispose of the arguments of my friend Mr. Bhargava, and it is this, that any one, a rich enemy can set up a pauper to institute a complaint.

Mr. President : The question is :

"That in sub-clause (1) of clause 11 of the Bill for the words 'shall, except for reasons to be recorded in writing', the words 'may, for reasons to be recorded in writing' be substituted."

The motion was negatived.

Pandit Nilakantha Das : Sir, the amendment that stands in my name reads thus :

"That in sub-clause (1) of clause 11 of the Bill, the words 'except for reasons to be recorded in writing', be omitted."

My reasons for making this amendment are obvious. I do not think that any one should be exempt from depositing money or giving sureties.

Mr. B. Das : Sir, I will say only one word. My reason for giving notice to omit that particular clause is that cases will happen when the complainant will leave the province for another province, and it will be very difficult to get any money from him. Therefore, the deposit should be taken at the time of receiving the complaint. That is the reason why I move my amendment, which reads :

"That in sub-clause (1) of clause 11 of the Bill, the words 'except for reasons to be recorded in writing' be omitted."

Mr. President : The question is :

“ That in sub-clause (1) of clause 11 of the Bill the words ‘ except for reasons to be recorded in writing ’ be omitted.”

The motion was negatived.

Pandit Nilakantha Das : I beg to move :

“ That in sub-clause (1) of clause 11 of the Bill for the words ‘ to execute a bond, with or without sureties, for a sum not exceeding one hundred rupees ’ the words ‘ to deposit in cash rupees two hundred and fifty ’ be substituted.”

The complainants may try to avoid in various ways this Rs. 100 security, and as my Honourable friend Mr. B. Das has stated, they may run away to a Native State, or the complainant may be a bad man and he may throw all the burden on his sureties who perhaps had not known what they stood surety for. So, I propose that a cash deposit of not Rs. 100 but of Rs. 250 should be demanded from the complainant. This is intended to frighten or punish those who come to the court with clandestine intentions. I hope this salutary amendment will be accepted.

Mr. B. Das : I beg to move :

“ That in sub-clause (1) of clause 11 of the Bill for the words ‘ for a sum not exceeding one hundred rupees ’, the words ‘ for any sum which shall not be less than one hundred rupees but may extend to one thousand rupees ’ be substituted.”

Sir, I do not wish to say much on this amendment, seeing that the House is not in a mood to consider it.

I have to say only one thing, I do not want that the complainant should be treated as the favourite child of the Honourable the Mover of the Bill or of the Government. I would like to see the complainant punished on the same scale as one who performs a child marriage.

Mr. President : The question is :

“ That in sub-clause (1) of clause 11 of the Bill for the words ‘ to execute a bond, with or without sureties, for a sum not exceeding one hundred rupees ’ the words ‘ to deposit in cash rupees two hundred and fifty ’ be substituted.”

The motion was negatived.

Mr. President : The question is :

“ That in sub-clause (1) of clause 11 of the Bill for the words ‘ for a sum not exceeding one hundred rupees ’, the words ‘ for any sum which shall not be less than one hundred rupees but may extend to one thousand rupees ’ be substituted.”

The motion was negatived.

Mr. President : Mr. Nilakantha Das. Next amendment. (No. 90)*.

Mr. Nilakantha Das : That is consequential.

Mr. B. Das : I beg to move :

“ That to clause 11 of the Bill the following new sub-clause be added :

‘ (3) If the complainant is proved to have lodged false information the trying magistrate shall forthwith order prosecution of the complainant who shall be punishable with rigorous imprisonment which may extend to one month or with fine which may extend to one thousand rupees or with both ’.”

Clause 11, as it is drafted by the Select Committee, provides for the execution of a bond by the complainant.....

* “ That sub-clause (2) of clause 11 of the Bill be omitted.”

Mr. President : The Indian Penal Code provides for false complaints.

Mr. A. Rangaswami Iyengar : The Penal Code provides seven years and why do you want one month ?

Mr. B. Das : I do not know what the Penal Code says. I would only suggest that, if the Penal Code covers this, it should be incorporated in this Bill. The Bihar and Orissa Government has stated that there are blackmailers, and the complainant should not be let go with merely a deposit of Rs. 100, and it is with that object I have put down this amendment.

Mr. A. Rangaswami Iyengar : That is unnecessary.

The motion was negatived.

