

Monday, 12th December, 1932

THE
COUNCIL OF STATE DEBATES

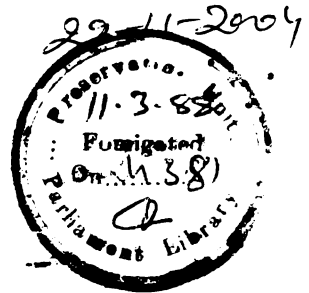
VOLUME II, 1932

(20th September to 19th December, 1932)

FOURTH SESSION

OF THE

THIRD COUNCIL OF STATE, 1932



DELHI : MANAGER OF PUBLICATIONS

1933

M79CS

CONTENTS.

	PAGES.
TUESDAY, 20TH SEPTEMBER, 1932—	
Members Sworn	1
Death of Raja Laxmanrao Bhonsle	2
Questions and Answers	2—38
Statement laid on the table	38
Ruling by the Honourable the President in respect of the procedure in connection with answers furnished to Members	39
Message from His Excellency the Governor General	40
Committee on Petitions	40
Statement <i>re</i> Mr. Gandhi's release	40—41
Bills passed by the Legislative Assembly laid on the table	41
Governor General's assent to Bills	41—42
Motion for the election of two non-official Members to the Standing Committee for the Department of Commerce—Adopted	42
Resolution <i>re</i> Ratification of the International Convention for limiting the manufacture and regulating the distribution of narcotic drugs—Adopted	42—44
Statement of Business	44
Congratulations to Members, the recipients of Honours	44
WEDNESDAY, 21ST SEPTEMBER, 1932—	
Member Sworn	45
Questions and Answers	45—65
Resolution <i>re</i> Reports of the Retrenchment Committees to be laid on the table—Adopted	65—82
Resolution <i>re</i> Extension of the system of forming urban units under the Indian Territorial Force Act—Withdrawn	82—88
Provident Funds (Amendment) Bill—Motion to consider, negatived	88—92
FRIDAY, 23RD SEPTEMBER, 1932—	
Questions and Answers	93—106
Bill passed by the Legislative Assembly laid on the table	106
Nominations for election to the Standing Committee of the Department of Commerce	106
Motion for the election of two non-official Members to the Standing Committee of the Department of Industries and Labour—Adopted	106
Motion for the election of a Member to fill a vacancy in the Standing Committee for Roads—Adopted	107
Indian Emigration (Amendment) Bill—Considered and passed	107—08
Cantonments (Amendment) Bill—Considered and passed	108—09
Ancient Monuments Preservation (Amendment) Bill—Considered and passed	109—17
Trade Disputes (Amendment) Bill—Considered and passed	117—18
Port Haj Committees Bill—Considered and passed	118—22
Statement of Business	122

MONDAY, 26TH SEPTEMBER, 1932—

Members Sworn	123
Statement <i>re</i> Representation of the depressed classes in the new Legislature	123—24
Questions and Answers	124—29
Motion <i>re</i> Terrorist outrage perpetrated at the Railway Institute, Pahartali—Adopted	130—34
Bill passed by the Legislative Assembly laid on the table	134
Nominations for elections to the Standing Committee in the Department of Industries and Labour and to the Standing Committee for Roads	134
Resolution <i>re</i> Abstention of voting by official Members of the Council of State in elections to Committees, etc., on which the Council is represented—Withdrawn	135—45
Resolution <i>re</i> Communal decision—Withdrawn	145—60
Resolution <i>re</i> Indianizing the services of Port Trusts—Adopted	169—86
Resolution <i>re</i> Laying of papers of the second Round Table Conference on the table—Moved	186
Statement of Business	186

TUESDAY, 27TH SEPTEMBER, 1932—

Question and Answer	187
Statement laid on the table	187—88
Code of Criminal Procedure (Amendment) Bill—Considered and passed	188—90

WEDNESDAY, 28TH SEPTEMBER, 1932—

Question and Answer	201
Statement by the Honourable the President expressing regret for a wrong ruling against Sir Phiroze Sethna	201—02
Postponement of the date of meeting of the Council of State fixed for the 29th September to the 30th September, 1932	203—04
Resolution <i>re</i> Laying of papers of the second Round Table Conference on the table—Withdrawn	204—23
Resolution <i>re</i> Formation of a Committee of Experts to recommend a scheme for the reduction of the personnel and equipment of the Defence Forces—Withdrawn	222—30
Resolution <i>re</i> Communal composition of the electorate of the special constituencies given in the Communal award—Withdrawn	230—34
Election of two non-official Members to the Standing Committee of the Department of Industries and Labour	234

FRIDAY, 30TH SEPTEMBER, 1932—

Questions and Answers	235—37
Statement laid on the table	237
Reports of the Retrenchment Committee laid on the table	237—41
Motion <i>re</i> Necessity for further immediate and drastic action with a view to crushing the terrorist movement in Bengal—Adopted	241—49
Tea Districts Emigrant Labour Bill—Considered and passed	249—57
Election of a Member to fill a vacancy in the Standing Committee for Roads	257

TUESDAY, 29TH NOVEMBER, 1932—

Members Sworn	259
Appointment of Sir Maneckji Dadabhoy as President of the Council of State	259
Questions and Answers	260—80

TUESDAY, 29TH NOVEMBER, 1932—contd.

Statement laid on the table	281
Governor General's assent to Bills	281
Communication from the Government of Bengal thanking the Members of the Council of State for the Motion adopted by them on the 26th September, 1932, in connection with the terrorist outrage perpetrated at the Railway Institute, Pahartali	282
Resignation of his seat in the Council of State by Sir Dinshaw Wacha	282—85
Death of Sir Ali Imam	285—86
Statement of Business	286—87

THURSDAY, 8TH DECEMBER, 1932—

Member Sworn	289
Questions and Answers	289—311
Appointment of the Honourable Mr. Bijay Kumar Basu to the Library Committee of the Indian Legislature	311
Bill passed by the Legislative Assembly laid on the table	311
Resolution <i>re</i> Draft Convention and Recommendation concerning the age for admission of children to non-industrial employment adopted by the International Labour Conference at its Sixteenth Session—Adopted	311—15
Statement of Business	316—17

MONDAY, 12TH DECEMBER, 1932—

Members Sworn	319
Questions and Answers	319—29
Death of Sir Narasimha Sarma	329—31
Criminal Law Amendment Bill—Motion to consider, adopted	331—74

WEDNESDAY, 14TH DECEMBER, 1932—

Questions and Answers	375—77
Criminal Law Amendment Bill—Considered	377—417
Bill passed by the Legislative Assembly laid on the table	417
Criminal Law Amendment Bill—Considered and passed	417—26
Statement of Business	427

THURSDAY, 15TH DECEMBER, 1932—

Bill passed by the Legislative Assembly laid on the table	429
Statement of Business	429—30

FRIDAY, 16TH DECEMBER, 1932—

Bengal Suppression of Terrorist Outrages (Supplementary) Bill—Considered and passed	431—39
---	--------

SATURDAY, 17TH DECEMBER, 1932—

Indian Tariff (Ottawa Trade Agreement) Amendment Bill—Motion to consider, adopted	441—88
---	--------

MONDAY, 19TH DECEMBER, 1932—

Questions and Answers	489—91
Indian Tariff (Ottawa Trade Agreement) Amendment Bill—Considered and passed	491—523
Valedictory speeches on the retirement of the Honourable Sir Henry Moncrieff Smith	524—28

COUNCIL OF STATE.

Monday, 12th December, 1932.

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

MEMBERS SWORN :

The Honourable Khan Bahadur Dr. Sir Nasarvanji Choksy, Kt., C.I.E. (Bombay : Nominated Non-Official).

The Honourable Khan Bahadur Jamshedji Bejanji Vachha (Government of India : Nominated Official).

QUESTIONS AND ANSWERS.

WORK DONE BY SIR WALTER LAYTON IN CONNECTION WITH THE SIMON COMMISSION.

208. THE HONOURABLE KUMAR NRIPENDRA NARAYAN SINHA : Will Government be pleased to state :

(a) whether it is a fact that Sir Walter Layton was brought out to this country to deliberate upon the important financial questions affecting the future relations of India and England in connection with the Simon Commission ;

(b) whether it is a fact that his report on Indian financial questions received the approbation of both the Government of India and the Government at home ?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : (a) and (b). Sir Walter Layton acted as Financial Assessor to the Indian Statutory Commission. Comments on his financial proposals in connection with that Commission's Report will be found in the Government of India's Despatch on Proposals for Constitutional Reform, dated 20th September, 1930, which is available in the Library.

ELECTIONS IN BURMA.

209. THE HONOURABLE KUMAR NRIPENDRA NARAYAN SINHA : Will Government be pleased to state :

(a) whether the anti-separationists have triumphed everywhere in the recent elections in Burma ;

(b) if so, whether such a contingency was ever anticipated by the Government of Burma ;

(c) if the answer to (b) is in the affirmative, when was it that such an apprehension first came to be entertained by the Burma Government ;

(d) whether the significance of the anti-separationist movement has been taken note of and duly communicated to His Majesty's Government in England ;

(e) whether in view of this development in the political situation arising in Burma the Round Table Conference that has been sitting in London will have to revive the Burma question over again?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN :
I regret it is not possible for me to make any statement until the separation issue has been debated and voted upon in the Burma Legislative Council. In this connection I invite the Honourable Member's attention to the Reuter's report of the replies given by the Secretary of State in the House of Commons on the 16th November to questions on the subject.

SEPARATION OF ORISSA FROM BIHAR.

210. THE HONOURABLE KUMAR NRIPENDRA NARAYAN SINHA :
Will Government be pleased to state :

(a) whether or not the Orissa Boundary Committee have found against the question of separation of Orissa from Bihar ;

(b) whether or not the Government of India have accepted the conclusions of the Orissa Boundary Committee in that respect ;

(c) why it is that a fresh movement has been started for the dismemberment of that province from Bihar ;

(d) whether such a movement has the sympathy and support of the Government of India ;

(e) whether the financial questions affecting the separation question have all been finally analysed and solved ?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN :
(a) and (b). The Honourable Member will find from its terms of reference that the Orissa Enquiry Committee was not required to report on the issue whether or not Orissa should be separated. The Committee therefore made no recommendation for or against the separation of Orissa.

(c) I have some difficulty in following this part of the Honourable Member's question. I understand that for some time past Oriyas have been claiming a separate province.

(d) and (e). After consulting Local Governments and examining the financial aspects the Government of India have communicated their views on the separation of Orissa to the Secretary of State. I regret I cannot at this stage disclose what those views are.

PROGRESS OF THE UNITY CONFERENCE AT ALLAHABAD.

211. THE HONOURABLE KUMAR NRIPENDRA NARAYAN SINHA :
Will Government be pleased to state :

(a) whether they have kept themselves posted day to day about the deliberations of the Unity Conference at Allahabad ;

(b) if so, the manner or way in which they have kept themselves informed about the proceedings ;

(c) whether copies of resolutions relating to the decisions arrived at in the Conference have come to them from the conveners thereof ;

(d) if so, whether they have duly communicated to His Majesty's Government the texts of such resolutions ;

(e) also whether they have apprized the delegates to the Third Round Table Conference of those resolutions ?

THE HONOURABLE MR. M. G. HALLETT : (a) and (b). Government^t have kept themselves informed of the proceedings of the Unity Conference^e through Press reports.

(c) No.

(d) and (e). Do not arise.

EVIDENCE COLLECTED BY THE OTTAWA COMMITTEE OF THE LEGISLATIVE ASSEMBLY.

212. **THE HONOURABLE KUMAR NRIPENDRA NARAYAN SINHA :** Will Government be pleased to state :

(a) the names of persons who were invited to the Assembly Select Committee on the Ottawa Agreement ;

(b) the respective bodies which they represented ;

(c) the academical and other qualifications that those witnesses possessed in order to entitle them to figure as expert witnesses before that Committee ;

(d) who of those witnesses have favoured the Agreement ;

(e) who of them have opposed it ;

(f) whether other persons than those examined by the Committee had sent printed memoranda to the Committee and had shown their willingness to give evidence before it ;

(g) if so, the names of all those persons whose offer to give evidence was not accepted by the Committee ?

THE HONOURABLE MR. J. C. B. DRAKE : The attention of the Honourable Member is invited to the two reports submitted by the Committee to the authority that appointed it, namely, the Legislative Assembly, which, as he may have noticed, have been published in Part I of the Gazette of India, dated the 3rd December, 1932. The Government of India are not able to disclose any information relating to the work of the Committee which the Committee itself has not deemed it necessary to make public.

