

# COUNCIL OF STATE DEBATES

---

TUESDAY, 6th OCTOBER, 1931

Vol. II—No. 10

---

## OFFICIAL REPORT



### CONTENTS.

---

Questions and Answers.

Indian Press (Emergency Powers) Bill—Passed.

---

SIMLA  
GOVERNMENT OF INDIA PRESS  
1931

*Price Five Annas*

# COUNCIL OF STATE.

*Tuesday, 6th October, 1931.*

---

The Council met in the Council Chamber at Viceregal Lodge at Eleven of the Clock, the Honourable the President in the Chair.

---

## QUESTIONS AND ANSWERS.

### NUMBER OF MUHAMMADAN OFFICERS AND CLERKS IN THE HEAD OFFICES OF THE EASTERN BENGAL RAILWAY.

140. THE HONOURABLE MR. MAHMOOD SUHRAWARDY (on behalf of the Honourable Mr. Syed Abdul Hafeez) : Will Government please state the number, if any, of Muhammadan officers and clerks in the Head Offices of the Eastern Bengal Railway including the Personnel and Establishment branch.

THE HONOURABLE MR. J. C. B. DRAKE : There is no Muslim officer in the Headquarters offices of the Eastern Bengal Railway. Government have no information about the number of Muslim clerks in those offices, and regret that they are not prepared to call for details of communal representation in individual offices.

### CONFIRMATION OF TEMPORARY HANDS IN THE TICKET-CHECKING DEPARTMENT OF THE EASTERN BENGAL RAILWAY.

141. THE HONOURABLE MR. MAHMOOD SUHRAWARDY (on behalf of the Honourable Mr. Syed Abdul Hafeez) : (a) Will Government be pleased to state if it is a fact that there are only 28 permanent employees in the Ticket-checking Department of the Eastern Bengal Railway and that the rest, about 400 hands, are all temporary, and that several of the temporary hands have put in more than five years of service?

(b) If the answer to (a) is in the affirmative, why have the temporary hands not been confirmed?

THE HONOURABLE MR. J. C. B. DRAKE : I have called for certain information from the Agent, Eastern Bengal Railway, and will communicate with the Honourable Member on its receipt.

---

## INDIAN PRESS (EMERGENCY POWERS) BILL.

THE HONOURABLE MR. H. W. EMERSON (Home Secretary) : Sir, I move that the Bill to provide against the publication of matter inciting to or encouraging murder or violence, as passed by the Legislative Assembly, be taken into consideration.

Sir, in bringing forward any measure of legislation it is the business of Government to convince the Legislature that the powers for which they ask do not exceed what is necessary and what is reasonable.

[Mr. H. W. Emerson.]

It is particularly incumbent on Government to satisfy those two conditions when, as in the present instance, they propose to exercise some degree of control over the press. Public opinion in all countries is jealous of the freedom of the press, and in India it is rightly jealous lest at a time when its destiny is in the making restrictions should be placed on the expression of political views or on the exchange and conflict of ideas which might have the effect of impeding the attainment of legitimate aspirations. There has never been a time when the promotion of a sound and sane public opinion was more essential or when it was more necessary that the country should bring to the consideration and conclusion of the many problems which confront it a calm and cool judgment unbiassed by appeals to hatred and passion. If it were true that Government in bringing forward this measure were inspired by any desire to restrain the legitimate activities of the press, or even if without that desire the effect of this measure would be of this character, then it would be difficult to defend. I shall endeavour to convince the House that this is not so, and for this purpose I am prepared to accept the test which I have myself just indicated, that the powers for which Government ask are not in excess of what is reasonable and what is necessary. To this end I will ask the House to consider the provisions of the Bill in respect of the following matters :

*Firstly*, the character of the writings against which the Bill is directed.

*Secondly*, the class of publications it is intended to affect.

*Thirdly*, the particular section of the public to which the writings in question are designed to appeal.

I will take each of these matters in turn and will start with the nature of those writings which will come within the mischief of the law when this Bill is passed. The first point I would emphasise is that they are of very restricted scope. I would refer to clause 4 of the Bill, where they are defined as follows. In order to come within the mischief of the Bill the writings must either—

- “(a) incite to or encourage, or tend to incite to or to encourage, the commission of any offence of murder or any cognizable offence involving violence, or
- (b) directly or indirectly express approval or admiration of any such offence, or of any person, real or fictitious, who has committed or is alleged or represented to have committed any such offence.”

Broadly speaking, the writings against which it is intended to take preventive action are those which either give encouragement to murder or violence or which exalt the cult of assassination or assassins. The House I believe will not desire to contend that writings of this character exceed the limits of reason as well as decency. The necessity of the action requires little demonstration. Honourable Members have, I believe, received copies of a collection of extracts made from various newspapers which contain incitements to violence or the eulogy of murder and murderers. I hope they have been able at least to glance through those extracts, for I can conceive no more conclusive proof than they afford of the prevalence of the evil against which this Bill is directed. And I would ask the House to remember that, while this collection is fairly representative of writings in Bengal, it gives unhappily but a very inadequate idea of the extent to which similar writings

are published in other provinces. Had time permitted, it would have been a matter of the greatest ease to have made a compilation many times as large. Even so, Sir, the evidence is overwhelming. I would lay particular stress on two points. The spate of violence and hatred, which is daily pouring forth from a section of the vernacular press, is not confined to one or two newspapers. If Honourable Members will take the trouble they will see that there is a large number of publications which have the discredit of being represented in the collection which is in their hands. The compilation illustrates the extent to which the liberty of the press is being degraded and disfigured by the growth of a decadent type of journalism which is alien both to the traditions of the people and which is opposed to the principles followed by responsible journalists—of whom there are many in this country. The second point I would like to stress is the utter intolerance of these writings. It is not enough that they should contain insidious and often direct incitement to the murder of Government officials, whose only offence is the performance of their duty in difficult and trying times. They are almost as hostile to those who venture to differ from the creed they profess. In another place the Honourable the Law Member drew particular attention to this feature, and with his permission I will venture to quote some of the passages he cited and the comments he made on them. The first passage is the following :

“ The battle is bound to go on until a socialistic and communistic republic is established.”

And again :

“ We shall not be content with destroying the white-skinned English only, we want the destruction of the native black-skinned Englishmen too. We want the downfall of Gandhi who is religiously minded, a traitor to the nation and a patron of capitalists.”

Once more :

“ The fight for freedom cannot be an open fight ; we shall have to take to guerilla warfare. What will have to be done is a country-wide and a lasting terroristic movement.”

And the last quotation :

“ The Congress has reprobated such murders. The deeds of the young men indicate that these do not care for the Congress or the leaders, and they will and must go their own way..... In the Legislative Assembly there was a bomb explosion. Its fumes, like the lightning wave, spoke in every corner of India, and let it speak. May revolution live long ! Without destruction the work of construction cannot go on.”

Are such extracts, asked the Honourable the Law Member, indicative of the better mind of the country ? Are these passages a manifestation of the genius and culture of this age-long land ? His answer was an emphatic “ No ”, and that negative has been endorsed by the passage of the Bill through the Legislative Assembly by a substantial majority. I am confident that this House will give an equally clear reply. It may be contended, however, that writings of this character, although they merit condemnation in themselves, are not of such influence that their prevention alone will solve the problem of terrorism. That may be at once admitted. There is another collection in the hands of Members, a list of terrorist crimes committed during the past 2½ years, and a very ghastly record it is. The length of the list and the nature of the crimes shows that the evil is too widespread for any single measure to furnish an

[Mr. H. W. Emerson.]

effective and early remedy. But, Sir, of the several factors which contribute towards the encouragement of this movement there can be no doubt that the dissemination of inflammatory writings exerts the most potent influence. On this point Local Governments are unanimous, and if any further evidence were wanted it is to be found in the confession of many of those who have been detected in crimes of this character that their initiation on a career of crime dates from the time they took to reading revolutionary literature. But apart from the effect on the individual, there is another aspect of this matter to which I personally attach greater importance. The ultimate conclusion of terrorism in this country depends less on punitive and preventive measures, necessary as they are, than on the creation of a sound, sane public opinion and the growth of a spirit of revolt against the commission of infamous crimes that are bringing the country into grave discredit. There have been fortunately many signs during the past few months of influences working towards this end. But how, one may ask, can these influences possibly be successful when their efforts are being continually frustrated by the dissemination of writings of the character that are now before Honourable Members? Before there can be any progress in this direction it is necessary to rid the press of the poison which is now impeding a healthy course of action. And this suggests an answer to those who contend that this Bill represents an insidious attempt by Government to silence the press. Nothing could be more opposed to the interests of Government in fighting this movement than to check, by curtailing the liberties of the press, the progress of constitutional movements, for although he would be an optimist who would believe that the attainment of constitutional freedom will necessarily bring an end to this terrorist movement, still there is no reason to doubt that that attainment will restrict to a very large extent its activities.