Pandit Nilakantha Das : I beg to move :

“ That at the end of the Bill the following new clause be added :

‘ Nothing in this Act shall apply to a case of child marriage where the girl married is not below 12 years of age and where any one of the contracting parties or their parents or guardians has obtained the sanction of the principal court of civil jurisdiction upon an application made prior to the solemnisation of the marriage stating the circumstances under which he is compelled to solemnise the marriage the non-performance of which would mean hardship to the girl or her family ’.”

The necessity of this saving clause struck me even when I was sitting on the Select Committee....

Mr. President : It struck you ? Were you hurt ?

Pandit Nilakantha Das : That appears in my minute of dissent to the Report of the Select Committee, and this amendment is in substance a copy of what I said in my minute of dissent. Several cases of hardship will actually arise if this Act be put in operation and it is necessary to protect such cases. I have mentioned some of them also in my minute of dissent. Whatever may be the object of the reformers in having this penal Act in this form, we have not come to a stage when the boys and girls will choose their own mates and perform their own marriages and will be themselves responsible for anything happening before and after marriage. Rightly or wrongly, in imitation of the west assimilated or not, we look forward to a state of things where practically the boys and girls will perform their own marriages, but that stage is not yet come. Now you make the parents and guardians responsible not only for the marriage, but you have also penal clauses provided against them in this Act. Honourable Members should realise that girls even before their 14th year may be suddenly required to be married in haste. Otherwise it may mean ruin to the girl as well as her family. Other less emergent cases but no less important for the legislator here may however be well provided for. Suppose a man has two or more daughters and he is a poor man. He is working in Simla and Delhi and his home is in Barisal. We know what a daughter's marriage means especially to a Bengali gentleman. He saves Rs. 2,000 or 3,000 in some ten years and goes home. Let us suppose he has got three daughters, one of the age of 15, another of the age of 13 and a third of the age of 12.

Mr. Amar Nath Dutt : You are not a Bengali. You belong to Orissa.

Pandit Nilakantha Das : He wants to marry them together.

Maulvi Muhammad Yakub : Marry them together ?

Pandit Nilakantha Das : Yes. That is possible. Now, the man takes two months' leave and wants to marry them in one year, he can marry them in one day—that is possible. (*An Honourable Member :* "Suppose the third one is 11 years old".) Then, is it not proper, when we are just beginning to have this penal legislation, that we should make some provision for such hard cases ? Otherwise the father and mother will be ruined. They will be unable to marry their other daughters and our Fundamental Rules of service will not allow the man leave of two months the next year.

My friends on the other side know best how it will be difficult for such a father to find the money to marry his daughters one after the other and to get privilege leave or whatever you call it. I have cited only one instance of a hard case and there are several other hard cases of varied characters. Suppose for instance....

Mr. President : Will the Honourable Member come to the amendment ?

Pandit Nilakantha Das : If the Chair is reluctant to hear instances.....

Mr. President : Order, Order. The Honourable Member is not relevant. He must confine himself to the particular points which he has raised by his amendment.

Pandit Nilakantha Das : I simply want to protect such cases where there will be hardship to the parents as well as the girls, and instances, I submit, are not irrelevant. I suggest that even if a girl be 12 years of age, the parent should be able to apply to the principal court of civil jurisdiction and get permission to marry that girl under exceptional circumstances, which I am illustrating. I know no amendment will be accepted and the entire Bill will be thrust down the unwilling throats of a substantial section not only in the country but even in this House. That is why the Chair is in haste to go through this Bill....

Mr. President : Order, Order. What is the meaning of the Honourable Member's statement that the Chair is in haste. The Chair is prepared to sit till 8 o'clock. What is the Honourable Member's insinuation ?

Pandit Nilakantha Das : I made no insinuation. What insinuation can there be but the fact that the Bill is being run through in haste on account of Government support. If I give no more instances, I have nothing more to say.

Mr. President : The Honourable Member must not refer to the Chair in those terms. Has he finished ?

Pandit Nilakantha Das : Yes. Thank you.