LICENCES ON THE BURMA OILFIELDS.

213. **THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS :** Will Government be pleased :

(a) to state whether licences on the Burma oilfields have been given to one company or more and the name or names of the same and when such licences will expire ;

(b) to lay on the table the terms and conditions of such licence or licences ;

(c) to state whether at the expiration of the present licence or licences public tenders will be invited for future licences ? If the reply is in the negative, the reason therefor ?

THE HONOURABLE MR. J. A. SHILLIDY : (a) Prospecting licenses and mining leases for oil have been given to a number of companies and individuals in Burma. The names of the licensees and lessees, and the dates of expiry of the licenses and leases will be found in the Report on the Mineral Production of Burma which is issued annually by the Government of Burma.

(b) and (c). Development of mineral resources is primarily the concern of Local Governments and mining concessions are granted by them in accordance with the Mining Rules. A copy of these rules and of the standard Forms of Prospecting Licences and Leases is available in the Library of the Legislature.

EXPORTS OF CERTAIN COMMODITIES TO CERTAIN FOREIGN COUNTRIES.

214. THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM : Will Government give the figures of India's Export Trade in the following commodities to the following countries in the last three years :

Countries.	Commodities.
Germany	Wheat.
Germany, Czechoslovakia	Coffee (raw).
Germany, Czechoslovakia, Holland	Tea.
Germany, France, Switzerland	Tobacco (unmanufactured).
U. S. A.	Castor seed.
Germany, France, Czechoslovakia	Coir mats, matting.
Germany, France, Switzerland	Tanned hides.
Germany, France, Belgium	Jute cloth and raw jute.
Germany, France, U. S. A., Czechoslovakia	Woollen carpets, rugs.
Germany, France, Czechoslovakia	Linseed oil.
Germany, France	Groundnut oil.
Germany, France, Japan	Pig iron.
U. S. A.	Jute fabric and raw jute.

THE HONOURABLE MR. J. C. B. DRAKE : I lay on the table a statement containing the information asked for.

Statement showing figures of India's exports of certain articles to the countries mentioned below in the years 1929-30 to 1931-32.

Article and country.	1929-30.		1930-31.		1931-32.	
	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.
<i>Wheat</i>		Rs.		Rs.		Rs.
Germany	Tons	Nil	70	7,000	Nil	Nil
<i>Coffee (raw)</i>						
Germany	Cwts.	15,181	21,893	13,77,283	16,318	9,94,625
Czechoslovakia		Nil	Nil	Nil	Nil	Nil
<i>Tea</i>						
Germany	Lbs.	189,527	146,220	1,18,560	106,481	80,809
Czechoslovakia		Nil	Nil	Nil	Nil	Nil
Holland (Netherlands)		84,172	76,136	45,709	79,033	42,030
<i>Tobacco (manufactured)</i>						
Germany	Lbs.	12,000	295,216	31,527	Nil	Nil
France		Nil	Nil	Nil	Nil	Nil
Switzerland		Nil	Nil	Nil	Nil	Nil
<i>Castor seed</i>						
United States of America	Tons	50,987	38,519	64,62,970	34,743	48,49,656
<i>Coir mats, matting</i>						
Germany	Tons	7,913	4,780	15,63,605	4,624	11,59,262
France		3,258	3,151	9,57,658	3,609	9,16,442
Czechoslovakia		Nil	Nil	Nil	Nil	Nil
<i>Tanned hides</i>						
Germany	Tons	Nil	1	3,600	Nil	25
France		1,200	Nil	600	Nil	Nil
Switzerland		2,100	Nil	Nil	Nil	Nil
<i>Jute cloth and raw jute</i>						
Germany	Bags No. 1	2,595,975	1,776,591	6,52,414	1,712,800	4,90,090
France	Cloth Yards	1,240,500	2,835,500	2,88,802	1,673,300	1,69,515
Switzerland	Bags No.	2,074,427	1,075,500	3,24,862	749,786	1,85,999
Belgium	Cloth Yards	25,000	Nil	Nil	Nil	Nil
	Bags No.	12,491,400	11,975,547	28,71,503	6,721,200	14,61,748
	Cloth Yards	Nil	Nil	Nil	Nil	Nil

Statement showing figures of India's exports of certain articles to the countries mentioned below in the years 1929-30 to 1931-32—contd.

Article and country.	1929-30.		1930-31.		1931-32.	
	Quantity.	Value.	Quantity.	Value.	Quantity.	Value.
<i>Jute cloth and raw jute—contd.</i>						
<i>Raw jute</i>						
Germany	216,467	7,40,63,511	168,976	3,50,41,783	130,853	2,43,68,769
France	106,473	3,61,64,575	89,268	1,84,66,461	51,869	99,34,143
Belgium	46,298	1,54,36,564	47,915	99,32,878	45,869	84,13,007
<i>Woollen carpets, rugs</i>						
Germany	1,805	6,574	7,106	18,390	9,074	7,659
France	23,196	84,238	7,775	11,708	3,539	6,582
United States of America	1,127,295	36,02,820	1,940,197	20,92,243	553,742	10,87,410
Czechoslovakia	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>
<i>Lined oil</i>						
Germany	}	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>
France		<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>
Czechoslovakia		<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>
<i>Groundnut oil</i>						
Germany	20	37	3	15	25,062	35,188
France	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>	<i>Nil</i>
<i>Pig iron</i>						
Germany	14,723	6,72,956	11,032	4,27,716	13,022	4,54,842
France	<i>Nil</i>	<i>Nil</i>	1,009	24,189	<i>Nil</i>	<i>Nil</i>
Japan	349,512	1,58,63,071	160,584	64,11,426	188,106	65,75,921
<i>Jute fabric and raw jute</i>						
United States of America. {	16,972,340	51,45,868	10,585,300	25,40,651	2,408,900	13,51,328
of America. { fabric. {	1,071,908,666	18,25,14,948	852,798,377	10,66,67,244	692,368,265	6,56,56,906
{ Jute raw {	79,386	2,52,17,031	53,060	1,04,48,323	49,115	91,23,237

COMMUNAL COMPOSITION OF HIGH COURTS.

215. THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM :

Will Government give the following information about each of the High Courts in India :

- (a) Total permanent strength on 31st March, 1932.
- (b) Total additional appointments since 31st March, 1932.
- (c) Total number of Indian Civil Service Judges.
- (d) Total number of directly appointed Judges.
- (e) Total number of non-Indian Civil Service official Judges.
- (f) Total number of European Judges.
- (g) Total number of Muslim Judges.
- (h) Total number of non-Muslim Indian Judges.

THE HONOURABLE MR. M. G. HALLETT: I have called for the information and will communicate it to the Honourable Member when received.

INSURANCE PAYMENTS MADE IN RESPECT OF BRITISH SOLDIERS ON THE INDIAN ESTABLISHMENT UNDER THE NATIONAL HEALTH INSURANCE ACT AND UNEMPLOYMENT INSURANCE ACT.

216. THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM :

(1) With reference to the reply to my question No. 150 on the 29th November, have Government considered the effect of :

(a) the words " not being a soldier of His Majesty's Indian Forces " in sub-section (1) of section 57 of the National Health Insurance Act, 1924 ;

(b) the references to employment in the United Kingdom in the First Schedule to that Act and to the Unemployment Insurance Act, 1920 ;

(c) the excepting provisions in paragraph (a) of Part II of the First Schedule to the National Health Insurance Act, 1924, and paragraph (c) in Part II of the First Schedule to the Unemployment Insurance Act, 1920 ;

(d) the words " out of moneys provided by Parliament " in sub-section (1) of section 41 of the Unemployment Insurance Act, 1920 ?

If so, with what result ?

(2) Has Parliament sanctioned the payments by the Government of India towards unemployment insurance ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: (1) Government have considered the effect of the provisions quoted by the Honourable Member and have the following observations to make :

(a) The Honourable Member has apparently failed to realise that insurance payments are made in respect only of British soldiers on the Indian establishment and that such British soldiers are not part of His Majesty's Indian Forces.

(b) The Schedules in question specify insurable employments embraced by section 1 of the two Acts in question and have no application with reference to section 57 of the National Health Insurance Act and section 41 of the Unemployment Insurance Act, which operate irrespectively of the part of the world in which British soldiers, sailors and airmen are for the time being serving.

(c) (The Honourable Member has failed to observe that the excepting provisions in question are themselves qualified by the words "except as otherwise provided in this Act".

(d) Payments under the section in question are made out of moneys provided by Parliament, the payment from Indian revenues not being a payment under the section but a payment made to His Majesty's Government in pursuance of an arrangement arrived at between the two Governments.

(2) No, Sir. The position has been explained in my reply to part 1 (d).

ARRANGEMENTS FOR THE COLLECTION OF MUSLIM INSCRIPTIONS.

217. THE HONOURABLE KHAN BAHADUR SYED ABDUL HAFEEZ :
(a) Is it a fact that there is a well equipped staff to deal with Southern India inscriptions and that their collection still continues in spite of these days of financial stringency ?

(b) Is it a fact that no such staff or arrangements exist so far as the collection of Muslim inscriptions is concerned ?

(c) If the answer to (b) above is in the affirmative, will Government please state why no action was taken by them on the matter being brought to their notice several years ago in this Council ?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN :
(a) The gazetted staff for dealing with inscriptions in Sanskrit and allied languages has been reduced from five officers to three as a measure of economy.

(b) and (c). Yes. Government have a part-time Epigraphist to deal with Muslim inscriptions and in 1930 the post of an Assistant to help and understudy him was sanctioned, but has not been filled owing to the prevailing financial stringency. When conditions improve, Government will reconsider this matter.

PUBLICATION OF VOLUMES DEALING WITH SOUTH INDIAN INSCRIPTIONS.

218. THE HONOURABLE KHAN BAHADUR SYED ABDUL HAFEEZ :
(a) How many volumes of the Southern India Inscriptions (Texts and Texts and Translation Series) have so far been published and how many are in hand at the present moment ?

(b) Is it a fact that besides the number of volumes of Southern India inscriptions, so far published, the volumes on Telugu and Kanarese have been entrusted to outside scholars ? If so, what expense was involved ?

(c) If the answer to the first part of (b) is in the affirmative, will Government please state why it was considered necessary to seek outside help ?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN :
(a) Six volumes of the South Indian Inscriptions (Texts and Texts and Translation Series) have so far been published. Volume VII has been passed for final printing and material for others is in hand.

(b) There were impressions of about 18,000 unpublished records stored in the Epigraphical Office at Madras including 1,800 Kanarese and 2,000 Telugu inscriptions. In response to persistent questions in the Assembly and continued complaints from scholars, it was decided to entrust the task of editing the Kanarese and Telugu inscriptions to two outside scholars who alone

could do justice to them as this arrangement was considered to be most economical. It was also decided that the material should be published in four volumes at a cost of Rs. 5,000 each (honorarium, stationery, travelling allowance, etc.). The remaining 14,000 inscriptions are being dealt with by the staff in the Epigraphical Office at Madras.

(c) If the task of publishing these 18,000 inscriptions were left to the staff attached to the Epigraphical Office at Madras, unaided by outside scholars, it might remain unaccomplished for many years.

TRANSFER OF THE SUPERINTENDENT FOR EPIGRAPHY TO MADRAS AND HIS SPECIAL PAY.

219. THE HONOURABLE KHAN BAHADUR SYED ABDUL HAFEEZ :
(a) Is it a fact that the Superintendent for Epigraphy was formerly attached to the office of the Government Epigraphist and has now been transferred to Madras and is solely responsible for the Madras Epigraphy Office and the publication of Southern India inscriptions and the Epigraphy Report ?

(b) If the answer to (a) is in the affirmative, will Government please state why the special pay of Rs. 100 is still allowed to the Government Epigraphist ?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN :
(a) Yes, but he continues to be the Government Epigraphist throughout India for non-Muslim epigraphy.

(b) The special pay of Rs. 100 per mensem to the Government Epigraphist has been granted in view of his special responsibilities which, as stated, include the control of non-Muslim epigraphical work under this Department throughout India.

CONTRACT FOR REPAIRS TO THE MINAL TALAO AT DHOLKA.

220. THE HONOURABLE KHAN BAHADUR SYED ABDUL HAFEEZ :
(a) Is it a fact that the contract for the repairs to the Minal Talao at Dholka has been given by the Archæological Superintendent to one of his relatives at higher rates than those tendered by approved contractors ?

(b) Will Government please state whether the work has been inspected by any archæological officer and whether the work done by the contractor was in accordance with the specifications ?

