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OF THE

LEGISLATIVE ASSEMBLY, 1922



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CONTENTS.

	PAGE
TUESDAY, 5TH SEPTEMBER, 1922	1-9
Oaths.	
His Excellency the Viceroy's Speech.	
WEDNESDAY, 6TH SEPTEMBER, 1922	11-138
Death of Sir Vithaldas Thackersey.	
Statement laid on the Table.	
Questions and Answers.	
Unstarred Questions and Answers.	
Governor General's Assent to Bills.	
Panel of Chairmen.	
Member to serve on House Committee.	
The Police (Incitement to Disaffection) Bill.	
The Cantonments (House-Accommodation) Amendment Bill.	
The Indian Official Secrets Bill.	
The Criminal Tribes (Amendment) Bill.	
The Court-fees (Amendment) Bill.	
The Parsi Marriage and Divorce Bill.	
The Negotiable Instruments (Amendment) Bill.	
The Indian Boilers Bill.	
The Official Trustees and Administrator General's Acts (Amendment) Bill.	
The Indian Transfer of Ships Restriction (Repealing) Bill.	
THURSDAY, 7TH SEPTEMBER, 1922	139-248
Questions and Answers.	
Message from the Council of State.	
The Code of Criminal Procedure (Amendment) Bill.	
Statement of Government Business.	
Resolution <i>re</i> : Votes of the Landholders' Constituencies.	
Resolution <i>re</i> : Revision of the Railway Act of 1890.	
Resolution <i>re</i> : Travelling Facilities for Third Class Railway Passengers.	
Resolution <i>re</i> : Restrictions on the Export of Wheat, Pulses and Oil-seeds.	
FRIDAY, 8TH SEPTEMBER, 1922	249-344
Member Sworn.	
Question and Answers.	
Unstarred Questions and Answers.	
Conflicts in Asia Minor between the Greeks and Turks.	
Motion for Adjournment of the House.	
The Cantonments (House-Accommodation) Amendment Bill.	
Resolution <i>re</i> : Grant of Full Dominion Self-Government to India.	
Vol. III-I-137—Pt. I.	

MONDAY, 11TH SEPTEMBER, 1922.

. 345-406

Questions and Answers.

Unstarred Questions and Answers.

Motion for Adjournment.

The Cantonments (House-Accommodation) Amendment Bill.

Resolution *re* : The Weekly Rest Day in Commercial Establishments.Resolution *re* : Hours of Work in Inland Navigation.Resolution *re* : Employment of Young Persons as Trimmers and Stokers.Resolution *re* : Emigration for the Purpose of Unskilled Work to Malaya and Ceylon.Resolution *re* : Recruitment to Indian Forest Service.

TUESDAY, 12TH SEPTEMBER, 1922

. 407-466

Questions and Answers.

Unstarred Questions and Answers.

The Land Acquisition (Amendment) Bill.

The Code of Civil Procedure (Amendment) Bill.

The Civil Marriage (Amendment) Bill.

The Criminal Tribes (Amendment) Bill.

The Adoption (Registration) Bill.

The Exclusion from Inheritance Bill.

The Indian Contract (Amendment) Bill.

The Married Women's Property (Amendment) Bill.

The Illegitimate Sons Rights Bill.

The Legal Practitioners (Amendment) Bill.

WEDNESDAY, 13TH SEPTEMBER, 1922

. 467-499

The Indian Boilers Bill.

The Workmen's Compensation Bill.

The Court-fees (Amendment) Bill.

The Parsi Marriage and Divorce Bill.

The Official Trustees and Administrator Generals' Acts (Amendment) Bill.

Election for Standing Committees.

Resolution *re* : Committee on Electoral Rules.

Message from the Council of State.

THURSDAY, 14TH SEPTEMBER, 1922

. 501-566

Petition from Madras Voters *re* : Provincial Contributions.

Riots at Multan.

The Code of Criminal Procedure (Amendment) Bill.

Propaganda in Chamber.

Resolution *re* : Provincial Contributions to the Central Exchequer.

FRIDAY, 15TH SEPTEMBER, 1922 .

PAGE
567-655

The Code of Criminal Procedure (Amendment) Bill.
Messages from the Council of State.
Questions and Answers.
Unstarred Questions and Answers.
The Negotiable Instruments (Amendment) Bill.
The Indian Mines Bill.
The Police (Incitement to Disaffection) Bill.
The Criminal Tribes (Amendment) Bill.

MONDAY, 18TH SEPTEMBER, 1922 .

657-689

Bills passed by the Council of State.
Questions and Answers.
Unstarred Questions and Answers.
The Police (Incitement to Disaffection) Bill.
The Indian Boilers Bill.
The Workmen's Compensation Bill.
The Code of Criminal Procedure (Amendment) Bill.
Election of Standing Committees.
Conduct of Business.

WEDNESDAY, 20TH SEPTEMBER, 1922

691-734

Questions and Answers.
Sittings of the Assembly.
The Indian Mines Bill.
The Indian Extradition (Amendment) Bill.
The Indian Museum (Amendment) Bill.
The Indian Transfer of Ships Restriction (Repealing) Bill.
Election of Panels for Standing Committees.
The Legal Practitioners (Amendment) Bill.
The Supreme Court of British India Bill.
The Code of Civil Procedure (Amendment) Bill.
The Hindu Coparcener's Liability Bill.

FRIDAY, 22ND SEPTEMBER, 1922 .

. 735-794

Questions and Answers.
Unstarred Questions and Answers.
Panels of Standing Committees for Departments of Education and Health and Revenue and Agriculture.
The Criminal Tribes (Amendment) Bill.
Resolution *re*: Moplah Train Tragedy and Disturbances.
Resolution *re*: Establishment for Work of Legislative Assembly.
Date for Discussion of Supreme Court Resolution.

	PAGE
SATURDAY, 23RD SEPTEMBER, 1922	795-846
Questions and Answers.	
The Cotton Transport Bill.	
The Abolition of Transportation Bill.	
The Indian Penal Code (Amendment) Bill.	
The Indian States (Protection against Disaffection) Bill.	
Demands for Supplementary Grants.	
Resolution <i>re</i> : Imperial Medical Research Institute.	
Resolution <i>re</i> : Supreme Court for British India.	
Messages from the Council of State.	
Resolution <i>re</i> : Supreme Court for British India.	
MONDAY, 25TH SEPTEMBER, 1922	847-919
Statement laid on the Table.	
Questions and Answers.	
Unstarred Questions and Answers.	
Motion for Adjournment.	
Sittings of the Legislature.	
The Indian Mines Bill.	
The Indian Penal Code (Amendment) Bill.	
The Indian Naval (Armanent) Bill.	
The Criminal Tribes (Amendment) Bill.	
The Police (Incitement to Disaffection) Bill.	
The Indian Penal Code (Amendment) Bill.	
Message from the Council of State.	
The Cotton Transport Bill.	
The Indian Penal Code (Amendment) Bill.	
Demands for Supplementary Grants.	
TUESDAY, 26TH SEPTEMBER, 1922	921-951
Questions and Answers.	
Unstarred Questions and Answers.	
The Indian States (Protection against Disaffection) Bill.	
Demands for Supplementary Grants.	
Message from the Council of State.	
Adjournment of the Assembly.	
APPENDICES	1-12
Vernacular Speeches and Translations.	
INDEX	I-85

LEGISLATIVE ASSEMBLY.

Friday, 15th September, 1922.

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

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL.

Secretary of the Assembly : With your permission, Sir, I lay on the table the Bill further to amend the Code of Criminal Procedure, 1898, and the Court-fees Act, 1870, as passed by the Council of State.

MESSAGES FROM THE COUNCIL OF STATE.

Secretary of the Assembly : Sir, two Messages have been received from the Secretary of the Council of State. The first runs as follows :

" I am directed to inform you that the message from the Legislative Assembly to the Council of State, desiring its concurrence in a motion to the effect that the Bill to define the liability of employers in certain cases of suits for damages brought against them by workmen, and to provide for the payment by certain classes of employers to their workmen of compensation for injury by accident, was considered by the Council of State at its meeting yesterday, and that the motion was concurred in by the Council of State.

The Council desires, however, to convey to the Legislative Assembly an expression of its opinion that in the future the membership of a Joint Committee should not exceed fourteen.

The following Honourable Members of the Council of State were nominated to serve on the Joint Committee, namely :

*The Honourable Major General Sir William Edwards,
The Honourable Sir Alexander Murray,
The Honourable Mr. Kale,
The Honourable Mr. Phiroze Sethna,
The Honourable Mr. Khaparde,
The Honourable Sir Arthur Froom,
The Honourable Sir Leslie Miller,
The Honourable Satyad Raza Ali,
The Honourable Sir Mansackji Dadabhoy,
The Honourable Sir Ahmedthamby Maricair, and
The Honourable Diwan Tek Chand."*

The second Message is as follows :

" I am directed to inform you that the message from the Legislative Assembly to the Council of State, desiring its concurrence in a motion to the effect that the Bill to consolidate and amend the law relating to steam-boilers, be referred to a Joint Committee of the Council of State and of the Legislative Assembly, and that the Joint Committee do consist of 14 Members, was considered by the Council of State at its meeting yesterday, and that the motion was concurred in by the Council of State.

The following Honourable Members of that body were nominated to serve on the Joint Committee, namely :

The Honourable Mr. Moncrieff Smith,
The Honourable Mr. Lalubhai Samaldas,
The Honourable Sir Arthur Froom,
The Honourable Rai Bahadur Lala Ram Saran Das,
The Honourable Sardar Jogendra Singh,
The Honourable Sir Ahmedthamby Maricair, and
The Honourable Sir Leslie Miller."

QUESTIONS AND ANSWERS.

KHAN ABDUL GHAFFAR KHAN.

309. ***Bhai Man Singh** : (a) Has the attention of the Government been drawn to a letter from Lala Duni Chand, Vakil, recently released from Dehra Ghazi Khan Jail, dealing with the case of Khan Abdul Ghaffar Khan of Utmanzai, Peshawar District, that has appeared in the *Tribune* of 16th August and the *Independent* of the 12th August ?

(b) Are the facts and the particulars as set forth in the said letter correct and if not, in what respects are they incorrect ?

(c) Do the Government propose to order Khan Abdul Ghaffar Khan's release at once ?

(d) Is the Government considering to take steps to stop such treatment as is mentioned in the said letter to the prisoners of this kind and station in life ?

Mr. Denys Bray : (a) Yes.

(b), (c) and (d). The facts of the case are being ascertained, and a detailed reply will be furnished to the Honourable Member in due course.

GOLA GOKARAN NATH STATION.†

310. ***Rai Bahadur S. P. Bajpai** : (a) Are the Government aware that there is only one small railway platform at Gola Gokaran Nath, which is quite insufficient to meet the requirements of passenger traffic during fairs ?

(b) Are the Government also aware that up and down trains generally cross at Gola Gokaran Nath during night ?

(c) Is it a fact that on the 26th July 1922, a large number of passengers were run over by a railway train at Gola Gokaran Nath while crossing the railway line to catch the other train which had arrived at the station a few minutes earlier and was taken on the second line ?

(d) Is it a fact that 4 passengers were killed on the spot and seven were removed in precarious conditions to the Lakhimpur and Gola Gokaran Nath Hospitals ?

(e) Will the Government be pleased to state the actual number of passengers who succumbed to the injuries or have permanently been disabled ?

(f) Will the Government be pleased to state the circumstances which led to this tragic event at Gola Gokaran Nath on the 26th July 1922 ?

(g) Will the Government be pleased to state what action, if any, has been taken against the Railway Staff of the Gola Gokaran Nath Railway Station and the Driver and Guard of the train concerned ?

† NOTE.—With the permission of the President this question was put by Munshi Iswar Saran on behalf of Rai Bahadur S. P. Bajpai, the latter being absent.

(h) Do the Government propose to provide Gola Gokaran Nath with an overbridge and a second platform ?

Colonel W. D. Waghorn : (a) There is one platform at Gola Gokaran Nath Station which measures 750 feet \times 45 feet—also a large Mela Waiting Shed. This accommodation has been found sufficient for over 30 years.

(b) No. 7 Up and No. 8 Down trains are not scheduled to cross at Gola Gokaran Nath Station, and only do so when one of these trains is running late.

(c) On the 26th July 1922 there was a serious accident involving deaths and injuries to passengers who attempted to cross the line when 7 Up passenger train was approaching the station.

(d) and (e). Four passengers were killed and 7 injured one of whom died subsequently.

(f) The Assistant Station Master in charge disobeyed the rules in allowing the signals for 7 Up train to be lowered before 8 Down train had come to a halt at the station. He also acted in contravention of instructions in admitting to the second line, instead of to the platform line, the train due to arrive first.

The casualties were due to the intending passengers rushing the platform and crossing the line in front of the approaching 7 Up train in their eagerness to secure places in 8 Down.

(g) The Railway authorities and the Senior Government Inspector of Railways held an inquiry and found that the Driver and Guard were not to blame. The question of the prosecution of the Assistant Station Master is under consideration.

(h) Government have consulted the Railway administration. It is not proposed to provide an over-bridge and a second platform, but steps are being taken to provide means, in the shape of unclimbable fencing and high power lamps, to assist in the more efficient control of passengers at this station.

BENGAL TELEPHONE COMPANY.

311. ***Mr. J. Chaudhuri :** (a) Before entering into a new contract with the Bengal Telephone Company authorising them to enhance the charges of telephone service within the town of Calcutta by 75 per cent., did the Government consult the Calcutta public ?

(b) Is the Government aware that the terms represented by the Company to have been approved by the Bengal Chamber of Commerce and the Calcutta Trades Association were different from those submitted by the Company to Government ? Was any effort made by the Government to ascertain the views of the Indian Commercial Community and other people interested before concluding the contract ?

(c) Is the Government aware that since entering into the new contract with Government, the Bengal Telephone Company have sold out their concern to a new Company and thereby the original shareholders of the Bengal Telephone Company have made enormous profits and that such share-holders have been allotted two bonus shares in the new Company in addition to those original shares in the old Company ?

(d) Is the Government aware that all the public bodies in Calcutta,

both European and Indian, with one solitary exception, are of opinion that there was no justification for a sudden increase in the Telephone charges from Rs. 200 to Rs. 350 ?

(e) Did the Government enter into the contract under a misapprehension ? If so, do they propose to revise it ?

Colonel Sir Sydney Crookshank : (a) The Honourable Member is referred to the reply given on the 6th September 1922 to part (d) of Mr. Darcy Lindsay's starred question No. 234 on the same subject.

(b) The answer to the first portion is in the negative. The terms ultimately agreed to by Government included the terms reported by the Chairman of the Joint Telephone Committee of the Bengal Chamber of Commerce and the Calcutta Trades Association to have been agreed on by his Committee in consultation with the Bengal Telephone Company. The answer to the second portion of the question is in the affirmative.

(c) The Government of India are aware that a new Company called the Bengal Telephone Corporation, Limited, has been formed to take over the property assets, and undertaking of the Bengal Telephone Company, Limited, under clause (4) of the agreement dated the 11th April 1922, a copy of which has been placed in the Members' Library.

(d) A representation on the subject from a Conference of Associations of Calcutta has been received by the Government of India.

(e) The answer to both queries is in the negative.

INDIAN MERCHANT SEAMEN.

* 312. **Mr. K. Ahmed :** Are the Government aware that the majority of the merchant seamen who were killed during the last European War owing to enemy action, are Indian merchant seamen who fought heroically for the cause of the Empire ?

The Honourable Mr. C. A. Innes : Government are well aware of the good service rendered by Indian seamen during the war but they are not aware that the majority of the merchant seamen who were killed during the war were Indian seamen.

INDIAN MERCHANT SEAMEN.

313. **Mr. K. Ahmed :** (a) Is it a fact that Germany has to pay reparation award of £5,000,000 or thereabout to dependants of the British merchant seamen killed during the War ?

(b) Do Government propose to take steps for getting an adequate sum of money or an amount of money in proportion to their numbers for the benefit of the dependants of the Indian merchant seamen killed in War ?

The Honourable Mr. C. A. Innes : (a) The Government of India have no information as to the extent of the reparation claim presented against Germany by the United Kingdom on account of merchant seamen killed during the war. As however the basis of the claim is the nationality of the ship and not of the individual seaman, it will presumably include claims on account of Indian seamen as will be seen from the answer to part (b) of the question.

(b) Lascar seamen who were killed or died owing to hostile action during the war fall into three classes :—Firstly, lascars on British ships

who were either killed by hostile action, or died of influenza owing to their employment as a war emergency in northern latitudes (in which they are not normally employed) or died during internment in enemy countries. Pensions are being regularly paid to the dependents on scales framed by the Board of Trade and the entire cost is borne by His Majesty's Government.

The second category consists of lascars on Allied ships who were killed by hostile action. The only ship in question is the Italian s.s. "Catania," and pensions are being paid to the dependents of these men on the same scale as the first class. The Italian Government is paying on the scale sanctioned by it for its own seamen, but as that sanctioned by the Board of Trade for lascars on British ships is higher, the Government of India are making up the rate to that sanctioned for lascars on British ships.

The third category consists of lascars who were interned on enemy ships and who died during internment in Germany. Pensions are being paid by the Government of India to their dependents on the same scale and they hope eventually to be able to recover the cost or part of it from reparations.

It is therefore clear that the Government of India and His Majesty's Government are making full provision for the dependents of lascars who died during the war, and if any money is recovered from Germany it will go to recoup these Governments for the expenditure they have already incurred. It is very unlikely that either they or we shall get anything like the full amount, and it is therefore obvious that there is no question of pensions being increased merely because we get certain payments on account from Germany. From Resolutions passed by the Indian Seamen's Union, Calcutta, and from comments which have appeared in the Press, there seems to be some misunderstanding in the matter, and the Government of India are therefore glad of the opportunity of making their position clear.

Mr. K. Ahmed : Do I understand, Sir, that the £5,000,000 reparation award will be equitably divided both among the British merchant seamen and the Indian merchant seamen ?

The Honourable Mr. C. A. Innes : I have already explained that the amount will go to recouping His Majesty's Government and the Government of India for expenditure which they have incurred and are now incurring in paying pensions to the dependents of lascars who were killed during the War.

Mr. K. Ahmed : Then the money will be transferred to some other Department, but will not be paid to the Indian merchant seamen in proportion to what the British merchant seamen will get.

Mr. President : I would ask the Honourable Member to digest the answer which he has already had.

TAX ON MOTOR CARS, ETC.

314. ***Mr. Darcy Lindsay :** Will Government state :

- (a) What has been the gain, if any, in revenue from import of motor cars, motor cycles and accessories excluding tyres and

tubes since the imposition of the additional 10 per cent. to the luxury tax ?

- (b) What is the number and value of motor cars imported into British India during the first four months of the Fiscal years 1920, 1921, and 1922 showing imports from the United Kingdom separately ?
- (c) Are the Government aware that the high duty has very seriously injured the trade in motor cars with the United Kingdom in particular and do they propose to afford any form of relief to the United Kingdom as being a partner in the British Empire ?

The Honourable Mr. C. A. Innes : (a) The import duty collected on motor cars, motor cycles, motor scooters, bicycles and tricycles and articles adapted for use as parts and accessories thereof during the five months from 1st April to 31st August 1922 is higher by nearly Rs. 1½ lakhs than that collected during the corresponding period of the preceding financial year.

(b) 1920—Total imports 5,292 valued at Rs. 1,95,48,426. Imports from United Kingdom 616 valued at Rs. 39,95,455.

1921—Total imports 759 valued at Rs. 57,00,031. Imports from United Kingdom 184 valued at Rs. 23,95,467.

1922—Total imports 1,042 valued at Rs. 40,40,582. Imports from United Kingdom 85 valued at Rs. 9,01,675.

(c) The imports from the United Kingdom during the first four months of the current financial year show a considerable falling off as compared with the imports during the corresponding period of the preceding financial year ; but it is difficult to say how far this is due to the increase of duty and how far to the present depression in trade. At any rate the Government of India are not prepared at present to manipulate their tariff, which, as the Honourable Member is aware, is a revenue one, in order to discriminate in favour of imports from the United Kingdom.

Mr. Darcy Lindsay : Can the Honourable Member inform the House as to the amount which the Government anticipated obtaining from the increase of 10 per cent. in the import duty during the present financial year ?

The Honourable Mr. C. A. Innes : I am afraid I must ask for notice of that question.

Mr. S. C. Shahani : Are the Government aware why the high duty has seriously injured the trade in motor cars with the United Kingdom in particular ?

The Honourable Mr. C. A. Innes : I am aware that there has been a very large decrease in imports of motor cars from the United Kingdom. Possibly, that is due to the fact that the English car is a very expensive car and therefore 30 per cent. duty is comparatively high upon that type of car. But I may point out to my Honourable friend that it is not only to India that exports of cars from the United Kingdom have decreased. I have looked at the figures and I find that there has been a general decrease—and a very large decrease—in the export of cars from the United Kingdom.

Mr. Jamnadas Dwarkadas : May I ask a supplementary question ? Is it not a fact that probably the decrease in export of motor cars from the United Kingdom is due to the demand for cars in the United Kingdom itself, there being a very high import duty on foreign cars in the United Kingdom ?

The Honourable Mr. C. A. Innes : I am afraid I cannot answer that question. I merely stated a fact.

PUSHTU ALLOWANCE.

315. *Mr. P. L. Misra : (a) Will Government be pleased to state the total amount paid to officers of various departments in the North-West Frontier Province, on account of " Pushtu allowance " ?

(b) Why is it paid ?

Mr. Denys Bray.: (a) At present about Rs. 4,500 a month.

(b) As an inducement to officers Indian and British serving in the North-West Frontier Province to acquire that thorough knowledge of Pushtu which is essential for successful work on the frontier.

DEPUTY SANITARY COMMISSIONERS.

316. *Mr. P. L. Misra : (a) Is it a fact that all the Provinces in India have Deputy Sanitary Commissioners ?

(b) If the answer to (a) be in the negative will Government be pleased to state why the North-West Frontier Province has ?

(c) Will Government be pleased to state if one Sanitary Commissioner is able to cope with the work of five districts of the North-West Frontier Province ?

(d) If the answer to (c) be in the affirmative do Government propose to abolish the post of the Deputy Sanitary Commissioner ?

Mr. Denys Bray : (a) Yes, except the Central Provinces where the post exists, but is not filled.

(b) therefore does not arise.

(c) Yes, if the officer were a whole-time officer.

(d) is already under consideration.

DEPARTMENTAL EXAMINATIONS.

317. *Mr. P. L. Misra : (a) Will Government be pleased to lay on the table names of officers in the North-West Frontier Province—Judicial and Executive—with their designations and pay, who have not passed the Departmental Examinations ?

(b) What other educational qualifications do these officers possess ?

Mr. Denys Bray : The information is being collected and will be supplied to the Honourable Member in due course.

RAILWAYS PURCHASED BY THE STATE.

318. *Mr. P. L. Misra : Will Government be pleased to lay on the table a statement showing in respect of each of the railways purchased by the State at premium :

(1) Amount of companies' stock at date of purchase.

(2) Amount of premium.

(3) Total capital liability incurred by purchase = (1) + (2).

- (4) Amount treated as profit-sharing capital of the new Company.
- (5) Amount payable by annuity.
- (6) Amount paid in cash without creation of debt.
- (7) Amount paid by creation of debt dischargeable by sinking funds.
- (8) Amount paid by creation of debt not dischargeable by sinking funds.
- (9) Total capital cost of purchase = (3) + (4) + (5) + (6) + (7) + (8).
- (10) Gain or loss in creation of debt in items (7) and (8) ?

Colonel W. D. Waghorn : A statement containing the information asked for is being sent to the Honourable Member direct.

RAILWAY CAPITAL EXPENDITURE.

319. ***Mr. P. L. Misra :** With reference to paragraph 5 Chapter VII of the Railway Administration Report for 1920-21 will Government kindly state the sources from which the capital expenditure of Rs. 533.90 crores to end of 1919-20 was met, apart from the productive debt of Rs. 378.60 mentioned at page 2 of the second edition of the Guide Book for Investors in Government of India securities ?

Colonel W. D. Waghorn : The Capital expenditure in question was met from the undermentioned sources apart from the Productive debt mentioned by the Honourable Member :

1. Capital contributed by Railway Companies and Indian States.
2. Grants for Famine Relief and Insurance.
3. Grants from Imperial and Provincial Revenues.
4. India stock issued at the time of purchase and other liabilities incurred then or thereafter in the form of annuities, etc.

MACKAY COMMITTEE'S REPORT.

320. ***Mr. P. L. Misra :** Will Government kindly place in the Library a copy of the report of the Mackay Committee of 1907 on Indian Railway Administration and Finance, and of the evidence recorded by it ?

Colonel W. D. Waghorn : A copy of the Mackay Committee's Report of 1907 on Indian Railway Administration and Finance has been placed in the Library. Very few copies of the evidence were printed, and the Government regret that they cannot spare a copy for the Library.

RAILWAY STATISTICS.

321. ***Mr. P. L. Misra :** Will Government kindly state whether they maintain statistics to shew whether any class of passenger traffic or traffic in any commodity shews a persistent loss in working it, and if so, where those statistics can be found ?

Colonel W. D. Waghorn : Government do not maintain any special statistics relating to traffic whether passenger or goods other than those given in Volume II of the Administration Report on the Railways in India, a copy of which is available in the Library of the Legislative Assembly.

RAILWAY ESTABLISHMENT.

322. * **Mr. P. L. Misra** : Will Government kindly lay on the table a list of men who are at present holding posts in the Superior Traffic Service on State and Company-worked railways by promotion or transfer from the subordinate ranks, shewing the posts held by them immediately before and after such promotion or transfer ?

Colonel W. D. Waghorn : The information is being obtained and a statement will be sent to the Honourable Member.

PRODUCTIVE RAILWAYS.

323. * **Mr. P. L. Misra** : Will Government kindly state which of the new lines undertaken for construction from State funds since 1st April 1906 were estimated to give a return not less than the rate in force at the time for productive works and which of the lines of this class do actually give such a return ?

Colonel W. D. Waghorn : With the exception of certain strategic railways no new lines on which construction has been undertaken since 1906 were estimated to give a return less than the rate in force for productive works. As the accounts for most of these lines are merged in those of the parent railways, it is not possible to say what actual return has been obtained.

CAPITAL OUTLAY ON RAILWAYS.

324. * **Mr. P. L. Misra** : Will Government kindly lay on the table a statement shewing capital outlay incurred by the State from 1st April 1905 to 31st March 1914 on :

- (a) New lines excluding rolling stock.
- (b) Additional engines.
Additional first class carriages.
Additional second class carriages.
Additional inter class carriages.
Additional third class carriages.
Additional coaching stock of other classes.
Additional goods stock.
- (c) Improvements of existing lines ?

Colonel W. D. Waghorn : (a) and (c). For the information regarding capital outlay incurred by the State from 1st April 1905 to 31st March 1914 on new lines excluding rolling stock and on improvements of existing lines the Honourable Member is referred to the Administration Reports for the years in question, copies of which are available in the Library.

(b) Information regarding capital outlay on items entered in part (b) of his question is not readily available and the Government of India regret that they cannot undertake to collect it as in their opinion it would not serve any useful purpose.

CLERICAL STAFF.

325. * **Mr. P. L. Misra** : Is it a fact that Government propose to reduce the clerical staff in the Secretariats of the Government of India in view of the necessity of retrenchment ?

The Honourable Sir Malcolm Hailey : Preliminary inquiries into the possibility of retrenchment are in progress but, until these are completed and until Lord Inchcape's Committee have formulated their proposals, Government cannot say how far it will be necessary to reduce ministerial staff.

STAFF SELECTION BOARD EXAMINATION.

326. *Mr. P. L. Misra : (a) What is the amount of the bills for advertisements in each of the different papers in connection with the recent Staff Selection Board examination ?

(b) What is the total expenditure in connection with that examination ?

(c) What is the total realization on account of fees ?

(d) What is the probable number of vacancies in each of the several offices against which the examination was held ?

(e) How many were on the list of passed candidates prior to the examination ?

The Honourable Sir William Vincent : (a) A list is laid on the table.

(b) Rs. 13,012 approximately.

(c) Rs. 16,370.

(d) A copy of the communiqué issued by the Board, which gives all the available information, will be supplied to the Honourable Member.

(e) 220. For details, the Honourable Member is referred to the reply given by me to Rai Bahadur S. P. Bajpai's Question No. 86 during the current Session.

List of charges made by newspapers for publishing the Board's Communiqué of the 19th May 1922.

				AMOUNT.		
				Rs.	A.	P.
Times of India	..	..	..	275	8	0
Statesman	..	..	..	226	8	0
Eastern Mail	..	..	..	106	8	0
Madras Mail	..	..	..	480	0	0
Tribune	..	..	..	135	0	0
Hindu	..	..	..	510	0	0
Civil and Military Gazette	..	..	..	147	6	0
Bengalee	..	..	..	249	0	0
Pioneer	..	..	..	312	12	0
Englishman	..	..	..	118	2	0
Times of Assam	..	..	..	47	4	0
Search Light	..	..	..	141	0	0
Daily Gazette Press, Karachi	..	..	..	114	0	0
Bombay Chronicle	..	..	..	281	4	0
Leader, Allahabad	..	..	..	120	0	0
Bande Matram	..	..	..	120	0	0
Total	..	..	..	3,390	4	0

RAILWAY COMMITTEE'S REPORT.