I now come, Sir, to the second matter which I mentioned at the beginning of my speech, namely, the class of publications which will be affected by the Bill. I may say at once that no newspaper, which does not encourage the cult of violence or murder, has anything whatsoever to fear from its provisions. Moreover, any existing newspaper which may in the past have transgressed the limits now set by clause 4 has the remedy in its own hands. It can be subject to no inconvenience whatsoever unless and until it offends against the provisions of that clause; and I believe there are not a few newspapers the proprietors and publishers of which will be only too glad to be relieved of the publication of objectionable matter which either competition or example has induced them in the past to publish. There remains a third class of newspapers, namely, those whose set policy it is to influence the minds of their readers by direct or indirect incitements to violence. Their circulation depends on the vehemence of their writings and, whether their motive be greed or the desire to create a state of chaos, their writings are frankly revolutionary. They are usually of little standing and, needless to say, they are devoid of any sense of responsibility. They will continue their mischief so long as the law permits them to do so and they will employ every device in attempting to evade the consequences of the law. It is against publications of this kind that this Bill is mainly directed and its provisions have been framed with this class of newspaper particularly in view. I would ask Honourable Members to take particular notice of this point because it will be necessary to refer to it in connection with several of the amend-

ments that have been tabled. The House will, I think, have no hesitation in agreeing that papers of this class deserve no sympathy and that it is both necessary and reasonable that powers should be taken towards which will effect either their reform or in the alternative their suppression. The offence of these papers is the more heinous because of the objective of their appeal and this brings me to the third matter, namely, the special section of the public towards whom these newspapers direct their appeal. Some years ago, Mr. Eardley Norton, who at that time had an unrivalled experience of revolutionary trials, described the effect of inflammatory writings on securing recruits for the terrorist movement. Referring to the Alipore case, he recalled how youth after youth confessed that he had been practically debauched by the printed vernacular press of his own countrymen. And I do not think that he could have used a more appropriate term than the word "debauched" in stigmatising the process of degradation for which these papers are responsible. A portion of the youth of this country—thank Heaven it is only a small portion—is being daily debauched by articles and pamphlets so worded as to make a direct appeal to the young and immature. Appeals based on a false nationalism are being made to their courage and self-sacrifice and the promise of a martyr's crown is being offered to those guilty of crimes that shock humanity. The effects, Sir, are only too evident. To those who are in touch with this movement two tragedies stand out. The first is the wanton destruction of lives each of which in its own way has been spent in the service of India. The second is the record of those guilty of that destruction,—an almost invariable story of youth distorted and twisted from its proper purposes. If this Bill were necessary for no other purpose, it would find its justification in the necessity of preventing at least one means by which organised and deliberate attempts are being made to pervert the youth of India. On the facts as known to all of us, there can be no doubt of the necessity of a measure to check an evil which is going on before our eyes, and I would repeat that it is with the object of stopping this evil and with this object only that Government have brought forward this Bill. It is an emergency measure, the duration of which cannot exceed two years. Its compass has been reduced to the most narrow limits consistent with the attainment of its object and the machinery by which effect will be given to its purposes has been scrutinised with the utmost care so as to ensure that it is not in excess of the work it is required to do. That work it must perform, but, subject to this vital condition, Government have shown themselves ready to make such adjustments and adaptations as will mitigate its rigour, while not detracting appreciably from its efficacy. But I should deceive the House if I were to leave in any doubt the belief of Government that no more room exists for further adjustments and adaptations. Largely on their own initiative, they have gone to the utmost limits in removing any possible cause of inconvenience to newspapers which do not wish to associate themselves with this campaign of inflammatory writings. I claim, Sir, that the powers which this Bill is designed to give are not one jot in excess of its purpose and that the attainment of that purpose is a matter of necessity to the well-being and good name of the country. I am confident that this House will condemn in the clearest terms the cult of violence against which the Bill is directed and will give to Government the powers necessary to deal with one important aspect of it.

Sir, I move. (Applause.)

**THE HONOURABLE THE PRESIDENT :** The question is :

“ That the Bill to provide against the publication of matter inciting to or encouraging murder or violence, as passed by the Legislative Assembly, be taken into consideration.”

To that motion, as the House will have seen, there are three amendments tabled, printed as Nos. 1, 2 and 3 on the paper, all standing in the name of the Honourable Mr. Syed Hussain Imam. With regard to the first, which is “ That the consideration of the Bill be postponed for one day”, I have on various occasions pointed out to the House that a motion for the adjournment of a discussion can only be made with the permission of the Chair. The reasons for that ruling I need not go into now. In this particular case the Honourable Member’s amendment appears to me to be an attempt to go behind the order given from the Chair yesterday that the discussion should proceed to-day. It will obviously be wrong for the Chair to invite the House to express an opinion on a ruling already given on a matter which was entirely in the discretion of the Chair.

The second amendment is “ That the Bill be circulated for the purpose of eliciting opinion thereon ”. Rightly or wrongly the rules do not provide for such an amendment in the second Chamber. The only amendment that can be made in the second Chamber in certain circumstances is “ That the Bill be referred to a Select Committee ”. That is the substance of the Honourable Member’s third amendment. Ordinarily, as the Press Bill was introduced in the Legislative Assembly and was there referred to a Select Committee, that Bill could not again be referred to a Select Committee in this House, but owing to a procedure for various reasons adopted in the other place, it so happens that this particular Bill, which we are considering, has not been referred to a Select Committee and therefore the Honourable Member’s amendment is in order. If he desires to move it, I will call him now.

**\*THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM** (Bihar and Orissa : Muhammadan) : Sir, in moving the third amendment standing in my name, namely :

“ That the Bill, as passed by the Legislative Assembly, be committed to a Select Committee (the names of Members to be mentioned afterwards)”

I wish to say a few things. First of all I want to apologise to my colleagues in this House for bringing in this host of amendments which may inconvenience many of my friends. But in doing so I was guided by my thinking. As the representatives of the people it is our bounden duty to bring the grievances of the public before the Government. Whether the Government are prepared to redress them or not, that is not our business. Our duty is simply to bring them to the notice of the Government, and if we subordinate our duty to our convenience we will be failing in our duty to our constituencies. I assure my official friends that not only this House, but the whole of India and the intelligentsia is in agreement with them as far as the principle of this Bill is concerned. No one wants the terrorist movement to go on in India. It is not only harmful to the Government but it is harmful to the country as well, and we would be ready to support every legitimate attempt to suppress anarchical crime. But, Sir, we can

---

\*Speech not corrected by the Honourable Member.

be a party to suppressing the terrorist movement, but we cannot be a party to taking away the liberty of the Press. The Press in India is a means of educating public opinion. It is dear to our hearts and we do not like to see it gagged and muzzled. Liberty of expressing opinion on all matters of public importance is the inherent right of citizens as well as of the Press and if this right is taken away from us we are bound to take exception to it. There is the dictum of privileged occasion in law as well. This Bill is so wide, its provisions are so stringent and its applicability is so boundless that we dare not arm an irremovable, irresponsible and unresponsive bureaucracy with the enormous powers contained in this Bill. Had these powers been demanded by a Government responsible to the people, we might have given them those powers because we would have been assured then that they would not be misused. We would have had the guarantee that they would have to come before us and argue their case, and if they maladministered the provisions, they could be ousted. But with this Government, is there any possible check on their maladministration of the provisions? This is the reason why India demurs to giving these powers to the British Government. The people of India wish to be assured that the powers now sought are not such that they can be used as repressive measures to suppress the legitimate liberty of the Press. The main idea underlying all these amendments that I have brought forward is that there are certain provisions in this Bill under which even innocent persons are penalised together with the guilty. It is there that the main objection of the Legislatures lies. I will give you a few instances. In clause 3, the keeper of any new press which may be started may be required to deposit a security which may amount to Rs. 1,000. Those who are conversant with the vernacular press in India know that the cost of such a press is between Rs. 200 to Rs. 400. That is all that is required to start a vernacular press. The amount of the security is enormous compared with the cost of the press, and secondly, innocent persons, who have done nothing wrong, are in the first place asked to deposit a security which may amount to Rs. 1,000. We find that for people whose incomes are not fixed like our friends of the Government Benches, and who may not look with complete equanimity on the present troubled condition of the agriculturist and the trade depression, the amount of Rs. 1,000 is a little bit too much. There is another glaring instance of how the basic principles of law have been overlooked in drafting this Bill. Clause 18 (I) says :

“Whoever makes, sells, distributes, publishes or publicly exhibits or keeps for sale, distribution or publication, any unauthorised news-sheet or news-paper shall be punishable with imprisonment....”

Well, Sir, the unauthorised newspapers do not bear any seal or any glaring trade mark to show they are unauthorised. A news agent can have absolutely no knowledge whether a paper is authorised or not, and yet he is liable to imprisonment which may extend to six months or to a fine or to both. There is no saving clause that the news agent should be possessed of the knowledge.

**THE HONOURABLE THE PRESIDENT :** If the Honourable Member is going to move his amendment No. 89 on the list, I think he might reserve the remarks he is making till the moment when he does move that amendment.

**THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM :** I was just referring to instances, and this is one, of how innocent

[Mr. Abu Abdullah Syed Hussain Imam.]

people are being penalised along with the guilty. Then, as I have said, the amount demanded in the first instance, as well as the quantum of the subsequent demands of security are rather too high for the present depressed condition of India. Even in criminal trials the punishment for each crime is separately given and the usual practice is that the sentences run concurrently. Here a man can be penalised first as a printer and secondly as the publisher. One and the same person can be twice penalised and there is no provision in this Bill to take away this glaring injustice. The powers of the High Court are fixed by Statute, but this Bill wants to restrict the powers of the High Court as well and in a way it overrides the provisions of the Government of India Act. When this Bill was referred to a Select Committee of 11 Members, including the Honourable the Home Member, in the other place, the Home Member with five others formed a majority, while the remaining five submitted a note of dissent. The vote of the majority has been acted upon in framing this Bill. I am very glad that in the Assembly two amendments were accepted by the Honourable the Home Member. In drafting my amendments I have seen the first Bill and there are therefore two amendments which I will withdraw as they have already been accepted. Most of my amendments are based on the note of dissent of those five members of the Select Committee, Sir Hari Singh Gour and four others. That is one reason why I have made this motion for resubmission of the Bill to Select Committee. There is no doubt the Select Committee appointed in the other place did a great service to India. The Bill as originally brought forward has been materially changed. Many of its original glaring defects have already been removed, and if we have any objection left it is very slight and it is not at all so vehement as it was before. Therefore, Sir, I make this motion.

THE HONOURABLE SIR C. P. RAMASWAMI AYYAR (Law Member): Mr. President, Sir, I am in some confusion at the present moment inasmuch as the Honourable Member who has just finished speaking referred in some detail to the specific amendments which he has tabled and not so much to the main purpose of the amendment of which he was in charge, which is that this Bill be referred to a Select Committee. I propose, with your leave Mr. President, to deal only with that motion, the gist of which is this, that the Honourable Member wishes to persuade this House that the consideration that has been paid to this measure in the Select Committee in another place and the amendments moved in another place do not satisfy him. He is not content with the Bill as it has emerged from another place and desires the united wisdom of this Honourable House to impinge upon the measure so as to improve it. It may incidentally be observed that the amendments for which he has made himself responsible are *ipsissima verba* the same as those which were discussed in great detail and with much display of learning and ingenuity in another place. I have not—I may be corrected if I am wrong—observed in any of these amendments any material alterations from the amendments which engaged the attention of the Legislative Assembly, but I take it that the motive of the Honourable Member is to focus the attention of this House again on those points which have engaged the attention of the Legislative Assembly. In doing so he is perfectly within his province, but what I am desirous of pointing out to this House is this, that although I was not technically a member of

the Select Committee of the Legislative Assembly, I had the privilege of attending it and I wish to assure Honourable Members here that every point of view was presented which might mitigate what were conceived to be the rigours of the original Bill by men who had made a very careful study of its provisions and were anxious to round what they considered to be its corners. The Select Committee, as the result of its labours, put forward a Bill which I am glad to find the Honourable Member recognizes as a great improvement on the original Bill. He has also admitted that other amendments were accepted. But it was made clear in the Legislative Assembly during the debates that, while Government are anxious and have always been anxious to give the utmost latitude to the persons hit or intended to be hit by this measure there were certain essential safeguards and preliminaries which could not be whittled down thus practically nullifying the effect of this Bill. Let me put the proposition in another way. In many ways, as my Honourable friend himself admitted, the powers of the High Courts have been extended and ambiguities removed. A comparison of clause 4 of this Bill with the provisions of the old Press Act, which were the subject of comment and criticism in the famous *Comrade* case, would demonstrate how fundamentally different the provisions of clause 4 are from the provisions of the old Press Act and the Ordinance. It cannot be gainsaid that a great improvement has been the result, an improvement tending uniformly in the direction of the liberty of the press. But that having been said, this must also be added, namely, that it is not possible to effectively combat the evil—and a very real evil it is—unless a certain amount of latitude and initiative is given to the mechanism which my Honourable friend has characterised as the irresponsive and irresponsible bureaucracy. As a temporary member of that bureaucracy may I say this, that in every country the bureaucracy is essentially charged with certain executive functions. And all that is to be attempted and may legitimately be attempted, is to curb, if possible, the excesses or the possible excesses of that bureaucracy. That has been attempted, and I submit successfully attempted, in this Bill. My Honourable friend in the course of his remarks referred to the new presses as having no remedies if proceeded against under the powers vested in that bureaucracy. Let me point out to my Honourable friend that no High Court can ever adequately deal with a new press, because my Honourable friend would be the last person to burden the High Court with that defective or investigatory power acting on confidential information by virtue of which alone a bureaucracy can act and are to act in the case of new presses and which the High Court cannot utilise. Would my Honourable friend ask the High Court Judges in the exercise of their jurisdiction which is to decide upon evidence carefully sifted and analysed and placed before them in a particular manner, would my Honourable friend ask the High Court to investigate the career of a person and come to a conclusion whether security should be demanded or not? High Court Judges would resent being called upon to do that work on those materials, and the High Court is not the proper forum for that. On the other hand, in order to mitigate the possible rigours of that procedure and that policy, let my Honourable friend not forget that if for three months the new press is not guilty of publishing any offending matter, automatically, *ipso facto*, the security of that new press is refunded. That, I submit, is a safeguard which has been newly introduced into this Bill which ought to meet the desire of my Honourable friend. As to the old presses, the provisions are

[Sir C. P. Ramaswami Ayyar.]

adequate and numerous for the purpose of testing everything in the High Courts.

Mr. President, I do not desire to follow my Honourable friend into the details of this measure, but let me say this, that every attempt has been made not unduly to curtail but solely to restrict within proper bounds the restrictions upon the press. My Honourable friend referred also to clause 18 and if I may say so with all apologies his illustration was infelicitous. May I point out that the mischief which clause 18 seeks to deal with is this, that there are news-sheets publishing rank incitements to violence, without the name of the printer or publisher; certain powers have to be taken in order to prevent this. How are you going to do it supposing you do not find the name of the printer or publisher but a man is circulating it all over the country? That is the evil which is sought to be prevented by clause 18 and provisions, virtually drastic, are necessary having regard to the magnitude and the insidiousness.

**THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM :** If this is mentioned in clause 18, we might not have objection. That has not been mentioned.

**THE HONOURABLE SIR C. P. RAMASWAMI AYYAR :** If my Honourable friend will scrutinise that clause, he will realise the necessity for action against unauthorised news-sheets and I do not think his difficulties would be insuperable. But, Mr. President, I shall not proceed much further with detailed argument. All that I am anxious to point out is this, that this Bill and the amendments to this Bill have been scrutinised carefully—I admit not scrutinised by this House—but scrutinised thoroughly and in a workman-like manner elsewhere, and I do not think any real purpose will be served by referring this Bill again to a Select Committee. But if objections are felt by any Members of this House, my Honourable friend's diligence and ingenuity has provided this House with occasion for examining every comma and semi-colon in this Bill. Let me conclude by saying this. Going through the extracts, can anyone doubt that there is a real and great evil which has to be combated? I am very glad that my Honourable friend has recognised it. Somebody in another place referred to a writing on the wall. What do I regard as the real writing on the wall? What do I regard as the portent of the coming times? What do I regard as the chief obstacle to the fruition of India's ambitions? It is the emergence of this fanatical and misguided movement, this revolt against all ordered progress which is a menace to our future, that future in the greatness and certainty of which I am a firm believer. (Applause.)

**THE HONOURABLE THE PRESIDENT :** The question is :

“That the Bill, as passed by the Legislative Assembly, be referred to a Select Committee.”

The motion was negatived.

**THE HONOURABLE MR. MAHMOOD SUHRAWARDY (West Bengal : Muhammadan) :** Sir, in supporting this measure that is before the Council to-day, I wish to make a few observations. I welcome this measure, not as a repressive measure because repression is of doubtful merit, but because it is a

protective and preventive measure against writings that lead to incitements of crimes of violence and assassination, in newspapers and other publications of that nature. Therefore, Sir, at the very outset I feel it my duty to endorse wholeheartedly the following passage in His Excellency's memorable speech on Monday, the 14th September, when His Excellency Lord Willingdon addressed the Members of the Central Legislature, and when he referred to a disquieting feature of these tragic happenings as lying in the fact

“ that these outrages have been committed for the most part by immature youths who, at the most emotional and susceptible time of their lives, are being literally exploited through the teachings and writings of revolutionary leaders to carry out their criminal and murderous designs.”

Then His Excellency expressed the hope that he and his Government in the performance of their manifest duty could rely on the support of Honourable Members in taking all necessary and reasonable steps to stamp out these terrorist and revolutionary activities which were destroying the fair name of India in the eyes of the world. Sir, the House will concur with me when I say that all the non-official Members of this Honourable House will give their help in all necessary and reasonable steps to stamp out the terrorist and revolutionary activities. We are at one with the Government and His Excellency the Viceroy in thinking that these revolutionary activities and terrorist preachings are hampering the healthy and legitimate growth of Indian politics. There does not appear to be any Honourable Member of this House who is an advocate of violence and assassination, and I venture to suggest that our traditions and culture prevent the large majority of the people of our country sympathising with assassination and violence of all forms which we have undoubtedly seen within recent times. But, Sir, when we come to enact a measure which tends to prevent such violence and assassination I think my Honourable friends opposite will admit that we are entitled to examine as practical politicians with great clarity and precision, first to satisfy ourselves that the measure is going to have a beneficial effect, and secondly, that it is not going prejudicially to injure any body in the whole country. In order to do that, I think it may be useful to endeavour to analyse the forms of violence which we have seen in India during the last few months. I would divide them into three classes :

(a) There is the terrorist movement as opposed to the non-violence passive resistance movement.

