

16th September 1927

LEGISLATIVE ASSEMBLY DEBATES

(Official Report)

VOLUME V

(6th September to 20th September 1927)

FIRST SESSION

OF THE

THIRD LEGISLATIVE ASSEMBLY, 1927



SIMLA
GOVERNMENT OF INDIA PRESS
1928

Legislative Assembly.

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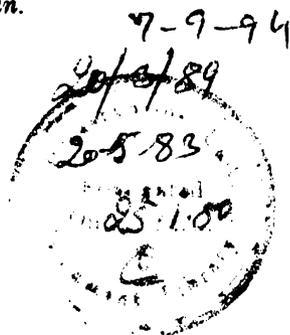
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MR. C. DURAISWAMY AYYANGAR, M.L.A.



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LEGISLATIVE ASSEMBLY.

Friday, 16th September, 1927.

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

SHORT NOTICE QUESTION AND ANSWER.

RESUMPTION OF THROUGH RUNNING IN THE EAST COAST SECTION OF THE BENGAL NAGPUR RAILWAY.

Mr. M. K. Acharya : With your permission, Sir, I wish to ask a short notice question. Can Government say when through running is likely to be possible on the East Coast section of the Bengal Nagpur Railway ?

Mr. A. A. L. Parsons : We have heard from the Agent that further damage has been caused to the line by recent heavy rains, and September the 24th is now the earliest date on which the line is expected to be opened to through running.

Mr. A. Rangaswami Iyengar : You cannot say for certain ?

Mr. A. A. L. Parsons : I am afraid not. It won't be open before the 24th and I cannot be certain that it will be then.

MESSAGE FROM THE COUNCIL OF STATE.

Secretary of the Assembly : The following Message has been received from the Secretary, Council of State :

“ I am directed to inform you that the Council of State have, at their meeting held on the 15th September, 1927, agreed without any amendments to the following Bills which were passed by the Legislative Assembly on the 8th September, 1927 :

A Bill to amend the law relating to the fostering and development of the bamboo paper industry in British India.

A Bill to amend the Indian Securities Act, 1920, for certain purposes.”

BILL PASSED BY THE COUNCIL OF STATE LAID ON THE TABLE.

In accordance with Rule 25 of the Indian Legislative Rules I lay on the table the Bill further to amend the Aden Civil and Criminal Justice Act, 1865, in order to make further provision for the jurisdiction thereunder of the High Court of Judicature at Bombay, which was passed by the Council of State at its meeting of the 15th September, 1927.

THE CRIMINAL LAW AMENDMENT BILL.

The Honourable Mr. J. Crerar (Home Member) : Sir I move that the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for a certain purpose, as reported by the Select Committee, be taken into consideration.

[Mr. J. Crerar.]

In moving that motion I do not think that I need detain the House at any length. The general principles and intentions of the Bill were fully discussed in this House at an earlier stage. The Bill, as Honourable Members will see, has undergone very thorough examination before a very large and representative Select Committee and, as it now returns to the House, is in a form considerably restricted. The criticisms which were passed in the House were carefully taken into consideration, more especially those relating to *bona fide* discussion, and, in particular, discussions of religious matters by persons who in good faith desire religious reform. Keeping these considerations carefully in mind, the Committee have redrafted the Bill and introduced restrictions which I think will satisfy those who had apprehensions on that point.

Sir, I move.

Mr. A. Bangaswami Iyengar (Tanjore *cum* Trichinopoly : Non-Muhammadan Rural) : Sir, it is with a good deal of reluctance and hesitation that I consider it my duty to oppose the motion of the Honourable the Home Member on principle. In doing so, Sir, I fully realise the fact that the leaders of the principal parties in the House have conceded the need for some measure of this sort at the present juncture. I also realise, Sir, that the Select Committee on which I had the honour to serve have removed from the Bill many of its objectionable features.

Mr. President : Is not the Honourable Member's voice a voice in the wilderness !

Mr. A. Bangaswami Iyengar (raising his voice) : I also realise, Sir, that in the state of atmosphere in which this Bill is being discussed and passed in this House, my voice will be a voice in the wilderness. But, Sir, my voice is raised on behalf of the elementary right of freedom of speech and writing which ought to exist in this country. And I think although to-day the House may not be in a mood to accept what I say, the House will no doubt soon regret that there was any necessity to pass a measure of this kind. I think, Sir, in so far as this Bill is concerned, it is one more addition to the large catalogue of repressive measures in this country. We have been complaining that the law of sedition, that the law under section 153-A in regard to communal hatred, is so wide and so sweeping that the exercise of the rights of legitimate criticism, of freedom of speech and writing in the Press and on the platform, has been very severely restricted ; and that many of the greatest patriots of this country have been sent to jail under the sweeping provisions of the existing law, *i.e.*, sections 124-A and 153-A. Sir, the question is whether in this country, thinking calmly, not under excitement or under the influence of communal or other feeling, we can really seriously afford to add to this catalogue of repressive laws. The whole position, Sir, is this. I do not for a moment desire to be taken as in any sense asking for immunity for scurrilous or defamatory or libellous or even seditious writings. I am as keen as anybody in this House for summary and proper punishment of such offences. But, Sir, to punish scurrilous writings by the ordinary law of the land is one thing ; but to add to the catalogue of repressive laws in this country is quite another thing ; and it is because this constitutes a definite addition to the repressive laws of this land that I, Sir, having to do with this

matter—having to have my being, my bread, my profession, my public duties, having to discharge my public services through newspapers and speeches and writings—that I consider that the perils of the newspaperman, of the public speaker, are already huge enough in all conscience for the Government now to try to add to them. There may have been occasions when, owing to some accident or owing to a *bona fide* interpretation of laws, the views of particular Judges may or may not have commended themselves to the common sense of the community affected by the judgment. There may have been also a necessity—I do not want to discuss it here—when a particular judgment may have placed the law in such doubt that it may be necessary to make clear the interpretation of the law as it stands. But, Sir, to interpret the law or make clear doubts that may exist on the law is one thing; to try to create a new offence, to try to add to the repressive laws under which pressmen and publicists may be brought is quite another thing, and so far as I can see the existing law—even if it may require to be properly interpreted by any particular measure of this House—the existing law is, as I say, more than sufficient to deal with transgressions from the ordinary law of libel or the ordinary law by which communal good will may be promoted.

I desire in the next place to point out that so far as this offence is concerned, we in this House can view it from two aspects. Either because of the scurrilous or libellous nature of a particular pamphlet or writing, that pamphlet injures a particular man or a particular group of men, and in that case it is a damage or injury to that man or group. Then that should be taken on the basis of the ordinary law of libel or defamation, because it is injuring the particular rights of a particular man or a particular group of persons. We are not now concerned with this, because the proper course then will be for the Government to come up with the addition of another clause to the law of defamation of the country. I take it the *raison d'être* of the Bill before the House is the fact that these scurrilous writings have a tendency, a definite tendency, to disturb the public peace and tranquillity, to incite to violence or to other crimes. If that is so, that ought to be made perfectly clear in the section itself. As I have always held, both the law of sedition and the law about incitement to communal hatred can only be justified in this country, not only by the tendency which they may have in producing mere feelings of enmity, hatred or contempt, but the fact that they have a definite tendency to incite to violence or the commission of any crime or the disturbance of public tranquillity or order. That is the basis upon which the law of sedition is administered in England. That is the basis on which the law of sedition has not been administered in India, and that is the reason why the greatest patriots of the land have been sent to jail on the law of sedition of this country. If that is the case in regard to the law of sedition in regard to patriots who have been discharging their public duty, this law which deals with religious feelings and religious prejudices, will lead to the creation of such a sweeping class of offences that it will be very difficult to say what may or may not constitute an offence under this category of offences. I quite agree that the Select Committee have done their best to circumscribe the offence and also to provide safeguards for the manner in which its provisions have to be administered. But I say on principle there is no ground whatever for placing this law on the Statute-book. I speak with all deference to the leaders who have said that this law ought to be enacted

[Mr. A. Rangaswami Iyengar.]

at the present time ; but I think that the real way of putting down these scurrilous writings and these inflammatory pamphlets is to educate public opinion in the country properly. After all, Government must really rely upon public opinion to see that law and order are preserved and that there is no breach of the public peace ; and so long as they cannot get public opinion on their side, it does mean that there is something wrong in the methods which they adopt ; they do not prove on the other hand that there is any necessity for adding to the list of crimes in this country. I therefore say, Sir, that, in so far as this law imposes obligations of a most onerous character on the Press and public of this country, it is a law which is totally uncalled for. It is all right for those who do not have directly to deal with the duties of publication to say what they like ; but we who are eternally concerned with the printing and publishing of news, views and what not—it is for us who have actually to do with it to find out whether this particular law is safe enough to protect us in the discharge of duties which we in our profession have to discharge ; and I say, that however much leaders of public opinion in this country, however much leaders of parties and leaders of communities and leaders in political life might think that these communal disturbances have been going on so long that we ought to take some steps to prevent them, it is not they who can fully realise where the shoe pinches. We, Sir, know where the shoe pinches. It is all right to say that a particular pamphlet is inflammatory and that somebody should be locked up at once for it ; but before that somebody is locked up for it there are innumerable press agencies and innumerable newspapers who would be caught in the net before that single man—who may be a very insignificant individual and may or may not be affected by the proceedings taken against him—is locked up. He will not be affected to the extent that the publisher is affected by this Bill. The whole question is whether there is sufficient protection for the honest publisher and the honest printer who may in the course of his duties have to print and publish these pamphlets. I concede, that so far as the section itself is concerned, the words “ maliciously and deliberately ” have been introduced, and to that extent it is a safeguard. But, Sir, it is not always that these concessions are made to pressmen ; the pressmen have been put to a great deal of trouble in having to prove their *bona fides* in courts ; and therefore whatever may be the protection that we may get under this Bill—and, as I say, I concede fully that the Bill has gone as far as possible, once it is conceded that a Bill of this kind is necessary—I do not see that there is any necessity for this Bill at all. I cannot see that it is necessary to add to the provisions of the existing Penal Code in this behalf and if the interpretation of particular provisions of the Penal Code has been rendered doubtful by reason of conflicting judgments, all that is necessary to do is to clear that doubt. Beyond that, Sir, I say we cannot go, and no case can be made out for interfering with our fundamental liberties of free speech and writing.

Sir, I oppose the motion.

Mr. N. C. Kelkar (Bombay Central Division : Non-Muhammadan Rural) : Sir, I rise to support the motion that the Bill be taken into consideration, but only in the hope that it will be considerably improved before it is passed. I have got to make my position clear as I was a member of the Select Committee and have also written one or two dissenting

minutes, and therefore I will state my position before the House clearly, though not perhaps very briefly.

In the first place, I must say this—that my mind instinctively rebels against the creation of a new offence. But even conceding that some measure of this nature is necessary to put a restraint upon scurrilous writings, we must at the same time see that this new offence, this new penal legislation, is hedged round with necessary and wholesome qualifications. For after all it stands to reason that the remedy in the case of any disease must not be worse than the disease itself. Now, with regard to the kind of people with whom we have got to deal in a matter like this, I think we can easily put them under three categories. The first category is of those who are willing to wound but afraid to strike ; the second is of those who are willing to wound and also not afraid to strike ; and the third is of those who are willing to strike but unwilling to wound. I think that is a comprehensive list of categories and that will help us clearly to see how we should deal with each category in its order.

Now, with regard to the first category, namely, those who are willing to wound but afraid to strike, I think the law may leave them alone ; the law can not touch them ; after all they are guilty merely of criminal intentions, and they need not be penalised for that. They are impotent malevolents and they may be left safely to stew in their own juice ; and we all know, as Emerson has said, that the best furnace is that which consumes its own smoke, let this smoking chimney consume its own smoke and not come into the public with it. We will leave the impotent malevolent there.

Then I come to the second category—men who are willing to wound and also not afraid to strike malevolently. Here is a clear case in which the law must intervene and punish this class of persons. But the real difficulty in a measure like this is about the third category of people, namely, people who are willing to strike, who honestly think they must strike, but yet are unwilling to wound ; and in my opinion, what the Select Committee has failed to do is to put sufficient hedging round this new penal legislation so that adequate protection may be given to this third category of people.

Now, among these three categories of people you will see, Sir, how easily they can all be disposed of. The malicious coward is his own sentinel ; he keeps guard on his own mind and does not come out with action ; therefore we need not trouble about him. The malicious man of action is his own accuser and he cannot get any protection. But it is the honest and benevolent but frank critic that requires the greatest protection, and we must see in this House that we give it to him. We are all aware that criticism has played a very great part in reform and progress of civilisation in this world ; and even when we sit down to legislate in a panic we must take a very wide view of things and allow this useful agency of criticism to go on doing its work. Law, in comparison with criticism, has a strictly limited purpose. It can and also must tell people in exact and precise terms as to what they may not do. The educative operation of law is after all more negative than positive. The law tells people that certain things may not be done—not that certain things should be or must be done. It leaves man to his own degree of education and refinement and benevolence. I have often fancifully compared in my own mind the law to a

[Mr. N. C. Kelkar.]

toll bar on the road, for it lays down a limit beyond which you shall not go without paying a toll of punishment or penalty. But at the same time, a law, like that toll bar on the road, never undertakes to see what the speed of your car has been until after you approach or pass that turn-pike or toll bar. There is a limit to action definitely and inexorably fixed, and the law insists that, if you want to transgress or go beyond that line, you must pay the penalty.

Then, Sir, I have absolutely no doubt in my own mind, and I do hope that this House also will have absolutely no doubt in its own mind, as to the classes of people who require protection ; and therefore we must insist that they shall get that protection. I will put before this House the categories I have got in my own mind, and that list of categories is almost in a gradually descending order of merit. First, I think the law must give protection to the sly sceptic—the doughty doubter. The service he renders to mankind is that he spreads a very wholesome contagion of doubt and unbelief and you often feel that by his magic touch the sands of belief and settled opinion slide and shift away from under your feet as when you stand in a swift current of a river.

Then I claim protection, Sir, also for the diligent sociologist. He has obvious zeal for accurately noting down facts which may serve as data for generalization, and in that task he often has got to note down and expose sometimes even vulgar facts, because without the exposure of such vulgar details of religious or public life no useful generalizations can be drawn.

Then, Sir, I claim protection for the cold rationalist before the blast of whose trumpet of reason the walls of dogma and authority fall like the walls of Jericho.

Then again, I claim protection, Sir, for the absent-minded philosopher whose very wide range of generalisation is in itself a guarantee that he only looks at the wood of society and simply forgets the trees of personalities. For this philosopher I claim protection.

Then I would claim protection even for the mischievous but kindly humourist. We all know that he contributes greatly to the enjoyment of pleasantries in the social world, and yet we know that he sweeps the cobwebs of egotism and superstition from the inner corners of men's minds by the gentle breeze of ridicule.

And lastly, I will go further and claim protection even for the apparently merciless satirist who uses the knife but only in the spirit of a surgeon when performing what may be a necessary operation for the good of society.

For all these classes of people, Sir, I do claim protection from the law and against the law. Sir, it will be remembered that this is not the first time in the history of the world when we are grappling with great controversial issues—social and religious issues. Every age had its own critics, though of course they were endowed with a wide variety of temperaments and a varying degree of culture and refinement, but who succeeded by their criticism in the common purpose of reform and regeneration of society. We all know, Sir, that the crude and blunt Luther actually used the hammer and nailed the interrogatories to the door of the established Church, but we also know that there was Erasmus before him.

who served the same good purpose by taking his readers on an imaginary tour to Heaven and revealed to them the miserable plight in which the saints and the so-called religious men were living there. We know Rousseau who was blunt and even vulgar, but there was side by side with him also Voltaire who was sly and mischievous ; but both accomplished the same purpose, each in his own way, and that purpose was the bringing of the body politic and society to a higher level.

Now, even in our own time, what do we see ? We have seen great issues very reasonably discussed from various points of view. And from the religious aspect I may name issues whose greatness will be appreciated by my simply mentioning them. Now, have not people in our own time dealt with the question of the historicity of Christ ? The love affairs of Lord Krishna have also been made the subject of plentiful speculation and argument. The home life of Mahomad, as we have all seen, has been a subject of criticism, and the gluttony of Buddha has been criticised, because we know that some people accuse Lord Buddha of dying on account of over-eating of mutton. Now, touching the social aspect of controversy, I may mention subjects which are quite familiar in our own society and times. For instance, we have in India child marriage, birth control, widowhood. Certainly these questions are not very easy of treatment, and yet we see critics who are endowed with a wider vision and who are animated at heart by real benevolence to society—we have seen these great problems discussed and controverted without harming anybody. But all this of course is done in good faith, and the generation of men who do these things is not yet gone and spent.

My real difficulty, therefore, about the Select Committee's Report is that it does not give adequate protection to people in our own generation who are actuated by benevolence to society and offer criticism instead of facts in pure good faith and honesty of purpose. It is for the purpose of pointing this out prominently to this House that I have stood up to support the motion that the Bill be taken into consideration, but I do hope also that the Bill will be greatly modified.

Sir Zulfqar Ali Khan (East Central Punjab : Muhammadan) : Sir, I congratulate the Government on their wisdom in introducing this measure in this House to meet the situation which has unfortunately been created outside this Chamber in the wide world of India. Sir, I have listened to the philosophic speech of the Honourable Mr. Kelkar which, I must confess, is not quite comprehensible to an ordinary person like myself but is quite worthy of the ancient philosophers. Sir, I am sorry to see that Honourable Members sitting in the serene atmosphere of this Chamber either forget or do not realise the tragedies which are enacted outside this Chamber. I cannot understand that the responsible representatives of the people should show such utter indifference to what is happening outside.

Now, Sir, speaking about my own province where a great trouble recently happened, I may say that three communities, rather virile communities, exist side by side—Hindus, Muhammadans and Sikhs—and two at any rate of these communities are considered to belong to the martial races. They are very inflammable and I think that all three of them are liable to religious excitement. The atmosphere not only in the Punjab but all over India is surcharged with great excitement and

[Sir Zulfiqar Ali Khan.]

with great religious differences and on the top of this, a man suddenly comes out, rather insignificant and obscure perhaps, not known to many, and he launches a speech or he issues a pamphlet grossly insulting the religion of others and maliciously attributing motives or conduct to the founders of religions which others follow. Now, Sir, this obscure man is the cause of very great unhappiness to the people. He inflames passions which are not easy to control. He excites people to a pitch which inevitably leads to strife and trouble. I know that Honourable Members are aware that the feeling of animosity existing between the different communities has reached that unhappy stage which certainly cannot lead to the peaceful progress of this country. The economic, social and political life of this country is suffering a grievous set-back and I cannot understand how under these circumstances any patriotic individual can condone or allow a man of this type to enjoy any liberty of speech or writing. A man who is guilty of such acts must find the whole nation anxious to suppress him. (*An Honourable Member* : "He becomes a hero.") But unfortunately I see that not only the ordinary man but even the representatives of communities and intellectual lights of this country desire that this man should enjoy the opportunity of speech and freedom. (*An Honourable Member* : "Not this man : deport him.") Describe the man who should enjoy such freedom of speech. (*An Honourable Member* : "The honest citizen.") Now, Sir, the more this man enjoys the freedom, the greater becomes the work of mutual slaughter. Every day in the country reports come from one quarter or another that rioting has taken place there or incendiarism has taken place in another place. Can we ignore all these things ? Can we go on tolerating these acts and can the Government afford to shut their eyes to what is happening in the country ? Are they not responsible to the world outside ? Are they not responsible to the civilised people of this country ? And is it not their duty, as an enlightened and civilised people themselves, to put a stop to this kind of tragedies which are daily on the increase ? Sir, if this thing goes on, I may tell the Honourable Members that the catastrophe which may happen will be appalling and the Honourable Members, indeed all of us, will be responsible to posterity for sowing discord and perpetuating a situation for which we shall be responsible not only to them but also to the world outside, which will surely blame us for showing this apathy and indifference to the tragedies.

