

11th July, 1923

THE  
LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

VOL. III

PART VI

(2nd to 12th July, 1923.)

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THIRD SESSION  
OF THE  
LEGISLATIVE ASSEMBLY, 1923

Chamber Fumigated... 18-10-73.



SIMLA  
GOVERNMENT CENTRAL PRESS  
1923

# LEGISLATIVE ASSEMBLY.

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*The President.*

The Honourable Sir FREDERICK WHYTE, KT.

*Deputy President.*

“ Sir JAMSETJEE JEEJEEBHOY, BART., K.C.S.I., M.L.A.

*Panel of Chairmen.*

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° Sardar Bahadur GAJJAN SINGH, M.L.A.

Mr. N. M. SAMARTH, M.L.A.

° Colonel Sir HENRY STANYON, KT., C.I.E., V.D., M.L.A.

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*Assistants of the Secretary.*

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

Mr. G. H. SPENCE, I.C.S.

*Marshal.*

Captain SURAJ SINGH, Bahadur, I.O.M.

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# LEGISLATIVE ASSEMBLY.

*Wednesday, 11th July, 1923.*

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

## ELECTION TO THE PUBLIC ACCOUNTS COMMITTEE.

**The Honourable Sir Basil Blackett** (Finance Member) : Sir, I beg to move :

“ That the Assembly do proceed to elect a member to the Committee on Public Accounts to fill the vacancy caused by the resignation of his seat on the Assembly by Mr. K. C. Neogy.”

Sir, there is a vacancy on the Public Accounts Committee owing to the fact that one of the Members elected last March ceased to be a Member of the Assembly in the interval between March and July. That vacancy has to be filled in accordance with the Standing Orders by election by this House. If I may venture to suggest, Sir, in the special circumstances,—it is of course entirely for the House to decide— but if I may venture to suggest, a simple way to meet the difficulty would be for only one Member to be nominated for ballot and that that should be Mr. Neogy.

**Mr. President** : The question is :

“ That the Assembly do proceed to elect a member to the Committee on Public Accounts to fill the vacancy caused by the resignation of his seat on the Assembly by Mr. K. C. Neogy.”

**Mr. K. C. Neogy** (Dacca Division : Non-Muhammadian Rural) : Sir, may I rise to a point of order ? The Honourable the Finance Member moves that this Assembly is to proceed to elect a Member to fill the vacancy caused by my resignation. I draw attention to rule 51 under which it is not the Assembly that has to elect Members of the Public Accounts Committee, but the non-official Members of the Assembly only :

“ The Committee on Public Accounts shall consist of not more than twelve Members including the Chairman, of whom not less than two-thirds shall be elected by the non-official Members of the Assembly according to the principle of proportionate representation by means of the single transferable vote.”

**The Honourable Sir Basil Blackett** : Sir, I think this is the usual form in which the motion is made. When the motion has been agreed to I assume that the election takes place in accordance with the Standing Orders, by the non-official Members of the House.

**Dr. H. S. Gour** (Nagpur Division : Non-Muhammadian) : May I suggest, Sir, a simpler course than that suggested by the Honourable Finance Member—that this House probably would be unanimously in

[Dr. H. S. Gour.]

favour of re-electing Mr. K. C. Neogy, and unless another candidate comes forward I propose that he should be re-elected.

**Mr. President :** The question in the form in which it has been proposed by the Honourable Finance Member is in order. When we come to the election, we shall naturally have to elect according to the procedure laid down in the rules. It is a little pedantic on the part of the Honourable Member to raise a point of order on a motion which is in his own interest.

The motion was adopted.

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### ELECTION TO THE STANDING FINANCE COMMITTEE.

**The Honourable Sir Basil Blackett** (Finance Member) : Sir, although it is not down in the list, I think it will be for the convenience of the House that I should at the same moment make a similar motion in regard to the Standing Finance Committee—that the Assembly do proceed to elect a Member to the Standing Finance Committee to fill the vacancy caused by the resignation of his seat on the Assembly by Mr. K. C. Neogy.

**Mr. President :** I understood the Honourable Finance Member was going to move the motion which follows the first motion on the paper, namely, that we should proceed at once to elect Mr. Neogy. The motion is not on the paper, but I am prepared to take it now.

**The Honourable Sir Basil Blackett :** I am prepared to move that now.

**Mr. President :** The question is :

“ That Mr. K. C. Neogy be elected to serve on the Committee on Public Accounts to fill the vacancy caused by the resignation of his seat on the Assembly by Mr. K. C. Neogy.”

The motion was adopted.

**The Honourable Sir Basil Blackett :** I beg to move :

“ That the Assembly do proceed to elect a Member to the Standing Finance Committee to fill the vacancy caused by the resignation of his seat on the Assembly by Mr. K. C. Neogy.”

If this motion is passed, Sir, I should like to follow it up with a similar motion to that which has just been agreed to, with the leave of the House.

**Mr. President :** The question is :

“ That the Assembly do proceed to elect a Member to the Standing Finance Committee to fill the vacancy caused by the resignation of his seat on the Assembly by Mr. K. C. Neogy.”

The motion was adopted.

**The Honourable Sir Basil Blackett :** Sir, I beg to move :

“ That Mr. K. C. Neogy be elected a Member of the Standing Finance Committee.”

The motion was adopted.

## THE INDIAN LUNACY (AMENDMENT) BILL.

**The Honourable Sir Malcolm Hailey** (Home Member) : I move for leave to introduce a Bill further to amend the Indian Lunacy Act, 1912. The matter is so simple that I need not add to the statement contained in the Statement of Objects and Reasons.

The motion was adopted.

**The Honourable Sir Malcolm Hailey** : I introduce the Bill.

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## THE CUTCHI MEMONS (AMENDMENT) BILL.

**The Honourable Sir Malcolm Hailey** (Home Member) : I move for leave to introduce a Bill to amend the Cutchi Memons Act, 1920. This also is a very simple matter and again I do not intend to delay the House by explaining further than we have already done in our published statement.

The motion was adopted.

**The Honourable Sir Malcolm Hailey** : I introduce the Bill.

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## THE LAND ACQUISITION (AMENDMENT) BILL.

**Mr. M. S. D. Butler** (Secretary, Department of Education, Health and Lands) : Sir, I move for leave :

“ To introduce a Bill further to amend the Land Acquisition Act, 1894, for certain purposes.”

The Bill which I now seek to introduce is a small but eminently respectable one. Hitherto the persons whose land has been marked down for acquisition for a public purpose have had little or no chance to put forward their objections to the acquisition itself. It has been urged that cases of hardship have occurred owing to the summary nature of the proceedings, and that it should be open to persons whose land is being taken from them to have an opportunity of urging, for example, that the purpose for which the acquisition is being made is not a *bona fide* public purpose, or that the particular land notified is not the best adapted for the purpose, or that its area is greater than is necessary. The Bill which I seek leave to introduce has been framed to meet this position. It provides that the preliminary notice under section 4 of the Act shall be compulsory and that thereafter a period of thirty days shall elapse within which period objections may be lodged to the acquisition itself, and that these objections shall be disposed of before action is taken under section 6. The Bill provides for other changes consequential on the delay which the new procedure will necessitate. The Bill seeks to limit and not to extend the power of the Government, and will, I am sure, be popular with this House. I ask leave for its introduction.

The motion was adopted.

**Mr. M. S. D. Butler :** Sir, I move :

“ That the Bill be referred to a Select Committee consisting of the Honourable Mr. Chatterjee, Mr. T. V. Seshagiri Ayyar, Mr. J. N. Mukherjee, Sir P. S. Sivaswami Aiyer, Mr. K. C. Neogy, Dr. H. S. Gour, Mr. W. M. Hussanally, Sardar Gulab Singh, Mr. P. B. Haigh, Colonel Sir Henry Stanyon and myself, with instructions to report on or before the 19th July 1923.”

**Mr. S. C. Shahani** (Sind Jagirdars and Zamindars : Landholders) : Sir, has Mr. Butler introduced the Bill ?

**Mr. M. S. D. Butler :** Sir, I introduce the Bill. I now move, Sir, that the Bill be referred to the Select Committee which I have just designated.

**Mr. W. M. Hussanally** (Sind : Muhammadan Rural) : In the Agenda the name of Sardar Bahadur Gajjan Singh appears, whereas the Honourable Member read Sardar Gulab Singh.

**Mr. M. S. D. Butler :** That is the intention. Sardar Bahadur Gajjan Singh is, I am afraid, ill, and will not be able to attend the meetings of the Select Committee.

Normally, Sir, I should have moved that a Bill of this nature be taken into consideration at once. But it is recognised that it has been sprung on the House at rather short notice, and the more elaborate procedure of reference to a Select Committee seems suitable. The fact is that it had been hoped to lay on the legislative anvil other sections of the Act as well as those which find a place in the Bill. But delay occurred, time passed and we realised that, if we did not make a motion to-day for amending the Act, we should not be able to do so in this session at all. There is a homely proverb that “ half a loaf is better than no bread.” We have therefore decided to separate off the matter which is contained in this Bill and present it for the sustenance of the Members of this House. I have learnt, Sir, from the Health side of the new and somewhat varied department to which I now belong that a light meal is often more digestible than a heavy one, especially if it is well cooked and served. The House has heard the names of the Members of the Select Committee to whom I propose to refer this Bill, and I am sure it will have confidence in their culinary skill.

**Dr. Nand Lal** (West Punjab : Non-Muhammadan) : Sir, I beg to offer a few suggestions to the Select Committee. Land Acquisition Act is, to my belief, in some cases, abused, and its provisions are sometimes applied to cases to which they should not be applied. Sometimes the land is acquired by the Government expressing in the notification that it is necessary for a certain purpose, but that purpose does not eventually appear, namely, it does not take its contemplated shape, and subsequently the same land is sold to private persons at a profit, with the result that the real owner whose land was acquired was paid a very small price for it. In this manner the owners of land are sometimes very much prejudiced. I offer this suggestion to the Select Committee for their consideration.

The second point which I beg to urge for the consideration of the Select Committee is this, that I take exception to the word “ company ” which occurs in the Bill. You will be pleased to see, Sir, in section 5-A, the following words occur : “ Any person interested in any land which



has been notified under section 4, sub-section (1) as being needed or likely to be needed for a public purpose or for a Company." This expression "for a Company" may cover any bogus company, or any ordinary company, which may last for two or three months, it may be a company which is floated to deceive the public, because sometimes the names of respectable men.....

**Mr. President :** The Honourable Member's speech would no doubt be in order when and if we come to section 3. The Honourable Member may discuss the principle of the Bill, which is to provide persons having an interest in the land with the right to object to its acquisition for certain purposes.

**Dr. Nand Lal :** I bow to your ruling, Sir. I shall not go into the details of the Bill, but whatever has fallen from my lips has, I believe, received appreciation from Members of this House.

Then the third point is.—I should not say the third point because No. 2 has been overruled and therefore I should say the second suggestion which I am entitled to offer is this, that a good many irregularities are made in the procedure. The objection is made, before whom ? Before the Collector. And who is the acquirer to all intents and purposes ? It is the same Collector. Then in some cases there has been very serious complaint that the Collectors will not apply their minds to the real grievances of the owners of the land acquired. I, therefore, would urge upon the Select Committee to kindly give their best consideration to this point also.

A third suggestion which I wish to offer is this, that while trying to find out the market value of the land, which is going to be acquired, a very perfunctory procedure is adopted, and the real market value, which could be established by making a reference to documents and other evidence, is not really paid, and if it is .....

**Mr. President :** Will the Honourable Member kindly read the Statement of Objects and Reasons. The Statement of Objects and Reasons declares that the object of this Bill is to provide that a Local Government shall not declare under section 6 of the Act that any land is needed for a public purpose, unless time is allowed for persons interested in the land to put in objections. The scope of the Bill is extremely narrow and the Honourable Member is going beyond it.

**Dr. Nand Lal :** Sir, I admit it is narrow, and, therefore, I shall finish my remarks.

**Mr. K. Ahmed** (Rajshahi Division : Muhammadan Rural) : Sir, I wish to make a few observations with regard to the attack made by my Honourable friend, Dr. Nand Lal, as I feel that it is entirely unjustified. I have never heard throughout the length and breadth of the country where I had the honour of going, that the Government, in order to make a large income, defraud private parties by acquiring their land at a smaller price than the prevailing market value.....

**Dr. Nand Lal :** I rise to make a personal explanation, Sir. I never said so. My learned friend did not follow me. Perhaps he was sleeping or reading, or was not sufficiently attentive to what I said.

**Mr. K. Ahmed :** I am surprised that my learned friend will not admit and withdraw the remarks that he made only a few minutes ago. The Honourable Members of this House are watchful. He said this that the real price of the land is not paid to the owner, and a smaller value than the market value is paid to him.

**Mr. President :** I am afraid it is very difficult for the Honourable Member to refer to the speech made by the Honourable Member from the Punjab and yet keep in order.

**Mr. K. Ahmed :** I suppose, Sir, if that is the construction that arises from the speech of my Honourable friend from the Punjab, my position is quite safe since I have expressed it, and in future it will be an object lesson to my Honourable friend from the Punjab not to take indiscreet objections to any Bill.

**Baba Ujagar Singh Bedi (Punjab : Landholders) :** Sir, with your permission, may I take the liberty to propose that the name of the Honourable Dr. Nand Lal be added to the Select Committee to serve on this Bill? He seems to be well conversant with some of the difficulties that he has explained, therefore I presume that it would be useful to add his name also to the committee.

**Rai Bahadur D. C. Barua (Assam Valley : Non-Muhammadan) :** I beg to support this proposition.

**Mr. M. S. D. Butler :** We have no objection, Sir.

**Mr. President :** Amendment moved :

“ That the name of Dr. Nand Lal be added to the said Committee.”

The motion was adopted.

**Mr. President :** The question is :

“ That the Bill be referred to that Select Committee with the addition of Dr. Nand Lal.”

the motion was adopted.

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## RESOLUTION *RE* RELEASE OF MAHATMA GANDHI AND OTHER POLITICAL PRISONERS.

**Mr. T. V. Seshagiri Ayyar (Madras : Nominated Non-Official) :** Sir, as the Honourable Member (Munshi Abdur Rahman) who gave notice of this motion is unable to be present this morning, he has authorised me to move the Resolution standing in his name. The Resolution is in these terms :

“ This Assembly recommends to the Governor General in Council that he may be pleased to set at liberty at an early date Mahatma Gandhi, Maulana Hasrat Mohani and Maulana Mohammed Ali and others, who were convicted at the Karachi trial.”

Sir, I may say at the outset that I do not intend to canvass the merits of the conviction. That is far from my object this morning. I shall not deal with any technical point. I shall deal solely with the question whether it is in the interests of the Government and of the people that

these men should be detained in jail. Before proceeding further, I should like to say a few words—I shall not take more than a minute—upon the history of political movements in this country, because that is germane to the consideration of the question of which notice has been given. Not only in this country but almost in every age and in every country there have been political movements which were intended to better the condition of the people and to make the Government yield some of their powers. There is nothing new in the movement which was started in India in this behalf. In other countries, no doubt, the conflict would be between one class and another. In a country like India where there is foreign rule, the conflict not unnaturally is between one race and another. That being the position, the question is whether there is anything wrong in the people of this country expressing a desire that there should be a change in the machinery of the Government. About 50 years ago this feeling manifested itself strongly that the Government of the day should be asked to give up some of their powers and to take the people more into their confidence. At that time, fortunately, the country possessed a few men who were the predecessors of those who now adorn the Treasury Benches, and who thought that agitation with regard to political movements should be conducted in a constitutional manner. The names of those gentlemen will be always cherished with gratitude and veneration by the people of this country. It is largely due to their endeavours that the National Congress was started in the year 1885. From the year 1885 onwards the Congress with varying success met at various centres of the country and passed a large number of Resolutions. They were sent up to the Government but were rejected and ridiculed. We were told that we were up in the air, that we were not walking on the ground and that we did not understand what was good for this country. This kind of ridicule and scoffing went on for a long time, but we persisted. Just as this Assembly is trying to convert the Government to its views, we persisted in passing Resolutions in the Congress and we tried to convert the Government of the day. We did not succeed. Sometime after came the enlargement of the Councils in a very half-hearted manner. That was considered to be inadequate to meet the demands of the people. Then came the Minto-Morley scheme which to some extent gave scope for the aspirations of the people and gave an opportunity to the people to elect their own representatives. The authors of that scheme soon found that it was not suited to the conditions obtaining in India and it was considered desirable that there should be more changes. Then came the Great War. That War gave an impetus to democratic ideals and the result was an upheaval in regard to democratic institutions all over the world. It was at this juncture that Mr. Montagu made that memorable announcement in the House of Commons. As indicating the goal which the people of this country should have before them, there could be no objection to that pronouncement. But, Sir, it was in the machinery that was set up to carry out the programme then indicated that differences of opinion arose. I believe I am right in saying that almost every intelligent man in this country, every one who took an interest in political affairs, regarded the machinery which the Montagu scheme introduced as inadequate. That was, I believe, the general feeling in the country. One section thought that some attempt should be made to

[Mr. T. V. Seshagiri Ayyar.]

work the reforms and that it should be regarded as the beginning of larger things yet to come. The larger section of the people regarded it as too inadequate and considered that if we accepted it, we might impair the progress of self-government and not advance it. That, Sir, is in brief the genesis of the non-co-operation movement. I am not here to argue whether the non-co-operation movement was right or wrong. If I may say so, I always regarded that as a wrong movement. Non-co-operation as a political weapon can never be a success. You cannot enable a people to understand the machinery, the working, of a Government by non-co-operating with those that are really working the administration. It is absolutely necessary that we should co-operate with them, learn from them some of the work which they are doing, unlearn a great deal, teach something to them and make them unlearn a great deal. Unless we are able to do that, we will never be able to govern the country. Therefore, Sir, my opinion has always been that this non-co-operation was a mistake. But that is not the matter upon which this House is now asked to express its views. The question is whether these men—taking for granted that they are actuated by wrong ideas—are honest and sincere patriots. Upon this matter I say without hesitation, that no one who sits in this Council can claim to be more patriotic and more single-minded in his devotion to the country than these men who have chosen the role of non-co-operation. They have been as good patriots as any that ever worked in the cause of this country. I would restrict myself to this problem, namely, whether it is good, whether it is right, that these men who are single-mindedly devoted to the cause of the country should be allowed to rot in jail although.....

**The Honourable Sir Malcolm Hailey** (Home Member) : Rotting?

**Mr. T. V. Seshagiri Ayyar** : The Honourable the Home Member says that they are not rotting in jail, but some of them are.