(c) Is it a fact that the Superintendent passed the contractor's bills without checking the measurements, etc., and in certain cases made excess payments ?

(d) If the answer to (c) above is in the affirmative, what action does Government propose to take in the matter ?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN :
(a) to (d). The matter is under investigation and Government regret that they are not in a position to make any statement in regard to it.

GRIEVANCES OF A GOODS VENDOR AT SIKANDRA.

221. THE HONOURABLE KHAN BAHADUR SYED ABDUL HAFEEZ :
(a) Is it a fact that the goods of the vendor at Sikandra were thrown out of the stall by a choukidar of the Archæological Superintendent at Agra ?

(b) Is it a fact that the vendor reported the matter to the Superintendent ?

(c) Is it a fact that the Superintendent threatened the vendor with confiscation of his security and turning him out of the stall ?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN :
 (a) No. The vendor was merely asked to remove his goods from the gate-keeper's room where he had stored them without proper authority.

(b) Yes.

(c) In view of the tone of the vendor's telegram and his having stored his goods in the gate-keeper's room without proper authority the Superintendent called upon him to explain why his licence should not be cancelled and the money deposited by him forfeited to Government.

REPRESENTATION FROM THE MUSLIMS OF JAUNPORE PROTESTING AGAINST THE APPOINTMENT OF A HINDU SUB-OVERSEER TO LOOK AFTER CERTAIN MONUMENTS.

222. THE HONOURABLE KHAN BAHADUR SYED ABDUL HAFEEZ :
 (a) Will Government please state whether the Archæological Department received a representation from the Muslim citizens of Jaunpore amongst the signatories being Government officers—protesting against the appointment of a Hindu subordinate to look after the monuments which the Muslims hold in religious veneration ?

(b) How long is it since the representation was received and has any action been taken by the Archæological Department or any reply sent to it ? If not, why not ?

(c) Was any Muslim subordinate previously employed at Jaunpore and if so, has he been retrenched and replaced by a Hindu ? If so, why ?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN :
 (a) Yes.

(b) The representation was received in the Director General of Archæology's Office on the 18th May, 1932. Enquiries were thereafter made as to the possibility of replacing the Hindu sub-overseer at Jaunpore by a Muhammadan, and one of the signatories to the representation was informed that the matter was receiving attention.

(c) Yes ; the Muslim subordinate in question was retrenched as he was the junior-most sub-overseer. A Hindu already in service was transferred to take his place as there was no Muhammadan sub-overseer available.

NUMBER OF JUDGES IN THE CALCUTTA HIGH COURT.

223. THE HONOURABLE KHAN BAHADUR SYED ABDUL HAFEEZ :
 (a) Will Government kindly state the total number of High Court Judges in Bengal ?

(b) Is it a fact that there is only one Muslim Judge on the Bench of the Calcutta High Court ?

(c) Will Government give the reasons for not appointing more Muslim Judges in the Calcutta High Court ?

THE HONOURABLE MR. M. G. HALLETT : (a) Sixteen including the Chief Justice and an Additional Judge.

(b) Yes.

(c) As stated before in this House, permanent appointments to the High Courts are made by His Majesty under section 101 of the Government of India Act. The main consideration in filling vacancies is necessarily that of legal qualifications subject to which the claims of Muslim candidates receive careful consideration. Such appointments are not filled on a communal basis.

ACTION TAKEN ON THE REPORT OF THE DRUGS ENQUIRY COMMITTEE.

224. **THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE** (on behalf of the Honourable Sir Phiroze Sethna): Will Government be pleased to state :

(a) When they propose to take action on the Drugs Enquiry Committee Report ?

(b) Why they have not done so already ?

(c) Whether they propose to issue a statement of their conclusions on the Report at an early date ?

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : (a), (b) and (c). The Report did not become available in print until towards the end of last year. Some time had then to be spent by the Government of India in making a preliminary examination of the Report in consultation with their technical advisers. The next stage was to invite the views of Local Governments who are intimately concerned with the recommendations contained in the Report. Their replies are expected by the 1st January, 1933, and until they are received, it is not possible for the Government of India to formulate any conclusions.

DEATH OF SIR NARASIMHA SARMA.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Leader of the House): Sir, I have to mention with your permission the great loss India has suffered on account of the sudden death of Sir Narasimha Sarma, who was for a number of years a Member of this Council, and a Member of His Excellency the Governor General's Executive Council. He had a distinguished career before he was appointed a Member of the Executive Council. He was a most industrious, painstaking and diligent student of politics. As a Congress man he rendered great service to his country. The great courage he showed at the Amritsar Congress marked him out as a man who was prepared to hold views of his own and was not afraid of expressing them wherever he happened to be. His work as a Member of His Excellency the Governor General's Executive Council was marked by the same qualities which had distinguished him in public life, great industry, great interest in his work and a very high order of efficiency. His administration was of a very superior kind. I remember very well in 1925, when I was in office for a few months, how he impressed me with the tremendous knowledge that he possessed and the great perseverance he exhibited in discussions and holding to his views, even when he happened to be the only Member holding those views. It is a great loss to the country at such a critical juncture. It is true that on relinquishing his office here, he did not return to political life, but it must be remembered that he was devoting his great knowledge and experience to work of a very important Committee, the Railway Rates Advisory Committee. And that was the reason why he was not, if I may so put it, in the limelight during the last few years. A solid worker like Sir Narasimha Sarma would be a loss to any country. His sudden death is a particularly heavy loss to India at this critical juncture of India's history.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-Official): Sir, I have also heard with great sorrow the sad news of the untimely death of our late colleague Sir Narasimha Sarma. I

[Sir Maneckji Dadabhoy.]

myself was associated with him for many years both in the late Imperial Council and in the Council of State and when I came in contact with him I learnt not only to have great respect for him but also much admiration for the courage with which he worked throughout his official as well as non-official career. He had the courage of his convictions ; he was an honest man and I am glad that the Honourable the Leader of the House has referred to the part he took at the Amritsar Congress when a motion of censure was moved against Lord Chelmsford's Government and he fought single-handed the battle in that big assembly without fear and without any axe to grind. Sir, his work as a Member of the old Imperial Council was very valuable. He had a profound knowledge of finance and he always studied financial questions and on budget discussions he brought to bear both his ability and skill as a great financier. In the post he held as Law Member he worked honestly and to the satisfaction of the Council. Honourable Members will remember the speeches which he made in this House. He had a clear head, he had sound judgment and he always spoke with sincerity and honesty. He was one of the finest men that India has produced, and though not very eloquent he was one of the most reasonable men that one could come across. We all lament his death and I am glad that the Honourable the Leader of the House has made a suitable reference to his work in this Council.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I associate myself fully with the views expressed by the Honourable the Leader of the House and the Honourable Sir Maneckji Dadabhoy. Sir Narasimha Sarma was a charming personality and so he was very popular amongst his colleagues and the general public. He was a very able and a very sincere person and we all deeply mourn his loss. His loss will be mourned all over India and we wish you, Sir, to express and convey the condolences of this House to the survivors of the family.

THE HONOURABLE SAYED MOHAMED PADSHAH SAHIB BAHADUR (Madras : Muhammadan) : Sir, I join in the feeling tributes that have been paid to the memory of the late Sir Narasimha Sarma. Sir, as one who has had the privilege of being his colleague in this Council I can testify to the consummate ability, the great tact and courtesy with which he discharged the duties of the high office which he held as a Member of the Viceroy's Executive Council. Sir, as has been rightly remarked by the Honourable the Leader of the House, Sir Narasimha Sarma possessed in great measure the gifts of a great statesman. He was honest, he was capable ; he was serious in his work. Above all, he had the courage of his convictions, of which an unmistakable proof was afforded by his conduct at the Amritsar Congress to which reference has been made by the Honourable the Leader of this House. Sir, as one coming from Madras, the province to which Sir Narasimha Sarma belonged, I can speak with some knowledge of the great love and admiration which this great patriot of the country, Sir Narasimha Sarma, enjoyed for the remarkable qualities both of his head and of his heart. Sir, India in general and my province in particular has sustained a great loss in the sudden and untimely death of Sir Narasimha Sarma. I join in the message to be sent to the survivors of the late Sir Narasimha Sarma and hope that the deceased will be in Valhalla and have peace and tranquillity.

THE HONOURABLE MR. G. A. NATESAN (Madras : Nominated Non-Official) : Sir, as one coming from the province of Madras and as one who has had the privilege of being associated with the late Sir Narasimha Sarma for

a long number of years as a non-official and as one who has also watched his career as a very active, earnest and sincere Member of the Madras Legislative Council for years and as one particularly acquainted also with his great work as a non-official Member of the Imperial Legislative Council and has had occasions sometimes to know the very quiet and unostentatious manner in which he was doing his duty as a Member of the Viceroy's Executive Council, I desire to join in the tributes that have been paid to his memory. I do not think any useful purpose will be served by speaking longer on his great qualities. He was a thoroughly conscientious man. He took enormous pains to master the details of any subject which he desired to handle and I think he did nothing without preparation or forethought. I should like to add perhaps one point that everyone knows, that as a Member of the Viceroy's Executive Council he was all hospitality not only to people from Madras, but his friends from all parts of India were quite welcome to his home. His loss is very serious indeed and I desire to request you, Sir, to communicate the tributes that have been paid in this House and our condolences to his representatives.

THE HONOURABLE MR. E. C. BENTHALL (Bengal Chamber of Commerce): Sir, on behalf of my colleague Mr. Glass and myself I should like to associate myself with the views expressed by previous speakers. Sir Narasimha Sarma was hardly known to me personally but of course we are fully conscious of the great work which he has done for India right up to the last when he was employed on the Railway Rates Tribunal. I should like to express our regret at the great loss which his family and India have suffered by his death.

THE HONOURABLE THE PRESIDENT: I wish to associate the Chair with the tributes that have been paid to the late Sir Narasimha Sarma. I knew him very well, first of all for four years as a Member of the Imperial Legislative Council and then for five years, throughout his term of office, as a Member of the Executive Council of the Governor General. Throughout that term of office, except for the first few months when the Council of State had not been inaugurated, he was a Member of this Council, and for the last year of his office he was the Leader of this House. I think perhaps he possessed one quality that impressed more than anything else his friends, both official and non-official, and that was his honesty and sincerity of purpose. I well remember when Sir Narasimha Sarma was about to lay down his office that at a series of farewell parties in Simla speech after speech referred to this particular quality of his and it was notable that it was his own colleagues in the Viceroy's Executive Council who laid the greatest emphasis on the matter. I shall communicate to the bereaved relatives of Sir Narasimha Sarma the sentiments and sympathy of the House.

CRIMINAL LAW AMENDMENT BILL.

THE HONOURABLE MR. M. G. HALLETT (Home Secretary): Sir, I move:

"That the Bill to Supplement the Criminal Law, as passed by the Legislative Assembly, be taken into consideration."

I wish, Sir, that the duty of moving this motion was in more competent hands than mine, partly because of its importance and partly because it is difficult to know how much or how little to say on this important subject.

[Mr. M. G. Hallett.]

This Bill has come before this Council after a most thorough discussion and debate in another place. Possibly there has never been a Bill which has been the subject of such lengthy and such thorough discussion. Every clause, every sentence, has been debated in that House. The arguments for and against this Bill must be well known to all Members of this Council. But I trust they will forgive me if I have to repeat—and I cannot avoid doing so—the arguments in favour of it that have been put forward in another place and if I mention too some of the arguments that have been put forward against it both in the Assembly and in the Press. Possibly the arguments against it are better known than those for it but the Assembly has shown by its vote that they have accepted the arguments in favour and have passed it by a large majority. I do not however ask this Council—I should not think of doing so—merely to follow blindly that vote but I ask them to consider this Bill on its merits and I feel sure that they will give me their whole-hearted support.