Mr. A. Rangaswami Iyengar : My friend Pandit Nilakantha Das has put forward this amendment and has cited one instance in which a genuine hardship exists, not only in the province of Bengal but also in my province of Madras. So as to avoid any misunderstanding, Sir, I may say at the outset, that what I plead for is not for exemption for those who believe in this reform. I am one of those who believe in this reform and will do my very best to forward it as everybody knows in this House. I am pleading for those who have genuine hardship in carrying out this penal law. Now, Sir, the Age of Consent Committee

[Mr. A. Rangaswami Iyengar.]

has gone into this matter very carefully, and if I may say so, the substance of their opinion is really in favour of the exemption. The Committee was equally divided on this matter and the Chairman did not think it right to give his casting vote against the amendment but merely said that he made no recommendation. With your permission, I shall read this passage :

“ Some of the members of the Committee consider it essential that the marriage law, when enacted, should provide for exemptions permitting marriages of girls below the prescribed age only in cases where the interests of the girl herself require such a marriage to be effected. In such cases, the District Judge should have the power to grant the exemption, conditional on securities being taken for separate living, custody and maintenance of the girl till the statutory age of consent is reached. As the Committee is equally divided on the question of exemption or no exemption, and as there is also a diversity of opinion as to whether exemption should be granted only in case of girls beyond a prescribed age, the Committee makes no recommendations on the point.”

Now, Sir, so far as the latter part of the observations of the Age of Consent Committee are concerned, Mr. Nilakantha Das has confined his amendment only to cases of girls and therefore to that extent I can claim the authority of the members of the Committee in favour of the exemption now asked for. Rai Bahadur Kanhaya Lal makes this matter even clearer. I do not wish to weary the House with long extracts. We are putting forward a very important scheme of marriage reform and all of us in this House have practically agreed that this reform should be brought about, and the only question is how best we shall enforce it. I do not say anything on the amendments that have been put forward or the divisions that have been taken, but the most curious part of the present situation is that the Government which took so much time from the last Session to examine the provisions of this Bill and who actually got an adjournment on this matter have taken absolutely no interest in any of the amendments moved. They have had nothing to say on the amendments. They want to carry through the Bill as it is because they have agreed to support the Bill. I entirely agree that this Bill ought to be supported, and every effort should be made by this House to carry the principles and the purposes of this Bill to execution, but it is necessary that this Government should examine its provisions carefully. I appeal to Government to consider this particular exemption that has been brought forward by Pandit Nilakantha Das, having regard to the fact that the Age of Consent Committee have very nearly accepted the principle of this amendment, and I would beg of them to accept this amendment and see how it works.

Mr. N. C. Chunder (Calcutta : Non-Muhammadan Urban) : Sir, Pandit Nilakantha Das's amendment has received the support of Mr. Rangaswami Iyengar ; but the opinion that Mr. Rangaswami Iyengar cited was in regard to a case where, in the interest of the girl, the civil court might give permission ; but Pandit Nilakantha Das's amendment relates to the interest of the parent of the girl.

Mr. A. Rangaswami Iyengar : Hardship to the girl or her family ?

Mr. N. C. Chunder : The point is whether he is compelled to solemnise the marriage. If Mr. Nilakantha Das's amendment was accepted, the primary thing which the court will have to look into is whether the

parent is compelled. I do not know whether it means physically or morally, (*An Honourable Member* : "Financially.") or financially. Assuming that the courts have arrived at certain decisions after trying a number of cases of this description and have come to a working rule as to what is meant by being compelled, still the court will have to see whether the father is compelled to marry the girl. It may be that the compulsion is owing to some hardship to the girl or to the girl's mother or to the girl's sister. Whatever it is, the primary thing to be considered is not the interest of the girl but that of her father. Therefore, to quote the Report of the Age of Consent Committee in support of Mr. Nilakantha Das's amendment will be as good or as effective as quoting say, a rule of Muhammadan law in support of a point of Hindu law. The two things are entirely different. They are looked at from two different points of view ; and even the illustration which my Honourable friend, Pandit Nilakantha Das, gave was one where the interest of the girl was not considered but the interest of the parent of the girl. He has got three daughters to marry and he can pass off two ; why not let him have the third taken off his hand ? That is the sort of argument that my Honourable friend gave. Therefore, I say, Sir, that the Report of the Age of Consent Committee has got nothing to do with it, and if anything, my Honourable friend's amendment ought to be opposed.