327. *Mr. P. L. Misra : Will Government kindly lay on the table a brief statement showing the progress made during the last ten months in connection with the consideration of the recommendations of the Indian Railway Committee ?

Colonel W. D. Waghorn : As the Honourable Member knows, proposals of the Acworth Committee regarding Finance have already been examined by a special committee of the Legislature. A Central Advisory Council has also been constituted though not quite on the lines proposed by the Committee and this Council has lately considered the recommendations of the Committee in regard to the future management of Railways with special reference to the East Indian Railway and Great Indian Peninsula Railway. It has also considered the question of Local Advisory Councils and we hope soon to place before it the question of establishing a Rates Tribunal.

RENEWALS ON ROLLING STOCK.

528. * **Mr. P. L. Misra :** Will Government kindly lay on the table a statement showing the arrears of renewals as they stood on 31st March 1922 on the Company-worked State railways in respect of engines, coaches, wagons and permanent way, etc. ?

Colonel W. D. Waghorn : Measures to make good the depreciation are already in hand, but Government have no figures from which a statement could be prepared which would correctly define the extent of the arrears to be made up on all lines in all the multifarious items which constitute the railway property.

RAILWAY FARE.

829. * **Mr. P. L. Misra :** Will Government kindly lay on the table a comparative statement showing the scales of fares in force on the principal railways in India for different classes immediately before the enhancement of 1917, and immediately before and after the further enhancement of 1922 ?

Colonel W. D. Waghorn : A statement giving the information so far as it is available is being sent to the Honourable Member.

UNSTARRED QUESTIONS AND ANSWERS.

GOVERNMENT OF INDIA SECRETARIAT.

193. **Maulvi Miyan Asjad-ul-lah :** (a) Will Government be pleased to lay on the table a statement showing, separately—

- (i) the number of Muslims, Hindus, Europeans and Anglo-Indians employed permanently in the Upper Division of the various Departments of the Government of India Secretariat ;
- (ii) The proportion of Muslims to non-Muslims in the Upper Division in each Department ;
- (iii) The total proportion of Muslims to non-Muslims in all the Departments of the Government of India in the Upper Division ?

(b) Is it a fact that in the Railway Department out of about 40 men in the Upper Division there is only one permanent Muslim employee ?

The Honourable Sir William Vincent : As stated on the 11th September 1922 in reply to Mr. K. Ahmed's Question (No. 291) on the subject,

the information required is being collected and will be laid on the table in due course.

MUSLIMS IN GOVERNMENT OF INDIA OFFICES

194. **Maulvi Miyan Asjad-ul-lah** : (a) Have Government issued any instructions to the Staff Selection Board to keep an eye on the due representation of Muslims while recruiting for the various offices of the Government of India ?

(b) How many Muslims have the Staff Selection Board supplied to the various offices of the Government of India for the Upper Division since its establishment ? What was the total number of such men of other communities supplied by the Board ?

The Honourable Sir William Vincent : The attention of the Honourable Member is invited to the replies given by me on the 11th September 1922 to the two questions asked by Mr. K. Ahmed on the same subject.

INDIAN WAR MEMORIAL CURATOR.

195. **Dr. H. S. Gour** : (a) Will the Government be pleased to state what is the salary and allowances paid to the Curator of the Indian War Memorial ?

(b) What are his duties and what staff and assistants is he provided with ?

(c) Is it a fact that the office has been now reduced to a mere sinecure and that the incumbent has no work to do beyond drawing his monthly salary ?

(d) Do the Government intend immediately to take steps to bring his salary and that of his office under retrenchment ?

Mr. M. S. D. Butler : (a) The Curator, Indian War Memorial, receives :

as pay	Rs. 300—10—350 a month.
as conveyance allowance	Rs. 35 a month.
as house-rent allowance	Rs. 24 a month.

(b) The Curator is in charge of the exhibits contained in the Museum. His staff consists of a daftari, 2 peons and 4 lascars.

(c) and (d). The answers are in the negative.

GOVERNOR GENERAL'S BODY GUARD.

196. **Mr. Darcy Lindsay** : Will Government state :

(a) The strength and annual cost of up-keep including transport of His Excellency the Governor General's Body Guard ?

(b) Is the Body Guard available as a fighting unit and recognized as such by Army Headquarters ?

(c) On how many occasions and where during the years 1919, 1920, and 1921 has the full available strength of the Body Guard been paraded for escort duty ?

(d) Have the services of the Body Guard for escort duty been largely discontinued since the advent and more general use of the motor car ?

(e) Has Government suggested for consideration of His Excellency the Governor General the retrenchment that might be effected by a considerable reduction in the strength of the Body

Guard and the utilisation of a detachment from an Indian Cavalry Regiment for Ceremonial Escort when occasion arose ?

Mr. E. Burdon : (a) The strength of His Excellency the Viceroy's Bodyguard is as follows :—

British officers—2 ; Indian officers—4 ; Indian other ranks—118.

The total annual cost, including the cost of moving the Bodyguard from Dehra Dun to Delhi and back, by rail, is estimated at Rs. 2,27,400.

(b) Yes.

(c) and (d). Government have had to call for precise information on these points from the Officer Commanding the Bodyguard. I will let the Honourable Member know the result of the inquiries as soon as possible.

(e) No, but it is understood that His Excellency has been examining possibilities of reduction.

DUTIES OF RAILWAY SERVANTS.

197. **Lala Girdharilal Agarwala :** (a) What are the duties of Railway guards and engine drivers ?

(b) Are any maximum and minimum hours of duty at a time prescribed for guards and drivers of Railways ?

(c) If not, do the Government propose to do anything in the matter ?

Colonel W. D. Waghorn : (a) The duties and responsibilities of railway guards and drivers are laid down in a general manner in Chapters XVI and XVII of the General Rules for open lines of railway in India. Each Railway Administration issues subsidiary rules, based on these General Rules, for the guidance of its own staff.

(b) and (c). The hours of duty of drivers and guards are ordinarily governed by the general limit of 60 hours a week and Railway Administrations endeavour to limit actual hours on duty at any one time to 8 hours. At the same time it must be recognised that owing to delays due to breakdowns or other unforeseen causes these hours may be exceeded.

COW SLAUGHTER.

198. **Lala Girdharilal Agarwala :** (a) Has the attention of the Government been drawn to a note in the *Leader* dated 25th August 1922 at page 3 regarding stoppage of cow-sacrifice in Afghanistan even for religious purposes ?

(b) What have the Government done or propose to do in the matter in British India to secure the sympathy of the masses especially the Hindus ?

(c) Did any deputation on the subject of stoppage of cow-slaughter and other cognate matters wait upon His Excellency the Viceroy this year at Delhi ? If so, will the Government be pleased to lay on the table a copy of their address and the reply given by His Excellency ?

Mr. J. Hullah : (a) Yes.

(b) The matter is one in regard to which the Government cannot, consistently with their policy of strict neutrality in religious matters, interfere.

(c) Yes. Copies of the address and the reply of His Excellency the Viceroy are appended.

His Excellency the Right Honourable

RUFUS DANIEL ISAACS EARL OF READING,

P.C., G.M.S.I., G.M.I.E., K.C.V.O.,

Viceroy and Governor General of India.

MAY IT PLEASE YOUR EXCELLENCY,

We, the Members of the All-India Cow Conference Association, assembled here on deputation, and representing several communities in India, all of whom take an interest in the condition of cattle in general and in the cow in particular, beg leave to approach Your Excellency on the whole question of cattle protection in India, which has to-day assumed an importance that claims immediate attention.

As Your Excellency is aware, agriculture is the main occupation of the people of the country, being the means of livelihood of about three-fourths of the population; agriculture in its turn is dependent almost wholly in India on cattle. It is a matter of deep concern to find, therefore, that the number and the quality of the cattle are altogether inadequate for the purposes of agriculture and it is yearly becoming more so. Recent inquiries have shown that the number of plough-cattle available for the cultivation of the arable portions of the land is only about one-fourth the number necessary for this purpose. The result has been an increasingly poor outturn of crops, poorer than that of any civilised country, being about a third of the rate of the outturn of Great Britain, Denmark, Japan or Egypt. Such outturn in India often leads to famines so frequently recurring in the country.

We should also like to draw Your Excellency's particular attention to the condition of the milch-cattle of the country, which is deplorable. In India, the bulk of the people are largely vegetarian in diet and depend mainly on milk and milk-products for their nutrition. The rapid rise in the prices of milk and ghee during the last decade or two must, on this account, give serious cause for anxiety, as the supply of milk is scarcely enough to satisfy the requirements of an eighth of the population. One of the most distressing results has been the appalling rate of infant mortality which is nine times that of New Zealand, five times that of Holland and more than double that of the United Kingdom. A further result of this milk shortage is a general deterioration in the vitality of the people, reducing their power to resist disease, thereby rendering them an easy prey to epidemics.

In addition Your Excellency may be pleased to note further factors that go to complicate the position outlined above. Pasture lands are very inadequate for the cattle of the country. Breeding bulls are deficient in quality and numbers, as they are often diverted to other purposes. Some of the best cattle of the land are indiscriminately slaughtered for food or they are exported; while others, in increasing numbers, are slaughtered to meet the demands of the hide trade and the dried meat trade. In the meantime the indigenous systems of cattle treatment are languishing for want of patronage and cattle epidemics are numerous; and the cruel and disgusting processes, known as "Phooka" and the manufacture of "Puri" practised by Goalkas and others, for which there is not sufficiently deterrent legislation, continue. The accumulative effect of the matters outlined above has produced the present woeful condition of these dumb animals, whose preservation was considered so necessary to India that they were held sacred by the ancient sages of the land.

Upon the facts we desire to refer to the Memorial presented to Lord Chelmsford shortly before his departure. The memorial was based on information collected during the last three years from different parts of India with regard to the condition of cattle. We now address Your Excellency with a view to place before Your Excellency the importance of this matter with the hope that having secured Your Excellency's interest therein, Your Excellency may inquire of the Local Governments as to the advisability of action to be taken. We also take this opportunity of offering to Your Excellency and to Lady Reading our sincere good wishes for prolonged life and prosperity coupled with a desire that Your Excellency may, by the blessing of Providence, effect great good in this Country over which Your Excellency now rules with great benefit to its many millions.

We have the honour to be,

Your Excellency's most obedient servants,

The Members of the All-India Cow

Conference Association.

10, OLD POST OFFICE STREET,
Calcutta, the 27th March, 1922.

His Excellency the Viceroy's speech in reply to an address presented by a deputation of All-India Cow Conference on the 27th March, 1922.

First of all, Gentlemen, let me thank you, on behalf of Lady Reading and myself, for the kind wishes with which your address concludes.

I have listened to your address with great interest as I know well the importance to India of the matters with which you have dealt. It also affords me an opportunity of assuring you of the unremitting attention which my Government pays to the general agricultural condition of the country and in particular to those difficult problems connected with the preservation and improvement of its cattle wealth.

I may say, however, that I am far from taking the pessimistic view of the situation which is presented in your address.

You state that the number and the quality of cattle in India are inadequate for the purpose of agriculture and that they are yearly becoming more so. I think that this assertion somewhat overstates the position. The census returns are encouraging rather than otherwise. It is true that the very widespread and severe fodder scarcity of 1918-19 caused a reduction in the number of cattle, and the almost equally severe scarcity of 1920-21 has probably retarded recovery, but the last census showed an increase, in ten years of over 6 per cent., in the number of cattle in areas for which full comparative figures are available, and I have every confidence that the recent favourable monsoon will restore such losses as have occurred. It is hardly relevant to compare—as was done in your memorial to Lord Chelmsford—the number of cattle per hundred of population in India with similar calculations like Australia, Argentine and Uruguay, sparsely populated and largely pastoral countries, one of whose main industries is cattle-breeding for the export trade in meat. The census returns also indicate not an increase, but a slight decrease in the area which a single pair of bullocks is required to plough. I think that we must leave it to the cultivator to determine the number of the cattle which he considers essential for the cultivation of his land, and to concentrate the attention of Government on improvement of quality, and I myself shall not be dismayed if an improvement in quality is accompanied even by a reduction in numbers and a saving in fodder and pasture which is at present largely consumed by useless animals.

I now come to the question of the milk supply and the condition of the milch cattle which you say is deplorable. The rise which has taken place in the price of milk is to be regretted, but there is no evidence that it is due to any deterioration in the quality or quantity of cattle. In point of fact its price has simply risen in sympathy with that of other commodities. Nor can I attribute the high infant mortality, which unhappily prevails in this country, to a reduction in the number or quality of milch cattle. High infant mortality is unfortunately not new in India. I am in complete sympathy with your desire to reduce it. It is one of the serious problems of India, but, though deeply to be deplored and while it is undoubtedly attributable in part to defective nutriment, its main causes are to be found in ignorance and the neglect of sanitation. An improvement in the milk supply turns first and foremost on better breeds of cattle. You will be interested to learn that at the Agricultural Institute at Pusa cows have been bred which give an average outturn of 82 pounds of milk a day. The goal which we should keep in view is therefore a breed of cow which will give the maximum annual yield of milk and the elimination of all animals whose outturn is barely worth their keep.

The slaughter of cattle, and especially of cows, is a subject bristling with difficulties, owing to its close connection with the religious beliefs and feelings of a large part of the population. But, though I appreciate the motives which must have induced you to avoid discussion of this aspect of the matter, it is impossible for me to refrain from some mention of it. The bitterness of religious differences has in modern times largely given way to broad-minded toleration, and I only ask that this spirit of toleration may be observed whenever the question of cattle-slaughter is discussed. Respect one another's religious beliefs, but, while striving as far as possible not to offend against them, do not let any man try to force his own upon other men. And, for the economic point of view, let me ask you to credit with honesty of opinion those persons who tell you that India perhaps suffers, not from the fewness, but from the multitude, of her cattle. Also let me ask you to disbelieve the wild statements which, I believe, are often made, that there is a heavy drain on our cattle through export to other countries. The export

of cattle is, in fact, extremely small; in a debate in the Assembly last March it was shown that only one animal in ten thousand is exported each year. It is at least a tenable proposition that the export trade tends to promote, rather than retard, the maintenance of good breeds by the stimulus that it gives to breeders and the preservation, in their pure and true types, of the best strains. Nevertheless, the Government of India, in the debate which I have just mentioned, undertook to prohibit the export of good breeds when satisfied that they were being unduly depleted.

In the memorial which your Association submitted to my predecessor you asked for the appointment of a Commission to inquire into a variety of matters connected with the cattle wealth of this country. The Council of State after a full discussion considered that such a Commission was unnecessary. You now ask that an inquiry should be made from Local Governments as to the advisability of action being taken in the matter. I will see that your address and my reply is brought to their notice. But the Agricultural and Veterinary Departments are, as you are aware, now transferred subjects in the charge of Ministers, who have full power to take any steps which they consider necessary in the interests of the cattle wealth of their respective Provinces and I shall leave the matter in their hands with the fullest confidence that it will be satisfactorily dealt with. I may mention, however, that the main points of interest in the last cattle-census have been brought to the notice of the Local Governments, and they have been asked to examine the figures especially where these reveal defects in their respective provinces.

And now, Gentlemen, what is the upshot? My conclusion is that though there is plenty of room for improvement, there is little ground for pessimism. Above all, what is wanted is not an increase in the number of cattle but an improvement in their quality. And here I cannot refrain from saying that though public feeling is keenly interested in the subject, this interest is rarely manifested in action or enterprise. Last year, the Government of India appointed as Imperial Dairy Expert, an officer of great practical experience, one of whose functions is to advise on any dairy schemes submitted to him. The numerous requests for assistance that he received from public bodies and private concerns or persons were a most gratifying testimony of public interest in the subject of the milk supply, but I am bound to add that though, in response to those requests, he drew up in complete detail a number of schemes, in very few cases—if in any—has any attempt been made to put them into operation. Apart from Government assistance, enterprise, public and private, is required and there is no better direction in which public spirit or commercial activity can manifest itself than in translating into action the interest that is so widely felt in this important subject. My Government will do all that it can to assist and I am sure that the Local Governments will do the same.

PROVIDENT FUND.

199. Raja Mohamad Ikramulla Khan : Will Government please state what is the total amount of Provident fund due to Railway employees in India for each Railway and which is unclaimed up to the present time?

Colonel W. D. Waghorn : The information asked for is being collected and will be supplied to the Honourable Member as soon as ready.

POST OFFICE CASH CERTIFICATES.

200. Raja Mohamad Ikramulla Khan : Will Government please state what is the total amount due to people of each Province of India on account of Post Office Cash Certificates issued during war and which is unclaimed?

Colonel Sir Sydney Crookshank : It is regretted that the information asked for cannot be furnished, as the necessary figures are not readily available and their compilation would entail an inordinate amount of time, labour and expense,

PROVIDENT FUND.

201. **Raja Mohamad Ikramulla Khan** : Will Government be pleased to publish the list of persons of each Province to whom Provident fund from Railway Department is due ?

Colonel W. D. Waghorn : The Government regret that the suggestion made by the Honourable Member cannot be accepted, the number of subscribers being nearly two hundred thousand.

POST OFFICE CASH CERTIFICATES.

202. **Raja Mohamad Ikramulla Khan** : Will Government also publish the list of persons to whom money is due for Post Office Cash Certificates in each Province ?

Colonel Sir Sydney Crookshank : It is regretted that the request cannot be complied with, as the compilation of a list such as that required would entail an expenditure of time and money quite incommensurate with the value of the results.

THE NEGOTIABLE INSTRUMENTS (AMENDMENT) BILL.

The Honourable Sir Malcolm Hailey (Finance Member) : I beg to move :

“ That the Bill further to amend the Negotiable Instruments Act, 1881, be taken into consideration.”

This Bill, a small one in itself, was initiated on the proposal of an important commercial body. Its terms were circulated to other commercial bodies throughout India and were approved by them. Since I introduced the Bill, we have received no criticisms in regard to it and I think therefore that we may take it that both in principle and in drafting it meets the needs of the commercial community.

Mr. President : The question is :

“ That the Bill further to amend the Negotiable Instruments Act, 1881, be taken into consideration.”

The motion was adopted.

The Honourable Sir Malcolm Hailey : I move that the Bill be passed.

Mr. President : The question is that the Bill be passed.

The motion was adopted.

THE INDIAN MINES BILL.

The Honourable Mr. C. A. Innes (Commerce and Industries Member) : Sir, I move for leave to introduce :

“ A Bill to amend and consolidate the law relating to the regulation and inspection of mines.”

I am afraid it is again my fate, Sir, to introduce in this Legislature a rather difficult and contentious measure, but I have no hesitation in saying that the House will accept the proposition that legislation of some kind to amend the Indian Mines Act is necessary and after all at this stage that is the main point with which we are concerned. Our existing Act, Sir, dates from 1901. It has on the whole worked remarkably well but

[Mr. C. A. Innes.]

It is only natural that 21 years' experience of the working of the Act should have disclosed defects which require remedy. Indeed we have long had the amendment of the Act under consideration and the question has now been brought to a head by the introduction of the Reforms Scheme. Under the Devolution Rules the regulation of mines is a Central subject. The existing Act is defective in that it makes no clear distinction between the functions of the Central Government on the one hand and the functions of Local Governments on the other. That is an obscurity which we must clear up. We must make a division between those functions which we should properly exercise and those functions which Local Governments should properly exercise. Fortunately the line of division is not hard to draw, and the line we are proposing to draw in the Bill has been unanimously approved by all Local Governments. The primary object of all legislation for the regulation of mines is to provide adequate safeguards for the safety of workers in the mines and to provide machinery for the enforcement of such safeguards as may be imposed. And, as I said, Sir, in dealing recently with the Boiler Laws Amendment Act, it is obvious that safeguards of this kind must be uniform from province to province, and that indicates the line of division we propose to draw. In this Bill we propose to confer upon the Government of India the power of framing such regulations as may directly or indirectly affect the safety of workers in mines. Having done that, in accordance with our usual practice, we propose to leave Local Governments to carry on the detailed administration of the Act. As I have said, all Local Governments have agreed to this proposal.

But, Sir, we are also taking the opportunity of introducing provisions to regulate employment in mines. This is an innovation in India, as our existing Mines Act contains no provisions to regulate employment in mines, and it is here, I am afraid, that the Bill opens up difficult and contentious questions. As is usual in the case of legislation of this kind, we have to hold the balance as evenly as we can between what we should like to do and what is practicable. We have to consider the conditions of working in mines. We have to consider the classes of workers in mines. If this Bill is passed into law, it will affect mainly the coal mines in Bihar and Bengal fields. These coal mines are the most important classes of mines in India, and the workers in these mines are largely aborigines, Santals, Baurias, and the like. They are not accustomed to discipline. They are accustomed to work in a way that suits them best. They are not entirely dependent on coal mining. They combine coal mining with agriculture. They come when it suits them. They go when it suits them. What we have to be careful of is lest we should by drastic legislative changes introduce changes in their conditions of work which may not suit them. If we do that, we may deprive them of a source of livelihood which they have at present. Moreover we may dislocate an industry upon which all other industries in India, or practically all other industries in India, are dependent. That is a danger we should always keep in mind. What we have done, Sir, in this matter is to follow as far as possible our International obligations. Take the question of limitation of hours of work. The House will remember that the Washington Conference adopted a Convention which applied to India the principle of a 60 hours week.

I may remind the House that it has ratified that Convention. For workers above ground in mines we have proposed this 60-hour limit. For workers below ground we have gone rather beyond the terms of the Draft Convention and we have suggested a 54-hour week, but I may mention that a special committee of that Conference particularly recommended to the Government of India that we should consider whether the hours of work underground in mines could not be reduced. We have consulted Local Governments on our proposals. The Government of Burma is opposed to any restrictions on hours of work. At a later stage, if the House will allow me to introduce this Bill, I shall propose that the Bill be committed to a Joint Committee, and it will be for the Joint Committee to decide, at any rate, in the first instance, whether a case can be made out for special treatment for Burma. Other Local Governments generally agree in our proposals, particularly those two Local Governments which are principally concerned, the Government of Bihar and Orissa and the Government of Bengal. Then, Sir, last year the Conference of Geneva adopted a Draft Convention enforcing the principle of a weekly rest day in industrial undertakings. I have not yet been able to place that Draft Convention before the House for ratification, but in this matter I have ventured to anticipate their verdict at any rate provisionally, and we have included a clause in this Bill which enforces in respect of miners the principle of a weekly rest day. It is a principle which I hope will commend itself to everybody in the House. Then I come, Sir, to the most difficult question of all—the question of the employment of children in mines. Here again I must take the House back to the Washington Conference. That Conference adopted a Draft Convention which limited the age of children for admission to industrial employment to 12 years. That Convention has been ratified by this Assembly. Now, what we should have liked to have been able to do in respect of mines is this. We should be able to prohibit altogether the employment of children, under 12 years, in mines, and, as in factory legislation, we should like to have been able to introduce a half-time system for children between the ages of 12 and 15. But we made careful inquiries into this matter in the coalfields and elsewhere, and we are satisfied that at present it is not possible for us to impose any daily limit of hours of work in mines. We are also satisfied, as a necessary corollary to what I have said, that it is quite impossible for us to work in the mines any half-time system, and therefore we have adopted a compromise. Like all compromises, it is probably not a very satisfactory one, but it is the best we can do. We have suggested that children up to the age of 13 should not be employed in mines at all ; and we have gone further than that, Sir, and this proposal, though we have not put it into the Bill without the most careful consideration, must be taken for the present as merely tentative. We do not merely prohibit the employment of children in mines ; we propose that children below the age of 13 should not be allowed to be present in a mine at all. That is an innovation. At present, miners are apt to go down with their wives and womenkind and their small children. The effect of this proposal, if it is carried out, may be to reduce the employment of women in mines ; it may indeed be the first step towards the prohibition of employment of women in mines altogether. But after careful consideration we do not think it right that small children should be allowed to spend weeks of

[Mr. C. A. Innes.]

their lives in the atmosphere of underground galleries of mines. Our proposal will no doubt be canvassed by Mining Associations and Local Governments all over India, and will no doubt be further considered by the Joint Committee. But it is proposed provisionally at any rate and we attach importance to the proposal. I do not think I need say anything more at present. It is possible that some people may think that we have gone too far ; it is possible that others may think that we have not gone far enough ; at any rate we have made the most careful inquiries in the coal mines ourselves and we are satisfied that our proposals are as far as we can safely go at present. The procedure I propose for this Bill is that if the House will allow me to introduce it, at a later stage it should be referred to a Joint Committee. It will be circulated to all concerned, and that Joint Committee will have an opportunity of shifting the opinions received and making a further examination. In the meantime I hope that I have established my proposition that we must have some legislation of this kind. Legislation, as I have pointed out, is needed, because we must demarcate between our functions and the functions of Local Governments, and legislation is also needed because we must make at least a beginning in this very important matter of the regulation of the employment of miners. If we make a beginning now, as time goes on, conditions will adjust themselves, and we shall be able to make a further advance,—at least I hope so.

I now move, Sir, that I be given leave to introduce this Bill.

Mr. President : The question is :

“ That leave be given to introduce a Bill to amend and consolidate the law relating to the regulation and inspection of mines.”

The motion was adopted.

The Honourable Mr. C. A. Innes : I now introduce the Bill, Sir.

THE POLICE (INCITEMENT TO DISAFFECTION) BILL.

The Honourable Sir William Vincent (Home Member) : Sir, I move :

“ That the Report of the Select Committee on the Bill to provide a penalty for spreading disaffection among the police and for kindred offences be taken into consideration.”

This Bill was introduced into this Assembly on the 28th January last, and I then explained briefly the object of the proposed legislation. On the 8th it was referred to a Select Committee. My contention was that we should take it into consideration immediately ; I thought that a simple Bill, which was necessary for the protection of the police against the dissemination of disaffection, against inducements to fail in their duties, was a measure which this House would readily accept. A motion was, however, made to refer the Bill to a Select Committee. I draw attention to that because it indicates that the principle of the Bill was accepted by this Assembly. Dr. Gour was one of the Members who moved for its reference to a Select Committee at that time, and I concluded therefore that he also

have been put in. Sir, I have said that the Bill is really a simple one, not in any way a complicated measure, although it does deserve the careful attention of this House. We know that attempts have been made to tamper with the police, to tamper with their loyalty. Attempts of a like nature made on the Army are already penalized under the existing law ; and I suggest that attempts on the police are of equal importance to the safety and tranquility of this country. I may say too that we have had ample evidence of numerous and persistent attempts made to sap the loyalty of the police. I believe the Honourable Members who have read the papers will not require further evidence of this from me. When the Bill was introduced, Sir, particular objection was taken to particular clauses of the Bill. It was suggested that, for instance, clause 3 penalizes any action taken *bonâ fide* to procure in a lawful manner the absence from duty or the resignation of a policeman for the purpose of bettering his prospects or otherwise furthering his welfare. Now that difficulty the Select Committee have attempted to meet by an alteration of clause 3, which says that the attempt must be to induce a member of the police force to withhold his services otherwise than in a manner expressly authorised by or order any law for the time being in force. Under the law any policeman can always cut his name by giving two months' notice of his intention to go, if he thinks it will further his prospects, and there is nothing in this Bill which would in any way prejudice any person advising or insisting on a police officer taking that course. The other objection taken to the Bill was that the *bonâ fide* constitution of recognized police associations might be prevented or interfered with under the terms of the Bill. Now this was far from our intention, and we have attempted to safeguard it by clause 4 of the Bill as amended, which provides that nothing shall be deemed to be an offence under this Act which is done by or on behalf of any association formed for the purpose of furthering the interests of members of a police-force as such, where the association has been authorised or recognized by the Government and the act done is done in good faith under any rules or articles of the association which have been approved by the Government.

Here I want to pause for one moment to refer to an amendment which has been put in by Mr. Mukherjee,—that further consideration with regard to this Bill be postponed till rules have been framed for the constitution of an association of the police force. I may inform this House that such rules have already been framed, and that police associations are in existence, I believe, in most provinces in India. Nearly all of those, I believe, that have applied to us have been recognized by the Government of India also or by the Local Government.