To deal with the Bill itself, its object is very briefly to give Government power to deal with the subversive and revolutionary movement known as civil disobedience—a movement which, as its originator has said, is an effective substitute for armed rebellion. I do not intend to weary the Council by a long account of that movement. The history of it is well known and Honourable Members themselves must have full knowledge of the conditions prevailing in certain areas in India in the early part of this year and of the measures which Government were forced to take to meet the very dangerous agitation which was started after many months of intensive propaganda in that inflammable area—the North-West Frontier Province. They must know too of the equally serious agrarian agitation started among the illiterate peasantry of the United Provinces at a time when they were very hard hit by economic conditions. They will recognise too the danger that existed at that time of these movements spreading to other parts of India. But there is one point that must not be lost sight of and possibly memories are short. This movement was a revival. It was not a single instance and we must look back also to the conditions which were prevailing over a very large part of British India in the early part of the year 1930. We must remember the widespread outbreak of picketing, the interference which was caused thereby to individual citizens and we must remember also the serious hardship that was caused to many loyal Government servants by means of social boycott. Finally, we must remember the challenge that was set up against orderly administration by the numerous volunteer camps and Congress ashrams which were dotted about the country in the towns and villages. That takes us back to 1930. We must not forget that there was a similar movement ten years ago supported by similar activities although it was given then the name of non-co-operation and not civil disobedience. We have to go back still further to get to the time when these weapons of picketing and boycott were first used. They were I think first used during the partition agitation in Bengal some 15 or 20 years ago. I venture to recall these facts to the Council because they help me to meet the argument that because the civil disobedience movement of 1932 has been brought under control or, as is sometimes optimistically said, is dead, therefore there is no need for this legislation. The history of the last 15 or 20 years shows I think that a movement of this kind can be started without difficulty and that if it is not at once tackled and brought under control, it may grow to the most dangerous proportions. The recrudescence of civil disobedience is in fact not a singular or a novel feature in the political life of the country. That is one of the main reasons why we wish to have these powers. The revival of civil disobedience or its continuance

may endanger the success of the constitutional reforms which we all hope will, within a short period, be brought into effect. It must not be forgotten that, at a time of transition such as we are going through at present, at a time when a momentous change is about to be made in the whole system of government in this country when men's minds are unsettled and disturbed, then there is a very grave risk, a graver risk than exists in more normal times, of discontented and hot-headed elements in the population taking up a movement of this kind and seeking to introduce revolutionary rather than evolutionary changes. The result, I think the Council will agree with me, cannot fail to be chaos instead of ordered government and those on whom the duty of government will, in a short time, we all hope, devolve, will find that task not merely difficult but impossible.

There is a further point which I would make. The civil disobedience movement engenders in the minds of a certain portion of the population contempt for law and for any system of orderly government. That is particularly dangerous at the present time for there are two other movements to which this country is exposed, the movements of terrorism and communism. Civil disobedience teaches the youth of the land to have no respect for authority and to disregard law. It is not very difficult, if that disrespect for law grows, to persuade the youth of the country to go a step further and become recruits for the terrorist force. The communist menace is one that comes from outside India. It is a movement that has not yet, I am glad to say, taken a strong hold on any part of this country. But the danger is there, and there is no doubt that the supporters of the movement have their eye on any country in which conditions of disorder and lawlessness arise. They are ready to make use of any opportunity that might be offered to them by the growth of lawlessness and disorder, and if this spirit of lawlessness increases, if this contempt of law is still maintained, then there is grave risk that more serious dangers may confront us.

I have said before that it is sometimes optimistically said that the civil disobedience movement is dead. I do not think that can be maintained for a moment. I admit—thanks to the measures that have been adopted during the past ten months—that it has been brought very effectively under control and there are not the same outward and visible signs of civil disobedience as there were in January or February of this year. But it must be remembered that there are not the least signs that the authors of the movement have abandoned their creed. There is nothing to show that they are prepared to call off the movement and to resort to constitutional methods. On the contrary, there are signs that they intend, as far as they can and unless they are prevented by the powers which we hope will be given to the executive authorities to intensify the movement. I can quote from numerous Congress bulletins, if the House wishes to hear them, to show that they are sending out circulars to the supporters of the movement in the various provinces telling them to do all they can to intensify boycott, to intensify picketing, and to send as many persons as possible to fill up the jails and thereby embarrass Government. In some provinces I have heard of the dissemination of pamphlets which is always the first step towards the development of this movement. I have heard also from the United Provinces that there can be no doubt that in certain districts the supporters of the movement contemplate the re-start of a no-rent campaign if the opportunity is given to them. Economic conditions are bad in those districts and they still hope that they may be able to revive the campaign which failed last year. This legislation and the legislation which has been passed by the United Provinces Government will, I think, effectually remove any danger of that kind.

[Mr. M. G. Hallett.]

An argument which is put forward against a Bill of this kind is that the ordinary law should suffice and that there is no reason why we should take special powers. It is true that we do utilise the ordinary law as much as possible in dealing with a movement of this kind, but the organisers of this movement, many of whom are well acquainted with the law, have devised activities which just do not come within the four corners of the criminal law of this land. Picketing is akin to many offences in the Penal Code. It is akin to intimidation, criminal restraint, or to that offence mentioned in section 508 of the Code,—trying to induce a person to believe that he will be rendered an object of Divine displeasure. But none of those sections actually cover the offence of picketing. Experience has shown that the existing law is not enough, and I can well remember myself in 1930, when I was in a district, searching the Penal Code to try to find a section which would enable me to deal with picketing of cloth and liquor shops and to deal with other activities which were harmful to the general public. I found that there was nothing to help me and I had to wait until the Ordinances were promulgated and the necessary powers were made available.

Then again, another example of how the existing law is insufficient is given by the sections which deal with the Press. In regard to the Press, under the ordinary law we have two powers available. One is the power of prosecution for publication of seditious matter under section 124A of the Penal Code and the other is the power of proscription given by the Criminal Procedure Code. Neither of these remedies is in the least effective. Those of us who have experience of the courts know that prosecutions for sedition are difficult and prolonged. A prolonged trial on a charge of sedition very often has the effect of giving a sort of advertisement to the offending newspaper. It certainly does not have the effect of stopping the newspaper from publishing further objectionable articles. There is the further difficulty of dummy editors. It has been our experience in several provinces that we cannot get hold of the right person. A dummy editor is put up; his name is registered; he is convicted and goes to jail but the paper carries on the publication of seditious articles. Then again, as regards proscription, we can proscribe an article, but the mischief has been done; the lie has been issued, and we cannot overtake it. Proscription is, I admit, of some use in dealing with pamphlets and books, but it is of very little use in dealing with the objectionable type of newspaper.

I shall now deal shortly with the provisions of the Bill and I trust I shall not weary the House by doing so. The Bill includes three main provisions. The first is the provision against certain forms of intimidation; the second is the provision against associations dangerous to the public peace; and the third is the provision to secure greater control over the Press. I deal first with the provisions against certain forms of intimidation. I have referred to the Congress bulletins which have been issued recently and which had advocated intensifying boycotting and picketing. In a recent bulletin I saw these words:

“The campaign of the boycott of British goods and concerns forms the spearhead of Congress activities today.”

That shows that they intend to carry on this item of their programme. Picketing or molestation, to use a technical term, is prohibited by clause 7 of the Bill. The offence is akin to intimidation and is in fact moral intimidation. Certain people wish to get others to agree with their views. They wish to get them to purchase swadeshi instead of foreign articles or to

give up drinking intoxicating liquor. We have no objection to propaganda on those lines, but what we do object to is the method adopted, the method of intimidation and coercion rather than appeals to reason or attempts at argument. Honest attempts to convert people to those views are not prohibited by this provision in the Bill. This point has been made clear by the *Explanation* added to that clause by the Select Committee, which says clearly that the encouragement of indigenous industries or the advocacy of temperance without commission of any of the acts prohibited by this section is not an offence under this section. This point was made clear when the Ordinances were first promulgated in May, 1930. At that time it was said as follows :

“ What is not legitimate is for those who desire these ends, proper though they may be in themselves, to pursue them by means amounting in effect to intimidation of individuals and to endeavour to force their views on others not by argument but by the coercive effect of fear ”.

The actual methods adopted are too well known to need any description, but I would remind this Council that this work is carried on mainly by the riff-raff of the bazaar hired for a few annas by the organisers of the movement. I would remind them too that this so-called peaceful picketing frequently degenerates into violence if the customer or the seller has the courage to oppose the picketer. Akin to picketing, which is an interference with the individual citizen's freedom of action, is the more cowardly offence of boycott of Government servants. I cannot imagine a more cowardly offence. A Government servant carrying out his duty, carrying it out under orders often in the most unpleasant conditions, cannot obtain for himself or for his family the bare necessities of life, food, shelter or even water. This offence was very common during the early part of 1930, and the persons who suffered most from it were the humblest of Government servants, the village choukidar and the village patel. The result was that in many parts of the Bombay Presidency several hundred, I might even say thousands—I forget the exact number—several hundreds of these village officers were forced to resign their service. I can quote too from my own experience in Bihar. In a certain part of that province pressure was brought to bear on the choukidars, pressure originating from a Congress camp in a certain village. The result was that nearly all the choukidars in one police station resigned and a free field was left for the thief and the dacoit. There was consequently a very large increase of ordinary crime in that area.

The next main provision is that which deals with unlawful associations. These provisions are, I admit, drastic, but they have been tempered in the Select Committee by the modifications which have been made in them. They were, however, very necessary at the time when they were first introduced. They were also of the greatest use when the movement was revived in January last, and they will continue to be necessary so long as this movement continues. They aim at striking at the organization and not at the individual. The sections which make picketing punishable, and the ordinary sections of the Penal Code, enable us to deal with the individual offender. But one result of that is that we get numerous convictions. We get our jails overflowing, and it is in fact the admitted policy of the Congress, it is an item in their programme, to cause embarrassment and expense to Government by overcrowding the jails. Government do not want to send people to jail unnecessarily, and surely it is better in dealing with a movement of this kind to strike at the source rather than at the hirelings and dupes who are induced or coerced into committing offences. It is with that object that these sections

[Mr. M. G. Hallett.]

were promulgated which enable Government to seize the buildings used for the purposes of an unlawful association. And there can be no doubt that the prompt seizure in every province of the headquarters of the civil disobedience movement in the beginning of January of this year had a very great effect in preventing the spread of the movement. It was largely, as a result of that that, although in the early months of the year convictions under the Ordinances or under the ordinary sections of the Penal Code amounted to fifteen or sixteen thousand, they very soon fell to a much smaller figure and that in recent months they have come down to a still smaller figure, merely two or three thousand or less. By seizing these buildings the spread of the movement in towns and villages was, to a large extent, stopped and all Local Governments have agreed that these sections have been of the greatest value in stopping these activities. The power to seize funds has also been useful. The total amount seized has not been large, but the mere knowledge that Government have power to seize the funds of unlawful associations has, we are informed, had the effect of making people less ready to contribute towards the association.

I now come to the third set of provisions, those concerned with the press. These amplify the Act which was passed last year and which only dealt with the very worst form of press activity, the publication of matter inciting to murder or violence. The amplification of section 4 of that Act makes it possible to demand security or to forfeit security if newspapers contain or a press publishes seditious matter or matter which incites people to commit the offences which are prohibited by the other clauses of this Bill or by the Bills which have been introduced into local Legislatures. I do not intend to weary or possibly to nauseate this Council by reading out samples of objectionable articles which have appeared in the press or the even more objectionable pamphlets which have been issued from time to time. I have plenty of them available, if the Council should wish to hear them, and I can cite many instances to show what a spate of misrepresentation, of calumny and abuse was directed against Government during that period at the end of 1930 when Government had not these powers. It will be recollected that the first Press Ordinance came into force at the end of April, 1930. It expired at the end of October. Government hoped that the necessity for re-issuing that Ordinance would not arise, that the press had learnt its lesson. But their hopes were doomed to disappointment and it soon became obvious that the press were not observing that restraint which it was hoped they might do. There had been a progressive deterioration in the tone of the press during those two or three months and at the end of December it became necessary to re-promulgate the Ordinance. The provisions of that Ordinance are now included in this Bill.

I cannot refrain, however, from mentioning one instance which had

12 Noon.

recently come to my notice which shows to what extent the organisers of this movement are prepared to go in their attack on Government by means of the press. It shows also how effective the Press Ordinance has been in restraining those attacks. I have before me an extract from a paper, the *Indian News Bulletin*, that is published in Dublin; it is not published in India. The article I have before me gives a most grossly perverted and false account of that incident at Chittagong which occurred a few months ago and which was strongly condemned by this Council. I hesitate to read out or to give publicity to it, but you can take it from me that it is a grossly false account, published with the one object of bringing

Government into hatred and contempt. This article was published in Dublin. It had not, I am glad to say, been published by any newspaper in this country and that I think shows the two points which I mentioned before, that the supporters of this movement are prepared to go to any extreme in their campaign of calumny against Government and that the Press Ordinance has given us power to stop these most objectionable attacks upon it. The Press Ordinance and the provisions of this Bill do not in any way stop legitimate and fair criticism of Government. Of that we are not afraid, and I think any one reading the press of this country will see that there is plenty of criticism of Government. Nearly everything that is done by Government is subject to criticism, but the criticism which appears in the press at present is fair criticism: it is not criticism based on false allegations or misrepresentations. So much for the press provisions of this Bill.