**The Honourable Sir Malcolm Hailey** : I only questioned the word "rotting."

**Mr. T. V. Seshagiri Ayyar** : The question I ask the House is whether it is desirable that these men should be allowed to continue in jail any longer. Sir, I said that the non-co-operation movement was not good for the country. I am prepared to go a little further and admit that some very serious mistakes have been committed in the name of non-co-operation. I cannot help saying that one of their greatest mistakes was the *hartal* when the Prince of Wales came to this country. It is that, I think, that has changed the history of this country considerably. I wonder if *hartal* had not been resolved upon and if non-co-operation in other respects had been insisted upon, whether we would not to-day be in an altogether different position from what we are. It has been the will of Providence that this great mistake should be committed. After all, every country has to go through fire in order that it may achieve self-government and I believe it has been the will of God that this mistake should be committed so that we may, in course of time, learn to avoid such mistakes and to conduct ourselves more correctly towards our Sovereign and his descendants when

they come to this country. Sir, I said, and I repeat it again that many mistakes were committed for which non-co-operation has to bear the blame : I do not want to hide anything from this House. There has been bloodshed in consequence of non-co-operation—I am not concealing it from Government. There can be no doubt that in consequence of non-co-operation, in consequence of the *hartal* which was declared at the time of His Royal Highness the Prince of Wales' visit, there was a riot in Bombay which resulted in the loss of many valuable lives. It was no doubt true that the great leader of the movement was pained more than anybody else at this sad incident,—there can be no doubt about that. Sir, if you take into account the large number of communities inhabiting India, its vast population, the wonder is not that there have been so many such incidents. The wonder is really that there have been so few, and I say that it is due to the saintly life and character of the leader of the non-co-operation movement that there has been so little bloodshed and so little violence in this country. There can be no doubt that if anybody else had had the handling of this great movement the country would have witnessed a larger number of riots, a great deal of sacrifice of valuable lives and a great deal of bloodshed, but it is because this great saint has been at the head of the movement, notwithstanding the vastness of the country, notwithstanding the various conflicting interests, there has been so little bloodshed and so little of rioting in India.

Sir, I began by saying that it is a natural ambition of the people of this country that they should desire that the machinery of Government should be changed and that they should have a voice in the administration of the affairs of the country. I also pointed out that the Government had been moving very slowly and very unwillingly in granting us rights. Sir, if you look at the political movements in other countries you will find that in recent years at least there has been an evident desire to take the people into the confidence of the Government, to release political prisoners and to grant Parliamentary institutions. Take for example Ireland. In Ireland coercion has been tried in every form and it has failed miserably, and I remember two years ago the Prime Minister of England stated that he was that day shaking hands with men who had waded through blood. Can that be said of India ? If you are going to release these political prisoners to-day, can the Honourable the Home Member say that he will have to shake hands with men who have waded through blood ? Take, again, the case of Egypt. What happened in Egypt recently ? I saw a telegram two days ago that martial law was abrogated, that parliamentary institutions were to be granted and that political prisoners were to be released. (*Mr. K. Ahmed* : “Zaghlul Pasha and others.”) Sir, I ask that the same thing be done in India. I say what has been found to be good in Ireland, what has been found to be good in Egypt, should be adopted in this country. Of course, it is easy to say that we are not Egyptians, that we are not Irishmen, and therefore what is good for Irishmen, and what is good to the Egyptians is not good for Indians. Sir, the teachings of history are the same whether it be in the case of Ireland, or whether it be in the case of India, and I ask the Government Benches to bear in mind the teachings of history and to act in accordance with its dictates and not simply put us off by saying that “you are not the same people as the Irish or the Egyptians.”

[Mr. T. V. Seshagiri Ayyar.]

Sir, a new era is beginning in this country. We are going to have a new election and we are going to have new men to handle the machinery of Government. The question is whether at this juncture it would not conduce to the happiness of the people, whether it would not conduce to the better administration of the country that these men who have been in jail should be released. I say that the continuance of Mahatma Gandhi in jail is a serious mistake. If I may say so, he is the greatest asset in favour of peace and tranquillity. I remember I was with him the day after the Bombay riot took place—I happened to be in Bombay then. The next morning I went to see him. He had spent a sleepless night and was almost tearful and weeping. Then he told me and a few other friends that had gathered that morning that an inspiration had come to him in the night and that he was sure that by the appeal which he was going to make he could check the spread of riot and that he could make the people more friendly ; and he issued his manifesto. And I venture to say that notwithstanding the fact that there were soldiers, notwithstanding the fact that the Government had taken all precautions, had it not been for the manifesto of Mahatma Gandhi, the riot would have spread and there would have been more bloodshed. Therefore, I say without hesitation that Mahatma Gandhi out of jail would be one of the greatest assets in favour of law and order, in favour of peace and tranquillity in this country, and I think it is desirable in the interests of Government itself that this great saint should be set at liberty. I do not know much about the two Moulanas whose names have been included in the Resolution. (Laughter). When I say I do not know them much, what I mean is I had no personal friendship with them. There is no doubt that they are venerated not only by the Muhammadans but also by the Hindus. They are regarded as great patriots and they have done a great deal of good to the country. The time of their release is near. You have made peace with Afghanistan. You have made peace with Angora. And I ask whether it will not do credit to you that you should set these two men at liberty a month or two before they are entitled to be released, and I think it will show great magnanimity on your part and generosity if you release these gentlemen. Sir, I shall not speak of the others. These three leaders have been followed to jail by a large number of people who regarded them as almost *avatars*, as incarnations, and there is no doubt that these men do represent all that is best in this country. Whether they were mistaken or not is not the question before the House. The question is whether these men were true sons of India and whether it is desirable that these true sons of India should be allowed to remain in jail any further. Sir, if you continue these people in jail, what would be the position ? You will embitter their feelings the more, their temper will become sour and when they come out of jail there will be bitter feelings and distrust in the country and this will spread throughout the land. (Mr. K. Muppil Nayar made a remark which was inaudible.) My friend on the right asked me a question whether they could do anything worse than what they have done. I do not object to these interruptions. I think my answer to him is that they have not done anything worse than what my friend is doing to-day. I certainly say that by the interjection of this remark my Honourable friend is doing more harm to himself and to the country than these

people ever did. As I said, a new era is opening up. The Government have shown that they can cope with all difficulties, that they can establish law and order notwithstanding preachings of this kind.

I ask the question seriously whether the end and aim of Government is simply to establish law and order. (At this stage the Honourable Sir Malcolm Hailey made a remark which was inaudible). I do not hear you. I am not objecting to any interruption. (*The Honourable Sir Malcolm Hailey* : "No, no, I was saying to myself.") But I only want to know what is being said. I ask the question whether the aim of Government is simply to establish law and order. There is no doubt that they can establish law and order. What is more important is to take the people with them, to give them the idea that the Government are doing the best in their interests and that their object is to make them tranquil, peaceful and happy. And I ask the question whether the continuance of these men in jail will conduce to bring about the result which I have just mentioned. Will the detention of Mahatma Gandhi in jail conduce to the interests of good government? On the other hand his release would redound to the credit of the Government. Will it not show that the people's wishes have been heeded, if these people are allowed to come out of jail. If these people are allowed to come out of jail there will be more contentment in the country and I think the Government machinery will be worked with less friction than it has been possible hitherto. Sir, I have almost come to a close. I only wish to make two appeals, one to my Indian friends in this Assembly and the other to Government. There may be personal differences between us and these non-co-operators and I ask my non-official friends to sink these differences, to rise equal to the occasion and to press on the Government the desirability of liberating these people, so that there may be permanent peace in the country. I had taken part, a very small part, in two of the conferences at which the foremost leaders of India were present, persons who had given their lives for the cause of the country. I am referring to the conferences in Calcutta and in Bombay. In both these conferences what was put in the forefront was the release of these prisoners. It was said and rightly said that in every country where an attempt is made to establish peaceful relations between the Government and the people, the first condition insisted on is the release of political prisoners; and this was pressed in the conferences which were held in Calcutta and Bombay; and I would ask my Indian friends whether they would follow the lead of these great men, men who have given their lives to the country, and ask the Government to let these people out. That is my appeal to my countrymen. You may have your own differences with them but this is not the occasion for harping on them. This is an occasion for fighting to get these people released, so that there may be lasting peace. Sir, I now appeal to the Government. I appeal to the Government in the name of humanity and statesmanship to release these prisoners. In the interests of securing lasting peace and good will, I ask them to release these people from jail. I ask them to follow the example which was set up by their predecessors 50 years ago when they guided us in our national movement, when they stood by us and trained us in the political work which we have since been carrying on; I ask them in memory of those great men and true men to release our compatriots from jail.

**Mr. President :** Resolution moved :

" This Assembly recommends to the Governor General in Council that he may be pleased to set at liberty at an early date Mahatma Gandhi, Maulana Hasrat Mohani and Maulana Mohammed Ali and others, who were convicted at the Karachi trial."

**The Honourable Sir Malcolm Hailey :** It is sometimes customary with us to wait and hear what the supporters of a motion have to say for it—a cautious proceeding which often suggests a very useful line of reply ; but here I shall answer at once, for in a case of this kind I have no need to wait for my adversaries to expose their front. I am not sorry that chance has given us Mr. Seshagiri Ayyar as the proposer of this Resolution, for he has stated his case, if I may say so, with singular fairness, with a full recognition of our own position, but with a strong appeal to our better nature and to the better feelings of the Assembly. Yet with all that, what is his case ? I am reminded of a debate which took place here in the early spring of 1922, and which showed how little Mr. Seshagiri Ayyar realizes the real tenor of the non-co-operation movement and its effect on the country. He then ventured on a proposition to the House which I will read to you :

" Speaking on the volunteer movement I make bold to say this, that the volunteer movement is not intended for purposes of intimidation and of preventing people from pursuing their peaceful occupations "

and then I look at our proceedings, which are not often punctuated by marks indicating the manner in which speeches are received, and I see following that in brackets the words ' Loud laughter.' That is what the Assembly thought at the time of Mr. Seshagiri Ayyar's judgment of events which were then passing before their eyes. He had his answer, not from us, but from Mr. Jamnadas Dwarkadas who had recently seen the effect of the civil disobedience movement in Bombay. I read it because it is entirely apposite to the question we are discussing this morning :

" I do not exaggerate that there is hardly any one in the country to-day who feels more than myself that these respected leaders who, if they had only followed the right lines, would have deserved their places on the Treasury Bench, are in jail to-day. The suffering of these people is a matter of grave concern, but if it is necessary for us in co-operating with Government to invite a little suffering on a few of the population in order to avoid the large suffering which will engulf the whole population in this country and which will ruin the prospects of this country, I say unhesitatingly let us come out and invite a little suffering on a small band of people, however painful it may be for us to bear that suffering, but let us under any circumstances and at any cost save the country from going into the clutches of a future which is very uncertain and which is bound to bring about great disaster to our country."

" You have to choose "

he said again,

" Between government of any kind on the one hand and on the other hand anarchy, chaos and disaster which will for centuries give a set back to the progress of this country."

And that also was the verdict of the House by a substantial majority. Mr. Seshagiri Ayyar failed in his case then. I shall see to it, if I can, that he fails equally in his case to-day.

I shall deal myself with the case of three of the persons mentioned in the Resolution, namely, Mr. Gandhi, Mr. Muhammad Ali and Mr. Shaukat Ali. I shall ask my friend Mr. Gwynne to deal with the case of



Mr. Hasrat Mohani. I use these titles instead of those which are bestowed on them in the Resolution, for there is some difficulty in ascertaining the exact titles which their followers bestow on the leaders of movements in this country. If I am right, Mr. Das at one time rose to the rank of Mahatma. At some dissatisfaction with his policy expressed by a section of his own following, he sank to the title of Srijut. He has now offended a further section of that once devoted band, and has descended to the title and status of Mister. Indeed, I fancy that there are some who in their wrath call him simply C. R. Das. I wish to avoid any offence to the non-co-operation warrant of precedence, and I prefer to use throughout the sufficiently comprehensive title I have adopted.

Now we have to ask ourselves in cases like this, in whose interests an application for release is made. The first possibility is one which I state only to dismiss as soon as made, I mean that it is made in the interests of those who put the motion forward. We can as I say dismiss this suggestion at once, for none of the followers of Mr. Gandhi would vote at the polls for any member of this Assembly or indeed take anything but hostile interest in his proceedings. The suggestion would indeed in any case be an unworthy one, and I should have in any case hesitated to give it any support. But there is a second alternative. Application to Government may be made in the interests of the prisoners themselves. I shall take first the case of Mr. Gandhi, and I shall, I hope, satisfy the House that in his case at all events this supposition is untenable. I need not say that neither the Government of India nor the Bombay Government has received any application or memorial from Mr. Gandhi asking for his release : if I have to criticize him elsewhere, I can at least pay this testimony to his sense of dignity and consistency. On the contrary such declarations as we have from Mr. Gandhi seem to show that he desires to remain in jail rather than be released ; certainly I fancy he would prefer to remain there to receiving release as the result of a vote of an Assembly which he despises. Thus, before Mr. Gandhi was actually sentenced a letter was published from him in "*Young India*" of March the 16th, 1922, addressed to Hakim Ajmal Khan, which runs as follows :

"Nor, I hope, will the country fret over those who are in jail. It will do them and the country good to serve the full term of their imprisonment. They can be fitly discharged."

--notice now the method which Mr. Gandhi would suggest and how different it is from the method suggested by Mr. Seshagiri Ayyar--

"before their time only by an Act of the Swaraj Parliament."

Then again "*Young India*" of April 13, 1922, published another letter from him to Mr. C. F. Andrews dated the 17th March. He says :

"But I would not expect you to see me in jail. I am as happy as a bird. My ideal of jail life, especially that of a civil resister, is to be cut off entirely from the outside world."

--including apparently Mr. Seshagiri Ayyar--

"To be allowed a visitor is a privilege a civil resister may neither seek nor receive. The religious value of jail discipline is enhanced by renouncing privileges. The forthcoming imprisonment will be to me more a religious than a political advantage. If it is a sacrifice, I want it to be the purest."

[Sir Malcolm Hailey.]

I now come to the period following his incarceration, and his attitude had not changed. In an interview he had with certain Ahmedabad mill-owners on the 14th March 1922, he said as follows :

“ No sooner should we effect a complete boycott of foreign cloth and the use of handspun and hand-woven khaddar ”

—it seems a curious remark to address to mill-owners, but there it is—

“ swaraj is immediately enhanced and in consequence whereof the doors of the jails would be automatically laid open and my companions and myself would be able to come out ; I anxiously await such an auspicious occasion ”

—an aspiration in which the mill-owners probably did not join. Finally, the following is a further statement made by Mr. Banker who was, if I remember rightly, his companion in jail ; you will find his statement in the Bombay newspapers. Mr. Gandhi, he said, did not want an agitation for any special concession :

“ He is fighting out for what he considers to be rights of prisoners. He holds that civil resisters when they go to prison are like prisoners of war and they may and should fight for their rights in a becoming manner. . . . . It is easy to realize that the greater the agony, provided it is unprovoked on the part of the sufferers, the greater will be the relief. Thus whilst the political prisoners must fight out for their rights in the prisons and face the worse the public may know their hardships to stimulate them to greater effort to win swaraj so that they may become altogether impossible.”

That then is the attitude throughout of Mr. Gandhi. Obviously the application which has been made to Government on his behalf would receive no approbation from him himself. I have referred only to his attitude ; we have nothing to show that the views of the other prisoners mentioned in the Resolution differs from his. Then, since those two alternatives are ruled out, I come to a third, one which really formed the chief basis of Mr. Seshagiri Ayyar's claim. Is it or is it not to the interests of India that an application of this nature should be granted ? I will join issue at once with Mr. Seshagiri Ayyar in suggesting that Mr. Gandhi is our greatest asset in the cause of the peace, quiet and the contentment of this country. I join issue with him in saying that it is in the interests of the permanent peace of this country that he should be released. What has been Mr. Gandhi's mentality in the past, what has been his political career and with what results has that career been attended ? In the interests of what class is it that he should be released ? Take any class of the Indian community that you care to mention and I ask you to realize the effect on it of the success of his very peculiar tenets. Take the industrial class. What was it he said in 1908 regarding the advancement of Indian industries ?

“ I cannot recall a single good point in connection with machinery.”

He would allow no industrial progress at all ; he would stop every loom in our mills ; as he has openly declared, he would prefer to see the whole of our railways out of action.

“ it must be apparent to you,”

he says,

“ that railways are a most dangerous institution. Man has gone further away from his Maker.”

I do not know for myself whether I should feel closer to my Maker in a bullock cart than on a railway ; but I do know that the closure of the

railways in India would bring ruin not only to industrialists but agriculturists. Again, is it in the interests of the legal profession that his release is asked? We were wont to congratulate ourselves once that the impartiality of the courts, and the ready means of justice provided for the population of India was one of the chief advantages secured to this country by our administration. But, says Mr. Gandhi :

"Hindu and Muhammadan quarrels are due to the intervention of lawyers. Men were less unmanly if they settled their disputes either by fighting or by asking their relations to decide them. They become more unmanly and cowardly when they resort to courts of law."

These remarks, I think, will appeal forcibly here. But I take again another profession which has representatives here, though not so numerous; I mean the medical profession.

"Hospitals,"

He says,

"are an instrument which the devil has been using for his own purposes in order to keep his hold on his kingdom. Medical science is the concentrated essence of black magic. Quackery is infinitely preferable to what passes for high medical skill."

But the doctors need not be depressed; they are in good company; and I will take at random another class, those interested in the progress of education, either higher or primary. I will read to the Assembly the doctrines of this astonishing thinker on that subject :

"What do you propose to do by giving your boy a knowledge of letters? Will you add to his happiness? Do you wish to make him discontented with his cottage or his lot?"

Then, as regards the teaching of the English language. We ourselves are wont to boast that, wherever the language of Shakespeare and Milton is spoken, men's ideas insensibly turn to thoughts of liberty. Mr. Gandhi does not join in that view. He says :

"By receiving English education we have been enslaving the nation, and hypocrisy and tyranny have increased. English-speaking Indians."

—I refrain from commenting on the awkward fact that by our rules English is the language in which our debates are conducted—

"English-speaking Indians have not hesitated to cheat and strike terror into the people."

Then, finally, I come to a class to which we on this side of the House belong quite as much as our friends opposite, the class interested in the constitutional development of India. What would Mr. Gandhi have said of yesterday's debate, for what, according to Mr. Gandhi, is the use of responsible or representative government? Listen to what he says on parliaments in general—and I am inclined, when I read this extract, to ask that your official reporter should hold his hand :

"That which you consider to be the mother of Parliaments is like a sterile woman and a prostitute. Both these are harsh terms, but exactly fit the case."

I have purposely given these illustrations of the type of doctrine which Mr. Gandhi set out to preach, not of course because he has been convicted on any charge relating to these doctrines, but because they suggest the question whether such a man can ever really be a safe political guide or competent to control or restrain the great popular feeling. He is undoubtedly capable of arousing and might arouse again if set at liberty.

[Sir Malcolm Hailey.]