Now, Sir, it seems to me from the list of amendments which have appeared on the agenda, and I have a strong impression that a section of the Members of this Honourable Chamber think that this measure which is designed to meet the situation is for the purpose of protecting a certain community, and this impression is very unfortunate. I speak as an Indian—not as a Muhammadan. And I say that, if a Muhammadan insults the religion of others or the founder of the religion of others, I should be the first, if I were a magistrate, to give him the maximum amount of penalty that the law allows and I hope the Hindus or the Sikhs will allow me to say that, if a Hindu or a Sikh grossly or wantonly insults the religion of Islam, they will confess that that man should not be spared if there is to be any progress or any economic life to be allowed in this country. Sir, this Bill I think leans too much

on the side of leniency. It gives only two years to the offender, and that is the maximum. I do not think that, so far, any judge has given the maximum penalty. Sometimes it is six months or even less, on an appeal to the High Court it is frequently reduced very much. Now, Sir, what we want in the interests of the country is that the penalty may be deterrent in its nature, so that the tranquil progress of the country and the peaceful life of the country may not be seriously and gravely disturbed. I think also that Honourable Members will avoid the danger which lurks in the proposal that the offender should enjoy the right of appeal. It is a very serious matter and I think that if his opportunity of movement is not restricted he will become a positive danger to the peace of the country.

Sir, I appeal to my Honourable colleagues, in the name of progress, in the name of civilisation, in the name of enlightenment, not to treat this measure in a spirit of levity and controversy, which ought to be foreign to all patriotic people, but to treat it as a necessary measure for the progress of the country and for repressing that ebullition of feeling which is doing so much harm to the country.

Mr. K. C. Roy (Bengal : Nominated Non-Official) : Sir, I feel it my painful duty to oppose the motion moved by my Honourable friend (Mr. Crerar). I agree with Nawab Sir Zulfiqar Ali Khan when he said that circumstances had arisen in this country, for which I believe our communities are primarily responsible and the Government secondarily responsible, which demanded drastic treatment.

Mr. A. Rangaswami Iyengar : Government are primarily responsible.

Mr. K. C. Roy : I repeat the communities are primarily responsible and Government secondarily responsible—which demanded drastic treatment. But, Sir, what is the Bill before us ? The Bill only proposes to add a new offence to our Indian Penal Code. We have already provided for hatred against class and hatred against Government. We are now going to provide for hatred against religion. This is the exact purpose of the measure. This is neither a Hindu nor a Mussalman Bill. My friend Sir Zulfiqar Ali Khan is absolutely wrong when he assumes that we are passing this Bill because it is a Moslem measure. It is nothing of the kind. We are adding a piece of repressive legislation to our Statute-book. And for what purpose ? It will serve no useful purpose whatever.

I oppose this Bill on four principal grounds, namely, that the Bill is most inopportune, that the Bill will not serve the purpose which Government have in view, that the Bill is inconsistent with the spirit of toleration for which generations of Englishmen and Indians have worked in this country, and lastly, Sir, that this Bill is a stigma on the Indian Press. We are considerably handicapped in the discussion of this Bill by the encomiums which were passed upon this measure by the Party Leaders in this House. (*Mr. D. Belvi* : "Hear, hear".) I am sorry that I shall have to single out Mr. Srinivasa Iyengar first. He it is who said that the Bill was overdue. He is a great lawyer and an eminent jurist. I grant all that. I am a layman. But I am content to rely upon the judgment of three successive High Courts, the High Court of Calcutta, the High Court of Allahabad and lastly the High Court of Lahore, and also upon

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the other existing laws. We have not needed this Bill for the last 250 years. Why do we need it now? My friend Mr. Srinivasa Iyengar did not look deeper into the problem. Perhaps he was thinking in terms of the Unity Conference. Now, I come to my Honourable friend Mr. Jayakar. He said that there has been a demand from the country. Might I know where the demand came from? I claim, Sir, that I am in constant touch with the flow of political events in India. The demand came from whom? A handful of men in the Punjab, thoughtful perhaps, patriotic perhaps, but really, the inner working came from a set of men who are responsible for the communal disturbances in North India.

Mr. K. Ahmed (Rajshahi Division : Muhammadan Rural) : How do you know ?

Mr. K. C. Roy : The proper treatment for that is not this Bill but action under the Deportation Act and the Criminal Law Amendment Act. If these two Acts had been primarily resorted to in the provinces of the Punjab, Delhi and the United Provinces, we should have heard very much less of these communal troubles. (*An Honourable Member* : "Why exclude Bengal?") Then, Sir, I come to my Honourable friend Lala Lajpat Rai. Only the other day, speaking on the Volunteer Police Force Bill, he asked whether we were to accept a Bill of this sort from an alien bureaucracy. But he has no hesitation in accepting a far more drastic measure from that bureaucracy. I shall ask him to reconcile his own opinions.

Lala Lajpat Rai (Jullundur Division : Non-Muhammadan) : I will.

Mr. K. C. Roy : And lastly, Sir, I come to my revered friend, Pandit Madan Mohan Malaviya. He is not here just now. He gave us a dissertation on religion. I say this Bill does not deal with religion. It deals with a concrete offence, and that an offence which can literally be dealt with under the existing Acts.

Mr. K. Ahmed : Is there no religion in it ?

Mr. K. C. Roy : No, Sir.

Mr. K. Ahmed : Concrete fact ?

Mr. K. C. Roy : Yes, concrete facts. I say that the Bill is inopportune, and I am very anxious to emphasise this fact. It was only the other day that His Excellency the Viceroy gave us a message that if response was forthcoming, he would convene an All-India Conference to examine the communal troubles. I know what His Excellency meant. His Excellency does not want to treat merely the symptoms of the disease with which this Bill deals. He wants to treat the whole question in its political, in its economic and in its religious and social aspects. (Hear, hear.) We are prejudicing his chance by passing this Bill to-day. Let us examine this case fully : let us examine the religious disabilities of Hindus and Muhammadans : let us examine the economic value of this question, and we can take measures after that. What is the good of having a trumpety legislation which will yield no results ?

Mr. K. Ahmed : Will you fetch a bucket of water after the house is burnt ?

Mr. K. C. Roy : Well, we shall see about it a few minutes later. (*An Honourable Member :* "When it happens".) Yes, when it happens. There is the deportation law for the time being. Many Members of this House will undoubtedly recollect that there was a discussion of this question in the Punjab Legislative Council. Only the other day I asked my Honourable friend Mr. Crerar whether he would be good enough to lay the opinion of the Punjab Government on the table and he was unable to oblige us. What was the discussion about in the Punjab Legislative Council? I shall read an extract from the speech of the Honourable Mr. Craik, Chief Secretary to the Local Government. He said :

"More than half the newspapers in the Punjab had dummy editors. In one case the editor was one who had confessed that he had forged currency notes and escaped only by giving away his companions."..... (Laughter.)

(*An Honourable Member :* "Under what provision?")

"Another editor had in turn been a barber, a syce, a deserter from the Indian Infantry and an ex-convict."

Do I understand that Mr. Crerar will deal with them under these Acts? I can tell you, "No, he won't". But if he brings any proper Bill to deal with this sort of people, he will have the fullest support from every newspaper man in this House. But this Bill will serve no useful purpose. It was only this morning that I was talking to a very distinguished official of the Punjab who had much to do with these troubles. He told me that the Bill as originally drafted provided very little and, after it had come from the Select Committee it is nothing. I shall ask Mr. Crerar to convince me on this point.

Sir, the last point on which I wish to say a few words is that this Bill is not in keeping with the spirit of the British administration in this country. I know generations of British statesmen and Indian reformers, distinguished men of public thought, such as the founder of the Aligarh College, had worked for religious and social reform. But this Bill puts a premium on intolerance and bigotry. I am sorry, Sir, that Lord Irwin's Government should be associated with a measure of this kind. Have a Bill by all means, have a comprehensive Bill after a proper inquiry, to deal with communal questions, but not this Bill which really is not a progressive measure, but which will only hamper the good work done by reformers in this country—European, Hindu and Mussalman.

Mr. D. V. Belvi (Bombay Southern Division : Non-Muhammadian Rural) : Sir, I rise with a twofold object. I wish to say a few words as regards the principle of the Bill inasmuch as I did not say anything on the Bill the other day. My second object is to move the amendment which stands in my name. I believe, Sir, we shall economise our time if I move the amendment for circulation at an early stage of the discussion.

Now, as to the principle of the Bill. It seems to me after careful consideration that this is a Bill which is fraught with very great danger. It appears to be an innocuous measure at the first blush, but it seems to me that though it wears the garb of innocence, it will not only muzzle the Press of the country to a certain extent, but it will also hamper the free expression of opinion on the part of scholars, historians and men of that kind. It is my firm opinion that the law as it stands is sufficient for all practical purposes. Government has slept over its duties

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for a number of years. My firm conviction is that, if the Government had taken measures earlier to repress mischievous writings, mischievous speeches at the proper time, we would not have been in the predicament in which we now stand. Did Government do anything? Did it lift its little finger to take any repressive measures to put down, the inflammatory speeches that were delivered by members of both communities at Aligarh, in the Punjab, in Bengal and other places? Are we not aware of the kind of speeches that were delivered at Aligarh about two years ago? Has the Government done anything in the matter hitherto? It has done nothing whatever. Now that it sees that there is a great deal of hubbub in the country, it wants to cover its own sins by passing this measure. The law as it stands is enough to vindicate the reasonable liberty of every man in the land. We know that though the accused in the *Rangila Rasul* case was not convicted by the Lahore High Court on some technical ground, the law was fully vindicated in a subsequent case, the *Vartman* case. What does this show? It shows that there is sufficient safeguard in the existing law, but that the law was not set in motion by the executive for its own purpose, either because the executive was not alive to its duties, or because it had some sinister motive. There is no other explanation possible. It is very unsafe to add to the armoury of the executive another dangerous weapon.

Let us see how the present Bill is framed. It is provided in the Bill that the authority to institute a criminal prosecution is to vest in the Government. It is stated that no prosecution should be instituted without the sanction of the Local Government. I submit that this is not a salutary provision at all. If you really wish that a person who is aggrieved should have his redress, then it should be permissible to him to go to a court of law to vindicate his rights. It is said that if such liberty is given false complaints may be brought before courts. There are provisions in the existing law which provide against complaints of that kind. If A prosecutes B falsely, in the first place, the magistrate has got powers in his hands to award compensation to the accused at the expense of the complainant. That is remedy No. 1. Then there is a second remedy open to the aggrieved person if there be a false prosecution. He can ask the magistrate to grant sanction for the prosecution of the complainant under section 211 or under section 182 of the Indian Penal Code. The complainant will be hauled up for making a false complaint and he will be tried, and if found guilty, he will be convicted and sentenced. There is a third remedy open to the accused. He can bring a suit for damages for false prosecution in a civil court. When there are so many remedies open to the aggrieved person, why should the authority to institute a criminal prosecution under the proposed new law be vested in the Government? The explanation is that the Government wants perhaps to play off one community against another, sometimes showing partiality to members of one community and sometimes showing partiality to members of another community. My humble opinion is that if you are inclined to pass this measure into law, leave it to the aggrieved parties—let them have the satisfaction of going to the court and vindicating their rights. If you wish to pass this law, then leave the people full liberty to take the course that they may be advised to take.

I submit that freedom of opinion will be much suppressed and I shall give you a concrete instance of what I mean. The instance is very

recent. A small pamphlet came to my notice only the other day. You know that there is a community of Muhammadans in this country known as the Khojas. His Highness the Aga Khan is the religious head of that sect. The sect numbers, I believe, in its fold several millions of people—I do not know the exact number, but I know that the followers of His Highness the Aga Khan are both in India and in Africa (*An Honourable Member* : “ And Persia ”), and, in Persia also. There is an association in the city of Karachi of the Khojas and the Secretary of the Association there has issued a small pamphlet. I have received a copy of the pamphlet by post, but unfortunately I forgot to bring it here, and I do not know if any other Members of this House have received copies of that pamphlet. You will find there that the writer of the pamphlet says that he is himself a member of the Khoja community, and yet he disputes in the body of that pamphlet the very title of His Highness the Aga Khan to the position of the religious head of the sect. He says that he does not admit the alleged correctness of the pedigree of His Highness and his family. He denies that His Highness the Aga Khan is a descendant of the Holy Prophet of the Mussalmans. He also says that His Highness is altogether wrong in telling people that they should not offer their homage to Allah but to himself. The pamphlet also says that His Highness has openly preached the doctrine that homage should be paid to him personally as Allah. Are we to suppose that an expression of opinion of this kind should be punished ? The man is a member of the Khoja community, and I have no doubt that many Khojas will feel insulted or their religious feelings will be severely wounded by the publication of such a pamphlet. But it seems to me that the writer of the pamphlet is speaking out frankly. Is it right that things of that kind should not be discussed in the public ? What will be the inevitable effect of the law you are making now ? You have not considered the full implications of the Bill that you are passing. It is all very well to say that there are breaches of the peace here, there are houses burning there and murders elsewhere. All that is true, but do you think that all these will be stopped simply because you pass this measure here ? Unfortunately for us, some of the leaders of the two communities went on talking recklessly. They sowed the wind and they are now reaping the whirlwind. It is very easy to set fire, but it is not so easy to control the fire when it is flaming and raging. I do not believe that the mere passing of this measure will allay public feeling in the country. There are other remedies which should be tried. There is one idea which is lurking in our minds and I think I shall not be doing justice to myself if I do not give expression to it. It seems to me that some of my Muhammadan friends believe that the proposed law will do them greater good and they are so anxious as to plead for enhancement of the punishment, and they desire that the law should be made more Draconian. I request them to take my assurance that, if this law be passed, it will be as hard on Mussalmans as it will be on Hindus, and I do not think that if you make this offence non-bailable the Hindus only will suffer. For aught I know, more Muhammadans may suffer than Hindus. It is no use making the law very Draconian. If you wish to pass a law, let it be a reasonable law. There is a punishment of two years provided in the Bill. That is quite enough. It will depend upon the kind of offence that is committed, it will depend upon the kind of magistracy or the Sessions Judges that you get for the trial of the cases. It is no use making the new offence you are creating a non-bailable offence, or increasing the punishment to 7 years.

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It is not only the Prophet of the Mussalmans that will be sometimes attacked, but there will be the prophets, the saints and other holy persons of the other communities that may be insulted. So, it is no use saying, in my humble opinion, that the law should be made more stringent.

It is very unfortunate that such a law should be passed in the first instance and then it will be still more unfortunate to make the law so very stringent. We know that in ancient times if a man committed a small theft his hands were cut off. Sometimes his ears were chopped off, but it was found in course of time by experience that a severe sentence did not necessarily mean repression of crime. Then, Sir, I do not think that I need say anything more as to the dangerous principle of the Bill. I fully associate myself with all that has been said by my Honourable friend Mr. A. Rangaswami Iyengar. You will find by referring to the Report of the Select Committee that such sane and sober men as my friends Mr. K. C. Roy, Mr. Arthur Moore, Mr. Kelkar, Mr. N. C. Chunder and Mr. A. Rangaswami Iyengar say that the present law is adequate and that they are dead against the Bill that is now proposed to be passed into an Act. All these Honourable gentlemen are connected directly, with the exception perhaps of Mr. Nirmal Chunder, with the Press of the country. (*Honourable Members* : "He is also connected with the Press.") Very well, then, I find that five gentlemen who are connected with the Press in India are positive in their opinion and they all say that this measure is superfluous and that it is not wanted by the country. Are we to set aside the opinions of these men ? I have no doubt that if there had been a representative of the Muhammadan Press on the Select Committee, he would probably have concurred in the opinion of these five gentlemen, but unfortunately I do not find in the names of the members of the Select Committee that there is any Muhammadan publicist (*Mr. K. Ahmed* : "Are you an editor.") If you wish to say anything kindly speak up. I am not an editor myself. I have nothing to do with any newspaper. I was never one and I do not hope to be one in the future. I have never published any pamphlet hitherto and I do not desire to publish any hereafter. I am quite safe. I always keep myself within the bounds of law.

Then, Sir, I come to my amendment. I shall first of all read my amendment. My amendment is that the Bill, as reported by the Select Committee, be circulated for the purpose of eliciting opinion thereon by the 15th January 1928. Honourable Members may perhaps think that I have again moved a dilatory motion. I assure them that my object is not to delay the measure but I repeat that it is necessary to send this Bill to the various provinces for its circulation. The Bill has not yet been translated into the various vernaculars. You are legislating for many crores of people residing in this country. Let them know at least what we the legislators are about to do. Let us not ignore their presence. It is for their benefit that you are legislating. Do not think that simply because you happen to be clad in brief authority and have the privilege to sit within the walls of this Chamber for some time that you can legislate despite the people that have sent you here. (*Mr. K. Ahmed* : "Question !") It is very wrong of my friend Mr. Kabirud Din Ahmed to say "Question". I ask him not to forget his constituency. Next time he may not be sent up. Very often we harp on the slogan that good government cannot be a substitute for government of the people, by the people, and

for the people. That is the slogan that we not infrequently advance. At any rate we on this side call ourselves democrats and we always say that the real political power should be with the masses. That is our shibboleth but how do we behave? Yesterday we ignored the people of the country altogether. I warn you not to do so again. Do you know what people will think about you if you ignore their presence? Sir, I wish to read to this House one sentence which has struck me most and which I think is very relevant to this point. I am quoting from my favourite political philosopher, Burke. He says. (Laughter.) My friends here will considerably benefit themselves if they will read Burke, especially his *Reflections on the French Revolution*. We are on the eve of a revolution in this country and it is necessary to study every sentence of that immortal book. I will read only one sentence. It reads :

“ You will smile here at the consistency of those democratists, who, when they are not on their guard, treat the humbler part of the community with the greatest contempt, whilst, at the same time, they pretend to make them the depositories of all power.”

That applies exactly to the conduct of this House yesterday.

Mr. President : The Honourable Member is not in order in criticising the decision of this House.

Mr. D. V. Belvi : I bow to your ruling, Sir, but all the same I maintain that Burke is positively right. You wish to pass this law in haste. I know that if you examine the history of legislative measures in this country you can surely find precedents in which legislation was rushed through in the course of one sitting. You know that the Official Secrets Act was rushed through the Imperial Legislative Council in the course of a few hours. We also know that the Bengal Ordinance was issued in a few minutes. You may do that if you like. You have been empowered by law to do it, but I submit that it would not be right. It would be morally indefensible. Why do you not take the people into your confidence? The publication of the Bill in the various vernaculars of this vast country will serve as a sort of deterrent. Mischief mongers will come to know that there is trouble brewing for them within the walls of the Legislative Assembly. They will know that it is not safe to insult the religious feelings of other communities. Why should we suppose that there will be peace and good will in the country to-morrow if we pass this measure this evening? It is a wrong belief altogether. Do you know what the Press of this country has said about the measure? There is the *Statesman* of Calcutta, there is the *Hindu* of Madras and there is the *Indian National Herald* of Bombay. There are other newspapers in the country which have criticised this measure very severely. They are all opposed to the proposed new legislation. Are we to ignore the opinions of all these newspapers? Are their opinions to be cast to the winds? Should no importance be attached to the opinion of people who educate the public? If you ignore the opinion of such important newspapers, I can only say that the House will be abusing its authority. I hope that the electors will remember the conduct of their present representatives in future elections. You rush to the villages for votes at election times, you coax the villagers in all possible ways but when you are elected to the Assembly or to the Council of State, you clean forget your masters. You say here that they are ignorant people, that they cannot read and write, that you are the custodians of their interests and that you are the really enlightened people. You fancy that you can

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legislate for the whole country at your unfettered and sweet will and pleasure. That seems to be the idea of some of my Honourable friends. I request them very seriously to think over the matter and vote in favour of my amendment. Let this measure be brought up in the Delhi Session of 1928. I have said purposely in my amendment that the opinions should be collected from the various provinces before the 15th January 1928. You will not lose anything whatever. I have consulted some important persons on the subject matter of my amendment, I have the leave of one great man in the country to tell my Honourable colleagues that he thoroughly sympathises with this amendment. He is no less a person than the religious head of the Ahmadiya sect of Mussulmans. I am told that that sect has got a million people as its followers. Fortunately for us the religious head of that great community is at present in Simla. I had the privilege of meeting His Holiness the other day and I have ascertained his opinion to-day. He has sent me word to say that he is not satisfied with the present form of the Bill. He thinks that the Bill has emerged from the Select Committee in a wrong form, and he has sent me word also to say that he thinks it will be much better if this Bill is circulated in order that opinions may be collected upon it from people living in the different parts of the country. It is for Honourable Members of this House to attach importance to the opinion of such a great man or not. But it is my duty to place before you the opinion which I have obtained from him.

