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(Official Report)

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THIRD SESSION

OF THE

COUNCIL OF STATE, 1923.



DELHI
GOVERNMENT CENTRAL PRESS,
1923

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COUNCIL OF STATE.

Monday, the 29th January, 1923.

The Council assembled at Metcalfe House at Eleven of the Clock. The Honourable the President was in the Chair.

MEMBER SWORN:

The Honourable Major-General Robert Charles MacWatt, C.I.E., M.B., F.R.C.S., K.H.S. (Director-General, Indian Medical Service).

QUESTIONS AND ANSWERS.

PRESS EMPLOYEES DISMISSED.

58. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state the total number of piece-workers and men on the salaried staff, respectively, whose services have been dispensed with during the year 1922 in Calcutta, Delhi and Simla Presses, respectively?

RE-CLASSIFICATION OF PIECE WORKERS.

59. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: (a) Will the Government state the results of the annual re-classification of piece-workers as to indicate—

- (i) how many men's class have been increased; and
- (ii) how many men's class reduced,

during the year 1922 in the Calcutta, Delhi and Simla Presses, respectively?

(b) In how many cases have the class of piece-workers been reduced in Calcutta, Delhi and Simla Presses, respectively, during the years 1918, 1919, 1920 and 1921?

(c) Is it a fact that since the inauguration of piece-system in the Government Presses till 1921, not a single piece-worker's class has been reduced? If the answer to the above be in the affirmative, what is the reason for the reduction in the classes at the present moment?

(d) Is it a fact that the re-classifications, which are made on the strength of average yearly income, are being carried out in the present year on the average income of a period of three months only?

PRINTING CLEARING OFFICE, DELHI.

60. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Do the Government propose to establish a Printing Clearing Office at Delhi to regulate distribution of work in its various Presses as suggested in the Piece-Workers' Committee's Report?

SUPERVISING STAFF OF PASSES.

61. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: (a) Do the Government propose any reduction in the superior Supervising Staff of its various Printing Presses?

(b) If so, to what extent?

PRESS FINE FUNDS.

62. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: (a) What was the total amount of the Fines Fund from April to December 1922, in the Calcutta, Delhi and Simla Presses, respectively?

(b) Will the Government state as to how the fines realised from its Presses were utilised before the inauguration of the said fund in April 1922?

SUPERVISION CHARGES IN PRESSES.

63. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government state the cost of supervision charges in the Calcutta, Delhi and Simla Presses, respectively, for the year 1920-21?

PRESS PROVIDENT FUND.

64. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Has the Provident Fund, promised in the Government Resolution of July 1920, been inaugurated in the presses and given effect to?

PENSIONS OF PIECE-WORKERS.

65. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state:

- (a) how many piece-workers on the temporary list with approved service in Calcutta, Simla and Delhi Presses, respectively, have applied for pension since July 1920;
- (b) how many of the above men have been given the benefit of a pension in the above presses, respectively, according to Government promise;
- (c) what is the highest and lowest amount drawn as pension by the piece-workers?

CALCULATIONS OF PRESS COMPUTERS.

66. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: In view of the statements made by Mr. Jagadisan, the Examiner of Press Accounts, before the Piece-Workers' Committee to the effect "that no two computers would arrive at identical calculations" and "that, in his experience, cases of excess calculations were at least as frequent as deficient payment," do Government propose to take any action to meet them? If so, what?

MACHINERY IN PRESSES.

67. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Is it the intention of the Government to supplement hand-labour by machinery in its printing presses?

COST OF PRESS MACHINERY.

68. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government state the cost of the machinery introduced in its various printing establishments at Calcutta, Delhi and Simla from the year 1919 to December 1922?

PROMOTIONS IN MONO SECTION.

69. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: (a) How are the promotions of the compositors in the Mono Section of the Government Press determined?

(b) Is it a fact that not a single member of the Mono Section in the Calcutta Press has received any promotion for several years past?

PRESS COMPOSITORS AND DISTRIBUTORS.

70. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government state the lowest class rates of compositors and the highest class rates of the distributors in Calcutta, Delhi and Simla Presses, respectively, before and after the introduction of the new scale in 1920?

PAY OF PRESS STAFF.

71. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government state the pay under the old and new scale, respectively, of Superintendents, Deputy Superintendents, Overseers, Accountants, Head Readers, Readers, Copy-holders, Cashiers, Checkers and Computers, separately in its printing presses?

COST OF PRESS STAFF.

72. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: What was the annual cost the Government had to incur in maintaining the Superintendents, Deputy Superintendents, Accounts and Office Sections of the Presses in Calcutta, Delhi and Simla, respectively, in the years 1918, 1919, 1920 and 1921, respectively?

" CONTINGENCIES " AND " AUXILIARIES.

73. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government please explain the terms " Contingencies " and " Auxiliaries," which occur in the Piece-Workers' Committee's Report in connection with the Press budget figures?

PIECE-WORKERS' COMMITTEE'S REPORT.

74. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: Will the Government be pleased to state what action they propose to take on the recommendations of the Piece-Workers' Committee's Report and when?

" TALLING " MACHINES.

75. The HONOURABLE MAHARAJA SIR MANINDRA CHANDRA NANDY: (a) Is it a fact that Government have imported two " totalling " machines for its Calcutta Press recently?

(b) If the answer to the above be in the affirmative, will they be pleased to state:—

(i) their price;

(ii) cost of their monthly upkeep;

(iii) what amount of hand labour, in terms of rupees and annas, they have replaced since their installation; and

(iv) what is now being done with the services of those men whom these machines have replaced?

The HONOURABLE MR. D. T. CHADWICK: The information required by the Honourable Member is being collected and will be placed on the table.

THE CRIMINAL TRIBES (AMENDMENT) BILL.

The HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move:

"That the Bill further to amend the Criminal Tribes Act, 1911, as passed by the Legislative Assembly, be taken into consideration."

As this is the first occasion on which it has fallen to me to address the House, since I have had the honour of being a Member, I must ask, and I venture to think that I shall obtain, that measure of indulgence and forbearance which this House has invariably granted to its new Members, in accordance with that high tradition of regard for the amenity as well as the dignity and authority of public deliberation which it has established for itself. I crave that indulgence, though I think I may say, without prejudice to the discussion which will ensue, that the measure which I submit for consideration is neither complex nor, if I may again say so with the utmost deference to the views of any Honourable Member who may still consider that the Bill is in need of some improvement, controversial. Since the passing of the Criminal Tribes Act, 1911, which was carefully framed with a view to the two principal objects it had in view,—firstly, the amelioration of the condition of the criminal tribes, and secondly, the protection of the public, some defects and inconveniences in its operation have been experienced. To consider these and to devise remedies, a Conference of officials and non-officials engaged in the administration of the Act and of representatives of various Indian States, who were also concerned, was called by the late Honourable Home Member, Sir William Vincent, in 1919. The Conference made certain proposals some of which were capable of being carried out by executive order, and this has been done, and many improvements in the administration of the Act have been brought into effect. Other recommendations, however, required a definite amendment of the Act. Proposals of this nature had also been made in the light of the experience gained from time to time by various Local Governments. Further consideration was given to the subject by the Indian Jails Commission, who likewise submitted recommendations on the subject. These proposals were all carefully considered, and they were then referred for advice and opinion to the Local Governments who are primarily concerned in the administration of the Act, and they have received practically universal approval. These proposals have now been incorporated in the amending Bill, which after careful consideration by the Select Committee has been passed by the Legislative Assembly and which I now move should be taken into consideration by the House. I shall not detain the House very long, and I shall in the first instance merely enumerate some of the principal features of the Bill. In clause 2 provision has been made for the extension of the Act to Presidency towns and to Rangoon, and for consequential arrangements. In clause 5 provision has been made for certain necessary delegations to an officer specially so empowered by the Local Government to vary notifications under section 11 and section 13 of the Act by directing the restriction of a criminal tribe to another area, or, as the case may be, its settlement in another place, in the same district, or the discharge of