Let me be clear ; I am not attacking Mr. Gandhi's private character. I will, if you wish, admit the sanctity his friends claim for him ; but this is not the only case in which there is a gulf fixed between sanctity and sanity. I should find it hard to believe that it is in the interests of India that a man be given licence to promulgate doctrines of such a nature ; but that is neither my present point nor my argument. If we only had to deal with the propagation of doctrines of this class, or the teaching of peculiar notions regarding social advancement, or the advisability of social reaction, it would be sufficient to ask that the friends of the preacher should place him in some kind of decent reclusion. It would be unnecessary for the State itself to interfere. But the case goes much further than this. We have to deal with Mr. Gandhi as a political force, and with the results of Mr. Gandhi's political propaganda. Like many other impatient reformers, he found the path of social reform too slow, and he had to seek, by means of political pressure, the satisfaction of ideals which he could do but little to forward by advancing them in the ordinary manner. I cannot go into the full history of the last three years ; time would not permit me and the occasion does not deserve. The full history of the movement which he initiated and of which he was the chief supporter is too long a tale for me to tell to-day. Briefly, it culminated in the doctrine and in an attempt to initiate the practice of "civil disobedience." As I said recently, civil disobedience is not that mild and Platonic programme which it is sometimes represented to be. I will read again the definition, for it is important in this connection :

"Civil disobedience means the deliberate and wilful breach of non-moral laws, that is, laws the breach of which does not involve moral turpitude, not for the purpose of securing repeal of or relief from hardships arising from disobedience of such laws, but for the purpose of diminishing the authority of or overthrowing the State."

If that was the object of civil disobedience, it would be idle for its author to pretend that he could be ignorant that its promulgation would inevitably be followed by disorder, and by a tendency to defy authority of every kind, either domestic, social or that represented by the State. As a speaker once said—I quote the words because they are the best statement I know of the inevitable results of this movement :

"The object of the movement being what it is, the overthrow of the existing system of government, what is the use of telling us that either its leaders or its followers have signed the pledge of non-violence ? The pledge is a farce, it has already been broken a hundred times over, and the longer the movement continues, and the farther it advances the more it will be broken."

That of course is exactly what has happened. I am not going to charge

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Mr. Gandhi with the direct authorship of the many outrages, the lamentable breaches of the common peace which have occurred under the influence of this movement. But since it is suggested that it would be well to release Mr. Gandhi, with the full knowledge that he might once again lead such a movement, I must give the Assembly the very broadest outline of what happened when the agitation of Civil Disobedience was under his control. In 1920 there were constant fracas of minor description and recurring disorders, many of which were directly connected with the activities of the non-co-operating party. Early in 1921

there occurred the widespread agrarian riots in Rae Bareilly and Fyzabad which were due in great part at all events to the incitement of volunteers organized by that party. That was followed in March by sporadic trouble throughout the country, of which I quote one instance as typical. During the trial of a non-co-operating volunteer at Giridhi in Hazaribagh 10,000 people endeavoured to storm the jail and looted the police station ; then in the following month, April, there occurred the serious outbreak at Malegaon. I have here with me the High Court judgment ; it traces this outrage, which ended in arson and brutal murder, to the resentment of non-co-operating volunteers against a sentence of fine for disobeying a perfectly legal order passed by the Magistrate ; the order merely forbade them to carry cudgels. In the following months there were constant disturbances due to picketing, and I have described on another occasion exactly what picketing meant. I should hesitate to tire the House by reading to it the series of judgments which I have here regarding the nature of the operations undertaken by volunteers under the guise of picketing, but it is abundantly proved that these operations involved direct intimidation, terrorism, sometimes arson, and even a suspicion of murder. I need not, however, dilate on this for there is probably no one here who has not had direct and even ocular demonstration of what the volunteer movement really meant, and the reign of terrorism it created. But I must hurry on. I have carried you down to Malegaon. In the months following that tragedy there were again constant disturbances ; from April to November I have counted some 40 incidents, all showing the growing demoralisation of the country. I count among these the lamentable series of affairs at Chandpur which caused such widespread and useless suffering among the garden coolies. Then in August there broke out the rebellion in Malabar. I need not dilate to a House, which is fully aware of the circumstances of the Malabar rebellion, on the appalling nature of the occurrences in that distressed area and the unparalleled suffering which they caused. I will only read Mrs. Besant's description of it, for that is also apposite to our discussion to-day :

“ It broke out,”

says Mrs. Besant,

“ sharp on the date first announced by Mr. Gandhi for bringing Swaraj and the vanishing of British Rule. The slaughter in Malabar cries out his responsibility. Non-co-operation is dead in Malabar.”

And again.

“ That is the ghastly result of preaching Gandhism, non-co-operation, and Khilafatism.”

Then, in November occurred the riots in Bombay on the occasion of the visit of the Prince of Wales : I must remind the House that in those riots some 58 persons were killed and 298 injured. Now hitherto I have purposely refrained from assuming any direct responsibility on the part of Mr. Gandhi in connection with these occurrences : as I said before, I do not pretend that he was consciously or directly their author, however much he may have been morally responsible for them. But when I come to the riots which occurred in Bombay, then I cannot refrain from mentioning his share of responsibility, for he has admitted it himself.

[Sir Malcolm Hailey.]

"It is impossible for me,"

he said,

"to dissociate myself from the mad outrages of Bombay. As a man of education having a fair share of experience of the world, I should know the consequences of every one of my acts. I knew them. I knew that I was playing with fire. I ran the risk and"

—I ask you to note this—

"if I were set free, I would still do the same."

Then, again,

"Non-violence is the first article of my faith. It is the last article of my faith. But I had to make my choice. I had either to submit to a system which I considered had done an irreparable harm to my country or incur the risk of the mad fury of my people bursting forth when they understood the truth from my lips."

The mad fury came ; but whether he or we were responsible the House can decide for itself. But events were now drawing to a head ; the Civil Disobedience party were preparing for the final struggle. At Ahmedabad on the 28th of December they appointed Mr. Gandhi their dictator\* with full powers save in one respect—an interesting stipulation—that he had no power to conclude peace with the British Government. But they had to reckon with a more ruthless force than the British Government ; they had to reckon with the inevitable consequences of arousing the passions of an inflammable and ignorant population. It is enough that I merely should give the Assembly the names of places at which disturbances occurred during the next two months. If I mention Ferozepur, Jirka, Rangpur, Bareilly, Madras, Sirajganj, these names will probably recall to those who remember the history of that period the disorderly occurrences with which they are connected. But I come to what is almost the final scene, I mean the outbreak at Chauri Chaura towards the end of February 1922 ; and on that, again, I must dwell for two reasons. In the first place, the High Court traced that tragedy to the direct activity of Congress and Khilafat volunteers bound under vow to the policy of Civil Disobedience, and in the next place, Chauri Chaura affords a second instance in which Mr. Gandhi had to admit his moral responsibility for what occurred :

"It is impossible"

he said,

"to dissociate myself from the diabolical outrages of Chauri Chaura."

Shortly afterwards he was arraigned on a charge of sedition and he did not deny the charge ; he could not deny the charge. His organisation\* in its Resolution of December 1921 had already announced that it was at war with the British Government, and his own statement before the Sessions Court was fully in consonance with that announcement :

"I am here,"

he said,

"to invite and submit to the highest penalty that can be inflicted on me for what in law is a deliberate crime."

I may remark that at an earlier stage, as he himself admits, he was guilty of even a graver crime than sedition :

"The National Congress began to tamper with the loyalty of the sepoys in September last year (1920), the Khilafat Committee began it earlier, and I began it earlier still, for I must be permitted to take the credit or the odium of suggesting

that India had a right openly to tell the sepoy and every one who served Government in any capacity whatsoever that he participated in the wrongs of Government."

He could not, I say, deny the charges on which he was arraigned. Yet I feel that before the bar of history he will have to meet even graver charges than those for which he was indicted. I have said before that I do not attack his character ; he may be a saint or a visionary as you will ; it may be that he was seeking no personal gain or material advantage from the agitation which he has organised. If you will, he was fanatical and misguided rather than a criminal in the ordinary sense. Nevertheless, history will undoubtedly hold him morally responsible for the results of his teaching, and deem him culpable for his share in leading an undisciplined and an inflammable population into disorder. For myself, I wish to use no harsh words regarding his recent career ; but with all the virtues he may possess, he appears to me to be a man avaricious of power and unconscionable in the means he adopts to attain his ends. He has done more than any man in his generation to disturb the peace of India ; he has done more to hamper its constitutional and political advance. Yet Mr. Seshagiri Ayyar invites us to believe that if Mr. Gandhi were again at liberty, he would be an asset on our side in the maintenance of peace and the preservation of order. If there is a word of truth in the history which I have given to the Assembly, I say that his liberty to resume the campaign which did so much harm to this country for two years, so far from being an asset in the preservation of peace and contentment, would be likely once more seriously to imperial the tranquillity of India. For it would have to be a release without a guarantee and without promise on his part that he would abstain from resuming his activities. With the best will in the world Mr. Seshagiri Ayyar could not venture to suggest that Mr. Gandhi should be released on conditions.

I turn to two others of those whose names are in the Resolution, Messrs. Mohammed and Shaukat Ali. I feel here that my task is infinitely easier, for their case has already been debated at length by this Assembly. It will be remembered that they were sentenced to two years' imprisonment in November 1921, mainly as the result of the famous Karachi Resolution, which stated that :

"It is in every way religiously unlawful for a Muhammadan at the present moment to continue in the British Army, or to induce others to join the Army."

The charge against them therefore was one under section 505 of the Indian Penal Code. As I say, we debated the question of their release in the Assembly, and the case for Government was stated very fully by Sir William Vincent. As a result there was not a single vote recorded in favour of the Resolution. Now what has happened since then to make the Assembly change its mind ? They have served the greater part of their sentence. They have not, as far as I am aware, made any application for premature release. Mr. Seshagiri Ayyar suggests that the release of these men a month or two before their sentence expires would bring peace and contentment, or at all events some happiness, to India. I am again diametrically opposed to the point of view taken up by Mr. Seshagiri Ayyar. I say that these two men have been stormy petrels wherever they have appeared. I can take you back to 1911 but I have no desire to go back as

[Sir Malcolm Hailey.]

far as that. Take only the period of the war. I admit that at the beginning of the war they took a correct attitude :

“ Disobedience ”

they said,

“ to the orders of the Government which gave us full religious liberty is a sin of ungratefulness which Islam can never tolerate.”

But their subsequent conduct was entirely inconsistent with that very proper statement. Early in the war they were in communication with the men who went to the Black Mountain and set up the “ Provisional Government of India ”. In 1919 they announced that the only course left for a Muhammadan was to join a *jehad* or to migrate to a freer land. I presume that the agitation that they subsequently conducted was considered by them as the equivalent of *jehad* for, as we know, migration to Afghanistan involved hardship of a nature which these two gentlemen would be the last to face. The only migration that we know of either of them undertaking was in the form of a deputation to Europe, and the public press has already made us acquainted with the degree of luxury and presumption which Mahomed Ali practised on such occasions. Then the Afghan War broke out. They announced to their friends the astonishing proposition that it was unlawful to fight against the Amir, and that it was their duty to join in a *jehad*. But, says Mr. Seshagiri Ayyar, we have now concluded peace with the Amir of Afghanistan. If so, it is not by their assistance, or even apparently with their good will ; they would have preferred to have him an enemy and a menace to India, instead of our good friend and neighbour. When we were negotiating with him in 1920, a conference, at which Shaukat Ali was present, decided solemnly to advise the Amir not to make peace with Great Britain. Let me repeat again two or three salient passages—and they will be short ones—from the indictment which we presented to the Assembly in March 1922. In 1920, in October, Mohamed Ali said at Shajehanpur :

“ There is one course more for Muhammadans and it is this, that you should use the same force against your opponent which he used against you. It is called *jehad*, that is the *jehad* which Mahatma Gandhi has preached to you.”

With all my feeling against the results which Mr. Gandhi's programme produced, I am not going to accuse him of preaching a *jehad*. In the same month at Bareilly, Mahomed Ali said as follows :

“ When we have to kill all Englishmen we will not come stealthily ; we will that very day declare openly that there is war with the sword between you and us and it will be sheathed only when your neck disappears or ours.”

And finally I take Shaukat Ali at Jhansi in the following month, namely, November. He said :

“ If, God forbid, owing to our weakness, or any other cause, we do not succeed in non-co-operation, then we must either leave the country and go somewhere else, or will cause bloodshed in the country and ruin it. If unfortunately this non-co-operation programme fails, then I say to the Mussalmans of India, then your last resort will be to draw your swords.”

That is the kind of soul force that is preached by Mr. Mahomed Ali and Mr. Shaukat Ali ; you, as much as we, are interested in the failure of non-co-operation ; I have even heard to-day that it has failed ; if so, these men have warned you what to expect. You will remember that shortly



after that, as the result of an interview between Mr. Gandhi and His Excellency the Viceroy, these two men made what was considered at the time a recantation or an apology. I fancy that their word would be an assurance. Never mind what it was called; the point is that they stated that it was not their object or intention to provoke violence and bloodshed. I quote that fact because it affords valuable proof of what is likely to happen if they now gave us any guarantee of good behaviour; for it was not long after giving that assurance that we find them again on the war path, though their statements were a little more carefully calculated. They stated that it was not yet time to raise the *jehad*. When the time came, however, it would be necessary to do so.

"When there is a *jehad*,"

one of them said,

"I will not support then the non-co-operation oath. In the case of *jehad* I do not consider it wrong to use the sword."

Again

"Bloodshed is never an evil at all times. Sometimes it becomes a religious duty, but it is not so now."

But I must come, without further delay, to the final scene, the trial at Karachi. I have described to the Assembly what was the nature of their offence. I can conceive no graver offence committed by any subject of any country than an attempt to subvert the loyalty of the Army. I have suggested that it would be no use for us to ask that these two men should give a guarantee of good behaviour if we released them before the date at which their sentence expires. And indeed why should they give such a guarantee? There is now but a short time before they must be released in the ordinary course of affairs. Why should they do anything to spoil the market which they will exploit when they are again at liberty? If I speak strongly on this subject, it is because I feel strongly; you have here no case of unworldly and self-denying ascetics; you have not here a case of misguided men who are above all material or personal advantages. I ask you to consider their career; I ask you to realize the real meaning of their agitation; I ask you to realize the real meaning of the tours which they conducted throughout India when they were at liberty and which were continued during their incarceration by the ladies of their families. What was the object of those tours? Largely to collect subscriptions. That is my charge against them. (*Mr. K. Ahmed*: "They are not so poor, Sir.") The Honourable Member may disprove that charge if he will; he will have ample opportunities to convince the House to the contrary.

As I have said, I must leave Mr. Hasrat Mohani to the care of my friend, Mr. Gwynne, but I must go back to the general principles which must guide us in such cases. Mr. Seshagiri Ayyar has asked us, why the Government of India does not make a bold and friendly gesture, and seek the goodwill and sympathy of the great mass of the people of India by releasing its political prisoners? Why, when this has been done in Ireland and in Egypt, should it not also be done in India? I conceive that the principles which should guide us in this respect should be these: we desire that every man shall have a fair trial and avail himself to the full of every means of defence offered by the law. As regards the severity of his sentence, if convicted, we hold that the best judge is the court; if an offender is

[Sir Malcolm Hailey.]

aggrieved with the judgment of the lower court in regard to the length of his sentence, he can appeal to a higher court ; we should for our own satisfaction actually prefer him to do so. But when once the judgment of the higher court has been obtained, we are naturally unwilling to interfere. The executive is not the best judge, it will be admitted, whether a man's sentence should be enhanced ; in justice to the judiciary, the executive should be chary of intervening to cause that sentence to be reduced. What I say of the executive applies equally to the Legislature. Given the sentence then, what decides us on occasion to commute sentences or to release prisoners ? I shall not travel here over ground to which we shall come on a Resolution to be moved later in the day, namely, the rules which decide the circumstances in which a prisoner shall be released on account of ill-health, for that matter is not at present in issue. But in regard to a general amnesty such as Mr. Seshagiri Ayyar suggests, obviously Governments do not ordinarily proceed to this measure until they are convinced of two things, firstly, that the goodwill of the population will be gained for some important constitutional change which has long been in agitation, or secondly, that an agitation having died down it is then no longer necessary to retain in prison large numbers of people who have been found guilty of purely political offences and that they can safely be released without the recurrence of disorder. Now on this occasion we contend that there would be nothing to be gained by attempting to secure goodwill by releasing these men ; on the contrary, we believe that their release would be likely to be followed by further disorder and further breaches of the peace. For that reason it is impossible to hold that there is any good occasion for general amnesty. We must, therefore, take each case on its merits. In doing so, we must consider in each case the advantage and the disadvantage of releasing a prisoner, for no question of right arises. The courts have decided on the length of the sentences ; it is not for us to attempt to correct the judgment of the courts in such a matter ; commutation would only be justified if we were convinced that there would be a substantial gain to the interests of India by the release of any one prisoner. If there is anything in the view I have expressed to the House, then the balance of advantage lies entirely in the other direction. The one present need of India is to secure some period of peace, some breathing space, for its orderly development, materially, socially and morally. If that is truly the need of India, then the common interest demands that instead of joining with Mr. Seshagiri Ayyar, you should insist on deprecating any measure which would result in leaving such men free once again to roam the country and to recreate the disturbances which have done so much harm to India.

**Mr. C. W. Gwynne** (Home Department : Nominated Official) : Sir, may I be permitted to make a few observations in regard to one of the prisoners whom the Honourable Mover suggests that Government should set at liberty, namely, Maulana Hasrat Mohani. I should like to put the House in possession of the facts in regard to this man, to show what manner of man he is, whom the Honourable Mover describes as the great Maulana, a great man, who will bring permanent peace to the country. I hope to be able to establish four propositions. Firstly, that he committed a very grave offence for which in sternest times he would have

been made to drink hemlock or would have ended his career on Tower Hill. Secondly, that he received a full and careful and scrupulously fair trial before the Sessions Judge, Ahmedabad, and in the Bombay High Court, that he himself preferred no appeal against his conviction under section 124-A of the Indian Penal Code, and submitted no petition under section 401 of the Code of Criminal Procedure for mercy. Thirdly, that the evil results of speeches such as his which were calculated to encourage, even if they did not directly advocate, violence and bloodshed, which fanned the flame of sedition, and in which the establishment of an independent Indian Republic was brazenly preached—the evil results of such speeches, I submit, extend far beyond the feelings of enmity, hatred and disaffection created in the minds of his immediate audience : his words were such as to play upon and exacerbate the racial passions and prejudices of the youth of India throughout the length and breadth of the country. Fourthly, that, for these reasons, there is no case for extending clemency to Maulana Hasrat Mohani and that it is not in the public interests to do so, for he is not the apostle of peace my Honourable friend Mr. Seshagiri Ayyar seems to imagine.

**Mr. T. V. Seshagiri Ayyar :** I did not say that he was an apostle of peace.

**Mr. C. W. Gwynne :** I heard the words “ apostle of peace ”, but if they did not refer to this prisoner I withdraw them. Anyhow, it does not affect my argument.