Mr. K. Ahmed : The opinion as stated is not correct. His Holiness welcomes the Bill in substance, Sir.

Mr. D. V. Belvi : It is no use contradicting me here. The Secretary of His Holiness is in this building. My Honourable friend Mr. Ahmed may take the trouble of going out a little and consulting him. I consulted him only 20 minutes ago.

Mr. President : The Honourable Member must not make any reference to a visitor in the Gallery

Mr. D. V. Belvi : On these grounds, Sir, I move my amendment and I request my Honourable friends to consider it coolly and to pass it. I am not opposed to the measure if it is brought up in a proper form. But the measure as it now stands appears to me to be most dangerous. I do not think the Prophet of the Muhammadans will be protected by this legislation. I do not think the saints of the Hindus will be protected by it either. It will be still possible for the members of one community, if they are evilminded, to insult the religious feelings of the other community. This is not the way to proceed to root out the evil. With these words, Sir, I oppose the principle of this Bill and I move my amendment.

Mr. Abdul Latif Sahib Farookhi (North Madras : Muhammadan) : Sir, I rise to support the motion moved by the Honourable the Home Member and to oppose the amendment of my Honourable friend Mr. Belvi. Sir, several speakers, including my Honourable friends Mr. A. Rangaswami Iyengar and Mr. K. C. Roy, pointed out that this is a repressive measure. I quite agree with them that this is a repressive measure. But, Sir, there are occasions when we have to strengthen the

hands of the Government to enact such measures so as to enable us to live in an atmosphere of peace. (*An Honourable Member* : " And that from a Swarajist ! ") Swarajists or anti-Swarajists, we have come here to co-operate with the Government. When we entered the Legislature no doubt there was a talk of obstruction. But ever since I came here, I have been seeing that we are helping the Government in several Committees, and I do not see any reason why in a measure like this, which is calculated to bring about peace and harmony between the different communities we should not strengthen the hands of the Government. Sir, I do not understand the reason why we should defer legislation on an important question like this. Sir, it is pointed out that section 153-A. is sufficient, but unfortunately, owing to the famous judgment of Justice Dalip Singh, we have found that several eminent lawyers and people who can be quoted as authorities on law have admitted that there are loopholes in the law, and we have therefore to shut up those loopholes. We have to look to the present state of affairs in the country. I have only yesterday received a Resolution passed by the Mussalmans of Bezwada which runs as follows :—

" The Mussulmans of Bezwada strongly condemn Telugu dramas of ' Roshanara ', ' Jowharibai ', ' Zaibunnisa ', ' Fall of Vizianagar ', and such of their ilk as untrue, defamatory and mischievous, and protest with all the emphasis at their command against their publication and staging in the Andhra Districts and elsewhere, as they are calculated to insult Mussalman religion, Mussalman Emperors, Kings, religious heads, Mussulman Princesses and women in their modesty and chastity.

The meeting brings to the notice of the Government that the dramas are defamatory and provocative, breed hatred and contempt, and promote feelings of enmity between communities. The Mussulmans are greatly exasperated. This meeting declares emphatically that Mussulmans cannot bear such insults. Prays Government to take immediate steps to cancel licenses for the above-named dramas, prohibit staging, proscribe the said dramas and take legal action against authors and publishers of the said publications."

Sir, this only goes to show the state of feeling in the country at large. I cannot agree with my friends who suppose that there is discontent only in the Punjab. After the judgment of Justice Dalip Singh in the *Rangila Rasul* case huge monster meetings were held in several parts of India and the demonstrations only went to show the extent of feeling which prevailed in the country. Sir, I am not advocating the cause of the Mussulmans only. It is possible that some Mussulman writers may write against other religions. (*An Honourable Member* : " We do not agree.") You may not agree, but as an Indian it is my duty to see that peace and harmony is brought about between the different communities ; as a Mussulman, as one whose religion enjoins peace upon him, it is my duty to see that my fellow-countrymen should also live in peace. I do not want that there should be any provocation on the part of the Mussulmans which might incite the religious feelings of the Hindus. Such being the case, it is only necessary that we should enact a law of this kind as soon as possible. My friend Mr. A. Rangaswami Iyengar said there may have been occasions when Judges have with the most *bona fide* intentions interpreted the law in a manner contrary to custom. But the point is that nobody knows whether there may not be similar occasions hereafter. It is possible that in future there may be other Dalip Singhs, who, with the best intentions, may think that there is a loophole in the law and that a particular act does not come within the purview of that law.

Mr. T. A. K. Shervani (Cities of the United Provinces : Muham-madan Urban) : There are Dalals.

Mr. Abdul Latif Sahib Farookhi : My friend, Mr. Shervani, says that there are Dalals also ; but we know, Sir, that if there were only judgments of Dalals, then we need not have come to the House to ask for such legislation. Sir, it is also pointed out that this Bill is very wide and will take a large number of offenders under its purview, but I feel that there is a very strong safeguard, inasmuch as it gives discretion to the Govern-ment to decide and sanction a prosecution. (*An Honourable Member* : "That is very dangerous.") My friend says that it is very dangerous. But sometimes we require such dangerous safeguards (Hear, hear), and Sir, I am quite confident that the Government will always see to it that prosecutions are not sanctioned unless there is a strong reason and ground for sanctioning such prosecutions. (*An Honourable Member* : "There may be merely a strong agitation.") Sir, it is also said that this Bill would put a restraint on scholars, historians and those who are trying to search after the truth. But my submission is, Sir, that in the Report of the Select Committee the word "deliberately" is inserted, and therefore it would go to obviate such dangers. Sir, my friend, Mr. Belvi, referred to the speeches made at Aligarh and said that the Government failed to take steps against those speeches. First of all, Sir, I am not prepared to admit that those speeches were objectionable. Even granting, how-ever, that they were objectionable, and even granting that the Govern-ment failed to take action against those speeches, is it necessary, or is it advisable on the part of Government, now, to fail in their duty to enact such a law ? If the Government once failed to do its duty, it is not necessary that it should always fail to perform it. Then, again, Sir, my friend, Mr. Belvi, said that this law will be as hard on Moslems as on Hindus. Well, Sir, I shall not regret it. If any Moslem really and with deliberate intention to wound the religious feelings of Hindus does anything to provoke them, I think that Moslem should be punished, and I wish all the more that a Moslem who really deserves punishment should be punished, and therefore I think the Moslems will not regret that. Let it be as hard on the Moslems as it will be on the Hindus (*An Honourable Member* : "And on the Christians.") Then, Sir, my friend, Mr. Belvi, also said that no Mussalman publicist was included in the Select Committee, and he expressed the confidence that if any Mussalman journalist was there, he would have surely signed the minute of dissent written by several other gentlemen most of whom belong to the class of publicists. Well, Sir, I feel that I have the privilege to belong to that class of people — I am the editor of a daily Urdu paper (Hear, hear)—and if I were on the Select Committee, surely I would only have agreed to differ with those who wrote the minute of dissent. Sir, several papers have pointed out the necessity of such a law. Even the *Statesman*, if I remember correctly, wrote that there are loopholes in the law and those loopholes should be shut, and I can say with some amount of confidence to this House that the whole Mussalman Press, irrespective of the political thought it advocates, is in favour of enacting such a law. In conclusion, Sir, before I sit down, I shall only point out to my friend, Mr. Belvi that to circulate a measure like this which already went to a Select Committee where many eminent lawyers like Mr. Jinnah were present

and where every possible safeguard was included, for eliciting public opinion is unnecessary in my opinion, and it will only be delaying a necessary legislation. Sir, yesterday several arguments were advanced in favour of doing the needful at the proper time. My Honourable friend, Mr. Jayakar, asked the Home Member whether he should not use his own discretion and decide the matter on its own merits. Here then is also a case where the matter should be decided on its own merits : and it is unnecessary, after it has gone through several stages, through the Select Committee also, to circulate this Bill for eliciting public opinion. Sir, in conclusion, perhaps this is the first day that I have had an opportunity to congratulate Honourable Members on the other side (Hear, hear), and I think that I should not be ashamed of doing it if I only think it my duty to do so as a representative of the people, and therefore, Sir, I have to thank the Honourable the Home Member for having done his duty at the proper time and for having taken care not to allow things to drift to such a state as would prove to be disastrous : and therefore, Sir, I thank the Honourable the Home Member and congratulate him on the important steps that he has taken so promptly.

Maulvi Muhammad Yakub (Rohilkund and Kumaon Divisions : Muhammadan Rural) : Sir, I myself feel ashamed that the conduct of the inhabitants of this country should necessitate the enacting of a measure like this. The freedom of speech and the freedom of the pen are, Sir, the most cherished rights of civilised nations in the world, and if after a century of British rule in India we are not capable of using both our tongues and our pen with care and with decorum, I am afraid we cannot congratulate either ourselves or the Government on bringing the Bill on to the Statute-book. Sir, most of the legal enactments and legal measures are intended to restrict human action and the freedom of mankind to a certain extent. Not only do the laws enacted by human agency bring such restrictions, but also the laws which are considered by different communities as enacted by super-human agency also bring restrictions on the freedom of human action, and therefore we cannot condemn any Act of the Legislature solely on the ground that it is calculated to restrict the freedom of human action. Sir, the laws enacted in a country are the index of the state of civilisation of that country and the Legislature of every country at every time follows the standard of civilisation of that country. The higher the level of civilisation of a country rises, to the same degree the Legislature of that country becomes more liberal and more elastic. As an example, I may point out that in some countries in Europe capital punishment has been abolished ; but if the example of those countries were followed in India, I am afraid the number of murders and assassinations would increase to an alarming degree. (*An Honourable Member* : " Question.") The laws enacted by the Indian Legislature are not unalterable like the laws of the Medes and Persians. When the state of affairs in the country improves and the level of civilization is raised to such a degree that moral force will be able to stop the scurrilous use of pen and tongue, not only this but also many other enactments of this character will disappear from the Statute-book of the country. But now when it is admitted on all sides that scurrilous writings and speeches are becoming more numerous and more provocative than ever, we will be failing in our duty if we do not lend our support to the passing of this Bill. I do not claim that the Bill under discussion is quite perfect and

[Maulvi Muhammad Yakub.]

free from all objections. When it was introduced first in this House, I myself said that it was too wide and too indefinite and, although the Select Committee has amended the Bill in desirable directions, still I must confess that it is not in any way altogether unimpeachable. However, like any other imperfect measures of the Legislature, the necessity for its being brought on the Statute-book is established, and it is with these feelings that I feel constrained to support the motion of the Honourable the Home Member.

Mr. B. P. Naidu (Guntur *cum* Nellore : Non-Muhammadan Rural) : Sir, I am sorry I cannot congratulate the Government, like my Honourable friend Mr. Farookhi, on their bringing forward this Bill. I have listened with great interest and pleasure to the analytical and humorous speech of my Honourable friend Mr. Kelkar. Sir, in my opinion this is a piece of panicky legislation for which there is no real necessity at present. The law, as it stands now, I understand, is enough to cover and meet the prevailing communal antagonism in the country. That being so, why impose upon the people a measure which is capable of doing considerable harm in several directions ? As my friend, Mr. Roy, has put it, it puts a premium on religious intolerance and bigotry. I will go further and say that it will also encouraged gross superstition. At a time when we are desiring progress in all directions, a measure of this type will stifle liberty of thought and expression and, I am afraid, will deal a death blow to religious and historical research. Hinduism, which is considered to be a most catholic religion, would not have attained to its present high position but for the free atmosphere in which its votaries lived and died. There are a number of sects in the broad fold of Hinduism and the diversity of their thought is the strength and greatness of Hinduism. I am sure India will not in any way be the poorer for the want of this Act, which, after all, serves no good purpose.

Mr. B. Das (Orissa Division : Non-Muhammadan) : Sir, I rise to oppose the consideration of the Report of the Select Committee before us. Sir, last year at this time in the Simla Session, when the Honourable Sir Alexander Muddiman brought forward his amendment to the Criminal Procedure Code, section 153, I had the privilege to oppose it at every stage. Sir, I then said that Government had ample powers in their hands and there was no necessity for further legislation ; and Sir Alexander Muddiman at that time did admit that they had ample power in their hands, but they wanted that particular legislation in order to do away with the communal spirit in the country. I find that the enactment of that piece of legislation has brought more communal discord in the country and to-day we are going to enact another piece of legislation in the name of religious amity. How can an alien Government legislate to set right religious disputes in the country ? I do not think the Government can. The Government have got ample power. Sir, at that time I quoted from the *Statesman* a passage which equally applies on this occasion. Sir, the *Statesman* which was previously known as the "Friend of India" occasionally even now writes certain leading articles in the spirit of a

friend of India, and last year the *Statesman* wrote while protesting against that piece of legislation thus :

“ . . . but the operation of the new law may well prove an additional incitement. Sir Alexander Muddiman raises a question that goes back further in history than the time of Milton, but which Milton settled for reasoning men in his *Areopagitica* when he uttered his memorable protest against the licensing or prohibiting of books.”

The paper further observed :

“ In India bad law and bad journalism have for too long gone side by side. Who began it is no longer a matter of importance, but irresponsibility in journalism has evoked oppressive legislation and that in its turn has led to a greater irresponsibility.”

If that was the view of the *Statesman* last year, I will enlighten the House about the view of the *Statesman* this year which further confirms the view of many sensible and responsible persons in the country that this piece of legislation is unnecessary. Sir, the *Statesman* in its very able editorial about this Bill says :

“ The spirit of the Bill is only to be paralleled in English legislation by reference to the times of Queen Mary and Queen Elizabeth, when the rival religions of Rome and Protestantism were struggling for the mastery. If this Bill becomes law there are classic books which cannot be published in India without danger of prosecution of those who print or circulate them.”

In another passage, it further says :

“ No real discussion of religious questions, even if they be purely historical, will be permissible. Had a law akin to this been in existence in France, Renan would probably have ended his days in prison after writing ‘ La Vie de Jesus.’ Voltaire would certainly have done so. The fact is that the difficulty of the *Rangila Basul* case has rushed the Government into a thoroughly bad piece of legislation.”

I shall stop here. It may be that there was a flaw in the law. It may be that Justice Dalip Singh pointed out where that flaw was. But it is not a right move to bring forward this piece of legislation. I was surprised the other day although my friend Sir Hari Singh Gour pointed out, in order to bring out certain amendments in the Penal Code in the Select Committee, which sections applied to which kinds of offence and no further legislation was necessary, I find that my Honourable friend Sir Hari Singh Gour, though he was put on the Select Committee has not brought out anything which helps us to understand the law.

Mr. N. C. Kelkar : He did not attend the Select Committee.

Mr. B. Das : Sir, it was due to your kind intercession that the Honourable Member Dr. Gour was put on the Select Committee.

Mr. President : Was the Honourable Member on the Select Committee ?

Mr. B. Das : The Honourable Dr. Gour was put on the Select Committee owing to your intercession, Sir.

Mr. President : Was the Honourable Member himself on the Select Committee ?

Mr. B. Das : I was not on the Select Committee, Sir, nor did I want to be on the Select Committee. I am not a lawyer. I belong to that profession to which my Honourable friend Messrs. Roy and Moore belong. I happen to be a journalist in my leisure hours and I edit the *Young Utkal* for the uplift of Orissa. I am sorry to hear that my Honourable

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friend Mr. Farookhi, who is a Mussalman journalist, made the speech that he did supporting this measure. I submit that journalists have additional responsibilities besides making occasional speeches on the floor of this House.

Mr. Abdul Latif Sahib Farookhi : It was because of the additional responsibility as a journalist that I made the speech that I did.

Mr. B. Das : Before proceeding further, I must congratulate my Honourable friend Mr. Farookhi on the speech which he made in support of the Government.

Mr. President : That is not the issue before the House.

Mr. B. Das : Sir, I ask him to join our party as we are responsive co-operators too. I also ask him to oppose this measure because he belongs to the same profession of journalism as I do. When a journalist makes any suggestion, it goes throughout the country. Any opinion that we journalists give on the floor of this House is always read all over the country. We, journalists, have great responsibilities, because we always shape public opinion ahead. Before the public can think of a thing, it is the journalist that, by his investigation of the problems, brings out the problems with a view to shape public opinion. When my Honourable friend Mr. Farookhi said that had he been on the Select Committee, he would have differed from my Honourable friends Messrs. Roy, Moore and Chunder, I felt sorry that as a journalist he should have spoken like that. I feel that the responsibilities of a journalist are far greater than of other people. I find, Sir, that the *Englishman* of Calcutta, which is always so unfriendly to India, writing on this Bill says that this will serve no useful purpose.

Mr. T. C. Goswami (Calcutta Suburbs : Non-Muhammadan Urban) : Is there such a paper ?

Mr. B. Das : My Honourable friend Mr. Goswami who comes from Calcutta ought to know the *Englishman*.

Mr. T. C. Goswami : I have not seen it for ages.

Mr. B. Das : In view of the very strong agitation that has been set up by the best class of papers in India and in view of the strong comments that are being made by my Honourable friends Messrs. Moore, Roy and other journalists, I hope every Honourable Member of this House will oppose this piece of legislation. If the Government pass this measure, it will give additional power in the hands of district officers, some of whom are sitting behind the Government benches. But they would find that this additional piece of legislation has set them wool-gathering. If they want to suppress a certain agitation that is going on, or if they want to put down scurrilous writings, they can easily do it. They have got enough weapons in their hands at present and why add additional power to them. As my Honourable friend Mr. Belvi rightly pointed out, this will only lead to further agitation by the followers of the various sects, by the followers of Gurus, bogus Gurus, of bogus Avatars scattered all over India. I feel that this Bill is not going to serve any useful purpose.

With these words, Sir, I oppose the motion for the consideration of the Select Committee's Report.

Mr. A. H. Ghuznavi (Dacca Division : Muhammadan Rural) : Sir, as a signatory to the Report of the Select Committee, I feel that I should speak on this Bill. Sir, this Bill which has been introduced here is the outcome of that unfortunate decision of a learned Judge of the Punjab High Court, I mean the decision of the Honourable Mr. Justice Dalip Singh in the *Rangila Rasul* case. From what I have read in the papers, I think that the learned Judge held that insulting a Prophet was not insulting a religion and that therefore the learned Judge could not convict the accused under section 153-A. He further suggested that legislation might be undertaken to bring these kinds of culprits to book. Sir, that extraordinary judgment gave rise to a considerable amount of discontent, not only in the Punjab but all over India. The agitation went on from one end of the country to the other, and the Muslim feelings became extremely bitter. In various meetings, perhaps including the one at which Sir Abdur Rahim presided, resolutions were passed asking the Government to remove the learned Judge who gave that extraordinary judgment.

Raja Ghazanfar Ali Khan (North Punjab : Muhammadan) : May I ask the Honourable Member to read out that resolution ?

Mr. A. H. Ghuznavi : I am sorry I have not got that resolution here, but I shall show that to the Honourable Member to-morrow. Sir, in the Punjab it brought about a serious state of affairs. Fortunately the destinies of the Punjab were in the hands of His Excellency Sir Malcolm Hailey at that particular time. In reply to a deputation from the Mussalmans, His Excellency, I understand, assured them that he would move the Government of India to undertake legislation of this kind. As a layman, I do not know whether that step was necessary. I thought the best thing for the Government of the Punjab would have been to move against that order of the learned Judge and ask the High Court of Lahore to form a full Bench and give an authoritative decision on the law point. However, I am told that in another decision, that is the *Risala Vartman* case, the acting Chief Justice, Mr. Broadway, and Mr. Justice Kemp practically overruled the judgment of the learned Judge, Mr. Justice Dalip Singh.

Lala Lajpat Rai : They did not overrule the judgment in the *Rangila Rasul* case.

Mr. A. H. Ghuznavi : That was my information. I may be wrong. My further information is that they said that it would be better if the law were to be made clear on the point, and hence the necessity for this Bill.

I will not deal with my Honourable friend Mr. K. C. Roy just at the present moment but I will deal with the Bill first.