Mr. M. S. Aney (Berar Representative) : Sir, while supporting this particular amendment of my Honourable friend, Pandit Nilakantha Das, Mr. Rangaswami Iyengar had already pointed out to the House that that amendment had the support of the Age of Consent Committee itself. I would particularly invite the attention of Honourable Members to the opinion and recommendations made by Pandit Kanhya Lal in regard to this matter in his dissenting minute he wrote :

" My recommendations are :

- ' (1) That in any law fixing a minimum age of marriage a provision should be made empowering the District Judge, on previous application, to grant a dispensation for the performance of the marriage before the prescribed age, where the interests of the girl or her future happiness, welfare or safety urgently require it ;
- (2) That where the District Judge grants such dispensation or permission, he should have power to impose such terms, conditions or restrictions with or without security or sureties as to the separate living, custody and maintenance of the girl after marriage till she attains the prescribed age, as he may consider expedient or necessary, and also to rescind or vary the same from time to time '."

(*Mr. A. Rangaswami Iyengar* : " Page please ? ")

Page 230.

" (3) That the order of the District Judge granting or refusing the permission in such a case shall not be open to appeal except with the leave of the Judge passing the order ;..... "

Pandit Kanhya Lal, who made the foregoing recommendations, we were told by the Honourable the Home Member the other day, was appointed to this Committee as the representative of the orthodox community. Now, Sir, when this motion for consideration was moved, certain Members insisted that the Bill should be re-committed to Select Committee in view of the recommendations made by the Age of Consent Committee itself. This House wisely or unwisely rejected that amendment and they are now proceeding to consider the Bill clause by clause. It is up to this

[Mr. M. S. Aney.]

House, Sir, that the Committee's recommendations should be duly considered by them and they should seek to give effect to them by providing in this Bill something in the nature of a safeguard on the lines of the recommendations made by Pandit Kanhya Lal himself. People conversant with the life which members of a joint-family have to live can easily conceive of certain cases in which it would be convenient, or it would be highly in the interests of the girl herself, to have the marriage celebrated some time before the age prescribed. Such circumstances are not at all inconceivable. I would not like to take the time of this House by trying to place before this House instances after instances where this will be desirable. My friend, Mr. Nilakantha Das, has given one instance. That may not be very pertinent. In fact, my friend, Mr. N. C. Chunder has based his objection on the nature of the particular instance which Mr. Nilkantha Das has related to show that the clause which he is trying to insert here is not so much in the interest of the girl as in the interest of her guardian. But, Sir, very often the interest of the girl herself may require that she should be married before the prescribed time, as otherwise there will be nobody to look after her and find out a proper bridegroom for her. What will you do, Sir, in the face of such instances? Suppose, Sir, for instance, that there is a father who is the only guardian of that girl and that father is in a precarious state of health, and is not likely even in the opinion of competent doctors to survive at all till she attains fourteen years of age and there will be nobody left behind to look after her. Is she to be left to the tender mercies of the distant relatives who may like to rob the girl of the estate if any left by her father rather than look after her happiness? Under such circumstances it shall be the duty of the father to see that the girl is suitably married to a proper bridegroom. But is there no provision in the Bill for that? A circumstance like that, Sir, can easily be conceived of. There should be some provision made in this Bill to enable the guardians of that girl to get her married: and in the absence of any other amendment, I think the amendment moved by Pandit Nilakantha Das is the only one, which at any rate will go some way to give the relief in this direction. Although I think it might have been better worded and better phrased also, in the absence of anything else, I think here is one amendment which does seek to carry out the recommendations of the Age of Consent Committee and particularly the recommendation made by Pandit Kanhya Lal, who voiced the interests of the orthodox community, and for this reason that recommendation ought to carry great weight even with Honourable Members on the Government Benches. I therefore strongly support the amendment of my Honourable friend, Pandit Nilakantha Das.

The Honourable Sir Brojendra Mitter (Law Member): Sir, I oppose this amendment. There is an insidiousness in this amendment which I want to point out to this House. The purpose of the amendment is that in special cases there should be exemptions. That is the substance of the amendment. But once you make exemptions in special cases you make it possible for any man with a long purse to come under the exemption. (*Some Honourable Members*: "No, no". *An Honourable Member*: "How?") I will tell you how. (*Mr. Amar Nath Dutt*: "Your courts are like that".) I will tell you how. I have sufficient

experience of the courts to know how these things can be done. An astute lawyer can always make out a good case, a special case, if you have got money enough. By accepting this exemption you will stultify yourself, the House will stultify itself because the House has deliberately rejected 12 years and has adopted 14 years. Once you make an exception in favour of 12 years in special cases, all that is necessary is to make out a special case. A man with a long purse will go to a cunning lawyer and the cunning lawyer will say, "Well, a special case has got to be made out in terms of the section. Have you got evidence of this sort, that sort and the other sort?" Of course evidence will be forthcoming, affidavits will be placed before the court, and any number of affidavits can be procured with a long enough purse. The judge will have no option but to make the order. I am stating, Sir, the experience of courts. When a special case has got to be made out, it can always be made out if you go to an astute lawyer and if you have got a long enough purse. Therefore, Sir, I submit that there is grave danger in our accepting this amendment because in practice the exception will be the rule.