There is a school of thought, however fallacious it may be, which still believes that without a show of violence, actual perpetration of violence, no constitutional advance in this country is possible.

(b) There is another school which has gone in for violence and assassination with a very different object. They desire to have no form of constitutional Government now or hereafter. They are unequivocal followers, of the *Third International*. They fear that any constitutional advance in this country will put off their goal. Their goal has been made very clear to us not only now but for some years.

(c) There is violence and assassination committed by reckless *impetuous* perhaps honest sometimes but misguided young men who, not belonging to

12 NOON.

[Mr. Mahmood Suhrawardy.]

either of the organized groups of violence I have just explained, are tempted to go in for violence and assassination with the hope of becoming patriots and martyrs by an hour or even a minute's work. I understand that the principal object of the Bill before us is to save and protect these impulsive and volatile young men from the fold of the terrorist party who provide them with literature which sends them to the gallows.

Let me candidly tell the House that I do not think any Press Act or a Press Law can prevent terrorism of the first kind I have explained. "It appears too optimistic that any control over the press will check the activity or the growth of that body. The only way to fight that terrorism and its suppression is to depend upon the ordinary penal laws and even more than that upon the sympathy and good will of the people." According to Lord Morley :

"The Indian people are peculiarly responsive to sympathy and personal influence and when the people are drawn to the side of the Government by sympathy the ground will become uncongenial for the growth of anarchism and it will cease to disturb the peace for want of recruits. A Press Law, the severest of its kind, is a weak check to the operations of the anarchist. It will hardly do much to dispel from the minds of educated Indians, that impatience and administrative limitations, that yearning for autonomy which is likely to be mistaken for sedition."

Truer words have not been said than what fell from Lord Morley on the occasion of introducing the Reform Scheme into the House of Lords :

"Supposing you abolish freedom of the Press or suspend it, that will not end the business, you will have to shut up schools and colleges ; for what would be the use of suppressing newspapers, if you do not shut the schools and colleges ? Will that be all ? You will have to stop the printing of unlicensed books. The possession of a copy of Milton or Burke, or Macaulay or Bright's speeches, and all that flashing array of writers and orators who are the glory of our grand, our noble English tongue—the possession of one of these books will, on this peculiar and puerile notion of Government, be like the possession of a bomb, and we shall have to direct the passing of an Explosive Books Act. All this and its various sequels and complements make a policy if you please. But after such a policy had produced a mute, sullen, muzzled, lifeless India, we could hardly call it as we do now, the brightest jewel in the Imperial Crown."

I admit, Sir, certain journals have incited the youth of the country to violence, but it is not for the suppression of them that the Bill has been introduced. They can be and are dealt with under the previous Acts. The only object of this Bill is to prevent the irresponsible Press, the irresponsible newspapers or news agencies which constantly incite to crimes of violence and encourage terrorist outrages by their writings and by their eulogies showered on those guilty of such crimes, from doing so. At the same time it is our duty to examine the question whether this measure will not affect adversely a large number of men who are at present in the journalistic profession. Let me repeat and request the Home Secretary opposite not to let this measure become an instrument of terror to the journalist in India. I believe, Sir, that it has one object and one object alone in view, that is to prevent any journalist from printing matter that may encourage young men to resort to assassination. Now for the second kind of terrorism, it can only be fought by our own countrymen themselves by propaganda.

I am quite prepared to admit that the perpetrators of the violence of the third kind suffer more than those upon whom they want to inflict any injury. It is

easy and cheap to be a patriot if one has a revolver and desires to use it indiscriminately, and if there is any one here or in the country who suggests on the platform and in the Press that the man who uses a revolver is a patriot and a martyr, that man deserves to go to prison ; but, Sir, it is our duty to see that the measure introduced will really effect what Government desire, namely, that these young men should not have provided for them literature which sends them to the gallows.

Lastly, Sir, I offer this criticism in all humility from a sense of duty and not in a spirit of opposition to Government. I realize their difficulties and I have no desire to embarrass them in the least in the presence of a portentous danger. I support the measure. I do not object to the Government assuming larger powers for the maintenance of law and order which is the first and foremost duty of all Governments.

Sir, in the words of a great Indian statesman :

“ Anarchism is not discriminating in its choice of victims, and is as much a menace to the peaceful citizen as to the official. Duty and self-interest alike therefore prompt the willing co-operation of the nation with Government in its crusade against this new pestilence.”

THE HONOURABLE SARDAR CHARANJIT SINGH (Punjab : Nominated Non-Official) : Sir, I rise to give my wholehearted support to this Bill and the objects underlying it. I have no hesitation in saying that it has not been introduced a day too soon. I agree that it is a very important measure but it is quite wrong to say that it is a repressive measure. Instead of being repressive, it is really to my mind a protective measure. It seeks to protect the youth of the country from being encouraged to commit violence. It also seeks to save the press from being even unintentionally the instrument of such misguided encouragement. We have heard a great deal about the liberty of the press. I admit it is a very noble sentiment and as such I cannot conceive its application to anything that is not good and noble. Now the Bill under consideration does not by any stretch of imagination take away that privilege and that right from the press. Not only that ; this Bill does not prevent any criticism of a Government measure nor does it discourage the advocacy of any practical policy, whether political, social or economic. Surely, Sir, the liberty of the press does not mean licence to indulge in writings of the kind which would excite passions and encourage the inexperienced to commit acts of violence. No one can deny for a moment that writings, like the extracts contained in the printed papers, are of this nature. Pernicious literature is a dangerous evil and is undoubtedly responsible for a good deal of crime, and when you find writings of this nature it is, I submit, moonshine to talk of the freedom of the Press. One Honourable Member said, ‘ Why not have recourse to the ordinary law ? ’ That point has been dealt with by my Honourable friend the Home Member in another place. I would only add that prevention is better than cure. A great Persian poet has said :

\*“ *Sar i chashma baid giriftan ba meel, cho pur shud, na shaid guzashtan ba peel* ”.

I do not think it is necessary for me to impress on the Honourable Members of this House that the situation is serious. It is evident from the fact that while

---

\*“ The flow of a spring in its initial stage can be checked by the insertion of a needle in its outlet, but when once it is in full flow it cannot be crossed even on an elephant.”

[Sardar Charanjit Singh.]

the number of crimes was 19 in 1929, it rose to 74 in 1930 and to 118 in 1931 up to the end of August only. Is it not a great menace to the very foundations of peace and security and does it not create a situation for which an emergency legislation is necessary? To ask to postpone it even for a few months is really pushing things intolerably far.

In conclusion, Sir, I should like to say that while we are about to launch the ship of the new constitution, is it not desirable to have a calm and unruffled sea without a revolver and a bomb, so that we should reach the port of our destination in safety? I would remind Honourable Members of what another poet has said :

\*“ *Kishti nishast gānem, ai badi shurta bar khez.*

*Ia ki bāz beenēm ān yar āshna ra.”*

THE HONOURABLE SARDAR BAHADUR SHIVDEV SINGH UBEROI (Punjab : Sikh) : Sir, I will begin my remarks by quoting three sentences out of the most memorable speech delivered on the 14th of September by His Excellency the Viceroy, a Viceroy whose sagacity, whose statesmanship and wisdom and love for the aspirations of India are unrivalled and unquestioned and who in one of his first speeches said that he would wish to be a constitutional Viceroy and Governor General of India. His Excellency said :

“ It is surely a time when, more than ever before, all races, classes and communities in India should cultivate the spirit of co-operation, of mutual confidence and trust, for is it not true to say that we all have a great common purpose in view, namely, the handing over to Indians the responsibility of the administration of their local affairs, with a view to securing for India an absolutely equal position alongside the other Dominions within the British Empire? ”

The first question which I venture to put to the Honourable framers of this measure is this, whether such a measure will develop mutual confidence and trust between the governed and the governors, or will it widen the gulf, and is it not the most inopportune time when such a measure, which although it may be considered very necessary to check the growing tendencies of the revolutionaries, ought to have been brought before the country and their representatives, the Central Legislatures, for their assent? In the second place, His Excellency said :

“ The Federal Structure Committee in London has already resumed its labours accompanied by the good wishes of all in India, and I must emphasise once again the supreme desirability of maintaining peaceful conditions in India during the discussions which are now taking place, and I appeal with all the emphasis at my command to those who have the interests of this great country at heart to preserve an atmosphere of peace and tranquillity.

The second question which I very respectfully put to Honourable Members is whether such a measure, which has met with a storm of opposition from all

---

\*“ We are sailing in a boat,  
O! wind blow favourably.  
Perhaps we may be able to see that dear beloved.”

the responsible Indian Press, which has been opposed by almost all the non-official Members in the other Chamber, which it is feared by every well-wisher of India would produce disastrous effects to curb the liberty of the Press in India, will develop peaceful conditions in this country or whether it will serve to disturb the whole country as unfortunately in 1919 the most famous Rowlatt Act had done? The third sentence from the speech of His Excellency was expressed in these words :

“ I am confident that I and my Government in the performance of our manifest duty can rely on the support of Honourable Members in taking all necessary and reasonable steps to stamp out these terrorist and revolutionary activities which are destroying the fair name of India in the eyes of the world.”