There are certain other provisions, but I do not propose to deal with them in any detail. Some of them have been challenged by amendments and I shall have the opportunity, if the need arises, of defending the provisions and showing how sections, such as section 2, which prohibits dissuasion from enlistment, are necessary, that a section such as section 8 which visits the sins of the children upon the fathers and which has for that reason been rather severely criticised has had a very salutary effect in inducing parents to keep better control of their children.

I do not think it is necessary for me either to detail the changes made in the Bill during its examination by the Select Committee. Various additional safeguards have been introduced, such as those in regard to the seizure of movable property of unlawful associations or in regard to the seizure of their funds. There has also been an important change, that the Bill is for a period of three years and not permanent. On that point too, on the question of duration of the Bill, I shall have a further opportunity of speaking when the amendments to clause 1 are under consideration. But I may say here that Government consider it essentially necessary that during this period of transition these powers should be in force so as to enable them to control any attempt at the revival or continuance of the conditions of disorder which are engendered by the civil disobedience movement. I do not think it is necessary for me to say more. If arguments are put forward against the Bill, I will attempt to meet them; but I trust that this House will now put the finishing touch to the work that has been done by the Assembly, to the work which has been done by the Legislative Councils of the North-West Frontier Province, of the Punjab, of Bombay, of the United Provinces and Bengal, all of whom have passed Bills to supplement this Bill which has been put before the Central Legislature. Once this Bill is on the Statute-book, I feel certain that the menace of civil disobedience will soon disappear. The fact that this Bill has been passed will show the organisers of that movement that the Legislature is at one with the Executive in being prepared to take action to prevent its revival. If it revives we may be faced with chaos and disorder. If it is not revived then we may look forward to future peace and prosperity and to the introduction of the constitutional reforms in the best possible atmosphere.

***THE HONOURABLE NAWAB SAHIBZADA SIE SAYAD MOHAMAD MEHR SHAH** (West Punjab : Muhammadan) : Mr. President, in speaking in support of the Bill now before the House, I desire to make it clear at the outset that I am not voicing my own opinion but the opinion of those whom I have the

*The Honourable Member, who spoke in the vernacular, submitted the translation here produced.

[Nawab Sahibzada Sir Sayad Mohamad Mehr Shah.]

honour to represent in this House and the large number of the followers of my family. No considerations other than the good of India sway them, or me, in supporting a measure which aims at the eradication of the spirit of terrorism. To my mind, there can be no qualified condemnation of terrorism, because such condemnation is in reality giving moral support to a movement which threatens the very foundations of authority, no matter by whom exercised, whether by the British or by ourselves, and, in doing so, threatens to plunge India into chaos. This House, I am sure, will unequivocally pronounce against allowing rein to such a movement.

Mr. President, knowing as we do, the great harm which the terrorist movement has done to India, how can we blame any Government for legislating against it? It is not the Government, or the Legislature, which is responsible for giving birth to the Bill, but the terrorists themselves, who have left no alternative to those who believe in upholding the law. There are some who mistakenly believe that by opposing the Bill they are supporting the Congress, which they honestly hold is not a terrorist organisation.

Mr. President, I agree with these champions of the Congress that the Congress in its inception was not a terrorist organisation. Far from it, it was inspired by noble motives of service to our Motherland. My brother, who wields considerable influence among Muslims in India, and, particularly, in the Punjab, attended meetings of the Congress in its early days and in other ways supported it, regarding the work of the Congress as an influence for the good of the country. He has now detached himself from the Congress because of the undesirable manifestations of subversive movements in that organisation, and he cannot, by any stretch of the imagination, be accused of doing so with the object of securing worldly ends. The Congress has lost its noble impulse, and fallen into the hands of people who have been powerless to stem the tide of extremism. To this extent, Congress is accountable for the evil of terrorism.

Mr. President, we cannot let loose the floodgates of defiance of established authority and law and expect not to be swamped by lawlessness. We cannot play with dangerous ideas without creating conditions which demand stern measures to eradicate them. If India is to have ordered progress under the new reforms, we cannot safely ignore the existence of the doctrine of terrorism, which is attempting to introduce the element of coercion as the ruling principle of political life.

Coming from the Punjab, I cannot forget the indelible stain left on the life of my province by the dastardly deed of terrorism which had for its aim the murder in cold blood of one of the most distinguished and most popular, and most sympathetic of the Governors we have ever had, in circumstances which leave no manner of doubt that those who inspire terrorist activities are dead to all sense of shame. I need not enumerate the manifestations of terrorism.

Mr. President, it is fortunate for us in India that, at this critical juncture in our history, we have as Viceroy a statesman of such great insight into the needs of the country as His Excellency Lord Willingdon. He has worked untiringly to restore peace to the country, and it is now possible for us to face the future with confidence, because the fight against subversive principles which threw the whole country into a welter of confusion, economic and political, has, so far, fortunately, gone well. I appeal to the House not to throw its weight in favour of lawlessness by opposing a measure, which, one sincerely hopes, is the *coup de grace* to terrorism.

Mr. President, it has been urged by some critics of the measure that it is a violation of the liberty of the subject and of the freedom of the press. So is every section of the Indian Penal Code, but no one will oppose legislation directed against highway robbery, nor against murder, nor against theft. The law is against terrorism, and it rightly interferes with the liberty of action of terrorists and no one else. It is also directed against undesirable features of journalism and the press, but it does not tamper with the freedom of honest journalism, or of the press.

Mr. President, with your permission, I may observe, finally, that there is some confusion in ideas of loyalty to party and the necessity of opposing this measure. It is true, as I have said, that the Congress, in itself, has not espoused the cause of terrorism, but no one will deny that the doctrines of non-co-operation and civil disobedience are rooted in defiance of established authority and of the law. These doctrines have provided fertile soil for terrorism, which is essentially a negation of authority and law in a more intensified form. This House, standing as it does for law itself, cannot countenance or encourage any infringement of authority, or the law, and I can appeal with confidence to the House to declare itself in unmistakable terms in favour of the Bill and against the activities which the Bill seeks to eradicate.

The consequences of not speaking for the law, openly and courageously, are too serious to contemplate. The virus of lawlessness, once allowed to gain a grip, cannot easily be eradicated, and, no matter what the Government, once it has spread all government will become impossible. The poison is already spreading, and not only the political life of this country, but also the economic life of its people, and relations between community and community, are showing an unhealthy pallor. At this critical moment, the Congress itself could not serve India better than by abandoning its policy of non-co-operation and civil disobedience, and this House, I am sure, will not be a party to the encouragement of the continuance of the struggle in which the Congress is at present engaged, but which is already a struggle in vain.

Mr. President, I beg to support the Bill before the House.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, a retrospect of the constitutional history of India within the last twelve years shows that a step in political advance is preceded by the enactment of measures which are incompatible with the spirit in which advance is made. This indicates the existence of two schools of politicians both in England and in India ; those who want to base the government on the wishes of the people and advocate the reflection of popular opinion in the administration of the country, and those who are opposed to the change. It appears that the second class of politicians are more assertive and for the moment carry their point when the reforms associated with the names of Mr. Montagu and Lord Chelmsford were about to be introduced, we had that obnoxious measure called the Rowlatt Act, so strong was the opposition to the Bill when it was before the Legislature of the time, and though passed by the Legislature it never came into force. The discontent was so widespread that incidents occurred which were never anticipated by even the framers of the Bill. The present Bill is another instance of the legislation which preceded the introduction of the reforms now in force. I hope it will not meet with the same fate which befell its predecessor. When the material advance towards self-government is anticipated and when the Round Table

[Rai Bahadur Lala Ram Saran Das.]

is sitting in England to give it a practical shape, I do not see the necessity of a measure of this kind. From the accounts which have so far been received of the proceedings of the Conference, it appears that in every province law and order will be transferred to popular control, it will not be long before the provinces will be empowered to pass laws which the exigencies of the times require for the purpose of maintaining peace and tranquillity ; where is the necessity of tying the hands of the future Legislatures by measures of this kind.

I am unable to reconcile the introduction of a law of this kind with declarations made in Parliament by the Secretary of State more than once that the civil disobedience movement has been crushed. If it has been crushed by the use of those extraordinary powers which Ordinances gave to the Executive, then the movement has not died a natural death, it has only been partially checked for a time and the Bill before us is intended to retain the extraordinary powers which have been instrumental in controlling the movement. Makeshifts of this kind never achieve the object of creating an atmosphere of harmony and co-operation, which are essential requisites for the purposes of administration. If Government feels compelled to penalise attempts to induce public servants to fail in their duty, or to penalise refusal to render customary service, which ordinary citizens can easily procure, there is a virtual admission of the failure of the Government and collapse of administrative machinery. Penal law of this kind is not an effective remedy for the disease.

There is another dark side of the picture to which I wish to draw the attention of the Government. It is hoped that the new constitution will come into operation within the next two years, Government wishes to give a three years' life to the Bill. The obvious inference is that Government is by no means sanguine of the reception which will be given to the new constitution about to be framed. In a way the Government is giving a forecast of the constitution.

Though a few representatives of politically-minded Indians have been invited to co-operate with political parties in England, Government fears that {they will not be able to evolve a constitution which will satisfy the public.

The real cause of discontent and dissatisfaction in the country which manifests itself even in terrorism is not removed by strong penal laws. The history of penal laws clearly illustrate the principle that the stronger the penalty devised the greater is the readiness of the people to bear it. In no other way can the movement for teaching arts and crafts in the jails be explained. Poverty and hunger are the real causes of crime against property and unless these are removed, crime against property shows no sign of mitigation. The present system of education and unemployment is the real cause of the prevailing discontent which even assumes the form of revolutionary crime. The present or the future Government will have to tackle the unemployment question before it can expect to create contentment and peace in the country. Laws of the kind that we have before us not only fail in removing the real cause but are instrumental in widening the sphere of discontent and resentment. Dissatisfaction with the system of government and the Executive which lead to actions proposed to be penalised will spread, the proper remedy lies in dealing with the root cause, which created this situation and not in punishing the outward manifestation of discontent.

I can anticipate the fate of this Bill in this House but all the same I think it my duty to advise the Government that they should not be content with superficialities but should study the situation in a deeper light and devise measures which would be conducive to permanent peace in the country.

THE HONOURABLE KHAN BAHADUR SYED ABDUL HAFEEZ (East Bengal : Muhammadan) : Sir, on behalf of the Muslims of Bengal and on behalf of my constituency I strongly support the Resolution moved by the Honourable Member. I am sure this Honourable House will unanimously support the Resolution in view of the convincing arguments put forward by the Honourable mover. This measure needs to be adopted inasmuch as it proposes to enact the law required to check the wave of lawlessness in this country. No doubt such a measure would not have been brought and much less sanctioned in normal days. Such measures are necessary when the situation demands such extraordinary laws to be introduced to help the cause of law and order. I do not wish to make a long speech as the Honourable Members who are representatives of the people will realise their responsibilities and discharge their duty by checking the spirit of lawlessness which is growing apace in the country and thus give their sanction to the Bill before the House.

Sir, I support the Resolution.

THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD (United Provinces Northern : Non-Muhammadan) : Sir, in spite of the able advocacy of the Home Secretary and the eloquence of my Honourable friends Nawab Sir Mehr Shah and Khan Bahadur Syed Abdul Hafeez, I fear I do not see eye to eye with them so far as the motion before the House is concerned. Although I have absolutely no sympathy with the civil disobedience movement and strongly disapprove of the cult of direct action, yet I think that the provisions of this Bill, notwithstanding the changes that have been made in it by the Select Committee of the Legislative Assembly, are so wide, drastic and vague that they would be a menace to the liberty of the subject, and therefore the measure is not in my humble opinion worthy of consideration by any legislature which loves liberty or loves constitutional rights. The provisions of this Bill place the liberty of person, of association and of the press virtually at the mercy of the Executive and greatly enlarge the powers of the latter. The Bill seeks to prescribe a new criminal procedure for the land by making offences cognizable and non-bailable and arming the magistracy with powers which the ordinary law does not deem them fit to discharge. It provides for the forfeiture of property, which provision is repugnant to modern conscience. It seeks to virtually gag the press which is, so to say, the 'handmaid of democracy and at a time when the country being on the eve of a constitutional experiment every effort should be made to secure the co-operation of the press in India.