Now there is one thing of which I am quite sure, that is that the Members of this Assembly do not in fact wish the police to be tampered or their loyalty to be sapped. I shall have the support, I believe of the great majority of Members of this House for that proposition ; and, as I have said, attempts, systematic and persistent attempts, have been made to get at these men. We have received information giving figures on this point from different parts of the country. I do not propose to publish them because I fear any such publication gives great encouragement to those who have made it their business to attempt to induce the police to fail in their duty. I am perfectly certain that the Local Governments

[Sir William Vincent.]

who have furnished us with this information would not wish them to be made public ; but I may tell the House that I have figures of a great number of such attempts which have been made. Unfortunately in a few cases—few as compared with the vast number that serve in the Police Force—these efforts have succeeded, and the position at one time became somewhat dangerous ; it was of course always full of dangerous potentialities. I think when we consider what the duties of a policeman are, the really great efforts that are made to harrass him in the performance of these duties, the intimidation to which he is subjected, the social boycott which is often extended to him, the marvel is that the police perform their duties as well and as conscientiously as they have done. I paid a tribute to their work on the last occasion when I introduced this Bill, and I wish now to say that I believe many members of this House can hardly be aware either of the difficulties or the arduous nature of the duties which these men perform, or the sufferings to which they are put in the performance of those duties. Sir, I see that there are various Minutes of Dissent on the report of the Select Committee. In one of those Minutes it is suggested that the Government should use section 107 and section 108 and section 29 of the Police Act, instead of attempting to enact this measure. Now, it is only a short time ago that I was told that the provisions of section 107 were greatly abused in some quarters. I think that the Member who made the allegation was my Honourable friend, Mr. Rangachariar, and I would deprecate very much any suggestion from any member of this Assembly that we should offer a temptation to the local authorities to misuse section 107 merely because a man attempts to create disaffection amongst the police. I believe that that would be an entirely wrong procedure. Similarly, section 108 is a preventive not a punitive measure. It is used and can only be used when attempts are made to cause disaffection. The present Bill goes very much further than that. It seeks to penalize attempts to induce the police to fail in their duty. I put it to this Assembly that it is a matter of the greatest importance to them and to all of us that such attempts should be prohibited.....

Rao Bahadur T. Rangachariar (Madras City : Non-Muhammadan Urban) : Is there not some mistake. I believe the sections referred to are 107 and 108 of the Penal Code not the Criminal Procedure Code ?

The Honourable Sir William Vincent : If that is so, I must withdraw those remarks and apologize for the mistake. I will deal with section 107 P. C. very shortly. The objection to the use of section 29 of the Police Act, read with sections 107 and 108, are put forward very clearly by all Local Governments whom we have consulted on this matter. I recite from one letter from a Local Government which will appeal to many members of this House, the Local Government of Bombay. They say :

“ The first objection to this course is that the offence of abetment is in nearly all cases a particularly difficult offence to prove ; in cases where the offence consists of solicitations addressed to individual police officers the proof presents obvious and serious difficulties. In the case of more general propaganda the difficulty would be even more serious, as it is impossible to prove any direct connection between the specific breach of duty and a particular incitement.”

A second consideration to which the Bombay Government refer is the fact that if reliance is placed on the abetment section, action would almost

invariably be delayed until the mischief has actually been committed. They go on to refer again to the difficulty of using that section in the case of general propaganda. Now, if there is one thing we want to avoid here it is to avoid deferring action until the mischief has been done and the police are materially affected. Indeed, in all these cases of abetment, if Members will consider it, the best evidence of the abetment is the act itself committed after it. As to that I think the experience of all the gentlemen who practise in the criminal court will bear me out. The Bengal Government say :

“ The instigations offered are not to refrain from any particular act of indiscipline, but refer more to general propaganda disseminating a spirit of indiscipline and a spirit of disaffection.”

They say that the present Bill is the most suitable method of meeting this difficulty. I do not want to disclose figures, but I may say that the Bengal Government was one of those peculiarly affected by this movement to cause disaffection amongst the police. The United Provinces Government say that it is difficult, if not impossible, to prove that indiscipline was the result of any particular incitement. The Burma Government say :

“ If you deal with section 107 read with section 29, you must prove a particular incitement or motive for a particular act of indiscipline, and that is impossible.”

Both that Government and another Government also refer to the fact that the punishment for an incitement under section 29, unless you could prove that the act was committed in consequence, would be three weeks' imprisonment, which is obviously inadequate for cases which we contemplate. I could quote other Local Governments, the Central Provinces among them, all of whom are in touch with the administration of the police, with direct knowledge of the difficulty of working the law in particular cases. All of them were consulted and have said in unmistakeable language that the present section 29 of the Police Act is inadequate.... (A Voice : “ It is three months not three weeks ”.) Has the Honourable Member read the Penal Code ? I will stand corrected if the Honourable Member will repeat that statement after looking into the law.

Sir, it has been suggested that we should have a further reference to a Select Committee. It has also been suggested that the Bill should remain in force for one year. It has been suggested the Bill should be re-circulated for opinion. I will deal with that last question at once. The Bill has been circulated for the opinion of Local Governments ; we have the opinions of Local Governments here, and I can tell the Assembly that they are almost unanimously in favour of this Bill. As for public opinion, the Bill has been before the public for eight or nearly nine months, and I should have thought, if there had been any real protest against it, we should have heard more of it. I have not seen any serious protest made against it. But when it is proposed to circulate the Bill again or to refer it to Select Committee, then I ask the House quite frankly to come out into the open, do not let us have any of these Fabian tactics, these dilatory motions. Let Members come out quite plainly and if the House do not want the Bill let them say so ; surely the Government has a right to ask that. Let us have frank opposition to it. Say that this House does not think the Bill is necessary, or possibly that some members do not mind if there is a little sedition disseminated amongst the police and think that they can neglect it. I referred to section 29 just now. If any Honourable

[Sir William Vincent.]

Member will read it, he will see quite plainly that it was never meant for this class of offence at all. It was meant for petty offences of police officers who failed either through carelessness or idleness or some such cause to perform their duties satisfactorily, or who left the service without obtaining permission. Sir, provisions similar to those that Government wish now to enact are in force in Great Britain and apply to the police force in that country which is, if I may say so, infinitely better disciplined than the police force can be out here at present. The men are better paid and better educated ; yet even there the Government, not an autocratic or bureaucratic Government, but a really democratic Government have found it necessary for the protection of the State to enact this measure ; and I suggest to this Assembly that they can safely follow the example of Great Britain in this case. Recently at Multan I saw a report in the paper—I think it was a report of an authority that I do not usually credit—that the riot there was caused by a want of firmness on the part of the police. Will this Assembly now give that protection to the police officers, protect them from these insidious attacks, which will enable them to act firmly and always, I hope, humanely ? I do not for one moment believe that the report about the riot at Multan is true, but I do ask the Assembly not to deny the police force protection which really is needed at this juncture. I am not going to suggest that the sky is going to fall if the Assembly does not pass this measure, or that the whole administration of the country is going to be imperilled, but I say that this is a perfectly sound and salutary measure that this Assembly ought to consider favourably, that it is necessary in the best interests of the administration to remove a great temptation, and to prevent these insidious attempts to undermine the loyalty of the police force, and I hope that this Assembly will accept this measure. If they do not, I have only one further request to make, that they will have the frankness and honesty to turn it down openly themselves and take the responsibility for doing so.

Mr. K. B. L. Agnihotri (Central Provinces Hindi Divisions : Non-Muhammadan) : Sir, I rise to oppose this motion. On the last occasion when I opposed this Bill, the Honourable Mr. Cotelingam was pleased to say that I was taking an alarmist view of the Bill and that the Bill when it went to Select Committee would be improved and that my fears which were premature were likely to disappear. But I regret to say that the Bill as it has come out from the Select Committee has not lessened my fears one bit. I gave sufficient grounds for my opposition on the last occasion ; and I shall try to give a few more points to-day which will show that it is not late in the day to oppose this Bill and at this stage also. The Honourable Sir William Vincent has shown to us the necessity for this Bill. He has said that attempts have been made to seduce policemen from their duties, that attempts have been made by members of the public to tamper with the loyalty of the Police force, but I regret to say that he has not given us enough material in support of his statement ; he has not said in how many cases such persons have attempted and in how many cases have they succeeded in seducing the police or in tampering with their loyalty. He has admitted that there have been very few cases — as compared with the vast number of the police force. It was for this

very purpose, Sir, that I some time ago put a question to find out the number of the police force ; but unfortunately for me that question was disallowed. If we had some information as to the number of cases in which the police had been seduced or in which their loyalty had been tampered with, and also the total number of the police force in India we would have been in a better position to judge of the necessity for this Act.

I am of opinion that the Bill in the form in which it has come before us, is not necessary. There is ample provision in the Indian Penal Code to meet such cases. Sir William Vincent's argument is that sections 107 and 108 of the Penal Code taken with section 29 of the Police Act are not enough. May I ask the Honourable Sir William Vincent how many cases have been started under the existing law, how many cases have succeeded and how many cases have failed, to justify the remedy that is suggested by this Bill ? Sir, a similar provision was not thought necessary in the case of the Army and Navy, then why is it thought necessary for the police. If I were to refer to sections 131 to 140 of the Penal Code, the House will find that there was not a word therein, to provide for the attempted disaffection amongst the Army or Navy. Every one of us knows how important it is to safeguard the Army and Navy from disaffection, but no such provision was made in the Indian Penal Code ; and it has not yet been thought necessary by the Honourable the Home Member to introduce for the protection of the Army a Bill like the one before us. If it has not been thought necessary to provide against the disaffection in the Army or Navy, then pray, why should a special Act be thought necessary to provide against disaffection amongst the police force ? I would have been satisfied if Sir William Vincent had brought in a Bill to amend the provisions of the Police Act " or the Penal Code " on the lines of the provisions of sections 131 to 140, Indian Penal Code. I may then have been inclined to give my support ; but as it is I regret I cannot. Moreover I find that the Bill is both dangerous and reactionary and I have no other alternative but to oppose it.

Sir, there may have been some necessity for the Bill when Sir William Vincent introduced it in this Assembly owing to the activities of the non-co-operation movement, or owing to the preachings of certain leaders of that party who wanted that the policemen should not obey the unjust orders which were directed against their own countrymen and that they should leave the service in the interests of the country. But the time and with it the necessity for this Bill has disappeared. Those activities are dead, as is apparent from the statements made by Mr. Lloyd George and the Under Secretary of State in the House of Commons, and also from the statements of the Viceroy and other dignitaries of the Government of India. It appears that the activities of the non-co-operation movement are not to be counted on now, and are absolutely insignificant. Thus whatever fears may have at one time existed in the minds of the Government of India they have all disappeared now. Where is then the necessity for this Bill ?

Sir, I beg to submit that this Bill will be dangerous in this way.

12 noon.

The existing provisions of the penal laws of the country have already been much abused by the police

[Mr. K. B. L. Agnihotri.]

of this country. Every one of us, specially those who live in the mufassil, know too well the high-handed and oppressive actions of the police and their interpretation of the existing laws—I mean—the ordinary laws of the land, these laws are grossly misused every day. If the House will bear with me I am prepared to give instances which will go to show beyond all reasonable doubts that the police have been acting in a very high-handed and oppressive manner in the past and still continue to do so at present. Who amongst us is not aware of the high-handedness of the police as is but common in the Punjab at the present moment? Who amongst us is not aware of the high-handed and oppressive actions of the Police which were to be met only some time ago in the streets of Calcutta? One of our greatest educationists like Professor Heramba Chandra Maitra was assaulted in the streets of Calcutta. Who amongst us has not heard about the corruption in that department.....?

Mr. President : The Honourable Member must address himself to the subject matter of the Bill. He is referring to the actions of the police in relation to the public. This Bill merely aims at providing a penalty for spreading disaffection among the police.

Mr. K. B. L. Agnihotri : Sir, my object in giving these illustrations is to show that the police are not worthy of receiving such further powers, and that instead of protecting the public and their property and maintaining peace and order in the country for which they have been kept, they behave in a very high handed and oppressive manner; but if you are pleased to rule me out of order, I shall then refrain from giving instances. I shall however try to show that the police as it is composed to-day is not capable of and does not deserve to get such powers as are proposed in this Bill.

While I shall refrain from citing instances, I shall merely make a general comment on their high-handedness and oppression. The word 'disaffection' which has been inserted in the Bill is very vague and is liable to grave abuse. With your permission, Sir, I will read the clause as it appears in the Bill to show that such a Bill is not desirable on the Statute Book. Clause 3 of the Bill says: "Whoever intentionally does any act which he knows is likely to cause disaffection among the police force.....".

Every one of us I believe is aware that even the mere shouting of "Bande Mataram," or even the shouting of "Mahatma Gandhi ki Jai" create disaffection in the minds of even high officials of the Government as well as among those of the Police. Many cases of assaults on this account may have come to the knowledge of Honourable Members of this House; the Honourable Members may be aware of cases in which persons got enraged with boys shouting in the streets "Mahatma Gandhi ki Jai." I am obliged to point out a case which is now going on in my own district and which primarily led to the posting of punitive police in a village. The whole alleged cause of that case was the result of the boys of the village being bold enough to shout "Bande Mataram" or "Mahatma Gandhi ki Jai" while the District Superintendent of Police and the

District Magistrate were passing in a car. When such important officers of a district like the District Superintendent of Police and District Magistrate who should have a cool head get panicky and excited over such things, it is then much more likely that the subordinates of the police department may exhibit their excitement and disaffection and take advantage of such powers and abuse them.

Sir, another case that happened in my own district was that of a gentleman who happened to go to the police lines with a Gandhi cap on. The mere use of the Gandhi cap, so much enraged and annoyed the Superintendent of Police of the place that he took the Gandhi cap from that person and got it burnt, before the man left the place. It has been given out the cap was taken in good humour and with his consent. When the officers in charge of the police department come to regard a Gandhi or a khaddar cap or the mere sight of it as likely to create disaffection or result in the breach of discipline in the police force there is no knowing as to what length the provisions of this Act may not be taken and abused. The object of this law, as was pointed out by Sir William Vincent himself on the last occasion, was to safeguard.....

Mr. S. K. Barodawalla (Bombay City : Muhammadan Urban) : Sir, the object of this Bill is to provide a penalty for spreading disaffection among the police, while as far as I can understand the Honourable Member, he is speaking on the actions of the police and how they are annoyed at the sight of a Gandhi cap.

Mr. President : The Honourable Member can deal with that in his reply.

Mr. K. B. L. Agnihotri : I am sorry that my friend, Mr. Barodawalla, misunderstood me, I was simply going to show that the Act as has been placed before us is very vague, and that it will place very harsh and undesirable powers in the hands of the police who will often abuse it in the name of law and order.

Sir, I have shown to the House how the police might abuse their powers. Now take another case, where a speaker criticises certain high-handed actions of the District Superintendent of Police of the district; any policeman might come forward and say that the criticisms against the actions of his officer are enough to create disaffection among the loyal section of the Police force or the loyal members of the constabulary and others, and the criticism may give them a sufficient cause and material for the prosecution of such a speaker. Is it then right and proper to place such an Act on the Statute Book and to give such wide powers to the police ?

It is said that proper safeguards have been provided. Now I shall show another case in which simply because the police had certain grievances against certain persons, they were hauled up, and it was found by the Magistrate when the case went before him that the police had behaved in a very disgraceful manner. I may say this that, as in the panicky days the police under the control of their officers, get panicky, and dream that every half-penny two-penny speaker on the platform wants to turn out the Government, so the police-men even to-day concoct cases against public speakers.

[Mr. K. B. L. Agnihotri.]

Now what are these safeguards ? The only safeguard provided is, that the District Magistrate may authorise or sanction a prosecution under this Bill. Who amongst us is not aware of the influence exercised over many District Magistrates by the District Superintendents of Police ? Who amongst us is not aware that the District Magistrates are usually consulted in criminal cases ? There are District Magistrates who go to the house of the District Superintendents of Police for consultation in very insignificant and unimportant cases. If any Honourable Member of this Assembly would like to know the cases from me, I shall be quite prepared to give them the information and also the statement made by a District Magistrate in the course of his evidence (in a case) before a Magistrate. Often it happens that even an ordinary Sub-Inspector gets the police cases transferred from the file of the headquarters of a District Magistrate simply because the District Superintendent of Police thinks that the Magistrate or the Judge has not given a proper judgment.

So, when these people can condescend to do even such mean things against the magistracy and when we find that even the District Magistrates are consulted in almost every case that is lodged by the police, how can one say that the safeguard that has been provided in this Act will be a sufficient one and will safeguard the public from being oppressed and treated in a high-handed manner ?

Sir, with these words, I beg to oppose the consideration of the Report of the Select Committee, and I request the House that the Bill as it stands be thrown out.

Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) : The Honourable Member has told us in his opening speech that he was prepared to move this House for the immediate consideration of the Bill but that some Members interposed and wanted the Bill to go before a Select Committee. That motion being carried, the Bill did go before the Select Committee. The Honourable Members will now see the Bill with the amendments printed in italics and I hope the Honourable the Home Member will admit that the action of this House is sufficiently vindicated by the fact that substantial alterations have been made to the Bill in the Select Committee. If the Bill had been passed before being sent to the Select Committee, the improvements to which the Honourable the Home Member has drawn the attention of this House would never have been incorporated in it.

The Honourable Sir William Vincent : Why not ?

Dr. H. S. Gour : The Honourable the Home Member says " Why not ? " Because those are amendments made by the Select Committee and under the pressure of the Select Committee.

The Honourable Sir William Vincent : And what about the pressure of this House ?

Dr. H. S. Gour : That will be felt very soon.

Now, Sir, the Honourable the Home Member has informed this House that this Bill was circulated to the provincial Governments. He has quoted to you the opinion of the Bombay Government and he has justified this Bill on the ground that the Bombay Government are of opinion that

section 29 read with sections 107 and 108 of the Indian Penal Code would create a difficulty in bringing the offenders to justice. But I ask the Honourable the Home Member, can he cite a single case which was tested in a court of justice which has occasioned failure of justice for want of proof? Is not the ground given by the Bombay Government purely hypothetical ground? Has it been put to the test in any court of justice? That is my first question to the Honourable the Home Member.

He says that in Bengal and in Burma, similar difficulties have arisen. The Honourable the Home Member who is himself an acute lawyer should not be unaware of the fact that the mere fact that you experience difficulties in proof is no reason for strengthening the law. You have to justify it upon its own merits. If you cannot get any eye witness or any evidence to bring an offender to justice, would my Honourable friend the Home Member introduce a Bill that, because there is no evidence, a person suspected of committing a crime should be convicted without proof? And that seems to be the argument of the Bombay and the Bengal Governments.

Then my learned friend, the Honourable the Home Member, says the public have not been consulted, but at the same time the public have offered no criticisms. Now, the point that this House wishes to make is that the public should have been consulted. They have their point of view and we, as the representatives of the public, are entitled to know as to what is the view of the general public at large upon this Police Bill.

Then, the Honourable the Home Member, emulating his former attitude in the late Council, said: "If you wish to turn down this measure, do so, but do not adopt Fabian tactics, because in Bengal there are innumerable cases, the number of which I cannot give, the details of which I cannot disclose,"—(I do not know whether he disclosed the number and the details even in the Select Committee)—"but I can tell you there is a danger. And if you wish to avert that danger, pass my measure." Sir, when I read these words, alarming as they appear, I remember the Honourable the Home Member's words enshrined in this bulky volume which records the proceedings of what is known as the Rowlatt Act, and, when I read the Honourable Member's speech there, I find in his speech this morning the echo of those warnings he gave in 1919, telling the people that "the walls of Jericho would fall unless the Council then and there passed that measure." Lest I should misrepresent him, let me read to you what he then said and the matter is relevant because that was also a measure intended for the protection of the Police. Let me give to you his *ipsissima verba*. The Honourable the Home Member said:

"I have been asked to postpone consideration of this measure for varying periods. Well, in my judgment, I can only say that delay would be fatal. There must be time to examine this Bill and we are willing to give that time, but, if by certain events, the Defence of India Act was to expire and we had no legislation to take its place, then I submit that the consequences would be disastrous. Our police efficiency, which has been so seriously and in my opinion, so unfairly attacked would be destroyed. The Services now employed in suppressing the seditious movement would be so discouraged that I think it would be impossible to expect good work from them and law and order would be sacrificed."

Very alarming words. The Council held up its hands and with bated breath said: "We cannot sacrifice our Police efficiency. Please pass this measure without discussion." It was passed. The result I need not tell you. Is my Honourable friend, the Home Member, emulating

[Dr. H. S. Gour.]

his former achievements before this House, telling us "a number of cases have occurred and unless you pass this measure, the efficiency of the Police will be impaired." These are prophecies which we have got accustomed to hear. I do not think that this House would be in the slightest degree influenced by what the Honourable the Home Member says, namely, that unless we pass this measure we take a heavy responsibility upon our shoulders.

Then, Sir, the Honourable the Home Member in one of his sweet seductive ways appealed to you and said this was a measure largely derived and copied from the English Police Act which is in force not in an autocratic or bureaucratic country but in a democratic England, and therefore, what is suitable to democratic England is equally suitable to bureaucratic India. Now, Sir, surely the Honourable the Home Member must be aware of the fact that what is suitable to a self-governing country is not equally suitable to a country which is governed by an irresponsible bureaucracy, and which lower down in the rung of the ladder is governed by their irresponsible executive. The Honourable the Home Member, I submit, has drawn false analogies from the Police Act in England. On the last occasion when I had the honour of addressing this House, did I not point out the circumstances—the exceptional circumstances—which had brought this exceptional measure in the House of Commons? It was safeguarded by restrictions and limitations and above all there was the most salutary safeguard, the safeguard of the people's Parliament. Have you got the same safeguards here? Have you got the same salutary checks upon the executive which exist in England? What then is the use of telling us that these are the provisions of the English Police Act? This is one of those arguments to which we have been accustomed to listen. Honourable Members from the Treasury Benches, whenever they wish to put any fetters upon our liberties, appeal to the law of England, but when we pray for the enlargement of our liberties and for the substantiation of our rights, they then do not refer to the laws and liberties of England and the English people. Surely, Sir, Honourable Members must read both the chapters of the English constitution,—the constitution which gives with one hand popular liberties, and with the other hand circumscribes them with certain salutary checks. You cannot have one without the other; and that is what the Honourable the Home Member has imposed upon this House from time to time when he refers to the provisions of the corresponding English Acts. I hope Honourable Members will dismiss from their minds all precautions uttered, and all precedents cited, and examine this Bill upon its own individual merits. The Honourable the Home Member will admit that in examining the provisions of this Bill, we have to take three facts into consideration. First and foremost is the question that we must see that our police force in India is not unduly tampered with. That is a point upon which I and the Honourable the Home Member heartily agree, and there is no one in this House who will not agree with it. That is necessary for the maintenance of peace and order. That is the first question. But it is not the only question. We have also to consider the rights of the public whose representatives we are. In safeguarding the police we

must not draw the line too wide and encroach upon the rights of the public. We must be careful to see that our law does not err on the side of trenching upon the rights and liberties of the public. That is the next question. And last of all, my lawyer friends, and, I may say, the Honourable the Home Member also will admit that all legislation, certainly legislation of this character must be *post facto*, and a *prima facie* case must be made out from precedents showing where the existing law is defective, that it has been tested and found wanting, and that therefore we are coming up before this House for a further measure or for the strengthening of the existing law. These are the three conditions subject to which I would ask the House to examine the provisions of the Police Bill.

Now, Sir, I will deal with these three conditions in their order. First, with regard to the police, the Honourable the Home Member has admitted the fact that there is at present a provision in section 29 of the Police Act read with sections 107 and 108 of the Indian Penal Code which deals with the offence which the Police Act is intended and designed to penalise. The Honourable the Home Member says, "there is no doubt that there is provision, but we do not want it, because it is very difficult to prove a case under that Act." I have already dealt with this point and I need not trouble the House with arguments which I have already addressed to you, Sir, that that does not in the slightest degree convince me and my friends on this side of the House. If there was any judicial opinion of any High Court showing that that is a provision of law which requires strengthening or which has occasioned failure of justice, then I submit we would at once be constrained to change the law and strengthen the hands of the executive and the judiciary. But is the Honourable the Home Member able to cite a single instance in which this existing law was put to the test and found wanting? We shall be guilty of a gross dereliction of duty in multiplying restrictive and penalising Statutes and piling them in our Statute Book when the existing provisions are sufficient to cope with the mischief threatened. That is my answer, Sir, to the first point.

I now pass on to the second point, namely, the rights of the public. The Honourable the Home Member has told us that police associations are protected under the provisions of section 4 of the Police Act. But, Sir, if you turn to section 3, even as amended by the Select Committee, you will find that it contains loopholes which it is necessary must be carefully scrutinised in the interests of the public. Let me give you a few instances.

Clause 3 says :

"whoever intentionally....."

I leave out the intermediate words which are not necessary for my argument—

"Whoever intentionally causes.....any member of a police force to withhold his services otherwise than in a manner expressly authorised by or under any law for the time being in force....."

will be punished in the manner described in the last clause. There is a policeman drawing Rs. 10 a month. I am in need of a cook and he is a very good cook. He prepares delectable dishes and I am prepared to pay him Rs. 30 a month. I go to him and say, "My dear

[Dr. H. S. Gour.]

policeman, what are you doing here ? Come to me and cook my food and make myself and yourself happy." Now, I ask any Member here if I should go to the District Magistrate and say, " Sir, please authorise me to speak to your policeman because I wish to make him a cook." Can I go to the Honourable the Home Member and ask him to introduce a short urgent measure to provide a member of this House with a suitable cook on Rs. 30 a month ? Now, Sir, I vary my illustration. I have a number of policemen who are my relations, caste men and friends. I want to emigrate to South Africa if such a thing is possible, and I go to them and say, " Your chances of improving your life in that colony are great. Come there and settle down in the Highlands of Kenya." (*An Honourable Member* : " It is not in South Africa.") Then I take East Africa. Where is the proviso that you have provided in section 3 ? Every case will have to be tested. (*Mr. J. Chaudhuri* : " Here it is, ' does not penalise any action taken *bona fide* to procure in a lawful manner the absence from duty or resignation of a policeman for the purpose of bettering or otherwise furthering his welfare'.") I have not got it. If there is any proviso I hope the Honourable the Home Member will correct me. I do not find it in my copy. If there is any proviso, I invite the Honourable the Home Member to correct me. The Bill of which I hold a copy in my hand does not contain the proviso. That proviso was added by me and I suggested that it should be incorporated in the Bill and my complaint is that that proviso has not been incorporated in the Bill. That is my complaint on section 3 of the Bill. (*Rao Bahadur T. Rangachariar* : " What Mr. Chaudhuri means is the note on clause 3. It is not in the Bill.") (*Dr. Nand Lal* : " It has not been incorporated in the Bill.") I take it from the silence of the Honourable the Home Member to whom I have extended an invitation to correct me, if I am wrong on that point, that that proviso, or words embodying the substance of that proviso, do not find a place in section 3 of the Bill.

Now, Sir, I pass on to the third point, the question of policy. In doing so, I ask Honourable Members to remember that the first and foremost duty of the Members of this House, is not to load the Statute Book with multifarious restrictive laws conflicting with one another and to the extent that they are conflicting they are contradictory to one another. Let me explain my point. The Honourable the Home Member admits that section 29 of the Police Act read with sections 107 and 108 of the Indian Penal Code deals with a similar mischief. But he says that it is difficult to prove an offence under that section and therefore he wants the concurrence of this House in enacting a Police Act. If the concurrence asked for is forthcoming you will have two enactments side by side dealing with the same and similar mischief—two clauses dealing with similar if not the same mischief. Now, I ask the House, is it necessary that we should multiply the laws ? If the Honourable the Home Member feels that section 29 is either not drastic enough or that the punishment it provides, is not sufficient, is it not a ground for the amendment of section 29, and why should they introduce in this House an absolutely independent measure ? I submit the burden of proof is upon the Honourable the Home Member and he has done nothing

to sustain it. On these grounds, Sir, I ask the House to vote with me in support of my amendment that this Bill be circulated for the purpose of eliciting public opinion thereon. Admittedly, the public as such have not been consulted and they have a right to be consulted. On these grounds, Sir, I commend my proposition to the attention of the House.

Mr. President : Amendment moved :

“ That the Bill be circulated for eliciting public opinion thereon.”

Mr. J. Chaudhuri (Rajshahi and Chittagong Divisions : Non-Muhammadian) : I have a personal explanation. I was one of the Members of the Select Committee and I would refer to paragraph 2, which says :

“ We have made some amendments in this clause which are calculated to put it beyond doubt that the clause, in the first place, is only aimed at persons acting with intent to commit the offence constituted by the clause, and in the second place, does not penalise any action taken *bona fide* to procure in a lawful manner the absence from duty or resignation of a policeman for the purpose of bettering his prospects or otherwise furthering his welfare.”

When we made this recommendation in Committee, as many of my colleagues will remember (*Rao Bahadur T. Ranagachariar* : “ I was not there ”), we understood that it would be incorporated in the Bill by the Legislative Department, but if the clause is not comprehensive enough or does not carry out our recommendation, as we find it is not, I think there is a good case for revising and redrafting this Bill.