Sir, this Bill was considered in the Select Committee with the assistance of the eminent lawyers of India—Mr. Jinnah, Mr. Srinivasa Iyengar, the late Advocate General of Madras, Mr. Jayakar and Pandit Madan Mohan Malaviya. They are all eminent lawyers. (*An Honourable Member* : “ Every one of them ? ”) Yes, Sir, every one of them. They considered the Bill, and what was their conclusion ? At the outset those of us, members of the Select Committee, who are laymen, must express our

[Mr. A. H. Ghuznavi.]

gratitude to those lawyers for explaining the whole thing to us. Section 295A which was revised now reads as follows :

“Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of His Majesty’s subjects, by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or religious beliefs of that class, shall be punished with imprisonment, etc., etc.”

These eminent lawyers have explained to us that by adding those words “with deliberate and malicious intention of outraging the religious feelings of any class” we safeguard people making fair comments and expressing their honest views as regards religious beliefs. We thereby safeguard them.

Mr. M. A. Jinnah (Bombay City : Muhammadan Urban) : We safeguard an honest man.

Mr. A. H. Ghuznavi : Thank you, Sir. Then they say by adding “the religious beliefs” of that class we bring those culprits to book who attack on a founder of a religion also and cannot be brought under section 153-A. My Honourable friend Pandit Malaviya and my Honourable friend Nawab Sir Abdul Qaiyum wanted it to be made clear.

Mr. A. Rangaswami Iyengar : On a point of order, Sir. Can the Honourable Member refer to the proceedings in Select Committee ?

Mr. President : Order, order.

Mr. A. H. Ghuznavi : They wanted, Sir, to make it clear by giving illustrations in the Bill, so that there may be no difficulty for a court in coming to a proper finding. We discussed that and afterwards we were unanimous,—after hearing from Mr. Jinnah, that this would cover that and there could be no apprehension that the court would not be able to come to a proper conclusion.

Although, of course, Mr. Jayakar pointed out to us the difficulties that would arise, if examples or illustrations were given.

Mr. A. Rangaswami Iyengar : On a point of order, Sir. Is the House at liberty to discuss what transpired in the Select Committee ?

Mr. President : Is the Honourable Member discussing what happened in the Select Committee beyond what is actually embodied in the Report of the Select Committee ?

(Some Honourable Members : Yes.)

Mr. K. C. Roy : It is a misstatement of fact also.

Mr. President : The Honourable Member is not justified in referring to the conversations in the Select Committee if they are not embodied in the Report.

Mr. A. H. Ghuznavi : I am not referring to anything else, Sir. Personally, Sir, I am satisfied that this Bill as amended meets the requirements at the present moment. Furthermore, I am also of opinion that the sentence provided for in the Bill is sufficient for the purpose, and that no increase of sentence should be made. Then, Sir, I am for making the offence “bailable” and not for making it “non-bailable”; if it is made non-bailable, the poor man will never have an opportunity of defending himself properly. In non-bailable offences it is our experience

that it is very very difficult to get a magistrate to grant bail and it is only men with money and influence, men who can engage counsel like Mr. Jinnah, who can ever think of getting bail....

Mr. M. A. Jinnah : May I point out to the Honourable Member that the offence is triable by the Court of Session or the Presidency Magistrate and not by " a magistrate ".

Mr. A. H. Ghuznavi : Yes, Sir ; that is so ; but even in such cases he cannot get bail unless he can engage counsel like you. (*Honourable Members* : " Question.") Usually bail is not granted for these non-bailable offences and it is with the greatest difficulty that it can be got. Surely you do not want to put that man in the lock-up and not allow him to go out and prepare his defence by making the offence non-bailable. What does it matter if it is non-bailable ? He will not escape ; you can put the bail as high as you like....

Mr. K. C. Neogy (Dacca Division : Non-Muhammadan Rural) : The Committee has made the offence " bailable ". What is your complaint ?

Mr. A. H. Ghuzvani : But the minority want it to be made " non-bailable ".

Mr. M. A. Jinnah : Wait till the amendment comes.

Mr. A. H. Ghuznavi : Then, Sir, I would answer in one word my Honourable friend, Mr. K. C. Roy. Mr. K. C. Roy has said that this Bill, as amended, will not serve the purpose for which it has been brought forward. We shall not take that advice from my Honourable friend Mr. K. C. Roy. We shall take advice from the eminent lawyers who were in that Committee ; and they tell us that this will serve the purpose.

Mr. A. Rangaswami Iyengar : It is not a legal matter.

Mr. A. H. Ghuznavi : With these words, Sir, I support the Bill, and I hope that this House will pass this Bill unanimously and not ask for a division, and thus show to the whole of India that the differences between the Mussalmans and the Hindus are gradually coming to an end.

Nawab Sir Sahibzada Abdul Qaiyum (North-West Frontier Province : Nominated Non-Official) : Sir, I just want to say a few words in support of what the last speaker has said. I am surprised to see that so many members of the Select Committee, who had discussed the measure very thoroughly in the Committee Room, should now speak and urge diverse views and opinions on this subject. I thought we had all come to a somewhat unanimous verdict on the subject, but when I saw the minutes of dis-sents and the majority and minority views and also several notices of amendments, I thought that what I had seen in the Committee Room must have been a mere dream. The Honourable the Home Member gave every opportunity to the members of the Select Committee to find some such solution of the difficulty and to limit the law to such an extent that it may be acceptable to the country, i.e., to minimise the effect of the law and to bring in as few persons within its purview as possible. Sir, if I had only been allowed to go into the details of the discussions we had—and you, Sir, have ruled that we should not go into it—I would have been able to prove that several measures and solutions were suggested to meet the difficulty but that this was found to be the

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[Nawab Sir Sahibzada Abdul Qaiyum.]

simplest of all. Some simple explanation to section 153-A was also suggested in the Select Committee, instead of enacting a new section. Sir, what I have to say is this, that, as far as I could make out, there was no ulterior motive on the part of the Government in bringing in this measure, namely, to put a wider net so as to bring in too many journalists or too many public speakers or social reformers within the clutches of the law. The Home Member was face to face with the difficulty created for him by the Press of both the communities. If the Hindu Press had only said that the existing law containing section 153-A was not open to a different interpretation and that it was only the casual mistake of a certain Judge to interpret it in a certain way, perhaps this difficulty would not have arisen. But, Sir, as far as I can remember, there was not a single Hindu paper in Northern India, which did not in one way or other try to support the Judge who had put a certain interpretation on this section. They were almost unanimous in their opinion that the law was open to a different interpretation, and it was to safeguard against that and to make the position quite clear, that most of the Muslims wanted to bring in some sort of legislation on this subject. Well, Sir, I am not going to say more on the subject. But what I should like to say is this, that if the law is not made clear now, a similar interpretation may be put on the section in future and the difficulty will always exist. Sir, I do not know how we can make it safer for the country to interpret section 153-A as covering all these offences except by some modification of that very section or by bringing in some new section of the sort as is proposed in this Bill. The difficulty is there and the future possibility too is there ! Sir, I see from the speeches of some of the Members and also from the amendments put down by some that the blame is generally attached to the Mussalmans for having raised a hue and cry for bringing in a new law. Well, I for one will accept that responsibility or blame, Sir, and my reason for that is simple. Sir, a new religion has of late sprung up in this country, which is spreading very fast. Whether it is a new religion or the revival of an old religion, I am not sure, but a new movement in the name of Arya Samaj has sprung up in this country and has been carrying on a regular campaign of Shuddhism and various other activities. As far as I have seen the literature of that movement, it is chiefly confined to abusing and criticising other religions and beliefs, as against exposing something good in itself. Well, Sir, there may be other religions and sects of religions in this country, who may be able to tolerate that, Sir, but my religion, Islam, teaches me, Sir, not to criticise or vilify the founders of religions or any sacred persons of any religion in the world and here is my difficulty. (*An Honourable Member* : "It teaches peace.") If I had only been able to return tit for tat or to give some suitable reply to the abusers of my religion I should not have minded it, Sir ; but our difficulty arises in that we cannot abuse or utter any bad words against any saint, and this is why the Mussalmans seem to be more anxious to secure immunity for their Prophet and also for the Prophets and saints of others, Sir. That is all I have to say, Sir.

Mr. Amar Nath Dutt (Burdwan Division : Non-Muhammadan Rural) : Sir, I want to make my position clear before I say a few words why I oppose this Bill. There are certain amendments that stand in my

name which give my Muhammadan fellow subjects the right to prosecute and have those punished who insult their religion and who insult their religious belief, because a demand has come from the Muhammadans for a legislation like this. But for myself and for members of other communities, I make bold to assert that we do not require any such protection and we have not asked for it.

Mr. K. Ahmed : What about the poor judge ?

Mr. Amar Nath Dutt : Sir, I am sorry that more than one speaker has made flings at the Honourable Judge who gave judgment in that famous *Kangila Rasul* case. His judicial wisdom has also been questioned and his knowledge of law has also been questioned by laymen. (*Mr. K. C. Neogy* : "Shame.") Sir, I was sorry that even such a sober friend of mine, as Mr. Farookhi went the length of saying something against Mr. Justice Dalip Singh, and I think it were better if he had been silent on this point. But when worse passions are aroused, probably we lose the balance of our mind. At the same time I shall be failing in my duty if I do not give in plain words the genesis for this legislation, the reason why Government have taken so much pains to undertake a legislation like this. It has been said that there was a demand for the removal of the Judge. I do not know whether any aggrieved litigant has a right to demand the removal of a Judge. If any litigant had that right, I think no Judge would be safe to deliver any judgment in this land. I was going to submit the genesis of this legislation. Many of us in this House, especially my Honourable friend Mr. Ghuznavi—I do not find him here now—are aware of the favourite wife policy of the Government, and my Honourable friend Mr. Ghuznavi—of course as he is not here, I do not know whether it is proper for me to make any reference to him ; I am not referring to him in any personal capacity—presided over one of those anti-partition meetings and he was at that time considered by the Government as the wrong Ghuznavi and the right Ghuznavi was for some time Minister, but be that as it may, he may remember those days and my Honourable friend the Law Member also may remember those days, and the favourite wife policy of the Government. I do not know that even at this late hour, when we are on the threshold of fresh constitutional reforms, we should be faced with such retrograde measures which smack of the favourite wife policy on the part of the Government. We are aware how the Government found it hopeless to wean away the best men among the Hindus to their side and make them accept the reforms. They saw that their only hope lay in pandering to the worst instincts of other communities, and this legislation is one other instance of that. For some time, Sir, I regret to observe, some of our leaders took to that policy of the Government, imitated that policy of the Government, which resulted in such regrettable things as pacts, etc., in Bengal and elsewhere. I beg to submit that two wrongs do not make a right and that things which have no righteousness and honesty behind them will never succeed. That was the reason for the failure of many of our political agitations. I hope the same fate will await the Government so long as they pursue the policy of setting one community against another. I believe, and thoroughly believe, that this agitation against the *Rangila Rasul* case was wholly artificial. It was got up by certain individuals (*Mr. Abdul Haye* : "Question"), for their own interest. I also believe that this Government know this, and they have brought forward this legislation to pursue that favourite wife

[Mr. Amar Nath Dutt.]

policy. My reasons for charging the Government with this policy behind it are these. There have been woeful tales of murders of Hindus and leaders of the Arya Samaj. The Government have a ready weapon in their hands to deport gentlemen like Mr. S. C. Mitra and men of his type, but they did not move to put an end to murderous conspiracies by deporting men connected with conspiracies against the lives of Hindu leaders. The Arya Samajists were ready with evidence of conspiracy behind these murders, and the Government did not move an inch although they had that handy weapon, Regulation III. All these things go to show that the Government were pursuing the favourite wife policy and I charge the Government with a deplorable lack of statesmanship.

Nawab Sir Sahibzada Abdul Qaiyum : Go to the frontier and you will see which is the favourite wife policy.

Mr. Amar Nath Dutt : I am not going to hear you. I heard just now from you of the springing up of a new religion in India. I do not know many centuries ago the ancestors of my Honourable friend, who characterised the religion of the Arya Samajists as a new religion, came here, but the Aryans came here, according to Lokamanya Tilak and other scholars, from their "Arctic Home", some 5,000 years ago. (Laughter.) There is nothing to be laughed at. It shows a deplorable want of knowledge of history. (*Some Honourable Members :* "Go on".) The members of the Arya Samaj have been called the followers of a new religion. I challenge any one in this House to prove that the Arya Samajists are the followers of a religion which has come into existence only recently and not 5,000 years ago. They are the followers of our ancient Vedas and other scriptures during the compilation of which there was no other religion in this world. To characterise that religion in the way it has been done, is certainly provocative, and had it not been directed against a very peaceful community, namely, the Hindus, I think there would have been more agitation that there has been in this particular case.

Sir, I would like to submit one or two points as to why I oppose the Bill being taken into consideration at all. I am clearly of opinion that the existing law is adequate to deter people from scurrilous attacks upon religion or vulgar calumnies upon sacred characters. The outstanding feature of the psychological hesitancy that is apparent on the face of the Report of the Select Committee and the amendments proposed and adopted, leads to the only inference that every member of the Select Committee was attempting how best to make an egregious measure acceptable to the public. The result has been a texture of maudlin spider's web, in which the warp of intolerance has been crossed by the woof of fatuous reasoning. I think it is insulting to the intelligence and dignity of a Legislature, to go out of its way for protecting religious beliefs and feelings which may be deliberately, maliciously and intentionally outraged. Paragraph after paragraph has been incorporated in the Report of the Select Committee to fence round the object of legislation, but the final emergence has been an evanescent fantasy, which the whole range of psycho-physicists including the Superintendents of Mental Hospitals of Ranchi and elsewhere will find it difficult to touch. But, as everywhere else, the initiative has been left in the repository of all powers in India, to avoid "factitious or vindictive proceedings". This provision means that the Government will

judge for themselves the religious belief of a particular class who may have to apply for initiation of proceedings under the present legislation. Sir, I, as a Bengali Hindu, cannot support this delegation of functions of our own conscience, which is after all the bedrock of religious feelings and beliefs. Nor am I willing that our Hindu feelings and beliefs should be discussed by Magistrates and Judges in the atmosphere of litigation and outwitting, and in the factories of affidavits and statements. I have not forgotten that one of the modern prophets of up to date Philistinism, Miss Catherine Mayo, has wired across the seas that there are plenty of saints among the medical missionaries and civil servants in this country. But I am still unwilling as a Hindu to substitute them, even in our mental horizon in the place of Rishis and other authorities of our religious hierarchy. So far as I am aware of the views of my own people, I must characterise this piece of legislation as an impudent trespass, and I feel it my duty to speak out that Bengali Hindus do not need any protection of the kind. For nearly a century the Hindus have passed through the grossest abuse and vituperative attacks on their sacred beliefs and convictions by Christian missionaries and communal fanatics. Kali, the mother, Sri Krishna, the soul of India, have been their targets of attack. The Hindu community has survived all that and will survive till the eternity of time, all such ebullitions of prattling ignorance and aggressive bigotry. Our faith has remained unshaken in spite of the effervescence of the boiling pot of India, where it is laid down in our Shastras that all these trials and ordeals will bring out in brighter relief the immutable and eternal gold, the faith of Aryavarta. It needs no utilitarian and opportunistic class baiting of the Legislature to protect itself. The Honourable Mr. Crerar has let the cat out of the bag, by agreeing with Mr. Jinnah, that the offence contemplated should be non-bailable. Surely, the yielding to clamour cannot be complete without this, and I shall not be surprised if this is carried. Sir, I shall be failing in my duty as a member of the premier community of India if I do not bring before you the lessons of an episode of Sri Krishna. When he was dancing on the hood of Kalya, the serpent king was vomiting poison on the feet of the boy-god. Sri Krishna asked him why he was spitting poison. The serpent king replied "My Lord, you have created me with poison in my mouth; do you think I shall emit anything better." Brothers and sisters who inhabit India to-day ought to learn that the rancour, hatred, spite, venom that are surging in the thought current of India to-day are the only offerings we are making to the God of India. Think of God as the lover and solace, as the protector and preserver, as the fountain head of all that is good, noble and peaceful, raise the level of culture, education, good will and trust. Then and then only you will not feel outraged either with Chauvinism of a foreign people or the intolerance of your own people. You will not then have to requisition the powers of initiative of self-appointed and self-anointed peace makers to defend your faith. I cannot conceive of a greater depth of degradation for Indians than this, and I trust and hope that this House will not succumb to the unscrupulous forces around us but will stubbornly rise against a measure which is calculated to foment disunion amongst Indians for the benefit of the foreigners and is subversive of the liberty of speech and the Press. With these observations, Sir, I beg to oppose the consideration of this Bill.

Mr. T. A. K. Shervani : I do congratulate the Select Committee on limiting the scope of the Bill, but I feel the Bill, as it stands, is still

[Mr. T. A. K. Shervani.]

more capable of mischief than of protection. I would have liked the Bill limited in its scope to the protection of the founders of religion only from scurrilous attacks and would not have indulged in importing into it certain undefined terms which are imported into these sections. Sir, personally, as I said in the beginning, when the principle of the Bill was being discussed, I do not want any enactment like the present measure. I feel that enactments like this, instead of stopping fanaticism will encourage fanaticism. I do not know why this demand has come from Muhammadans. I would simply say to my Muhammadan friends that my Prophet is a historical personage ; he has got a living history behind him. Do I require to protect my Prophet through a Legislature like that of India ? My friends say that certain people do write things which injure our feelings. But if a man chooses to go to hell to find out certain defects in Islam, let him go to hell. Why should I get enraged ? If anybody calls my Rasul rangila, I would say that he is a personage who transformed a race, ferocious, barbarous and vicious, into the conquerors of the world in 23 years. Well, if Rasuls like that are rangila, I would pray God to bless every community with Rangilas like that. I am really surprised that my co-religionists are so very excited over the affair. I come here in the capacity of a representative. Unfortunately, four cities out of seven who have returned me have passed resolutions in favour of the enactment. Therefore, although personally I am against this enactment, I cannot oppose it. My friend Mr. Farookhi thinks that there are certain loopholes in the existing law and in order to fill those loopholes he says we require this law. Let me assure my learned friend that there will always be as many loopholes as there are members of my honourable profession. (Laughter.) If you cover one loophole, ten more will be created. We live by creating loopholes. So by this enactment you will neither protect our Prophet nor will you cover the loopholes ; the probability is that you will create more loopholes. As regards the complaints about certain dramas and things like that, I laugh at them. The writer of the play " Roshanara " does not know that Aurangzeb had no daughter of that name. If people pervert historical facts, let them do it. It does not harm me. History is history, let them learn and realize that wrong facts lead to absurdity. But if you will insist upon their stopping such dramas, the dramas will become more popular and excite the curiosity of the people to see it. Man after all likes sensation. I therefore submit that it is the biggest folly to attempt to protect by legislation religious personages or religions. These acts are done by fanatics. But a fanatic, when he does a thing like that, thinks that by insulting, killing or doing some other things like that, he will go straight to Heaven. What does he care for legislation ? (*An Honourable Member* : " He thinks he will go to Heaven ") So, as a matter of fact, by this kind of legislation you cannot prevent fanatics from doing such things ; while sane men will never commit acts like that even when there is no legislation. (*Mr. K. Ahmed* : " Send him to jail, and he will not do a thing like that.") And thus this whole piece of legislation is rather futile.

Nawab Sir Sahibzada Abdul Qaiyum : A good sermon from the pulpit ! (Laughter.)

Mr. T. A. K. Shervani : Well, I am not in the habit of delivering sermons, I have been all through listening to the sermons, I am presenting

only a common sense view before the Honourable gentleman over there. Can you stop a mad man from displaying his madness ? Just consider your own fanaticism, look how we are being led to it. There is a member of a community who abused a religion, and a judge delivered a judgment. The members of a particular community are abusing the judge. Why should you abuse him ? He may have committed an honest mistake. There is the other community, more cultured, more literate, which is making a hero of that judge. Are these mentalities to be encouraged ? I deplore these tendencies ; whether it may be on the part of my own co-religionists to abuse a particular judge, or whether it may be the sister community to make a hero of him. (Laughter.)

Sir, I have one more remark to make about co-operation ; all of us should take a lesson from it. We have to co-operate with the Government when religious and communal fanaticism are rampant, it is the curse of our country and a stronghold of co-operation ; I should not congratulate myself on co-operating with the Government when I have to protect my religion. Do I need co-operation with the Government to protect my Prophet from the attacks of certain fanatics when I believe that my Prophet is protected already by divine laws and history from scurrilous attacks of all kinds ? Neither does the great religion of Islam require any protection whether it be obtained by means of co-operation or non-co-operation.