As to the manner of man Mr. Hasrat Mohani was and as to his offences I will rely solely on his own words and on the judgments of the Courts. The House may remember that he was convicted in respect of three speeches, two at the Indian National Congress and one at the All-India Moslem League, in December 1921 at Ahmedabad. He was charged with regard to the first two speeches under section 124-A of the Indian Penal Code and in regard to the third under section 121. The result of the trial is well known. He was sentenced to two years' rigorous imprisonment in three counts under section 124-A, the sentences to run concurrently, and the case under section 121 was referred to the High Court. Now what were the words that Mr. Hasrat Mohani used ? I do not wish to pick out a few isolated passages in his speeches but rather to judge of his intentions from their general tenour. Step by step he maps out the stages which are to culminate in forcible resistance to the Government established by law. He defines the goal to be adopted by Indian Moslems, the goal to be adopted here and now, namely, the attainment by any possible means of complete independence from British control. Next he proposes the declaration of an Indian Republic on the lines of a United States of India on the 1st January 1922. He regards as the main advantage of an Indian Republic the removal of the British power and he has the hardihood, the effrontery, to say that had an independent Indian Republic existed the Moplah Rebellion would not have taken place. Well, every one knows that one of the main causes of that Rebellion was the inflammatory oratory indulged in by persons of his way of thinking during June, July and the early part of August of 1921. He advocates the establishment of parallel institutions side by side with the Departments of Government by law established. Let me quote his words :

[Mr. C. W. Gwynne.]

"Let us define our goal as complete independence and widen our definition of our means so as to admit all shades of opinion, violent or non-violent. There are only two possible means of replacing one Government by another. One is destruction by the sword ; the other by setting up a parallel Government."

He then goes on to admit that a collision between the two sets of institutions, is inevitable, and when this collision takes place and the constitutional Government adopts a policy of repression, as it must necessarily do, then—and these are his words :

"The Muhammadan at least will give up his attitude of non-violence and will when faced with the barrel of a gun despatch his enemy to hell and will reply to martial law by resorting to guerilla war : that is, in the words of the Koran, 'Kill them wherever you see them'."

The dominant note of these speeches is an exhortation to his hearers to make themselves free from all control of the British Government and to adopt immediately complete independence. Now what conclusion would any sane man draw from those words ? Let me quote from the judgment of the Judge at Ahmedabad :

"It is idle to say there is no intention to create feelings of disloyalty and enmity to the existing Government. The disloyalty and enmity sought to be evoked are of an extreme type. They can only be satisfied with the destruction of the existing Government. When in addition to this the alleged misdeeds of the existing Government are emphasised and improper motives and callousness to the interests of its subjects imputed to it, there is no doubt passions will be inflamed and feelings of disloyalty intensified. This result is all the more likely to ensue at the present time and in the places where the speeches were delivered. Considering that political feeling ran high in the country as well as among the audiences to whom the speeches were addressed, it is not necessary to elaborate the point further. The only reasonable conclusion which follows from a perusal of these speeches is that the accused intended to excite feelings of disaffection against the Government established by law."

His friends may say "This is all very well ; but the acting Chief Justice found Hasrat Mohani not guilty of the charge of instigating the waging of war and Mr. Justice Crump agreed with him." That is true, but what did they say in their judgments ? They both found that though the offence of waging war was not proved yet the speeches did prove him guilty of the offence of sedition, and Mr. Justice Crump in describing the language of these speeches used these words—"Such language is of course gross sedition."

These citations I maintain are ample proof that Hasrat Mohani deserved the sentence passed upon him. Why should that sentence be remitted ? He had a scrupulously fair trial. Unlike many a professed non-co-operator, he made a statement at the trial. He maintained that all he intended to do was to give a friendly warning to Government—a curious warning forsooth from a man who advocated the subversion of the British power and the establishment of an independent Republic ! He made no appeal against his conviction under section 124-A. He made no appeal to the Government of India under section 401 of the Criminal Procedure Code. Whatever may be the reason that he did not do so, the judgments of the Courts show that on the merits he had no case. I will not weary the House by giving any more citations from these speeches. I will merely refer to one or two other incidents in the career of this man. In 1916 he had to be interned because it was not considered safe that one so dangerous should be left at large during

the War. As soon as he was released from internment, in a speech at Cawnpore he declared that it was sinful to help the English "rather it is like booking a passage for Hell." In 1921 at the Unao District Conference he advocated the concentration of effort on seducing men from the Army and the Police. I ask the House in all seriousness, does such an enemy of the established Government, such a traitor and almost a rebel deserve clemency at the hands of Government ?

My third proposition is self-evident. One has only to glance at the history of 1920, 1921, 1922 to see that from one point of view it is the story of misguided youth : The Mahajaria exodus of 1920, the Educational Boycott of 1921 in Bengal and the Central Provinces, the Volunteer activities in Nagpur and Delhi and Gorakhpur with its pitiful exhibitions of premeditated waywardness ; the vast number of disturbances with loss of life in 1921 and up to the spring of 1922 ; the fact that as a result of a so-called peaceful movement, many hundreds of innocent persons were done to death. Why multiply evidence ? The melancholy truth remains. I do not say that Hasrat Mohani alone was responsible for all these results ; but that he is one of those responsible and that he did play a prominent and important part in a movement as dangerous and as fraught with potentialities of mischief as any movement in the history of the world. And what has Hasrat Mohani got ? Two years' imprisonment, and the sentence will expire in a few months time. Do Honourable Members seriously think after hearing the words he has used that there is any case for leniency or clemency ? There is certainly none on the merits. Does expediency or magnanimity suggest that it should be exercised in this case ? I think not. Magnanimity with such a man would be misplaced ; and in his case expediency must yield to justice. Sir, the subject lends itself to peroration ; but I prefer to rely on the facts and the words, the very words used by Mr. Hasrat Mohani. Let them speak for themselves ; and I feel convinced that they will not speak in vain to this House.

**Mr. President :** The question is :

" That this Assembly recommends to the Governor General in Council that he may be pleased to set at liberty at an early date Mahatma Gaudhi, Maulana Hasrat Mohani, and Maulana Mohammed Ali and others, who were convicted at the Karachi trial."

**Rai Bahadur Pundit J. L. Bhargava** (Ambala Division : Non-Muhammadan) : There is an amendment in my name, Sir.

**Maulvi Miyan Asjad-ul-lah** (Bhagalpur Division : Muhammadan) : Sir, I move that the name of Ali Brothers be omitted from the Resolution

**Mr. K. Ahmed** (Rajshahi Division : Muhammadan Rural) : I rise on a point of order, Sir. Can the Honourable Member at this juncture move by word of mouth, by giving short notice, that he wants to withdraw the name of Ali Brothers ?

**Mr. President :** The Honourable Member is perfectly in order. In view of the amendment which the Honourable Member from Bengal has seen fit to put on the paper he himself is on very thin ice indeed.

**Maulvi Miyan Asjad-ul-lah :** (The Honourable Member spoke in the Vernacular\*).

**Mr. President :** The original question was that :

“ This Assembly recommends to the Governor General in Council that he may be pleased to set at liberty at an early date Mahatma Gandhi, Maulana Hasrat Mohani and Maulana Mohammed Ali and others, who were convicted at the Karachi trial.”

Since which an amendment has been moved :

“ To omit the words ‘ and Maulana Mohammed Ali and others ’.”

The question I have to put is that that amendment be made.

The motion was adopted.

**Rai Bahadur Pandit J. L. Bhargava :** Sir, I move the amendment standing in my name which is to the effect :

“ That between the words ‘ Mahatma Gandhi ’ and ‘ Maulana Hasrat Mohani ’ the words ‘ Lala Lajpat Rai ’ be inserted.”

Sir, I may submit at the very outset that the case of Lala Lajpat Rai stands on quite a different footing to that of the other gentlemen mentioned in the Resolution, and I am quite at one with the Honourable the Home Member that the case of each individual should be considered on its own merits. It is hardly necessary for me to tell this House who Lala Lajpat Rai is, for, I presume that he is well known to every Member of this Honourable Assembly. I may briefly say that he is not only the recognised political leader of the province of the Punjab, but he is one of the few foremost All-India Leaders whose name will be remembered by posterity with gratitude and veneration. He has all along devoted his life to religious, educational, social and political activities. His person, his purse, his time and energy have always been at the disposal of the country. He is loved and revered not only by men of his own religious persuasion in the province of the Punjab to which he belongs but by every community of the whole of India. He has been to England twice and once to America and has made many personal friends there. One of them I may mention. He is Colonel Wedgwood who is as much interested in his welfare and has as much feeling for him as any Indian. After his return from America he presided over the memorable special session of the Indian National Congress held at Calcutta in 1920, and he was the President of the Punjab Provincial Congress Committee at the time he was first arrested. He was first arrested on the 3rd December 1921 and also convicted, but his arrest and conviction were declared illegal by Government and he was set free in the month of February 1922. But no sooner was he set free than he was re-arrested outside the jail gates and hauled up. There were two charges against him, one under the Prevention of Seditious Meetings Act and the other under the Criminal Law Amendment Act and he was convicted and sentenced to a term of imprisonment aggregating two years. As regards one of the charges, even the learned Government Advocate who represented the Crown was of opinion, which he expressed in the course of his arguments, that the prosecution had failed to prove the elements necessary to constitute an offence under the

\*The original speech together with an English translation will be printed in a later edition of the Debates.

Criminal Law Amendment Act and he did not press that charge. Still this House will be astonished to hear that Lala Lajpat Rai was convicted on that charge also. Lest there might be any doubt in the mind of any one here I may read from a paper in which the arguments which were advanced by the learned Government Advocate were reported.

**The Honourable Sir Malcolm Hailey :** I am very loath to interrupt my Honourable friend, but I put it to him that he is on delicate ground, for he is entering upon a discussion of the justice of the conviction and thereby calling the action of the Judge into question.

**Rai Bahadur Pandit J. L. Bhargava :** I am simply pointing out one of the strongest reasons that will lead the House to come to a conclusion on the question whether Lala Lajpat Rai should be set at liberty or not. When the learned Government Advocate himself admitted that there was no case against him he should not have been convicted at all and if he has been convicted, the fact above-mentioned is by itself a strong ground for releasing him forthwith.

**Mr. President :** Order, order. I must warn the Honourable Member to be careful how he comments on those proceedings. It is an improper thing to use the right of speech in this House to reflect upon the conduct of the Judge and I think the Honourable the Home Member was right in intervening to give the Honourable Member that warning.

**Rai Bahadur Pandit J. L. Bhargava :** I am not criticising the conduct of the Judge. I am relying on the opinion which was expressed by the learned Government Advocate and I adopt that as an argument in favour of the contention that Lala Lajpat Rai should be released. The Government Advocate said that his personal opinion was that no case had been made out against Lala Lajpat Rai under the Criminal Law Amendment Act because it had not been established by prosecution evidence that the association contemplated by Lala Lajpat Rai on the 3rd December was a continuation of the Khilafat and Congress volunteer organisation and that in any case it could not be presumed that Lala Lajpat Rai knew that the members of the new association would be identical with the Khilafat and Congress volunteers and therefore in any case the benefit of doubt must be given to him. The trying magistrate in his order said that the sentence in the two cases will run consecutively and that the one under the Prevention of Seditious Meetings Act will commence first. Now, Sir, Lala Lajpat Rai was sentenced to two years' imprisonment. The sentence for the offence under the Seditious Meetings Act commenced first. Order was pronounced on the 9th March 1922 and the term of imprisonment for that offence expired on the 9th March 1923 ; now it is under the sentence for an offence under the Criminal Law Amendment Act that Lala Lajpat Rai is being detained in prison. I would appeal to the Members of the legal profession and the judiciary to pause for a moment and think whether, if the Government Advocate himself was of opinion that the benefit of the doubt should be given to Lala Lajpat Rai, there is any justification for keeping him in prison any longer. This, in itself, is a very strong ground for setting Lala Lajpat Rai at liberty. Besides there is another reason why Lala Lajpat Rai should be released. For more than a month now, the condition of his health is very precarious. Prison life has told very seriously on his health and his health.....

**Mr. President :** That is a ground which comes up for discussion in the next Resolution.

**Rai Bahadur Pandit J. L. Bhargava :** It may be left to be discussed in detail in connection with the next Resolution but this is also one of the grounds on which, I submit, he should be released. I can raise that point again when Dr. Nand Lal moves his Resolution but as the question of releasing Lala Lajpat Rai is before the House I think I am entitled to give all the reasons which are in favour of that recommendation. So I need not refer to it in detail. I may simply say that he is entitled to release on the ground of his ill-health also.

Sir, there are two points of importance that arose in this matter, as was remarked by the Honourable the Home Member while replying to the questions that were put to him about a week ago. One was whether if action is to be taken under section 401 of the Criminal Procedure Code there should be an application by the prisoner himself. The Honourable the Home Member's reply to a question was that he had not received any memorial from Lala Lajpat Rai. The second point was that the matter of release was a proper question to be put in the Local Council. As regards the Local Council I may submit at once that the Punjab Council is not sitting now-a-days and it is not going to sit for some months. It is therefore this House only which is left to us in which to bring forward a motion for the release of Lala Lajpat Rai. As regards the memorial, of course there is no application from him, but as was admitted by the Honourable the Home Member himself, legally it is not necessary that there should be any such application. He remarked the other day that the practice was that there should be an application. That of course may be the practice in ordinary cases, but this is an extraordinary case. If there is no application direct from Lala Lajpat Rai himself, there is the insistent demand of the people expressed in the Resolutions of meetings held in many places that Lala Lajpat Rai should be released at once. Resolutions have been passed in Multan, Lahore, Ambala, Fazilka and many other places in which it has been prayed that Lala Lajpat Rai may be released, and copies of those Resolutions have reached the Punjab Government. So, on account of the insistent demand of the public and on account of the special circumstances under which Lala Lajpat Rai was sentenced, and on account of the serious condition of his health, it is not only just but most proper, that he should be set at liberty and not only justice but policy and expediency require that he should be no longer kept in prison. I hope that the Government will take action under section 401 of the Criminal Procedure Code, and either itself set him at liberty at once or take other suitable steps in that direction, for instance, make a suggestion to the Local Government that he should be released. With these words, Sir, I commend my amendment for the acceptance of the House.

**Mr. President :** Amendment moved :

“ That between the words ‘ Mahatma Gandhi ’ and ‘ Maulana Hasrat Mohani ’ the words ‘ Lala Lajpat Rai ’ be inserted ; and the words ‘ who were convicted at the Karachi trial ’ be omitted.”

**The Honourable Sir Malcolm Hailey :** I intend to oppose this amendment : but I ask your direction,—whether I should address the House now or after the adjournment.



**Mr. President :** I think I had better adjourn the House now ; we will continue the discussion in the afternoon. This House stands adjourned till Half Past Two.

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

The Assembly re-assembled after Lunch at Half Past Two of the Clock, Mr. Chairman (Mr. N. M. Samarth) in the Chair.

**The Honourable Sir Malcolm Hailey :** The amendment is to insert in the main Resolution a reference to Lala Lajpat Rai. In opposing this amendment, I shall not do so at great length, not at all events at the same length as I found necessary to employ this morning, because the case of Lala Lajpat Rai differs materially from those of Mr. Gandhi and Messrs. Shaukat Ali and Mohammed Ali. In those three cases the matter was, from our point of view and as affecting the public tranquillity, of all-India importance. Their activities ranged over the whole of India. Their influence was felt throughout the whole country, and from our point of view that influence was all to the bad. But the case of Lala Lajpat Rai is from this point of view mainly a provincial problem. If therefore I do not find it necessary to deal with the nature of the charge against him or with what is likely to be the consequence to India at large of his release, it is because he stands, as I have said, on somewhat different grounds to the cases which were argued this morning. For myself, I regret that his name should have been brought before the Assembly, for the question of his release or his retention in prison is peculiarly a local problem. It is the Local Government who know, and know best, the reasons why he was incarcerated ; it is they who can weigh best any reasons there may be for his release, and it is they, above all, who will know what is likely to be the effect of that release at this moment on the very troubled politics of their own province. References have been made to the justice of his conviction and the length of his sentence ; as I said this morning, I think that the right tribunal to decide such question is the appellate Court. Even if it were in order, therefore, I should not propose to discuss the question whether his second sentence was strictly justified under the law or not. Lala Lajpat Rai, like everyone else, has had the appellate court open to him ; and there is little reason to suppose that if there were anything in any way open to criticism in the sentence he received, he would fail to obtain ample justice from a High Court, and in this case I may add a High Court presided over by an Indian Chief Justice. There is one matter in which his case resembles some of those which we discussed this morning ; and it is a feature to which I must refer for it is of importance to the discussion. In whosever interests this motion has been put forward, they are not apparently those of Lala Lajpat Rai himself. We have had from him no memorial or application. On the contrary, he has himself made it clear that he would not welcome any such memorial. I will read to the Assembly what he said himself before the court which tried him. He justified his action by the following sentence :

“ No laws are binding upon any people which are not passed either by themselves or by their representatives in a body properly constituted by their will.”

[Sir Malcolm Hailey.]

On those grounds he refused to acknowledge the justice of the law under which he was charged. He refused to acknowledge the jurisdiction of the court which tried him. He went on to say this :

“ I am not sorry for what I did. I crave no indulgence either from the Government or the court, and ”—*I hope the mover will note this*—“ I do not want to be let out of jail so long as the present policy of Government continues. For truly patriotic Indians India has already become a vast prison. I feel I can serve my country better inside the jail than outside it.”

He apparently prefers then that his friends should not raise this question, and I am at a loss to understand therefore why it has been sought to include his name in the Resolution. (*Mr. K. Ahmed* : “ All the more reason to bring it forward.”) Is that so ? Is not the result, to destroy his own sense of sacrifice, to destroy the whole value of what he feels he is doing for the country ? He may well hope to be saved from his friends. But, finally, I feel that the real reason why this matter has been brought forward is not so much any sense of injustice of his conviction or any real belief that, if released, he would not renew his activities—activities which are likely to be especially disturbing in a Province with such troubled politics as is the Punjab at present—I feel that is not the real reason ; the real reason lies in the sympathy that has been evoked on account of his illness. I answered some questions on that point a few days ago, and I may have to deal with it again in the course of a subsequent Resolution. But if he is to be released for reasons of illness or weak health, those reasons stand by themselves, and his case rests on very different grounds from those which were put forward to us by Mr. Seshagiri Ayyar this morning. It would be far better, believe me, if the case of Lala Lajpat Rai were left on these grounds to the Local Government which knows the case. I have shown before that the Local Government has made the most careful and painstaking inquiry not only through their own medical officers, but through his medical practitioner, into the state of his health. Those who are interested in him need therefore have no fear that his case will not be fully and sympathetically considered. And I will add, with a knowledge that what I say will receive full assent here, that no prisoner, whether a political prisoner or otherwise, need have any fear that his case will suffer from the want of humane consideration in a Government which is presided over by Sir Edward Maclagan.