Dr. Nand Lal (West Punjab : Non-Muhammadian) : Sir, the most important principle on which a Legislature may be compelled to legislate anything is this, that the evil which is intended to be eradicated is rampant. That is one of the most important principles which should not be neglected by any Legislature. Consequently, the question naturally arises whether the Honourable the Home Member has made out a case that this sort of evil has been found to be prevalent in the various provinces of this country. Has he cited any judicial authority ? Has he alluded to some decisions ? Well, I am compelled to say that he has utterly failed to prove this point, and therefore this Bill should be rejected on that ground alone. Perhaps, this House may call upon me to cite some authority in support of this contention. There are a number of authorities. But, why should I go far ? Only a few days ago, on the floor of this very House, this was urged. When my learned friend Dr. Gour introduced his Bill to stamp out Champerty and Maintenance we raised this very point.

A number of opinions from a number of provinces were alluded to. References were made to them. (At this stage there was an interruption by Dr. Gour, which was inaudible.) The Mover is always to be neglected. If a motion or Resolution is presented to the House and if the House unanimously passes that Resolution or rejects it, it is apt to be considered passed or rejected unanimously. Therefore I was right. That Bill was thrown out. Therefore, here is a precedent which has been established by this very House and I appeal to this Assembly not to give a special concession to this Bill, simply because the author of it is the Honourable the Home Member. The

[Dr. Nand Lal.]

second point which is equally deserving of attention is this : " whether the law which is suggested to be made, is already in our Penal Code." This principle also does not help the Bill, so far as our examination thereof is concerned. A third point which requires consideration is that when legislating upon anything we should consider the policy which has prompted the introduction of that Bill. When we examine that, we find there is no occasion for that. The present condition of the country does not require that this sort of Bill may be introduced. It, instead of eradicating the evil, to my mind, would rather create it and the provisions of this Act will give rise to a very mischievous effect. The country at this juncture is not in favour of seeing these sorts of Acts and penal laws hurled upon them, without any reason and without any rhyme. We are very glad to see that in these days the trouble, which was in vogue before, has been, to a certain extent, reduced and I am afraid the passing of this Bill will inflame the same thing again. May I remind this Honourable House of the history and the consequential result of the Rowlatt Act ? What was its effect on the country ? What was the impression made on the minds of the people ? Did it do any good to the Government ? Not at all. It did not produce any good effect. Therefore, this penal law, which is not required at all, will go, in the same line, and will be unpopular. The public will have no sympathy for it and will misconstrue it. Another point, which requires to be examined, is " whether the provisions of this Bill are liable to be abused." On my reading of this Bill, I am led to believe that the Bill is sure to be abused. The very stringency of the provision anticipates that, and may I invite the attention of this Honourable House to the conspicuous words which are given in section 3 of this Bill. The question in regard to the stringency will appear to be appalling. The words are such as to terrify every reader thereof. The words are : " Whoever intentionally causes or attempts to cause or does any act which he knows is likely to cause disaffection." Suppose a constable is posted at a certain place and a man says to him, " Will you please move a little " ; then there is a breach of discipline. He has attempted to induce that constable to go against the discipline, within the contemplation of that section, and, therefore, he is guilty. He is likely to cause disaffection. Unfortunately the word " disaffection " is so ambiguous. It could be applied to anything. It rests with the courts to find whether certain conduct amounts to disaffection or not, and in many cases it has been established that

* the construction placed on the word " disaffection " was wrong and, therefore, it will give rise to a new loophole to bring about discontent in the country, because the provisions of this Act are liable to be abused and misconstrued. Then the words in the clause are " amongst the members of a police force." Further on we see " induces or attempts to induce " and so on ; look at the stringency of this provision. Then " any member of a police force to withhold his services otherwise than in a manner expressly authorised by or under any law for the time being in force." Every illiterate man in the country ought to know that there is a law.....

Mr. President : The Honourable Member must refrain from going into detail regarding every word and comma at this stage when the

discussion is confined to the principle of the Bill. It is difficult to draw the line strictly between the principle and the detail but the Honourable Member has long since passed even that stage.

Dr. Nand Lal : I shall bow to the decision of the Chair. I shall not go into discussion so far as the phraseology is concerned. My point was that the provisions of this Act are bound to be abused and therefore this Act should not receive the approbation of the House. There is a peculiar anomaly in the provisions of this Act so far as the question of punishment is concerned. What is the punishment for a constable who, according to the provisions of section 29 of the Police Act, leaves his post, goes away or absents himself ? Only a few months.

But the man, who induces him to do so, shall be punished for the term of two years, namely, the man who induces him to resign his post shall go to prison for two years, but the constable who himself resigns or intentionally absents himself from the performance of his duty shall be punished only to the extent of 3 months. So far as the severity of punishment goes, the provision of section 3 of this Bill must be condemned,—it does not deserve any sympathy. Therefore, on all these grounds, which I have briefly put forward before the House, I submit that this House will show its unanimous disapprobation and disapproval of this Act and try to see that this Bill is thrown out, in any case, after hearing the view of my learned friend, Dr. Gour, it must be said that it requires recirculation. With these few remarks, I oppose the Bill.

The Honourable Dr. T. B. Sapru (Law Member) : Sir, I did not originally intend to take part in the debate on this Bill, but certain points have been brought out in the course of the debate this morning which make it necessary that I should intervene. At the very outset of my speech, I shall briefly refer to one important point connected with the Select Committee. The Select Committee was held on two occasions in Delhi. I believe the first time that it was held was on the 4th March, and the second time that it was held was on the 13th March. We had the benefit and advantage of the ripe and mature experience and jurisdic knowledge of an eminent lawyer like Dr. Gour on the first occasion. On the second occasion, however, he was absent from the Select Committee, and he has himself been good enough to inform the House that on account of an important pre-engagement of which he had given notice, he could not be present at the final meeting of the Select Committee. Unfortunately it so happened that the second date on which the Select Committee was held was a holiday and that seriously affected the presence of my Honourable friend, Munshi Iswar Saran, on that occasion. (Laughter.) He says in his own minute of dissent : “ I regret that the final meeting of the Select Committee was held on the holiday and I was therefore unable to attend it.” But anyhow I can assure the House that some of the most important suggestions which were made to the Select Committee and which were accepted by them were those made by Dr. Gour himself. I am quite prepared to bear him out so far as he wants to take credit for those suggestions being accepted in this Bill. Now there are, mainly, two points which have been emphasised to-day in the course of the debate. One is that my Honourable colleague, the Home Member, has not been

[Dr. T. B. Sapru.]

able to make out, in the course of his speech to-day, nor was he able to make out in the course of his speech when he introduced the Bill, a case for the enactment of such a Bill ; and the second is that which has been considerably stressed by Dr. Gour, namely, that the law, as it stands, is sufficient to cope with such evil as may be within the contemplation of this measure, and that therefore there is no necessity for over-loading the Statute Book with a fresh enactment. Now, so far as the first point is concerned, I think my Honourable colleague, Sir William Vincent, even this morning stated that he had gone through the figures, and the Government were satisfied that cases had happened in the provinces which made it extremely desirable that the law in regard to this matter should be stiffened. Well, he did not consider it desirable or expedient to place before you publicly all the details of those cases, nor did he give you the figures ; and he gave a very good reason for that. I have, since he sat down, again gone through an important file which is in my possession at the present moment, and I am sure that when I read a few extracts from that file to the House, every reasonable person will be convinced that attempts of a serious character have been made in almost every province to tamper with the loyalty of the police. Now I will, without wasting the time of the House any further, at once read just a few extracts from that file.

Now, a particular Local Government reports as follows—I again withhold the name of the Local Government—

“ This—intimidation and boycott—has grown more intense against Government officials, particularly the police. Reports to this effect were received from 5 districts. The following items will show the trend of this form of activity. (a) Preventing the sale of food to the police ; (b) refusal to marry the daughters of Police officers ; (c) anonymous and threatening letters ; (d) withholding the services of washermen and barbers from the police ; (e) obstructing the road against the District Magistrate's motor car ; (f) clods of earth thrown at the motor car of the Superintendent of Police ; (g) night-soil thrown into a local police office.”

Then another says :

“ Constables in three districts have received letters from their relatives urging them to resign, as their family will be boycotted unless they do so. Then (*I am omitting the name of the district*) 6 resignations have hitherto been received, and more may follow. A secret meeting was held of constables of such and such a place at which about 40 men said that they would shortly resign.”

Then, another district says :

“ After the way of such and such a district the police were boycotted and the supply of food and the services of the barber and washermen were.....”

Dr. H. S. Gour : Will the Honourable Member give the date and year ?

The Honourable Dr. T. B. Sapru : It was within the last few months.

Mr. K. B. L. Agnihotri : Before March or after that ?

The Honourable Dr. T. B. Sapru : Before March.

Mr. K. B. L. Agnihotri : What was the total number of police ?

The Honourable Dr. T. B. Sapru : I cannot give all those details. Then there is another report which I will read :

“ In the matter of agitation against Government service, there has been greater effort and more result—all before the Bill was introduced.—The doctrine of the

sinfulness of Government service was preached at meetings in 16 districts before Christmas and in 14 since. It has also been enunciated by perambulating volunteers. One police sub-inspector, 2 head-constables and 23 constables from 11 districts have succumbed. The largest number of resignations for one district, 8, have been reported from such and such a district (*I am again omitting the name of the district*). In two cases, however, the reasons are believed to have been false. In others, the men concerned are undesirables. 3 or 4 constables are reported to have joined the volunteers while still in service."

1 P.M.

Then from another Province it is reported that :

"One Moulvi *bhisti* went round the Ajmere City on the 23rd December haranguing the people and telling them that police service was *haram*, and that those who refused to give up service should be boycotted, turned out of their houses and have their ears pulled."

From another district comes this :

"At a meeting held in (*I am omitting the name*)—district, one man referred to the police and asked how any one could be loyal to a Government which had treated the police service so badly. The speaker asked the audience to be friendly with the police, as the day would come when they would join the non-co-operation movement."

I do not wish to multiply instances, but there is one more extract which I will read and then finish. It is reported from another province :

"Harassment of the police and other Government officials was reported from two districts. Several members of the rural police force resigned ; in a third district a local police force was so completely boycotted that it was necessary to send them provisions. At (such and such a place) people maintained a hostile attitude towards the police. Attempts were made and the social and commercial boycott of the police were also reported from places in three districts. The resignations of constables have been received by their colleagues in the police force with quiet sympathy, but no disposition has been shown to follow suit."

In another place, the head of the police wrote that the constables had been generally affected by the non-co-operation movement ; insidious propaganda had been going on for some time and it could not be gainsaid that for the past few months they had been beyond endurance and become demoralized. Then his report goes on to say that the fact that some action has now been taken by the Government to support the forces of law and order must have a beneficial effect.

Now, I have read a few of these instances only to show that it cannot be urged reasonably that when the Government decided to introduce a Bill of this character they had not sufficient materials to show that serious attempts were ~~not~~ being made to tamper with the police. (*Munshi Iswar Saran* : "Have they now ?") My Honourable friend *Munshi Iswar Saran* asks whether they have such materials now. He would be a very bold man who would say that the situation has so materially changed that Government may sleep over it now.

I will deal now with certain of the legal aspects, and I will beg the House to remember exactly the scope of this Bill. The Bill contains five clauses, and, while stress has been laid by Dr. Gour and other members on the provisions of clause 3, no one has referred yet to the important succeeding clauses, namely, clauses 4 and 5. I will at once invite attention first to these two clauses. Clause 4 reads :

"Nothing shall be deemed to be an offence under this Act which is done by or on behalf of any association formed for the purpose of furthering the interests of members of a police force as such, where the association has been authorized or recognised by the Government and the act done is done in good faith under any rules or articles of the association which have been approved by the Government."

[Dr. T. B. Supru.]

My Honourable friend Sir William Vincent said this morning that police associations had been formed in most of the provinces and had already been recognised and if anything is done by any one of those police associations for the betterment of their members in good faith, then I do not think that it can be penalized by any provision of this Bill. Then comes another important clause, and that is an ample safeguard against the abuse, or the apprehended abuse, of the provisions of this Bill ; that is clause 5, which reads :

“ No Court shall proceed to the trial of any offence under this Act except with the previous sanction, or on the complaint, of the District Magistrate, if any, to which such Court is subordinate, or, in the case of a Presidency-town or the town of Rangoon, of the Commissioner of Police.”

So that it is clear that whatever action may be intended to be taken under this Bill, that action is subject to the previous sanction of the District Magistrate, or can be taken only on his complaint, and in the case of a Presidency-town or the town of Rangoon on the complaint of the Commissioner of Police. It is not as if action can be taken without those safeguards being observed.

Now, I come to the most important clause of this Bill, and that is clause 3, to which so much exception has been taken by Dr. Gour and some other Honourable Members of this House. What is it exactly, to put it briefly, that clause 3 of the Bill intends to secure ? It has been pointed out by my friend Dr. Gour that clause 3 of the Bill is superfluous, inasmuch as all the ground that is covered by clause 3 is already covered by section 29 of the Police Act, and that therefore it is no use multiplying provisions of law and over-loading the Statute Book. Now I must say, with all respect to my friend Dr. Gour, that I radically differ from him on that point. Section 29 of the Police Act has nothing to do with disaffection. It was intended to apply to those offences which might be described as offences committed by the police in the ordinary discharge of their duties, which are liable to punishment by the exercise of a certain disciplinary jurisdiction which is vested in certain authorities under the Police Act. Now, I will read the provisions of section 29, so that the House may bear them in mind :

“ Every police officer who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order.....”

I would particularly ask the House to bear in mind the words “ lawful order,” and will show that they have a reference to another provision in this Bill :

“lawful order made by competent authority, or who shall withdraw from the duties of his office without permission or without having given previous notice for the period of two months, or who, being absent on leave, shall fail without reasonable cause to report himself for duty on the expiration of such leave, or who shall engage without authority in any employment other than his police duty, or who shall be guilty of cowardice, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable on conviction before a Magistrate to a penalty not exceeding three months' pay or to imprisonment with or without hard labour for a period not exceeding three months, or to both.”

Now, so far as section 29 is concerned, you can prosecute a police officer for the offences which are mentioned in that section only. You can prosecute any other person for abetting him in the commission of

those offences ; but I venture to say, and I say it with confidence, that you cannot prosecute a police officer for being guilty of the offence of sedition under section 29, much less any abettor for abetting him in the commission of the offence of sedition under section 29 of the Police Act. (*Dr. H. S. Gour* : " May I ask the Honourable Member whether he means to say that section 124-A of the Penal Code does not apply to a policeman ? ") I am not saying anything of the kind, and I must say that howsoever eminent a jurist he may be, *Dr. Gour* has no business to attribute absurdities to any one who is opposed to him. I am taking *Dr. Gour's* own words ; he urged that the ground covered by the present Bill is precisely the ground covered by section 29, and I say that it is nothing of the kind. Section 29 has nothing to do with the offence of sedition. Again, if you will please refer to two other sections of the Police Act, which my friend *Dr. Gour* has conveniently overlooked, it will appear that the scope of section 29 is also of a very limited character. Now, section 9 of the Police Act says :

" No police officer shall be at liberty to withdraw himself from the duties of his office unless expressly allowed to do so by the District Superintendent of Police or some other officer authorised to grant such permission, or without the leave of the District Superintendent to resign his office unless he shall give to his superior officer notice in writing for a period of not less than two months of his intention to resign."

Dr. Gour very excitedly asks the House whether if he wants to employ a police constable as his cook he will have to approach the Honourable the Home Member and ask him to give a special dispensation. Nothing of the kind. If *Dr. Gour* knows his Police Act, he will find that he can engage a police constable as his cook if he likes his food to be cooked by a policeman, provided that that police officer gives two months' notice ; then he may leave the police department and go and engage himself in the useful occupation of supplying food to *Dr. Gour*. Therefore he does not want *Sir William Vincent's* intervention to secure the services of a police constable for his kitchen.

Similarly, if he will please look at section 23 he will see that it says :

" It shall be the duty of every police officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority, to collect and communicate intelligence affecting the public peace, to prevent the commission of offences and public nuisances, to detect and apprehend offenders to justice, to apprehend all persons whom he is legally authorised to apprehend and for whose apprehension sufficient ground exists ; and it shall be lawful for any of the purposes mentioned in the section without warrant to enter any drinking shop or gaming house.....or other place of a disorderly character."

Now, to put it briefly, section 23 of the Police Act compendiously lays down the important duties of the police officer and if he is guilty of a breach of any one of those duties, then he is liable to be prosecuted under section 29, though he may also be prosecuted for certain other things which are mentioned in that section. Now, while I was speaking only a few minutes ago *Dr. Gour* interrupted me and said : " What about section 124-A ? Why cannot a police officer be prosecuted under section 124-A and why cannot a man (I believe that was his suggestion) who has abetted him under section 124-A be also prosecuted ? " Well, if *Dr. Gour* will only be pleased to look at the terms of section 124-A of the Indian Penal Code and if he will also be pleased to look at the very

[Dr. T. B. Sapru.]

limited language of clause 3 of this Bill, he will find that although the word "disaffection" is used both in the section 124-A and in this Bill, the ground covered by this is very much smaller than the ground covered by section 124-A. Were it not so, I am entitled to ask him, why was it that the English Parliament considered it necessary to legislate with regard to disaffection among the police when the common law itself made ample provision with regard to the offence of sedition and when it made no exception in favour of the police officers themselves? You have only to place section 124-A of the Indian Penal Code alongside of clause 3 and you will at once find the distinction. Here what is intended by clause 3 is that if any one, any outsider, intentionally causes or attempts to cause or does anything which he knows is likely to cause disaffection among the police, a spirit of discontent among the police and a disposition not to obey the lawful orders of the Government, in other words, creates a spirit of disloyalty to the Government, then he is liable to certain penalties.....

Dr. Nand Lal : May I rise to a point of order? The ruling was given by this Honourable Chair that so far as the consideration and discussion of the wording of the sections was concerned it was out of order because they have nothing to do with the policy. Will that ruling govern my Honourable friend the Law Member also?

Mr. President : Certainly.

The Honourable Dr. T. B. Sapru : Now I will only read clause 3 of the English Act which was passed in 1919 by Parliament. Clause 3 of the Bill is as follows :

"If any person causes or attempts to cause or does any act calculated to cause disaffection amongst the members of any police force—(it will be observed by the House that so far we have followed the English Act)—or induces or attempts to induce or does any act calculated to induce any member of a police force to withhold his services or to commit breaches of discipline, he shall be guilty of misdemeanour and shall be liable on conviction after indictment to imprisonment with or without hard labour for a term not exceeding two years or on summary conviction to imprisonment, etc., etc."

I need not read the rest; it is not material. Now, I am entitled to ask, did it not strike any lawyer member of the House of Commons—and I believe there are some members in the House of Commons who may at least be compared to Dr. Gour—that the English Parliament was indulging in a piece of absurdity and superfluity by introducing a clause of this character in the Bill when there were ample provisions in the common law? Well, personally speaking, I am content to go wrong with the English Parliament in a matter of Legislation of this character, to go wrong with the English lawyers who, I presume, were present when this Bill was discussed in Parliament, than to go right with Dr. Gour on this occasion.

The position is this. I can quite understand the House saying "Well, we are not satisfied that there is any necessity for this Bill, and for that reason we wish to turn it down." We may or may not see eye to eye with each other on that point, we may disagree on that point but it is a perfectly legitimate position to take up. But when Dr. Gour

raises these cobwebs in the name of jurisprudence of which he claims to be an exponent, then I am entitled to say "Thus far and no further."

Munshi Iswar Saran (Cities of the United Provinces : Non-Muhamadan Urban) : Sir, I happen to be that unfortunate individual who was referred to by the Honourable the Law Member as having committed the most heinous offence of not attending the meeting on the 13th March. It may be, Sir, that Dr. Gour and I were real culprits in having not done our duty on that occasion, but may I ask with all respect, is that any ground for proving that the Bill is unobjectionable and should be accepted. . . . ?

The Honourable Dr. T. B. Sapru : May I explain, Sir, that I did not mention that as a grievance against Munshi Iswar Saran ? I only expressed the regret of the Government that they did not have the benefit of the ripe experience of my friend.

Munshi Iswar Saran : I appreciate the compliment and I thank him; but even had I been present, the Bill is so bad that I would not have been able to so improve it as to make it acceptable to this House. The Honourable the Law Member with that tact which we must all admire has read to us passage after passage from some reports from some Governments about some districts regarding some policemen ; and Sir, we are seriously asked to accept this indefinite, vague, and as far as this House is concerned, secret information and to act upon it and to give our assent to the Bill before us. Sir, as far as I am concerned, I do not dispute the accuracy of the fact that such reports have been made to the Government of India, but I do complain, and I hope the Honourable the Law Member will kindly forgive me, that we should be called upon to base our action on information of this character.

More consideration, I venture to think, should have been shown to the intelligence and to the capacity of this House. We do not deny that there was a time when there was trouble of the kind to which some reference has been made, but that is not the point at issue just now. The point is, did you bring into action the present machinery to deal with the situation and did it fail? (Hear, hear.) That is the point. There may have been a lot of cases such as those to which reference has been made and very many more, I shall concede, but the point is not the existence of such cases, but the real point is, did the executive Government take action under the law that it had got on the Statute Book and did it fail to secure justice? In other words, did the machinery fail? If it broke down, then it is up to this House to mend it, to change it, to modify it, to alter it and to add to it, but if it has not broken down, then, I submit, Sir, with confidence that the Government have not made out a case for the enactment of a legislation of this character.

Sir, I shall venture to remind the House that the question which we are considering at the present moment is this : should we proceed with the consideration of the various provisions of the Bill or should it be circulated for further opinion? I do not wish to attack the Honourable the Home Member in the way in which he has been attacked by my Honourable friend Dr. Gour, but I shall say this, that it was hardly fair on his part to say "come out in the open"—these are his words which I have taken down—"if you want to turn down the Bill, otherwise what is the good of your bringing forward this motion?" "Come out in the open" is a challenge which, I think, he should not give to this House. I will tell the

[Munshi Iswar Saran.]

Honourable the Home Member my own position. I do think that owing to the insufficient and incomplete materials that he has chosen to place before us, it is necessary that this Bill should be circulated for eliciting opinion thereon. Has it not happened in this House when private Bills have been brought forward by my Honourable friends Dr. Gour and Mr. Seshagiri Ayyar that they have been told "You have not yet received the opinions of Local Governments" and so on, and having regard to this fact, it was thought advisable not to proceed with the consideration of their Bills. I say, Sir, why not apply the same arguments on the present occasion? Why not, let us, Members of the Assembly, be in possession of the opinions of the Local Governments and of public bodies, and let us then come to a conclusion whether or not you require a Bill of the kind that you wish us to pass? As far as I am aware—I speak again subject to correction—the opinions of Local Governments have not been circulated to us. (*Some Honourable Members* : "No, no.") I do not know, Sir, whether the opinions to which such triumphant reference has been made were received before the introduction of this Bill or after the provisions of this Bill were sent to those Local Governments. That is a point on which I would like to be enlightened. The argument has been advanced that this Bill has been before the public for nine months; why have not the public expressed its opinion? Sir, it is not a valid argument. If there be any force in this contention, then, I ask, where is the necessity of asking the opinion of the public on so many other Bills? Publish a Bill, wait for a month or so, and then say "Well, the public have sent us no representations. If the public had been interested in the Bill, it would have certainly submitted its opinion to us. That being so we are perfectly entitled to proceed with the Bill." Is that argument to be employed only when non-official members have the courage to bring forward private Bills? I submit, Sir, that what should apply to the Bills of non-official members should also apply to the Bills of official members. The Honourable the Home Member was perfectly right when he said "the sky will not fall down"—I have taken down his words—"The administration will not come to an end" if there was a little delay in passing this measure. This is exactly my point. The sky will not fall down if you circulate this Bill for the elucidation of further opinions on it. It would have been very different if Government had come forward and said "here is a serious situation, look at this emergency; if you don't arm us with these provisions we do not know where matters will end." There would then have been some substance in their reluctance to accept the amendment of my Honourable friend Dr. Gour. But, Sir, when the Leader of the House, the representative of Government admits that no serious harm will be done by a little delay, I ask the House then to accept the amendment moved by my Honourable friend Dr. Gour. Sir, the Honourable the Home Member himself said,—I have taken down his words—"at one time the position became dangerous." I think I am entitled to infer from the words "at one time" that the danger is not so great as it was at one time. I see the Honourable the Home Member nodding his head. Now if that danger has decreased, I say that is an argument in support of the motion of my Honourable friend Dr. Gour.

Sir, as regards the provisions of this Bill, you have been pleased to rule that it is not necessary to go into the details of it, but I cannot stand

the temptation of offering a few brief remarks on the broad principles which we have got to consider. The Honourable the Law Member, if I may say so, was perfectly right when he said that section 29 of the Police Act did not deal with the question of disaffection. There can be no two opinions about it, but he observed that the scope of the word "disaffection" as used in section 124-A of the Indian Penal Code, was much larger and wider than the scope of the word "disaffection" as used in clause 3 of the present Bill.

If I have understood the meaning of the Honourable the Law Member correctly—I shall be glad if he will correct me—I have misunderstood him—then I submit that the larger includes the smaller, and though it may be that under section 124-A the word "disaffection" has been used in a larger sense, you may still make it applicable to disaffection as contemplated in clause 3 of this Bill? My contention is based on the statement made by the Honourable the Law Member himself. I say, if you find a man spreading disaffection among the members of a police force you may deal with him under section 124-A of the Indian Penal Code.

Lastly, the Honourable the Law Member said, he would rather go wrong with the British Parliament than right with my friend Dr. Gour. I think he is right there. I think Dr. Gour himself will admit that, in spite of his learning, the accumulated learning and experience of Parliament is most certainly to be preferred to his individual opinion. But, Sir, I submit that the Law Member and his Colleague the Home Member have not convinced us by a reference to these Acts passed by the British Parliament that the present Bill is unobjectionable. Let us try to understand things. We may be deficient in understanding, I quite grant that. But try to explain things to us so that we may understand the full meaning, significance and scope of the various Bills that you bring before us. Our point is that, as far as the existing provisions of law are concerned, they are roughly speaking quite sufficient to deal with the mischief that you wish to deal with, and therefore it is not necessary to bring into existence any further enactments. And, further, we say that, there being no urgency no impending danger, as has been admitted by the Honourable the Home Member himself—"let us have the benefit of the opinions of the various Local Governments and of public bodies." I do hope that the Honourable the Home Member, on behalf of Government, will accept such a modest and reasonable proposal as has been put forward and not try to show that he is really determined to get this measure passed to-day, here and now. It may be that on receiving these opinions, we may come to the conclusion that this Bill is necessary. Or it may be that we may come to the conclusion that this Bill is not needed and we shall then, I assure the Honourable the Home Member, not hesitate in expressing our opinions as courageously and as firmly as possible.

Mr. Darcy Lindsay (Bengal : European) : I move, Sir, that the question be now put.

The Honourable Sir William Vincent : Sir, I venture to suggest to the House that the attempt to discredit this Bill by references to the Rowlatt Act and to my speeches on the Rowlatt Act are really unfair to me in regard to this measure. This Bill has in fact nothing whatever to do with the Rowlatt Act. On that occasion I had Dr. Sapru opposing

[Sir William Vincent.]

me. On this occasion I am glad to have his support here. It is a Bill framed on an English model. There is no suggestion of any repressive measure in it, and I put it to the House that the mention of the Rowlatt Act was deliberately made by Dr. Gour in order to create prejudice in the minds of the Assembly, and an unfair prejudice at that. He went on to say: "Sir William Vincent is always warning us of some disaster that will happen." What disaster did I warn the House of to-day? Did I say that the sky would fall if the Bill was not passed? I did not. I disclaimed any such idea. I believed, and still believe, that the Bill is a perfectly sound and reasonable measure for the Assembly to accept. But I know that Dr. Gour is always a little sensitive when any reference is made to responsibilities, or even, as my Honourable friend Dr. Sapru reminds me (I should hesitate otherwise to say so), to his legal acumen and learning. Why should he be afraid of having responsibility put on the Assembly? What is the trouble? He tells us that the Bill is entirely unnecessary. He has examined it with that care which he always devotes to such matters. Why then circulate it? Why not then accept the opinion of this Doctor of Law straight away and turn the Bill down? What I want the House to do—is either take it or leave it. Dr. Gour is confident that the present law is completely adequate having regard to section 29 of the Police Act and section 124A. Well, Sir, why in these circumstances, is it desirable to circulate the Bill? On the last occasion, when the Bill came up before this House, was there any motion made to circulate it then? No, Sir. Not a suggestion of it. If it was necessary, surely these learned lawyers would have seen it then? Munshi Iswar Saran said: "Why shouldn't we circulate it now? Why? Because the time for circulating it is gone, unless the House wishes to stultify itself. They accepted the principle of the Bill when they referred this Bill to the Select Committee. Why should they now refer it back? Because Dr. Gour does not want to take the responsibility of passing it and he does not want to take the responsibility of turning it down. The real truth is that this is not an emergency measure of any kind, though Mr. Agnihotri said that "the Bill might have been necessary once. It is not so now." Like Munshi Iswar Saran, I tried to take the words down. May I ask if Mr. Agnihotri, as he admits that the Bill was necessary, supported it or opposed it then?

Mr. K. B. L. Agnihotri: Unfortunately, I was not present then and I do not recollect to have admitted its necessity.