Pandit Thakurdas Bhargava : Sir, a reference has been made to what the Committee said in their Report. It runs thus :

"As the Committee is equally divided on the question of exemption or no exemption, and as there is also a diversity of opinion as to whether exemption should be granted only in case of girls beyond a prescribed age, the Committee makes no recommendation on the point."

The House will observe that, so far as the question of exemption was concerned, the Committee was equally divided, but so far as the question whether exemption should be granted only in the case of girls of a prescribed age, the Committee was divided in its opinion, but not equally divided. As a matter of fact, I will not be guilty of disclosing any secret when I submit to the House that the majority of the members of the Committee were of opinion that if the age was prescribed, say, at 12, then exemption should be granted.

Maulvi Muhammad Yakub : No. You were not present on the day when this matter came before the Age of Consent Committee. You were not in Mussoorie that day ; I was present in the Committee.

Pandit Thakur Das Bhargava : Sir, I cannot afford to be contradicted on a matter of fact and I positively assert that I was present at the time when this decision was come to. So far as the question of exemption is concerned, we were equally divided ; but when the question came before the Committee if a girl whose age was more than 12 years, then the majority of the Committee was in favour of giving these exemptions. I would also refer to the opinion given by Mr. Kadri. He has written a separate note and he has supported Rai Bahadur Pandit Kanhaiya Lal in this matter. The note is given at the end and the words are these :

"I agree with Panditji in thinking that it would be advisable to give exemptions in appropriate cases under the Marriage Law."

The reason why the Committee agreed has been pointed out by Pandit Kanhaiya Lal on page 221 of the Report :

"During the course of our inquiry in rural areas, a pathetic appeal was addressed to us by some village people, asking what would happen to their daughters if they were sick or dying, and there was legislation, forbidding marriage before the prescribed age."

[Pandit Thakur Das Bhargava.]

Then, again, I would not be doing my duty if I did not place before the House that many Muhammadan gentlemen and some Hindu gentlemen, who were examined as witnesses by this Committee, gave it as their considered opinion that in hard cases exemption should be allowed.

Now, Sir, the amendment before the House relates to girls who are not below 12 years of age, so that it follows that the question of exemption would only arise in respect of girls above 12 and below 14. In these cases the principal court of civil jurisdiction shall decide one question, namely, whether it is in the interests of the girl herself that she should be married. Now, this question is really in some cases not very difficult to decide. If we look to the laws obtaining in some of the Indian States we will find that such exemptions have been provided in many States. On page 224 (paragraph 57) of Pandit Kanhaiya Lal's note, the House will see :

"In the marriage laws, enacted in the Indian States like Baroda, Indore, Rajkot and Mandi, a provision has been made for the grant of license or exemption on previous application, where the parents or guardians are, owing to old age or disease, not likely to live to perform the marriage till the girl attains the prescribed age, and there is no other guardian or relative fit and willing to undertake that responsibility in the event of their death, or where other equally unavoidable difficulty is likely to arise."

Now, Sir, there may be many circumstances which may compel a parent to come to the civil court and ask for an exemption in such cases. It will be rather long if I begin to give examples of such hard cases. Suffice it to say, that this exemption clause has worked very well in the Baroda State, and even now in the Act of Baroda State, from which some of the provisions relating to this Act have been taken, this provision is to be found. I do not think there is any room for apprehension, as has been expressed by the Honourable the Law Member, when he said that an astute lawyer, if he had got a client with a long purse, would be able to get from the principal court of jurisdiction an exemption of this sort. Sir, this is casting an aspersion on the integrity of the court, or at least the capacity of the court of original jurisdiction. A District Judge is a very responsible officer and exercises a very great responsibility. In the Punjab, the District Judge is generally the Sessions Judge, and is competent to pass the sentence of death, subject only to the confirmation of the High Court.

I would therefore submit that the present amendment, though not happily worded and though rather wide, has to be accepted in the absence of any other amendment. I would also submit that, considering the general opinion of the country, I am perfectly satisfied that a provision of this nature will conciliate the opposition to this Bill and at the same time it will be a very salutary rule of law, which will provide for hard cases.