**Mr. B. Venkatapatiraju** (*Ganjam cum Vizagapatam* : Non-Muhammadan Rural) : Sir, I feel it my duty to say that it is most unfortunate that a Resolution should have been moved in this House appealing for mercy of those who do not understand the spirit of the persons who went to jail, or the interests of the country for whose good they are working. I am equally sorry that our leader did not appreciate the full significance of non-co-operation, non-concern with evil and causing hurt to none. We should not attach the blame of his professed followers to Mahatma Gandhi. What he wanted was that we should give up this luxury and comfort when millions of people are suffering under misrule according to him, and he wanted us to elevate them. His creed was sacrifice and service and that all his followers did not understand. The Sikh Guru nation-builder Guru Govind preached the same sacrifice and service. That was

exactly what Gandhi was preaching. If his followers did not come up to that level, it was not his fault. Even the Honourable Sir Malcolm Hailey has to admit that he cannot say anything against him, but that he has his doubts as to his sanity. Of course not only now but in former times, all those who wanted the amelioration of their countrymen or the progress of their country were treated as mere idealists and some even went to the length of saying that they were insane. Without any disparagement I would ask the Honourable Sir Malcolm Hailey to say whether or not he would equally have defended Pontius Pilate for crucifying Jesus Christ. Is this the way we have to judge? How many people, both Englishmen and Frenchmen, are now repenting for their ancestors having taken part in the burning of Joan of Arc. According to the Honourable Sir Malcolm Hailey it is no crime to have sent such a saintly man as Mahatma Gandhi to jail. Sir Malcolm Hailey asked on whose behalf we are making this appeal for their release. Certainly not on behalf of those people who have sacrificed and are prepared to sacrifice everything for the cause of the country. They never wanted us to ask for mercy at the hands of the Treasury Bench. They do not plead even for a single moment to be shown any concession. Nor do we, except that we have come here to help the Government for better administration, for the cause of good Government and for the sake of the Government itself we are supporting this motion. It is only for this reason that we are suggesting that such good men, such philosophers and such patriots ought to be released, not at all for the sake of the few individuals who are sitting here, not for the masses, not for those patriots who are in jail.

**Mr. Chairman :** Order, order. The amendment before the House is to insert the words "Lala Lajpat Rai" between the words "Mahatma Gandhi" and "Maulana Hasrat Mohani." I should like to confine the debate to that amendment in order that it may be disposed of.

**Mr. B. Venkatapatiraju :** In order to avoid taking up time, I hope I may be permitted to speak on the Resolution as well as on the amendment. Otherwise, we will have to speak twice over.

**Dr. H. S. Gour (Nagpur Division : Non-Muhammadan) :** I think, Sir, it would certainly facilitate the discussion.

**Mr. B. Venkatapatiraju :** Sir, the first thing that we should ask Sir Malcolm Hailey is whether when Mahatma Gandhi talked in the year 1908 about industries, about railways, was he declared to be insane. Or was he declared to be insane when the Kaisar-i-Hind Medal was conferred on him subsequently or when he was given an interview by His Majesty the King Emperor after that. Perhaps his insanity was cured by Dr. Gidney or some other doctor. I can very well understand people, who do not rise to that level for want of understanding high philosophy saying that they are not quite sane, but my submission is that they are quite sane, far better and much more farsighted than any of us here. You must understand that the names of many notables will be left in oblivion, while the names of these persons will shine for a longer time, than those of their critics who have sent them to jail. They have done immense service to the cause of the country. It is said that these persons, if they are released would not undertake that they would not create agitation. I think there is not a single man here who would give that undertaking.

[Mr. B. Venkatapatiraju.]

Agitation is the life blood of progress and without agitation there is no freedom but only death. They must agitate till they secure what they want, the emancipation of the country.

For freedom they would fight till the end. Nobody here is prepared to guarantee that they will accept the situation as it is. They will certainly agitate. Of course there are many authorities, many lawyers, many Judges who will be ready to send them to jail once more if they commit an offence. But what we say is "For your good name release them, and not at all for the sake of those people." Gentlemen, I appeal to you to support this Resolution to help the Government against themselves.

**Mr. H. E. Holme** (United Provinces : Nominated Official) : Sir, the spirit of make-believe appears to possess greater power in India at the present day than in any other country of the civilised world. We have been so accustomed to hear the gentlemen referred to in this Resolution and others of their kind spoken of as high-souled, patriotic and unselfish heroes that one begins to believe it oneself in spite of the irresistible evidence of facts. What are the facts ? That murder, robbery, mob violence and race hatred have at every time and in every place tended eventually to be the result of their agitations. It cannot be that this is a mere accident or coincidence. It must be in some way the result and often the intentional result of their teaching. As for their alleged unselfishness, many of these agitators have made a very good thing out of their agitation. They have never been in want of money and the way in which they have obtained their funds—as to this, we have had some illuminating disclosures lately. They travel over the length and breadth of India in spite of the high railway fares. They have made themselves far more famous and celebrated than they would have been able to if they had remained ordinary law-abiding citizens. They are met everywhere with triumphal processions and festivities organised by their adherents ; and when they go so far that the Government in self-defence and in the interests of law-abiding citizens have to take steps to get them sent to jail, they have the satisfaction of posing as martyrs while their friends outside take care that they are supplied with every comfort and treated with every consideration. What can possibly be the point, on the one hand, of assisting in a Reform scheme which is designed to lead India, at the earliest possible date consistent with her safety, to the attainment of self-government and on the other hand encouraging, protecting and assisting the activities of persons whose energies if left unchecked must inevitably in time lead India either to chaos and anarchy or, by reaction, to the installation of a more despotic and less liberal administration.

**Mr. S. C. Shahani** (Sind Jagirdars and Zamindars : Landholders) : Sir, I rise to support the Resolution that has been put forward for the release of political prisoners. I also support the amendment that has been moved, to the effect that Lala Lajpat Rai's name be included in the list of those political prisoners who it is proposed should be released. I think that on this occasion there will be very few to offer frankly their expressions of opinion. I admit that this Resolution has been moved at a wrong time. Our quarrel with Government with regard to the certifica-

tion of the salt tax is not yet settled, and I do not know that Government would be in a mood to go in for compromises such as might find favour with us. But it has all the same been moved, and if it has been moved I think it will be a pity if the Members of the Assembly do not come forward to vigorously support it. It is said that Mahatma Gandhi has been responsible for riots and rebellions, not directly, of course, but indirectly; and in a way it is true. He stands on a very high pedestal; his principles are high and cannot be easily enforced by those that follow him. The enforcement of his principles of non-violence requires a high soul-force which would naturally be missing in the ordinary run of men. But it would only be in the fitness of things to carefully consider what that indirect responsibility really means. I listened very carefully to what the Home Member had to say on the point. Seemingly he made out a very strong case, as he usually does, for the release of these political prisoners not being seriously considered in this House. He sought to make out a case for a summary dismissal of the Resolution which is before us for consideration. Although the speech was able, to my mind, it was by no means equally convincing. He should have admitted that there was much to be said on the other side. The people of India have been suffering great wrongs, which must be redressed. Does the Home Member seriously propose to make out that Government have been faultless? No. I think a compromising attitude ought to be assumed by Government, and those wrongs that have impelled persons like Mahatma Gandhi to assume the attitude that they have assumed ought to be seriously considered by Government, if any permanent settlement that is to be desired is to be effected between the people on the one hand and Government on the other. Mahatma Gandhi, so far as practical politics go, is wrong. Those who come forward and say that his programme, even if Government continue unbending, would not lead to violence and revolution in the long run, I think, assume a position which is not tenable. If Government does not compromise and if the programme of 'peaceful persuasion' does come to be generally enforced, I have no doubt that in the long run revolution will result. On that account I myself do not wish that he should be released if Government would not correct their attitude towards the people of India, if Government continue to assume the attitude which they have assumed towards the rights of the people at the present day, an attitude which is amply reflected in the speech of the Honourable the Home Member. I would respectfully request the Home Member to bethink a little, and to desist from assuming such an uncompromising attitude in every matter that comes up for consideration in the Assembly. In every matter that comes to be considered in the Assembly he will lead those Members who feel disposed to follow him. I feel disposed on this occasion to repeat the lines that have been written by the poet Moore on Robert Emmett, a well-known Irish rebel:

"When he who adores thee has left but the name  
Of his fault and his sorrows behind,  
O! say, wilt thou weep, when they darken the fame  
Of a life that for thee was resign'd!  
Yes, weep, and however my foes may condemn,  
Thy tears shall efface their decree;  
For, Heaven can witness, though guilty to them,  
I have been but too faithful to thee."

[Mr. S. C. Shahani.]

Mahatma Gandhi has been too faithful to India, and it will be dereliction of duty on the part of any Member of the House to vote against his release. He is not an insane person as he is represented to be. He has been consistently characterised in his life by utmost sanctity and prescience. He has succeeded in formulating a doctrine of non-violent resistance which has come to be respected the world over, not only in India, not only in Europe, but in America and elsewhere—(Hear, hear.) Only those who cannot appreciate the very greatest qualities of head and heart may laugh. There can be no doubt about it, the truth of my statement. Compromise at this stage is essential. It would not do to move like an African bull which charges straight ahead. It will not see on the right or on the left. We have got to look on the right, and on the left; and we have to take care of the two sides when we go in for a compromise.

**The Honourable Sir Malcolm Hailey :** Go south to Malabar.

**Mr. S. C. Shahani :** Yes, to restore tranquillity. The British and the Indians ought to seek to bring about a permanent settlement; and a permanent settlement between the people and the Government will become possible only when we truly go in for compromise. With these remarks I commend this Resolution to all the Members of the House, and I trust that they will support it.

**Lieutenant-Colonel H. A. J. Gidney (Nominated : Anglo-Indians) :** Sir, if I rise at this late hour to take part in this discussion, it is with no desire to defend the medical profession against its calumniator, Dr. Gandhi, I beg his pardon, I mean Mahatma Gandhi, but to oppose and strongly protest against the Resolution and the amendments. I protest against the foisting upon this House as also upon India, at the present juncture, of such a Resolution which, if passed and accepted by Government, would throw India back to the unsettled period of a few years ago. Sir, I have no desire to recount the career of Mahatma Gandhi, for that has been very ably catalogued by the Honourable the Home Member. But he seems to me to be a man who has no political destiny to unfold but a buried religious system to resurrect. He has been called a dreamer, but that is a misnomer. I would say, Sir, that if he were placed before a body of nerve specialists, they would in all probability diagnose his case as one closely simulating the preliminary symptoms of G. P. I. (*A Voice* : "What is that?") That term when translated means "general paralysis of the insane," for he exhibits, Sir, to a marked degree all the symptoms that such a patient would. However saintly he may be held by many, and of this I have no doubt whatever, and however much he may be held in respect, and of which I am sure, yet, I submit, Sir, that to release such a man from gaol where he is no doubt receiving all the care and skill of those doctors whose profession he has decried as quacks. I repeat, Sir, to release him from gaol to-day would, I submit, be a political blunder of the first magnitude. And I was much surprised to see my friend, Mr. Seshagiri Ayyar, a former Judge of the Madras High Court, stand up and advocate such a dangerous cause. When I first heard him it seemed doubtful to me as to whether he came here to co-operate or to non-co-operate, and

when I heard my friend, Mr. Venkatapatiraju, I thought he was a Moderate covered over with a veneer of extremism and non-co-operation. It seems to me that there is something more behind this Resolution ; because it has been moved not at the request of those prisoners who are sitting in gaol, and who are certainly not undergoing any of those hardships of which pathetic scenes and pictures were drawn yesterday by my friend, Dr. Gour. These prisoners, Sir, are being treated most kindly and considerately.

**Dr. H. S. Gour :** Sir, I rise to a point of order. My friend is suffering from lapse of memory. I said nothing at all about prisoners suffering.

**Lieutenant-Colonel H. A. J. Gidney :** I am thankful to my friend for correcting me. Well, Sir, as I was remarking about these prisoners, they certainly have not asked for their release nor would they accept it, and if, for instance, Government did accept this Resolution and order their release from jail, we have it in black and white from these prisoners in particular that they would refuse to accept their release. Then who would look small—the Mover of this Resolution and its supporters or the Government who sanctioned it ? I myself consider that this Resolution has nothing to commend itself and everything to condemn it. I believe if the House accepts the Resolution they would be taking India back from its present peaceful condition, or apparently peaceful condition, to that time of just a few years ago when the country was seething with sedition and unrest. I therefore vehemently oppose this Resolution and the amendments.

**Mr. H. Calvert (Punjab : Nominated Official) :** Sir, I would not have attempted to interrupt the proceedings by my own small voice were it not for the fact that I think some slight comment upon the present rather serious position in the Punjab should be brought to the notice of Members. I feel rather shy in addressing this House for the first time because, when I was listening to the caricature of history recited by Mr. Seshagiri Ayyar, I felt it would be rather difficult for me to dispose of the many instances of his imagination without incurring either a charge of racial feeling or one of religious bias. He specially made a great point that where the non-co-operators remained non-violent, then the whole credit belonged to them, and where they became violent, the blame belonged to Providence. If Government made a mistake, that mistake was entirely Government's and not Providence's. Sir, in the Punjab we are at present in an extremely difficult position and our difficulty arises to a large extent from the fact that we have three important religious communities in the province. For the benefit of Members who are not well acquainted with conditions there, I may say that you may roughly divide the province into three tracts. On the West, about 98 per cent. of the cultivators are all Muhammadans, and in the towns perhaps some 10 per cent. may be Hindus. So, any disturbance that may arise there due to religious feeling will cause intense suffering to Hindus, such as the disturbance that took place in the rising of South-West Punjab during the war and such as recently took place in Multan. In the centre of

[Mr. H. Calvert.]

the Punjab we have a number of districts in which about half the cultivators are Sikhs and about half are Mussalmans. In the east of the province about 80 per cent. of the cultivators are Hindus and about 20 per cent. are Mussalmans. So, Sir, the question takes different aspects according to the particular portion of the province where the disturbance may occur. Up to the present these three communities have arrived at what you may call a working compromise. In certain villages where the Muhammadans are in a minority, the Muhammadan call to prayer is not allowed. In certain villages where the Sikhs are in a minority, the Sikh custom of securing their meat is, by tacit agreement, not allowed. These agreements have continued for many years, and as long as they are not disturbed, the peace of the country side can be preserved. Now, Sir, for some years, there has been going on in that province a persistent and steady agitation against the forces of law and order. I was myself a District Officer in 1907 when Lala Lajpat Rai raised the cry in the province that the 50th anniversary of the mutiny should be suitably celebrated, and events took place then which led to his being interned. At the present moment the Punjab is suffering from a very bitter movement headed by the Babbar Akali Jatha, which has its origin directly in the persistent, unending, agitation that has been going on almost unchecked for so many years. This Babbar Akali Jatha has necessitated the employment of the armed forces of the Crown, infantry, cavalry and aeroplanes. It has now led the Punjab Government to raise a special force of police, a step, Sir, which that Government itself was in no wise willing to take, it having decided, in deference to the views of its own councillors, to reduce the force of the police. Now, Sir, the point I wish to urge is this. The Babbar Akali movement is now being slowly and steadily brought under control, thanks to the steady and persistent efforts of the district officials aided by the military forces, and just as this movement is gradually being suppressed, I think, Sir, it would be the greatest possible mistake to do anything that would add recruits to that movement—recruits to the Babbar Akali movement or any other of those forces of disorder which unfortunately are far too many in the Punjab. More serious still is the dread possibility which is hanging over us in these days, because the next fourteen days in the Punjab will be very critical days indeed. One of our great communities has a perfectly legal right to perform a ceremony of a religious nature which would inevitably cause great pain to another large community. At this moment, officials, British and Indian, are striving with all the resources in their power to secure a peaceful celebration, and to maintain law and order. In this important task we are having active, devoted and most valuable assistance from non-official gentlemen of position and influence,—gentlemen Hindu, Muhammadan and Sikh. The work of these men, officials and non-officials—men of all the communities—the work of these men is directed to securing real unity between the three communities of this rather distracted province, and that work will suffer very seriously if this Resolution is carried. Now, Sir, in all these communities there are to be found men with a real sense of responsibility, men who desire to see this great country advance towards increasing prosperity along the road



of peace and law and order. Such men may not be known to our critical friends here. They may not even be eminent lawyers. Some of them may not include in their ambitions a membership of this Assembly, but, Sir, they are, nevertheless, true patriotic Punjabees, actuated by the highest of motives and working for the lasting good of their country. Such men are now enlisted in the service of securing toleration, of securing restraint and securing mutual good will among our three big communities. I think, Sir, that they deserve the sympathy and the active support of this Assembly. Arrayed against them in every town are a number of hooligans, and criminals such as may be found in any town and in any country of the world. These people see in riot and disorder nothing but opportunities for loot and revenge. The question before the Assembly is very simple. Which party is it going to support to-day? The devoted band of men who wish this country to advance along the path of peaceful development, men who are striving to preserve peace and toleration between the great communities, or the men who desire nothing but anarchy, riot and hatred? The next fourteen days, as I say, will be critical days indeed for the province. It is almost inconceivable that they will pass without disturbance, violence and even perhaps murders.

**Dr. Nand Lal** (West Punjab : Non-Muhammadan) : May I ask what is that function?

(At this stage Mr. President took the Chair.)

**Mr. H. Calvert** : Experience shows that it is quite possible for these great communities to work together in complete harmony. The vast majority of these people desire to live in peace with their neighbours and to carry on their lawful avocations undisturbed by communal animosity or religious hatred or unrestrained fanaticism. The vast majority desire only peace. Now, Sir, when feelings are running high, it is not necessary that anything should be actually done to turn combustible material into fire. A mere rumour is quite sufficient. In my experience of the troubles in the Punjab, I have found it alleged that the actual cause of the trouble or riot was something done by a member of the community itself, which complains of a wrong done by another community. For instance some Hindu is accused of throwing some undesirable substance into a Hindu temple in order to bring the charge against a Muhammadan. It is always very difficult to say what happens. Very often some one spreads a rumour. This rumour inflames men's minds, passions are aroused and riots and bloodshed follow. Now, Sir, it is within the power of this Assembly to add to this volume of communal ill-feeling which is a lamentable feature of our province to-day. It can add to that feeling by throwing into it these persons named in this Resolution. It is also within the power of this Assembly to come to the aid of those loyal men who are striving their utmost to mitigate the high feeling that prevails, who are putting every ounce of their strength into the effort to prevent the outbreak which we foresee. It is also within the power of this Assembly to fan the flame of hatred and distrust by letting loose upon the country misguided men. If this Assembly by its vote to-day weakens the forces of order, if it does anything to discourage those real patriots who are striving so hard to preserve order and to promote toleration and good will, if the idea

[Mr. H. Calvert.]

gets abroad that the popular vote has been cast in favour of anarchy, riot and bloodshed, then, Sir, this Assembly will not be able to escape its share of responsibility for whatever the immediate future may bring forward. If murders or sudden and violent deaths once more smear the history of this country, then, Sir, the fault will not be on Providence but on Mr. Seshagiri Ayyar and those who vote with him to-day.

**Colonel Sir Henry Stanyon** (United Provinces : European) : Sir, I understand that the discussion is not now confined to the last amendment relating to Lala Lajpat Rai but it is open to Members to discuss the whole proposal to release the several persons whose names have been mentioned, excepting only those who have now been eliminated by a Resolution of this House. I am very glad indeed that I have the opportunity to address the House on this question on impersonal lines. It seems to me that it is not perhaps altogether proper that we should here, behind the backs of these persons, discuss whether they are good or whether they are bad. They are not on trial before us. The simple question before the House is whether it will recommend that certain judicial sentences should be set aside and the prisoners released.