Sir, so far as I have been able to follow the Honourable Mr. Hallett, the Bill is intended to curb the activities of the Congress. But I consider that the ordinary law of the land is quite sufficient to deal with the civil disobedience movement and gives the Government ample powers to deal with conspiracies, sedition, and unlawful assemblies, etc., and then there is section 144. The movement of 1922 was fought by the Government with the aid of the ordinary law and without these special powers. There is, therefore, no need for enacting an emergency legislation like this. Sir, I ask the Government a question : "Has the Ordinance rule, according to them, succeeded or failed to meet the object they had in view ?" If they think that a large section of the masses

[Rai Bahadur Lala Jagdish Prasad.]

have entirely kept aloof from the Congress movement, as was expressed by His Excellency the Viceroy in his speech on the 5th of September last and as the Home Secretary has also expressed this morning, then there is no justification whatsoever for the re-enactment of the provisions of the Ordinance. If, on the other hand, the Government think that the Congress has still got the same strong hold on the people as before the promulgation of the Ordinances, then, surely, the remedy should be found elsewhere and not in continuing the Ordinance in another form. As regards the no-rent campaign in the United Provinces, to which province I have the honour to belong and to which reference was made by the Home Secretary, I may remind him that the United Provinces Legislative Council has already passed a legislation to deal with such propaganda and I do not think we need be anxious on that score. In my opinion the Bill cannot kill the civil disobedience movement, because Congressmen go to the jails voluntarily; and it cannot kill communism and terrorism—(*An Honourable Member*: “Question?”)—as these are bred in an atmosphere of discontent which has to be removed by conciliation. The occasion therefore demands the examination of the situation more dispassionately and calmly, and the co-operation of the people is most essential for the welfare of the country. I need hardly refer to the violent agitation and discontent that were aroused in the country consequent on the passing of the Rowlatt Act, to which a reference has already been made by the Leader of my Party, and hope that both sides of the House will learn a lesson from past experience. In my opinion unemployment, on the one hand, or, in other words, the economic situation to which a reference was made by the Honourable Mr. Hallett, and the growing consciousness among the people of their political rights on the other, are at the root of the civil disobedience movement, and resentment against repressive laws has only added to the discontent. The Government, therefore, instead of trying to arm themselves with more repressive weapons, should find out the real remedy and the causes of discontent. As regards the trouble about public servants being harassed, which the Government seem to be anxious to provide against and to which a reference was made by the Home Secretary, it is, in my opinion, the off-spring of resentment against the repressive policy of the Government, and it can only be prevented by Government by a policy of sympathy and conciliation and by meeting the just aspirations of the people, and not by any stringent legislation which will only result in making the relations between the Government and the people all the more strained and thereby increasing discontent. In my opinion reconstitutional advance is thus the only remedy for civil disobedience.

Sir, I do not propose at this stage to deal with the different clauses of the Bill, as we will get an opportunity of doing so later on when the Bill is taken up clause by clause. Speaking generally, any one with a knowledge of how the Ordinances have been worked in actual practice by the Executive will be loath to invest them with such drastic powers as this Bill contemplates giving them. Have we not heard of such heavy sentences being awarded under the Ordinances as a fine of Rs. 20,000 in addition to 18 months' rigorous imprisonment, reported to have been imposed on Mr. Gulab Chand Hira Chand (the brother of Mr. Wal Chand Hira Chand) of Bombay? And to quote only one more instance, what is one to say of the following notice of which a *tarkariwala* was reported to have been the recipient from the District Magistrate of Midnapore and which I understand formed the subject of interpellations in the other House some days ago?

The notice runs thus :

"Whereas it appears that you, Balai Guchhait, of village Chilmara, have been for a long time in the habit of selling vegetables daily in Anandpur Bazaar; and whereas that either of your free will, or by some outside influence, you have ceased selling vegetables in Anandpur, which action is prejudicial to the public peace, therefore, under section 4 of Ordinance II of 1932, I direct that you for one month from date of receipt of this notice will sell vegetables at least twice a week in Anandpur, and will report yourself each time you visit Anandpur to the Sub-Registrar of Anandpur."

An Honourable Member : Will my friend give the name of the person receiving that notice ?

THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD : That is for my Honourable friend to give. Sir, I am aware of the virtues of a vegetable diet, but I never knew that the particular varieties sold by this unfortunate *tarkariwalla* were so indispensable that their disappearance from the market would endanger the public peace! Can a better example be furnished of the use to which the Ordinances can be put in not only restraining the just liberty of a person by asking him to refrain from doing an act but by also forcing him to do a thing which he can under no constitutional law be compelled to do against his will ?

THE HONOURABLE NAWAB MALIK MOHAMMAD HAYAT KHAN NOON (Punjab : Nominated Non-Official) : That is the object of the civil disobedience movement. They impose their will and they force others to do what they have a right to refuse to do.

THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD : My Honourable friend will have his say later on and he can criticise me then. Sir, it is no use multiplying such instances, which only tend to outrage public sentiment and which furnish a clear warning against the desirability of clothing the Executive—an irresponsible Executive as we have in this country—with extraordinary powers of the nature contemplated by this Bill. I am therefore not in favour of a repressive policy being continued as foreshadowed by this measure, but as a friend of the Government will advise them to find a remedy which may not be worse than the disease itself.

With these words, Sir, I oppose the motion.

THE HONOURABLE NAWAB KHAWAJA HABIBULLAH (Bengal : Nominated Non-Official) : Sir, the Bill that has been presented and is before us today has already been through the Select Committee and discussed threadbare in the other House. I shall confine myself at first to the necessity as to why it is important that this Bill should come into force immediately. The total disregard for law and order by a large section of the inhabitants of this country and the increase in crime requires that the Government of the country should arm themselves with necessary legislation to protect itself and those who serve them in an official capacity and peaceful citizens from carrying on their ordinary routine of business without being subjected to harassment.

Sir, the law as at present framed does not fulfil present-day requirements as those who framed the law ages ago never, in their wildest dreams, dreamt of what was going to take place at the present time. The House is well aware that, for some time past, a section of the community have thought fit to start civil disobedience, the object being to prevent the present Government of the country functioning, for alleged grievances and have decided to continue until their demands, as formulated by the Indian National Congress, have been

[Nawab Khwaja Habibullah.]

acceded to. It may well be said by those who are objecting to the present Bill coming into force that it stops the people of this country from agitating legitimately for redress of present-day grievances. I will show, Sir, to the Members of this House how wrong some of them are in their hypotheses. This Bill is not brought forward to deal with such persons who wish to seek redress of their wrongs in a constitutional way, but is meant for that section in preventing them from employing methods which bring strife, anarchy, lawlessness, arson, murder, class hatred and revolution in its train. It is all very well for one to say that the present law is sufficient for present-day needs. Everyone who has any sense knows that present-day laws are very complicated. The delay and the loss to the public exchequer is great. As an illustration I give the Meerut Conspiracy Case which has already caused the public exchequer a total sum of over Rs. 18 lakhs and one never knows where it is going to end. A Bill to remedy this defect was brought by the Government and was not enacted for which reason the public are today the losers. Is it to be taken for granted for one to say that any such person who is not satisfied with the form of government prevailing they are at liberty to take any steps to overthrow that Government by whatsoever illegal methods they wish to employ and no steps be taken by constitutional authority to penalize those who wish to bring disorder and unrest. If we had in India today a National Government what would they have done in the present circumstances? They would have taken much more severe measures than are being asked for by the present Government. It is all very well to assume that the need would not arise as the people of the country would be ruled through their accredited representatives. Let us see what is happening in other countries where the Government is run on national lines. Russia, Turkey, Spain and other countries know better how to deal with these classes of people. They do not apply constitutional methods in dealing with them. They either hang or shoot without even giving them a fair trial.

Sir, we are told that civil disobedience or, in other words, passive resistance, is a peaceful method of non-co-operation with those who are in power to redress their supposed grievances. Let us see by this application how far it has justified itself in the epithet of passive resistance. Before the advent of civil disobedience there was perfect harmony and peace. Since its advent there have been riots in Bombay, Calcutta, Dacca, Cawnpore, Delhi, Benares and many other places with most unfortunate results. The main reason for these unfortunate happenings taking place was the so-called method of peaceful picketing in the name of swadeshim, forced violence and criminal intimidation leading to bloodshed and riots.

Youthful students, male and female, have been injected with this poison by certain sections of the press. We have had enough experiences of how the ordinary laws have failed in preventing these offensive tactics which lead to the masses taking the law into their own hands with such dire results, and that feeling of unrest has not yet subsided. Sir, if one has a just cause why employ these coercive methods? I am glad to see that at last the Government has awakened from its lethargic sleep and are realising their position and responsibilities to the country. I will say that the Government is just as much to blame for not having taken steps earlier to deal with this matter firmly and to have put it down with a stronger hand.

Before concluding I should like to put in a word about the special powers to control the press which this Bill confers on the Government. While I

champion the cause of the liberty of the press, I cannot be a party to licensing it to breed class hatred and to fan the communal fire. It is no secret that the present deplorable tension and communal hatred has been materially augmented by the irresponsible canards emanating from the so-called nationalist press. The gross inadequacy even of Act XXIII of 1931 to control the vicious propaganda is no longer a secret. The Government had to take powers under different Ordinances to strengthen their hands to fight this "hybrid hydra." It is a dictum of law that accessories to the crime are as much liable to punishment as the perpetrators of the crimes themselves. Necessarily those who incite others to commit the offences enumerated in sub-clauses (f) and (h) of clause 16 ought in justice to be held responsible and liable to punishment. The doings of the irresponsible press which has no ideal to live up to makes it a disgrace to the country and society and a blot on the fair name of Indian journalism. It is a jingo press with a vengeance. It should not be taken that my support of these measures is actuated by any desire to curb the legitimate freedom of the press. I yield to none in my love for a fair, free and efficient press.

We, of Bengal, have had sad experience of too much licence allowed to the press. The way in which the assassins have been lauded to the skies and featured as martyrs in the cause of the country, has induced other impressionable youths to follow the footsteps of those so-called heroes. Had the Government taken strong action in the beginning and put a stop with an iron hand to the illegitimate propaganda Bengal would have been saved from all the terrorist crimes which are now disfiguring her fair face.

(At this stage the Honourable the President vacated the Chair, which was taken by the Honourable Sir Maneckji Dadabhoi.)

My only regret is that Government machinery is always clogged with red tapism and by the time its wheels are set in motion the smouldering fires in the country blaze forth into a widespread conflagration. I conscientiously believe that the withholding of our consent to this Bill will harm the country more than it can possibly trouble the present Government.

THE HONOURABLE MR. E. C. BENTHALL (Bengal Chamber of Commerce): Sir, I think that after the discussion which has taken place during the last two sessions most Members will have come here with their minds made up. I am afraid that therefore I am not likely by an impassioned appeal to be able to touch the hearts of Members who have come here with a determination to oppose the Bill; nor am I confident that I shall by close reasoning be able to change their views, because I fear that in this matter their views are swayed by sentiment rather than by reason.

But I do not entirely despair of this matter, because I remember that two of the Members who have so far opposed this Bill are members of the Progressive Party, and I would surely like to see them inaugurate their Progressive Party by voting for a piece of progressive legislation of this sort, for I would remind them that a vote in favour of this Bill is a vote in favour of the end of Ordinance rule. I think I am correct in saying that of 60 or 70 clauses which were incorporated in the Ordinances only some 20 are reproduced and they cover only some five subjects of which the exercise of two are left entirely to the provinces.

It is of course fashionable to describe any legislation which emanates from the Home Department as repressive. Any Government Bill is described as repressive, even though it forms part of a deliberate plan to ensure that it is only under the best possible conditions that reforms of a most sweeping

[Mr. E. C. Benthall.]

nature are introduced. The Honourable Lala Ram Saran Das has argued that this Bill is incompatible with the spirit of reforms and the Honourable Mr. Jagdish Prasad has argued that it is opposed to the principles of liberty. Every patriotic Indian of course desires responsibility at the earliest possible moment that it is safe. Responsibility of course signifies in their minds freedom. But freedom is not, I venture to say, the right, as many people seem to think, for a man to do exactly as he pleases, but freedom is the willing obedience to the laws, and those people are most free where the laws protect the individuals from the coercion of a minority and that is exactly what this Bill provides.