Mr. K. Ahmed : But you have taken up practice again, haven't you ? After coming out of the jail, you are co-operating with the Government now. (Loud Laughter.)

Mr. T. A. K. Shervani : That is beside the point. Sir, as regards the mode and manner of the speech of the Honourable gentleman who spoke, just before me I would like to say one word. I would rather use his own words that " two wrongs do not make one right ", and therefore I must leave his speech out of consideration. (*An Honourable Member :* " Is he also a fanatic ? ") Sir, as regards the delaying of the measure, I would submit that the sooner this business is finished, the better. It has already done a lot of mischief, and we should not relish the mischief any longer ; so we should finish it as soon as possible. Sir, with these ideas of mine I support the measure.

The Assembly then adjourned for Lunch till Twenty-Five Minutes to Three of the Clock.

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

Mr. W. T. M. Wright (Secretary : Legislative Department) : Sir, I move that the question be now put.

Mr. President : Is it the general desire of the House that the Chair should accept closure ?

Mr. S. Srinivasa Iyengar (Madras City : Non-Muhammadan Urban) : Sir, I want to say a few words, having regard to the fact that some members of the Party have spoken differently.

Mr. President : Raja Ghazanfar Ali Khan.

Raja Ghazanfar Ali Khan : Sir, I thank you very much for giving me this opportunity to say a few words in connection with this question which is now before the House for consideration. There seems to be a lot of confusion of thought so far as the object of this Bill, which we are discussing to-day, is concerned. It has been remarked by some of the speakers that this Bill is desired by Mussalmans more than by anybody else. Some people have gone to such an extent as to say that the object of Government in bringing forward this Bill is to show a sort of favouritism to the Muslim community. I do not agree with those remarks. I think this Bill, whether it is good or bad, affects both communities equally. Besides, it is absolutely wrong to say that the demand for such legislation came from Muslim quarters. On the other hand, it is the Punjab High Court which probably recommended to the Government to bring forward such a measure. The Honourable Judge who tried the Rajpal case said that, although he was convinced that the book was worded in very uncivilised language and the author of that book deserved to be punished, as the law stood he could not punish him under section 153A. He strongly recommended that the law should be amended so that all such cases may be covered by the law, and I think it was chiefly on the recommendation of the Judge, and the flaw in the law pointed out by him, that the Government found it necessary to bring forward this measure.

There also seems to be some misunderstanding regarding the Vartman case and the Rajpal case. If the Judges who tried the Vartman case had definitely said in their judgment that by convicting the author, publisher and writer of the pamphlet Vartman, they overruled the judgment which was delivered by the Judge in the Rajpal case, I think we might have felt that it was not so necessary to have this measure. Although I know that while delivering that judgment in the Vartman case the learned Judges considered some of the reasons which led the Judge who tried the Rajpal case to acquit the accused and they did not agree with some of the remarks of the Judge, still, I think it is wrong to say that both the cases were absolutely similar. In the Vartman case the prosecution has definitely proved and established that the author of Vartman had the definite object of creating hatred between different classes of His Majesty's subjects or at least Muhammadans had the genuine feeling of hatred not against the author of this pamphlet alone but against the Hindu community as a whole. I do not know whether the prosecution had succeeded in establishing this fact in the *Rangila Rasul* case. Therefore it is wrong to say that the judgment in the *Rangila Rasul* case has been overruled by the Vartman case, and therefore this law is not necessary. I take exception to another remark which was made by Mr. Amar Nath Dutt who said that this agitation about the Rajpal case was artificial. I say it is entirely wrong. The agitation was genuine and all the Muhammadans all over India very keenly felt that a man who had insulted the Prophet in such a scurrilous language had been acquitted. There may be some forms of this agitation to which some people may take exception. But so far as the resentment of the Muhammadans against the judgment was concerned, leaving aside the personality of the Judge who delivered that judgment, it was genuine. In other words, the Muhammadans all over India strongly resented the fact that the writer of Rajpal case was acquitted.

I only wish to say a word about my Honourable friend Mr. Shervani. I want to make it perfectly clear that the object of the Bill is not to protect the Prophet. The object of the Bill is not to protect other prophets or founders of the various religions. I entirely agree with him that however scurrilously these esteemed personalities may be attacked, still the world has got admiration for their deeds and it will not matter much so far as their reputation or personality is concerned. The object of the Bill is to stop the spreading of feeling of ill-will and enmity between the different classes of His Majesty's subjects. Under section 153A, the prosecution has to prove that the pamphlet or the writing has actually promoted enmity between the different classes of His Majesty's subjects. In some cases the prosecution may fail to prove that such writings did create feelings of enmity between the different classes of His Majesty's subjects, but the fact may still be there that enmity has been created whenever, in present circumstances, a man belonging to one community attacks the religious feelings of another community.

The chief objection to this Bill comes from those people who are interested in the Press. I am one of those persons who have got great admiration for the liberty of the Press. I am one of those persons who would like to place no restriction upon the freedom which the Press enjoys. But let us see what the object of the Press is. The chief object of the Press is to educate the masses and give them a real training for some high ideals. If the Press forget its proper duty and if it takes upon itself to be responsible for all the feelings of hatred and enmity which are now present among the different communities in India, I think the Press has got no right to expect any sympathy from us. If you ask any member of any community, if you ask any sensible man of any community, he will tell you, "God save us from the Press". (Laughter.) Some say even the Associated Press. So far as the Press is concerned, every one of them agrees that the only thing which is now responsible for the present disgraceful state of affairs which exists in this country is the Press. It may be the vernacular Press, it may be the Lahore Press, it may be the United Provinces Press, or it may be the Nagpur Press, or it may be the Calcutta Press, but all the same, it is the Press. We want to press upon those who are interested in the Press to realise once for all that if they want to abuse their right and the liberty that is enjoyed by them, we shall always be prepared to co-operate with the Government in bringing forward any measure which would be a restriction upon the Press taking undue advantage of the liberty that it now enjoys.

The arguments which these gentleman who oppose the consideration of this Bill have advanced so far are not about the merits of the Bill which is before us, but are based on a serious suspicion that this legislation or this law may be improperly applied. I think we should keep the issues very clear on this point. I submit that every law in the Indian Penal Code can be misapplied by the executive if they choose to do so. Now, would you say that those laws which can be misapplied should be removed from the Statute-book? I do not agree with my Honourable friend Mr. Belvi that every man may be allowed to start a prosecution under this section. It should be entirely left to the Government to see that, wherever there is a reasonable case and wherever a man has done such mischief to the interests of Indian nationalism that there is no peace

[Raja Ghazanfar Ali Khan.]

possible between the two communities, the Government will start prosecutions only in grave circumstances. To leave it to private individuals is to overflow the courts which I think nobody would like.

Therefore, Sir, with these few observations I very strongly support the motion that the Bill be taken into consideration and hope that no time will be lost in putting it on the Statute-book.

An Honourable Member : I move that the question be now put.

Mr. S. Srinivasa Iyengar : Sir, some members of my party have spoken opposing this motion, as the party has given itself freedom on this question, and I have also the freedom to express my own opinion. It is I think a matter for some regret that there should be any strong opposition to this measure severely restricted as it has been in Select Committee. Is it the case that you want, is it the case that any Member of this Assembly wants that a person "with deliberate and malicious intention of outraging the religious feelings of any class" should "insult or attempt to insult the religion or the religious beliefs of that class"? I put that question nakedly, and I think there can be only one answer. You cannot say that it should be allowed.

Then the next question is this. Under the law as it at present stands without this Bill, is this an offence? I say, Sir, that this is not an offence under the existing law specifically and substantively. What is an offence under the existing law is if you promote class hatred and fulfil the requirements of section 153-A, then you may bring a person who promotes class hatred within that section. I do not know that if you simply insult the religion or the religious beliefs of a class you can say in every case that you promote class hatred. There can be difference of opinion—I have nothing to do with recent judgments—there can be reasonable difference of opinion and it cannot be said that to insult the religion or religious beliefs of a class must necessarily promote class hatred in every case. In the one case, the gist of the offence is direct promotion of class hatred. In the case of the present Bill the gist of the offence is the deliberate and malicious intention of outraging the religious feelings of any class in insulting or attempting to insult the religion or the religious beliefs of that class. Therefore, the two offences are distinct and I do not think that this offence, which is sought to be provided for, is really an offence under the law as it stands.

Now it may be that those who were responsible for the drafting of the Penal Code thought that there was no necessity for a law of blasphemy in India, and I quite agree that it would have been an ideal state of things if we still had not that necessity. I myself prefer, like my master and the master of better men—Mahatma Gandhi—that there should be no laws at all punishing anybody and if it were possible by adopting the *satyagrahic* attitude to keep all people in order, that would be an ideal state of things. I have got very much sympathy with the sentiments which have been so eloquently and so feelingly expressed by my Honourable friend Mr. Shervani. But at the same time as practical men looking at the state of society as it exists, is it to be said that Hinduism and Muhammadanism are either defunct religions or are getting rapidly moribund? I think, Sir, that both these religions are powerful religions, full of vitality yet, and however much of a rationalist one may be, I cannot imagine the time when

these two religions will cease to exist or those peoples who profess them will die out. Sir, we are not valetudinarian Hindus ; we are not valetudinarian Muhammadans. I am afraid we are robust Hindus and robust Muhammadans, and therefore it is idle to say that there can be that freedom to insult the religion or the religious beliefs of a class with deliberate and malicious intention of outraging the religious feelings of that class. I do not know what the religious feelings of English society may be. I presume there too there are people who feel deeply for religion ; and the law of England does recognise blasphemy as an offence, which the Indian law does not recognise. According to the judgment of the House of Lords in *Boman v. Secular Society*, 1917 Appeal Cases, "blasphemous matter" means "words spoken, written or printed, whereby it is sought to bring the Christian religion into contempt by means of ribald, contumelious or scurrilous language". The present Bill is much narrower in scope than the law of blasphemy in England. It is not merely by any scurrilous, ribald, contumelious language that the intention is presumed : you go further and you want here malicious and deliberate intention. I cannot understand how the liberty of the Press—I am using the word "liberty" advisedly—is restricted by means of this language. I yield to none in my love of the Press and in my appreciation of its liberties. But the Press has its duties also ; and when I see that it is said to be a repressive law I must, with all deference to my friend, Mr. Rangaswami Iyengar and to my friend, Mr. K. C. Roy, say that, it is not a repressive law at all in my judgment. It will certainly be a repressive law if we pass a law which will strengthen the hands of the bureaucracy or which will prevent us from fighting as much as we can fight against the Government for the purpose of getting Swaraj or freedom of Speech or Assembly. Of course I do not want any law of sedition ; I wish it were blotted out of the Penal Code. Similarly, I am against section 153A and I wish it were blotted out of the Penal Code ; but this is an enactment for the protection of the religions of India and to say, as Mr. Roy said, that this puts a premium upon intolerance and bigotry is far too strong a proposition and I could not at all appreciate the logical steps by which he arrived at that, to him, convincing conclusion. All that I can say for myself is that it is a just law which is necessary to educate people into tolerance. It is the spirit of tolerance that is sought to be created. People must be educated in their homes not to insult the religion or religious feelings of other people. The Press must also educate the people in this ; but if the Press does not educate the people in this respect, or the education by means of the Press is defective, if sometimes the Legislature has to step in for the purpose of educating the community not to go beyond a certain stage in attacking the religion or religious beliefs of a particular community, to say that this is putting a premium upon intolerance and bigotry is, I submit, not right at all. What is happening to-day is that we are really face to face with religious intolerance and fanaticism. Till quite recently, in India, tolerance of each other's religion was an accepted fact and there was no necessity for having in India this mediæval law of blasphemy which disfigures the common law of England. But unfortunately to-day communal conditions are not such as to enable us to continue to enjoy that spirit of tolerance, and I would appeal both to the Hindu Members of the Assembly and to the Muslim Members to look at this question in a calm and dispassionate spirit. I do not think the accident of the *Risala Vartman* or *Kangila Rasul* case should make us imagine that it is a Muhammadan demand we are yielding to or that this legislation is

[Mr. S. Srinivasa Iyengar.]

for the benefit of Muhammadans. I consider, Sir, this is as much a law for the protection of my religion, Hinduism, as it is for the protection of Muhammadanism, and a Hindu who wants Swaraj is as much bound to protect the Muhammadan religion as his own religion, and a Muhammadan who wants Swaraj must protect Hinduism from the defamers of the Hindu religion as much as he must protect his own religion. I do not consider in these matters that we should say that simply because we differ in our religious beliefs we have not got the mutual duty of seeing that the religion of each community is respected and is not insulted beyond limits. I do not think, as the Bill is worded, that any fair criticism or even any vehement and unfair criticism or even criticism couched in insulting language, would come within it whether the language is used by a social reformer or merely by a critic opponent of the religion concerned or a sceptic. Even if the language of contempt is employed, it may not bring him by itself within the clutches of this measure if it becomes law though it may in some cases be some evidence of malice. What will bring him within the clutches of this Bill is only speeches and writings with deliberate and malicious intention to outrage feelings ; that is to say, if he seeks to outrage the religious feelings of a particular class, and insults the religion or religious beliefs of that class. I submit, therefore, Sir, that the Bill contains sufficient safeguards, to protect the liberty of the Press or the liberty of the individual critic, historian or reformer in the amplest manner possible. Before coming into the House just now, Sir, I saw the decision in the case *Chakravarty vs. Emperor* in the Calcutta High Court under section 153-A, where the explanation of the word "malicious" is given. We have got that decision of the Calcutta High Court which says that the republication of inflammatory matter intended to promote communal or class hatred will not by itself make the publisher or printer of a newspaper liable. I cannot imagine how the newspapers are going to be penalised by this legislation by mere innocent publication or republication. If an editorial is written in a journal with the deliberate and malicious object of outraging the religious feelings of a particular class, undoubtedly that newspaper will become amenable to the pains and penalties imposed by the Bill, and I do not suppose any editor or proprietor of a newspaper will say that that should not be the case. Therefore, Sir, I consider that this is a very just piece of legislation.

My friend Mr. K. C. Roy said that he was surprised that I should support a Bill of this description, and he thought that it was in terms of the Unity Conference I was thinking when I, the other day, supported this measure. Well, Sir, if that was so, I think I was justified in it, and I take it as a compliment, and I only wish that all of us proceeded to enact legislation in that spirit. I think that is the spirit that should pervade this Assembly. But there is no question of weakness ; there is no question of surrender of Hindu rights or Muslim rights ; nor is there any question of partiality to one community or the other. If you find that the administration of this legislation by this Government to be such as unduly to protect one community more than another, there is certainly this Assembly, and there will be plenty of other opportunities when you can agitate on that matter and see that the Government and the administrators and those who sanction prosecutions are compelled to remain impartial. But simply because the administration of the law may be bad in particular areas or in particular hands, that is no reason why we should not

seek to protect each other's religion. I am not here to protect or strengthen the Government to any extent. I am not here to add to the law of sedition or to section 153-A or to the armoury of repressive laws. I am here to protect the Hindu religion from the grievous onslaughts that may be made by malicious persons ; I am here to protect the Muhammadan religion from the grievous onslaughts that may be made by malicious people. I am here for the protection of these two great religions and these two great communities and for the purpose of promoting peace and goodwill between these two communities. It was only for these reasons that I was a party to the Report of the Select Committee, and I heartily support the motion that the Bill be taken into consideration.

(Several Honourable Members moved that the question be put.)

Mr. President : The question is that the question be now put.

The motion was adopted.

Mr. President : The original question was :

“ That the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for a certain purpose, as reported by the Select Committee, be taken into consideration.”

Since which the following amendment has been moved

“ That the Bill, as reported by the Select Committee, be circulated for the purpose of eliciting opinions thereon by the 15th January, 1928.”

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

The motion was negatived.

Mr. President : The question is :

“ That the Bill further to amend the Indian Penal Code and the Code of Criminal Procedure, 1898, for a certain purpose, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

Mr. President : The question is :

“ That clause 2 do stand part of the Bill.”

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

“ That in clause 2 of the Bill for the words ‘ religious feelings ’ the word ‘ feelings ’ be substituted and consequential changes be made in the other clauses of the Bill.”

The section says :

“ Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of His Majesty's subjects, by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class.”

When we are here clearly stating “ religion or religious beliefs ” which will be insulted there is no meaning in saying, I think, that “ religious feelings ” also are outraged. There is no need of putting the word “ religious ” before “ feelings ”. It is perhaps enough if feelings only are outraged by the insult of religion or religious beliefs. Moreover you cannot characterise the feeling outraged as religious, for no religion contemplates want of peace and ruffled feeling on any account. The feeling thus outraged is, I may say so, rather irreligious. Therefore, this is not simply superfluous or redundant. But it means nothing but blasphemy to religion

[Pandit Nilakantha Das.]

and here serves no useful purpose. It may also give a handle to my lawyer friends in court to make a distinction whether religious feeling was outraged or any other feeling was outraged and this frustrates the safeguard contemplated in the Bill. Therefore this being only something like a formal amendment, correcting probably a mistake of the draftsman, I move it and hope that the Mover of the Bill will accept it.

The motion was negatived.

Mr. Amar Nath Dutt : Sir, I move :

“ That in clause 2, for the words ‘ any class of His Majesty’s subjects ’ the words ‘ Muhammadan subjects of His Majesty ’ be substituted.”

Sir, after the vote which has befallen my friend, I do not know what will be the fate of this amendment, but still I deem it my duty to move the amendment standing in my name which I have just read out.

The majority verdict of this House has been that the words “ religious feelings ” should be there, but I want to have the following words substituted, namely, instead of the word “ any class of His Majesty’s subjects ” I want to have the words “ Muhammadan subjects of His Majesty ”. And my reasons are these. No other class has demanded a legislation like this and we in this House find that our Muhammadan brethren are very keen about it, and out of deference to their opinion I think we should yield to their desire by having this legislation. Therefore, Sir, I beg to submit that in clause 2 a change like this should be made, namely, for the words “ any class of His Majesty’s subjects ” the words Muhammadan subjects of His Majesty ” should be substituted.

The motion was negatived.

***Mr. C. Duraiswamy Aiyangar** (Madras ceded districts and Chittoor : Non-Muhammadan Rural) : Sir, I move :

“ That in clause 2 after the words ‘ spoken or written ’ insert the words ‘ or by acts ’.”

Sir, I find that in this debate which has taken place for a long time, many Members have been complaining that there are many loopholes in this Bill, and if this is one of the loopholes, I wish that it should be rectified now by the insertion of the words “ or acts ”. Sir, it is possible for a man deliberately and maliciously to insult or wound the religious feelings of any other community not only by words spoken or written, or by words published in newspapers or by visible representations, but also by some acts which will not involve either words or representations. For instance, Sir, a religious procession of the Hindus is taking place. Supposing some Muhammadan brother—probably I should not call him a brother if he is engaged in such an act of insult—supposing some Muhammadan comes in and wants to kill a cow in the midst of that procession. It is neither a word nor a representation nor a visible sign, but yet an act which may wound the religious feelings of the Hindu community.

Mr. K. Ahmed : There is another section for that in the Indian Penal Code.

* Speech not corrected by the Honourable Member.

Mr. C. Duraiswamy Aiyangar : Similarly, when a Muhammadan procession is taking place during the Mohurrum, supposing some Hindus deliberately go there in order to have their own music and their own religious prayers mingled with those of the Muhammadans, that will wound the religious feelings of our Muhammadan brethren. Therefore, I think it is absolutely necessary that we must have these words also added to clause 2, because that is also a manner in which some fanatics may deliberately and maliciously wound the religious feelings of another community. Of course we have got a journalistic doctrine enunciated in the Select Committee—I call it a journalistic doctrine because journalists have combined to establish a new doctrine—that the moment an offence is provided against in an Act, such offences will become more numerous. This is the first time I have heard that doctrine. I never heard of it before—if murder is provided against, murders will become more numerous, if dacoity is provided against, dacoities will become more numerous. But as these journalists have been telling us that these offences will become more numerous, for my part I wish to provide against the contingency of religious feelings being wounded not only by words and representations but also by acts. This is my reason for suggesting that this amendment should be made.