Mr. N. O. Kelkar : Sir, much of what I wanted to say on this point has already been said, in particular, by Pandit Thakurdas Bhargava. There are two more points I wish to make. The first point is this, that this was an idea originally embodied in Mr. Sarda's own Bill when it was first introduced. I do not think he will deny it if I put it to him. Now, unfortunately, he has become a slave in the hands of the Select Committee and is anxious to win the Bill at any cost. He is not prepared to go against the wishes of the Select Committee. But if he has any convictions

of his own, I do think that he will stand up and say : " I accept this amendment whatever may have been the fate of other amendments. " I cannot sympathise with him in this matter when he is going against his own convictions by not supporting this amendment and accepting it. In his own old Bill the exemption related to even a lower age, and now when an exemption is being asked in respect of a girl of 12 he is not going to accept it.

Rai Sahib Harbilas Sarda : May I explain my position, Sir ? My original Bill was a civil measure and there the object was to make the marriage invalid. That was a very drastic provision, and in order that that drastic provision might be given effect to, I had provided there, that in cases of conscientious objection a lower age might be provided. I provided for no exemptions. The present Bill, however, has nothing to do with making a marriage invalid. The whole case is different, and therefore the provision that I incorporated there does not apply in the present case.

Mr. N. C. Kelkar : The principle has hardly been affected by the change in the nature of the Bill. After all, there will be hard cases. He will admit that when he contemplated that provision, he referred not so much to the civil effect of the marriage as to the particular hardships that would be caused, and I think those conditions apply to this Bill also.

Rai Sahib Harbilas Sarda : Not at all. I provided for conscientious objection.

Mr. N. C. Kelkar : My next point is that, when it is convenient, the Baroda Act is taken as a model, but it has not been followed in this particular instance. When it was put forward in this House that the penalty should be confined only to fine and not substantive imprisonment, it was pointed out that in Baroda this remedy failed and the Baroda Government is now thinking of introducing, for the first time, simple imprisonment as a punishment. Now, I should like to ask, if the Baroda Act can be a good model so far as the introduction of substantive sentence is concerned, why should it not be a good model for allowing the exemptions that have been asked for in this particular amendment ? Of course, the amendment might have been better worded, but that is not the point. We must all sympathise with the principle mentioned therein.

Now, with regard to the allegation made by the Honourable the Law Member that long purses and ingenious lawyers would defeat the purpose of the Act by making too much of exemptions. I am really sorry that he is casting reflections upon his own judiciary. Why should he think so lightly of his own judiciary ? Why should he think that his own judiciary might be defeated by a combination of long purses and ingenious lawyers ? I can of course take his testimony on this point when he says that intelligent lawyers are prepared to prostitute their intelligence for long purses. That is another matter. I can take that description of his, but I cannot take his testimony when he says that there are no judges in this country who will defy not only long purses but even defeat ingenious lawyers. In that respect, as proof of what I say, I will just refer to Appendix XII of the Age of Consent Committee's Report, in which statistics are given about applications for exemption asked for and granted, and the ratio of total exemptions to total offences and the

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total convictions. If one will dispassionately read this Appendix, one will find that, after all, the applications for exemptions and the grant of exemptions have never been treated, even in Baroda, in as light a manner as is sought to be made out, and certainly they were not treated light-heartedly by the judiciary. In that respect, I will read to the House a few figures which will convince in my opinion both the House and the Honourable the Law Member that it is not trifled with by anybody, and that it is only in very serious cases that such applications are put forward and exemptions are granted and I am sure it will also convince the House that there must be certain loopholes left here for hard cases. Now, here are the figures given in the Baroda Administration Report for the years 1915 to 1924 :

" In 1915-16, the number of applications was 60 and the percentage of rejections, 31½ per cent. There were 4,837 cases of offences under the Act and 91.4 per cent. of convictions."

What do these figures show ? Do they show that the number of applications are made lightly to courts or that the exemptions are given light-heartedly by courts ? Certainly not.

Then take the succeeding years :

" In 1916-17, the number of applications for exemption was 331, the percentage of rejections, 5.7 ; the number of offences under the Act, 7,407 and the percentage of convictions 81.5."

What does that show ? That the number of applications for exemption is not very large. Now to come to the succeeding years :

" In 1917-18, only 19 applications.

In 1918-19, only 20 applications.