**Mr. T. V. Seshagiri Ayyar** : Not set aside but remitted.

**Colonel Sir Henry Stanyon** : If my friend prefers the word 'remitted' I have no objection to it. Remission extinguishes whatever is left of the sentence to be served. I would submit that Members in this House, with a very natural and commendable softness of temperament, have allowed their hearts to run away with their heads. This, I would remind the House, though it is a mere platitude, is a Central Legislature. It is the parent, either by adoption or by its own natural conception, of the laws of the land. Working under it there are courts of justice appointed to give effect to these laws. As to the prisoners with whom we are concerned to-day I offer no opinion on the merits of the personal character of any one of them. To me, in this address, they are A, B and C. They are persons who after fair trial have been convicted by the courts for acts which the Legislature has enacted to be crime, whether political or any other kind of crime, but crime. Now, in regard to these political offences it is my humble opinion, though possibly a wrong one, that the power of the Crown to interfere with judicial sentences has already been carried to an extreme limit in practically every province in India. A judge, after careful deliberation and thought and a fair study of everything concerned, holds a man guilty ; and with the same deliberation orders punishment ; and the next day he sees in the papers that the prisoner, convicted by him of what he considered to be a serious offence has apologised and promised not to do it again, and has been released. I say that the repeated remissions of that kind which have been made would have undermined the courage of any judiciary less loyal, less patient and less determined to do its duty than the Indian judiciary. We have recently had a good deal of argument as to the unwisdom of Government's use of special and exceptional powers. Sections 401 and 402 of the Criminal Procedure Code embody special powers ; and yet we have Member after Member in the Legislative Assembly and in the Legislative Councils getting up

and asking the Government to make a wholesale use of these special powers to undo the solemn acts of the courts of justice, which, after all, have only given effect to the enactments of the Legislature to which those Members belong. Upon this principle I submit to the House, for its careful consideration as a Legislature, that these proposals to interfere with judicial sentences by remission, or whatever else Members may like to call it, ought not to be supported. There is no precedent that I am aware of for motions of this kind—continuous motions of this kind,—in any legislative body outside India.

**Dr. Nand Lal :** I may refer to the year 1920 ; there was a Resolution adopted then.

**Colonel Sir Henry Stanyon :** These requests—I am not speaking now of an occasional proposal or an occasional motion, I am speaking of what might almost be called a series of habitual proposals—these requests are made without any authority from the prisoners concerned, and in some cases against their wishes and in defeasance of their hopes and ambitions. Upon this absolutely impersonal ground, without throwing one single pebble at any one of these unfortunate men who have been incarcerated, I ask this House, as a matter of consistency, to recognize its position as a Legislature and refuse to undo in any way the solemn pronouncements of its courts of justice.

**Mr. President :** Unless Honourable Members are ready to address themselves to the particular issue presented by the amendment, I think we had better dispose of it. If Honourable Members wish to discuss that particular amendment, we might go on.

**Mr. Harchandrai Vishindas (Sind : Non-Muhammadan Rural) :** The question was raised during your absence, Sir, and it was decided that Members should be allowed to speak to both the Resolution and the amendment. I asked if I might be permitted to say a few words on the amendment, or on both.

**Mr. N. M. Samarth (Bombay : Nominated Non-Official) :** I may point out that it was not decided.

**Dr. H. S. Gour :** I rise to a point of order. It is I who raised that question, and unless I seriously mistook, the nod of the Honourable Chairman was in approval of my proposal.

**Mr. Harchandrai Vishindas :** Sir, what astonished me was Mr. Shahani's speech, some portions of which stultified the rest of it. One particular notable passage of his speech was that he would not vote for the release of Mahatma Gandhi unless the Government altered its attitude. Now does Mr. Shahani expect that the Government will say that 'our attitude is wrong, and therefore we are going to alter it'. Of course Government will say "We shall adhere to our attitude" in which case, Mr. Shahani says that Mahatma Gandhi should not be released.

**Mr. President :** Order, order. I may point out to Honourable Members that the debate may continue on the basis of both, and then the two questions are put one after another without any further debate, or else the Honourable Members must restrict themselves to the point of the amendment.

**Dr. H. S. Gour :** I proposed that there should be a general debate on both the points, and I understood that that was the general sense of the House. If you have any doubt....

**Mr. President :** It is not a question of the sense of the House, it is a question of the judgment of the Chair ; and there can be no appeal from the decision given by Mr. Chairman Samarth to the President. Decisions given from the Chair by the occupant then in the Chair hold good for the debate ; therefore, there should be no discussion as to the ruling given by Mr. Chairman.

**Dr. H. S. Gour :** There was no articulate pronouncement from the Chair.

**Mr. President :** If there was no articulate pronouncement, he could have asked for it.

**Mr. Harchandrai Vishindas :** The debate has been allowed to go on without any explicit pronouncement from the Chair on both these propositions,—the original Resolution and the amendment, and now, continuing my remarks with regard to Mr. Shahani's speech, I was astonished that Mr. Shahani in one part of his speech stultified the other part. He said that he advocated the release both of Mahatma Gandhi and Lala Lajpat Rai, but he said Mahatma Gandhi's release he would not advocate because it is perfectly true that he is responsible for anarchy and disorder and all that, unless Government changed its attitude. Now, as I said, Government cannot be expected to say that their attitude is wrong, and therefore that portion of Mr. Shahani's address was quite inconsistent with the first portion in which he said that he wanted the release of both of these gentlemen. Now, Sir, I will not take up much time, but there have been certain points raised in the debate which should not be allowed to go unchallenged. I quite agree with Mr. Shahani that the speech delivered by Sir Malcolm Hailey was a very able one, as usual, but some of the points that he referred to, I think, are hardly relevant to the question at issue now. For instance, he said that Mahatma Gandhi was against Railways. I do not think he is incarcerated for having expressed that opinion. A great philosopher like Ruskin was also against Railways. We had a Persian professor who also said that Railways prevented us from travelling and seeing things all through. Another aspect of the question is that Mahatma Gandhi used to travel by railways in spite of that opinion. Then another point was that he discouraged English education and all that. Of course the result has shown that all this propaganda of his turned out unsuccessful. So we need not quarrel with those of his pronouncements. Then Mr. Holme in his speech referred to some persons who peregrinated throughout the country with this propaganda and advertised themselves and were responsible for so much disorder. But, I think, that question has nothing to do with the present case of the release of these two gentlemen. My own opinion is that whereas it is perfectly true, as was admitted by Mahatma Gandhi himself, that he was morally responsible for all the blood-shed and disorders, things have now materially changed, because as far as I could observe, just a little while before Mahatma Gandhi was prosecuted and convicted, the feeling in the country was that they were entirely wrong

in resorting to violence and that they would be most successful in their propaganda if they confined themselves to non-violence as was preached by Mahatma Gandhi ; and I think non-violence has greatly prevailed up to now. I am speaking subject to correction with regard to any facts which may be up the sleeves of the Honourable the Home Member. Therefore, I think that so far from that deplorable state of things that existed in former times reverting, I am of opinion that Mahatma Gandhi's release will rather turn the other way, that more peaceful atmosphere will be brought into existence than was the case before, because it cannot be denied that Mahatma Gandhi was perfectly sincere in his advocacy of non-violence. Of course he could not control his followers. That is perfectly true. But he himself was perfectly sincere in his advocacy of non-violence and if he is released, I think things will improve much better and there will be greater possibility of peace than would otherwise be the case. Mr. Calvert has given us a very lurid picture of the position that to-day exists in the Punjab between the Hindus and the Muhammadans. I am very confident that the release of Mahatma Gandhi will heal these breaches, because he exercises great moral influence over both Hindus and Muhammadans. So instead of evil consequences resulting from Mahatma Gandhi's release, very good consequences will ensue. As regards Mahatma Gandhi, I may also further say that it would be a great piece of magnanimity on the part of Government to release him without his having put in a memorial at all. It will be a most graceful act and the country will be very much grateful to the Government.

Then, as regards Lala Lajpat Rai, Mr. Calvert has given us a long dissertation as to the state of things that exists in the Punjab now, but with due submission, I do not think that Lala Lajpat Rai is responsible for that state of things. That state of things continues, and does he suggest that the release of Lala Lajpat Rai will intensify those things ? On the contrary I think that the release of Lala Lajpat Rai will have the effect of causing a union between the two communities and a dissolution of the disunion that is now existing. I think Lala Lajpat Rai also commands a great deal of influence over both Hindus and Muhammadans in the Punjab. Therefore by releasing him, the Government will be doing a service to the country and will be earning the gratitude of the whole country.

**Mr. President :** When I made a statement a few moments ago from the Chair, I omitted to note that an amendment has been handed in, which I consider to be in order, though it was not given with due notice, and in order to preserve the rights of the mover of the amendment, I must now restrict the debate to the release of Lala Lajpat Rai and to nothing else.

**Dr. H. S. Gour :** Sir, the debate so far has centred round the personalities of Mahatma Gandhi and Lala Lajpat Rai. But there has been an undercurrent of thought not only in the minds of proposers and opposers of this Resolution but of all Members of this House, and those who support this Resolution and those who oppose it are, I have no doubt, moved by more general considerations than the release of either Mahatma Gandhi or Lala Lajpat Rai. Sir, there are two opposing views reflected in the speeches of this House. The first is that, by incarcerating the

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political leaders of this country, you are thwarting the legitimate political aspirations for the emancipation of the people, and the action is in the nature of political terrorism. The other view is, these people having transgressed the law were justly convicted and their incarceration would be in the interests of law and order. The Honourable the Home Member, in his opening remarks, mentioned that he would confine his remarks to the two personal cases of Mahatma Gandhi and Lala Lajpat Rai. He went on to point out that so far as Mahatma Gandhi is concerned, he himself may be a peace-loving person, but the result of his teaching has led to lawlessness in various parts of the country. He also pointed out that he was against all modern methods of civilization and industry. Well, Sir, so far as that part of the argument is concerned, I belong to the school which opposes Mahatma Gandhi.....

**Mr. President :** Order, order. I rule that the debate must now be confined to Lala Lajpat Rai, and I ask the Honourable Member to address his remarks accordingly.

**Dr. H. S. Gour :** I was illustrating the point which will immediately show why I am supporting the Resolution for the release of Lala Lajpat Rai. So far as Mahatma Gandhi is concerned, I have pointed out that I do not see eye to eye with him, and therefore when I find that he is a reactionary in all modern methods of civilization, when I find that he teaches the people the way to live the simple life according to the methods of Leo Tolstoi, I cannot agree with him ; but when I consider the question whether he or Lala Lajpat Rai should be released, I do not look at his doctrines ; I do not address myself the question whether I belong to the same political school as himself, but confine myself to the larger question whether the release of Lala Lajpat Rai and Mahatma Gandhi would be in the interests of the country at large. Now so far as Lala Lajpat Rai is concerned, it has been pointed out by the mover of this Resolution that he was convicted under the Criminal Law Amendment Act. Honourable Members will recall that Part I of the Criminal Law Amendment Act has been repealed in accordance with the unanimous recommendation of the Repressive Law Committee ; and Honourable Members will further find in the recommendations of that Committee, that Part II of the Criminal Law Amendment Act was also to be repealed in the near future, and the Committee hoped that a repealing Bill would be introduced in the ensuing Delhi Session.

**The Honourable Sir Malcolm Hailey :** Will the Honourable Member kindly quote the exact words of the Committee ?

**Dr. H. S. Gour :** Have you got a copy of the Report of the Committee ?

**The Honourable Sir Malcolm Hailey :** No, Sir, but I think I have a better recollection of their words than the Honourable Member. There are other Members of the Committee here, and they will bear me out.

**Dr. H. S. Gour :** Well, Sir, I speak from recollection, (*The Honourable Sir Malcolm Hailey :* " But not an accurate one ") and, if the Honourable the Home Member will lend me a copy of the Report, I shall show him the passage to which I refer. Being a Member of that Committee, I have some recollection of it, though I do not say that I am reproducing the exact words of the Report of the Committee. Now, Sir, in any case I

submit it was the intention of the Repressive Laws Committee that the Criminal Law Amendment Act must follow other repressive laws which it had recommended for repeal. But whatever action the Repressive Laws Committee may have taken or may not have taken, the fact remains that Part I of the Criminal Law Amendment Act has been wiped out of the Statute Book and the policy of the Government of India has been that no exceptional piece of criminal legislation should be on the Statute Book and that those who offend against the majesty of the law should be dealt with under the ordinary penal laws of the country. I, therefore, submit that, when Lala Lajpat Rai was convicted under this exceptional law, he has a very good case for his release, if the law itself has been altered.

That is my first argument.

My second point is that it has never been suggested by any speaker up to this moment that Lala Lajpat Rai, either directly or indirectly, fomented anarchy, riot or bloodshed. The Honourable Mr. Holmes and the Honourable Mr. Calvert both indulged in language of unwarranted generality. They said that the Punjab was at present divided into three sections and a riot is imminent. The Honourable Mr. Holmes—I have taken down his words—said that the result of the teachings of these men has been murder, robbery, mob violence and race hatred. I would challenge the Honourable speaker to point to a single passage to substantiate his observation that, so far as Lala Lajpat Rai is concerned, he ever taught the doctrines of murder, lawlessness and race hatred. And, even if he had done so, has he been convicted for abetment of murder? Has he been convicted for abetment of robbery? Has he been convicted for abetment of mob violence? He has been convicted for an offence which is wholly unconnected with the offences to which my friend the Honourable Mr. Holmes referred. Well, my friend Mr. Holmes hails from a somewhat distant province and he might be excused for using this unpardonable language, but I cannot excuse my Honourable friend Mr. Calvert for suggesting to this House that voting for the release of Lala Lajpat Rai would be a vote cast in favour of anarchy, riot and bloodshed.

**Mr. H. Calvert :** Sir, I rise to point out that when my speech was made the discussion was general and I purposely avoided anything that could lead to the belief that Lala Lajpat Rai was responsible for the Babbar Akali Jatha or the disturbances in the Punjab.

**Dr. H. S. Gour :** At any rate—and I hope my friend will contradict me further—there was a suggestion underlying his statement that anarchy, lawlessness and riot would result from the release of Lala Lajpat Rai, though he may not be responsible for it. If that is his statement, it was a wholly unnecessary statement which was calculated to make a suggestion to the House to associate the release of Lala Lajpat Rai with riot, murder and anarchy; and I submit that my learned friend was not justified in doing so. The whole question before the House therefore is whether any sufficient political grounds for the release of Lala Lajpat Rai exist. A more subtle argument was used by my friends, Mr. Holmes and Mr. Calvert as well as by such an old experienced judicial officer as the Honourable Sir Henry Stanyon. With that adroitness which is characteristic of him when he has a weak case to defend, he said he was not

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going to pronounce upon the merits of this case, but would state his conclusion on the general question, that there must be a finality in judicial trials. But my friend could not have been aware of the fact that there is such a section as 401 or 402 of the Criminal Procedure Code and that corresponding provisions for the release of criminals exist on the Statute-books of all civilised countries. To condemn therefore the action of this House and to condemn the action of the Executive Government as in the nature of usurpation of powers,—unwarranted usurpation of powers over the heads of the Judiciary—is, I venture to submit, unjustifiable. If therefore the Crown has an undoubted prerogative of releasing any person and every person without assigning any reason therefor—and that is an established part of the Constitution, we have equally the right of advising the Crown as to what we consider to be just and proper. I therefore submit there is nothing whatever in the argument of my Honourable friend Sir Henry Stanyon. (*A Voice* : “What about Colonel Gidney?”) My friends over there ask me to say something about Colonel Gidney, of whom all that I can say is neither age can wither nor custom stale his infinite variety. There may be a variety of subjects, but he has only one word to say. He opposes all Resolutions that are moved and supported from this side of the House. I have never been able to understand the mentality of my learned friend, and I am not in a position to either attack or defend his singular attitude.

I think, Sir, I have now dealt with all the opponents of the amendment for the release of Lala Lajpat Rai, and I hope I have shown to the House that the opposition is either misconceived, misapprehended or assumes facts for which there is no justification ; at any rate, no justification has been forthcoming up to the present moment. If there are any undisclosed facts which the Honourable the Home Member or any exponent of the Government position is able to state against Lala Lajpat Rai's release, I am quite prepared to reconsider my verdict. I do not know him and when I sat here I kept a strictly impartial and neutral attitude ; I wanted to know what could be said for and against him. When I found one Honourable Member after another taking his stand on the general proposition that peace and order must be maintained, as if peace and order would be imperilled by the release of Lala Lajpat Rai, I exclaimed to myself “Have they nothing better to say than indulge in these generalities? Have they nothing better to say in defence of the case; and if they have not, their case must be hopeless and indefensible.” I submit, Sir, as at present advised, that the House should support the amendment.

**Dr. Nand Lal** : Sir, I shall try to meet the defence which has been set up by the Honourable the Home Member. He allowed himself to say that Lala Lajpat Rai is not a man of all-India reputation ; therefore this question should not be debated upon on the floor of this House. In reply to that I may very respectfully point out to him that if he would care to see the comments and the remarks, made in the papers, and the Resolutions, which have been passed, then he will be compelled to change his view. In the first place, I may tell him that he presided over the deliberations of the greatest political body of India—I mean the Congress held at Calcutta. Sir, is he not an all-India man? Is an ordinary man supposed or expected to be the president of the greatest Indian political body?



This fact, which cannot be challenged, establishes to the hilt that he is an all-India man and he has got an all-India reputation. Therefore we are competent to go into the question, which has been raised by the amendment, which is before the House now.

The second argument, which has been advanced by the Honourable the Home Member, is this : that it is a provincial subject. May I invite his attention to the provisions of section 401, sub-section (1), Criminal Procedure Code? There the words "Governor General in Council" occur first, and the words 'Local Government' occur subsequently. The Governor General is, therefore, primarily concerned, and this question can be gone into on the floor of this House, and if I mistake not, this point was conceded by the Honourable the Home Member, some time back. But I speak subject to correction.

The other point, which has been argued by the Honourable the Home Member, was this, that Lala Lajpat Rai was tried in a judicial court and that he had the right of appeal, and that he did not avail himself of it and therefore he does not deserve any clemency. That is the drift of his argument if I rightly followed the Honourable the Home Member. In reply to that I may submit, is there any law, is there any rule that if a convict does not file an appeal against his conviction or sentence, then he is debarred from availing himself of the prerogative which is clearly provided in the Statute? The Honourable the Home Member will accede to this reply of mine that there is no legal bar. So, this argument also, I may very respectfully submit, has got no value. Again the Honourable the Home Member argued that here is Lala Lajpat Rai who himself does not desire to come out. He himself says he had better remain in jail, as his existence in the jail will serve the cause of the country better, and therefore clemency should not be extended to him. That is the drift of the argument, if I rightly followed the Honourable the Home Member. In reply to that I may submit that it is not Lala Lajpat Rai, but it is the very country that is making this request on the floor of this House. This debate has been raised, not on the request of Lala Lajpat Rai, not on the request of the relations of Lala Lajpat Rai, but on the voice of the people of the Punjab. May I invite the attention of the Honourable the Home Member to the Resolutions passed, that the 9th of July 1923 was to be declared "the Lala Lajpat Rai day"?