The Honourable Mr. J. Crerar : Sir, I must oppose this amendment. It will be apparent to the House that this amendment would entail a very large and dangerous extension of the Act. During the course of the discussion, as is apparent from the Report of the Select Committee, much of our attention was devoted to making the Act so restricted as not to include cases which by common consent ought not to come within its ambit, at the same time leaving it operative for the strictly limited purpose in view. The Honourable Member's amendment would open the door to consequences which none of us who supported this Bill would ever think of dealing with. Many of the cases which the Honourable Member has in mind would probably be covered by the specific provisions of some of the sections of Chapter XV and other sections of the Code which deal with specific acts. I oppose the amendment.

(Some Honourable Members : " Let the question be now put.)

(Mr. A. Rangaswami Iyengar rose in his seat.)

Mr. President : What the Honourable Member from Madras wishes to say has already been stated by Mr. Crerar.

Mr. A. Rangaswami Iyengar : I only want to say a word because the Press has been mentioned.

Mr. President : The Press has lost.

Mr. A. Rangaswami Iyengar : The Press will never lose its case. The only point that I wished to bring out was that the matter mentioned by my Honourable friend, Mr. Duraiswamy Aiyangar, is already covered by sections 295 and 298 of the Indian Penal Code.

Mr. C. Duraiswamy Aiyangar : It is not provided for.

Mr. A. Rangaswami Iyengar : Section 298 runs as follows :

" Whoever, with deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes

[Mr. A. Rangaswami Iyengar.]

any gesture in the sight of that person, or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both."

Mr. President : The Honourable the Home Member had taken this very point.

Mr. A. Rangaswami Iyengar : My Honourable friend contended that it is necessary to extend the scope of this section to further offences than was contemplated by the Select Committee, on the ground that he does not agree with the view embodied in the minute of the press men on the Select Committee, that because you constitute new offences, that would, by itself, be a means of encouraging the commission of these offences. I only wish in support of this to cite the opinion of a very high authority—that of Lord Haldane when he was Lord Chancellor. He said :

" Public opinion is very important in this connection. You may make as many laws as you like, but unless public opinion backs you up you will not succeed —nay, more, you will make things worse, because you convert what was possibly a very flagitious act into something of quite a different character, because of the restriction on liberty which you seek to impose."

Mr. President : That has nothing to do with the present motion.

Mr. A. Rangaswami Iyengar : It has a good deal to do with what my friend said.

Mr. Amar Nath Dutt : The cat is now let out of the bag. As I have remarked previously, it is only to pander to a certain community and not with a desire to promote nationalism that this Bill has been introduced by the Government. You see, Sir, as soon as my Honourable friend, Mr. Duraiswamy Aiyangar, wants to give the Hindus some protection, the Honourable the Home Member rises at once and says " No ". It was not meant for that, and it is the favourite wife policy. I was surprised that a shrewd lawyer like my Honourable friend, Mr. Rangaswami Iyengar, should quote the authority of Lord Haldane in support of the Honourable the Home Member. Sir, on this matter we are so much divided in this House that we have very little hope of succeeding. Still, I hope that the good sense of the Hindu Members in this House will prevail and that Mr. Duraiswamy Aiyangar's amendment will be accepted.

Mr. A. Rangaswami Iyengar : To extend the law ?

Mr. Amar Nath Dutt : Yes.

Mr. President : The question is :

" That in clause 2, after the words ' spoken or written ' the words ' or by acts ' be inserted."

The Assembly divided :

AYES—10.

Aiyangar, Mr. C. Duraiswamy.
Aney, Mr. M. S.
Belvi, Mr. D. V.
Dutt, Mr. Amar Nath.
Gulab Singh, Sardar.

Kelkar, Mr. N. C.
Moonje, Dr. B. S.
Mukhtar Singh, Mr.
Prakasam, Mr. T.
Sinha, Mr. Siddheswar.

NOES—69.

Abdul Haye, Mr.	Goswami, Mr. T. C.
Abdul Matin Chaudhury, Maulvi.	Haigh, Mr. P. B.
Abdul Qaiyum, Nawab Sir Sahibzada.	Irving, Mr. Miles.
Abdullah Haji Kasim, Khan Bahadur Haji.	Ismail Khan, Mr.
Ahmad, Khan Bahadur Nasir-ud-din.	Iyengar, Mr. A. Rangaswami.
Ahmed, Mr. K.	Jayakar, Mr. M. R.
Alexander, Mr. William.	Jinnah, Mr. M. A.
Anwar-ul-Azim, Mr.	Jowahir Singh, Sardar Bahadur Sardar.
Ashrafuddin Ahmad, Khan Bahadur Nawabzada Sayid.	Keane, Mr. M.
Ayengar, Mr. V. K. Aravamudha.	Khin Maung, U.
Ayyangar, Rao Bahadur Narasimha Gopalaswami.	Kidwai, Mr. Rafi Ahmad.
Badi-uz-Zaman, Maulvi.	Kirk, Mr. B. T. F.
Bajpai, Mr. G. S.	Lamb, Mr. W. S.
Bhuto, Mr. W. W. Illahibakhsh.	Mitra, The Honourable Sir Bhupendra Nath.
Blackett, The Honourable Sir Basil.	Moore, Mr. Arthur.
Bray, Sir Denys.	Muhammad Nawaz Khan, Lieut. Sardar.
Chalmers, Mr. T. A.	Mukherjee, Mr. S. C.
Chunder, Mr. Nirmal Chunder.	Parsons, Mr. A. A. L.
Coatman, Mr. J.	Purshotamdas Thakurdas, Sir.
Coeke, Mr. H. G.	Rainy, The Honourable Sir George.
Cosgrave, Mr. W. A.	Ruthnaswamy, Mr. M.
Courtenay, Mr. R. H.	Sams, Mr. H. A.
Crawford, Colonel J. D.	Shah Nawaz, Mian Mohammad.
Crerar, The Honourable Mr. J.	Siddiqi, Mr. Abdul Qadir.
Crofton, Mr. R. M.	Singh, Mr. Gaya Prasad.
Dakhan, Mr. W. M. P. Ghulam Kadir Khan.	Singh, Rai Bahadur S. N.
Dalal, Mr. A. R.	Sinha, Mr. R. P.
Dalal, Sardar Sir Bomanji.	Suhrawardy, Dr. A.
Donovan, Mr. J. T.	Sykes, Mr. E. F.
Dunnett, Mr. J. M.	Tonkinson, Mr. H.
Farookhi, Mr. Abdul Latif Saheb.	Wright, Mr. W. T. M.
Ghazanfar Ali Khan, Raja.	Yakub, Maulvi Muhammad.
Ghuznavi, Mr. A. H.	Yamin Khan, Mr. Muhammad.
Gidney, Lieut.-Colonel H. A. J.	Young, Mr. G. M.
	Zulfiqar Ali Khan, Nawab Sir.

The motion was negatived.

Mr. D. V. Belvi : Sir, the amendment which stands in my name runs as follows :

“ That in clause 2 of the Bill after the word ‘ written ’ the words ‘ or by signs ’ be inserted.”

I do not think this amendment stands in need of a long speech. If you refer to the Bill as originally presented to this House, you will find that

[Mr. D. V. Belvi.]

there was this expression " or by signs " in it. That is one reason in support of my amendment. The second reason is that we find the same expression in section 499 of the Indian Penal Code. That is the section which deals with the offence of defamation. And just as it is possible to defame a man by signs, so it is equally possible to commit by signs the offence for which we are now providing. I shall give you two illustrations. Before I do so, I may say that I am not well acquainted with the conditions in Northern India, but I know well the conditions in Southern India and my illustrations should be taken as applicable to the conditions prevalent in Southern India only. Now, suppose there is a Ganpati procession in a big city like Poona. Fortunately for me the District Magistrate of Poona is present in this House and he will bear me out when I give you this illustration. (*An Honourable Member* : "Who is he ?") He is Mr. Haigh, the Chief Whip of the Government Party. Now suppose there is a big procession going along a public road with or without music. Suppose a mischievous man of some other religion comes and makes signs. You know that Ganpati is a god who has a big round belly and you know that he has also the trunk of an elephant. Now to insult the Hindus the mischievous man of another religion comes and makes signs like this. (The Honourable Member held his hands in front of him to denote a big belly, and curled his hand in front of his nose to represent a trunk.) (Laughter). That is quite enough to upset the Hindus in the procession who will at once jump to the conclusion that their god has been insulted. Take another instance applicable to a Muhammadan procession. We know that in Southern India the *Tajias*—I do not know what they are called in this part of the country—are immersed in water. A good many Muslims follow these *Tajias*. I believe they have some religious ceremony to perform when they go to a tank or to a river, for immersing their *Tajias*, and when they come back, it is their custom, at least in Southern India, to come back as if they are mourning, as if they are crying. Suppose some mischievous man who does not belong to the Mussalman faith comes in front of the people who are returning, and he wants to ridicule them by doing this (the Honourable Member illustrated the gesture) and saying " Oong, oong ". (Loud laughter.)

Mr. President : Order, order. The Honourable Member must use language which the reporters can understand or follow.

Mr. D. V. Belvi : If they cannot follow me, it is not my fault. I am pointing out to the House the manner in which the Muhammadans may feel insulted and I may say that they would be justified in feeling so, and that might lead to rioting and perhaps to assaults. So such contingencies should be provided for. They were rightly provided for in the original Bill, but I do not know what happened in the Select Committee where all at once this expression " or by signs " was taken out. I submit to the House on these grounds that the expression " or by signs " should be inserted now in the proposed new section.

The Honourable Mr. J. Crerar : Sir, I oppose the amendment. I submit that on general grounds it is open to the same objections on which the previous amendment was rejected by the House, and I may further point out that precisely the kind of offences which the Honourable Member has instanced are specifically covered by section 296, which

relates to voluntarily causing disturbance to any assembly engaged in religious ceremonies, or, in the alternative, by section 298 which also deals specifically with this class of offence.

The motion was negatived.

Mr. M. S. Sesha Ayyangar (Madras and Ramnad *cum* Tinnevely : Non-Muhammadan Rural) : Sir, I move :

“ That in clause 2 of the Bill, the words ‘ or by visible representations ’ be omitted.”

The House may be aware that the words “ by signs or by visible representations or otherwise ” did occur in the original Bill, but the words “ or by signs ” and “ or otherwise ” were scored out by the Select Committee, and that this one phrase was retained. My reason for moving this amendment is this. The reasons given by the Select Committee for deleting the words “ or by signs ” and “ or otherwise ” are these :

“ We have limited the scope of the original section by the omission of the words “ or by signs ” and the words “ or otherwise ”. Indeed, we find difficulty in imagining causes to which the latter words would be applicable, and we think the words “ or by signs ” are not necessary for the purpose of the particular class of offences with which it is intended to deal.”

I do not follow the reasoning of the Select Committee in retaining the phrase “ or by visible representations ”. If this is the reasoning which appealed to them to delete the other two phrases “ or by signs ” and “ or otherwise ”, then I submit “ or by visible representations ” must also have been omitted. Further, section 298 of the Indian Penal Code does cover such a case. Section 298 runs thus :

“ Whoever, with deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person any gesture in the sight of that person or places any object in the sight of that person shall be punished.... ”

Therefore, I submit that this phrase in section 298 covers such a case. I appeal to the Home Member to read section 298 and see if such a case does not come under that section. If that is so, then I would ask him to accept my amendment. The third reason I would urge is this. With the phrase “ visible representation ” it is possible to fabricate a large number of cases ; at least that would make the door wide for fabrication. For these reasons, Sir, I commend my amendment.

The Honourable Mr. J. Crerar : Sir, I think I have explained to the satisfaction of the House why the Select Committee decided to retain those words. I should point out in the first instance that the section quoted by the Honourable Member, 298, is not really in point. It refers only to the placing of bodies, etc., in the sight of any particular person. What the Select Committee had in mind was offensive cartoons or the like which might appear in letterpress and point to or make clear an offence of a malicious and deliberate intention. That is the reason for retaining these words, and I think the House will agree that they should be retained.

Mr. President : The question is :

“ That in clause 2 of the Bill, the words ‘ or by visible representations ’ be omitted.”

The motion was negatived.

Pandit Thakur Das Bhargava (Ambala Division : Non-Muham-
madan) : Sir, I move :

“ That in clause 2, for the words ‘ insults or attempts to insult ’ the words ‘ scurrilously attacks in offensive and improper language or by offensive and improper visible representation or attempts to scurrilously attack in offensive and improper language or by offensive and improper visible representation ’ be substituted.”

In moving this amendment, Sir, I would respectfully beg the House to consider and to be clear in their minds as to what the scope of the clause in the Bill is. Unless and until you are quite clear about the limitations and the safeguards which ought to be provided in this Bill, you will not be able to appreciate the exact significance of the words that appear in the Bill. The Bill penalises insults which are actuated by a deliberate and malicious intention. In the first place, before coming to the actual wording of the clause, I would submit two observations for the consideration of the House, so that it may be clear to the House why I have sought to make this amendment. That this amendment really limits the scope of the Bill and seeks to make a very necessary change, there can be no doubt. At present in the Bill you will find that the word “ insult ” is used. Now, Sir, this word “ insult ” has been used in some places in the Penal Code. But this word has not been defined so far by the Legislature. The question arises what is the exact significance of the word “ insult ”. My humble submission is that the word is too vague. It is illusory and it has not special significance in law. My submission is that insult is always a temperamental affair. What would be regarded as an insult by a particular man may not be regarded as an insult by a more calm and dispassionate man. Moreover this word “ insult ” is objectionable from another standpoint, namely, that insult has greater regard to the result of the act rather than to the act itself. It does not rivet the attention of the judge to the fact of the person. It rather has reference in a greater measure than is necessary to the consequences which flow from such act.

Mr. K. Ahmed : That would be for the assessors and jurors to decide.

Pandit Thakur Das Bhargava : I shall come to that also. My friend is suggesting that this offence is triable by a Sessions Court where there will be assessors. It makes it all the more obligatory upon us to see that the words used are quite specific and have the significance that we want to attach to them. Since assessors also will be the persons who will judge the meaning of this expression, it is all the more necessary that the expression should have that meaning which we desire to convey. Now, Sir, it has been pointed out in the course of the discussion that the words “ deliberate ” and “ malicious ” provide necessary safeguards and therefore there is no necessity for substituting these words. To start with, let me clear the ground by submitting before you that the word “ deliberate ”, if it only indicates premeditation, cannot be a great safeguard so far as this Bill is concerned. So far as the question of malice is concerned, “ malice ” also is nowhere defined in the Penal Code. I know the word “ malice ” is used in section 153-A. Even there we do not get good help from the authorities. After all, the word “ malice ” is taken from the civil law and in its soft connotation the word “ malice ” may imply only an improper motive. Supposing that is the accepted connotation of the word “ malice ”, may I enquire if an act outraging the feelings of any community will not be malicious by itself ? I contend that this argument that an act calculated

to outrage the feelings of a community is malicious by itself will be advanced by many lawyers and will be accepted by the judges so that the words "deliberate" and "malicious" do not provide in my humble opinion those safeguards which are necessary to be provided in the Act. Then, the question arises as to how that intent is to be judged. Sir Hari Singh Gour pointed out, on the previous day of the discussion of this Bill, that if it is taken that a man is presumed to know the natural consequences of his act, it will be rather difficult, it will be a point of nicety whether that very act to which a deliberate and malicious intention is sought to be attributed will not itself damn the accused. My humble submission is that the word "insult" does not connote the specific meaning which we seek to convey and import into the operation part of the clause. The words "deliberate and malicious" also convey a very soft connotation and meaning and it is absolutely necessary that we should make our meaning very clear in the Bill. Now, Sir, as you know, the language used in any document and the exact words used therein are the materials on which a judge comes to the conclusion whether a person was animated by this or that intention. I do not at the same time eliminate from my consideration that in many cases it happens that the judge may come to the conclusion that a certain person is actuated by malicious intention in spite of the fact that plain language was used. Nevertheless it would not be fair to assume that words spoken or written will not be the main guide for a judge to come to the conclusion whether these words import the intention which is covered by this Bill. My humble submission is that if that is so, then it is absolutely necessary that we should make it absolutely clear that it will be improper and offensive language of a particular speech or writing which will be the test whether that intention was expressed in that way or not. I have used the words "scurrilous attack" and want that to be substituted for the word "insult". Now "scurrilous attack" is an act which everybody will agree must be penalised. As I have already submitted, the word "insult" will denote different meanings to different people, but the words "scurrilous attack" can only have one meaning. Moreover, the word "attack" by itself denotes that there is a disposition to injure in the mind of the accused and, unless the prosecution established *mens rea*, the present principles of the criminal law declare that a person not possessing *mens rea* is not guilty. So that my humble submission is that if this clause is passed in its present shape, there is a likelihood that such persons who have more zeal than discretion will come into the meshes of the law and this Bill may prove very injurious so far as certain public interests are concerned.

Sir, as regards limitations and safeguards, I will request you to consider that, so far as religion and religious views are concerned, it is not, as one Honourable Member said, a Moslem measure only, it is an all-India measure; and it will happen that different interests will come into conflict. There are social reformers among Hindus who would like to criticise their own religion with the best of motives. There are Muhammadan reformers who would like to criticise their own religion in the same way with the best of motives. The question therefore is not that we should look at it from that standpoint from which a Hindu would look at a Muhammadan measure or that standpoint from which a Muhammadan would look at a Hindu measure. My humble submission is that we should all look at it from the standpoint of Indians and

[Pandit Thakur Das Bhargava.]

looking at the measure from that standpoint, let me be quite clear before you when I say that, as long as there are so many religions in India which compete for supremacy and reformers are allowed to have their way in the way in which we now see them going on, all the prophets, seers and *rishis* are bound to be criticised very freely. And they ought to be criticised very freely. I am against religious attacks as a rule, but if an attack is honest though scurrilous and is only designed to make a deep cut into a certain fungus growth which has been hardened by usage or by custom, I think I for one would stand for such a cut being made.

Mr. K. Ahmed : Why don't you give your verdict then ?

Pandit Thakur Das Bhargava : I am not a judge unfortunately !

Mr. K. Ahmed : An assessor ?

Pandit Thakur Das Bhargava : I am not an assessor either. There is a section in the Criminal Procedure Code by virtue of which a lawyer cannot be an assessor.

Sir, judging from the history of fanaticism I sometimes doubt if religion did not take its birth to make people irreligious ! In the name of religion, Sir, such sufferings, executions and assassinations have taken place !

Mr. President : Order, order. The Honourable Member is going on as if he were speaking on the motion that the Bill be taken into consideration. He must restrict himself to the amendment now before the House.

Pandit Thakur Das Bhargava : My humble submission is that, so far as the question of the substitution of these words is concerned, they have got a specific meaning and that is, that the scope of the Bill should not be enlarged beyond its proper due. In making this submission that the scope should not be enlarged, I am bound to submit why it should not be enlarged, and therefore, when I speak of religion in that strain, it is in no mood of blaspheming any religion. My submission before the House is that so far as religion is concerned it needs democratisation. There are, I submit, religious strongholds. There is such a thing as religious vested rights and those rights must be pulled down by rationalism.

The second thing I want to submit before you is that the scope of this law should be rather hedged down to a very narrow compass, the reason being this. This present situation which has necessitated this measure is not the result of the acts of the common multitude. The present situation has resulted from the acts of the Government.....

Mr. President : I very much regret to interrupt the Honourable Member again, but he is making general observations on the Bill itself instead of confining himself to the amendment which he has moved. I quite realise his difficulty. He had prepared a speech for the consideration stage of the Bill which he was unable to deliver. But that is no reason why he should take this opportunity of delivering himself !

Pandit Thakur Das Bhargava : I must admit, Sir, that the observations you have been pleased to make are perfectly correct and that I really

wished to speak on the main motion also, and it is my misfortune that I have not been able to catch your eye. But at the same time I do not want to avail myself of this occasion to inflict a speech on the House. At the same time I am desirous, I am most solicitous to make my meaning absolutely clear to the House and that meaning is this. I do not want to read out a speech : I only want to submit that I should be allowed to make my meaning clear. I have already submitted before you how I feel in this matter and that it is in the public interests that we should see that the Bill does not catch in its meshes those who are really working for the good of the country and for the reform of religion.....

Sir Hari Singh Gour (Central Provinces Hindi Divisions : Non-Muhammadan) : That is exactly what you are trying to do.