It is of course directed against the civil disobedience movement, but all future movements of a similar nature designed to coerce this or other Governments will be dealt with under this Bill. The civil disobedience movement was designed to paralyse Government by bringing pressure upon Government servants. It was based upon a close examination of the law and upon finding every loophole in the law in order to embarrass Government. It was a movement which was the negation of freedom and responsibility. It was a most powerful movement admittedly and a most serious movement and it did strain the resources of Government. As a result of this Government found it necessary to arm themselves with these powers. Of course Government were successful and they are now placing before the Legislature this Bill to incorporate in the law of the land with the consent of the Legislature, an Act which will enable their own Government and future Governments to deal with any recurrence of a similar nature.

It is argued, of course, that the movement is under control and that this legislation is not necessary. I agree that at the moment it is under control and I submit that in consequence India is a much happier place today because of the fact that it is under control.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: The Secretary of State has said that the movement has been crushed.

THE HONOURABLE MR. E. C. BENTHALL: I used the words "under control." I think in his heart of hearts every man likes to see strong government and during the past year or two when there was some doubt whether Government or Congress would triumph, some doubt in the minds of some people, undoubtedly their minds were disturbed for they did not know on which side of the fence to jump and very many are now sorry they jumped on the wrong side of the fence. It is argued that there is no need to retain this Bill. I maintain that that is a wrong view. There are two very good reasons for supporting this legislation. The first is that while reforms are being introduced it is necessary that the country should enjoy the utmost peace and tranquillity. The second reason is that when the reforms are introduced, the new responsible Governments of the provinces should have all the powers that could be given to them to deal with similar movements. The new Governments will not be strong Governments. They may contain many very clever men but they will be inexperienced in the art of administration. They will not have behind them the prestige of many years of sound government. They will perhaps not be backed by solid parties and they will need every power that can be given to them for dealing with subversive movements. For that reason I should have liked to have seen the Bill have no period set to it or at least a longer period, but the period which is set to the Bill is the result of a compromise and

I think it will be agreed that the three years which are set to it should amply cover the period for introducing the provincial reforms, and it is, after all, the provinces who will be mostly concerned with this subject in the future——

(At this stage the Honourable Sir Maneckji Dadabhoy vacated the Chair, which was resumed by the Honourable the President.)

——and I venture to say that these Governments will be the first people to ask for this legislation to be renewed.

It is argued that this Bill is designed to crush the national spirit, that peaceful persuasion and the advocacy of swadeshi will be hindered by this. Well, many a lawyer has to fight a bad case from time to time and it is exceedingly difficult when he knows in his heart that his case is bad. I venture to say that everybody knows that this Bill will not prevent the encouragement of indigenous industry or the advocacy of temperance. Those were not the real objects of the civil disobedience movement: they were merely cloaks for weapons with which to attack Government. The civil disobedience movement was a deliberate plan to force the will of a section—a well-organised and powerful section—upon Government and upon the masses—a plan to coerce honest men to fail in their duty or to give up their legitimate business. But this Bill will not touch the masses: no man concerned with the progress of his country need fear this Bill which will not hinder but will help the legitimate aspirations of the country. Day by day we see the reforms coming nearer. As one studies the press of all descriptions one sees that the minds of men are turning day by day to constructive work. Such constructive work is not possible when men's minds are distracted by subversive movements and I regard this constructive turn that politics have taken at the present time as one of the most hopeful signs in the country at the present moment. No Government I think in the history of the world has shown to the same extent and with the same ability the determination to pursue the dual policy of standing unflinchingly for reforms and, at the same time, dealing with a powerful and insidious movement to bring their operations to a standstill. I think that history will record their admiration of the astonishing moderation of Government in exercising the powers given by the Ordinances, and I believe further that the future responsible Governments of the provinces will recognise that, by dealing firmly with direct action and proving that resolute government can deal effectively with subversive movements, the present Government have laid them under an incalculable debt. I would therefore ask the Progressive Party to look forward to the day when they themselves are perhaps sitting upon Government Benches. Will they then like to see their own government servants pilloried? Would they like to see recruitments for their services stopped?—false rumours about their Governments disseminated, and business paralysed? The time will come and I would ask them to look forward to that time. I would ask them to trust the present Government to use the powers that are given to them under the Bill with the moderation which they have shown in the past. I would ask them not to delay the passing of this Bill and to earn the thanks of the future Governments by voting courageously now.

THE HONOURABLE MR. JAGADISH CHANDRA BANERJEE (East Bengal: Non-Muhammadan): Sir, I rise to oppose the Bill which seeks to enact extraordinary laws to deprive even the elementary rights and liberties of the people. Sir, it is admitted by Government that the civil disobedience

[Mr. Jagadish Chandra Banerjee.]

movement is on the wane. If that is so, what then is the necessity of this Bill which will naturally antagonise the spirit, the co-operating spirit of the people and alienate their sympathy from Government. The measure seems to be oppressive, harsh and drastic. The remedy to eradicate the influence of the Congress is worse than the disease from which India is suffering at present. It is at one and the same time attempting at gagging the press and the platform and I would not go into details to prove that, as much has been said about it in the other House where the Members tried to impress upon Government the feelings of the people whom they represent. It is an unwanted piece of legislation, the evil effects of which Government have not been able to imagine. Administration by Ordinance does no credit to any civilised Government, yet our Government are ruling the country with such Ordinances that can favourably be compared with martial law.

Sir, Bills have been passed by the Provincial Governments to suppress the civil disobedience movement, communistic movement as well as the terrorist movement but what little freedom remained of the followers of the policy of constitutional agitation appears to be taken away by the Bill before us inasmuch as it particularly aims at the press and the platform. It will depend upon an ordinary limb of the bureaucracy to interpret our speeches on the platforms and the writings in the press, in the manner in which he would think, he would be able to fasten guilt on us, as the clauses of the Bill are so elastic that they may be characterised as the *tentacles and arms of an octopus*.

Sir, it is very regrettable that when we are on the eve of having a new order of things in the country, when Government are giving us a further instalment of reforms and when we are thinking of starting with a clean slate, the policy of that Government would be oppressive, repressive and suppressive, and I should further like to say even vindictive !

Sir, we, the elected Members of this House are here to express to Government the true feelings of the country, and I for one can say that I shall be failing in my duty by my country, constituency and the Crown if I do not say that this Ordinance Bill is considered, nay, looked down upon by the people as an unclean thing—a pernicious piece of legislation. Can Government give us any assurance that with the passing of this Bill, will come Gabriel, heralding the dawn of a new era of peace, prosperity and happiness in the country ?

Then, Sir, there is the question of the abuses of the powers of this Bill, which, I am afraid, may be worse than those committed under cover of the former Ordinances. There are aspects of this Bill which are repugnant and retrograde in nature and as such to be strongly resented by this side of the House. What is wanted at present is that Government should follow the policy of leniency and act up to a spirit of conciliation which will save the country from a worsening situation with which she will evidently be faced if such obnoxious measures find place in the Statute-book. In view of these circumstances I would, in all seriousness, ask this Honourable House to reject this Bill as it is uncalled for, unnecessary and untimely.

THE HONOURABLE MR. G. A. NATESAN (Madras : Nominated Non-Official) :

1 P.M.

Sir, my Honourable friend, Mr. Benthall, just now made an observation that a vote given in favour of this Bill will be in favour of the end of the Ordinance régime. If the thing

were so innocent as that I should readily comply with his request. I submit, Sir, that a perusal of this Bill will certainly show that many of the provisions of the Ordinances which were in force until recently are virtually provided under cover of law and this House is asked to give its sanction to them. I should like to ask the Government to draw the moral from the speech of the two distinguished and well-known landlords and one of the zemindars of Bengal who have taken part in the debate to-day. To my mind it should serve as an effective eye-opener to the Government and should indicate to them correctly the temper not only of the much abused intelligentsia but also of people who have large and definite stakes in this country. Sir, it is one of the chief features of the English constitution, indeed it is the pride of all constitutional writers who dwell on it, that it is a rule of law. According to the greatest constitutional writer, Professor Dicey, the English constitution is characterised by the supremacy of the rule of law. I very much regret to observe that despite the best attention that has been given to the provisions of this law and the discussions in favour and against it and the apology given on behalf of Government, this legislation is wholly against the traditions of English law and English legislation. I cannot but think it a matter to be deeply deplored that a piece of legislation like this should be brought before this House and that the House should be asked to sanction it particularly at a time when we are talking of constitutional reforms. A more ill-timed and ill-conceived piece of legislation it is for me impossible to conceive. Sir, this legislation, in my humble opinion, is very drastic, to use the words of the Honourable the Home Secretary, though he said that the Select Committee had tried to remedy it here and there. If I may say so, it cuts in the first place at the freedom of the press. Being a journalist myself I naturally take that first. I will not dwell on the provisions with regard to the press. They have been sufficiently adumbrated here and elsewhere. I would only like to point out that the provisions regarding the press have been condemned by the most sober portion of the Indian press. Take my own province for instance. The *Hindu*, a leading daily newspaper there, whose editor was a member of the last Round Table Conference, has condemned the measure, particularly with regard to the portions relating to the press. Not only that. The *Justice*, a leading organ of the Ministerial Party in my own province, which has always stood for law and order, and which is one of the strongest supporters of Government, has thought fit to denounce this measure. I only give these two instances to show how the most sober-minded press, the press which has generally been supporting the Government, has thought it necessary to criticise this piece of legislation.

It is for me very difficult to reconcile two statements, one statement made by the Secretary of State for India in London that the movement has been crushed, while here we are told that it is being brought under control. One or the other must be true, and it is so difficult to reconcile these two statements. If this legislation were confined to weeding out terrorism or the civil disobedience movement I should not object, but a careful perusal of the provisions shows how wide and drastic they are. I have here a comment made by an ex-Advocate General of Madras after making a very close study of the provisions of this Bill and I will read an extract or two. He says :

"If houses or lands were not let to public servants or their relations that was an offence. If a washerman or a barber would not serve a public servant, he would be brought under this legislation. Innocent things had been converted into offences by simply tampering with words. It used to be said that a father's sins would be visited on his children. But in this legislation they would see a reverse of that process. If a son or daughter took to civil disobedience the father would be punished for it".

[Mr. G. A. Natesan.]

Sir, we have heard a great deal about the dual policy. I think it is most unfortunate that this dual policy is being worked in a very peculiar fashion. The odious task of carrying out all the repressive policy is thrown upon the Government of India presided over by a great and liberal Viceroy ; the real task of postponing the reforms, of finding every pretext for postponing the reforms, is in the hands of Sir Samuel Hoare who speaks on behalf of a Government which pretends to be National but which is out and out Conservative. It is the greatest obstacle to all progress in this country. Sir, I who am opposed to Ordinance régime would be the first to welcome it if somehow or other human ingenuity—and there are many clever men at present—could devise a measure or Ordinance to compel the Secretary of State for India to realise the gravity of the situation and go on with reforms as quickly as possible. (Hear, hear.)

Many of the facts that have been stated by the Honourable the Home Secretary and my Honourable friends, Mr. Benthall and others, who have spoken in favour of this Bill are undoubtedly true. But how long are you going to go on merely stating the facts without making an endeavour to go into the root causes of these troubles ? I tell you frankly—from what I have been able to study of the situation as a student of politics for years who has been closely associated with more than one school of politics—I tell you frankly that all this present trouble is due to assurances not being fulfilled, to promises having been broken. And now every attempt is being made at home, if I read the newspapers aright, not to give us a real measure of responsible self-government. You are not doing that. What is the use of making us understand that everything is all right, that reforms are being hastened and that you are setting the house in order to see that these reforms are carried out ? The reforms do not seem to be in prospect. You are now asking this House to give support to a legislation which undoubtedly will make the situation worse. It would be one of the saddest mistakes of politicians, it would be one of the gravest blunders on the part of any statesman if he thinks that everything is all right here. I think there is a great deal of discontent. To my own knowledge many of my friends who belong to the Liberal Party or the Moderate Party are gradually feeling that they have to revise their policy. I am trying to think loudly. I know sometimes these are very inconvenient things to say. But I want to tell the Government that they are not keeping themselves in touch with the trend of thought of the country. Do not be misled about the situation. I do not think that this legislation will enable you to remove the evils complained of, and as it will not effect its purpose and as it will affect the liberties, not merely of the press but even of the ordinary citizens, I feel it impossible for me to give my support to it. I beg of Government to reconsider its position.

THE HONOURABLE MAJOR NAWAB SIR MAHOMED AKBAR KHAN (North-West Frontier Province : Nominated Non-Official) : Sir, from the Statement of Objects and Reasons attached to the Bill, it appears that it is intended to cope with the unhappy situation caused in the country on account of the civil disobedience movement on the part of the Indian Congress. From the provisions of the Bill, it seems to be intended to deal with the different lines of action proposed by the Congress in this connection, such as (1) intimidation to those who do not fall in with the views of the Congress to bring them round to its views of thinking ; (2) picketing and boycotting the persons who do not agree with its adherents in the matter of different methods designed by them to achieve their object ; and (3) especially to control the press.