In 1919-20, only 27 applications.

In 1920-21, only 6 applications.

In 1921-22, only 237 applications."

Perhaps so many applications were necessitated from the point of view of religion.

" In 1922-23, only 11 applications.

In 1923-24, only 7 applications.

In 1924-25, only 12 applications."

Well, what do these figures show ? And all these years, the number of prosecutions has varied from 4,000 to 15,000. That means that the law is being enforced very rigorously without any light-heartedness by the judiciary, and along with that, these figures also show that the number of applications for exemptions is also not very considerable, and that even when applications are made, the proper authority deals with those applications in a considerate and proper spirit. That entirely refutes the allegation made by the Honourable the Law Member in this matter. Therefore, I think some such provision as is recommended in the amendment is necessary.

Kumar Ganganand Sinha (Bhagalpur, Purnea and Santhal Parganas : Non-Muhammadan) : Sir, I rise to support the amendment moved by my Honourable friend Pandit Nilakantha Das. Much has already been

said in support of this amendment by many previous speakers and I would therefore confine myself to one or two observations in this connection. My Honourable friend, Mr. N. C. Chunder, thought that this amendment sought to give protection to the parents, and on that ground he did not favour the amendment. I would draw his attention to para. 52 of the note of Rai Bahadur Pandit Kanhaiya Lal, one of the eminent members of the Age of Consent Committee, in page 221 of the Report. He records the experience of his inquiry and says :

“ During the course of our enquiry in rural areas, a pathetic appeal was addressed to us by some village people, asking what would happen to their daughters, if they were sick or dying, and there was legislation, forbidding marriage before the prescribed age. They asked whether the *Panches* or the *Sarkar* would provide for the protection of their girls and arrange for their marriage after their death, or pay the cost of a caste dinner to enable them to be readmitted into the caste and get married, if perchance they went wrong. Very little has been done during the last hundred years to give the masses the benefit of general education, or to teach them by active social propaganda that it was to the interest of their progeny that the marriage of girls should not be celebrated or consummated at an early age ; and if they still believe and follow the practices, which have been in vogue for centuries, does it stand to reason that we should try to restrain them by penal measures from following those practices without any serious attempt to meet or mitigate the difficulties or hardships, they have pointed out ? Economic considerations weigh heavily with these people ; and their argument and appeal deserve to be considered with sympathy rather than with scornful indifference.”

I would also appeal to the House to look at the matter with sympathy and consideration and not with scornful indifference, as the Pandit describes it.

Mr. N. C. Chunder : You may go to the District Judge to make an application in the guardianship.

Kumar Ganganand Sinha : It has been stated by the previous speakers, that in the Indian States which have enacted marriage laws, such exemptions have been provided for in the legislation. Now, that is with regard to India. I find that even in advanced countries of Europe, like France, Germany, Hungary, Italy, Belgium, Czecho-slovakia, Denmark, Finland, Iceland, Norway, Poland, Roumania, Sweden, Switzerland and other countries and coming nearer home in Japan, there are provisions in the marriage laws for such exemptions. I think that if the Select Committee did not make this provision, it was really a shortcoming in the Bill and it should be provided for in this legislation. If I may be permitted to quote only one or two sentences from the note of Pandit Kanhaiya Lal, I would be really telling my mind to this House on this question. In para. 58 of the Note, the Pandit says :

“ In the course of our enquiry, we came across a large body of influential opinion, which favoured marriage legislation with a due provision for the grant of exemptions in exceptional and urgent cases ; and even some witnesses, both Hindu and Muslim, who were opposed to marriage legislation, agreed that that legislation was likely to be more acceptable if such a provision was made to cover suitable cases.”

Sir, I venture to think that, in spite of the fact that the House has thrown out the amendment for twelve years, if the House passes this amendment it will mitigate to a very large extent the rigour of the law. Both the Muhammadan members of the Age of Consent Committee, Maulvi Muhammad Yakub and Khan Bahadur Mahabub Mian Imam Baksh Kadri, agree with the note of Pandit Kanhaiya Lal with regard

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to the exemption clause. I think, Sir, that when the Age of Consent Committee's Report is being cited for so many purposes, in support of this Bill, it will be followed also in this connection and the House will agree to the exemption clause.

Mr. President : As this turns out to be an important amendment, I should not like to have a division taken tonight. I should like the further discussion to continue tomorrow.

The House will now adjourn.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 19th September, 1929.