Pandit Thakur Das Bhargava : I was therefore submitting that these words "insults or attempts to insult" should be substituted by the words which I have submitted in my amendment, because these words which I wish to substitute are more specific in meaning and, while calculated to catch hold of the actual culprit, will leave room for those who, according to my estimate of things, should not be caught in the meshes of the law. Sir, I move the amendment.

The Honourable Mr. J. Crerar : Sir, I hope that the Honourable Member who moved this amendment will not think me in any way discourteous if I reply with very much more brevity than he has moved. There are three principal objections to his amendment and I shall make them very briefly. The possibility of including such words as "scurrilous" and so forth was carefully considered in Select Committee and was, I think, for very good and sufficient reasons discarded as impracticable. The Honourable Member suggested, I think, that the word "insult" which is used in the Bill does not already occur in the Code. As a matter of fact it occurs already in several places in the Code. That is the second point. My third point is simply this, that the language of the amendment is so cumbrous and involved that if it were added to the clause, which is already not entirely simple, it would result in an exceedingly unmanageable piece of legislation and one extremely difficult to interpret.

Sir Hari Singh Gour : Sir,.....

(Several Honourable Members moved that the question be put.)

Mr. President : I hope the Honourable Member will realise the sense of the House and not insist upon his right to speak.

Sir Hari Singh Gour : Sir, the observations I have to make are very few ; but I hope the House will indulge me when I say that I oppose not only the amendment but the Bill ; and I am sure that the Honourable the Home Member will realise that it is not yet too late to reconsider his verdict. I have not the slightest doubt that the Government of India are pledged to religious autonomy. We have in this country such a thing as caste autonomy, religious autonomy, sectarian autonomy. Has the Honourable the Home Member considered the effect of his Bill upon these various religious autonomous institutions and how is he going to deal with inter-sectarian conflict and inter-caste conflicts which arise and arouse religious animosities and which give rise to deliberate and, let me add, technically malicious attacks upon rival sects ? Let me give you an example. A Brahmin has crossed the seas and comes back to this country and the caste

[Sir Hari Singh Gour.]

hold a *panchayat* and outcaste him and also publish in their caste newspaper that this man has become a *Mlechh* and is not a Brahmin and, consequently, nobody should dine with him. His religious feelings are really aroused and if you read the section, as it stands, that man has a just cause for complaint. But are you going to prosecute the whole Brahmin community because they have outcasted either him or his family or a few of his friends who sympathised with him? Take the case of the Shias, and the regular annual fights that take place between the Shias and the Sunnis. The press telegrams only a few days ago gave us a vivid description of the feuds that take place between the various sub-sections of the same caste. Let me also remind the Honourable the Home Member that when this Bill becomes law it will.....

Mr. President : The Honourable Member must confine himself to the amendment which has been moved.

Sir Hari Singh Gour : Now, I am arguing, Sir, *a fortiori*. I am pointing out that if the Bill is bad, the amendment is worse....

Mr. President : The Honourable Member is not in order in speaking on the merits or demerits of the Bill as a whole.

Sir Hari Singh Gour : Now, Sir, there is another point to which I should like to draw the attention of the House. The Honourable the author of the amendment complains of ambiguity in the phraseology of this Bill. First of all, he deals with the question of malice, and he wants to know whether the malice within the contemplation of the Bill is malice prepense or constructive malice. He wants further to know whether the meaning of the word "deliberate" is something.....

Mr. President : All this is not relevant to the amendment now before the House.

Sir Hari Singh Gour : Sir, I am recapitulating the arguments of the author of the amendment.....

Mr. President : That the author of the amendment was irrelevant, is no ground for the Honourable Member to be irrelevant.

Sir Hari Singh Gour : Now, Sir, so far as the amendment itself is concerned it substitutes words which are more ambiguous and more capable of a wider meaning than the language used in the Bill itself. As you, Sir, would not allow me to recapitulate the arguments of the author of the amendment or to deal with him but leave me within the narrow door of this amendment, I can only say that I reserve my right, should I be so fortunate as to catch your eye, to make general observations upon the Bill at a later stage when it comes for the third reading.

Mr. President : The question is :

"That in clause 2, for the words 'insults or attempts to insult' the words 'scurrilously attacks in offensive and improper language or by offensive and improper visible representation or attempts to scurrilously attack in offensive and improper language or by offensive and improper visible representation' be substituted."

The motion was negatived.

Mr. Amar Nath Dutt : (The Honourable Member on rising was greeted with cries of "Withdraw, withdraw.") I am not going to withdraw ; I shall move my amendment.

(Cries of "Withdraw, withdraw".)

Mr. President : Order, order.

Mr. Amar Nath Dutt : Sir, it would have been much better if the two previous amendments had been accepted by the House, and although they have not been accepted, I still rely on the good sense of this House and beg to move the amendment that stands in my name. Seeing that much mischief has been done by the introduction of religion in this Bill, I want to do away at least with the last portion of clause 2 which deals with religion, namely, "insults or attempts to insult the religion or the religious beliefs of that class". Instead of that I ask the House to substitute the words "the Prophet of the Muhammadans", because, Sir, there were certain scurrilous writings against the Prophet of Islam which have wounded the religious feelings of our Muhammadan fellow subjects, and I think it is but right and proper that they should have some protection in this matter. But I do not say that protection is offered to them by the words "insults or attempts to insult the religion or the religious beliefs of that class". Now, Sir, here no mention is made of avatars, gurus, prophets, and such like things. In fact, we want.....

Maulvi Muhammad Yakub : Sir, on a point of order. The amendment which my Honourable friend is moving now is altogether consequential to amendment No. 7 which he has already lost.

Mr. President : The amendment is not consequential, but the acceptance of it will make the whole clause absurd. (Cries of "Withdraw".)

Mr. Amar Nath Dutt : Sir, I am not going to withdraw. It may give a certain absurdity but it will not be more absurd than the one which is in the clause itself. And this is a very unhappy specimen of legislative draftsmanship, because "insults or attempts to insult a religion" is meaningless. I do not know how a religion can be insulted. In fact, religion is above all insult, if it is really a religion at all. I am not going to discourse on religion, neither am I competent to discourse on religion, but what little I know of religions that are practised in this world by the followers of various religions is that they consider religion to be something sacred and which does not come within the purview of human legislation, but it is something divine whether it be revealed religion or inspired religion. Be that as it may, Sir, I still press my amendment and I hope the House will accept it.

The motion was negatived.

Pandit Nilakantha Das : Sir, I move :

"That in clause 2 of the Bill for the words 'the religion or religious beliefs of' substitute the words 'any one held in religious esteem or reverence by' and make the necessary consequential changes in the clauses and Schedule which follow."

Sir, at the outset I must confess that through oversight there have been some unfortunate mistakes in drafting this amendment. I have put "any one", but I mean "any one, or anything, including relics, gods, and goddesses", and I shall crave your indulgence to permit me to add those words, so that I should be definite in restricting the scope of the Bill exactly to that for which this legislation is demanded.

Mr. President : The Honourable Member has got other amendments. He can move them when the time comes. I cannot allow the Honourable Member to make any alteration in this amendment.

Mr. B. Das : Sir, I beg to move the amendment standing in my name :

“ That in clause 2 for the words ‘ or the religious beliefs of that class ’ the words ‘ of that class, or the founder, prophet or avatar or such religion ’ be substituted.”

Sir, I do not know where I stand and where this legislation is going to make me stand in future. There are so many saints, so many avatars, so many prophets, I want to have a limit, to know how far this is going to apply. By founder I mean Guru Nanak, Raja Ram Mohan Roy, Sree Chaitanya, etc. ; by prophet I mean, Buddha, Jesus, Muhammad and Zoroaster ; by avatar, I mean certain avatars of the Hindu religion. I do not like this particular clause to humbug us in our ordinary daily transactions and we will be faced with sedition against many modern gurus and saints. For the edification of the House I will just quote a line describing Gurus from the Census Report of 1901, by Sir Edward Gait, who happened to be afterwards Governor of my Province. Talking about Gurus he says :

4 P.M.

“ This adoration of the Guru is one of the most characteristic features of the Vaishnava revival in Bengal. The Vaishnavas say :

‘ When Hari—(Hari means God)—is angry, the Guru is our protector, but when the Guru is angry we have no one to protect us.’ This service veneration of the Guru is called Gurupádsraya.”

Sir, when I find that there are such opinions prevalent I want to protect myself so that I will not come under this Act either in this House or outside this House. Sir, as a Hindu I knew I had 33 crores of gods but looking into this particular Census Report I find that in the Hindu religion there are so many gods and godlings.

Mr. Amar Nath Dutt : Godlings ? I object to that, Sir.

Mr. B. Das : Sir Edward Gait, in this Census Report, says that there are godlings of nature, godlings of disease, deified heroes, ghosts and evil spirits, Gramya Devatas, and Gurus and bogus Gurus whom I have mentioned already this morning. How do we stand ? How are you going to protect the public from the operation of this particular enactment ? I also find from the same Census Report that even among the Muhammadans of Bengal there are many Saints and Pirs. (*An Honourable Member :* “ Never mind ”.) I will enlighten you a little.

Mr. K. Ahmed : The clause is quite explicit. Don't be under a misapprehension.

Mr. B. Das : There are many Pirs. Some of the Pirs and Saints died only 20 or 30 years ago. Some of us unwittingly might utter words that might go against any of these, that might hurt the religious feelings of the followers of any of these saints. There is a quotation given here which is very apt. I will read it to the House.

Mr. K. Ahmed : That does not touch the clause of the Bill.

Mr. B. Das : It will give some sense to my Honourable friend Mr. K. Ahmed. It is :

“ *Bará to Mir,
Ghátá to Fakir,
Mará to Pir.* ”

which, if translated, means,

“ If he grew rich, he became a chief, if poor, a beggar, and if he died, he blossomed into a saint. ”

Mr. K. Ahmed : There is no relevancy in it whatever.

Mr. B. Das : I cannot understand how I stand. I do not think Members of this House would be so irreligious—I will not say irreligious—would be so ungentlemanly as to offer any insult to any great religious teacher or any Prophet or *Avatar*. But I want the law to be so framed that it is understood by the millions of the lay public. I belong to the lay public. I might offend the Guru of somebody even in this House. There are so many bogus Gurus, as we find in Bengal, Dibrugarh and Orissa. It is so easy, Sir, to become a Guru and earn lakhs and lakhs of rupees. I know many Hindus even convicts, who have become Gurus like that. It is so easy to grow a beard like my friends Mr. Acharya or Pandit Nilakantha Das and pose as a Guru. I wish I could become a Guru and make it the chief source of my livelihood ! I say that the law should be so framed that it protects the innocent and does not suppress free thinking and rational school of thought. With these few words I commend my amendment to the acceptance of the House.

The motion was negatived.

Pandit Nilakantha Das : I beg to move :

“ That in clause 2 for the words ‘ imprisonment of either description ’ substitute the words ‘ simple imprisonment ’ and make consequential changes in the Schedule. ”

Sir, we have widened the scope of the Bill so much that I am afraid it will mostly imprison cultured men. Religion or religious belief—this expression is very, very wide. For instance, as my Burmese friend remarked the other day, I do not know whether rationalists, agnostics, positivists and others like them can be said to have any religion in the sense in which the term “ religion ” is generally applied. But it is their duty to deliberately run down any religion having a God. When they deliberately do it, it will be easy, when feeling is inflamed among the masses—to find malice in that deliberate running down. (*An Honourable Member :* Free thinker.) Yes, I speak of free thinkers, and if you have care for such free thinkers having no God or Prophet to protect them against any outrage, then mind how under the wide net you spread under the provision of this Act you will be always sending such men to jail. They deliberately insult our so called religions, as they feel it their duty to do so, to them your God is, so to say, a creation of chicken-hearted foolishness and I am afraid that it will be very easy to explain such statements as malicious insults to religion, and those highly cultured men will be undoubtedly consigned to prison. On the other hand, I do not think the rationalists are so very wild that they should be inflamed, but if they be, and speak or write some sentences in legitimate excitement, what follows ? No lawyers, like those on the Select Committee, will even be required to prove their offence. They will have to walk simply from court to

[Pandit Nilakantha Das.]

prison. I do not know whether I shall be allowed to refer here to the amendment of mine which has not been allowed, where I wanted to restrict, but unfortunately I was not allowed to make some formal correction....

Mr. President : Had the Honourable Member any hope to carry the House with him on that amendment ?

Pandit Nilakantha Das : Hope springeth eternal in the human breast. (*Mr. K. Ahmed* : "Not, here".) Therefore, I think that simple imprisonment will be enough for that class of people, who on account of their culture are under this Bill liable to go to jail.

There is another class. There are fanatics, rustics, ruffians and others like them, and they are also contemplated in this Bill. I know that many of them, if they get rigorous imprisonment, will be engaged in labour from morning to evening in jail, and they will not have time to mend themselves or to think of their past offences or guilt. I should therefore like to say that in simple imprisonment you may provide for some religious instruction or religious study or some other means by which the man may be reformed. There is no need for sentencing a man to rigorous imprisonment for some utterances which he felt entitled to make on account of his culture, belief or even fanaticism. My Honourable friend Mr. Jayakar remarked very aptly the other day that fanatics should be considered so many lunatics. To prescribe rigorous punishment for them is useless.

Mr. President : I think the House is now convinced.

Pandit Nilakantha Das : I think you for the conviction that the House has got through you. I move my amendment.

Mr. President : The question is :

"That in clause 2 for the words 'imprisonment of either description' the words 'simple imprisonment' be substituted and consequential changes made in the Schedule."

The motion was negatived.

Mr. T. Prakasam (East Godavari and West Godavari *cum* Kistna : Non-Muhammadan Rural) : I move :

"That in clause 2 of the Bill for the words 'two years' the words 'one year' be substituted."

Mr. K. Ahmed : Make it three years.

Mr. T. Prakasam : My friend, Mr. K. Ahmed, says, make it three years. Perhaps it would be better in his opinion if it is made 20 years penal servitude. I am anxious not to say anything in this House which would embarrass any of my Mussalman friends who are anxious to bring about Hindu-Muslim unity at this juncture. My reason for this amendment is that it is not the severity of the sentence that will deter the crime. Severity of sentence might instil fear in the minds of those who are inclined towards crime. Those who are killing themselves now in Nagpur and other places, those who are guilty of setting houses on fire, are not the men who would be deterred by a sentence of two years. Fanaticism knows no limits. They do not care for their lives. This

provision is intended to prevent attacks on founders of religions. It is only men who have worked themselves into a frenzy that would indulge in the sort of attacks which the propounders of this Bill have in view. As my Honourable friend Mr. Jayakar has said, the sentence must be lenient in the case of these people who get their minds unhinged temporarily for the sake of their religion. So I submit the sentence must be reduced to one year. It will be in the wisdom of this House to make the sentence more lenient.

The Honourable Mr. J. Crerar : I regret that I have to oppose the amendment, but the particular considerations in the mind of the Honourable Member were given very careful weight to in the Select Committee, and the Committee came to the conclusion embodied in the Bill. I think the House will support that conclusion.

Mr. President : The question is :

“ That in clause 2 of the Bill for the words ‘ two years ’ the words ‘ one year ’ be substituted.”

The motion was negatived.

Pandit Thakur Das Bhargava : I move :

“ That to clause 2 the following proviso be added :

‘ Provided that writings, speeches, visible representations or discussions for the *bona fide* purpose of research, comparative study, reform or revival of religion or religious beliefs shall not be deemed to be insults or attempts to insult the religion or religious beliefs of any class of His Majesty’s subjects.’ ”

In moving this amendment, Sir, I would respectfully submit that this amendment in a way provides for those safeguards which are necessary in the interests of historical research and comparative study of religion. As all research and historical study is for the benefit of society in general and for the genuine improvement of knowledge, I would submit that such an exception must necessarily be made. Avatars and prophets, as I have submitted already, are bound to be criticised by the students of the comparative study of religions and not necessarily with that intention which is penal. But, Sir, it is always a matter of doubt in cases of this kind whether a person who writes a book comes within the meshes of the law. Therefore, I think that it should be made absolutely clear that any person who makes a speech or writes a book actuated by a desire for historical research or the comparative study of religions or the revival of any religion, should be protected. As anatomical dissection qualifies the doctor for the acquisition of healing qualities, research of religion qualifies humanity for future right action. I submit, Sir, that it is often true that the original lustre of a religion is encrusted with such fungus growths that we require the scapula of the surgeon to take it away before that religion can appear in its pristine lustre and be of use to the community at large. If this provision is not made in the Bill, it may happen that many a social reformer will hesitate to work in the spirit in which they ought to work considering the enormity of the social and religious evils rampant in India.

With your permission, Sir, I would say a word about the other amendments appearing on the paper, because my amendment comes into conflict with the other amendments. So far as the other amendments are concerned, the one appearing as No. 20, Explanation 2, and the one appearing as No. 21, are practically, though in a smaller measure, just like the one I

[Pandit Thakur Das Bhargava.]

have proposed. Mine is the more comprehensive and seeks to protect those who ought to be protected by the law. As regards the amendment Number 19, the House will be pleased to observe that it involves a scrutiny of very abstruse matters and it will be difficult for any judge to come to a decision whether a particular notion of religion is false or whether a particular custom is pernicious or superstitious or what is the true view of religion. Similarly, it will be difficult for any judge to find out whether a particular conduct of any founder of a religion is in its nature, public or private. This is a matter which will be difficult to be found out by the best genius, and I submit that if in amendment No. 20 expression (1) is enacted or No. 19 is enacted, we will be introducing such a complexity into the law that it would be difficult for a judge to unravel it. If the House considers that a provision of this nature is necessary in the Bill, I would propose that the amendment which I have moved is the one which ought to be put in the Bill.

The Honourable Mr. J. Crerar : Sir, I wish to say only a few words in opposing this amendment. I submit to the House that the phrase "with deliberate and malicious intention of outraging the religious feelings of any class of His Majesty's subjects" is perfectly clear. It governs the whole clause, and the proviso which has been moved is unnecessary; also, it contains so many ambiguities that its interpretation would be a very difficult and doubtful matter.

The motion was negatived.

Mr. President : Does the Honourable Member wish to move the alternative amendment ?

Pandit Thakur Das Bhargava : No, Sir.

Mr. T. Prakasam : Sir, the amendment which I rise to move runs thus :

"That to clause 2 the following Explanation be added :

'Explanation : It does not amount to an offence within the meaning of this section, if the criticism offered by anybody on any religion or religious beliefs of a particular class is *bona fide* with a view to remove false notions based on superstitious or pernicious customs which are foreign to the true religion or with a view to prevent forcible conversions or reconversions from one religion or faith or belief to another ?'

Sir, the Honourable Mover of the Bill in his speech admitted that the present legislation is not intended to exclude *bona fide* criticism on matters I have tried to indicate in this amendment, and I do not think the Members of the Select Committee or anybody in this House would dispute that *bona fide* criticism on any religious belief is intended to be brought within the meaning of new section 295-A. I do not agree with the opinion of our leader, Mr. Srinivasa Iyengar, that there is no provision in the criminal law for an offence against religion, or beliefs. No doubt the learned Judge of the Lahore Court pointed out what in his opinion was a defect, and it is only proper that the Government should consider it their legitimate duty to remove that defect by asking for certain amendments in the existing law. But in attempting to do so, they have enacted a provision which instead of removing the trouble in view is likely to create more troubles not only as between the Hindus and the Mussalmans, but as between several sub-sections of the same community and individuals. Hindus and Mussalmans are fighting to-day and some

of them have lost their heads. Some of them have been attacking ruthlessly not only individuals but also the founders of religions. These things will not last for a long time ; they will soon come to an end, because the leadership that has failed hitherto both among the Mussalmans and the Hindus and also the leadership of the Government that has failed hitherto, all have recognised their error and all are agreed now upon putting a stop to this by devising ways and means. This legislation is considered one of the remedies. I am sorry, Sir, that this is beginning at the wrong end. However, if this could be really of any help to us in regard to the particular situation, it will be a matter of great satisfaction to the country and to everybody concerned. But my submission is that the clause as it is is so general and the net can be spread for everything that one can possibly imagine. Here is my friend sitting behind me, my friend Mr. Belvi, who was fighting yesterday hard in this House not to have that legislation against child marriages. It was said that a child below one year can be married and that the Hindu law, or the Shastras, or the religion, says that it is a sacrament, and that a marriage tie, which creates a status, cannot be declared invalid. It was asked, how a status once created by tying a *thali* even on the neck of a child of 9 or 8 months, could be divested by a court of law. Our imagination goes to that length, our intelligence takes us to such height. We have to stop this evil in society. In my opinion, to marry a little child of one year is as bad as infanticide. One who tries to stop it comes under this clause. What is it that will not come under this clause ? Anything can come under this clause. It was contended that all aspects had been considered by the Select Committee and all have been provided for. I say they have not been stated or provided for. Courts of law will only look into a section of the Act. My Honourable friend Mr. Srinivasa Iyengar, if he should argue a case in a court of law, will say that the debates of the Assembly are not to be looked into.