Resolutions were passed, speeches were made and prayers were offered to Almighty God for his recovery, and there is no doubt that the universal opinion is that he should be released. (A Voice : "Recovery?") I find my friend Mr. K. Ahmed is interrupting me. I seek the protection of the Chair, because, I see that he is not only interrupting me but he also frequently interrupts some other speakers.

Sir, this is the voice of the people. We do not represent Lala Lajpat Rai alone. Since we represent the people and it is the peoples' request that he should be released, therefore we are raising our voice before this Honourable Assembly. There is another point, Sir, as to why Lala Lajpat Rai's case should be specially considered, that he has not violated the laws, to the same extent to which they were violated by some of the other political prisoners in India. I think, that is also a good point in his favour. Not a word has been said on behalf

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of the Government Benches that Lala Lajpat Rai is a dangerous man. I know him personally and the Honourable the Home Member may take it from me that he is harmless.

**The Honourable Sir Malcolm Hailey :** No, no.

**Dr. Nand Lal :** Certainly, you will not take it from me because I am opposing your view ; that is natural ; but I must say that he deserves clemency. Sir, I know him personally. To my mind, if he is released, it will remove the bitterness which is now found in the Punjab. And, Sir, there is a precedent for it. When the Royal clemency was shown by His Gracious Majesty, Sir, do you know what its result was ? How did the people, who were released, steer themselves ? I may very respectfully point out to this House that the result was very favourable. Those, who were released and whose sentences were remitted, did not return to their previous actions, and there was a great amount of satisfaction in the country, and His Majesty may be congratulated on that declaration. The result was, that there was a considerable decline in discontent, dissatisfaction was very much minimised, and most of the people were really thanking His Majesty, His Excellency the Viceroy, the Government of India and the Government of the Punjab in particular. The result thereof was so wholesome that the bitterness, then prevailing, was obliterated to a great extent, in those days, to my mind. Therefore, if this clemency, this prerogative, is extended to Lala Lajpat Rai, on the grounds, which have already been urged,—I would not repeat them,—my own impression is that it will result in good and not in bad. Since I have to make a speech on my own Resolution, in connection with the release of Lala Lajpat Rai and other political prisoners, on the ground of his and their sickness, I should not like to disclose what I am going to say there. Therefore, I shall confine my remarks only to the points to which I have referred to above. With these observations, I wholeheartedly support this amendment which deserves the support of the whole House.

**The Honourable Sir Malcolm Hailey :** I was asked some information by Dr. Gour and I am now prepared to give it to him. It will be remembered that he based his argument in favour of the inclusion of Lala Lajpat Rai's name in the Resolution on the ground, that he had been convicted under the Criminal Law Amendment Act and it was suggested by the Repressive Laws Committee that that Act should be repealed at an early date, if possible within the next session. The fact is that Lala Lajpat Rai was convicted under two laws, the Seditious Meetings Act and the Criminal Law Amendment Act. The Seditious Meetings Act has not been repealed nor did the Repressive Laws Committee suggest that it should be repealed. Part I of the Criminal Law Amendment Act, which has nothing to do with Lala Lajpat Rai's case, has of course been repealed. He was convicted under Part II, and this is what the Committee says on the question of repeal :

"We regret that we cannot recommend the immediate repeal of Part II of this Act."

**Dr. Gour** was obviously depending on an imperfect recollection of the circumstances. Might I remind the House that it is hardly a week ago

that a motion came before it for the repeal of that very Act to which he referred, and the House by a handsome majority refused to consider even the introduction of the motion. We have been charged with having made no case out against this amendment; in other words, that we have not set ourselves to prove that Lala Lajpat Rai is a dangerous man and that this release would be a danger. Purposely we have not done so, because we consider that the matter is mainly one for the Local Government. Will you let me pursue the argument for one minute? Is the Legislature to come to the Executive and say with regard to any criminal or any number of criminals, political or otherwise, "You must release this man unless you can prove that it will be a danger not to keep him in jail." That is the argument on which I understand several of our friends are basing their claim to-day. Such a procedure would not only render our judiciary ridiculous, it would be to render the whole course of our justice ridiculous.

**Dr. H. S. Gour :** Sir, as the Honourable the Home Member has risen to correct me, may I venture to correct him? If he refers to page 11, paragraph 2, of our report, he will find the following words :

"In view of the grave situation which exists and which may become more serious, we also think that it would be prudent to defer the actual repeal of these Acts until such time as the situation improves."

Now mark the words :

"Many of us hope that it may be possible for the Government to undertake the necessary legislation during the Delhi Session."

Now, Sir, I am not free to disclose upon what materials that hope was based, but I assert that that was what the majority of the Members hoped and expected, and it is to that I adverted in my speech.

4 P.M.

**The Honourable Sir Malcolm Hailey :** That reference did not refer to the two Acts which Dr. Gour has in mind.

**Dr. H. S. Gour :** It does.

**The Honourable Sir Malcolm Hailey :** No. (*Mr. N. M. Samarth :* "No.")

**Mr. President :** The original question was :

"This Assembly recommends to the Governor General in Council that he may be pleased to set at liberty at an early date Mahatma Gandhi, Maulana Hasrat Mohani, who were convicted at the Karachi trial."

Since which an amendment has been moved :

"To insert the words 'Lala Lajpat Rai' after the word 'Gandhi'."

The question that I have to put is that that amendment be made.

The Assembly divided :

AYES—24.

Abdul Majid, Sheikh.

Abdulla, Mr. S. M.

Agnihotri, Mr. K. B. L.

Ahmed, Mr. K.

Ahsan Khan, Mr. M.

Ayyar, Mr. T. V. Seshagiri.

Bagde, Mr. K. G.

Basu, Mr. J. N.

Bhargava, Pandit J. L.

Faiyaz Khan, Mr. M.

Ghulam Sarwar Khan, Chaudhuri.

Gour, Dr. H. S.

Gulab Singh, Sardar.

Joshi, Mr. N. M.

Mahadeo Prasad, Munshi.

Nand Lal, Dr.

Neogy, Mr. K. C.

Reddi, Mr. M. K.

Shahani, Mr. S. C.

Sinha, Babu Ambica Prasad.

Sohan Lal, Mr. Bakshi.

Srinivasa Rao, Mr. P. V.

Venkatapatiraju, Mr. B.

Vishindas, Mr. H.

## NOES—42.

Abdul Rahim Khan, Mr.  
 Aiyer, Sir P. S. Sivaswamy.  
 Akram Hussain, Prince A. M. M.  
 Anson, Mr. E. C.  
 Asad Ali, Mir.  
 Ayyangar, Mr. R. Narasimha.  
 Bardwell, Mr. H. R.  
 Barnes, Mr. H. C.  
 Barodawalla, Mr. S. K.  
 Barua, Mr. D. C.  
 Blackett, Sir Basil  
 Bray, Mr. Denys.  
 Bridge, Mr. G.  
 Burdon, Mr. E.  
 Butler, Mr. M. S. D.  
 Calvert, Mr. H.  
 Chatarji, Mr. P. C.  
 Chatterjee, Mr. A. C.  
 Clarke, Mr. G. R.  
 Dalal, Sardar B. A.  
 Faridooji, Mr. R.

Gidney, Lieut.-Colonel H. A. J.  
 Graham, Mr. L.  
 Gwynne, Mr. C. W.  
 Haigh, Mr. P. B.  
 Hailey, the Honourable Sir Malcolm.  
 Holme, Mr. H. E.  
 Innes, the Honourable Mr. C. A.  
 Mitter, Mr. K. N.  
 Muhammad Hussain, Mr. T.  
 Mukherjee, Mr. J. N.  
 Mukherjee, Mr. T. P.  
 Nayar, Mr. K. M.  
 Percival, Mr. P. E.  
 Rajan Baksh Shah, Mukhdum S.  
 Richey, Mr. J. A.  
 Samarth, Mr. N. M.  
 Sassoon, Captain E. V.  
 Sim, Mr. G. G.  
 Singh, Mr. S. N.  
 Stanyon, Colonel Sir Henry.  
 Ujagar Singh, Baba Bedi.

The motion was negatived.

**Rao Bahadur C. S. Subrahmanayam** (Madras ceded districts and Chittoor : Non-Muhammadan Rural) : Sir, I propose to move an amendment which runs as follows :

“ That the following be added at the end of the Resolution as it now stands after the omission of the names of Mr. Muhammad Ali and others : ‘ On receipt and after due and merciful consideration of such representations as may be received from the said persons ’.”

The object of this amendment is to shape the Resolution in a manner which would be reasonable looking at it from the point of view of a lawyer or from one who thinks that the law has something to do with the business that is done here. Now, Sir, the Resolution as it stands is what I may call a large order. It simply asks the Government to release a number of men. They may be great men. They may be eminent men. They may be men of high character. That much we may admit. We need not question that. But the discussion that was raised on their behalf put those points in issue and a great disservice has been done to men who are not here to speak for themselves, men who would not feel thankful for their advocates here who brought every item of their life into discussion. Now, that is one aspect of it which those who interest themselves in this motion should have thought of, for once we say that a particular individual is a good man and that therefore a certain thing should be done, it is very reasonable and it is very proper for those who oppose such a demand to give out what information they have and to support that information with documents, with statements and with all the evidence that they have in their possession. Now, therefore, what has been done to-day has been a great disservice to certain persons for whom their advocates have expressed their unbounded admiration. Now, in this matter I would respectfully associate myself with what my Honourable friend Sir Henry Stanyon said. We are discussing certain persons behind their backs. That is a very improper thing to do in any place, but much more so in this Assembly where every word that we utter is telegraphed all over the country. Incidentally, it was so last year in the case of Mr. Muhammad Ali.

A Resolution which was very faintly moved elicited from Sir William Vincent a host of facts which simply staggered the Assembly, with the result that not one man stood up to vote in support of that Resolution. Now, that is the result which these well-meaning friends of those who are absent from this Assembly..... (Dr. Nand Lal : " I got up ten times, but I did not get the opportunity.") Well, I am very sorry ; it might have been negligence on the part of the Chair that my Honourable friend did not get a chance to speak. (Dr. Nand Lal : " Not at all. I am not blaming the Chair.") Now, the facts are that there has been a trial a conviction and a sentence, and those who underwent the trial and were convicted and sentenced have not up to now said a word against the injustice of the conviction or the excessiveness of the sentence. Now, in the arguments in this Assembly, the first ground advanced was that of higher spiritual politics, and that ground was taken up very properly by my Honourable friend Mr. Seshagiri Ayyar and my friend Mr. Venkatapattiraju. But taking up that ground they practically eschewed the particular details on which there might be discussion. For once a matter is placed before this Assembly it does not remain on that high plane. In the first place that higher plane cannot be of much use in this Assembly. We are a set of business men accustomed to do things in a business-like way, in a way in conformity with law and in conformity with the constitution. Therefore, that plane of argument, whatever its value may be in other places, cannot be introduced here as a means of enforcing personal or other opinions in regard to questions which agitate the minds of Indians. That was one plane of argument. The other was the personal aspect of these individuals. Now, naturally, when you talk of the personal character of these individuals the Government which has been from the beginning styled bad and cruel and so on cannot be expected to be silent, it cannot be expected to allow these remarks to go uncontradicted. Any Government, whether it is a foreign, an indigenous or a republican Government, the Government of the day will always maintain its position and will naturally fight to crush and drive away those who oppose it. That should not be forgotten ; that is the characteristic of any Government which may be in power, and there is no use complaining that they do not allow people who are aiming at their very existence, people who want to undermine their position in this country, all the liberty and freedom that is possible. Now that is an argument which should not be used in any business place. Now that argument has been used frequently, and appeals have been made on that ground. I do not think an appeal like that can have any effect. If you really want to have those persons released, you have to persuade the Government to take you into their confidence. You have to persuade them, in the first place, that they are good individuals. But if the persons on whose behalf you speak are not willing, are practically defying the authority of the Government, how can you expect the Government to release them or do as you like ? Now that is the weakness of the whole case ; it has been put forth to the Assembly, and we have discussed it, and we have said so many things to-day about it. Now I ask my Honourable friend, Mr. Seshagiri Ayyar, who has moved this Resolution, who has had considerable legal experience, who has held one of the highest judicial offices in the country, would he allow a judgment of his convicting certain persons to be discussed in a popular Assembly ? (An Honourable

[Rao Bahadur C. S. Subrahmanayam.]

*Member* : " Why not ? ") If he says that when he sat in the Bench, he would have allowed his judgments, convictions and sentences to be canvassed in a popular Assembly, well, whether that will carry weight with the Assembly is another matter, but it is a question whether that would be consistent with the respective, the relative duties of the Legislature and the judicial authorities of the country. Now take one other point of view in this matter. To-day you ask for release of Mahatma Gandhi ; to-morrow you may ask, by moving a certain Resolution ballotted for by 30 of us, for a certain man sentenced to a long term of imprisonment in the southern-most corner of India, Cape Comorin, and convicted of a serious offence, and you come and discuss the whole thing, without knowing the full facts of the case, and ask the Governor General to exercise his power and to do certain things. That would be a precedent which would be a dangerous thing in a popular Assembly. I might have a prisoner for whom I have the tenderest feelings, whom I wanted released, and so on ; and from each province the names of men may be put forward who have been the victims, we will assume, of some judicial error—are we to go on discussing those cases here in this Assembly, without having the full facts, the papers, and would we give all those Judges and others who have dealt with the case the go-bye ? I think that would be setting a very bad precedent,—to discuss the decisions of judges and courts and to ask the Executive Government to give the go-bye to them. The only thing we can do as individual Members of the Assembly is to appeal for that mercy which is the prerogative of the representative of the Crown. That we might do. That is what is done oftentimes in other countries. If you feel that a certain conviction, a certain sentence, is improper, your duty as men who have got responsibility on your shoulders is to join in a memorial, to appeal to the authority in whom this power of mercy is vested to exercise that power. Therefore, my position is that so far as this Resolution goes, it is constitutionally setting a very bad precedent ; it is legally wrong, men trained in law cannot tolerate a discussion like this ; and as practical business men we should not rip open and expose to public view judicial decisions, without having the facts which the public also do not know and about which we have necessarily to rely on Government, in defence of a motion of that kind. If we really want as a matter of practical politics the release of these men, the proper course would be to secure the right frame of mind in those on whose behalf we are asking for the release. I therefore move for the addition of the words :

" on receipt and after due and merciful consideration of such representations as may be received from the said persons."

Are we not interested in the prestige, in the self-respect or in the dignity of the Government itself ? Supposing the Government accepts our Resolution and releases these persons and to-morrow these persons say, ' We did not want to be released ' and they come out and tell you openly ' we never wanted to be released, some busybodies have been doing it, and you in a fit did it,' what is to be the position then ? Is that the right course to adopt ? So far as I can see in this Resolution and in the whole discussion, I cannot find one single ground on which as a Member of this Assembly I could support the motion as it stands on the paper. I therefore

propose this amendment for the acceptance of the Government. These men and the Government are at extreme ends. It is possible to build a bridge between them. If they choose, they may walk over it. If Government choose, they may also walk over it. It is in that humble endeavour to build a bridge between the Government and these persons that I have suggested this amendment, because I should not like this Assembly to be considered a heartless Assembly in the case of men who are suffering, nor is it a fair thing for the Government itself to appear to the world as if it was heartless. Therefore the right course, the legal and the constitutional course, for every man who wants a favour from Government is to seek it, and if he seeks it, I have no doubt Government in all probability will comply. Judging from the past, many a man who has been convicted has been released on an application made by him in the right and proper frame of mind. Therefore, it is not asking too much of Government to consider such a representation with leniency and in a favourable manner.

**Mr. President :** Amendment moved :

“ At the end of the Resolution to add :

‘ on receipt and after due and merciful consideration of such representations as may be received from the said persons .’ ”

**The Honourable Sir Malcolm Hailey :** I confess that I was at first rather attracted by Mr. Subrahmanayam's amendment just as I am frequently attracted by Mr. Subrahmanayam's arguments. It is a great thing—if I may be allowed to say so—to have among us a Member of the Assembly, whether he is on our side or on the other side, who advances his views with such independence and sincerity as does Mr. Subrahmanayam. When he attacks us, we value his criticisms highly because of their independence and sincerity, and I believe that my Honourable friends opposite, whom he also sometimes attacks, have an equal admiration for his strength of mind. But to return ; I was at first attracted to this amendment, but when I fitted it on to the original Resolution, I found that it would read as follows :

“ This Assembly recommends to the Governor General in Council that he may be pleased to set at liberty at an early date Mahatma Gandhi and Maulana Haarat Mohani on receipt and after due and merciful consideration of such representations as may be received from the said persons.”

As I understand, that would commit us after receiving representations—(that stipulation is a valuable addition from our point of view to the original Resolution)—after receiving representations that would commit us to release these gentlemen at an early date. I should be unwilling, however, to bind myself to say at this stage and at this moment that we would release these gentlemen, even if we did receive representations. If the Honourable Member only had in mind to ask us to give due and merciful consideration to any representations that might be received from them for their release, that would be a different matter ; but as he will see, his amendment really commits us to the release of these prisoners. Now I have endeavoured to show that from our point of view at the present moment at all events, and without binding ourselves necessarily for the whole future, it would be dangerous to release them. And let me say at once, Sir, with a view to some criticisms which have been levelled at us in the course of this

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debate, that we on our side have, I hope, endeavoured to refrain from personal attacks on these men. We have not, as far as possible, made animadversions on their character. We have not attempted to enforce the grounds on which they were convicted. All we have done, the House will admit, is to attempt to estimate the danger or the advantage to India of effecting their release.

**Rao Bahadur C. S. Subrahmanayam :** One word. I hope I have not been understood as saying the Government had without cause made remarks against these people. They were forced to make these remarks against them by the action taken by their friends. That I suppose is clear.

**The Honourable Sir Malcolm Hailey :** I fully accept that. My remarks did not refer to anything that Mr. Subrahmanayam himself said. Indeed he made it clear that if the Government's action in this matter was attacked, Government would have to defend the grounds on which it holds to its position ; and I have merely tried to put before the Assembly that we have followed the principle that when our action in this matter is attacked, we should not attempt to discuss further than is necessary the character or the past conduct of these prisoners. We have accordingly merely attempted to lay before the Assembly our view as to the alleged possibility of releasing them without danger to India, and have at the same time sought to combat the view that has been put forward by other Members of the Assembly, that their release would be a positive advantage to India. I regret that I should have to oppose Mr. Subrahmanayam's amendment, but I do so because I fear that if I did not do so, our action would be liable to misunderstanding.

**Mr. President :** The question is that that amendment be made.

The motion was negatived.