any person confined in any settlement under section 18. Sections 6 and 7 make provision for transfer between Presidencies and provinces of criminal tribes whose original home has been in one province, though they have migrated or wandered into another. Clause 8—and it is of considerable importance—prescribes a formal inquiry before any orders of restriction under section 11 or of settlement under section 16 are passed. Clause 11 provides for the cognizability of certain offences under the Act or rules thereunder, and clause 27A makes provision of a permissive character for the transfers of criminal tribes to Indian States. The rest of the Bill for the most part consists of purely drafting amendments or amendments for the removal of doubt, and I will not trouble the House at this stage with any detail in commenting upon them. Sir, there is one point in particular, taking the Bill as a whole, of general principle which I should like, before I resume my seat, to emphasise. The House will observe that the amendments proposed in the Bill, and indeed the Act itself, are to a large extent of a penal or preventive character. The point which I desire to emphasise is this, that one of the principal objects of the Act and of the Bill to amend it is, undoubtedly and properly, the protection of the public. That is an important object. But its ulterior object is really in many respects more important. It is the emancipation of the criminal tribes: and the provisions which already exist in the Act and the further provisions which are now submitted for the consideration of the House are, I should desire to urge, merely instruments and expedients for the main, the ulterior object of the Bill, and that is, I venture to say, one of the most humane and one of the most benevolent enterprises in India. There are probably few executive officers of Government who have not been concerned from time to time in measures which have been taken by Government either with or without non-official co-operation for the relief of distress caused by flood, famine or epidemic. Those measures are of a kind calculated to invite, and indeed to demand, the co-operation of all right-thinking men. But, after all, the effects of catastrophes of that kind are fortunately to a large extent temporary, as their causes are to a large extent physical. The evils with which this Act and the Bill to amend it are intended to deal are of a different character. The causes are moral and social, and the effects, if proper remedies are not quickly applied, are permanent and may be almost irreparable. There is therefore a great responsibility resting upon the public and upon the Legislature, not only in the general interests of the public to protect its person and its property, but to remove or to do our best to remove what I am afraid I must say is a stigma upon our society so long as or so far as it is left unremedied. I have said, Sir, that the principal object of this Bill is to improve an Act the main, the ulterior purpose of which is the reclamation of the criminal tribes. I have seen something personally of the working of this Act. I do not think it is entirely due to predilection for my own Presidency, though that might be a predilection which the House would be very ready to pardon, that I should like to refer more particularly to work in this direction which is now being done in the Bombay Presidency under the immediate direction of an officer, Mr. Starte, who has devoted a large part of his service and the whole of his great abilities to this noble task. I think there are Honourable gentlemen present here who have visited settlements of the criminal tribes in the Bombay Presidency, and I do not think any of them can have failed to be struck, to be very deeply impressed, by the extraordinary changes in the moral, in the conduct, almost in the physiognomy, of members of the criminal tribes which have spent even a short period in one of these settlements. I refer to the Bombay Presidency, though I have read very

[Mr. J. Crerar.]

closely reports which have been made from other provinces, not because I wish to give any special precedence or priority to Bombay but simply and solely because conditions in that Presidency have come more immediately under my personal notice and observation. Any one who has followed the literature of this exceedingly interesting and important subject will be aware that work of the most splendid character has been carried out in nearly every Presidency and Province in India. I should like to add but one thing; that work has not by any means been restricted to official agencies. We owe, and I desire to emphasise it now and here, a very great debt of gratitude to non-official agencies such as the Salvation Army and various Missionary Societies who have co-operated with us in this grave and important task. This, Sir, is the consideration which I wish to impress most strongly on the House. The purpose of this Bill is to add to our resources to effect the liberation of the criminal tribes from the lives of misery, squalor and crime to which they have for many generations been condemned by circumstance, custom and heredity and their restoration to society as honest, industrious and useful citizens. It is to attain that object, Sir, that I venture to seek the co-operation of this House in placing on the Statute Book a measure which will aid us in this great work of redemption.

THE HONOURABLE LALA SUKHBIR SINHA (United Provinces Northern Non-Muhammadan): Sir, the object of this Bill is most laudable, and I congratulate the Government in bringing forward this measure before the Assembly and this Honourable House. The criminal tribes have been a great source of danger to the public, and I quite agree with the Honourable the Home Secretary that it is the duty of the public, of the Legislature and of the Government to reclaim these criminal tribes and to make them good members of society. Sir, in my district of Muzaffarnagar there is a criminal tribe called Bhauriya. They number about 1,000 or a little more, and the part of the district where they live is almost without any other population. They do not allow any man to settle there; they rob all the cultivation if there is any and take away the cattle. Besides this they go as far afield as Madras and Mysore on criminal depredations. The local authorities have been trying their best to reclaim them, sometimes by establishing industrial schools for them, and sometimes by trying to settle them in one place for agriculture; but their efforts have not been successful. I think this Bill will give power to local officers to settle them in one place and introduce some industry among them. Therefore it is possible that in the course of time they will leave their criminal profession and become useful members of society.

But, Sir, on this occasion I may mention one fear that I find existing here and there. The Honourable the Home Secretary has referred to the Salvation Army and the fear is in that connection. Although we are very thankful to the Salvation Army for doing their best to reclaim these criminal tribes, yet there is a fear that they will use their influence to turn these tribes to their religion. What we want is that the Salvation Army should do their best to reclaim these people, but they should not try to convert them to Christianity or whatever religion they may hold. If Government money is given to the Salvation Army for the reclamation of criminal tribes, it should be made a condition that they will not turn the people from their religion. The Salvation Army is no doubt doing a great deal of work in this respect; I know that in my province they have started settlements, especially in the Aligarh district, and are doing good work. But I think the

Local Governments should do their best in this direction, and when they themselves cannot take any other steps, they may give over the work to the Salvation Army, but only on the condition that the religion of these criminal tribes will not be interfered with.

The HONOURABLE MR. LALUBHAI SAMALDAS (Bombay: Non-Muhammadan): I congratulate the Honourable the Home Secretary on the lucid manner in which he has put the purport of this Bill before the House. I would not have intervened in this debate, as I knew that it would be carried unanimously, had it not been for the remarks made by my Honourable friend Lala Sukhbir Sinha. He admitted that the Salvation Army has done good work. We are all agreed as to that; and yet he wants us to lay down the condition that the Salvation Army should be debarred from attempting to convert these people to Christianity. I do not think we can lay down any condition of that kind. The Salvation Army believe that Christianity is the best religion, and if that is their belief, it would be asking them to go against their belief to insist on their not teaching their religion to these people. If, of course, they were to force their religion on any of these people, then we would certainly have the right to protest. But if they merely do missionary work we have no right to protest. I wish my Honourable friend had seen the work which, not only the Salvation Army, but missionaries, both ladies and gentlemen, have done among these tribes. I have seen them moving about among them in places where very few of us—I mean Hindus and Muhammadans—would care to go: mixing with them, talking to them, trying to improve and uplift them. It is not for us to sit here and criticise and belittle that very noble work being done by these people. It is for us to go and see how the status of the criminal tribes has improved under this treatment. If we do that, I am quite sure that even my Honourable friend Lala Sukhbir Sinha will realize that we have no business to criticise the good work done by the missionaries and the Salvation Army. In a place where I have a small factory, the settlement officers asked me if I would give them a plot of land on which some criminal tribes people could be settled. I was there only a few days ago and I went over the settlement. Their condition had been so much improved that nobody, unless he was informed, would have said that they belonged to a criminal tribe. They were as good as anybody else and doing honest work. That is the kind of good work done by the missionaries and the Salvation Army. Instead of criticising their work we ought to congratulate them and feel deeply grateful to them for what they have done. With these words, I support the Bill brought forward by my Honourable friend.