Mr. D. V. Belvi : Cannot be looked into.

Mr. T. Prakasam : My Honourable friend Mr. Belvi says that they cannot be looked into. That is the law. If the debates cannot be looked into and if the object of the Legislature is not to be traced, what is it that is left but the bare section ? General expressions or attacks on religion or attacks against beliefs or attacks upon founders cannot and are not intended to constitute an offence if *bona fide*. What is to happen to persons who have rebelled against a spiritual Guru, such as one Sri Sankaracharya, who declared at one time that whoever crossed the sea, whoever went to England had forfeited his caste. I should not refer to any incident in my own life. It is more than twenty years since I was called upon by Sri Sankaracharya of a Mutt who said that he had jurisdiction over me, to explain why I had crossed the seas and to show cause why I should not go through a penance. I declined to submit myself to his jurisdiction. There was a bull of excommunication read against me publicly on the banks of a river. We challenged the order and we got over the whole trouble and made that Guru accept our view. I am sorry we have been reduced to such a pass to-day that we have to ask the Government to pass legislation like this. These matters ought to have been settled by ourselves. We have outgrown most of our original bad customs. It is not only the enlightened public that have so outgrown them, but also the masses to a great extent. But there are certain impediments in our

[Mr. T. Prakasam.]

way and if only those impediments are removed—we hope they would be removed soon—there would be legislation on a broader basis. I am anxious that this House should be convinced of the necessity of these amendments—I do not care a bit whether the whole House is convinced. So often it refuses to be convinced when once it makes up its mind—I am anxious that this House should keep its mind open on this matter. I am not making any extravagant demand. I am just asking the addition of an Explanation to the clause so that what you did not intend and what you do not intend to come within the mischief of this section would be at least made clear. That is what I am asking the House. I am anxious the more that this amendment should go in now, because in these days I am realising that the non-co-operators, or at any rate some of the non-co-operators of 1921, are fast becoming co-operators (Laughter) and they may soon become worse tyrants who would abuse this very section against their own countrymen as judges. I therefore submit, Sir, that in enacting any piece of law, you had better make your intention quite clear. It is the duty of the legislators to make the intention absolutely clear by adding an Explanation like this to the clause. If the House fails to do it now, they would realise later what mischief is in store, which you do not intend and which you may not be able to prevent at that time.

Mr. President : The question is :

“ That to clause 2 the following Explanation be added :

‘ *Explanation*:—It does not amount to an offence within the meaning of this section, if the criticism offered by anybody on any religion or religious beliefs of a particular class is *bona fide* with a view to remove false notions based on superstitious or pernicious customs which are foreign to the true religion or with a view to prevent forcible conversions or re-conversions from one religion or faith or belief to another ’.”

The Assembly divided :

AYES—40.

Acharya, Mr. M. K.	Kunzru, Pandit Hirday Nath.
Aiyangar, Mr. C. Duraiswamy.	Lahiri Chaudhury, Mr. Dharendra Kanta.
Aney, Mr. M. S.	Lajpat Rai, Lala.
Ayyangar, Mr. K. V. Rangaswami.	Malaviya, Pandit Madan Mohan.
Ayyangar, Mr. M. S. Sessa.	Mitra, Mr. Satyendra Chandra.
Belvi, Mr. D. V.	Moonje, Dr. B. S.
Bhargava, Pandit Thakur Das.	Moore, Mr. Arthur.
Chunder, Mr. Nirmal Chunder.	Mukhtar Singh, Mr.
Das, Pandit Nilakantha.	Naidu, Mr. B. P.
Dutt, Mr. Amar Nath.	Neogy, Mr. K. C.
Dutta, Mr. Srish Chandra.	Prakasam, Mr. T.
Gulab Singh, Sardar.	Rang Behari Lal, Lala.
Iswar Saran, Munshi.	Rao, Mr. G. Sarvotham.
Iyengar, Mr. A. Rangaswami.	Sarda, Rai Sahib Harbilas.
Iyengar, Mr. S. Srinivasa.	Singh, Mr. Narayan Prasad.
Jogiah, Mr. Varahagiri Venkata.	Singh, Mr. Ram Narayan.
Joshi, Mr. N. M.	Sinha, Kumar Ganganand.
Kartar Singh, Sardar.	Sinha, Mr. R. P.
Kelkar, Mr. N. C.	Sinha, Mr. Siddheswar.
Khin Maung, U.	
Kidwai, Mr. Rafi Ahmad.	

NOES—57.

Abdul Haye, Mr.	Goswami, Mr. T. C.
Abdul Matin Chaudhury, Maulvi.	Haigh, Mr. P. B.
Abdul Qaiyum, Nawab Sir Sahibzada.	Irving, Mr. Miles.
Abdullah Haji Kasim, Khan Bahadur Haji.	Ismail Khan, Mr.
Ahmad, Khan Bahadur Nasir-ud-din.	Jayakar, Mr. M. R.
Ahmed, Mr. K.	Jowahir Singh, Sardar Bahadur Sardar.
Anwar-ul-Azim, Mr.	Kabul Singh Bahadur, Captain.
Ashrafuddin Ahmad, Khan Bahadur Nawabzada Sayid.	Keane, Mr. M.
Ayangan, Mr. V. K. Aravamudha.	Kirk, Mr. R. T. F.
Ayyangan, Rao Bahadur Narasimha Gopaldaswami.	Mitra, The Honourable Sir Bhupendra Nath.
Bedi-uz-Zaman, Maulvi.	Muhammad Nawaz Khan, Lieut. Sardar.
Bajpai, Mr. G. S.	Mukherjee, Mr. S. C.
Blackett, The Honourable Sir Basil.	Parsons, Mr. A. A. L.
Bray, Sir Denys.	Purshotamdas Thakurdas, Sir.
Chalmers, Mr. T. A.	Rainy, The Honourable Sir George.
Coatman, Mr. J.	Rajan Bakhsh Shah, Khan Bahadur Makhdum Syed.
Coecke, Mr. H. G.	Ruthnaswamy, Mr. M.
Cosgrave, Mr. W. A.	Sams, Mr. H. A.
Courtenay, Mr. R. H.	Shah Nawaz, Mian Mohammad.
Orerar, The Honourable Mr. J.	Siddiqi, Mr. Abdul Qadir.
Crofton, Mr. R. M.	Singh, Rai Bahadur S. N.
Dalal, Mr. A. R.	Suhrawardy, Dr. A.
Dalal, Sardar Sir Bomanji.	Tonkinson, Mr. H.
Donovan, Mr. J. T.	Wright, Mr. W. T. M.
Dunnett, Mr. J. M.	Yukub, Maulvi Muhammad.
Farookhi, Mr. Abdul Latif Saheb.	Yamin Khan, Mr. Muhammad.
Ghazanfar Ali Khan, Raja.	Young, Mr. G. M.
Ghuznavi, Mr. A. H.	Zulfiqar Ali Khan, Nawab Sir.
Gidney, Lieut.-Colonel H. A. J.	

[The Motion was negatived.]

Mr. N. C. Kelkar : Sir, in the present temper of the House I am not going to help in the massacre of the innocents. I will try and save the victim ! I do not move the amendment* standing in my name.

* To clause 2 of the Bill the following Explanations be added :—

“ *Explanation 1.*—It is not an offence under this section to set out facts and offer criticism based on such facts, pertaining to the public conduct of founders or saints or representative-men or protagonists of any religion or any sect of any religion, provided that such setting out of facts and such criticism is not malicious.

Explanation 2.—It is not an offence under this section to set out facts, and to offer criticism based on such facts, pertaining to the principles, doctrines or tenets or observances of any religion or any sect of any religion, in the course of a historical or philosophical or sociological disquisition, and with a view to promote social or religious reform.”

Mr. M. K. Acharya : Sir, I have a very, very innocent amendment tabled against my name and I trust that even if it be massacred there will be some who feel that they will be doing their duty in voting for it. For

“ They are slaves who dare not be
In the right with two or three.”

The amendment reads thus :

“ That the following be added to clause 2 and necessary additions be made to clause 3:—

‘ 295-B. All books, pamphlets or other publications containing words or visible representations calculated to insult the religious feelings of any class of His Majesty’s subjects, if published outside India, shall be proscribed’

the word prosecuted as printed is a printer’s mistake :

“ and if published within India, be seized and destroyed by order of the magistrate within whose jurisdiction the publication takes place ’.”

If I am not mistaken, Sir, the supporters of this legislation are for inaugurating an era of peace and good will. But the clause 295A, which I suppose is going to be passed, is, as has already been doubted, not only by back benchers like me but by those who were on the Select Committee, likely to be almost a dead letter ; because the amendment made in the Select Committee that the offender must, with the *deliberate and malicious intention* of outraging the religious feelings of any class of His Majesty’s subjects, have done something which may bring him within the purview of that section—that amendment practically makes it impossible to bring anyone to book at all ; since as the Select Committee itself puts it, the burden of proof is going to be on the prosecution. And I am perfectly sure that when an offender is prosecuted under this section, and when any of my clever lawyer friends are engaged for the defence, like, my revered leader on my right side or my friend Mr. Jinnah on the left side, Mr. Iyengar or Jinnah will indulge in all his perplexing arguments or rapier thrusts against the poor prosecution witnesses, and will call upon them to prove what the malicious intention was. I am yet to know, Sir, how anybody is going to go deep into the heart of an individual and bring out the malice from there and place it before the assessors or the jurors or the lawyers and the judge. Therefore, Sir, in my humble layman’s opinion, whatever the learned legislators may say here is subject always to the other things that they may say elsewhere, and in my humble layman’s opinion it would be almost humanly impossible to prove that a man has said anything deliberately and maliciously to outrage the feelings of any class. Everybody will always take shelter and say that he has written only by way of honest criticism, that he wanted only to expose what he considered to be certain defects, and so on.

Mr. A. Rangaswami Iyengar : On a point of order, Sir. I consider that this amendment goes beyond the scope of the Bill. It tries to create another offence far graver and far more comprehensive than that contained in the original Bill. It also seeks to put power into the hands of the executive without any judicial cognisance. The amendment seeks to create, Sir, an altogether new offence which was not contemplated by the original Bill, and it goes beyond the scope of the Bill. Therefore, Sir, I beg your ruling on the point.

Mr. M. K. Acharya : I thought, Sir, that the Honourable Member was opposing it.

Mr. A. Rangaswami Iyengar : This is an amendment which goes beyond the scope of the Bill.

Mr. M. K. Acharya : Sir, I am explaining why I want this amendment to be made ; because I thought that, as there is some legislation here which seeks to prevent any ill-feeling spreading to any very large extent through scurrilous writings, the most innocent way of putting a stop to the spreading of this very, very strong agitation in these matters was to seize the publications which may be really offensive and stop any further mischief in the country. I am absolutely unable to comprehend how this attempt to prevent the mischief spreading is outside the scope of this legislation. But I dare say that the larger genius of the front benchers will have their play very soon.....

Mr. A. Rangaswami Iyengar : It is an addition to the procedure.

Mr. M. K. Acharya : But so far as I can see, what we are trying to do is—that is what has been said, and it is supposed to be the very purpose of this legislation—we are trying to inaugurate an era of inter-communal peace and good will, and of preventing unnecessary attacks being made upon the religious feelings of any large section of His Majesty's subjects. And I beg to submit, Sir, that it is perfectly right, nay it is our duty to see, that not only that the man is punished—for that is after all a very, very small matter, or that may be probably vindictive or whatever else it is—but we must put such publications out of harm's way. If, therefore, Sir, there is going to be any legislation, any really honest *bona fide* legislation that will help people, especially in the circumstances that obtain at present in the country, namely, circumstances causing great excitement, where even dramas and historical romances and things of that kind are taken exception to, then very necessarily it follows that, if there is any very large agitation in the country, in the interests of law and peace and order, which I suppose the executive are said to be keen to protect, certainly such publications as have caused such great agitation in the country ought to be brought under some form of restraint ; and the very least that we can do is to take hold of such publications and see that they do not go about fast circulating. Unfortunately, from the beginning of the world's creation, forbidden fruit has always tasted sweet ; and somehow those things, which have this stinging attack upon people, go about circulating like hot chestnuts, as my friend here remarked. I have never been to England, but apparently hot chestnuts are sold abundantly in the streets of England. Anyhow people like to have hot things, to warm their cold blood up ; and that is what has happened. Everybody who has got any self-respect in this House was talking vigorously about Miss Mayo's book. How are you going to deal with the book ? What would the jurors say if Miss Mayo were placed in the dock ? I suppose she would have a European jury. What would they say ? No malice ! They would say that from the innermost motherly abundance of her heart, of her great good will and her love and apostolic charity for Mother India it was that this book was written. That is the book that has caused the greatest annoyance to everyone with any self-respect in India. Take Mr. Pilcher's words the other day, my friend knows that the *Statesman* was prosecuted for merely reproducing that. I contend that it is the duty of the Government to see that these things do not go about circulating. It is a very small matter. I thought, from the way in which many people took my humble comments the other day, we were all agreed that these publica-

[Mr. M. K. Acharya.]

tions ought not to be allowed. What is the use of punishing one man and sending him to jail, when the book goes on circulating, when the publication is passed from hand to hand? Your object is absolutely defeated. One stupid fanatical man in jail does not solve the problem. My Muhammadan friends will reply emotionally. I sometimes wish my Hindu friends were emotional also. The publication will go on circulating like hot chestnuts as has been said. Therefore, Sir, I think my amendment is very much more effective, because punishing the man is going to be very troublesome. It will be very difficult to prove his malice, as I said. Of course the lawyers will have plenty of work. I am not going into that, that is for the other section; but if the Government be so pleased as to order a prosecution, which is very doubtful, I say it will be very, very paying to some of my able criminal lawyers. But how is the real malady to be treated? Where is the real physic to be administered? Where is the prevention after all? And therefore I submit, Sir, that with regard to books written in this vein, and whether they are deliberately malicious or not, the writer ought to take ample precaution to see that his book has not the result of offending the feelings of large communities. He must calculate all the effects of his book. It will not do to say: "Well, I am only interested in academic or philosophical discussion. In the other section it may be very difficult to deal with him where it will have to be proved directly that he had deliberate malicious intention to hurt their feelings. And even if there is not that deliberate intention, the speech or publication must be proscribed, if the words are reasonably calculated, in the opinion of reasonable people, to create feelings of great annoyance—strong feelings are sometimes roused up very much. Even in a very, very old philosopher like me, feelings are stirred up when my women or religion is insulted; it does not matter if I am myself insulted; but when my God is insulted, when my religion is insulted, and the womanhood of India is insulted when things of that kind happen, when our religion is made responsible for all these silly things, I ask, what great harm is done to anybody if these books are taken out of the market and kept out of harm's way? Somebody has said, "Love laughs at locksmiths". I may say "Knavery laughs at legislators!" The clever criminal knows how to defy the law. I know there will be some people who will clandestinely get these books, put them under their beds and read them. But no great harm can come out of that. They will not be able to circulate these books and openly and defiantly say "I am doing this and I am not going to be afraid of the law or the consequences of the pronouncements of judges". Therefore, I thought that this is the very least thing that we can do, if really we are serious. Of course Government may not be serious, but it is their lookout, but I assume that the Government are serious, or at least my friends believe that this is a very serious legislation which is going to help them. I do not myself believe it. I think this legislation is not going to help us very much. But if it is going to be of any use, let us see that such publications as really create all this great agitation in the minds of people, are brought within the purview of this Bill, so that we may prevent—we cannot, perhaps, altogether remedy—the spreading of any class of literature which is calculated to wound the religious feelings of people. There have been many instances in the recent history of our country—I am not going to refer to them here—how we poor Hindus have

been for centuries, many centuries, countless centuries, made to suffer patiently, uncomplainingly—I am not sorry for it—how we have been made to suffer on account of attacks made upon our religion, our religious habits and customs by people who do not know the A B C of spirituality or religion. Everybody of course cannot be expected to take the same sapient view of things, to laugh at these things and go away. Already we have got instances of people, of so-called enlightened people, even among comrades of mine in this House, feeling very greatly agitated, and wanting to pull down the High Court of Lahore or of other places. If that be the feeling in the country even among educated people, and if that feeling cannot be prevented from spreading, let us prevent at least the causes that will bring about such agitation. That is the purpose of my amendment. I do not believe that any good press or any good newspaper will come within the purview of this provision ; I do not believe that any press or any newspaper or any reasonable writer will go about using language calculated to wound the religious feelings of any large section of the community. If they do, then the least thing that we can do is to ask Government to put away those few copies of any paper or pamphlet out of harm's way. This is a very necessary thing, Sir ; and I submit, therefore, that if really this legislation is intended to be of any use and is going to prevent the spreading of writings which will infuriate people and lead them—somebody up here said—to snatch at each other's throats, then this is the very least thing that we can do. I appeal to the self-respect of both the Hindus and the Mussalmans to see that they do not complacently allow the circulation of books, publications and pamphlets that are calculated to hurt the religious feelings of any class of His Majesty's subjects.

Sir, I move my amendment.

Mr. K. Ahmed : There is a provision already in the law.

Mr. M. K. Acharya : What ? Has this been already provided for foreign publications also ?

The Honourable Mr. J. Crerar : I think I can offer an explanation which will persuade the Honourable Member that his amendment is not necessary. Perhaps the Honourable Member has overlooked sub-clause (i) of clause 3 of the Bill. It empowers the Local Government to declare forfeited to His Majesty copies of any literature offending against the Bill ; that is to say, any publication which constitutes an offence under clause 295A is *ipso facto* liable to forfeiture and copies thereof can be seized and forfeited in any part of India where it is found. I would only add that what is suggested in the Honourable Member's amendment certainly goes beyond the intentions of this House in referring the original Bill to the Select Committee ; it certainly goes beyond the scope of the commission which we imagined ourselves to have. I would also point out to the Honourable Member that his amendment could not in any case form part of clause 295A which is a penal clause and creates an offence.

Mr. President : The question is :

“ That the following be added to clause 2 and necessary additions be made to clause 3 :

‘ 259-B. All books, pamphlets or other publications containing words or visible representations calculated to insult the religious feelings of any class of

[Mr. President.]

His Majesty's subjects, if published outside India, shall be proscribed and if published within India be seized and destroyed by order of, the magistrate within whose jurisdiction the publication takes place."

The motion was negatived.

Mr. President : The question is :

"That clause 2 do stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Mr. President : The question is :

"That clause 3 do stand part of the Bill."

(At this stage some Honourable Members rose in their places including Mr. Abdul Haye.)

Mr. President : We have so far not made any change in the recommendations of the Select Committee. I wonder whether the Honourable Member from the Punjab wishes to press his amendment.

Mr. Abdul Haye : I wish to move my amendment. It runs as follows :.....

Mr. M. S. Sessa Ayyangar : I have got No. 32.

(Some other Honourable Members also said they had their amendments).

Mr. President : Amendments Nos. 23, 24 and 25 are consequential amendments. Amendment No. 26. Pandit Thakur Das Bhargava.

Mr. Amar Nath Dutt : May I say one thing in respect of my amendments ?

Mr. President : The Honourable Member's amendments are merely consequential.

Pandit Thakur Das Bhargava : I beg to move :

"Delete sub-clause (ii) of clause 3 and renumber sub-clauses (iii) and (iv) as (ii) and (iii), respectively."

A perusal of section 295 of the Indian Penal Code will establish that it deals with offences which are more heinous in their nature than the one which the present Bill seeks to penalise. Chapter No. XV deals with offences relating to religion.....

Mr. President : Order, order. The House now stands adjourned till 11 A.M. on Monday, the 19th instant.

The Assembly then adjourned till Eleven of the Clock on Monday, the 19th September, 1927.