**Mr. T. V. Seshagiri Ayyar :** I shall reply very briefly to the observation which fell from the Honourable the Home Member. Sir, the speech reminded me of what I have often read of, namely, of what takes place on the occasion of the beatification of a Cardinal in Rome. Somebody is put up to draw attention to all the bad points in the life of the person to be beatified, and he is known by a particular name. If I used that expression here, probably the Honourable the Home Member might take offence. Therefore I will not use the name by which he is designated. Sir, if the Honourable the Home Member can say only all that he has said against the life, against the teachings, against the career of the greatest man at present living in India, I think we are justified in saying that he is entitled to be called a saint, a Mahatma and something more.

Sir, what have been the points made by the Honourable the Home Member ? He said that Mahatma Gandhi has spoken against railways. As has been pointed out, Ruskin was against railways. It is said that Mahatma Gandhi has spoken against the medical profession. A large number of people always speak against the medical profession, and there are some who think that vaccination is a great error. I know one Governor of a province who has been propagating the theory that vaccination is one of the greatest evils that mankind can suffer from. Still we do not clap him into jail, nor do we clap into jail persons who



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speak against railways, the medical profession ; on the contrary, some of them are set to rule over a vast population. Sir, at this moment there are in England persons who advocate the confiscation of property ; there are Communists in Parliament. If the theory of the Honourable the Home Member is to be carried into effect, all these men must be put into jail. Sir, I think the Honourable the Home Member has not said anything which would show that this great man by being out of jail would be a menace to the peace of India. The Honourable the Home Member and the House should not forget that it is to Mahatma Gandhi that we owe the great *re-approachment* between Hindus and Muhammadans, and it is because of his intervention in many matters that there has been a closer union between the two communities ; and that has been a great asset for law and order so far as the Government is concerned. If Government is anxious that Hindus and Muhammadans should come together (*A Voice* : " They are not.") so that there may be peace in the country, the best thing they can do is to release Mahatma Gandhi. If Mahatma Gandhi had been released, the riots in Amritsar would not have taken place. Possibly, if he had been out at the time that these riots took place, he would have pacified the parties. And I say with confidence that, if this man had not been in jail, a great deal of bloodshed would have been avoided. Sir, all these considerations ought not to be lost sight of in estimating the character, the work and the life of this great soul, and, if they had been taken into account, I think the Government should be the first to insist on his coming out of jail.

Sir, a great deal has been said upon another point, and I am sorry that the Honourable the Home Member gave countenance to it ; and that is, because there has been no petition from Mahatma Gandhi and others, therefore they ought not to be released from jail. May I ask the Honourable the Home Member who petitioned for the release of the large number of prisoners in Agra, who petitioned for the release of the prisoners in the Punjab and who petitioned for the release of the Moplah prisoners ? Is it not public opinion that forced the Government to take up the attitude which was adopted ? Is it right to say that, unless these people move, we should not release them ? I am sorry that such an argument should have been used at all.

Sir, I have a high regard for one of the Members of this Assembly ; and he belongs to the profession to which I myself had the honour to belong. I am referring to Sir Henry Stanyon. He said that by discussing this matter we are infringing on the powers of the judiciary. I think he is confusing the province of the judiciary with that of the executive. I would consider a Judge to be unworthy of his office if he did not shut his eyes and ears to anything that concerns politics. He has to deal solely with the papers which are laid before him ; he has nothing whatsoever to do with political considerations. They are for the Government, and these considerations the Government could take into account in saying whether a man rightly convicted should be let out or not. What the Judge has to do is simply to weigh the materials placed before him and come to a decision. Sir, in this connection I may say that at the very outset, almost in the second sentence of my speech, I said that I would not canvas the merits of

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the case. I said it, and still my friend on the left asks whether I would sit quiet if my judgment were subjected to the scrutiny and the criticism which has been passed upon others in this House. I would never be a party to any Judge being criticised in that way. What I wanted was that the Government should, in the interests of justice, and in the interests of peace take up the question of the release of Mahatma Gandhi. That is what I wanted the Government to do. It had nothing to do with the merits of the conviction. I expressly saved myself from that imputation by saying I would not go into the merits. If others that followed me—so far as I can see they have said nothing which goes against the principle which I just now enunciated—if others have said anything with regard to the merits of the case, I am not responsible for it. I who have occupied the responsible position of a Judge made it clear to the Government that I would be no party to discussing the merits of the case. That ought surely to have saved me from the imputation which has been made by my Honourable friend, Mr. Subrahmanayam and others.

Sir, I am sorry to say that the Honourable the Home Member let fall a remark, which if it is to be taken literally would evoke considerable criticism; for if I remember aright he said "Can this Assembly ask the Government to disclose the grounds on which a criminal is continued in jail, and if it is not done, can the Assembly take it for granted that the man has been improperly detained?" If I remember rightly, those were the words used by him. I am sorry that in speaking of these men to whom my proposition refers he should have used the expression "criminal". They are criminals, no doubt, in the sense that judgment has been passed upon them. They are criminals in the sense that they are in jail. But surely in the opinion of a very large number of people in this country they are no more criminals than anybody who sits in this Chamber. If a plebiscite were taken in this country, I feel sure that more than 90 per cent. of the population would say that these are good and true men and that the Government is doing an injustice to itself by allowing them to remain in jail.

Sir, if I understood the Government Member from the Punjab correctly, he drew a picture, a very lurid picture, of what would happen if some of these prisoners were let out of jail, and I believe he invited me to go to the Punjab and see what would happen if these people are released. His imagination has apparently carried him too far. As I said before, if my friend the District Magistrate had only Gandhi out of jail, he would have had less difficulty in tranquilising the people than he had. It is because Gandhi was in jail that these regrettable disturbances took place in the Punjab. I say with confidence if Gandhi were not in jail these disturbances would not have occurred.

Sir, in the speeches that have been made one name has not been given the prominence it deserves. By the amendment of Mr. Asjad Ullah the names of Mohamed Ali and Shaukat Ali were omitted. There are still a number of other Muhammadans whose release would follow if my Resolution is accepted. For instance I refer to Hasrat Mohani—a good scholar, a man who has done public service. He is a learned

man whose sincerity and patriotism cannot be doubted ; and I ask my Moslem friends to say whether they are inclined to allow this good man, this learned man, to remain in jail, although in one or two months the other two persons whose names have been omitted might be let out. I ask them to consider their position in regard to this matter.

Sir, I am coming to a close. The Honourable the Home Member at the conclusion of his speech said that two considerations should weigh with Government in regard to the release of political prisoners. One of them, he said, was whether the good will of the people was necessary for the constitutional change—I think those were the very words he used—and from his point of view, from the information which he had at his disposal he was apparently of opinion that the people did not want, in order that the reforms may prove a success, that these men should be let out. I respectfully beg to join issue with him on that point. The country as a whole is of opinion that the reform proposals would have a better chance of success, a greater chance of impressing the people with the sincerity of the ruling nation, if these men are out of jail. That, I think, is the position which the people as a whole have taken up, and I am unable to agree with the Honourable the Home Member that their release is not necessitated by the first condition which he mentioned.

The second condition which he mentioned was this, that the agitation should have spent itself out. He said that if the agitation had spent itself out, then the authors of the agitation might be released from jail. Sir, I think the Honourable the Home Member has very often said in this House that the agitations started by Mahatma Gandhi and others has spent itself out, that it is no longer the force that it was, and that the country is now really tranquil and quiescent and that therefore there is no fear of the repetition of the disturbances which took place sometime ago. That, Sir, was I suppose in reference to other matters ; but I ask him seriously to consider whether the agitation is as forceful to-day as it was a year ago ; you have got divisions in the camp and there is considerable difference of opinion among them, and in these circumstances I think the Government would be justified in saying that the agitation has spent itself out and it is desirable that these men should be let out.

There is one other consideration to which the Honourable the Home Member has not adverted, and I may put it as the third consideration, and it is this. Where the people ask for a particular report, where the people think that if certain persons who are in jail are let out, the Government would become more popular and the interests of the people more stable, if that is the view of the population, then there is no doubt that the Government should release these people from jail, and that is what has been done in Egypt and that is what has been done in Ireland ; and that is the lesson which the Indian Government is not prepared to accept. It is not because these men wanted to be released, that this step was taken in Ireland ; it is not because in Egypt these people petitioned for mercy that they were let out ; it was because in the highest interests of Government and of contentment and tranquillity, the authorities thought that if these people were let out, there was a better chance of the Government and the people working together. And it is that attitude which I want the Government to take up ; it is that attitude which my friend, Mr. Venkatapatiraju also

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insisted upon. I ask Government seriously to consider again whether by letting out these men from jail they would not be enhancing their own prestige, would not be placing the country in a more tranquil position and thereby bring happiness and contentment to the people.

One word more and I have done. I appeal once again to my friends on the non-official side. I have pointed out to them the importance of passing this Resolution. Some of them have kept strangely silent ; and I do not know what their attitude would be. I point out to them once again that the country for two years has been agitating in this matter, that the best minds in the country have been saying that as a condition precedent to peaceful progress of the reforms it is necessary that these men should be out of jail, and I ask them to say whether they consider that these men were misguided, that these men had no political sagacity and that they themselves are cleverer and abler and greater statesmen than these men who have been agitating for the release. If that is their attitude, I have nothing to say. On the other hand I ask them seriously to consider the position taken up by the leaders of Indian society, by leaders of Indian thought in politics, and in exercising their vote on this occasion not to be

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led away by personal considerations, but to take serious account of what would be in the best interests of the country.

**The Honourable Sir Malcolm Hailey :** I should have had no objection if Mr. Seshagiri Ayyar had called me an *advocatus diaboli*. The name I don't mind ; the question is whether I have been successful in that office or not. And, I claim that I have been successful. I think I have been successful in convincing the House, that there would be no advantage, but some danger to India in the release of these prisoners. I am not going again over the ground which we have already covered in regard to the character of their teachings ; my case does not rest, as the House well knows, on matters of that nature. It rests on a substantive claim that in the past, whether they have been responsible personally for disorder or not, yet disorder has consistently followed their operations, and that if they were now released disorder would follow them again. That is my case and nothing else. It matters little what Mr. Gandhi thinks of the accepted principles of modern progress. What does matter is, that India at the very moment when she is looking to make a substantial advance, material and political, should not again suffer a set back by the orgy of disorder into which she was cast in the last two years.

I turn to the substantive argument which Mr. Seshagiri Ayyar himself advances for the release of these men. For he does not of course follow Dr. Gour ; he does not believe that it is sufficient to put to us the proof whether we can demonstrate that there will be definite harm from their release. He is more logical, and sets himself the task of proving that there would be a positive advantage to India in setting them free. Now his first argument. He referred to the speech of my friend Mr. Calvert. May I by the way say here, how glad this Assembly always is to receive from an officer at first hand the results of his own personal experience in the province in which he is serving ? That experience, whether the Assembly will accept its conclusions or not, is always bound

to be of the very greatest value to our deliberations. Now Mr. Seshagiri Ayyar referred Mr. Calvert's picture of the difficulty of tranquillising the Punjab. The present difficulties in the Punjab arise from the conflicting claims of three communities ; and Mr. Seshagiri Ayyar tells us that if we were to release Mr. Gandhi, the difficulty of the Punjab Government, that day to day difficulty of preventing these three communities from getting at each other's throats, would at once be minimised. I am not going to give any views of my own on that subject ; Mr. Seshagiri Ayyar has drawn his own conclusion ; the House will draw theirs. I will merely provide them with material for doing so. I will read first of all what certain Hindu gentlemen said of Mr. Gandhi as a promoter of Hindu-Muhammadan entente :

" Truth is infinitely of more paramount importance than Hindu-Muslim unity or Swaraj, and therefore, we tell the Maulana Sahib and his co-religionists and India's revered leader Mahatma Gandhi—if he too is unaware of the events here—that atrocities committed by the Moplahs on the Hindus are unfortunately too true and that there is nothing in the deeds of Moplah rebels which a true non-violent non-co-operator can congratulate them for."

They do not seem to have found the doctrine of non-co-operation as directed by Mr. Gandhi to have been a very potent factor in Hindu-Muhammadan reconciliation in Malabar. I will read a comment on this aspect of his activities by another gentleman, also a Hindu.

**Dr. H. S. Gour :** May I inquire, Sir, from what book the Honourable Member is quoting ?

**The Honourable Sir Malcolm Hailey :** A book by Sir Sankaran Nair, which contains some very interesting information about Mr. Gandhi ; I commend it to any of those Members who may desire to supplement their knowledge on the subject. But I warn them that after reading it they would not support this Resolution :

" When therefore Gandhi and his followers fraternised with the Khilafatists, the latter had no doubt of their support if eventually it came to rebellion. They were confirmed in this by Gandhi's attitude on the questions in issue between them and the Hindus. He advises the Hindus to submit themselves to Muhammadan dictation"—*(that seems a very simple basis of compromise)*—" He begs them not to insist on the prohibition of cow slaughter by Muhammadans and to rely upon Muhammadan forbearance to afford them relief in that direction. On the other hand he advises the Hindus to refrain from irritating the Muhammadans by insisting on carrying their processions past the mosques on their religious occasions. He advises them to study Hindustani as against Hindi ; in fact complete submission to the Muslim feelings in all matters in controversy between them."

I hope that this method of compromise is satisfactory to my Honourable friend :

" His attitude towards the Moplah outrages shows the extent of his surrender. His alliance with the Khilafat movement has led to frightful results in Malabar. Relying on the assurance of Gandhi and his followers, of Hindu support for the Khilafat movement, and supported by the teaching that the Hindus may be treated as foes on failure to support them in a holy war, the Moplahs when they rose against the British Government were furious at the Hindu attitude of loyalty to England. The result was, themselves armed and organised, they took the Hindus unawares and committed atrocities too well known to need recapitulation here—butchered them and inflicted injuries on them far worse than death."

I assume, Sir, that Sir Sankaran Nair knows a great deal more than I do about Mr. Gandhi and about the possibility of Mr. Gandhi's effecting

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a reconciliation between the Hindus and the Muhammadans.' I therefore make no comment of my own and merely leave the House to decide how far he would be effectual in the present emergency in bringing about a reconciliation between those two communities.

Then I come to the second argument, and of a truth, the second argument is worse than the first. We are to release Mr. Gandhi in order that we may promote the chance of securing constitutional reforms. Is it necessary that I should argue that ? Is it necessary that I should remind the House how again and again he has decried this Legislature, the creation of the Reform Scheme, how he has definitely and finally refused to admit the slightest value in it ? Need I point out that his own followers, or at all events that extreme section which still clings to him, have definitely refused to countenance in any way even the most elementary concession to the present scheme of constitutional advance ? Need I point out, that lieutenant of the band which still follows him has suggested that we should repudiate the whole of our debts ? It is a strange method of attaining constitutional advance. Shall I point out, again, that certain others of that section are at present engaged in an endeavour to raise the whole of the agrarian and peasant population to a no-rent campaign ? Again, a strange method of constitutional advance. Finally, Sir, this Assembly, I take it, is bound to constitutional advance within the Empire. This is what Mr. Gandhi says on that point :

“ No Indian can remain loyal in the accepted sense to the Empire as it is at present represented and be loyal to God at the same time.”

He would therefore secure his own constitution—and Heaven alone knows what that constitution would be—by his own methods, outside the Empire, without the assistance of Parliament, and I need not say, without the assistance of Great Britain. And Mr. Seshagiri Ayyar pretends that by releasing him we should further the cause of constitutional reforms !

I have no more to say. Heaven knows that I wish to keep no man in prison a day longer than is required to satisfy the claims of justice or is sufficient to secure the peace and contentment of India. I have no animus against any of these unhappy and misguided men. I merely plead the cause of the peace and contentment of India and I plead it, I believe, to men who are satisfied, as I am, that one thing which we should now seek to avoid is the recurrence of that widespread disorder which characterised the history of India in the last two years. If that is our object we can brook no division of counsel ; we must act together. For, as Burke has justly said :

“ When bad men combine, the good must associate ; else they will fall one by one, an unpitied sacrifice in a contemptible struggle.”

**Mr. President :** The question is :

“ That this Assembly recommends to the Governor General in Council that he may be pleased to set at liberty at an early date Mahatma Gandhi and Maulana Hasrat Mohani.”

**The Assembly divided :****AYES—22.**

Abdul Majid, Sheikh.  
 Abdulla, Mr. S. M.  
 Agnihotri, Mr. K. B. L.  
 Ahmed, Mr. K.  
 Ahsan Khan, Mr. M.  
 Asjad-ul-lah, Maulvi Miyan.  
 Ayyar, Mr. T. V. Seshagiri.  
 Badge, Mr. K. G.  
 Basu, Mr. J. N.  
 Bhargava, Pandit J. L.  
 Faiyaz Khan, Mr. M.

Gulab Singh, Sardar.  
 Mahadeo Prasad, Munshi.  
 Nand Lal, Dr.  
 Neogy, Mr. K. C.  
 Reddi, Mr. M. K.  
 Shahani, Mr. S. C.  
 Sinha, Babu Ambica Prasad.  
 Sohan Lal, Mr. Bakshi.  
 Srinivasa Rao, Mr. P. V.  
 Venkatapatiraju, Mr. B.  
 Vishindas, Mr. H.

**NOES—40.**

Abdul Rahim Khan, Mr.  
 Aiyer, Sir P. S. Sivaswamy.  
 Akram Hussain, Prince A. M. M.  
 Ansonge, Mr. E. C.  
 Asad Ali, Mir.  
 Ayyangar, Mr. R. Narasimha.  
 Bardswell, Mr. H. B.  
 Barnes, Mr. H. C.  
 Barua, Mr. D. C.  
 Blackett, Sir Basil.  
 Bray, Mr. Denys.  
 Bridge, Mr. G.  
 Burdon, Mr. E.  
 Butler, Mr. M. S. D.  
 Calvert, Mr. H.  
 Chatarji, Mr. P. C.  
 Chatterjee, Mr. A. C.  
 Clarke, Mr. G. R.  
 Dalal, Sardar B. A.  
 Faridoonji, Mr. R.

Gidney, Lieut.-Colonel H. A. J.  
 Graham, Mr. L.  
 Gwynne, Mr. C. W.  
 Haigh, Mr. P. B.  
 Hailey, the Honourable Sir Malcolm.  
 Holme, Mr. H. E.  
 Innes, the Honourable Mr. C. A.  
 Joshi, Mr. N. M.  
 Mitter, Mr. K. N.  
 Muhammad Hussain, Mr. T.  
 Mukherjee, Mr. J. N.  
 Nayar, Mr. K. M.  
 Percival, Mr. P. E.  
 Richey, Mr. J. A.  
 Samarth, Mr. N. M.  
 Sassoon, Captain E. V.  
 Sim, Mr. G. G.  
 Singh, Mr. S. N.  
 Stanyon, Colonel Sir Henry.  
 Subrahmanayam, Mr. C. S.

**The motion was negatived.**

**The Assembly then adjourned till Eleven of the Clock on Thursday, the 12th July, 1923.**

## CORRIGENDA.

Legislative Assembly Debates, Vol. III, page 4412 :

In line 24 from the top, *delete* the word " rigorous " between the words " was " and " imprisonment."

Page 4413 :

In line 3 from the bottom, *for* the word " that " *read* " than."