The HONOURABLE MR. V. G. KALE (Bombay: Non-Muhammadan): Sir, I join issue with my Honourable friend on my left. I think there is no disagreement in the House as to the noble and splendid work which the Salvation Army has been doing. But what my friend the Honourable Lala Sukhbir Sinha pointed out was that if the Salvation Army or any other body of people try to force its religion upon members of the criminal tribes, Government should see to it that this does not take place. My friend pointed out that the Salvation Army believes in a certain religion. No body objects to its so believing in its own religion. He also said that it has a right to preach what religion it thinks best. We agree also with this. But the question is whether any body of persons should be allowed to take advantage of the position of a people like the criminal tribes and to try to convert them to any religion other than the one to which they belong. There is a very strong suspicion in the minds of the Indian public in this

[Mr. V. G. Kale.]

connection (*The Honourable Mr. Lalubhai Samaldas*: "Unjustifiable"), and I think that something should be done to remove it. My friend says that it is an unjustifiable suspicion. Perhaps he does not feel for cases of conversion which may take place; but there are others who do feel that these conversions should not take place, and that they ought to be prevented. I am not here criticising the humanitarian work of the Salvation Army and nobody here wants to take exception to the actual philanthropic work that is being done by them. The only point which has been raised here is this. Should not the Government and should not the public do something to see that the Salvation Army or any other missionary body does not try to force its own religion upon the members of these tribes? (*The Honourable Mr. Lalubhai Samaldas*: "Why not start an association?") My friend says, why should not the Hindus and Muhammadans start their own associations to do the work of the Salvation Army? My answer to this is that that is not the question under discussion. The question under discussion is, should the Salvation Army be allowed to force its religion upon the members of the criminal tribes? (*The Honourable Lala Sukhbir Sinha*: "Quite so.") If my Honourable friend starts an association, I shall certainly be the first to assist that body. Nobody, of course, stands in the way of the Hindu or the Muhammadan community or any other community starting an association for ameliorating the condition of the criminal tribes. But my Honourable friend is here drawing a red herring across the trail.

As regards the general principles which were given expression to by the Honourable the Home Secretary, I am in perfect agreement with him. I devoted some of my attention to this question both from the social and economic point of view, and my Honourable friend Mr. Lalubhai Samaldas, who is a large employer of labour, will certainly find that in the criminal tribes there is a very large source of labour power which may be advantageously tapped. From the point of view of the economic progress of the country it must be said that so much labour is going to waste to-day. That labour has to be properly exploited. But apart from this economic standpoint, there is the social, there is the ethical and there is the spiritual point of view. These Criminal Tribes have been allowed to carry on their nefarious trades for generations together. The habits of thieving and making depredations upon innocent people living in villages have become, as it were, traditional and hereditary with them. It is very difficult to shake them off from the members of these Criminal Tribes. This is a very difficult work. If you try to bring the members of these tribes into civilised life, they remain there for a short time and then go back to their old habits. In the Bombay Presidency, to which a reference was made, there are settlements which have been started for them, and I know that they are doing very good work. Many of the members of the Criminal Tribes are at the present moment being employed in factories, we are told, in Sholapur and in other places. In almost all parts of the Bombay Presidency there are these Criminal Tribes. If you go and ask the members of these tribes what their profession is, they will tell you it is begging or thieving, and there are many villages reputed to be the haunts of these thieves. The condition of people living in villages which are pestered by the thieves and the perpetrators of various crimes is deplorable. All sorts of immoral activities are carried on by the criminal tribes. So, society has got to be protected from them and at the same time they have themselves to be raised from the fallen and depraved condition in which they have

been allowed to lie by ourselves. No doubt it is the fault of the community that it has done nothing up to this time in that connection. I, therefore, support the motion that has been placed before the House by my Honourable friend opposite.

The HONOURABLE SAIYID RAZA ALI (United Provinces East: Muhammadan): Sir, I did not propose to make any speech whatsoever at this stage, but in view of the remarks that have been made by my Honourable friend Lala Sukhbir Sinha, I, as one who has had some opportunities of coming in contact with the Salvation Army people and their methods, deem it my duty to say a few words. Sir, as the saying goes, you cannot examine a gift horse too closely in the mouth. The Salvation Army people are undoubtedly doing work which it is the sacred duty of the people and the representatives of the people—I mean both Hindus and Mussalmans—to perform. I do not wish to dwell on the very unfortunate condition of the criminal tribes in this country. Suffice it to say, Sir, that in spite of the lapse of centuries, we did not raise—I think I am justified in saying—even our little finger to ameliorate the condition of these classes. We should therefore be very grateful—and I have no doubt that the people of this country are very grateful—to those who have made it their business to help these classes in their onward march and wean them from the habits to which they have been addicted for centuries. I think, Sir, that if the remarks of my Honourable friend are allowed to go unchallenged, that might be taken as a sort of reflection on the very noble work that this agency, viz., the Salvation Army, has been doing for the past twenty years. So far as I know, Sir, they do not profess it as any part of their propaganda to convert people to Christianity. That, I take it, will satisfy my friend the Honourable Lala Sahib. Sir, there is absolutely no evidence that these people force their own religion on those whom they take under their charge. But, speaking for myself and for nobody else, I am prepared to say this much, Sir, that if by persuasion or even by methods which have no element of force the Salvation Army people succeed in converting these people to Christianity, I, for one, Sir, have no doubt, being as I am I hope a true Mussalman, in saying that the religion which some of these people are converted to represents a higher, a much higher, form of morality than the religion (or the absence of religion) which is the religion of these unfortunate people. I must again say, Sir, that I do not want to encourage the Salvation Army people in thrusting their religion on these people. But all the same I think we should not raise this issue at the present juncture, and if the patriotic Hindus and Mahomedans, the leaders of the people, the possessors of large purses, those who have dedicated their lives to the cause of this country, if they do not come forward and address themselves to the task of improving and ameliorating the condition of these people, I think it is a very wrong step indeed in the course of the discussion on a measure like this to raise the issue which might be taken in some quarters as evincing a desire on our part to detract from the good work that is being performed by this agency.

The HONOURABLE MR. G. S. KHAPARDE (Berar: Nominated Non-Official): I am afraid, Sir, that this question has been discussed from a wrong point of view. The Criminal tribes, as they are spoken of and of whom it has been said that they are hereditarily committing crime and have so to say specialised in crime, require to be reclaimed at once. I agree so far, but the question has not been discussed from the real point of view. India is a big country and we have our caste of thieves, people who do nothing but thieving. How was it tolerated in those days? It