With regard to this, Sir, let me explain at once that every well-wisher of India is at one with the sentiments expressed by His Excellency the Viceroy. We all wish and pray to the Almighty that conditions in India may remain so smooth and peaceful that the representatives of our country who are in England may do their duty in convincing British statesmen and in getting what is most dear and what is most loved by Indians. Every adequate step which the public can take to support the Government in suppressing this unhealthy movement will be quite willingly placed at the disposal of the Government. Myself, Sir, and the community whom I have the honour to represent here in this Honourable House have always been in favour of constitutional means for getting political rights for themselves and for the country. I venture to say that every attempt to suppress such a movement which is unanimously condemned would have our support—not only our sympathy but our active support. But the question, Sir, which has been troubling my mind during the short time which has been at the disposal of Honourable Members of this House is this, whether such a measure would bring the results which it is intended to bring. Of course, the object of bringing forward such a measure is, as I have already said, such with which we are all in sympathy. We are all convinced in our hearts that India cannot progress with the existence of such a revolutionary body in this country which must be suppressed at all costs. We must have constitutional progress and constitutional ways to attain our object. The highest of the leaders of the Congress, the opposition party, if I may say so, to Government, has expressed his view in most clear language. And as far as I know, Sir, all the responsible Indian papers have at all times, when such diabolical acts have been committed, condemned them in most clear language. Everybody who is striving for the political rights of the country has also done so. But it is a question whether the writings in the press have encouraged this movement or whether there are other causes at the root of it. I would respectfully say that those other causes should be also diagnosed. I have no hesitation in admitting, Sir, that the tone of some of the vernacular papers has been most objectionable and obnoxious, and no countryman of mine can be proud of it. But to punish all pressmen for the faults of some would not be just at all. If this Bill is passed into law the fear is that it will hamper the progress of an industry by which many people earn their livelihood these days. My Honourable friend the Home Secretary has said that there is no desire on the part of the Government to suppress this industry or to discourage it. I quite admit it. The Government, the framers of this law, have no such desire, but the question is whether, if this Bill is passed into law, will not incidentally result in curbing the press and bringing

[Sardar Bahadur Shivdev Singh Uberoi.]

it under the thumb of the Government ? It is one thing to pass a legislative measure, it is another thing to act upon that measure. The carrying out of measures does not lie in the hands of the framers of the law ; but lies in the hands of subordinates. For instance, the Criminal Procedure Code provides for the dispersal of an unlawful assembly by force, and it has been said many times on the floor of local Councils as well as of the Central Legislature that only the minimum force had been used to disperse some particular unlawful assembly. I have been unfortunately the witness of some dispersals of such assemblies which were declared unlawful and I can say without fear of contradiction that those who composed those assemblies were taken away in ambulances, some very seriously injured. And apart from the actual unlawful assembly, spectators were also attacked and not only attacked but robbed. Those matters have been brought to the notice of the authorities. This is how some of the Acts are carried out. In regard to this question of responsibility, Sir, while admitting that the tone of some of the papers is objectionable and obnoxious and might incite some raw youths to acts of violence, I do not place the responsibility wholly on those papers. With all respect and with a little frankness I would say that what has struck me is that the responsibility lies more on the shoulders of those who administer law and order in the lower strata of the services. Consider for a moment what led to the most unfortunate murder of a Superintendent of Police in the Punjab. Some raw youths had the seed of revolution in their hearts and that seed was watered by a little incident which took place on the arrival of the members of the Simon Commission at Lahore. Those raw youths were certainly excited and they wanted to take revenge for a few strokes which struck one of the leaders of the Punjab. What I mean to say is this, that though I admit there is no desire on the part of the framers of this law....

**THE HONOURABLE THE PRESIDENT :** The Honourable Member is repeating himself over and over again, saying that there is no desire on the part of the framers of this legislation to misuse it. He has said that quite six times and I cannot allow him to say it again.

**THE HONOURABLE SARDAR BAHADUR SHIVDEV SINGH UBEROI :** Very well, Sir, I will not repeat it again. With regard to the merits of this measure, as I have said before, the press is an important industry in this country. It is a sort of home industry in which many people are engaged. If every keeper of a press is called upon to give security of not less than Rs. 500, he will be very hard hit. The whole capital invested in an ordinary press printing in Urdu or Hindi or Gurmukhi would not be more than Rs. 500, and if the keeper is called upon to give a security of Rs. 500 without getting any interest for that security he will not be able to run it and may perhaps prefer not to start the press. And if, for instance, he, with very good intentions, happens to print a paper which in the opinion of the Magistrate or the Local Government, as the case may be, appears to be covered by section 4 of this Bill, his press or his security would be forfeited to Government. With regard to this point, Sir, I wish to point out that without giving a chance to such an offender of explaining the order of forfeiture would be passed. This, in my humble opinion, appears to be against all canons of justice, equity and jurisprudence. The Local Governments act upon the advice of their

subordinate officials and the magistrates have got their own tendencies. If any paper ever writes a criticism on the working of any local magistrate, that paper would be under the disadvantage of being called upon to furnish a security and every little.....

**THE HONOURABLE MR. H. W. EMERSON :** May I ask under what clause of the Bill the paper would be liable to give security ?

**THE HONOURABLE SARDAR BAHADUR SHIVDEV SINGH UBEROI :** The paper may be called upon to give security.

**THE HONOURABLE MR. H. W. EMERSON :** For writing anything against a magistrate ? For making a statement against a magistrate ?

**THE HONOURABLE SARDAR BAHADUR SHIVDEV SINGH UBEROI :** Not for that, but human nature cannot be forgotten. He would be dealt with and without hearing him the press and the security would be forfeited to Government. Certainly there is a right of appeal to the High Court. But the men who start a press for livelihood would not be able to pay heavy fees to lawyers and bear other expenses connected with an appeal, but they would prefer with discontent to yield to the order of the magistrate. Whilst I am in agreement with honest attempts to suppress this, I must say that if these malcontents in the country are increasing, the hands of the saviour are much stronger than the hands of murder. We have got instances, happy instances, of how our popular Governors were saved in spite of the dastardly attempts. We have another instance when the life of His Excellency the Governor of Bombay was saved. We all do want that these men should be hanged and punished according to law. But the question is whether this measure will bring that result. Does your present penal law not contain necessary provision to deal with such offences ? There is a question which I respectfully ask the framers of this clause. Do not sections 505 and 117 of the Indian Penal Code and some sections of the Criminal Procedure Code arm you with sufficient power to cope with such offences ? If they are sufficient to cope with such offences, then pray do not press this measure which is sure to spread much disaffection in the country at the present time when peace is essential in the country.

**THE HONOURABLE MAJOR NAWAB SIR MAHOMED AKBAR KHAN** (North-West Frontier Province : Nominated Non-Official) : Sir, it is a matter of common knowledge to all in this Honourable House that crimes of terrorism are on the increase in India for a period of more than two years. From the statement of terrorists crimes supplied by the Government, Honourable Members can see for themselves that the number of these crimes in 1929 was 18 only. In 1930 the number increased to 66, while up to the end of August last it has reached the figure of 118, *i.e.*, more than twice the number in the last year and six times more than in the year preceding the last one. At the same time the number of murders or attempts on the lives of Government officials and others in the year 1930 is reported to be 61, while it has reached the figure of 40 up to the end of the month of August in the current year. Now, Sir, there is some reason which can be assigned for this increase in crimes of a terrorist nature, and to a man of unbiased opinion it is no other than the praise and eulogy of the doers of such crimes which is chiefly responsible for their commitment. It is a matter of extreme regret to see that such heinous crimes involving deaths,

[Major Nawab Sir Mahomed Akbar Khan.]

of, or serious injuries to, the persons aimed at are being looked upon as deeds for approval and commendation by irresponsible persons and through them by a portion of the public. Sir, there are always two sides of a thing, deed or action, good as well as bad, and it is the approval or condemnation of an action which is chiefly responsible for bringing out some more adherents to it or none to support it except the first offender. The trend of the Indian Press, as it is running at present, is largely responsible for inciting the youths of the country to such terrorist crimes and thus increasing their number every next day.

From the statement of extracts from newspapers I would like to quote a few instances of the way in which such crimes of terrorism are being looked upon by the Press, with the consequences that it is proving a great source of incitement to the youths and thus encouraging them to take to such deeds without giving a second thought to their way of action.

On page 3, Mr. Nariman, while recalling his interview with Bhagat Singh in Lahore Jail, says :

“ Their (Bhagat Singh and his companions) only anxiety was to ascertain whether the youths of the country would carry on the fight for freedom which they have started.”

On page 4, Mr. Ganpati Shanker, while seconding a resolution admiring the patriotism of Bhagat Singh and others, remarked :

“ Bhagat Singh's only desire was to awaken the youths of the country and inspire them to serve the country.”

On page 5, paragraph 2 describes Bhagat Singh and others :

“ to be living no longer. In their death lies their victory. Let there be no mistaking it . . . . . to the Nation Bhagat Singh and colleagues will ever remain the symbols of Martyrdom in the cause of freedom.”

On page 6, paragraph 4, Bhagat Singh is described as :

“ the symbol of spirit of revolt which has captured the hearts of Young India.”