The Honourable Sir William Vincent: When was the Honourable Member not present?

Mr. K. B. L. Agnihotri: At the first reading.

The Honourable Sir William Vincent: Were you here at the second reading?

Mr. K. B. L. Agnihotri: Yes. I opposed it then.

The Honourable Sir William Vincent: Yes, you opposed it though you admit it was needed. Sir, all kinds of red herrings have been drawn across the trail of this unfortunate Bill. Dr. Gour started with a Rowlatt

Red Herring. Then we had Mr. Agnihotri complaining of the oppression and misconduct of the Bill. Now, this Bill, whatever its merits or demerits, has nothing whatever to do with the conduct of the Police. It deprives no man of any remedy against them. It gives them no power at all. Nor is it a measure intended to prevent criticism of the Police.

I defy any lawyer Member or any other Member of this Assembly to suggest that it touches criticism, even savage and unjustifiable attacks on the police. What it is intended to prevent is seditious attacks on the loyalty of the police. As I have said before, and as my Honourable Colleague says, it is intended to prevent the spread of a general spirit of disaffection, disloyalty and indiscipline among the police and the only question now is whether this Assembly is going to decide that this is to be permitted or that this is to be stopped. Dr. Gour suggested to me in the course of his speech that he was now in a position to prove that the amendments made by the Select Committee were beneficial and therefore reference to the Select Committee was necessary. If the House will examine the amendments actually made, I say with confidence that they will see that these changes could perfectly well have been made in Committee of the whole House here and that the Select Committee was really of very little value, except that we spent a considerable time wrangling with Dr. Gour. I thought it was time wasted. I am told that the Bill is unnecessary. But, Sir, nearly every Local Government contends that it is necessary. Then Dr. Gour asked whether there was any case in which we had prosecuted and failed to secure a conviction under section 29 of the Police Act. The answer is really very simple. No Local Government is going to prosecute a case of this kind unless it is quite satisfied on legal advice that there is a good case for prosecution. Every Local Government has said that it cannot prosecute because it is advised that a prosecution would not lie. That is a very clear and simple answer to this argument. If the Government does put in a prosecution as a sort of test case and fails, the whole country is ablaze and says : " Look at the wickedness of the Government prosecuting an innocent man : have you ever known such injustice ? Have the Government no legal advisers ? " and so on. My Honourable friend would be among the first to attack it, unless unhappily he had been the legal authority to advise the prosecution. It is not a question of proof. It is not a question of our not being able to get evidence. The point is this. You can in certain cases prosecute under section 124A. You can start a state trial if you like whenever there is preaching of disaffection against His Majesty within the meaning of the specific clause laid down in the section. We do not want to make attempts to get at the police the cause of heavy cases of that kind. As has been pointed out by my Honourable Colleague, the scope of the two sections is also different. We do not want in every small case of this kind to go up and get the sanction of the Local Government. But when you come to incitements to failure in their duty, then a different question arises. But here too it is not a question of proof. The position is this. You have general incitements to failure in their duty on the part of the police. We are advised in regard to such general incitements that it is impossible to prosecute for abetment under section 29. For a prosecution under that section you must have incitement to a particular man to forbear from a particular act. These general incitements to which my

[Sir William Vincent.]

Honourable friend refers do not come within the scope of the present law. and I have heard no answer at all to that argument. I am told that the House would like to have evidence of such incitements being offered. I will read one. This is not a Government report. It is an extract from a letter :

" O brethren of Islam ! Who is that Mussalman who has not severed his connection with this Government, after the publication for four times of certain books ? Will you forsake Islam if the non-co-operation movement fails ? Certainly not. This is the opportunity. Are you one of those who read the " *Kahna* " of this untrustworthy British Government for the sake of worldly ambition, money and honour ? You have throttled Islam, sent the patriots of the country and Khilafat to jail and have caused unjust bloodshed."

That is a letter addressed to a Police Officer.

Mr. K. B. L. Agnihotri : May I ask a question, Sir ? How many police officers left on that account ? I mean how many members of the police force left service on account of that letter ?

The Honourable Sir William Vincent : I cannot say how many police officers left, but I have certain figures of resignations some of which I will give just now.

Mr. Muhammad Yamin Khan : (Meerut Division : Muhammadan Rural) : Is there any report from that Local Government which has sent this letter that this kind of letter was circulated among the police force or that it was addressed to one and one individual alone ?

The Honourable Sir William Vincent : If the Honourable Member will allow me to develop my case in my own way, I shall be very grateful. Here is another :

" Much jubilation has been indulged in by the Calcutta extremist papers over some reports which have appeared in their columns regarding a meeting largely attended by most of the Calcutta Police at which, according to these reports, a unanimous decision was arrived at not to serve the Government.

According to these reports Police constables and head constables, variously estimated from 500 to 250 met, and in spite of appeals, resolved that in view of the firing on the mob at Howrah and other places, they declared they would no longer be a party to, or instrumental in, such things. * *

Another figure prominent in the proceeding was an *ex-head* constable.

A special report on the rioting at Howrah says that special efforts were being made to boycott the police force there."

Now, the Honourable Member asked me whether I can quote any figures. I have figures up to October 1921. I am very unwilling to give encouragement to those who make it their business to promote disloyalty, but in one province 37 police officers had resigned up to then and in another we had 40 resignations.

Mr. K. B. L. Agnihotri : Out of a total number of ?

Mr. President : The Honourable Member must refrain from these interruptions. He had plenty of time in his own speech to ask these questions.

Mr. K. B. L. Agnihotri : But these points have been brought forward in replying.

The Honourable Sir William Vincent : I am grateful to you, Sir, because—I am sure the Honourable Member does not intend it, but constant interruption does dislocate one's ideas on the subject. I am trying to give the information which I think the Assembly wants.

Another point raised against the Bill is that the punishment provided there is too severe. If Honourable Members will look at the Bill they will see that it provides for two classes of offences. One is causing disaffection and the second is inducing failure to duty. I do not think any one, even Dr. Nand Lal if he looks at it carefully, will say that the penalty proposed in the Bill is too severe for the first class of offence. In any case I only ask the Assembly to come out in the open. As I have already said, let us differ openly. If Members want to circulate this Bill, it should have been done so before. If, as my Honourable friend says, the law is complete and requires no addition to it, then I suggest that there is no reason to circulate the Bill. The House ought to take its courage in both hands for once and either turn the Bill down or accept the motion which I have put before it.

Mr. President : The original question was :

“ That the Report of the Select Committee on the Bill to provide a penalty for spreading disaffection among the police and for kindred offences be taken into consideration.”

Since which amendment has been moved :

“ That the Bill be circulated for eliciting public opinion thereon.”

The question

Mr. B. S. Kamat (Bombay Central Division : Non-Muhammadan Rural) : Sir, I wish to have your ruling on a point. It is this ; can the Bill go for circulation at this stage at all under the Standing Orders ? The Bill has emerged from the Select Committee and the only Standing Order that applies in this case is Standing Order 44. A Member can at this stage ask that the Bill be recommitted to the Select Committee or to be re-circulated, but he cannot ask, I believe, that it should be for the first time circulated, and therefore Munshi Iswar Saran's amendment ought to be ruled out entirely.

Mr. President : Apart from the fact that it is a little late to take the point of order, I think the presumption is that the framers of Standing Order 44, when they provided for re-circulation, must have assumed the right to circulate at this stage for the first time.

Mr. J. N. Mukherjee (Calcutta Suburbs : Non-Muhammadan Urban) : What happens to the amendment which stands in my name ? (Laughter). That is a vital point in this case. The English Statute has been referred to very often and it has been stated that this Bill proceeds entirely on the lines of the English Statute, and that is a point which appears to me at least, to be a very vital point, and if this House wants any consideration of that fact, in my humble judgment, the point should not be ruled out,

Mr. President : I hardly think that it is a question that can be taken at this stage. The Honourable Member can raise the question which he has in mind in relation to clause 4 which refers to such associations.

The original question was :

"That the Report of the Select Committee on the Bill to provide a penalty for spreading disaffection among the police and for kindred offences be taken into consideration."

Since which an amendment has been moved :

"That the Bill be circulated for eliciting public opinion thereon."

The question that I have to put is :

"That the Bill be circulated for eliciting public opinion thereon."

AYES—41.

Abdul Quadir, Maulvi.
Abdulla, Mr. S. M.
Agarwala, Lala Girdharilal.
Agnihotri, Mr. K. B. L.
Ahmed, Mr. K.
Asjad-ul-lah, Maulvi Miyan.
Ayyar, Mr. T. V. Seahagiri.
Bajpai, Mr. S. P.
Bhargava, Pandit, J. L.
Chandhuri, Mr. J.
Das, Babu, B. S.
Ghose, Mr. S. C.
Ginwala, Mr. P. P.
Gour, Dr. H. S.
Gulab Singh, Sardar.
Iswar Saran, Munshi.
Jamnadas Dwarkadas, Mr.
Jatkar, Mr. B. H. R.
Lakshmi Narayan Lal, Mr.
Mahadeo Prasad, Munshi.

Manmohandas Ramji, Mr.
Man Singh, Bhai.
Mia, Mr. B. N.
Mia, Mr. P. I.
Mudaliar, Mr. S.
Mukherjee, Mr. J. N.
Nabi Hadi, Mr. S. M.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Rangachariar, Mr. T.
Reddi, Mr. M. K.
Sarvadhikary, Sir Deva Prasad
Shahani, Mr. S. C.
Singh, Babu B. P.
Sinha, Babu Ambika Prasad.
Sinha, Babu L. P.
Sohan Lal, Bakshi.
Srinivasa Rao, Mr. P. V.
Venkatapatiraju, Mr. B.

Yamin Khan, Mr. M.

NOES—44.

Abdul Rahim Khan, Mr.
Akram Hussain, Prince A. M. M.
Allen, Mr. B. C.
Arbuthnot, Mr. R. E. V.
Asad Ali, Mr.
Barodawala, Mr. S. K.
Bradley-Birt, Mr. F. B.
Bray, Mr. Denys.
Bridge, Mr. G.
Burdon, Mr. E.
Butler, Mr. M. S. D.
Chatterjee, Mr. A. C.
Clarke, Mr. G. R.
Cotelingam, Mr. J. P.
Davies, Mr. R. W.
Gajjan Singh, Sardar Bahadur.
Gidney, Lieutenant-Colonel H. A. J.
Hailey, the Honourable Sir Malcolm.
Hudson, Mr. W. F.
Hullah, Mr. J.
Hussanally, Mr. W. M.
James, the Honourable Mr. C. A.

Joshi, Mr. N. M.
Kamat, Mr. B. S.
Lindsay, Mr. Darcy.
Mitter, Mr. K. N.
Moir, Mr. T. E.
Muhammad Hussain, Mr. T.
Muhammad Ismail, Mr. S.
Mukherjee, Mr. T. P.
Percival, Mr. P. E.
Pyari Lal, Mr.
Ramayya Pantula, Mr. J.
Sapru, the Honourable Dr. T. R.
Sarfaraz Hussain Khan, Mr.
Shahab-ud-Din, Chaudhri.
Singh, Mr. S. N.
Sinha, Beohar Raghubir.
Sloccock, Mr. F. S. A.
Subrahmanayam, Mr. C. S.
Vincent, the Honourable Sir William.
Way, Mr. T. A. H.
Webb, Sir M. dePomeroy.
Zahiruddin Ahmed, Mr.

The motion was negatived.

Mr. President : The question is :

“ That the Report of the Select Committee on the Bill to provide a penalty for spreading disaffection among the police and for kindred offences be taken into consideration.”

The motion was adopted.

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

The Assembly re-assembled after Lunch at Three of the Clock.
Mr. President was in the Chair.

Rao Bahadur T. Rangachariar : Sir, I wish to ask for a ruling on a matter which troubles some of us, namely, whether there is any obstacle to a Member who sat on the Select Committee to vote as he likes on these motions.

Mr. President : I hardly think that is a matter for the Chair to deal with. If the Honourable Member means whether an Honourable Member who has changed his mind can vote in a way contrary to that proposed by the Select Committee whose report he has signed, I see no power in the Chair or the Assembly to debar him from doing so.

Rao Bahadur T. Rangachariar : I mean there is nothing unparliamentary about it ?

Mr. President : That is a somewhat wide phrase !

Mr. President : The question is :

“ That clause 1 stand part of the Bill.”

Mr. Agnihotri.

Mr. K. B. L. Agnihotri : Sir, may I be permitted to postpone the moving of my amendment on clause 1, sub-clause (1), till the other clauses have been disposed of, because that relates to words about incitements to disaffection ; if in clause 3, we drop “ incitement to disaffection,” then only will this clause be changed, otherwise not ?

Mr. President : I think the course proposed by the Honourable Member is reasonable. It is usual to take the title and preamble last but it so happens that the title is in this case in the Bill.

The question is that the consideration of clause 1 be postponed.

The motion was adopted.

Mr. K. B. L. Agnihotri : Sir, I beg leave to move an amendment that after the word “ Parganas ” in sub-clause (2) of clause 1, the following be added : “ but shall have operation only in such provinces or parts of provinces as the Governor in Council may from time to time notify in the local official Gazette.” Sir, the amendment which I have given may be regarded as imperfectly worded, and therefore I may be permitted to adopt the wording as suggested,—“ it shall come into force in any province or part of a province at such date as the Local Government may by notification in the local official Gazette direct.”

The Honourable Sir William Vincent : The Honourable Member is on a wrong clause.

Mr. President : The Honourable Member asked for the postponement of clause 1.

Mr. K. B. L. Agnihotri : Sub-clause (1) only.

Mr. President : The question is :

“ That clause 2 stand part of the Bill.”

Amendment No. 6.

Mr. K. B. L. Agnihotri : Sir, in clause 2, I beg leave to move as an amendment :

“ That after the word ‘ Schedule ’, the following should be added :

‘ but does not mean a person appointed special police officer under section 17 of the Police Act, Act V of 1861 ’.”

Sir, my reasons for moving this amendment are that the appointment of special constables is much resented by the Indian gentry and is often regarded as very insulting. It is also often resorted to by many of the police officers more in a spirit of mischief and annoyance than in the true spirit of the law as laid down in section 17. What is section 17 ? Section 17 deals with the appointment of special constables. Sir, if this addition is not made, then even the advice by an outsider—say for instance a lawyer—to such a person not to work as a special constable and who in pursuance thereof does not work as a special constable may come within the purview of the section. Therefore, I submit that the amendment which I beg to propose should be accepted and added after the word ‘ Schedule ’ in clause 2.

Mr. President : Amendment moved in clause 2 :

“ After the word ‘ Schedule ’ add ‘ but does not mean a person appointed special police officer under section 17 of the Police Act, Act V of 1861 ’.”

The Honourable Sir William Vincent : Sir, the Honourable Mover commenced by one of his habitual attacks on the police. There is no justification for this at all in my opinion. Nor is there any justification for this amendment. There is no more reason whatever why any person should be allowed to seduce a special police officer from his duty, or to create disaffection among the body of special police officers, than there is in the case of the regular police. I may point out that both in the case of special police officers and of regular police officers, under the Act they are only called upon to carry out the lawful orders of the Superintendent of Police. If such an act or order is unlawful, then the position is different. Does anyone suggest that a man should be allowed to go and preach sedition among special police officers which he is not allowed to preach among the regular police ?

Rao Bahadur T. Rangachariar : Sir, I can see the force of the argument of the Honourable the Home Member as regards the latter clause, namely, the one relating to inducement to the Police to withhold services or to commit breaches of discipline, but it is a different matter to create disaffection among those people who must already be disaffected by the very fact of their having been so enrolled.

The Honourable Sir William Vincent : Not at all, not at all.

Rao Bahadur T. Rangachariar : That is my experience, Sir, wherever it has been resorted to, and it was resorted to very largely during the Punjab riots, and every one knows what the Hunter Committee said of those things, of the way in which this power was used in the Punjab. You know, Sir, how respectable gentlemen were dragged out as police constables and were made to do all sorts of duties. Therefore to say that they were well affected towards Government, or to

create disaffection amongst them seems to be an impossible task. Probably it will be right to say that no one ought to induce or attempt to induce them to withhold their service. I know in Madras how this section is applied, especially when riots occur : respectable people, pleaders, merchants and bankers are enlisted as special constables simply to put them in difficulty and drag them into ridicule ; and with such a class of people, to suggest the creating of disaffection is absurd.

The Honourable Sir William Vincent : I hope we are not to conclude from the last speaker that merchants, pleaders and bankers are necessarily disaffected to the Crown or to Government ; because that is what the Honourable Member's statement would lead one to believe. Sir, recently, after the Punjab disorders—I wish to be quite frank in this matter—our attention was drawn to certain cases in which we thought that the proper use of this section had perhaps not been properly appreciated ; and we issued a couple of years ago new instructions to prevent, and effectually to prevent, any misuse of these sections and maintain that special police officers are not chosen as a general rule from persons disaffected to Government, and that they are entitled to protection. They are often chosen from leading men who can influence the community. I agree that there have been cases in the past in which the difficulty to which reference was made has arisen ; but I believe that it will not arise in the future. My main point is however that there is no reason why a evilly disposed person should be allowed to get at a police officer who is called out to do work of peculiar importance at a time of emergency and attempt to seduce him from his duty with impunity.

Sir Deva Prasad Sarvadhikary (Calcutta : Non-Muhammadan Urban) : The Honourable Member sometimes is not content with his own enormous powers and essays to usurp those of the Chair. One of his failings much cultivated since he left Bengal is that he cannot distinguish friends from those on the other side. I think, Sir, that Mr. Agnihotri and Mr. Rangachariar have in their own reasoning furnished arguments enough for opposing this amendment. I do not want for the present to say anything about the general provisions in the Bill ; but if they are to be made applicable to members of the police force, they must be made applicable with double force to the class of people about whom Mr. Rangachariar has apprehensions, so long as they continue to be members of the force—the special force called in at the time of emergency. Whether they begin with initial disaffection or not, the provision must apply to them ; and if they do begin with disaffection, that in itself furnishes reason enough for making a provision like this to specially protect them against further disaffection in times of crisis. I am sure this power will not be used, or abused if that is a term to be preferred, except at a time of great emergency and when a crisis is at hand. That is the time, if at all, when this will have to be applied to the police force and when it should be applicable to them in all its branches. Therefore, I do not think that on the reasons adduced by the Mover of the amendment or his supporters this amendment can be supported.

Mr. J. Chaudhuri : I would remind the Honourable the Home Member of the case from Rungpur during the partition. (*The Honourable*

[Mr. J. Chaudhuri.]

Sir William Vincent : "The Honourable Member has to go a very long way back.") I am referring to cases which are within my personal knowledge and formed the subject matter of judicial proceedings. There, a large number of pleaders and other respectable gentlemen were enrolled as policemen and were made to put on belts and batons and *lal puggree* and were ordered to parade. A rule was obtained from the Calcutta High Court to test the legality of the order and when it came before that Court for hearing, an unreported judgment of Sir Arthur Wilson (since reported in the *Calcutta Weekly Notes*) was cited in which the learned Judge had held that the object of this section is preventive and not punitive, and that it should not be used in such a way as to punish people. So, I think the Home Member will do well to issue a circular all over the country so that that section may not be used in a punitive manner. It has been so used on different occasions, and, I understand, is even now so used. We have the authority of an eminent Judge, who later on was a member of the Judicial Committee of the Privy Council, who said that he interpreted this section to mean that it was intended for taking precautions against disturbances or preventing riots and not for the purpose of inflicting indirect punishment on respectable people. So, if my suggestion is accepted, I do not see that it will be necessary to introduce any amendment. But since that section is at times abused by the executive, it may be necessary to introduce some safeguard, with regard to those people who are enlisted at times of special stress.

The Honourable Dr. T. B. Sapru : I will only say one word with regard to this matter. Sir Deva Prasad Sarvadhikary has given very good reasons why this amendment should not be supported. I would only supplement his remarks by one further observation, and it is this. I understand that orders have already been issued that the enrolment of leading or influential persons on special occasions should not be resorted to by way of punishment or in a spirit of vindictiveness.

Mr. President : The amendment is that :

"To clause 2, after the word 'Schedule' add the following :

'but does not mean a person appointed special police officer under section 17 of the Police Act, Act V of 1861'."

The question is that that amendment be made.

The motion was negatived.

Mr. President : The question is :

"That clause 2 stand part of the Bill."

The motion was adopted.

Bhai Man Singh (East Punjab : Sikh) : Sir, the amendment that stands in my name relates to clause 3 :

"In clause 3, omit the words 'intentionally causes or attempts to cause, or does any act which he knows is likely to cause, disaffection amongst the members of a police force or'."

My object in proposing this amendment is very clear, and it is that section 124-A. of the Indian Penal Code positively provides for the offence of spreading disaffection against His Majesty or the

Government established by law. In that provision of course there are one or two additional expressions which are not included in this Bill. Section 124-A. runs as follows :

“Whoever by word either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards Her Majesty or the Government established by law in British India, shall be punished with.....etc.”

As the Honourable Members will see, there are two other points introduced here, namely, “whoever brings or attempts to bring into hatred or contempt or excites disaffection.” I submit, Sir, that disaffection is a more general word and “contempt” a more definite term. The latter might indeed be included in the former. And I submit that this clause 3 is a repetition—though not an exact one—of the law as enunciated in section 124-A. This morning the Honourable the Law Member said that the ground covered by this section is much less than that covered by section 124-A., or something of the sort. Surely, Sir, if the complete offence is included in 124-A., and if spreading disaffection amongst the general public is an offence under that section, there is no reason why we should make a special provision for spreading disaffection amongst the police force, quite apart from the ordinary law.

The only object in putting this portion of the clause in this Bill seems to me that a prosecution under 124-A. cannot be launched except with the permission of the Local Government, while, as the Bill at present stands, a prosecution under clause 3 can be launched with the permission or on the complaint of the District Magistrate. I would beg the House to note that it is much more easy, in the case of a complaint of spreading disaffection, to get the sanction of the District Magistrate than that of the Local Government. If it was thought necessary to get the sanction of the Local Government in a case where disaffection is preached to the masses, why should we provide this specially in this Bill for police officers? A Superintendent of Police, if he finds any complaint of that sort, can easily run up to the Deputy Commissioner and get his sanction and have a complaint filed. Further, as I have pointed out, I see no reason why special protection should be given against spreading disaffection among the police, while we have no other similar clauses in regard to disaffection preached among any other section of the public. If we direct our attention to the provisions in the Indian Penal Code which protect the Army and Navy, even there we find that section 131 definitely lays down :

“Whoever abets the committing of mutiny by an officer, soldier or sailor in the Army or Navy or attempts to seduce any such officer, soldier or sailor from his allegiance or his duty shall be punished, etc., etc.”

Surely, spreading disaffection amongst the Army has not been made a special offence under the Indian Penal Code. I cannot understand, therefore, why we should lay so much stress upon making this a special offence with regard to the police. If I spread disaffection, whether I do so amongst the police force, or amongst the Army and Navy, or amongst the masses, I am equally guilty of the offence; and why should there be any special reason for creating a special class here?

[Bhai Man Singh.]

As Honourable Members will see the terms used here are wider than the words used in section 124-A. or even in section 131. In section 124-A. the words used are : "Whoever brings or attempts to bring into hatred, etc., etc." But here we go a step further and say : "Whoever causes, attempts to cause or does any act which he knows is likely to cause." The words "which he knows is likely to cause" are not used even with regard to the abetment of the committing of mutiny by an officer, soldier or sailor in the Army or Navy. Honourable Members will bear me out surely, when I say that the police force has got no more right to be protected than the Army or Navy. I find no justification absolutely for putting in this provision. The only other defence that the Honourable the Law Member gave us this morning was to refer us to the proceedings in the British Parliament, saying that when the great and eminent lawyers were sitting in the House of Commons did not object to this repetition of the law of sedition in the case of the police force, why should we object ? I admit and I think everybody will admit that there are very competent lawyers there. This morning it was said : "Look here ; the Honourable the Law Member thinks that this provision is necessary and we should bow down to him." Surely, if, as they say in logic, reason by authority is the only thing that should carry the House on this point, I have nothing to say ; but if we are to use our own heads, if we want to be convinced of the necessity of this provision in this Bill, then Sir, I would say that absolutely no case has been made out to put in this provision. Why should it be specially provided for in this Bill ? With these comments, Sir, I move this amendment of mine.

The Honourable Sir William Vincent : Sir, I do not know much about reasoning by authority, but I would remind the Honourable Member of another useful practice, namely, reading the authorities and looking up the law. If any one reads section 131, he will find these words "Any one who attempts to seduce any such officer, soldier or sailor from his allegiance or his duty." If that does not cover preaching disaffection to a soldier, I do not know then what does. Again, if you read section 505 of the Code you will find "Whoever makes, publishes or circulates any statement, rumour or report with intent to cause or which is likely to cause any officer, soldier or sailor to mutiny or otherwise disregard or fail in his duty as such." I draw attention to the words "likely to cause." I think that disposes of one part at least of the objection raised by the Honourable Mover of the amendment.

To attempt now to re-open the debate on the meaning of the word "disaffection" is to revive the whole discussion which we had this morning. The matter was discussed in the greatest detail by gentlemen much more learned in the law than I am, and I am confident to leave it to them. The real point is, do you or do you not want disaffection and indiscipline preached amongst the police ? That is the plain English of it. That is the plain question before you. Some cases might come in under 124-A and others might not ; in these cases we do not want to have to go through the regular formalities of a State trial under section 124-A and prosecution for an offence which is really a much less serious offence. I hope the House will not accept the amendment.

Rao Bahadur T. Rangachariar : Sir, I am afraid this is a very dangerous clause and I must warn the House against the lurking dangers underlying this clause. Much as I desire to associate myself with the Government in supporting any reasonable protection which they demand from the representatives of the people here in preventing people from interfering with the loyalty of the police, I consider, Sir, that this portion of the clause is a most dangerous one. Viewed from one standpoint it is unnecessary ; viewed from another standpoint it will be oppressive.

If the object of the Government is to prevent people from spreading disaffection amongst the members of the police force as understood in section 124A, namely, disloyalty to His Majesty's Government, this clause is unnecessary, for section 124-A is there and "disaffection" has been defined broadly, and therefore policemen are also persons who come within the meaning of section 124-A, and any person who abets sedition amongst policemen will come under section 107 and section 108 of the Indian Penal Code, and he will be either a principal offender who spreads disaffection amongst policemen, that is disaffection as known in section 124-A, or if a policeman is seditious, other people who abet him, will be abettors within the meaning of sections 107 and 108. Therefore it is not disaffection as known to 124-A which the authors of this clause have in view. They have some other disaffection, and if that is so, let us have it plainly. As the Honourable the Law Member mentioned this morning, it is discontent, some sort of discontent amongst the members of the police. Sir, I belong to a Club where we have an unwritten rule that no member shall introduce a policeman into the Club. We have had sad experience of having policeman introduced into the Club. Sir, from the way in which the Honourable the Law Member introduced the facts this morning, I am afraid, we members of the Club will come under the clutches of this clause. My Honourable friend the Law Member shakes his head. We have had bitter experience of the Honourable the Law Members' assurances in express words. What is the history of the Press Act ? The then Law Member gave assurance over and over again that this clause does not mean this, this clause does not mean that ; but, Sir, when it came to the Courts, those assurances melted like ice, and the clause was construed or the language was construed not on the discussion which took place here. Whoever remembers, whoever attaches any importance to words which the Honourable the Home Member or the Honourable the Law Member uses here ? It is the Courts which interpret the law. Sir, by legitimate action on our part we create a lot of discontent among the police officers. They get disaffected among themselves. What is meant by "cause disaffection among the members of the police force" ? The police force may feel insulted by this unwritten rule of this Club where I mentioned that no member shall introduce a policeman into the Club. Sir, why, it will cause disaffection amongst the members of the police force ?

Again, Sir, supposing we find a Superintendent of Police acts high-handedly and I as a public man call attention to it, or a newspaper calls attention to it, and if we call attention to it, it causes disaffection among the members of the police, not disaffection to His Majesty, not disaffection to the Government established by law as is required in section 124-A, but disaffection amongst the members of the police, it may be disaffection among the members of the police, to a particular District Superintendent

[Rao Bahadur T. Rangachariar.]

of Police or in regard to particular orders issued. Again, Sir, one instance was quoted this morning by the Honourable the Law Member in support of his position as to the necessity for this clause. What was it? One man refused to marry a police officer's daughter. (Laughter.) Sir, we are now-a-days in great difficulties to find bridegrooms. We have to pay thousands and thousands of rupees in order to get suitable bridegroom. You are entrusting the police officer with a very good and long weapon if he has daughters to marry. Why, I dare not refuse to take for my son his daughter, because the police officer will say "Rangachari refused my daughter for his son, because I am a policeman". He goes to the District Superintendent of Police who may probably be a Major or a Colonel who, we know, issue those circulars, which was the subject of interpellation the other day by my Honourable friend, Mr. Misra, here. Now the Deputy Superintendent of Police will say "Did Rangachari refuse to have your daughter for his son, because you are a policeman? Catch hold of him". Now disaffection may be caused in many ways. I may not like a particular man's company and I may boycott him. Why, Sir, policemen are human, they have got enemies, they have likes and dislikes. If I do not invite a policeman to dinner, he can say "Rangachari did not invite me to his dinner because I am a policeman, he gave a large dinner". It causes disaffection among the police. Are we to be at the mercy of the policemen? Now, Sir, I know we are all advocating State ownership and State control of various concerns in this country, notably the railways. Sir, the State is now aspiring to own the people of this country and to control them. Liberty of thought, liberty of action, is sought to be denied to individuals in this country. The State is a large umbrella and I wish to come under that umbrella, but not in such a way as to place peoples' liberties in jeopardy. Why should I not have liberty of action? Of course, a policeman will go and say "I am a policeman, so I am avoided,". Who does not know who has experience of Courts what the policeman is not capable of? Those who have experience as Magistrates, as Judges, know fully well what the policemen are capable of. Am I to repeat their experiences? Have not Judges time and again commented severely on the conduct of the police in the investigation of cases?