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is said that we have a very great and very ancient civilisation. How is it that we allowed this caste of thieves and house-breakers to arise and allowed them to continue to exist? A reflection has also been made that the Hindus and Muhammadans have not formed themselves into a society to reclaim those people. How is that phenomenon to be explained? I explain it in this way. As history will show, in those days there were constant wars among kings. What they did was this. On the border of each kingdom they settled a certain race of people who would prevent others from coming and these people were allowed to make predatory excursions on the neighbouring people. That was the idea in those days. Therefore these small tribes consisting of one thousand or two thousand people were the border tribes maintained by each small king in order to protect itself from invasion from the neighbour. The proper policy would have been this. As we settled down and India got consolidated and we established an empire from Cape Comorin to the Himalayas, these tribes should have been moved to our frontiers and in that case there would not have been the Waziristan war. Nor would there be these raids, and people paying tribute and all that kind of thing. That policy was not carried out by the present Empire for various reasons or whatever the reasons may be. Therefore it is that these people have remained in various provinces more or less on the border land and naturally freed from the occupation of harassing the enemy they are now harassing the people themselves. That is how it comes about. We in those days exterminated the Thugs and destroyed all those people. If we had taken measures to move those people to these Afghan frontiers, probably we should not have got all these Afghan wars and all those things. However, that explains why they exist. That also explains that these people notwithstanding their bad trade, notwithstanding the fact that they do things which nobody would do, still they had loyalty to their king and preserved his small kingdom from being invaded. If we utilise them better and settle them on the large frontier, we shall have a force there which will be very useful. They are expert scouts, they are expert people to bring information. They are people who can find their way where even small animals such as goats cannot. These fellows will climb up hills perpendicularly. No blame attaches either to the Hindu Government nor to the Muhammadan Government for not having converted these people. If they are useful and I had the power, I would take them all away and settle them along the frontier where there is a great deal of trouble. Then the question of the Salvation Army has been raised and I think correctly raised, and in this respect I associate myself with my friend Lala Sukhbir Sinha and the Honourable Mr. Kale. However misguided these people may be and however misconceived ideas they may have about committing theft in the enemy country as their duty, now they are being reclaimed. They are being weaned from their habits of thieving and we should not necessarily put them under people whose business is evangelisation. (*A Voice*: "No.") We should not make them over bodily to others who have of course the good of humanity primarily at heart but still more primarily the spreading of their own religion and carry their own gospel as they call it. I believe this society came to India within my life time and I have watched its progress. I have admired its good work and I have also seen that they are doing the work of evangelisation, though in humanitarian interests, though naturally I should do the same if I were one of them. They preach the goodness of their own religion and try to impose it on those who come in contact with

them. Our concern as Members of Government is not to discourage anybody from spreading his religion, nor to discourage anybody from doing anything good that he is doing. But at the same time, as our Government observe strict neutrality, we might as well make it sure that these gentlemen will not use their power to spread their religion or to force it upon them. Nobody in this twentieth century goes to a man and says, "Here is a stick. You take up my religion or I will break your head." Such a thing is impossible in India. We must also see that accusations against Government are not made by people who may say, "Look here, under the guise of these humanitarian principles these people are spreading their own gospel". I do not like our Government to have this charge brought against them and therefore I say that some safeguards may be provided and that some measures be taken to see that this philanthropic work is not used for the purpose of evangelisation. That is what my friend on my left meant. That is, I believe, what my friend Professor Kale meant. We should not give a ground for this kind of suspicion being raised. With these observations I still believe that this Act is intended for the good of people and it should be encouraged and should be carried. I support the motion with this reservation that something may be done to see that this measure is not used for evangelisation or facilitating evangelisation.

The HONOURABLE KHAN BAHADUR NAWAB MOHAMED MUZAMMIL-ULLAH KHAN (United Provinces: Nominated Non-official): Sir, I fully support the measure and I heartily agree with my Honourable friend Saiyid Raza Ali in supporting this Act. It has been said that religion is imposed on these people. I got a little experience of this work when I was Secretary in the Aligarh College. A settlement of a great number of Baherias was started at Aligarh Fort under the supervision of the Salvation Army. We have also a settlement of our own, one thousand fine strong and noble Aligarians, and Aligarh Fort being in the near vicinity of our dear old college, there used to be sometimes a little conflict between the two extreme examples of good and bad and so I used to go to the Fort now and then and see what progress was being made in the moral of those fierce criminal tribesmen. I was really astonished to see the good influence of the Salvation Army people upon them. I have never seen a single instance when religion was forced upon them. In fact those tribes know no religion except to commit dreadful crimes. If that was the religion they belonged to, I am sure that no Honourable Member of this House would desire to see that religion followed. They were not Mussalmans, neither were they Sikhs nor Parsis and surely they were not Hindus—it would be a great stigma on the Hindu religion to say that those criminal tribes belong to that illustrious and noble religion. This being so, there is no question of enforcement on them of any religion, and therefore to make such a condition will mean, as my Honourable friend has said, that it will be a sort of stigma on the noble work which the Salvation Army are doing. I myself, being a small humble Zamindar, have got some few tenants on my estate and once my brother took to reforming these people. But as we possessed no legal force, we utterly failed in controlling them. Of course so long as we were awake, they were asleep but naturally we had to sleep sometime, and when our men slept they were awake following their old profession in the pitch dark night. So we must give legal support to the people who want to reform these tribes, and it is a great opportunity to save them from this inhumanity. With these few remarks, and with my apologies to the House for my very inferior power of expressing myself in the English language, I support the Bill.

The HONOURABLE MR. J. CRERAR: Sir, this measure has been received by the House with so gratifying a degree of unanimity that there is very little left for me to say. The only note, I will not say of dissent, but of apprehension, was that struck by my Honourable friend Lala Sukhbir Sinha, and the Honourable Members who concurred with him. They expressed the apprehension that when criminal tribes are handed over to the care of missionary societies, attempts are made, or may be made, to interfere with their religious beliefs. That point has already been dealt with by my Honourable friend Mr. Raza Ali, my Honourable friend Mr. Samaldas, and also in his lucid and interesting remarks by my Honourable friend Nawab Mohamed Muzammil-ullah Khan. There is therefore little left for me to say and I would simply say this: I would ask the Honourable gentlemen who entertain these apprehensions whether they have ever visited a criminal tribes settlement; whether, if they have done so, any complaint has been made to them of the character which they suggest, and whether, if no such complaint has ever been made, there are any practical grounds for the apprehensions which they express. Personally, I may say that I have for a considerable number of years followed the administration of the criminal tribes in my own Presidency very closely and attentively, and I can assure the House that I have never on a single occasion received any complaint, heard of any complaint, or even heard of any ground for such complaint in the whole course of my experience. It appears therefore to me that the Honourable gentlemen who refer to this matter are dealing with purely *a priori* grounds, entirely academic and theoretical considerations. I should like to ask the House to deal with this question on practical considerations. There is another question that arises, likewise of a practical character. I am not aware whether the Honourable gentlemen to whose remarks I am now referring have ever as a matter of fact visited a criminal tribes settlement, or seen a criminal tribe. But I venture to suggest as a preliminary question whether they would not find it exceedingly difficult, as was indicated by my Honourable friend Saiyid Raza Ali, to discover what religious beliefs, if any, many of these criminal tribes practise and entertain. However, Sir, there is one solution, even if there are grounds for these apprehensions,—there is one solution to which I venture to invite the very serious attention of my Honourable friend Lala Sukhbir Sinha, and of my Honourable friend Mr. Kale. It is highly desirable there should be non-official agencies ready and willing to take up this great work; and if my Honourable friend Lala Sukhbir Sinha and the gentlemen who supported him will form a Hindu society qualified and capable of taking over the charge of a criminal tribe whose tenets they regard as being Hindu, then I am confident that the local authorities concerned would be most gratified, most ready and most willing to accept their immediate and direct co-operation in a manner which will finally remove all ground for the apprehensions which have been uttered. I have only this further to say that, the measure having been received with so gratifying a degree of support and indulgence by the House, I feel no doubt that the motion will be unanimously accepted.

(The Honourable Lala Sukhbir Sinha rose to speak again.)

The HONOURABLE THE PRESIDENT: The Honourable Member cannot speak twice on one motion. If he wishes to make a personal explanation, I will allow him to do so.

The HONOURABLE LALA SUKHBIR SINHA: The Honourable Mr. Crerar has referred to me personally and asked if I would open a Hindu institution to reclaim these criminal tribes. As I said before, in Muzaffarnagar there

are some criminal tribes, and I am ready to do what I can if the local authorities will help.

The HONOURABLE MR. J. CRERAR: As I said the local authorities would be only too delighted to accept his co-operation in the matter.

The HONOURABLE THE PRESIDENT: The question is:

"That the Bill further to amend the Criminal Tribes Act, 1911, as passed by the Legislative Assembly, be taken into consideration."