THE HONOURABLE SARDAR BAHADUR SHIVDEV SINGH UBEROI : We have no sympathy with them at all.

THE HONOURABLE MAJOR NAWAB SIR MAHOMED AKBAR KHAN : When one reads a thing, one must read carefully and come to conclusions.

On page 10, paragraph 1 describes Bhagat Singh and others :

“ to have gained immortality by embracing death. They never applied to Government for mercy with a view to save their own lives. They were heroes and though they have departed they have undoubtedly left an undying impression on the minds of the people.”

Writings of this kind are sure to incite and encourage the young men to take to the deeds committed by Bhagat Singh and his companions. Honestly speaking it is the praise and commendation of their terrorist crimes that have brought about so many murders and attempts at murder after the execution of these three men of the Lahore Conspiracy Case. Had there been no commendation of their actions by means of passing resolutions admiring their spirit of bravery and patriotism and inviting young men to follow in their footsteps to achieve freedom, there would not have been such a long list of horrible crimes which every peace-loving citizen shudders to think of. It is high time therefore to put a stop to the progress of such events and adopt a

measure to check this spirit of praising crimes of terrorism which in case it is allowed to proceed unchecked will one day endanger everybody's life.

So far I am quite in agreement with the adoption of this measure which provides against the publication of matters inciting to or encouraging murder or violence, but in case it provides for any restriction against the legitimate criticism of any official or Local Government, I am sorry I will have to hesitate to lend my support to this Bill. It is the birth-right of every citizen of His Majesty's subjects to expose the abuses and unnecessary favouritism of an official or Local Government at the sacrifice of others. The exposition of such abuses and irregularities should not be considered as matters of incitement and should not therefore be dealt with under the provisions of this Bill. There is a Persian couplet by Shaikh Saadi which means that if the King accedes to the taking of an egg unconstitutionally, his adherents are sure to put more than a hundred thousand fowls on an iron bar to be roasted. There should be a clear distinction between the incitement and legitimate criticism and exposition of abuses by way of illegitimate favouritism of an official or Local Government. If the Bill is intended to check the publication of inciting matters to terrorism, it has my hearty support, but if it is for stifling the legitimate criticism of an official or Local Government, or rightful aspiration of every subject of His Majesty, I for one will decline to have anything to do with such a measure. Liberty is the birth-right of every citizen of His Majesty's subjects and so long as the present Bill does not interfere with a paper or an individual's right to ventilate one's grievances or expose the abuses of any administration it will be heartily welcomed by every peace-loving citizen. The ordinary law of the country provides that if a person or a paper is falsely criticising an official or any Local Government, he can be run in for defamation in the regular Court. Consequently, in case the present law is not going to interfere with the legitimate rights of the citizens of His Majesty, but its application is only restricted to the terrorists and their colleagues who are inciting the people to commit crimes of terrorism, I have no hesitation to support it whole-heartedly.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I rise to support the motion of the Honourable the Home Secretary. The Indian religions, traditions and culture prevent us from doing acts of violence or murder. This House ought to co-operate with the Government and help them in piloting this Bill through this House in order to get rid of anarchy, terrorism and violence in a reasonable and appropriate manner, without interfering with the honest criticism and independence of the press. The fundamental principles underlying the liberty of the press must be safeguarded. It is a great pity, Sir, that a revolutionary party is undoubtedly in existence in India and its activities are on the increase despite its denunciation by Mahatma Gandhi and all other political bodies. The dastardly and diabolical murder of public servants and the attempts on the lives of the two provincial Governors is a patent fact and the country has condemned these heinous crimes with a strong voice. The object in view in this Bill cannot be achieved only by control of the press. Now, Sir, what we find is that fiery leaflets and the speeches on the platform and in the processions are becoming a source of incitement to violence to a very great extent. From the platform inflammatory speeches and appeals in the name of religion are

[Rai Bahadur Lala Ram Saran Das.]

made which make many people lose their balance of mind and do acts of violence and crime. For an example, Sir, I will say that in the Punjab processions are seen going round the bazaars and streets, crying seditious and fiery slogans and inciting people to violence. One of the common slogans to be heard in the Punjab bazaars, for instance, is "*Nahin rakhne aisi zalim sarkar; nahin rakhne*" (meaning, we will not have such a tyrant Government). Such slogans and their repetition from day to day do very much more harm than the press can ever attempt to do. Now, Sir, we find that fiery processions and inflammatory speeches on the platform are on the increase in the Punjab and perhaps in other provinces against His Highness the Maharaja Bahadur of Kashmir. The people are crying slogans "Down with the Dogra Raj. Destroy the Dogra Dynasty and the Maharaja", and so on.

THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM :  
Can we discuss conditions in the Native States here ?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : I am simply citing examples, that from the processions and from these fiery speeches and slogans which are repeated in the bazaars and on the platforms much more harm is being done. My Honourable friend wanted to interrupt me, but I am not going out of my province here in saying that the existence of this fiery propaganda in the streets and bazaars in the Punjab has resulted in violence and terrorism and in a sort of rebellion in Kashmir. I wish, Sir, that the Government had taken measures under the powers which they have in their possession. The Princes Protection Act, as far as I am aware, Sir, was not brought into force and thus a sort of encouragement was given to such vile propaganda which had its echo in Kashmir.

THE HONOURABLE MAJOR NAWAB SIR MAHOMED AKBAR KHAN :  
We are not discussing anything about the Ruling Chiefs. This does not concern the Ruling Chiefs, my dear friend.

THE HONOURABLE THE PRESIDENT : Order, order.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : I am not talking of Ruling Chiefs, I may tell my dear Nawab Sahib. Sir, I am simply citing illustrations which prove that the processions and the platforms are doing a great deal more harm than the press in inciting to violence and crime. It is, Sir, our sacred duty, therefore, to remove what His Excellency Lord Irwin rightly described as a malignant cancer in the life of India.

Sir, I wish that due safeguards should be kept and orders issued to the Executive to apply the provisions of this Bill only when they really apprehend a breach of the peace from propaganda of violence or crime. With these words, Sir, I support the motion.

THE HONOURABLE MR. P. H. BROWNE (Bengal Chamber of Commerce) : Mr. President, I think it must be very gratifying to the Home Department and to the Government of India to hear the general support which we have listened to from a number of non-official Members to this Bill. I think that even the Honourable Member who has put forward numberless amendments must feel that there is a strong feeling that the Bill as it has emerged from the Select Committee of the other House is well drafted and that

no corrections that he can put into it will make it more acceptable to this House. We have heard a number of unofficial Members from the Punjab and other places expressing their approval. I wish to say a few words from the point of view of Bengal.

On the 27th July Mr. Garlick was foully murdered by a lad in his court in Alipore. On the 21st August Mr. Cassells escaped death at the hands of another lad by an act of God. It was pure chance that Mr. Cassells was wounded and not foully murdered at Tangail. On the 30th August a Mussalman Inspector of Police was foully murdered by another lad on a football ground in Chittagong. There have been numberless other dacoities all over Bengal, and in the cases in which the miscreants have been traced, they have practically all been lads. It is obviously important for us all and for Government to find out what is leading these lads towards this disastrous campaign. I do not think any sane man or woman can say, after reading the specimens of extracts of newspapers, etc., which have been furnished to various Members of this House, that the Press as allowed to work in this country to-day is not responsible for a considerable amount of this child digression, and I congratulate the Government on deciding that it was absolutely necessary to take steps to obtain further control of the Press. I am assured that the Bill as drafted, or rather as passed by the Select Committee, will enable Local Governments to take definite steps to stop such eulogy of murder and violence as we read in these press extracts and to reduce the inflammatory type of publication which is being issued in all directions. I strongly support this Bill as now before the House. I also bring this point with all seriousness before the Government. It is essential that the body politic should be protected and it is, I consider, necessary to dig further down to ascertain where these lads are being led astray and to consider seriously what better control can be taken of the position. A number of these lads are or should be under the control of their parents. But a point which calls for immediate investigation is, what are the fathers doing in order to bring their sons up as decent and respectable members of the community instead of allowing them to run wild as they do at present. In commending this Bill I would also ask Government to consider very seriously whether in the districts, particularly in the districts from which a number of these lads come, it would not be possible to summon a meeting of the parents and go into the question with them as to whether better control cannot be exercised with regard to the boys and to further consider whether a deposit on the lines of the Press Bill could not be taken from the parents to ensure good behaviour of these lads in the future. As I say, the body politic must be protected and I feel that it is up to the Government to devise further means for protecting it. I strongly support this Bill.

THE HONOURABLE SARDAR SHRI JAGANNATH MAHARAJ PANDIT (Bombay: Non-Muhammadan): Sir, I rise to support the Bill moved by the Honourable the Home Secretary. In endorsing my humble opinion on the Bill, I think, Sir, that the Bill as passed by the Legislative Assembly, in its present form, is quite good and needs no further amendment as it has practically been through all sorts of stages by the moving of amendments and the making of lengthy speeches in the other House.

[Sardar Shri Jagannath Maharaj Pandit.]

The unhappy incident which happened recently in Poona in the Ferguson College is known to all. The unfortunate attempt to shoot His Excellency the Governor of Bombay is quite sufficient to prove the necessity for introducing a measure of this sort. I hope my Honourable friend Mr. Imam will not go through all the amendments which are down in his name. With these words, Sir, I fully support the Bill.