Now, Sir, by keeping this clause in the armoury of the laws, you are placing the people of this country at the mercy of policemen. I may enumerate instances after instances which will come under this clause. If you define it as disaffection to the Government established by law, I am at one with you, I support you if it is necessary. But my Honourable friend the Law Member will at once admit that, if it is that disaffection, there is the section 124-A. My Honourable friend the Home Member says, it is much more than that we want. It is to that I object, it is to that indefinite, vague term "disaffection" which may mean anything, for which we have no legal definition, that I object. There is no Statutory definition of "disaffection" anywhere in the General Clauses Act. The term "disaffection" is not defined anywhere, and so it may mean discomfort, it may mean discontent, it may mean anything in the world.

Sir, appeal was made to the House of Commons, but that does not satisfy me. With all respect to the House of Commons—I do not know

the state of the law there. I know here eminent Judges have defined "disaffection as merely meaning want of affection, absence of affection." Sir, people have been transported for life on that construction to my knowledge, and therefore I am not willing to place reliance—I don't mean it in any disrespectful spirit—upon assurances given on the floor of this House. I want to see whether the language which I am going to leave behind on the Statute Book to govern the Judges, language which the Judges have to construe, is correct, whether I am placing a weapon in the hands of the police, whether people would be at the mercy of these policemen, who, as we all know, have enemies from the very nature of their profession. They may do honest work, but even then they are bound to have enemies, and they require protection in their work. We are bound to grant it to them. After all, they are human beings, but if we give them protection in the manner suggested they are likely to abuse it. My Honourable friend the Law Member referred to the safeguards contained in sections 4 and 5. Section 4 does not apply to this, and it is not a safeguard at all. What is it? Associations have to get the sanction of Government, whose Articles of Association and bye-laws have all to be approved by Government. Under such an Association it seems something may happen, but it does not affect this question and therefore I am not going to bother myself with clause 4.

My Honourable friend referred to clause 5, namely :

".....or on the complaint of the District Magistrate, if any, to which such Court is subordinate, or in the case of a Presidency-town....."

We know, Sir, how the prejudices, likes and dislikes of individuals who happen to be District Magistrates may operate in out of the way places. They have regard to the character of the individual and his political complexion. If Rangachariar does it, he may be let off because he is known to be not a very dangerous man. But if Agnihotri does it, Oh, his character is very bad. And the District Magistrate will be only too glad to avail himself of this.

I ask the House not to place any faith in such illusory safeguards. Do not arm the Legislature with such weapons with which the people can be oppressed. I strongly appeal to the House to adopt this amendment. We must not be guided by English analogies. With all respect, I refuse to follow it. There, you have not got these difficulties. Who has ever heard of an English subject being prosecuted for disaffection to His Majesty. It may be in Ireland. But in England we have not got it. But, here, having regard to the very nature of the Government, so long as it continues to be a foreign Government, until it becomes the Government by the nation, these difficulties will arise. There must be over-zealous district officers who will take a different view of things. That has been our experience and therefore I think, Sir, this word is a very dangerous word. Let us not introduce it. And let us not leave to our posterity a weapon which will be another Rowlatt Act.

Mr. P. E. Percival (Bombay : Nominated Official) : Sir, I venture to suggest that the Honourable Member who has spoken last should adopt the policy enunciated by the Honourable the Home Member and definitely oppose the Bill. The suggestion he makes is that this particular clause, which is the main and the most important clause in the Bill, should be

[Mr. P. E. Percival.]

thrown out. His proposal is, in fact, that the Bill should be passed, but that it should be made useless for the purpose for which it was designed. I should like to point out, Sir, that this Bill was referred to a Select Committee of 13 members, 9 non-officials and 4 officials. Out of these 13 members, 9 have approved of the Bill as it stands at present—only 4 have recorded Minutes of Dissent.

Mr. President : I must point out to the Honourable Member that these are reasons for and against the whole Bill. We are discussing a particular amendment, and, if Members have spoken enough on the amendment, then I must put it at once from the Chair.

Mr. P. E. Percival : I have just to say, Sir, that the Bill was approved by 9 members of the Select Committee, and I see no reason why this particular clause should be omitted.

Mr. Muhammad Yamin Khan : Sir, I move that the question be now put. (Cries of "No, no.")

The Honourable Dr. T. B. Sapru : Sir, when I listened to the very eloquent speech of my Honourable friend, Mr. Rangachariar, there was a lurking suspicion in my mind and it was this, that he could not make up his mind as to whether he should support the Bill or oppose it. Now, in the course of his speech, he said that, if we could just use a few more words after the word "disaffection," that is to say, if we could say that by disaffection we really meant disaffection towards His Majesty or towards the Government established by law in British India, he would have no objection to the Bill; he would support it. Now, so far as that criticism of Mr. Rangachariar's is concerned, it is purely a drafting criticism and I am willing to accept his suggestion on behalf of Government. That is to say, it really comes to this, that, if we are to accept Mr. Rangachariar's suggestion, we must be prepared to accept the third amendment which stands against the name of Bhai Man Singh. So far as that is concerned, there is no trouble and there can be no trouble between Mr. Rangachariar and myself. But there are just one or two remarks which he made and I am afraid those remarks may prejudice some Honourable Members of this House with regard to this clause. I will very briefly deal with these remarks.

He referred and very pathetically referred to the great difficulty which one might have to face if a police officer went to a Court and said that he had attempted to find a bridegroom for his daughter and had failed. Well, when I read an extract on the subject this morning, it should have been obvious to every Honourable Member of this House that that was one of the illustrations given in the Report of the amount of pressure which was being brought to bear at that time by certain outsiders on police officers in that district so that under that pressure they might deviate from their duty. Well, again, my Honourable friend said "Oh, well, the word 'disaffection' is a word of very vague import. It may mean anything, it may mean everything, and it may mean nothing," and he referred to a definition of disaffection given in a very well-known case in the Bombay High Court. I will only remind you as a lawyer that it is only fair to admit that that definition was not allowed to stand for more than a few weeks. The full Bench of that very High

Court did not stand by that definition. Shortly after, there was a decision given by the Allahabad High Court in the well-known case of **Amba Prasad** (a full Bench decision) where too the definition given by Mr. Justice Strachey, as he then was, was not accepted. I do not think that, ever since 1898, when that definition was given in the Bombay High Court, any Court has gone wrong with regard to the definition of the word "disaffection." Well, these words which are used in section 124-A are words of art, and every trained lawyer knows what they mean, and I will venture to cite an authority which I believe will be more acceptable to some Members of this House than the authority of the House of Commons or the authority of some distinguished members of the Bar in England,—that is the authority of my friend, Dr. Gour. In the ponderous Volume which I hold in my hand, Dr. Gour very solemnly assures his readers that the three words "hatred, contempt, and disaffection" are words of English law, and in understanding their meaning, regard must be had to the sense they have in English law. Well, I make a present of this to Dr. Gour and his supporters and I say that these words have, during the last hundred years, if not during the last several centuries, received very well defined meanings in England, in Ireland, and, during the last 20 years, in India too. Well, if there are still doubts in the minds of any Honourable Members, then I am afraid this Legislature may pass any enactment but it cannot pass an enactment for the removal of those doubts.

Sir Deva Prasad Sarvadhikary : I do not know, Sir how Dr. Gour will receive the present the Honourable the Law Member has made. If I may do so, I should like to accept it as the basis of a workable compromise. I am glad he is prepared to advise the Government to introduce words to the effect that he has mentioned. In fairness, I think, he ought also to allow at least Explanation 2 to section 124-A of the Penal Code to be introduced. Mr. Rangachariar has given the go-by to the safeguards contained in clause No. 4 of the Bill for very good reasons. I believe my friend behind me (Mr. Jogendra Nath Mukherjee) will seek an opportunity of developing the theme and I do not wish to anticipate him.

What is troubling us most is—I will not call it vagueness or indefiniteness after Parliamentary draftsmen have enacted section 3 of the Police Act—but rather the undesirability of getting away from what the Indian mind has been accustomed to during the last 20 years in connection with section 124-A., as the provision with its explanatory safeguards may be and we should not discard the safeguards here. Good, bad, or indifferent, it is there. And I am not at all satisfied with an Association of the kind proposed in clause 4 of the Bill particularly with the questionable safeguards indicated there, namely, that the Association should be recognised by the Government and that even its Articles of Association should have been approved by the Government. This would make it worse than a Government Department, because it will not be under the control of the Assembly. That is what we are afraid of and I am quite content to take it where Explanation 2 of section 124-A. leaves it. I wish to read out that Explanation :

"Comments expressing disapproval of the measures of Government with a view to obtain their alteration by lawful means without exciting or attempting to excite hatred, contempt or disaffection do not constitute an offence under this Act."

[Sir Deva Prasad Sarvadhikary.]

It is quite correct, I think, that the sledge-hammer system of section 124-A should not be introduced in connection with punishments necessary in connection with exciting the disaffection of a police officer. I am at one with the Government there. But I insist upon the safeguards furnished in that Explanation 2. Why, Sir, if things came to a head, the Members of the Assembly might be run in for creating disaffection for criticising police measures or police officers.

Members of the Congress in the better sense that we used to know of : any provincial Congress, and public meeting or association wanting to better the position of the police and not being an association recognised by Government under clause 4 will have possible danger facing it. As regards the policeman's daughter, if he is a worthy policeman, I do not know why the amenities that Mr. Rangachariar wants to withhold from him should be withheld. That is not real practical question here. Many of us may have to deal with the policeman and his position, his pay, prospects and status and his shortcomings outside these various Associations that clause 4 thinks of and few will be safe. If the Government concedes that the explanation to section 124-A shall be extended to this section, I think the greatest objection with regard to it disappears. I tremble to think, if there was a special enactment of this kind with regard to a service which we discussed on the floor of this House not many days ago, what would have happened to the authors of that memorandum about which we heard so much and that created so much disaffection amongst the members of that service ? Fortunately, there was no such Act in existence. Otherwise even some Members of the other side of the House might have been run in for creating disaffection in that service. We must recognise that there is danger in connection of spreading disaffection in the Police Force,—whether that danger is great now or not is another question—and Government thinks and presses that some measure of the kind that we are now discussing has become necessary, and we should support Government within the limitations that we are indicating. Section 124 would hardly, with all its stupendous paraphernalia, be applicable to these cases. At the same time I do feel and I press it upon the Assembly and the Members of Government that the safeguards, the very healthy safeguards, that are provided in section 124-A ought not to disappear while we are enacting a section regarding the Police Force by itself or containing terms about which there has been considerable confusion of ideas—confusion of ideas that prevailed even on the bench and regarding which the bench had to be put right. Therefore we ought not to take a risk again, and if the Honourable the Law Member and the Honourable the Home Member are agreeable, and if they will assure the House that these safeguards will be provided, I do not think that the objections and the difficulties that are being raised will any longer hold good.

The Honourable Sir William Vincent : May I make a statement, Sir, in reply to the Honourable Member who has spoken just now and say that I am very glad to accept the proposal that he has made ? I understand that he wants explanation (2) to section 124-A incorporated.

Dr. H. S. Gour : Explanations (2) and (3).

Sir Deva Prasad Sarvadhikary : *Mutatis mutandis*, because the question of "Government," will not come in.

The Honourable Sir William Vincent : I have no compact with Dr. Gour. The Honourable Member (Sir Deva Prasad Sarvadhikary) said explanation (2), and I am quite prepared to accept it. It will require some slight verbal modifications, but I am prepared to make them.

Sir Deva Prasad Sarvadhikary : *Mutatis mutandis*.

The Honourable Sir William Vincent : Also I am prepared to accept the last amendment moved by Bhai Man Singh to this clause. This amendment will then run :

"After the word 'disaffection' insert the words 'towards His Majesty, or the Government established by law in British India' and insert the two explanations which Dr. Sarvadhikary suggests."

Mr. President : Amendment moved :

"In clause 3, omit the words 'intentionally causes or attempts to cause, or does any act which he knows is likely to cause, disaffection amongst the members of a police force or'."

The question is that that amendment be made.

A Division was then ordered by the President.

Sir Deva Prasad Sarvadhikary : May I interrupt the proceedings for a minute, Sir? We do not quite understand the procedure, nor do I believe that the Members on the other side do. We thought that the Honourable Sir William Vincent's fresh proposal was being put to the vote.

Mr. President : The Honourable Member knows quite well that I cannot put a proposal to the vote which has not been moved. The amendment now before the House, as I read from the Chair, is in the terms of clause (a) standing in the name of Bhai Man Singh. I understood that the arrangement come to—the Chair has no cognizance of it yet—referred to the introduction of two Explanations to come at the end of the clause *plus* the introduction of certain words standing as amendment (c) in the name of Bhai Man Singh.

Mr. Jamnadas Dwarkadas (Bombay City : Non-Muhammadian Urban) : May I point out, Sir, that before this amendment is put to the vote, it would be necessary to see what form actually the new amendment will take when the Honourable the Home Member accepts the proposal made by Dr. Sarvadhikary. It all depends on the form which that amendment will take. That will decide the fate of the amendment moved by Bhai Man Singh.

Sir Deva Prasad Sarvadhikary : That is our intention, Sir.

Mr. President : Amendment moved :

"In clause 3, omit the words 'intentionally causes or attempts to cause, or does any act which he knows is likely to cause, disaffection amongst the members of a police force or'."

The question is that that amendment be made.

The Assembly then divided as follows :

AYES—19.

Abdul Quadir, Maulvi.
Abdulla, Mr. S. M.
Bajpai, Mr. S. P.
Bhargava, Pandit J. L.
Gour, Dr. H. S.
Gulab Singh, Sardar.
Iswar Saran, Munshi.
Jatkar, Mr. B. H. R.
Lakshmi Narayan Lal, Mr.
Mahadeo Prasad, Munshi.

Majumdar, Mr. J. N.
Man Singh, Bhai.
Mudaliar, Mr. S.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Sohan Lal, Bakhshi.
Srinivasa Rao, Mr. P. V.
Venkatapatiraju, Mr. B.

NOES—51.

Abdul Rahim Khan, Mr.
Abdul Rahman, Munshi.
Akram Hussain, Prince A. M. M.
Allen, Mr. B. C.
Asad Ali, Mir.
Bagde, J. R. K. G.
Parodawala, Mr. S. K.
Bradley-Birt, Mr. F. H.
Bray, Mr. Denys.
Bridge, Mr. G.
Burdon, Mr. E.
Butler, Mr. M. S. D.
Chatterjee, Mr. A. C.
Clarke, Mr. G. E.
Cotelingam, Mr. J. P.
Crookshank, Sir Sydney.
Davies, Mr. R. W.
Gajjan Singh, Sardar Bahadur.
Ginwala, Mr. P. P.
Hajeebhoy, Mr. Mahomed.
Hudson, Mr. W. F.
Hullah, Mr. J.
Hussanally, Mr. W. M.
Innes, the Honourable Mr. C. A.
Jamnadas Dwarakadas, Mr.
Latthe, Mr. A. B.

Lindsay, Mr. Darcy.
Mitter, Mr. K. N.
Moir, Mr. T. E.
Muhammad Hussain, Mr. T.
Muhammad Ismail, Mr. S.
Mukherjee, Mr. J. N.
Mukherjee, Mr. T. P.
Nabi Hadi, Mr. S. M.
Percival, Mr. P. E.
Pyari Lal, Mr.
Ramayya Pantulu, Mr. J.
Sapru, the Honourable Dr. T. B.
Sarfaraz Hussain Khan, Mr.
Sarvadhikary, Sir Deva Prasad.
Shahab-ud-din Chaudhri.
Shahani, Mr. S. C.
Singh, Mr. S. N.
Stocock, Mr. F. S. A.
Subrahmanayam, Mr. C. S.
Vincent, the Honourable Sir William.
Waghorn, Colonel W. D.
Way, Mr. T. A. H.
Webb, Sir M. de omerny.
Yamin Khan, Mr. M.
Zahiruddin Ahmed, Mr.

The motion was negatived.

Bhai Man Singh : Sir, in spite of the small number of votes that I have got, I as a Sikh should not be disheartened

4 P.M.

but should go on moving the amendments which I am convinced are right. My second amendment is :

“ In clause 3, omit the words ‘or does any act which he knows is likely to cause’.”

Mr. President : The House has just decided not to omit those words.

Bhai Man Singh : The House has not adopted amendment (a) only.

Mr. President : The Honourable Member will move amendment(c).

Bhai Man Singh : I beg to move :

“ In clause 3, after the word ‘disaffection’ insert the words ‘towards His Majesty, or the Government established by law in British India’.”

Rai Bahadur Pandit J. L. Bhargava (Ambala Division : Non-Muham-madan) : Sir, I rise to a point of order. What the House has decided is as regards the clause as a whole. The mover of the amendment asked that the words "intentionally causes or attempts to cause, or does any act which he knows is likely to cause, disaffection amongst the members of a police force or" may be omitted, that is to say, the whole clause may be omitted.—Now the question is about a portion of it.

Mr. President : The Honourable Member is quite wrong. The House has just decided that the words beginning with "intentionally" down to the word "or" in line 5 of the Bill shall not be omitted.

Bhai Man Singh : I submit, that does not mean that if the whole is not to be omitted any part is not to be omitted.

Mr. President : May I point out to the Honourable Member that if he wanted a smaller part to be omitted he should have done it first. He has deliberately estopped himself from moving the next amendment.

Bhai Man Singh : Sir, I beg to move :

"In clause 3, after the word 'disaffection' insert the words 'towards His Majesty, or the Government established by law in British India'."

Having got two assurances from the Honourable the Law Member and the Honourable the Home Member that they are ready to accept this amendment I need not press the point any more than saying merely, the word "disaffection" cannot clear the point, disaffection towards whom? It is left ambiguous and I am sure the Government will accept the amendment.

Mr. President : Amendment moved :

"In clause 3, after the word 'disaffection' insert the words 'towards His Majesty, or the Government established by law in British India'."

The Honourable Sir William Vincent : I am quite prepared to accept this amendment, and further to meet the objection raised by Dr. Deva Prasad Sarvadhikary I want to add to the amendment this Explanation :

"Expressions of disapprobation of the measures of Government with a view to obtain their alteration by lawful means or of disapprobation of the administrative or other action of Government do not constitute disaffection within the meaning of this section unless they excite or are made for the purpose of exciting disaffection."

I understand that this amendment has been accepted by the Honourable Member.

Mr. President : Amendment moved .

"In clause 3, after the word 'disaffection' insert the words 'towards His Majesty, or the Government established by law in British India'."

The question is that that amendment be made.

The motion was adopted.

Mr. President : The question is that at the end.....

Mr. K. B. L. Agnihotri : On a point of order, Sir. When this amendment has been accepted, can I move any amendment to this amendment or the clause as it stands now, and of which I have not given any notice before? Can I move an amendment to this clause either as it stands now, or to the accepted amendment. I did not know that the amendment would be

[Mr. K. B. L. Agnihotri.]

accepted and therefore I have not given any notice of my proposed amendment before ?

Mr. President : What does the Honourable Member wish to move ? All that we have done to the clause so far, is to add the words " towards His Majesty, or the Government established by law in British India " after the word " disaffection " in line 4. The Honourable Sir William Vincent has just moved an addendum by way of Explanation to the clause in the words which he has read out. What does the Honourable Member wish to move ?

Mr. K. B. L. Agnihotri : I move :

" That the words ' amongst the members of a police force ' be dropped."

That is why I wanted to know whether I can move an amendment.

Mr. President : The words in lines 4 and 5 ? There-again the House has decided that it should stand part of the clause.

Further amendment moved, to add the Explanation at the end of the clause :

" *Explanation :* Expressions of disapprobation of the measures of Government with a view to obtain their alteration by lawful means or of disapprobation of the administrative or other action of Government do not constitute disaffection within the meaning of this section unless they excite or are made for the purpose of exciting disaffection."

The question that I have to put is that those words be added.

Dr. H. S. Gour : While we are thankful to the Honourable the Home Member for consenting to add and incorporate Explanations 2 and 3 of section 124A of the Indian Penal Code in the Police Bill, I think there is a clause towards the end which limits the operation of Explanations 2 and 3 of section 124-A the words commencing with " unless," etc. I have not got a copy with me. If a copy is delivered to me I will read the exact words which, I submit, qualify the generality of the exception as contained in section 124A, and I think that the concluding words " unless " and so on must be deleted.

The Honourable Dr. T. B. Sapru : Having regard to the harmony of the sentences, we have transposed those words towards the end of the clause and instead of using the word " without " we have used the word " unless ".

Mr. President : I suggest to Honourable Members that we insert something in the form suggested in order to assure the Assembly that the words will be there and that the Government should take time to see whether they can satisfy Honourable Members by consultation behind the scenes as to the precise form of words which can be inserted at a later stage. I do not know if that will meet the wishes of the House. I understand that provided something of this kind is inserted, it will stand as a pledge that Government intends to meet as far as it lies in their power the desire of the House in this matter. It will take Government some little time to draft the exact form.

Sir Deva Prasad Sarvadhikary : That will meet with the views of my friends on this side of the House.

Mr. President : I shall read the Explanation, as drafted, to be added at the end of clause 3 :

“ Expressions of disapprobation of the measures of Government with a view to obtain their alteration by lawful means or of disapprobation of the administrative or other action of Government do not constitute an offence under this section, unless they excite or are made for the purpose of exciting disaffection.”

The question I have to put is that those words be there added.

The motion was adopted.

Mr. K. B. L. Agnihotri : I beg to move that in clause 3, the words “ or does any act which he knows is likely to induce ” be omitted. This is a very drastic provision and is much liable to be abused, but there is not much use in dealing with this point now particularly in view of the compromise arrived at. So I make only a formal motion

Mr. President : The question is :

“ That in clause 3, the words ‘ or does any act which he knows is likely to induce ’ be omitted.”

The motion was negatived.

Rai Bahadur Pandit J. L. Bhargava : The amendment which I beg to move is :

“ That the words ‘ or to commit a breach of discipline ’ be omitted.”

The word “ discipline ” is very general and vague and indefinite. It has not been defined what forms of discipline are meant under this clause. If those forms of discipline are meant which are already given in section 29 of the Police Act, then this clause becomes unnecessary. If any other form of discipline is meant, it ought to have been specified. In the Statement of Objects and Reasons we find the words “ that section 29 of the Police Act was designed to meet ordinary breaches of discipline and would not cover many dangerous forms of tampering with the police.” This shows that some extraordinary breaches of discipline are meant to be provided for under this clause, but they have not been defined nor has any explanation been added to this clause. So the word “ discipline ” remains unexplained and this measure being a drastic one, very drastic I should say, the terms of its provisions should be unequivocal and should not be left elastic to be interpreted by Courts to suit a particular occasion. I therefore propose that the words mentioned in my amendment be omitted from this clause.

The Honourable Sir William Vincent : I think everybody knows what a breach of discipline in a police officer is. I do not think there can really be any question in regard to it. We have taken the expression, I may say, from the English Statute. If Honourable Members will look at our Police Act, they will find the following expression used “ disobeying the lawful orders of their superiors ” and indiscipline means disobeying such orders. If these words are deleted, the object of the Act will largely fail. I suggest that the House should reject this amendment summarily.

Rao Bahadur T. Rangachariar : I must confess to ignorance of what is meant by breach of discipline. Supposing I advise a constable to disobey an order issued to every constable to salute every European, would

[Rao Bahadur T. Rangachariar.]

that amount to a breach of discipline ? Some constables are under orders to salute Europeans whether they be his official superior or not. When I pass by, they do not salute me. I do not know why. Men of inferior position to me have to be saluted by constables when they are by my side, but I am not saluted. Would that be a breach of discipline if I advise: I want to know.

The Honourable Sir William Vincent : I would refer the Honourable Member to the terms of the Act. Police constables are bound to carry out the lawful orders of their superior officers and failure to carry out lawful orders of superior officers would amount to a breach of discipline. I have not heard of the order which the Honourable Member referred to. Nor can I believe that such an order exists. Of course any thing is possible down in the south of India, judging from what the Honourable Member says.

Mr. President : The question is :

“That in clause 3, the words ‘or to commit a breach of discipline’ be omitted.”

The motion was negatived.

Bhai Man Singh : I beg to move :

“That in clause 3, before the word ‘imprisonment’ the word ‘simple’ be inserted and the words ‘three months’ be substituted for ‘two years’.”

As my amendment stood, I wanted to eliminate the clause about disaffection. Then the rest, whatever remained, was about inducing to commit breaches of discipline and the withholding of services, etc.

Sir, if the original offence, as provided by the Police Bill, Police Act, provided only a smaller punishment of three months or two months, I really fail to understand, Sir, why we should provide greater punishment for its abetment. Up till now, Sir, I know of no other offence under the criminal law where abetment of an offence is taken to be more serious or is punishable with a higher punishment, than suicide ; I confess that if a person commits suicide, he is no more to be punished after that, and, of course, its abetment is punishable. Besides that, Sir, personally, I may be wrong, I confess—I do not pretend that I know all the criminal law of the world, but, so far as my poor knowledge goes, I would say that I know of no offence like that. I see absolutely no reason, Sir, why, if a constable who abstains from his duty, resigns and gives up his work before a certain time without giving due notice, why, if a constable who disobeys the orders, the lawful orders, of his immediate superior, who commits a breach of discipline, should be punished with a lesser punishment than a man who asks him not to do it. Even, Sir, if a man asks a soldier to commit mutiny, he is to be punished with a lesser punishment. He is to get transportation for life or 10 years’ imprisonment. The soldier himself is liable to be shot there and then. I cannot understand why a greater punishment should be provided for a man who has just said to the policeman, “you should give up your police service ; do this, or do that”—If the original offender is not to be punished with two years, I fail to see why the other man who simply asks him should be punished with a longer imprisonment. The argument could be brought forward that the Bill as framed suffers from certain defects. If you want to join together two offences, that is no reason why a smaller offence should be made punishable with a longer

term of imprisonment. If you think that the first offence requires that you should provide separate punishment for it, why on earth provide a higher punishment for abetment than for the offence itself ?

Mr. President : Amendment moved :

“ In clause 3, before the word ‘ imprisonment ’ insert the word ‘ simple ’.”

Mr. P. E. Percival : Sir, in regard to the last statement, there are other cases in which, I think, abetment is punishable more severely than the offence itself. It is really no argument against the proposal, that abetment is to be punished more severely than the offence itself. I understood the Honourable Member to say that in cases of seduction of the military the punishment is not very severe. Section 131.....

Mr. President : Order, order. We had better dispose of the word ‘ simple.’

Mr. P. E. Percival : As regards simple imprisonment, I wish to say that I do not know whether all Honourable Members are aware of the effect of rigorous imprisonment. An old man, who can write, if he is sentenced to undergo rigorous imprisonment, is given writing work ; in other cases, if it is more suitable, a man is given printing or weaving work. Simple imprisonment is never awarded in the ordinary way by a Judge or a Magistrate except in cases where the accused is a very old man or a man who is absolutely incapable of doing any kind of work. If simple imprisonment is awarded, the prisoner can refuse to do any work at all. There is no reason why in every case under the proposed Act there should be a sentence of simple imprisonment only. I oppose the amendment.

Mr. President : The question is that that amendment be made,
The motion was negatived.

Mr. President : Further amendment moved :

“ To substitute the words ‘ three months ’ for the words ‘ two years ’.”

Rao Bahadur T. Rangachariar : May I suggest, Sir, that Mr. Agnihotri's amendment regarding substitution of the words “ six months ” for the words “ two years ” be taken first ?

Mr. President : He may move it.

Mr. K. B. L. Agnihotri : Sir, I beg to move that the punishment of 6 months be substituted for that of two years provided in clause 3 of the Bill. My reasons are, that the Honourable Dr. Sapru has pointed out, that the offences under the clause is more limited and is lighter than that of section 124A. Moreover, the statement of and the object of this Act shows that this Bill has been introduced because of certain speeches made inducing the policemen to leave service ; and it was found necessary to safeguard against such acts that this Bill was put on the anvil. I submit that there is no strong reason why two years should be kept ; and six months' period would be quite proper and sufficient.