The motion was adopted.

The HONOURABLE THE PRESIDENT: The Council will now proceed to the detailed consideration of this Bill. We will, as usual, reserve the Preamble till the end.

The HONOURABLE THE PRESIDENT: The question is that clause 1 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 2 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 3 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 4 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: Clause 5. The Honourable Mr. Raza Ali.

The HONOURABLE SAIYID RAZA ALI: Sir, it appears that there is a vital point which I must at once place before this House, and the point is this, that this clause seeks to add certain words to section 13 in order to give certain powers to officers appointed by the Local Government.

Now, Sir, in the words which are proposed to be added, we find a reference to section 11 and section 13: which means that if there is any notification issued by the Local Government under section 11 or section 13, then an officer might be appointed to perform certain functions. On referring to the original Act, the Honourable Member in charge of the Bill will find that no authority whatsoever has been given to any Local Government to issue any notification under section 11. That authority is given only under section 12. The original Act (III of 1911) refers more than once to the issue of notifications under sections 12 and 13.

The HONOURABLE THE PRESIDENT: Has the Honourable Member got a corrected copy of the Act before him? I do not wish to interfere with his argument, but I think he is reading from the Act as unamended.

The HONOURABLE SAIYID RAZA ALI: It may be so, Sir, I have the edition of 1914 before me.

The HONOURABLE MR. J. CRERAR: I think I can explain the matter to the satisfaction of the Honourable Member. I think his difficulty is that under the unamended Act the powers under section 11 were given to the Government of India. The Act as amended in 1920 delegated to or rather conferred upon Local Governments power to issue notifications under that section.

The HONOURABLE THE PRESIDENT: I only interrupted the Honourable Member in order that he may have an opportunity of considering his argument. I think—referring to what the Honourable Mr. Crerar said—that he is reading from the unamended Act. The Act was amended in 1920. Perhaps he would like to consider that before he proceeds.

The HONOURABLE SAIYID RAZA ALI: I find, Sir, that this Act was amended, but the amendment slip has not been put into the copy which I have.

The HONOURABLE THE PRESIDENT: Does the Honourable Member wish to pursue his argument?

The HONOURABLE SAIYID RAZA ALI: No Sir, I do not think I should.

The HONOURABLE THE PRESIDENT: The question is that clause 5 stand part of the Bill.

The motion was adopted.

Clauses 6 and 7 were added to the Bill.

The HONOURABLE SAIYID RAZA ALI: Sir, I propose the following amendment:

“ That in clause 8 the words ‘ Governor General in Council or the ’ be omitted.”

Clause 8 deals with section 16 of the Criminal Tribes Act, Act III of 1911. The section itself reads as follows:

“ The Governor General in Council or the Local Government may establish industrial, agricultural or reformatory settlements and may place therein any criminal tribes or any part thereof, in respect of which a notification has been published under section 12.”

Now, the Bill which is under the consideration of the House proposes that the words “ Governor General in Council or the ” should be omitted. The effect of this will be that the power which at present is vested concurrently in the Governor General in Council and the Local Government will vest in the Local Government to the exclusion of the Governor General in Council: that is, if the provision mentioned in the Bill finds acceptance at the hands of this House. On referring, Sir, to the report of the Select Committee, I find that the justification for doing away with the authority which vests in the Governor General in Council is because the administration of Act III of 1911 is a provincial subject. It was therefore thought desirable to entrust that authority to the Local Governments alone. Now, on examining the Act carefully, it will be found that though no doubt the Local Government is primarily charged with the administration of the Act, yet, unless the copy of the Act which I have before me has been amended in this respect too, certain powers have been reserved to the Government of India under sections 11 and 12. The copy which I have got with me surely gives certain powers to the Governor General in Council.

(The Honourable the Home Secretary at this stage passed his copy of the Act to the Honourable Saiyid Raza Ali.)

Sir, this is perhaps not the time to bring this matter to your notice or the notice of the House, but I do hope the library people will keep their editions up to date. Now, I find, Sir, that the amendment slip has not been pasted and that all the three sections to which I have referred have been amended. I therefore think, at this stage, I must beg leave of the Council to withdraw this portion of my amendment, namely, that the words "Governor General in Council or the" be omitted. I might at the same time be permitted to withdraw the second part of the amendment* to clause 8.

The amendments were, by leave of the Council, withdrawn.

The HONOURABLE SIR MALCOLM HAILEY (Home Member): Sir, I will undertake that it is brought to the notice of the Department in charge to see that copies of the Acts in the Library are amended. I am sure that we all sympathise with the Honourable Mr. Raza Ali in the troubles caused by the fact that the Library is defective in this respect.

The HONOURABLE THE PRESIDENT: Before I put further amendments, I will just say a few words. I would suggest to Honourable Members who consult an Act the advisability of seeing whether any amending Acts have been passed since the Act was passed. This Act was passed in 1911 and amended in 1920. It will be impossible to require every copy of an Act that is printed to have correction slips pasted on. Members will find always that after every Session there is issued a Table of Acts passed by the Legislature. They will be well advised when bringing forward amendments to consult that.

The HONOURABLE THE PRESIDENT: The question is that clause 8 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 9 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that clause 10 stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: Clause 11. The Honourable Mr. Raza Ali.

The HONOURABLE SAIYID RAZA ALI: I do sincerely hope, Sir, that here again the Government of India did not forestall me in the year 1920 and that this section 22 has not been amended.

The HONOURABLE THE PRESIDENT: It appears that a new sub-section has been added to this clause. I think the Honourable Member is on safe ground.

* "That in the proviso to section 16 of the Act, after the words 'to the satisfaction of' the words 'the Governor General in Council or' be inserted and after the words 'Local Government' the words 'as the case may be' be inserted."

The HONOURABLE SAIYID RAZA ALI: I hope so, Sir. Whatever may be the respective duties of the custodians of the records of the Government of India, I find that even in the copy kept by the Home Department the amendments have only been jotted down and they have not been printed. I submit that the amendment* that is before the House raises a somewhat important question. On referring, Sir, to the proceedings of the other House when this measure was before them, I find that the whole Bill was put *en bloc*. I do not want to say one word as to how far that procedure was justifiable. All the same it appears, Sir, that this point, though it did draw the attention of some of the provincial Governments that were consulted by the Government of India, was not present to the minds of the Members who dealt with this section. Now, briefly stated, Sir, the point is this. The Bill, the consideration of which is before this House, seeks to enlarge the powers of the police and to make breaches of certain rules cognizable, so that the police should be able to arrest a man who has committed a breach of any of these rules without a warrant. That, Sir, is a very important question. The Honourable Mr. Crerar observed in his opening speech—and observed very rightly—that one of the objects of the measure was to reclaim these tribes and to improve their condition and position. That, Sir, is an object with which every member of this House, I doubt not, will sympathise. It is, therefore, Sir, all the more necessary that we should give that measure of protection to these classes which is extremely necessary in the case of those who either have undergone a sentence of imprisonment for having committed offences against property or those who are suspected by the police of having committed certain offences. I must at once say that I do not want to run down our police. Considerable improvement has been made during the past 12 or 15 years and the police to-day as a preventive agency and as a detective agency is much more competent than it was 12 or 15 years back. But there is at times, Sir, a tendency—and that tendency is accentuated in certain cases—to have recourse to the speedy methods that were not unknown to the police in times gone by. The clause, as it is before the House, gives, I fear, too large a power to the police, *viz.*, if a member of a criminal tribe either commits an offence or even is reasonably suspected of having committed an offence, it will be open to certain classes of police officers to arrest him. I submit, Sir, that while fully alive to the necessity of giving the police greater powers to deal with members of these tribes than they have in dealing with the ordinary public, we should be very careful not to vest them with that measure of power which is likely—and very likely—to be abused in certain cases. As it is, Sir, for a breach of the rules committed by members of the criminal classes, they are liable to be prosecuted, but they cannot be arrested, as the law stands, without an authority from a Magistrate. Sir, I propose now to move the first amendment to clause 11. *viz.*, that the proposed sub-clause (c) be

The HONOURABLE THE PRESIDENT: Before the Honourable Member moves his first amendment, I wish to point out that if he commits himself to the first amendment, I shall have to put to the House that the sub-clause "do stand part of the Bill." That will have the effect of defeating his other amendments. He will not be able to move the other amendments for which probably he might get greater support than for the omission of the whole clause. I leave the matter to the Honourable Member. I only wanted to explain before he moved his first amendment that if he did so it might prevent discussion of his other amendments.