1 P.M.  
 THE HONOURABLE MR. H. W. EMERSON : Sir, I would like to express the great appreciation of Government for the almost unanimous support of the Bill that has been voiced by Honourable Members. I should have liked to have said unanimous, but I am left in some doubt as to whether the Honourable Member from Sialkot desires to support the Bill or not.

THE HONOURABLE SARDAR BAHADUR SHIVDEV SINGH UBEROI : I will not oppose its passage but I had to express my feelings, which I have done.

THE HONOURABLE MR. H. W. EMERSON : I might then say unanimous support. I do not think it is necessary for me to deal at any length with the points raised by various Honourable Members, but there are just one or two matters to which I should like to refer. The first of these is the question as to why the ordinary law cannot be effectively applied against the evil which this Bill is designed to prevent. I would first stress the point that this measure is not punitive so much as preventive. The Honourable Mr. Browne has drawn attention to the great desirability of checking the growth of this movement among the young, and surely a Bill which prevents writings of the kind which are illustrated in the collection of extracts from newspapers, is a measure which is designed to stop at least one of the influences which at present are leading the youth of the country astray. There is no other provision in the ordinary law which can effect this purpose, and surely it is better that there should be a preventing measure of this kind than that the ordinary law should be brought into operation to punish youths after they have committed monstrous offences. Again, in so far as this measure is intended to be used against publishers and printers who abuse the liberty of the press, it will prove a more effective measure than the operation of the ordinary law. The Honourable Member from Sialkot quoted several sections of the ordinary law, but it has to be remembered that if the law is to be effective against writings of the kind now in question it must be capable of application against the persons who are responsible for those writings and not against mere dummies whom they place nominally in a position of trust but who are merely hirelings. That practice is of course extremely common, and it is a matter of the utmost difficulty to suppress a newspaper guilty of a continuous seditious writings by a serious prosecution. I think the Honourable Member from Sialkot will remember that that experiment has been tried in the case of several newspapers in the Punjab and without success. In a quite recent case, for instance—again from the Punjab—a so-called Editor who was accused under section 124-A made the following statement in court :

“ I joined the newspaper on the 19th March, 1931, on a salary of Rs. 30. While I am sent to jail the allowance for actual expenses is raised from Rs. 30 to Rs. 50. In return I filed the declaration in my own name as printer and publisher of the newspaper. I for myself am unable to write decent editorial comments and the actual work of Editor was carried on by the Assistant Editor, the Sub-Editor and the Reporters.”

Well, there is of course nothing new in that statement. It is a practice carried on in all parts of India and it explains why the ordinary law is quite ineffective against writings of the kind we have now under consideration.

**THE HONOURABLE SARDAR BAHADUR SHIVDEV SINGH UBEROI :** You should then revise the whole Indian Penal Code because these crimes you say are taking place all over the country.

**THE HONOURABLE MR. H. W. EMERSON :** The Honourable Member's co-operation extends to every possible measure except the one he is now asked to support. Then there was a second point raised, namely, that the powers to be given by this Bill are likely to be abused because they rest in the hands of subordinate authorities. Now when the Honourable Member made that criticism I really think he cannot have read the Bill, because the only two authorities that are given powers under this Bill with regard to newspapers and presses are, firstly, the District Magistrate—and his powers are strictly limited—and secondly, the Local Government; and no order forfeiting security or forfeiting anything else can be passed by an authority lower than the Local Government. I do not think therefore that there is any danger of abuse of this measure by subordinate authorities.

The last point on which I should like to say just a few words is the apprehension that has been expressed that this Bill may destroy an honourable profession, that it is aimed against journalists as a whole and it will be a matter of the greatest difficulty in future for any honest journalist to make a living. There is nothing in the Bill that gives the slightest support to that view. No journalist engaged on any existing newspaper can be caused the slightest inconvenience unless he writes stuff that incites to murder or violence, and if he does write stuff of that sort then I do not think this House will want to extend to him the slightest sympathy. For the many journalists in this country who desire to carry on their profession according to reasonable principles of journalism there is not the slightest danger from this Bill. In fact, Government look to this Bill to assist them in creating a sound and healthy public opinion, and in their opinion this is one of the main advantages which they hope to derive from this measure.

**THE HONOURABLE THE PRESIDENT :** The question is :

“That the Bill to provide against the publication of matter inciting to or encouraging murder or violence, as passed by the Legislative Assembly, be taken into consideration.”

The motion was adopted.

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

The Council reassembled after Lunch at Half Past Two of the Clock, the Honourable the President in the Chair.

**THE HONOURABLE THE PRESIDENT :** The question is :

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

The motion was adopted.

Clause 2 was added to the Bill.

**THE HONOURABLE THE PRESIDENT :** Clause 3. The first amendment standing in the Honourable Member's name is not in order. The motion now before the House is that clause 3 do stand part of the Bill. An amendment to a motion cannot be in the form of a direct negative and therefore an amendment that clause 3 do not stand part of the Bill is not in order. The Honourable Member may move amendment No. 11. It is open to him of course to speak against clause 3 as a whole and also to vote against it but it is not open to him to move an amendment that it be omitted.

**\*THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM :** I wish to move amendment No. 13, Sir :

“That in sub-clause (1) of clause 3 for the words ‘one thousand’ the words ‘five hundred’ be substituted.”

I have not got anything to urge in favour of this amendment of mine. It has been urged many times in the Assembly and outside. The only point about this is that if a press is newly started it should not be penalised by being asked to deposit a thousand rupees, although it is only for three months.

**THE HONOURABLE MR. H. W. EMERSON :** Sir, speaking this morning I drew attention to the class of newspapers whose deliberate policy it is to spread inflammatory writings ; I said that they would continue their mischief so long as the law allowed them to do so and that they would adopt every device to escape its consequences. Now, if it were merely a question of dealing with new presses Government might be inclined to consider favourably the reduction of the security but what is certain to happen is this. An existing press will be called upon to deposit security because it has printed certain writings which come within the mischief of clause 4. Instead of depositing security, the press will close down and within a week or so that press will be removed a few hundred yards away to another street where it will again continue to print objectionable matter. In this respect the House should remember that many of the presses to be dealt with under this Bill are quite small presses that can be removed quietly at night in a bullock cart. Thus a number of presses that will come under the provisions of clause 3 will not be new presses at all, but presses which are deliberately attempting to evade the law. I think the House will agree that for a press of that sort a security of one thousand rupees is not excessive. Mainly on this ground I oppose the amendment.

**THE HONOURABLE THE PRESIDENT :** The question is :

“That in sub-clause (1) of clause 3 for the words ‘one thousand’ the words ‘five hundred’ be substituted.”

The motion was negatived.

**THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM :** I want a division, Sir.

**THE HONOURABLE THE PRESIDENT :** The Honourable Member did not even challenge the decision on voices. He did not even vote for his own amendment.

---

\*Speech not corrected by the Honourable Member.

**THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM :** I did, Sir.

**THE HONOURABLE THE PRESIDENT :** I am afraid the Honourable Member is too late ; I have already declared the decision against him. The Honourable Member can perhaps claim a division on a similar amendment on the same clause. Number 14.

**\*THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM :** I would like to move amendment No. 15, Sir :

“ That in the proviso to sub-clause (1) of clause 3 for the words ‘ three thousand ’ the words ‘ one thousand ’ be substituted.”

This covers the point mentioned by the Honourable Mr. Emerson. The proviso runs :

“ Provided that if a deposit has been required under sub-section (3) from any previous keeper of the printing-press, the security which may be required under this sub-section may amount to three thousand rupees.”

Mr. Emerson pointed out just now, when I moved my amendment No. 13, that that covered the case of those who rather than deposit security wanted to open another press. Here the thing is provided for again, that those who have got a press and have deposited security, and again security is demanded, then the amount will be increased to three thousand rupees. I suggest, Sir, that the amount that may be demanded from them should be one thousand rupees.

**THE HONOURABLE MR. H. W. EMERSON :** Sir, I oppose this amendment on much the same ground as the last one moved by the Honourable Member. It covers a slightly different case. Under sub-clause (3) of clause 3 an existing press which prints offending matter may be required to give security amounting to three thousand rupees. The keeper of the press may refuse to give security, may cancel his declaration under the Press and Registration of Books Act and a few days later a different person may make a new declaration under that Act. Now, surely it is reasonable that when the first keeper of the press may be required to deposit three thousand rupees, a person who takes his place merely for the purpose of evading the provisions of the Act should not be asked to deposit less. On that ground, Sir, I oppose the amendment.

**THE HONOURABLE THE PRESIDENT :** The question is :

“ That in the proviso to sub-clause (1) of clause 3 for the words ‘ three thousand ’ the words ‘ one thousand ’ be substituted.”

(After the division bell was rung, the Honourable the President asked first those Members who were in favour of the amendment to stand in their places and then those Members who were against the amendment. Only the Honourable Mr. Syed Hussain Imam stood up for the amendment and the rest of the House were against it.)

**THE HONOURABLE THE PRESIDENT :** The Ayes are 1 and the Noes 19. Therefore the Noes have it.

The amendment was negatived.

---

\*Speech not corrected by the Honourable Member.

THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM : Sir, in view of the opinion just expressed by the House, I wish to withdraw all my amendments.

Clause 3 was added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 4. Does the Honourable Rai Bahadur Lala Ram Saran Das wish to move his amendment ?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Yes, Sir. I want to move the amendment No. 32 standing in my name.

THE HONOURABLE THE PRESIDENT : No. 32 is an amendment to clause 3. The House has already adopted clause 3 and the Honourable Member missed his chance to move that amendment. The clause now before the House is 4 to which the Honourable Member has an amendment, No. 43. Will he move that ?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : No, Sir.

THE HONOURABLE THE PRESIDENT : The question is :

“ That clause 4 do stand part of the Bill.”

The motion was adopted.

Clause 4 was added to the Bill.

Clauses 5 to 24 were added to the Bill.

THE HONOURABLE THE PRESIDENT : Clause 25.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, I rise to move amendment No. 105 which stands in my name and which runs as follows :

“ In sub-clause (4) of clause 25 for the words ‘ the order shall stand ’ the words ‘ the opinion of the Chief or seniormost Judge shall prevail ’ be substituted.”

I think, Sir, that my amendment is a very modest and equitable one. When a reference is made to the High Court, in case of a difference of opinion among the Judges forming the Bench the opinion of the seniormost Judge of the High Court ought to prevail. With these remarks, I commend my amendment to the acceptance of the House.

THE HONOURABLE MR. H. W. EMERSON : Sir, the amendment moved by the Honourable Member is not in itself, I think, unreasonable, but actually the circumstances in which it will be of any real practical interest are not likely to arise. The Bill provides that an application to the High Court should be heard by a Bench of three Judges. When there is a difference of opinion, the opinion of the majority shall prevail. It is only in the case where there is no such majority that the present Bill provides that the order against which application is being made shall stand. Now, in order to get equality of opinion, it has to be assumed that one of the three Judges declines to express any view at all. I think that would be a very exceptional circumstance. Moreover, on principle there is, I think, nothing unreasonable in laying down the law that when such circumstances do arise and opinion is equal, the existing order shall stand. It is a principle that is observed in many matters of

procedure and it is not on the face of it an unreasonable principle to adopt in the present instance.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Will you kindly give an example where such a procedure has been adopted before in the ordinary course of business ?

THE HONOURABLE MR. H. W. EMERSON : The ordinary procedure in the Legislature, for instance, when there is an equality of votes, is that the President votes in favour of the *status quo*.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : I am talking of law courts.

THE HONOURABLE MR. H. W. EMERSON : I am afraid I cannot quote you at the moment a precedent from law, but on the grounds I have given I oppose the amendment.

THE HONOURABLE MR. M. D. DEVADOSS (Nominated Indian Christian) : May I say, Sir, that it is in accordance with the provisions of the Civil Procedure Code. When two Judges do not agree as to the course to be adopted the lower court's decision is always upheld. It is only when a majority of the Judges agree that the lower court's order is set aside. Of course if there is a single Judge, he can maintain or upset the lower court's order.

THE HONOURABLE THE PRESIDENT : The original question was :

"That clause 25 do stand part of the Bill."

Since which an amendment has been moved :

"That in sub-clause (4) of clause 25 for the words 'the order shall stand' the words 'the opinion of the Chief or seniormost Judge shall prevail' be substituted."

The question is that that amendment be made.

The motion was negatived.

Clause 25 was added to the Bill.

Clauses 26, 27, 28, 29, 30, 31 and 32 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

THE HONOURABLE MR. H. W. EMERSON : Sir, I beg to move that the Bill, as passed by the Legislative Assembly, be passed.

THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD (United Provinces Northern : Non-Muhammadan) : Sir, this Bill has been opposed by a considerable section of the Indian Press as well as by many public organisations in the country. There is a belief that it constitutes a menace to the legitimate freedom of the press, which is an exponent of public opinion and whose existence is essential for the spread of modern civilization and culture. Then, it is a pity that it was discussed in the lower House last week at the fag end of the Session when the non-official attendance was very thin, with the result that amendment after amendment moved by the opposition to liberalise its provisions was defeated. It is further regrettable that in this House the Honourable Mr. Hussain Imam did not choose to move some of the amendments that he had tabled, which sought to improve the measure and that

[Rai Bahadur Lala Jagdish Prasad.]

an amendment of my Honourable friend Rai Bahadur Lala Ram Saran Das has been thrown out. Although the Select Committee of the Legislative Assembly materially recast the original Bill and modified its stringent provisions a good deal, and the Bill was re-introduced by the Government in the same form and also passed by the Legislative Assembly with very few changes in the form in which it had emerged from the Select Committee, and it is now going to be passed by this Honourable House also without any change, I would have liked some of its rigours further softened before it became law. For example, I would that the keeper of a new press should have been deemed innocent and there should have been no demand for security from him provided in the Bill; secondly, in view of the fact that the offending presses are sometimes small and inconsequential as regards their value, the maximum sum of Rs. 10,000 fixed in clause 5 for deposit of further security should have been lower, being excessive; then, under the Bill there should have been no indirect curtailment of the powers of the High Courts vested in them under the Letters Patent to exercise revisionary jurisdiction of their own accord; and that in the case of forfeiture of presses all *bona fide* encumbrances should have been safeguarded. But, Sir, the Bill is going to become law without these improvements. And all this does not, in my humble opinion, augur well for this measure.

But the fact nevertheless remains that although the press as a whole has always displayed wisdom and sobriety on the right side, yet a small section of the press does unhappily at times indulge in incitement to or encouragement of terrorist crimes, and such activities are admittedly very injurious to the public interest and must be condemned. It is these activities of certain sections of the press that this Bill is intended to curb, and the sober section of the press, which in my opinion is a large section, need I think have no fear from the provisions of this Bill. Sir, the Bill as originally introduced by Government was no doubt totally unacceptable to Indian public opinion, but it emerged from the Select Committee of the Legislative Assembly and was passed by the Assembly in a much improved form. Its Preamble has been considerably narrowed down so as to restrict its scope and define its object more definitely; the demand of security from a new press has not been kept compulsory as was the case in the original Bill, but discretionary power in this respect has now been vested in the Magistrate, and the amount of security has also in some cases been reduced; it has further been provided that if after the deposit of security no order is made by a Local Government under section 8 for three months, the security will on application by the publisher of a newspaper be refunded; and lastly, the life of the measure has been shortened from three to two years.

Now the question is whether the Bill as it stands is worth having with the improvements that have been effected in it by the Legislative Assembly, or whether it should be rejected by this House in view of the general wish, which of course I share, that some of its defects should have been further removed before it became law. Sir, weighing the *pros* and *cons* of the measure carefully, I am inclined to think that it would be more in the public interest to let the Bill pass into law even in its present form, rather than that we should in the present circumstances go without such a measure altogether, for I recognize that incalculable harm is done to the country by the cult of the revolver and

the bomb and some of our immature youths at a most emotional and impressionable period of their lives are sometimes misguided into these condemnable activities by the irresponsible writings of certain sections of the press. Moreover, Sir, the Bill, as the Government have made clear, is an emergency legislation. In view, therefore, of the fact that the Bill before us stands to-day in a much

3 P.M. more modified form than it had been originally introduced in the Lower House by the Government, as a result of the labours of the Select Committee of the Legislative Assembly ; that it is intended to exercise a check only on the dangerous section of the press ; that it is an emergency measure ; and that its life is after all limited only to two years, I am inclined to lend my support to the passage of the Bill.

But, Sir, before I resume my seat, I think it my duty to make an appeal to the Government at this stage, although the Honourable the Home Secretary has given some assurance in this behalf. As I stated earlier in my speech, there is a widespread fear that while the ostensible and professed object of this measure is to fight the cult of violence, its real object is to place the press at the mercy of the executive and to re-impose the fetters of the obnoxious Press Act which was repealed a few years ago. This suspicion has arisen out of the unfortunate past experience of keepers of presses in respect of the use to which such arbitrary pieces of legislation are put, which experience is not at all reassuring. There is a danger that the measure is liable to be abused at the hands of the executive. And if this fear is confirmed in actual practice, then, I am afraid, the law would act as a fresh irritant and would add to the existing volume of discontent. My appeal to the Government, therefore, is that in the public interest they should see to it that the new law is very carefully administered and not in any way abused by those with whom it will rest actually to administer it. And if the Government take this appeal of mine to heart and ensure against possible abuses of the legislation, then a good deal of the opposition against the measure is sure to be disarmed and there will be no cause for future discontent and distrust. Sir, I support the motion before the House.

THE HONOURABLE THE PRESIDENT : The question is :

“ That the Bill to provide against the publication of matter inciting to or encouraging murder or violence, as passed by the Legislative Assembly, be passed.”

The motion was adopted.

THE HONOURABLE THE PRESIDENT : The Council will now adjourn. I am not in a position to announce any particular date on which the next meeting of the Council will take place. Honourable Members will get notice in due course ; but the next meeting will be in Delhi and I think it will probably be about the 20th of November.

The Council then adjourned.

---

**Copies of the Debates of the Legislative Assembly and the Council of State are obtainable on sale from the Manager, Central Publication Branch, 3, Government Place, West, Calcutta.**

---