Mr. President : Amendment moved :

“ In clause 3, substitute the words ‘ six months ’ for the words ‘ two years ’.”

The Honourable Sir William Vincent : Sir, I believe the punishment at home is two years—I speak subject to correction. I also suggest that promoting disaffection among an important body of His Majesty's servants might well deserve a punishment of more than six months. Here we get constables who are convicted who lose their place, lose their pension and get imprisoned ; and the men who deliberately set out to tamper with the loyalty of a number of men in the police service and at the same time to attempt to destroy the security of Government cannot be said to be severely treated if they, in the worst cases—not in every case—are liable to a maximum of two years' imprisonment.

Rao Bahadur T. Rangachariar : Sir, may I point out to the Honourable the Home Member that for serious offences under section 124A longer periods of imprisonment are provided. I heard the Home Member say this morning, " These are trivial cases which are proposed to be dealt with in this Bill, and I do not want the Local Government to be troubled to give sanction." If he considers he has to deal with a serious case, he can resort to the alternative method of a prosecution under the Penal Code. It is not a substitute which we recommend in this Bill such a case comes under section 124A, and under the abetment section ; if it is not a serious case then only this section will apply. Therefore, I support the amendment.

The Honourable Sir William Vincent : Sir, I suggest, first of all, that there are many cases which would not come under section 124A, P. C.—cases for instance of general incitements to the police to fail in their duty. That is one point. Secondly, I may add that if the offence comes under section 124A, then offenders would be liable to transportation for life and imprisonment for 3 years. I think thus that the maximum of two years proposed in the Bill is not excessive for extreme cases.

Mr. President : The amendment moved is :

" In clause 3, substitute the words ' six months ' for the words ' two years '."

The question is that that amendment be made.

The Assembly then divided as follows :

AYES—39.

Abdul Quadir, Maulvi.
Abdulla, Mr. S. M.
Agarwala, Lala Girdharilal.
Agnihotri, Mr. K. B. L.
Asjad-ul-lah, Maulvi Miyan.
Bagde, Mr. K. G.
Bajpai, Mr. S. P.
Bhargava, Pandit J. L.
Chaudhuri, Mr. J.
Ginwala, Mr. P. P.
Gour, Dr. H. S.
Gulab Singh, Sardar.
Hajeebhoy, Mr. Mahomed.
Hussanally, Mr. W. M.
Iswar Saran, Munshi.
Jamnadas Dwarkadas, Mr.
Jatkar, Mr. B. H. B.
Kamat, Mr. B. S.
Lakshmi Narayan Lal, Mr.
Mahadeo Prasad, Munshi.

Majumder, Mr. J. N.
Man Singh, Bhai.
Misra, Mr. P. L.
Mudaliar, Mr. S.
Mukherjee, Mr. J. N.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Rangachariar, Mr. T.
Reddi, Mr. M. K.
Shahab-ud-Din, Chaudhri.
Shahani, Mr. S. C.
Singh, Babu B. P.
Sinha, Babu Ambika Prasad.
Sohan Lal, Bakshi.
Srinivasa Rao, Mr. P. V.
Subrahmanayam, Mr. C. S.
Venkatapatiraju, Mr. B.
Yamin Khan, Mr. M.

NOES—38.

Abdul Rahim Khan, Mr.
 Abdul Rahman, Munshi.
 Akram Hussain, Prince, A. M. M.
 Allen, Mr. E. C.
 Arbuthnot, Mr. R. E. V.
 Bradley-Birt, Mr. F. B.
 Bray, Mr. Denys.
 Bridge, Mr. G.
 Burdon, Mr. E.
 Butler, Mr. M. S. D.
 Chatterjee, Mr. A. C.
 Clarke, Mr. G. R.
 Cotelingam, Mr. J. P.
 Crookshank, Sir Sydney.
 Davies, Mr. R. W.
 Gajjan Singh, Sardar Bahadur.
 Hailey, the Honourable Sir Malcolm.
 Hudson, Mr. W. F.
 Hullah, Mr. J.

Innes, the Honourable Mr. C. A.
 Lindsay, Mr. Darcy.
 Mitter, Mr. K. N.
 Moir, Mr. T. E.
 Muhammad Hussain, Mr. T.
 Muhammad Ismail, Mr. S.
 Mukherjee, Mr. T. P.
 Percival, Mr. P. E.
 Pyari Lal, Mr.
 Ramayya Pantulu, Mr. J.
 Sapru, the Honourable Dr. T. E.
 Sarfaraz Hussain Khan, Mr.
 Singh, Mr. S. N.
 Slocock, Mr. F. S. A.
 Vincent, the Honourable Sir William.
 Waghorn, Colonel W. D.
 Way, Mr. T. A. H.
 Webb, Sir M. dePomeroy.
 Zahiruddin Ahmed, Mr.

The motion was adopted.

Bai Bahadur Pandit J. L. Bhargava : Sir, one portion of the amendment standing in my name has already been carried. I move the other portion :

“ In clause 3, substitute the words ‘ two hundred ’ for the words ‘ one thousand ’.”

The amount of the fine fixed is very excessive, and when the period of punishment has been reduced from two years to six months, I hope the House will accept my amendment to reduce the amount of fine from one thousand Rupees to two hundred.

Mr. President : The amendment moved is :

“ In clause 3, to substitute the words ‘ two hundred ’ for the words ‘ one thousand ’.”

The question is that that amendment be made.

The Assembly then divided as follows :

AYES—41.

Abdul Quadir, Maulvi.
 Abdul Rahman, Munshi.
 Abdulla, Mr. S. M.
 Agarwala, Lala Girdharilal.
 Agnihotri, Mr. K. B. L.
 Asad Ali, Mir.
 Asjad ul-lah, Maulvi Miyan.
 Bagde, Mr. K. G.
 Bajpai, Mr. S. P.
 Bhargava, Pandit J. L.
 Chaudhuri, Mr. J.
 Cotelingam, Mr. J. P.
 Faiyaz Khan, Mr. M.
 Givwala, Mr. P. P.
 Gour, Dr. H. S.
 Gulab Singh, Sardar.
 Hajerbhoy, Mr. Mahomed.
 Husanally, Mr. W. M.
 Iwar Saran, Munshi.
 Jamnadas Dwarkadas, Mr.
 Jankar, Mr. B. H. B.
 Kapat, Mr. B. S.

Lakshmi Narayan Lal, Mr.
 Mahadeo Prasad, Munshi.
 Majumder, Mr. J. N.
 Man Singh, Bhai.
 Miera, Mr. P. L.
 Mudaliar, Mr. S.
 Mukherjee, Mr. J. N.
 Nabi Hadi, Mr. S. M.
 Nag, Mr. G. C.
 Nand Lal, Dr.
 Neogy, Mr. K. C.
 Rangachariar, Mr. T.
 Beddi, Mr. M. K.
 Sarvadhikary, Sir Deva Prasad.
 Shahani, Mr. S. C.
 Singh, Babu B. P.
 Sinha, Babu Ambika Prasad.
 Sohan Lal, Bakshi.
 Srinivasa Rao, Mr. P. V.
 Subrahmanayam, Mr. C. S.
 Venkatapetiraju, Mr. B.
 Yamin Khan, Mr. M.

NOES—37.

Abdul Bahim Khan, Mr.
Akram Hussain, Prince A. M. M.
Allen, Mr. B. O.
Arbuthnot, Mr. R. E. V.
Bradley-Birt, Mr. F. B.
Bray, Mr. Denys.
Bridg, Mr. G.
Burdon, Mr. E.
Bulter, Mr. M. S. D.
Chatterjee, Mr. A. C.
Clarke, Mr. G. R.
Crookshank, Sir Sydney.
Davies, Mr. R. W.
Gajjan Singh, Sardar Bahadur.
Hailey, the Honourable Sir Malcolm.
Hudson, Mr. W. F.
Hullah, Mr. J.
Innes, the Honourable Mr. C. A.
Latthe, Mr. A. B.

Lindsay, Mr. Darcy.
Mitter, Mr. K. N.
Moir, Mr. T. E.
Muhammad Hussain, Mr. T.
Muhammad Ismail, Mr. S.
Mukherjee, Mr. T. P.
Percival, Mr. P. E.
Pyari Lal, Mr.
Ramaya Pantulu, Mr. J.
Sapru, the Honourable Dr. T. B.
Sarfaraz Hussain Khan, Mr.
Singh, Mr. S. N.
Slocock, Mr. F. S. A.
Vincent, the Honourable Sir William.
Wagborn, Colonel W. D.
Way, Mr. T. A. H.
Webb, Sir M. dePomeroy.
Zahiruddin Ahmed, Mr.

The motion was adopted.

Mr. President : The question is :

“ That clause 3 as amended stand part of the Bill.”

Mr. J. P. Cotelingam (Nominated : Indian Christian) : I would like, Sir, to have an additional safeguard added to clause 3 by way of making it more explicit. The sentence that I should like to see added would run thus :

“ Nothing in this clause shall penalise any action taken *bona fide* to procure in a lawful manner the absence from duty or resignation of a policeman for the purpose of bettering his prospects or otherwise furthering his welfare.”

The Honourable Sir William Vincent : We have not got notice of this amendment.

Mr. J. P. Cotelingam : It is in the report of the Select Committee ; it was originally intended that it should be one of the amendments.

The Honourable Sir William Vincent : I believe that if the Honourable Member will examine the Bill he will find that the recommendations made in the report is provided for in the Bill.

Mr. J. P. Cotelingam : But I should like to see it explicitly stated in the Bill itself. It is only a safeguard, and I hope the Honourable the Home Member will accept it.

Dr. H. S. Gour : I heartily support this amendment. In fact I wanted to make it myself, and I have been anticipated and it is a very pleasant sensation to me to find that my friend, Mr. Cotelingam, has anticipated me. The House will observe that in clause 2, when the Select Committee drew up their report after deliberation they intended to except from the provisions of section 3 all persons giving *bona fide* advice to members of the police force for the purpose of improving their prospects. As a matter of fact a clause to that effect was drawn up by me and left with the Members of the Select Committee. I wrote it out in the House on the last occasion and in fact it occasioned reference of the whole Bill to the Select Committee. I have also pointed out in my note that the proviso I had drafted does

not appear to have been worked into the Bill. It was the intention of the Select Committee as we see from their report, as you see from my report, as you see from the report of my other Honourable colleagues in the Select Committee. By an oversight on the part of the draftsman the instructions we gave for the insertion of this clause have been omitted. There is therefore a discrepancy between the report of the Select Committee and the actual draft presented to this House. We have been told, "What does it matter if it is not in the Bill? It is in the report of the Select Committee." I have yet to learn, Sir, that clauses of a Select Committee's report constitute the penal law of this country, upon which parties are to be tried or exempted from trial. What the Court of law has to see is not the intention of the legislature or of the legislators; what the Court has to see and to interpret is the section as it finds it; and we know Courts after Courts have rejected any reference to Select Committees' reports and to the proceedings in Council and have said, "Our primary and sole function is to construe the words as we find them." This, then, is the time and the occasion for inserting the clause which we intended to insert but which through inadvertence did not find a place in clause 3 of the Bill. Sir, I hope, at any rate, if the Government do not accept this amendment, the House will muster strong in supporting the Select Committee, in supporting the Honourable Members who proposed this motion and carry it by a strong majority.

The Honourable Sir Malcolm Hailey : Am I correct in thinking, Sir, that you have already put the motion that this clause as amended stand part of the Bill, and if so, is any amendment now possible?

• **Mr. President :** Amendments are still possible.

Bhai Man Singh : Sir, I was a Member of the Select Committee. Of course, in the face of the written authority in the clause of the Select Committee's report itself, no further evidence, I think, is needed; but if any were needed, I can say—and so far as my memory goes, I remember it fully well—that this sort of assurance was given that this would be included in the Bill. If.....

Mr. President : References to the proceedings of Select Committees are not in order. No *verbatim* record is kept of the proceedings and therefore the recollection of what passed round a table depends entirely upon the memory of one Honourable Member against another.

The Honourable Dr. T. B. Sapru : As reference was made by Dr. Gour to the oversight of the draftsman, I think I must explain the position. If my Honourable friend, Dr. Gour, will look at paragraph 2 of the Report he will find it there stated :

"and, in the second place does not penalise any action taken *bona fide* to procure in a lawful manner the absence from duty or resignation of a policeman for the purpose of bettering his prospects or otherwise furthering his welfare."

I entirely agree with him that it is not the Report of the Select Committee which matters in actual practice, but it is the Bill itself when it is passed into law, but if only he had looked at the Bill itself, for which he seems to have had some horror this morning, he would have found that the draftsman has given effect to the recommendation and those words will

[Dr. T. B. Sapru.]

be found in italics in clause 3. In fact, the words in italics cover that idea and they are even more liberal. They are these :

".....any member of a police force, to withhold his services otherwise than in a manner expressly authorised by or under any law for the time being in force."

I explained the meaning of these words with reference to certain sections of the Police Act in my speech this morning.

Mr. President : The question is :

"That clause 3 as amended stand part of the Bill."

The motion was adopted.

Rao Bahadur T. Rangachariar : Am I to take that the amendment has been added ?

Mr. K. B. L. Agnihotri : May I know, Sir, if the amendment has been put to the vote ?

Mr. President : I have received no amendment.

Rao Bahadur T. Rangachariar : I thought Mr. Cotelingam had moved the amendment, and we are all supporting it.

Dr. H. S. Gour : Well, that was the impression left on the mind of my friends also, otherwise we would have voted down this clause. If the Government resists Mr. Cotelingam's amendment, we have no option but to pass clause 3 to-day.

Mr. President : The House has just passed clause 3.

Dr. H. S. Gour : There is some misapprehension, Sir. We all thought that we were voting on the amendment of Mr. Cotelingam.

Mr. President : The Honourable Member might quite easily have protected himself by drafting the amendment himself and handing it in at the table.

Lala Girdharilal Agarwala (Agra Division : Non-Muhammadan Rural) : Sir, I beg to give notice of an amendment which reads as follows :

"That in clause 3 for any member....."

Mr. President : Clause 3 has been added to the Bill.

Mr. Jamnadas Dwarkadas : Sir, if I may be permitted to point out, I entirely agree with my Honourable friend, Dr. Gour, we all voted under a misapprehension. We were all under the impression that we were voting for Mr. Cotelingam's amendment.

The Honourable Sir William Vincent : I will have the point further examined. I do not think there is anything in it, but if there is, I will try to have it put right in the Council of State.

Mr. K. B. L. Agnihotri : Sir, the amendment which stands in my name and which I beg leave to move reads thus :

"Omit the words in clause 4 'where the association has been authorised or recognised by the Government'."

Sir, I do not know why such a restriction should be placed especially when the amendment moved by Mr. Cotelingam has been disallowed. I

think the Associations consist of individual persons who *bona fide* believe that the prospects of the police force or those of the members of the police force could be improved, and if they were to proceed on those lines they should not be restricted. Clause 4 as drafted restricts such people, and therefore I request that my amendment be adopted.

The Honourable Sir William Vincent : Sir, it is known to most Members that there are quasi-Trade Unions or Associations of police officers in India and we have framed special rules regulating the Associations of police officers in addition to general rules regulating the Associations of Government servants. Those follow certain precedents, and I believe that in many respects our rules are much more lenient than the rules at Home. If any Honourable Member reads the English Act he will find that the provisions of it go much further than our rules. We merely say that we will not recognise Associations which do not comply with reasonable rules made by Government, and it is to protect those Associations only which do comply with the rules that clause 4 has been amended in the manner suggested by the Select Committee. In England to join an Association which is not authorised under the Act is a penal offence. But really now that this new clause has been added at the instance of Sir Deva Prasad Sarvadhikary, the reasons for clause (4) are less cogent than they were before. In any case it is not desirable to extend it to Associations not recognised by Government merely because they will not comply with reasonable rules framed by Government. I also warn this House that those of us who have any experience of these Associations know that there is a real danger in allowing too much latitude to the Associations of such services as the police service. Why, in the Army, no such Associations are allowed at all. I hope the House will not accept this amendment.

Mr. J. N. Mukherjee : Sir, on to-day's list there is an amendment, the object of which was to organize the very thing which the Honourable the Home Member has brought about by means which are not within the power of this House to accede to. My object in submitting the amendment was that if the present Bill was almost a replica of the English Statute, we should at least try and follow the main object and principle of that Bill. No doubt, conditions in India are different from those in England. But at any rate, when the English Act was passed, the conditions were very unsatisfactory as was stated by Mr. Shortt in the House of Commons when introducing the Bill which has now become Act IX and X, Geo. V, Chapter 46. There were Trade Unions all over the country and policemen were agitating for the betterment of their prospects and pay, and as it usually happens in such cases, the policemen who were in these Trade Unions got out of hand and a sort of disloyal movement was set on foot. Various other questions including the Irish question were also agitating their minds and all these things led to a situation which became almost intolerable. The position, to my thinking, was much worse than it was here because here only the non-co-operators had to be dealt with.

Now, Sir, my point is, which is the course ? To have the policemen remain as members of outside unions, where they are more liable to disaffection, or to make them

5 P.M.

[Mr. J. N. Mukherjee.]

members of a Federation which is exclusively meant for the betterment of the prospects of policemen ? The Honourable the Home Member has said that of course the present Bill does not make it penal on the part of the policemen to remain members of outside unions. But my submission is that, if the scope of the Bill, as it has been formulated by the English Statute and passed by the House of Commons and it was considered to be a very safe piece of legislation for the purpose of achieving the object in view—there is no reason why we should keep that matter a matter of uncertainty and as a matter of departmental decision. The House will see that the object of the English Statute was to keep intact the movement but only to lead the movement, that is to say, to quote the words of Mr. Shortt :

“ It goes on to provide that the Police Federation in every branch shall be absolutely independent of any body or Association outside the Police Service.”

And that is what the opening clauses of the Bill provide. Then, further on, before the House he said :

“ Therefore, we will have, if this is accepted, inside the Police force, a democratic organisation.....”

Mr. President : Order, order. The Honourable Member is bringing in an amendment which really purports to be a Bill to establish a Police Federation. That is really beyond the scope of the motion before the House. Clause (4) does mention the fact of such an association, but to set out to discuss the principles on which such a Federation should be established is far beyond the scope of the present measure.

Mr. J. N. Mukherjee : I will cut short my observations, Sir. And, with a view to meet the situation, by leave of the Chair, I would like to place before the House for its consideration these words in place of certain words to be found in clause (4) :

“ In line 7 of clause (4), after the words ‘ association has been ’ omit all the words to the end of the clause and substitute the following :

‘ established in accordance with the Schedule to this Act to be called the Police Federation which shall act through local and central representative bodies as provided in that Schedule ’.”

And then I suggest, Sir, that the Schedule should be added to the Bill.

Mr. President : Unless the Honourable Member shows me the Schedule, I cannot put the motion.

Mr. J. N. Mukherjee : The Schedule, Sir, is in the English Act itself. We only need to add a Schedule to the Bill similar to that in 9 and 10 George V. Of course, if the principle is acceptable to the House, this can be done by leave of the Chair. Of course, the present objection is that, although it is made to appear safe, it is an independent body that is proposed, where the members of the Police force, if they have a real grievance—not disloyalty but a real grievance—that grievance could be ventilated through the proper channel. Then, it is better, as far as ventilation is concerned, that the matter, instead of being left in the hands of Government Departments, should be left to the judgment of the House, that is to say, constituted in such a way as will secure the object in view as the English Statute tried to do and did, and then leave the matter there. And the House will know that this is the constitution and through this means the real grievances of the Police will be ventilated.

That is my object, Sir, and, if, by leave of the Chair, the final stage is not arrived at to-day, only this matter can be left over, if the House approves of constitution like that, instead of making it a departmental matter. I submit it was with that object that my Honourable friend moved these amendments in clause (4). He wanted them to be omitted altogether. And the Honourable Member says that he has already framed rules, rules that are more liberal. But if the rules are so and acceptable to everybody, and the House knows that they offer a sufficient channel for the ventilation of their legitimate grievances, I see no difficulty in coming to an arrangement like that and I leave it to the Honourable the Home Member to decide the matter.

Mr. President : We must take the amendment as moved by Mr. Agnihotri. It is clear that in considering the Report of the Select Committee it is out of order to attempt to extend the scope of the Bill in the fashion proposed by the Honourable Member from Bengal.

Mr. N. M. Joshi (Nominated Labour Interests): Sir, I think my Honourable friend, Mr. Mukherjee, need not press his amendment. After having given some attention to this subject, I can say this much that the members of the Police Force in India will be better off under the present rules which the Government have made for forming associations for the Police and the other Civil Services than under the Federation which is proposed by my Honourable friend, Mr. Mukherjee. Sir, as regards the amendment of my Honourable friend, Mr. Agnihotri, I think, Government ought to be satisfied with simply saying, "associations which conform to the rules formed for that purpose" and therefore if my friend, Mr. Agnihotri, would modify his amendment accordingly, that will satisfy both.

Mr. President : Amendment moved :

"In clause (4) omit the words 'where the association has been authorised or recognised by the Government'."

The motion was negatived.

Mr. President : Is the Honourable Member's next amendment* consequential?

Mr. K. B. L. Agnihotri : No, Sir. The first amendment dealt with the approval of the association itself, while, in the second, the rules of the association are in question and require acceptance by the Government.

Mr. President : Then, it is obviously consequential. Will the Honourable Member explain to me how he can disentangle the two subjects. (Cries of "Withdraw.")

Mr. K. B. L. Agnihotri : Sir, I could explain it. But, since my Honourable friends wish and press me to withdraw it, I am prepared to withdraw that amendment.

The amendment was by leave of the Assembly withdrawn.

Mr. President : The question is that clause (4) be added to the Bill.

The motion was adopted. Clause (4) was added to the Bill.

* In clause (4) omit the words "which have been approved by the Government."

Mr. K. B. L. Agnohitri : Sir, I beg to move :

"In clause 5, omit all words after the words 'previous sanction' and insert in their place the words 'of the Local Government'."

Now, the clause as amended will read :

"No Court shall proceed to the trial of any offence under this Act except with the previous sanction of the Local Government."

Sir, I have already pointed out before, that there is very little difference between the District Magistrate and the Superintendent of Police. The District Magistrate himself is the head of the police in the district ; and the sanction from the District Magistrate will not be so very effective a safeguard as provided in my amendment. To require the sanction of the District Magistrate is in practice to require that of the District Superintendent of Police. I have already shown how the District Magistrate is consulted by the Superintendent of Police in all important matters relating to the police. And, when we have allowed such very drastic provisions to stand in clause 3, it is but natural for us to feel that the law be not abused or the powers misused, and in order to properly safeguard the rights of the people, it is necessary that we should also provide that the Local Governments should be consulted and it should be left for Local Governments to find out whether the offence alleged to be committed by a particular offender comes within clause 3 or not, and whether such a sanction would be necessary in the interests of justice and in the interest of police force. Therefore, I propose my amendment for acceptance.

The Honourable Sir William Vincent : Sir, one of the reasons put by Sir Deva Prasad Sarvadhikary for not using section 124A is that we do not want to make too much of these trials and convert them into regular State trials under the sanction of the Local Government. But that was when the punishment was two years and a very heavy fine. The punishment has now been reduced by a vote of this House to six months and Rs. 200. I should have thought that in these circumstances it was scarcely necessary to move the whole machinery of the Local Government before prosecuting a man for inciting a constable, say, to go off his beat at night or to neglect his work. The maximum sentence that can be awarded is 6 months. I should have thought that in a case of this nature, the sanction of the District Magistrate ought to meet all reasonable requirements, and really, if we are to have the sanction of the Local Government in every small case of this kind, then the object of the measure will in a great degree be defeated.

Sir Deva Prasad Sarvadhikary : Sir, I should be prepared to go with my Honourable friend the Home Member to a certain extent, but I would like him and the Honourable the Law Member to consider whether it is expedient to retain all the wording that finds place in clause 5 ; for example, the words "the previous sanction, or on the complaint, of the District Magistrate, if any, to which such Court is subordinate." The subordinate position of the Court to the District Magistrate being declared openly and overtly of the section, the process of giving "sanction" will amount to something short of a farce. There may be a good deal in what the Honourable the Home Member says that it is not always possible

or convenient to take up all these matters to the Local Government. If so let us dispense with the idea of "sanction." But whatever you do, do not please put in words like those that I have drawn your attention to. It is enough for the District Magistrate to "complain." Why not let it rest at that? There need be no question of sanction. What is the good of having his "sanction"—sanction to take the case before a Court which is frankly subordinate to the District Magistrate? Whatever happens to the amendment, Sir, I very seriously suggest to the officers of Government whether those words should not be altered in the way that I suggest.

Mr. Khagendra Nath Mitra (Bengal : Nominated Official) : May I rise to a point of order, Sir? Is this not a new amendment?

Mr. Jamnadas Dwarkadas : It is only a suggestion.

Sir Deva Prasad Sarvadhikary : I have not moved any amendment. My suggestion is for the benefit of the draftsman and the credit of the Legislation.

Mr. Khagendra Nath Mitra : He wants to omit the words "to which such Court is subordinate." This is apparently what he wants. But I submit that he wants to introduce at this stage a new amendment which should not be allowed.

The Honourable Sir William Vincent : May I reply to the Honourable Member before we proceed further? I will examine this point before the Bill comes back from the Council of State.

Sir Deva Prasad Sarvadhikary : That will satisfy me, Sir.

Mr. Muhammad Yamin Khan : I think, Sir, that on principle it is wrong that any Court which is subordinate to another Court should try a case which has been sanctioned by the higher Court or the immediately superior officer. I think that in any case in which sanction was given by the District Magistrate, the subordinate Magistrate will never refuse to convict the man. (*Several Honourable Members* : "No, no.")

Sir Deva Prasad Sarvadhikary : I question that.

Mr. Muhammad Yamin Khan : Sir, I may be wrong. There may be some exceptions in the characters of the people, but it is unfortunately so. We must therefore make at least a provision that the Magistrate who tries the case must be at least a First Class Magistrate of a certain standing. To say that he may be any Magistrate subordinate to the District Magistrate would mean that any Third Class Magistrate can try the case. These are the points, Sir, that strike me. Of course we cannot discuss them here, but I draw the attention of the Honourable the Home Member to these points, so that, when the Bill goes to the other House, and as he has promised that he will go into these matters later on, these might be of some help and use to him. My point is that there should be at least a provision that these cases should not be tried by any Second Class Magistrate or Third Class Magistrate, but only by a First Class Magistrate of a certain standing. Of course, as the Honourable the Home Member says, this is a petty matter and it need not go before the Local

[Mr. Muhammad Yamin Khan]

Government. I quite agree with him, and I think we should not harass the Local Government over these small cases, and it is sufficient that the sanction of the District Magistrate should have been obtained. If my friend had suggested "the Commissioner" instead of "the Local Government" I should have much preferred it. But it is all right and it must remain with the District Magistrate.

Rao Bahadur T. Rangachariar : Sir, either sanction is necessary or it is not. If sanction is not necessary, I would urge that the complaint of the aggrieved party is sufficient. The aggrieved party is the head of the police, just as the Chief Commissioner of Police or the Commissioner of Police in the Presidency-towns may complain. I do not mind if the complaint is made by the District Superintendent of Police. The sanction by a District Magistrate or complaint by a District Magistrate places the trying Magistrate in a very awkward position. The acceptance of Sir Deva Prasad Sarvadhikary's amendment, namely, the removal of the words "to which such Court is subordinate" will be merely a verbal solace. All Courts in the district are subordinate to the District Magistrate. When a District Magistrate gives sanction or when he complains, and when the accused person has to appear to defend himself before a Magistrate subordinate to the District Magistrate, we all know by experience what happens more often. No doubt, people are expected to be independent, Courts must have full regard only to justice and so on, but these are only theories. But in practice what happens? Which Sub-Magistrate or even Sub-Divisional Magistrate will dare, when the District Magistrate has chosen to complain or when he has given sanction, to go against him? He depends for his promotion on the District Magistrate. He depends for his prospects on the District Magistrate. He depends for his livelihood on the District Magistrate. It requires not a certain amount but a considerable amount of independence and courage in any Magistrate to resist such an influence. I therefore do not see the object of the sanction at all in a case like this. It is the aggrieved party who must complain. Who is the aggrieved party? The police are the aggrieved party. I do not mind the District Superintendent of Police complaining. Let the Commissioner of Police complain. Therefore it is an illusory protection which is given in clause 5. Far from being a protection it will be a hardship on the accused. Do not introduce the District Magistrate at all. Let the head of the police complain, whoever he may be. I therefore, Sir, oppose the clause, and if the Honourable the Home Member has no objection, and if you will permit it, Sir, I would substitute the words "except on the complaint of the District Superintendent of Police or of the Commissioner of Police in a Presidency-town."