* In clause 11 sub-clause (c) be omitted.

The HONOURABLE SAIYID RAZA ALI: I must thank you, Sir, for the information that you have been pleased to give me. In fact the reason why I was going to move this amendment was that I did not know that you were going to put it in the form which you have mentioned. Therefore I would propose the second amendment that stands in my name, namely:

"That in clause 11, in new sub-section (3) the words 'or is reasonably suspected of having committed' be omitted."

The object I have in bringing forward this amendment is this. By inserting in the clause not only the words "Whoever commits an offence" but also by providing that "if a member of a criminal tribe is reasonably suspected of having committed", etc., he may be arrested without a warrant by certain officers of the police, I submit you will be dangerously widening the scope of the law. It may be that difficulties have been experienced in getting warrants in all cases from Magistrates. So far as that goes, it may be that the Government find that it is necessary to have a more speedy procedure and to provide for the arrest of these offenders without a warrant, but I submit that if you give the police the power of arresting even on reasonable suspicion, you would be more amply widening the scope of this provision than is justifiable. I therefore move that the words "or is reasonably suspected of having committed" be removed. The effect of this, as I have already pointed out, will be that if a member of the criminal tribes has actually committed an offence, he may be arrested by certain police officers without a warrant from a Magistrate, but surely it would be wrong to give larger power to the police. The Code of Criminal Procedure in fact already gives ample power to the police to arrest certain persons under section 54 and section 55, but this power we are giving to the police is in addition to that. And the power should not be dangerously excessive. I therefore move that the words "or is reasonably suspected of having committed" be omitted.

The HONOURABLE THE PRESIDENT: The question is:

"That in clause 11, in new sub-section (3) the words 'or is reasonably suspected of having committed' be omitted."

That question is now under discussion of the House.

The HONOURABLE MR. J. CRERAR: In view of the generous support which was accorded by my Honourable friend Saiyid Raza Ali to the Bill in its general terms and principles, I hope I shall not be accused of ingratitude if I find myself unable to accept the amendment he has now moved. From the fact that the Honourable Member himself has submitted proposals in alternative forms, I hope it would not be unfair on my part to infer that the Honourable Member was himself in some doubt and hesitation about the merits of his proposal. If that is so, I am bound to say that I think the Honourable Member had very good ground for investigating further the reasons for his hesitation. Now, Sir, although I understand the Honourable Member has moved that the words "or is reasonably suspected of having committed" be omitted, I understand that he has not at present moved the first part.

The HONOURABLE THE PRESIDENT: The only discussion is the discussion on the amendment which I read to the House.

The HONOURABLE MR. J. CRERAR: Although the amendment is of a more restricted character, I am afraid I must take Honourable Members very briefly into the general question, that is to say, the reasons which make it desirable and expedient that there should be more extended provisions relating to cognizability. I should like to endeavour to make clear to the House that this Bill, like the Act which it amends, is only intended

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to lay down certain general principles. A very great deal of the actual administration of this Act is carried out either by statutory rules or by executive orders. Now, the Local Governments have extensive powers of framing statutory rules and it is very necessary that they should have very wide discretion in this matter because the circumstances of particular criminal tribes in different parts of India vary enormously, as Honourable Members will realise, and if the measures taken for their reformation are to be successful, they must be adapted to the peculiar circumstances of each tribe or group of tribes. There must therefore be very extensive rule-making power in the hands of the Local Government. And as these rules, many of them, are for the purpose of discipline and control, it is very desirable, indeed it is necessary for the efficient working and administration of the Act, that they should be made really effective. I would appeal to the House to remember throughout this discussion the principle which I endeavoured to lay down in moving that the Bill be taken into consideration. It is this—that though one important object of the Act and of this Bill is to protect the public, the ulterior object and the most important object is to secure the emancipation of the criminal tribes and I think that that spirit does really pervade the whole body of the Act and the whole body of this Bill. I therefore deprecate any suggestion that what we propose to do is in any way an act of severity or of undue rigour directed against the criminal tribes. Our main object is to reclaim the criminal tribes from their hereditary predatory criminal habits and our main purpose in asking for some extension of the principle of cognizability in their case is to give us wider powers for the prompt reclamation of individuals who have infringed the conditions of control and discipline which we find necessary. It is therefore in no ordinary sense a punitive measure of criminal law. It is really a measure of discipline and control and I do think that the House will appreciate that in this matter, in which the Local Governments and their executive officers have a very responsible duty to perform, they should be armed with corresponding powers. The object of the amendment which is embodied in the Bill was to give extended powers, subject however to certain very definite safeguards. Those safeguards provide that no member of a criminal tribe may be arrested without warrant except by an officer in charge of a police station or by any police officer not below the rank of a sub-inspector. I think to any one who has been intimately acquainted with the actual working of this Act it will be clear that some measure of this kind is necessary and there is really little chance of its being open to abuse. The police officer effecting the arrest must, as soon as practicable, bring the apprehended person before a Magistrate and he must report the fact of his having effected the arrest to the District Magistrate or the Sub-divisional Magistrate. Now, Sir, these are general propositions with regard to the merits of the whole question of extending the cognizability of offences for this particular purpose. I will now in the concluding remarks I have to make restrict myself entirely to the specific amendment before the House. The Honourable Member objects to the words 'or is reasonably suspected of having committed.' Now, Sir, I venture to invite the attention of the House to the fact that this involves no new principle at all. If we admit the principle of cognizability as laid down in the Criminal Procedure Code,—that wider enactment which lays down the general principles of procedure, we are now merely concerned with one aspect of its detailed application. Section 54 of the Criminal Procedure Code, as the House is doubtless aware, specifically prescribes the conditions under which an arrest may be made and lays down the precise conditions: "Any person who has been concerned in a cognizable offence or against whom a reasonable complaint has been made or credible

information has been received or a reasonable suspicion exists of his having committed a cognizable offence." So, Sir, if the House is disposed, as I trust they will be, to accept the necessity for some slight extension of cognizability in its detailed application to a particular case, it can hardly take exception to the embodiment in our amendment of the Bill of the precise principle which is a part of the general criminal law of the land. With these remarks, I oppose the motion for the amendment.

The HONOURABLE THE PRESIDENT: The question is:

"That in sub-section (3) of the clause under consideration the words 'or is reasonably suspected of having committed' be omitted."

The motion was negatived.

The HONOURABLE SAIYID RAZA ALI: Sir, I beg to move:

"That in new sub-section (3) the words 'or by any police officer not below the rank of a sub-inspector' be omitted."