The Honourable Sir William Vincent : Sir, my only excuse for speaking again is because of an invitation now extended to me. I think that the amendment which has been proposed by Mr. Rangachariar is really rather a dangerous one. It is unsound. It has been said by my Honourable friend that we have put in a safeguard which is valueless. Sir, one of the objections raised to this Bill in an earlier stage of the proceedings to-day was that it places in the hands of an unscrupulous

Sub-Inspector or subordinate officer of the status of a head constable, a powerful weapon with which he can harass an innocent man unjustly by prosecution. That is what we sought to avoid by this clause, and I think that we have acted wisely—on the other hand I do not think it is necessary to go as far as the Local Government in this case, but I do think it is advisable there should be some check on unnecessary prosecution. In the Presidency-towns the only authority we can have is the Commissioner of Police. Outside that area we want to have a sanctioning authority who has no direct connection with the Police to safeguard a private individual against futile prosecution. Mr. Rangachariar said that Magistrates will always convict if sanction is given by the District Magistrate and that the accused will not be given a fair trial. I demur to that. That accusation has no justification at all. I believe, speaking of the members of my own Service, that the tendency towards insubordination alone would prevent any such conduct; but apart from this our Magistrates have a sense of judicial fairness and I do not think that the Honourable Member has any justification for suggesting that Indian Magistrates do not maintain their judicial impartiality. (Hear, hear.) I do want to repudiate that idea very emphatically. Some curious things are said of Madras. It seems to be a very unlucky Presidency and much sidelight is thrown on conditions in the Province by what Mr. Rangachariar tells us. In other provinces such ideas have never been suggested even. I say with confidence that in Bengal the proposition put forward by him would not hold good. I hope in the circumstances that the Assembly will accept the District Magistrate's sanction as necessary to prevent unreasonable harassment and at the same time they will avoid the extreme at the other end of having the Local Government's sanction for a minor prosecution of this kind.

Dr. Nand Lal : So far as the theory is concerned, the provision may appear to be all right, but when we consider the matter in its practical aspect, we feel constrained to be in favour of the amendment which has been moved. Those who have got practical experience as lawyers, will be able to assist this Assembly with their expression of opinion, as to how it is being done so far as practice goes. The suggestion is offered and the District Magistrate will be too ready to give sanction without having examined whether there is any strength in the prosecution or not. It will be suggested by the Public Prosecutor, who will place the facts in a crude form before the District Magistrate, and as I have already said, the District Magistrate will give sanction at once, and the object of this provision will not be attained to at all. The amendment says that sanction should be obtained from the 'Local Government.' The Local Government will not give sanction rashly, but it will send the papers to the Legal Remembrancer or the Assistant Legal Remembrancer, as the case may be, and the opinion of trained lawyers will be obtained. The Local Government, therefore, will hesitate to rush into unnecessary prosecution. On these grounds I am in favour of this amendment and I submit to this Assembly that they will pass it unanimously. One objection has been raised by the Honourable the Home Member, on the ground of the smallness of the punishment. He says, "Look at the punishment. It is only six months. Why to trouble the Local Government?" In reply to that I may hope, the Honourable the Home Member

[Dr. Nand Lal.]

will kindly take the trouble of giving consideration to this that it is just probable that very respectable men also may be hauled up, they may be implicated. Does he mean to say that six months' punishment is a very small thing for them? I may say that six months' rigorous imprisonment is a very severe punishment in cases like that, and therefore, on that ground also, while opposing the Honourable the Home Member, I support this amendment whole-heartedly.

(Several Honourable Members : " I move that the question be now put.")

Mr. President : Amendment moved :

" In clause 5, omit all words after the words ' previous sanction ' and insert in their place the words ' of the Local Government '."

The question is that that amendment be made.

The Assembly then divided as follows :

AYES—21.

Abdulla, Mr. S. M.
Agarwala, Lala Girdharilal.
Agnihotri, Mr. K. B. L.
Asjad-ul-lah, Maulvi Miyan.
Bagde, Mr. K. G.
Pajpai, Mr. S. P.
Bharwara, Pandit J. L.
Chaudhuri, Mr. J.
Ginwa's, Mr. I. P.
Gour, Dr. H. S.
Gulab Singh, Sardar.
Iswar Farn, Munshi.
Jatkar, Mr. B. H. R.
Kamat, Mr. B. S.
Lakshmi Narayan Lal, Mr.
Mahadeo Prasad, Munshi.

Majumder, Mr. J. N.
Mun Singh, Bhai.
Misra, Mr. P. L.
Mudaliar, Mr. S.
Nali Hadi, Mr. S. M.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Rangachariar, Mr. T.
Shahani, Mr. S. C.
Singh, Babu B. P.
Shaha Babu Ambika Prasad.
Sohan Lal, Baksahi.
Srinivasa Rao, Mr. P. V.
Venkatspatiraju, Mr. B.

NOES—41.

Abdul Quadir, Maulvi.
Abdul Rahim Khan, Mr.
Allen, Mr. B. C.
Arbuthnot, Mr. R. E. V.
Asad Ali, Mir.
Ferozawala, Mr. S. K.
Badley-Birt, Mr. F. B.
Brar, Mr. Denys.
Bridge, Mr. G.
Burdon, Mr. E.
Butler, Mr. M. S. D.
Chatterjee, Mr. A. C.
Cotelingam, Mr. J. P.
Crookshank, Sir Sydney.
Davies, Mr. R. W.
Gagan Singh, Sardar Bahadur.
Hailer, the Honourable Sir Malcolm.
Hajebbhov, Mr. Mahomed.
Hudson, Mr. W. F.
Hullah, Mr. J.
Jesse, the Honourable Mr. C. A.

Lindsay, Mr. Darcy.
Mitter, Mr. K. N.
Moit, Mr. T. E.
Muhammad Hussain, Mr. T.
Muhammad Ismail, Mr. S.
Mukherjee, Mr. J. N.
Percival, Mr. P. E.
Pyari Lal, Mr.
Sapra, the Honourable Dr. T. B.
Sarfaraz Hussain Khan, Mr.
Sarvadhikary, Sir Deva Prasad.
Shahat-ud-Din, Chaudhri.
Singh, Mr. S. N.
Stocock, Mr. F. S. A.
Vineout, the Honourable Sir William.
Waghorn, Colonel W. D.
Way, Mr. T. A. J.
Webb, Sir H. dePomey.
Yatun Khan, Mr. M.
Zahiruddin Ahmed, Mr.

The motion was negatived.

Mr. President : The question is that Clause 5 do stand part of the Bill.

Dr. H. S. Gour : May I point out that there is a mistake here ? " the complaint of the District Magistrate, if any, to which such Court." It ought to be ' to whom.' I think the Home Member may take up my suggestion and move that as a drafting change. Otherwise it makes nonsense of the whole clause.

Mr. President : The question is that Clause 5 do stand part of the Bill.

The motion was adopted

Clause 5 was added to the Bill.

Mr. K. B. L. Agnihotri : I beg to leave for not moving my amendment to sub-clause (1) of clause 1, but to move the amendment to sub-clause (2) of clause 1. The amendment runs as follows :

" After the word ' Parganas ' insert the words ' but shall have operation only in such provinces or parts of provinces as the Governor in Council may from time to time notify in the local official gazette '."

This amendment which I had notified and which is printed on the agenda is not I am told properly worded and I am willing to adopt the modification of the language suggested by the Legislative Department, and with your permission, Sir, I move the following amendment :

" It shall come into force in any province or part of the province on such date as the Local Government may by notification in the local official gazette direct."

Sir, it appeared to us from what the Honourable the Home Member has said that the necessity for this law is not so great now as it was some time ago. Offences of this nature are not met in all the provinces at all times, but are found at times of unrest and confined only in particular areas. Therefore I suggest that it will be much better and less troublesome if the Local Governments are given this power of notifying the particular area of a particular province where this Act may come into force. With these words, I move my amendment.

Mr. President : The question is :

" That in clause 1, the following new sub-section (3) be added :

' It shall come into force in any province or part of the province on such date as the Local Government may by notification in the local official gazette direct '."

The Honourable Sir William Vincent : Government are willing to accept this amendment.

The motion was adopted.

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : Sir, I beg to move that the following sub-clause be added to clause 1 :

" It shall be in force for the period of one year from the date on which it receives the assent of the Governor General."

Sir, at the first reading of the Bill the Honourable Sir William Vincent made it quite clear that this measure was occasioned by the fact that during the later developments of the non-co-operation movement, its programme had included attempts on the part of its members to get at the police, and I find that it was in reply to a leading question

[Mr. K. C. Neogy.]

from the Government of India that the Local Governments said that they would very much appreciate a measure like this. It is undoubtedly true that though circumstances at that time did not justify such a measure, subsequent developments went to show that there might be some justification for it. Some reference has been made to certain happenings in Bengal. I remember those troublous days very well and I do not think that the Honourable the Home Member will go so far as to maintain that, whatever the justification for such a measure at that time might have been, the justification remains to-day exactly as it was. Sir, at that time a section of the people may be said to have lost their heads; but I make bold to say that the authorities, the police and the military, whose aid was called in to preserve law and order, also lost their heads. Who does not remember the wanton assaults that were committed in the streets of Calcutta by the police and the military?

Mr. President : This has got nothing to do with the duration of the Act for one year.

Mr. K. C. Neogy : I am trying to show that it was merely a passing phase of the non-co-operation movement which the Bill was at that time intended to meet, and I maintain that the necessity does no longer exist. Sir, I do not know whether I am in order in referring to those assaults that were committed in the streets of Calcutta by the military and the police. Sir, all the blame has been sought to be laid on the shoulders of the non-co-operators, because the allegation is that it is they who tried to tamper with the loyalty of the police; but I have heard of instances where the Indian police revolted against some high-handed action on the part of the European sergeants and the military in Calcutta at that time. I do not know whether the Honourable the Home Member has received any information with regard to that, but such reports were in circulation in Calcutta at that time. While I admit that there may have been some justification at one time for a measure like this, I maintain that the justification no longer exists. It was a time the memory of which should be forgotten by all of us; the happenings of those days do little credit to the authorities themselves. Sir, it has been said that such a measure exists on the Statute Book in England. I find that a little too much is being made of these English analogies. Previous speakers have already pointed out that these analogies do not hold good. While it is sought to put fetters on the liberties of the people, we are referred to these English analogies, but what about measures that secure popular rights and liberties? Sir, I will remind this House of a tiny, little Bill that came up about a year ago in this very House, providing for some safeguards against firing on crowds, when firing has got to be resorted to for the purpose of quelling civil disturbances. What has happened to that Bill? The Honourable the Home Member withdrew it from the table of this House, and when I inquired about it during the last winter Session at Delhi, he said the Bill was being considered by the Government. I am sure that it has been pigeonholed in the Home Department. Talk of English analogies? What have you done to that Bill? Would such a procedure be possible in England?

Mr. President : Order, order. I must ask the Honourable Member to come to his own country and leave England alone.

Mr. K. C. Neogy : As I said the other day, the letter of the law is not so much at fault in India. It is the spirit in which it is administered that leads to trouble. Sir, I therefore move that this Bill be in duration for a year only in order that we may see how it is administered and in order that before Government can expect to perpetuate it, they can satisfy the popular House that its provisions have not been abused. I move my amendment.

Mr. President : In clause 1, amendment moved :

“ It shall be in force for the period of one year from the date on which it receives the assent of the Governor General.”

The Honourable Sir William Vincent : Sir, if this measure were in the nature of a measure of repression, an emergency measure, then I think there might have been some ground for suggesting that it should be in force for one year only. But throughout the Honourable Member's speech I heard no reason given at all for this proposal in regard to a measure which I maintain to be a perfectly sound one for all time. I heard violent attacks made on the Government relating to other subjects, subjects which are not before this Assembly at all ! And here may I say that for some time a practice is being developed here of frequently going outside a subject under discussion, merely to fasten a quarrel on the Government, when Members have really nothing to say, and no arguments to advance on the subject before the House. Sir, it is not correct to say that we proposed this legislation after the disorder in Calcutta. We had had this legislation in contemplation long before that. In 1920 I think we first made inquiries whether this legislation was wanted. I do not know how the Honourable Member gets hold of his ideas that it was only in or after November 1921, after the disorders of that time, that we first considered whether the position was such as to necessitate this legislation. The figures that I gave for certain provinces just now were figures of attempts up to October 1921, before any of this rioting of November last. And now, Sir, I want to ask this Assembly whether they really think that it is worth while after all the trouble the Assembly has taken,—the Government have from time to time taken, the Select Committee have taken, to provide that the Bill should be in force for one year. It is a perfectly harmless, and sound measure, it has been examined very carefully now both by this House and by the Select Committee. It is based on a law in England which is a permanent measure ; and I maintain that it should be a permanent measure here needed to afford to the police that protection to which they and the public have a right to demand at all times. I do not want the Assembly to consider this as a repressive or emergency measure ; it is not. It is a salutary enactment proposed permanently, for the protection of the police.

Munshi Iswar Saran : Sir, I rise to support my Honourable friend Mr. Neogy. It is manifest from the speeches made that the idea of having a statute of this nature, started with the preaching of a certain section of the people that in the interest of the country itself it was necessary

[Munshi Iswar Saran.]

that members of the Police Force should resign. I am entitled to take it that it was that which gave rise to the idea which has led to this present enactment, as we all know that that particular section has now dropped that item from its programme now.....

The Honourable Sir William Vincent : May I ask when ? Is the Honourable Member in such close touch with the programme that he knows ?

Munshi Iswar Saran : The Home Member imagines that by suggesting that I am in close touch with them, I shall get frightened. He is sadly mistaken. If I had been in close touch with them, I would not have been here ; and if I had been in close touch with them, I should not have hesitated for a moment in proclaiming my adherence to them. The Honourable the Home Member ought to know it, and if he has not known it, I am sorry that he is a very bad student of human nature. Sir, this idea, as I was submitting, started with that propaganda—that propaganda, as it is obvious to every one who studies newspapers, has, at least to be very cautious, been suspended ; I do not for a moment mean to suggest that it may not be taken up, but that it is not included in the programme to-day is an absolute certainty ; and I shall challenge anybody in this House to contradict me on that. It is known to everyone here that they have confined their attention to four matters and four matters alone ; and I therefore say that if in the past administration could go on, if law and order could be preserved, under the Police Act and the Indian Penal Code, there is no necessity why in the future, with the cessation of that activity, there should be needed a measure like the one which we are considering just now. Are we therefore not justified in asking Government to confine its operation only to one year ? If they find that there is any necessity, let them come up again. Let them place before us facts and figures, let them convince us by showing on how many occasions it has been necessary to use the provisions of this Bill, and then the Government would be justified in asking the Assembly to make it a permanent statute. Sir, in view of the provisions of the Police Act and the Penal Code it is not at all necessary that this measure should remain permanently on the Statute Book. In the past we have gone on very well, and we shall continue to go on very well without it in the future. Let me remind the Honourable Members who may be inclined to disagree with me that measures were passed—I do not wish to introduce bitterness—and at the time of their passing, it was said, ‘ India will go to rack and ruin, if you don’t pass it ; administration will come to a standstill if you don’t pass it ’, but years after, a Committee was formed and that Committee had to repeal those Acts. If you make it a permanent statute, it is dangerous to prophesy, but I shall venture to predict on this occasion, that it shall go the same way as those other measures have gone.

Mr. President : Amendment moved :

“ To add at the end of clause 1 :

‘ It shall be in force for the period of one year from the date on which it receives the assent of the Governor General ’.”

The Assembly then divided as follows :

AYES—37.

Abdulla, Mr. S. M.
Agarwala, Lala Girdharilal.
Agnihotri, Mr. K. B. L.
Asjad-ul-lah, Maulvi Miyan.
Bagde, Mr. K. G.
Bajpai, Mr. S. P.
Bhargava, Pandit J. L.
Chaudhuri, Mr. J.
Ginwala, Mr. P. P.
Gour, Dr. H. S.
Gulab Singh, Sardar.
Iswar Saran, Munshi.
Jamnadas Dwarkadas, Mr.
Jatkar, Mr. B. H. R.
Joshi, Mr. N. M.
Kamat, Mr. B. S.
Lakshmi Narayan Lal, Mr.
Mahadeo Prasad, Munshi.
Majumder, Mr. J. N.

Man Singh, Bhai.
Misra, Mr. P. L.
Mudaliar, Mr. S.
Mukherjee, Mr. J. N.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Rangachariar, Mr. T.
Reddi, Mr. M. K.
Sarvadhikary, Sir Deva Prasad.
Shahani, Mr. S. C.
Singh, Babu B. P.
Sinha, Babu Ambika Prasad.
Sohan Lal, Bakshi.
Srinivasa Rao, Mr. P. V.
Subrahmanayam, Mr. C. S.
Venkatapatiraju, Mr. B.
Yamin Khan, Mr. M.

NOES—40.

Abdul Rahim Khan, Mr.
Akram Hussain, Prince A. M. M.
Allen, Mr. B. C.
Arbuthnot, Mr. R. E. V.
Asad Ali, Mir.
Barodawala, Mr. S. K.
Bradley-Birt, Mr. F. B.
Bray, Mr. Denys.
Bridge, Mr. G.
Burdon, Mr. E.
Butler, Mr. M. S. D.
Chatterjee, Mr. A. C.
Cotelingam, Mr. J. P.
Crookshank, Sir Sydney.
Davies, Mr. R. W.
Gajjan Singh, Sardar Bahadur.
Hailey, the Honourable Sir Malcolm.
Hareebhoy, Mr. Mahomed.
Hudson, Mr. W. F.
Hullah, Mr. J.

Innes, the Honourable Mr. C. A.
Lathe, Mr. A. B.
Lindsay, Mr. Darcy.
Mitter, Mr. K. N.
Moir, Mr. T. E.
Muhammad Hussain, Mr. T.
Muhammad Ismail, Mr. S.
Nabi Hadi, Mr. S. M.
Percival, Mr. P. E.
Pyari Lal, Mr.
Sapru, the Honourable Dr. T. B.
Serfaraz Hussain Khan, Mr.
Shahab-ud-Din, Chaudhri.
Singh, Mr. S. N.
Sloccock, Mr. F. S. A.
Vincent, the Honourable Sir William.
Waghorn, Colonel W. D.
Way, Mr. T. A. H.
Webb, Sir M. dePomeroy.
Zahiruddin Ahmed, Mr.

The motion was negatived.

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

The Preamble and the Title were added to the Bill.

The Honourable Sir William Vincent : Sir, I move :

“ That the Bill to provide a penalty for spreading disaffection among the police and for kindred offences, as amended, be passed.”

Dr. H. S. Gour : Sir, I move :

“ That under clause 79, sub-clause (2) of the Standing Rules and Orders printed at page 29, that the amended Bill be postponed.”

Sir, I shall read the rule I have quoted. It runs :

“ If any amendment of the Bill is made, any member may object to any motion being made on the same day that the Bill be passed, and such objection shall prevail, unless the President, in the exercise of his power to suspend this standing order, allows the motion to be made.”

[Dr. H. S. Gour.]

Now, Sir, I shall very briefly state why you should not exercise your power to suspend the Standing Orders. You will observe, Sir, that really speaking there is no Bill before this House at all. Clause 3 of the Bill has still to be drafted and that is the most important clause.....

Mr. President : Order, order. The Bill is now completed. Clause 3 stands part ; and no further debate can arise except on the Home Member's motion.

Dr. H. S. Gour : If that be the case, we want to see the amended form of the Bill and examine its provisions, and to see how the whole Bill reads before we are in a position to pass it. I therefore ask, Sir, that the clause which I have quoted be put in force that the passing of the Bill be deferred.

Mr. President : The question is :

“ That the further consideration of this motion be postponed.”

Dr. H. S. Gour : Sir, I rise to a point of order. I think it is for the Chair to decide, if I understand this Standing Order aright. It says that if any amendment of the Bill is made, any member may object to any motion being made on the same day that the Bill be passed. I am here now objecting to the Honourable the Home Member making a motion to-day that the Bill be passed. I am interposing between the Honourable the Home Member and his motion that the Bill be passed to-day, and it is the usual rule that such objection shall prevail unless the President in the exercise of his power to suspend the Standing Order allows the motion to be made. I have given reasons why the Standing Order should not be suspended, and unless a very exceptional counter-reason is given, I submit that the ordinary rule must prevail.

Mr. President : The original question was ‘ that this Bill be passed ’. Since which an amendment was proposed that further consideration be postponed. The question I have to put is that further consideration be postponed.

Dr. H. S. Gour : I submit that I never moved that the Bill be further postponed. I simply objected to the Honourable the Home Member making his motion to-day, and it is for the Chair to decide under this Standing Order ; it is not within the jurisdiction of the House, but within the jurisdiction of the Chair to decide.

✓ **Mr. President :** I have used my jurisdiction and allowed the Honourable the Home Member to make his motion. Similarly in the use of my jurisdiction I understood and accepted the motion from the Honourable Member from the Central Provinces to postpone consideration, leaving it thereby to the House to decide whether they wish to go on or not. The Honourable Member chose to be out of order after the division was called, but I took no notice of it.

Rao Bahadur T. Rangachariar : May I mention, Sir,—it may not be exactly a point of order—that I understood from the Honourable the Home Member that he was not going to make this motion to-day and I ascertained also.....

Mr. President : There is no such understanding before the House and this discussion is entirely out of order because we are in the middle of a division.

6 P.M.

The Assembly then divided as follows :

AYES—26.

Abdulla, Mr. S. M.
Agarwala, Lala Girdharilal.
Agnihotri, Mr. K. B. L.
Asjad-ul-lah, Maulvi Miyan.
Bagde, Mr. K. G.
Bajpai, Mr. S. P.
Bhargava, Pandit J. L.
Chaudhuri, Mr. J.
Ginwala, Mr. P. P.
Gour, Dr. H. S.
Gulab Singh, Sardar.
Iswar Saran, Munshi.
Jannadas Dwarakadas, Mr.
Jatkar, Mr. B. H. R.
Joshi, Mr. N. M.
Kamat, Mr. B. S.
Lakshmi Narayan Lal, Mr.
Mahadeo Prasad, Munshi.

Mejunder, Mr. J. N.
Man Singh, Bhai.
Misra, Mr. P. L.
Mudaliar, Mr. S.
Mukherjee, Mr. J. N.
Nag, Mr. G. C.
Nand Lal, Dr.
Neogy, Mr. K. C.
Rangachariar, Mr. T.
Reddi, Mr. M. K.
Sarvadhikary, Sir Deva Prasad.
Shahani, Mr. S. C.
Singh, Babu B. P.
Sinha, Babu Ambika Prasad.
Sohan Lal, Bakshi.
Srinivasa Rao, Mr. P. V.
Subrahmanayam, Mr. C. S.
Venkatapatiraju, Mr. B.

NOES—42.

Abdul Quadir, Maulvi.
Abdul Rahim Khan, Mr.
Akram Hussain, Prince, A. M. M.
Allen, Mr. B. C.
Arbuthnot, Mr. R. E. V.
Barodawala, Mr. S. K.
Bradley-Birt, Mr. F. B.
Bray, Mr. Denys.
Bridge, Mr. G.
Burdon, Mr. E.
Butler, Mr. M. S. D.
Chatterjee, Mr. A. C.
Cotelingam, Mr. J. P.
Crookshank, Sir Sydney.
Davies, Mr. R. W.
Gajjan Singh, Sardar Bahadur.
Hailey, the Honourable Sir Malcolm.
Hajeebhoy, Mr. Mahomed.
Hudson, Mr. W. F.
Hullah, Mr. J.
Innes, the Honourable Mr. C. A.

Lathe, Mr. A. B.
Lindsay, Mr. Darcy.
Mitter, Mr. K. N.
Moir, Mr. T. E.
Muhammad Hussain, Mr. T.
Muhammad Ismail, Mr. S.
Nabi Hadi, Mr. S. M.
Percival, Mr. P. E.
Pyari Lal, Mr.
Saklatvala, Mr. N. B.
Sapru, the Honourable Dr. T. B.
Sarfaraz Hussain Khan, Mr.
Shahab-ud-Din, Chaudhri.
Singh, Mr. S. N.
Slocock, Mr. F. S. A.
Vincent, the Honourable Sir William.
Waghorn, Colonel W. D.
Way, Mr. T. A. H.
Webb, Sir M dePomeroy.
Yamin Khan, Mr. M.
Zahiruddin Ahmed, Mr.

The motion was negatived.

Mr. President : The question is :

“ That the Bill to provide a penalty for spreading disaffection among the police and for kindred offences, as amended by the Select Committee and as further amended by this Assembly, be passed.”

Rao Bahadur T. Rangachariar : Sir, much as I am disinclined to trouble the Chair at this late hour, and trouble the other Honourable Members of this House by inflicting a speech, which I would have avoided if this Bill had been brought up a day or two later, modified as it ought to be, so that when it leaves the precincts of this House it might be in a

[Rao Bahadur T. Rangachariar.]

perfect form so that the other Chamber to which it has to go may not laugh at us for the way in which we are sending up this Bill, I have yet to say a few words. Reference has been made to clause 5 by my Honourable friend, Dr. Gour, that it requires correction in English and in grammar. Reference has been made to clause 3, which is the only substantive clause in this Bill—all other clauses are nothing. Government, Sir, have undertaken to embody the explanations contained in clauses 2 and 3, the understanding being that they would bring out the substance in clauses (2) and (3) of 124A properly, because we have not had the time to do it. Supposing, Sir, the Bill goes to the other House we will be open to derision and laughter. Why should we not take care of the Bill before it leaves our Chamber? What is the dreadful hurry that this Bill should be rushed through the Assembly like this at this late hour? Is it because the Government are confident that they have got the votes behind them at this late hour? Sir, I understood, as I stated already, that this motion was not to be made to-day, and I am not sure how many members have left because this was not coming. So I say that to the credit of this Assembly this Bill should go in a proper form to the other Chamber. Why should the other Chamber set us right in grammar, in language, in substance? Are we going to submit to that course of action? Let the Bill come back properly prepared by the Honourable the Home Member. We have agreed upon particular clauses. Sir, as I stated, I feel constrained to take this course. Why should I be driven to take this course of opposing the passing of this measure when we have devoted so much time, so much thought and so much energy to it? Why should we be driven to this course at all? Is it not reasonable that, before we send the Bill in final shape, we should put it in proper order? What objection there is to such a course, I fail to see. Well, I can only see obstinacy. I thought it was a virtue with us only, but I see that virtue is elsewhere also. But I appeal to the official members, I appeal to the non-official members, I appeal to the European members of this House, are you going to send a Bill to the other House when there is an obvious grammatical error? The Government will have ~~have~~ to present the Bill to the other House in the form in which we passed it. They cannot amend it. I therefore ask that this motion be rejected.

Sir Deva Prasad Sarvadhikary : Sir, having regard to what has happened it is my painful duty to have to oppose the motion just moved by the Honourable the Home Member. We most definitely understood that that motion was not going to be made, at least pressed to-day, and we have a certain amount of responsibility to those who think with us and work with us, and I took the liberty of telling some of them on the strength of what I definitely understood from the Home Member that this motion will not be brought on to-day. Sir, very pointed attention has been drawn to certain shortcomings in the Bill, particularly in clauses 3 and 5 Government has seen fit to accept my amendment which removes some of the difficulties. Regarding other matters Government Members more than once assured us in the course of the debate that these matters would be looked into and put right before the final motion for passing the Bill came. I do not know what has happened since and why another course has been thought of. I cannot imagine how in the condition in which the Bill now

stands (even if it was passed by a majority to-day) it can very well face the Council of State. As has been pointed out, the Bill cannot remain as it is, the other House will have to send it back to us, and we shall have the very unedifying spectacle of having to go over the whole ground not at our own instance, but under compulsion.

The Honourable Sir William Vincent: Sir, I am most unwilling to allow either Mr. Rangachariar or Sir Deva Prasad Sarvadhikary to think that the Government have misled them as to their intentions about this Bill, and even now if the House wish after the debate has continued up to this point, to defer the conclusion of the discussion of this particular motion before us, I should raise no objection whatever. (Hear, hear.)

Sir Deva Prasad Sarvadhikary: That will not be enough. We shall in that case be again discussing the Bill as it stands. The Government has undertaken to examine the matters we have raised and to bring it before us in another and a better form embodying our suggestions.

The Honourable Sir William Vincent: My intention is to examine the amendment made.

Rao Bahadur T. Rangachariar: Then, Sir, may I formally move that the discussion on this Bill be adjourned to enable the Government to bring the Bill back in another form?

Mr. President: The Bill, if it is now passed, will go to the Council of State as amended. As far as I am concerned, and as guardian of the prestige of this Chamber, I am quite prepared to face what Sir Deva Prasad Sarvadhikary does not seem to like, the criticisms of the other House. We may, however, wait and see whether his apprehensions are realised; and if they are, we shall know how to meet the emergency. The Honourable Member has moved that the further consideration of this motion be postponed.

The motion was adopted.

THE CRIMINAL TRIBES (AMENDMENT) BILL.

Mr. President: The Select Committee on the Criminal Tribes Bill which was to sit this afternoon has not been summoned till Eleven of the Clock to-morrow, and I inform those Honourable Members who have not received notice of this.

The Assembly then adjourned till Eleven of the Clock on Monday, the 18th September, 1922.