Sir, the Bill as it is before the House seeks to enlarge the powers of the police by making a provision, on the one hand, for the arrest of a member of a criminal tribe who has committed or is reasonably suspected of having committed an offence, and on the other hand, by giving the power of arrest to every officer in charge of a police station and to any police officer not below the rank of a sub-inspector. The effect of the House giving its acceptance to the insertion of the words that I propose to remove is to considerably increase the powers of the police. It will be open to them now not only to arrest a man who has actually committed an offence but also to put under arrest those who, they think, have committed an offence or against whom in their view a reasonable ground for such suspicion exists. Sir, it is very necessary that the power to make an arrest should be confined to responsible officers and responsible officers alone. In fact I do not take up the position that no sub-inspector should be allowed to act under this section. There are cases under certain laws in which the power of arrest is limited to an officer not below the rank of an inspector. I do not say this is a case in which a reservation should be made on those lines. But, Sir, I think the House will seriously take it into consideration whether it would not be running an undue risk by giving this power to every sub-inspector. In a police station in some provinces there are as many as 5 to 6 sub-inspectors; to give this power to every one of them would not, I submit, Sir, be a safe course to adopt. The officer in charge of a police station is a responsible officer, and he knows how to deal with the situations that arise in the course of police administration. He is generally an experienced man, and he is a man who is not very fond of making a show of his authority. Therefore, if the power is confined to an officer of that calibre, I do not think any serious objection can be taken. But when you unduly enlarge the scope by giving it indiscriminately to every sub-inspector, the danger, Sir, I think becomes rather serious. We know that in a number of provinces in India there are training schools for this class of officers, namely, sub-inspectors. Now, people who have passed certain examinations, and in some cases even people who have not passed any examinations, are admitted to these schools, and after a period of training which varies from province to province—it does not generally extend to beyond 10 months—they come out full-fledged sub-inspectors and are generally posted to outlying police stations. Now, it is in the case of officers of this class, Sir, that real danger might be expected. I think, Sir, that if a young man who has not had much education—in some cases that education is of a very inferior type—is made a sub-inspector after undergoing a training of 10 months or so, he may want to make a display of his power. In the case of the ordinary public who require to be protected, it would be extremely unsafe to withdraw the safeguards which are given by

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law. But in the case of these unfortunate members of society, to give this power indiscriminately to police youngsters would be a real danger. I think, Sir, that if the Honourable Member in charge of the Bill will visualize the future risks, he also will realise that this power should not be entrusted to inexperienced hands. As I have submitted, it may be that an officer in charge of a police station is not a very highly educated man but generally he is a man with a large experience behind his back and is not likely to abuse the power which the law seeks to give to him. To withdraw, Sir, the protection which every member of society enjoys of not being arrested without a warrant except in very serious cases which are embodied in section 54 of the Criminal Procedure Code, is a very serious matter. I ask, Sir, is it because a man happens to have the misfortune to be born a Nut, or a Habura, a Bhatoo or a Dom—is that a reason why the law should withdraw all the protections or many of them which it extends to other members of society? I submit, Sir, that if the Honourable Member has the reclamation of these unfortunate tribes at heart—and I have no doubt that he has—then he might consider whether we should not turn down the proposal embodied in the Bill which is before the House. Reclamation of course implies the conferment of equal opportunities. One of them is that the individual should have the full protection of the law extended to him. I submit, Sir, that the mere fact that these men belong to criminal tribes should not alone be a reason for subjecting them to disadvantages to which other members of society are not subject. All members of society should occupy the same position in the eye of the law. Considerable improvement has been made by these classes. I think, Sir, that to put a provision like this in the law will be placing undue temptation in the way of young and inexperienced police officers.

The HONOURABLE MR. J. CRERAR: Sir, I confess, though I have no doubt the fault is entirely mine, that I had considerable difficulty in following the precise grounds which induced my Honourable friend to move this motion. In the first place, I am not sure that it was fully appreciated that in the great majority of cases the officer in charge of a police station is a Sub-Inspector, and it is very difficult from any practical point of view, as far as I can see, to make any distinction between Sub-Inspectors discharging different duties. I do not see that the mere fact that a Sub-Inspector is in charge of a police station invests him with a degree of judgment and discretion which we would not be justified in attributing equally well to his colleagues in the same grade who happen to be discharging duties of a somewhat different character. We have gone to very considerable lengths in providing the safeguards which my Honourable friend considers necessary. In the case of cognizable offences in the widest sense of the term, any police officer may arrest without a warrant. We propose in this particular case to provide a very specific safeguard, namely, that arrests cannot be effected by any one below the rank of Sub-Inspector. I think, Sir, that that is a very reasonable safeguard, and I should like to point out that if this amendment is accepted there would be very definite inconveniences and difficulties experienced in the working of the Act. For instance, suppose a Sub-Inspector is put on special duty in connection with criminal tribes work. That not infrequently happens, and I need hardly say that the officer is specially selected for his discretion, his judgment and for his capacity for handling in a sensible and sympathetic way the peculiar problems of the criminal tribes. Now Sir, if my Honourable friend's amendment is accepted, an officer in that position will be unable to do one of the things for which he is specially fitted, on which he is most particularly qualified to exercise good sense,

sound judgment, sympathy—all those very qualities which my Honourable friend rightly says are qualities which should as far as possible be applied to this particular work. In view of these considerations, I think the House will agree with me that the safeguards which the Bill provides against any abuse of this power to arrest without warrant are quite adequate for the purpose. I must oppose the motion.

The HONOURABLE THE PRESIDENT: The question is:

"That in new sub-section (3) the words 'or by any police officer not below the rank of a sub-inspector' be omitted."

The motion was negatived.

Clause 11 was added to the Bill.

The HONOURABLE SAYYID RAZA ALI: Sir, I move the following amendment to clause 12:

"That in new section 27A for the words 'Local Government, if it' the words 'Governor General in Council if he' be substituted, and in the proviso for the words 'Local Government' the words 'Governor General in Council' be substituted."

Sir, it appears to me that the amendment which I have moved before this House involves the consideration of a principle which seems to have been recognized by the Government of India in spite of the amendments that were made in this Act in the year 1920 and which are to be found in the copy which is the exclusive property of the Home Department and which is not accessible to any one else without application. We find, Sir, that no departure has been made from the established principle and that established principle is that, in dealings with Ruling Chiefs or Indian Princes, the Government of India should not delegate its powers to local agents, or, if occasions arise, then the Government of India might delegate only a very minor portion of its duty to the Local Governments. We find, Sir, that the theory has been put forward—I feel tempted to say—almost in season and out of season before us and the fullest advantage has been sought to be taken of that theory. Strange to say, Sir, we find now that when the Government of India consider it convenient, they themselves want to break that law; and so far as these unfortunate classes are concerned, the Government of India propose to put in their own place the Local Governments and instal the Local Governments on the *gadi* to deal with these people. That, Sir, I say raises a question of principle, and in addition to other reasons, this is one of the main reasons why I for one would not give that power to the Local Governments, but would keep that power where it has remained for the last 100 years or more. The House can easily picture to its mind's eye the difficulties of a Local Government if it is asked to deal with Indian States. Those difficulties, Sir, have been very much aggravated by the peculiar drafting of clause 27A. This I simply mention with a view to strengthening the arguments that I am placing before this House, if Honourable Members will carefully read the proposed section 27A, they will see that the practical effect of this loosely worded clause would be to enable one Local Government not only to deal with one State but in fact with more than one State. The clause as it is worded, Sir, could enable, for instance, the Chief Commissioner of the North-West Frontier Province by arrangement with the Government of Travancore to send the criminal tribes that are living for the time being in the North-West Frontier Province and who really belong to Kashmir, to Travancore, so that the law seeks to give the Chief Commissioner of the North-West Frontier Province the power to arrange with His Highness the Maharaja of Travancore to take the criminal tribes, whose home is in Kashmir and who for the time being are living in the North-West Frontier Province. This, no doubt, Sir, may be a case of killing two birds with one stone. I submit this provision is a very peculiar provision and I do

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not think there is any precedent for giving to Local Governments powers of this description." In fact, the last thing that should have been provided for was to enable a Local Government to send to one Ruling Chief (with his consent, of course) the people of another Indian State. That, however, we find, Sir, has not been taken into consideration by the Government of India. In fact, Sir, it is rather a remote case, but it is not at all impossible that a Local Government might relieve one State of all its undesirable population and send that undesirable population to another Indian State. According to the wording here, it is not improbable or unlikely. At least that is a point which should be taken into consideration by the House. I simply wish to show that the phraseology of this clause is rather defective and by accepting the amendment which I have proposed I have no doubt that the House would be considerably improving the existing language. Now, Sir, I have already illustrated some of the defects with which an unwilling Ruler of an Indian State might find himself confronted. I think, Sir, to safeguard against all these contingencies, the best course would be to give this power to the Government of India who no doubt would be in contact and correspondence with all the Indian Chiefs and who would not for obvious reasons inflict the undesirable element of the population of one Ruling Chief's State upon the State of another Ruling Chief. Honourable Members will see that among other grounds this is the ground which makes it highly desirable that the delegation of power in this case should not be allowed to take place, and the consideration of a higher principle also points in the same direction. It cannot be said that any practical difficulties would be experienced if this power were to remain with the Government of India. In fact, the power will be capable of being exercised all the more readily and conveniently by the Government of India than would be the case if it were given to a Local Government. Therefore, I submit, Sir, that both from the point of view of practicability as also from the point of view of higher administration and also from the point of view of those sacred principles which have found acceptance at the hands of the Government of India and which have been acted upon by the Government of India for the past many many years, it is very important that this power of transporting the subjects of one Ruling Chief to another Ruling Chief's State and relieving to that extent the former Ruling Chief, should not be given to a Local Government but should continue to be vested in the Government of India. Therefore, Sir, the words "Local Government" should be replaced, as I propose, by the words "Governor General in Council."

The HONOURABLE THE PRESIDENT: To clause under consideration amendment moved:

"That in section 27A for the words 'Local Government, if it' the words 'Governor General in Council if he' be substituted, and in the proviso for the words 'Local Government' the words 'Governor General in Council' be substituted."

The HONOURABLE MR. J. CRERAR: Sir, it is with the utmost reluctance that I rise for the third time to oppose a motion by my Honourable friend Saiyid Raza Ali. I do not know whether it is quite a fair surmise on my part, but I am inclined to surmise that the difficulties which the Honourable Member was unfortunately involved in on his first motion owing to the neglect on the part of the Librarian or other officer responsible for the correction of the copies of the Act, have still left him with the impression that certain powers are still exercised by the Central Government; and possibly that has induced him to suggest that in this instance also the Central Government should retain these powers. It is a pure surmise on my part, but I submit it as a possible ground which has induced the Honourable Member to make this motion. I must, however, deal with it on its

meets. I do not understand the Honourable Member objects, or if he objects, it is, as I understand, only to a subsidiary extent, to the principle enunciated in the clause and he was specially concerned as to the agency of the Local Government for carrying out that principle. I shall deal with that point first. It is very important for the House to realise that the subject of criminal tribes is a subject expressly defined as a Provincial subject in Part I of the Schedule to the Devolution Rules. Since the Criminal Tribes Act of 1911 was passed, there has been a very important constitutional change and my Honourable friend's proposal, I venture to say, raises a very important constitutional issue. I therefore propose to address myself to that. Is it desirable *prima facie* that a question which by an Act of Parliament has been expressly transferred to a Provincial Government should by an Act of this Legislature be once more resumed, in one of its aspects at any rate, by the Central Government? Would not that be a very serious derogation from the principle of Provincial Autonomy as laid down by the Government of India Act? I would submit that to the judgment of the House. The Honourable Member in criticising the proposals embodied in this clause adopted a course which I think is usually adopted by the advocate of a measure, when he has no solid argument to support his point of view. He quoted an extreme case for the purpose of his criticism, so extreme that he took us from the most northern portion of India to the most southern portion. He suggested that the Chief Commissioner of the North-West Frontier Province would transfer

The HONOURABLE SAIYID RAZA ALI: I said 'could,' not 'would.'

The HONOURABLE MR. J. CRERAR: "Could transfer." But unless the Honourable Member is prepared to suggest that he would transfer, his argument fails. The Honourable Member suggested that the Chief Commissioner of the North-West Frontier Province could transfer a colony of those exceedingly enterprising and frequently violent communities, with which the Chief Commissioner is only too familiar, to Travancore. Well, Sir, the Chief Commissioner might conceivably desire to do that but I would point out that it would be necessary for him to obtain the permission of His Highness the Maharaja of Travancore and from my estimate of His Highness, who is a very sagacious Prince, I have not the slightest hesitation in saying that the answer would very decidedly be in the negative. I merely dwell on this point as an indication that my Honourable friend has got to postulate very extreme cases. Accumulation of power has sometimes been represented as likely to lead to falling off in judgment. Men who are too powerful sometimes lose their sense of proportion. But surely, Sir, it is rather an exaggerated application of that possibility to suggest that in conferring a power of this kind you will deprive the officer on whom that power is conferred of all judgment whatsoever. And that, I venture to say, is the conclusion to which my Honourable friend's argument would inevitably lead to.

As a matter of fact I would consider this from a purely practical point of view. My Honourable friend, I take it, objects to the principle of Local Governments having any kind of dealings whatsoever with the Governments of Indian States, and in his statement on that point, I think my Honourable friend went very considerably beyond the actual facts of the situation. However, I am not concerned to deal with that at present. What I would like to point out is this. There are certain Acts, certain provisions of law which do contemplate some degree of communication, necessary communication and negotiation, between Governments in British India and the Indian States, and powers are exercised by Local Governments in these respects. I take the very analogous instance of the Extradition Act which deals with the case of extradition from and to British India and Indian

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States of offenders. Now, that Act, as my Honourable friend will discover if he consults it, expressly confers upon the Local Government powers of a very analogous character, indeed of a much more extensive character than the proposed clause in this Bill. I do not think that my Honourable friend's objections are really substantial and I think there is one very substantial objection to his own proposal and that is the one which I referred to, namely, the constitutional issue. On that point I think it will be highly undesirable that this House should lend the weight of its authority to a provision which I venture to say is not only administratively unsound, because the Central Government cannot as a matter of fact enter directly into the questions raised by this clause and must rely on information supplied by the Local Governments and the officers of the Local Governments concerned: I think this House should not lend the weight of its authority to a measure which is not only unduly centralising in its effect but is also a very distinct breach in the principle of provincial autonomy involved in the definite assignment by the rules under the Government of India Act to the Provincial Governments.

The HONOURABLE THE PRESIDENT: The question is:

"That in new section 27A for the words 'Local Government, if it' the words 'Governor General in Council, if he' be substituted and in the proviso for the words 'Local Government' the words 'Governor General in Council' be substituted."

The motion was negatived.

The HONOURABLE THE PRESIDENT: The question is that clause 12 do stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: The question is that the Preamble do stand part of the Bill.

The motion was adopted.

The HONOURABLE THE PRESIDENT: That closes the detailed consideration of the Bill.

The HONOURABLE MR. J. CRERAR: Sir, I have the honour to move:

"That the Bill further to amend the Criminal Tribes Act, 1911, as passed by the Legislative Assembly, be passed."

The motion was adopted.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The SECRETARY OF THE COUNCIL: Sir, a Message has been received

The HONOURABLE THE PRESIDENT: Let the Message be read.

The SECRETARY OF THE COUNCIL: "Sir, I am directed to inform the Council of State that the following motion was carried in the Legislative Assembly at their meeting on the 29th January 1923, and to request the concurrence of the Council of State in the recommendation contained therein namely:

"That this Assembly do recommend to the Council of State that the Bill to provide for the creation of a fund for the improvement and development of the growing, marketing and manufacture of cotton in India, be referred to a Joint Committee of this Assembly and of the Council of State and that the Joint Committee do consist of twelve members."

The Council then adjourned till Eleven of the Clock on Tuesday, the 30th January 1923.