Now, Sir, before going into the merits or demerits of the clauses comprising the Bill under discussion, I think we ought to see whether this state of affairs exists in the country or not. As far as our past experience of the last two or three years is concerned, I do not think any Honourable Member of this House can deny the fact that this state of affairs does exist in the country to a large extent. Instances are not wanting to prove it and there can be no gainsaying the fact that the Congress, during the last two or three years of its activities, has not hesitated to add to its coercive methods of disturbing the peace of the country with the idea of changing the present form of government. Honourable Members know full well that all its methods have been devised to paralyse Government and had not Government taken adequate measures to cope with the situation created by its coercive methods by promulgating different Ordinances at the proper moment, it was feared that the Congress might carry the day in disturbing the peace and tranquillity of the country. Frankly speaking, these methods of the Congress have gone a long way in paralysing the trade of the country. Under the circumstances there seems to be no harm if Government is armed with the necessary powers it desires to possess for the restoration of the normal conditions that prevailed prior to the existence of civil disobedience.

There is no doubt that the Bill is a drastic measure and there can be no doubt as well that its provisions are against certain sections of the public, but there can be no doubt also that it is intended to do greater good to a decidedly greater number of people and as such its adoption can in no wise be called a matter for regret. It is argued that public opinion is very much against the passing of this Bill, but, Sir, if you go into a bazaar or into a village and if you meet an ordinary man in the street, you will find that, with the exception of Congress-minded men (if at all there is any exception) nearly the whole population of this country is sick of the present state of affairs brought about by the Congress activities. The zemindar, as well as the general trader, is equally tired of it, owing to the present depression in trade and the tremendous fall in the prices of agricultural produce. It has very nearly destroyed the trade of the country and brought the zemindar to the verge of ruin. It would have thrown the country into a state of more chaos and disorder had not the Government taken the courage of dealing with it in an effective measure and at the proper moment, though a little late. It is on account of the effective measures that have been taken by the Government of India since December last that the every-day activities of the Congress have been restricted to a great extent, although not wholly abandoned. The movement cannot be said to have been destroyed *in toto*. On the other hand, there is every probability of its revival with renewed vigour the moment the powerful hand of the emergency measures which has held its progress in check up till now is relaxed.

Again, Sir, the object of this Bill, as its name denotes, is to strengthen the ordinary law so as to enable it to cope with those aspects of the civil disobedience movement which cannot be met with under the existing law of the country. To my mind the civil disobedience movement seems to be the result of a lawyer's study of the defects in the existing law. This Bill seems to be intended to meet the loopholes in it. As such there can be no harm in supplementing the law of the country and thus removing the defects in it which the Congress and its chief workers have taken advantage of to start such a subversive movement generally known as the civil disobedience movement.

Again, Sir, the present Bill is not of Government's seeking. Honourable Members are well aware that last year when every Provincial Government in India was threatened with a particular measure of lawlessness, for instance,

[Major Nawab Sir Mahomed Akbar Khan.]

the redshirt activities in the North-West Frontier Province, the no-rent campaign in the United Provinces, and similar demonstrations in other provinces, His Excellency the Governor General had to issue certain Ordinances in order to cope with the situation immediately and effectively. The motive underlying the promulgation of these Ordinances seems to be no other than to safeguard the country from going back into the same state of chaos and confusion as had been experienced in the year 1930-31 on account of the civil disobedience movement and restore the normal conditions of peace as soon as possible. After the issue of those Ordinances, there was a general hue and cry all over the country, in the press and on the platform, protesting against the promulgation of those Ordinances. There were questions after questions in the Legislative Assembly as well as in this House (if I recollect correctly) as to why those Ordinances had been issued without consulting the Legislature of the country. The justification of the Ordinances was questioned by everybody and it was everywhere argued and stated that prior to the promulgation of the Ordinances the Government ought to have obtained the consent and co-operation of the country's Legislature. It is in response to that hue and cry throughout the length and breadth of the country that the Government of India, placing reliance on the good intentions of the country's well-wishers, have thought it advisable to bring the Bill before the country's Legislature for its sanction and approval. It is now for the Legislature to stand by its promise of co-operation with the Government in their methods of restoring peace in the country and give them those powers which they deem necessary for the restoration of peaceful conditions disturbed as they are by the revival of civil disobedience and are further expected to be in case the powers asked for by the Government are denied to them.

Much stress is laid on the drastic nature of the provisions of this Bill, but I say that no law-abiding citizen need be afraid of them. I do not think that it is the intention of the Government to make everybody the target of this Bill in one way or the other, irrespective of his taking part in the Congress activities. Those who are not indulging in the unlawful Congress agitation should have no fear whatsoever of the drastic provisions of this Bill. All the same, the Bill is not going to be a permanent measure. It is only for a period of three years, during which time, and I must say even before that, we ought to expect the return of normal conditions in the country, in which case there can be no fear of its further application any more.

Now, Sir, with regard to the provisions of the Bill. As to the boycott of public servants, I may say that so many resignations from the patels in Gujrat Kathiawar at the time of Mahatma Gandhi's march to Dandi in the year 1930 were simply due to the threat of their being boycotted by their brethren in case they continued to hold their posts. Although this form of molestation has not been experienced very much in the north, it was feared that it would extend up country. The provision of a punishment against such a threat is quite up to time and can be expected to render satisfactory results.

With regard to picketing, whether peaceful or otherwise, I must say that it is the most objectionable method adopted by the Congress to induce people to desist from their regular course of employment or business. I myself have been an eyewitness to this sort of persuasion at the time of our Provincial Council election in March last. The elections at Mardan were to be held about the 12th of that month. The red shirts in that quarter had proclaimed their intention of picketing the polling stations there. On the day of the election

there were innumerable hordes of these people roaming in every street and bazaar of Mardan, hindering people by persuasions and threats from recording their votes at the polling stations. Mardan was in an actual state of blockade, and no man's honour and even life, whatever his status or position, was safe at the hands of these picketers unless he obeyed their demand of not voting at the polling stations. I have myself seen people insulted and assaulted by these proclaimers of non-violence simply because the registered voters had expressed their intention to record their votes, but for the timely help of the military and police, I do not think a single voter would have succeeded in reaching the polling station. All the same hardly one-sixth of the total voting strength had been able to record their votes in due time. This is only a single instance. There are many more of this kind but I do not wish to take up the time of the House in narrating every one of them. However Honourable Members may have read in newspapers that there was only one vote polled at Charsadda in a constituency of something like 3,000 voters. Besides this, just remember the recent happenings in Cawnpore and Bombay. The root cause of so many casualties and injuries connected with such like unhappy occurrences is due to nothing else but these picketings by Congress volunteers. These daily riots, in one place or another, go a long way to show that the general public of India is thoroughly tired of these demonstrations and molestations on the part of Congress. To say the least the picketing system is the greatest of all evils so far invented by the Congress, and the sooner it is done away with the better for all concerned.

With these remarks, Sir, I lend my support to the Bill.

THE HONOURABLE THE PRESIDENT: I think this is a convenient moment to adjourn the House. Before I do so I should mention that several Honourable Members have suggested to me that it might be convenient if instead of adjourning till half past two this afternoon we adjourn this discussion till the next business day. In that connection I might mention that tomorrow is a public holiday and I assume that our Muslim friends would deprecate our meeting tomorrow. Therefore it is a question of meeting this afternoon or not meeting till Wednesday morning. My own personal feeling is that as the discussion on this motion has not yet finished and there is a long list of amendments, the House should continue this afternoon. But my own feelings of course have very little to do with the matter. I am anxious to take the course which is most convenient to a majority of the Members of the House.

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN (Leader of the House): Sir, I have not heard yet the reasons those Honourable Members have to urge in support of their view that instead of meeting this afternoon we should meet on Wednesday next. But these must indeed be very very strong reasons to convince one that this House which has been waiting for so long to get at its work should, having met this morning, again put it off till day after tomorrow. Whenever a proposal to put off one's work is made, one feels tempted to accept that proposal. The holiday spirit of the schoolboy is revived when one grows old. But it is all very well for those who are sitting day after day to indulge in that luxury once in a way. It may give cause for some comment which we may not quite appreciate. I would therefore ask Honourable Members to think twice before they wish to indulge in this holiday spirit.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY (West Bengal: Muhammadan): Sir, I fully endorse what has fallen from the lips of the

[Mr. Mahmood Suhrawardy.]

Honourable the Leader of the House and I think we must expedite matters and work and finish quickly and sit if possible after lunch. Sir, I speak on behalf of my party.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-Official) : The opinion on this side of the House, as far as I am able to gauge, is that we should sit this afternoon. The work is not likely, in my opinion, even to be finished in the course of today and it will be necessary to have another day, perhaps on Wednesday, as we are not in a position to sit tomorrow on account of a public holiday. I think it will be in the interest of this House that the debate should be resumed after lunch. I do not know if my Honourable friends have any special reasons to ask for an adjournment, but if the Leader of the Opposition can show to this Council and satisfy that there are very substantial reasons, we may be able to reconsider our decision on this matter.

THE HONOURABLE THE PRESIDENT : I might explain that the suggestion which was made to me in this connection did not come from that side of the House at all.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS : Sir, in case the House is generally of opinion that we should meet this afternoon to resume the discussion on this Bill, I have no objection, but as far as sitting tomorrow is concerned, I think, Sir, because it is a religious festival day of our Muslim friends —

THE HONOURABLE KHAN BAHADUR MIAN SIR FAZL-I-HUSAIN : Nobody has suggested that.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS—so I propose there should be no meeting tomorrow and after we finish this afternoon, we meet on Wednesday.

THE HONOURABLE THE PRESIDENT : There will be no meeting tomorrow.

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

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

THE HONOURABLE MR. BIJAY KUMAR BASU (Bengal : Nominated Non-Official) : Sir, I have heard with as much attention as it was possible for me to give to the speeches that were made this morning in this House. I must say though with the greatest reluctance that I have got to characterise some of the speeches from the opposite side as speeches meant more for the hustings than for this Council.

Sir, it has been argued that the present law is sufficient to meet the movement known as the civil disobedience movement. If my friends had

taken the trouble of going through the criminal law of the country, they would have found that dissuasion from enlistment, for example, could not be punished under the Indian Penal Code; so boycott of Government servants could not be punished under the Indian Penal Code however much you may stretch it. Picketing, likewise, would not come under the ambit of the Indian Penal Code. These were practically the handmaids of the movement known as the civil disobedience movement, and I think that if the Government really want to govern, they must have some powers—at any rate some weapons in their armoury—to cope with these menaces. Sir, no Government in the world, I say, if it had regard for law and order and tried to have good government in the country, could possibly look on with equanimity, while their troops were being weaned away and the police were being asked to rebel, very much less, Sir, an alien Government. They cannot certainly look on with equanimity in matters of that kind. So if they have got to govern, and if they do not really mean to abandon the country, they have got to get these powers and this Bill which is before us today gives to them those powers.

Then, Sir, I think it was my Honourable friend, Rai Bahadur Lala Ram Saran Das, who told us about the Rowlatt Act. He felt very indignant at it and no doubt people generally feel very indignant at measures which they are pleased to call repressive, however much they may be wanted by the powers that be. The Rowlatt Act was passed quite a long time ago at a time when I perhaps did not come out of college, but even up to date, Sir, I have never heard of one instance in which that infamous and much-maligned Act was ever applied. If my friend thinks that this piece of legislation is going to be another Rowlatt Act I do not think there is any point in my friend's condemning it or trying to vote against it, because if this Act is not applied, no harm can be done either in my friend's constituency or anywhere else.

Sir, about the civil disobedience movement, what I feel is—and I have it on the opinion of one of the highest authorities—that if civil disobedience which made a very large impression in the country could have been abandoned and the forces of that movement could have been brought towards co-operation with the Government, I think the country would have gone much further than it has by following the civil disobedience movement. With your permission, Sir, may I read a telegraphic summary of what the Lord Chancellor, Lord Sankey, said about it?

“London, November 11th. Gandhi has power to change situation and can do much to restore peace. Civil disobedience does not strike individuals (*mark the words*) but ordinary organised Governments and civilised society. I believe that if Gandhi made great gesture and dropped weapon of civil disobedience and with his followers offered to co-operate with British Government, whole situation would be transformed. Co-operation cannot mean that man gets immediately all he wants but means that he gets infinitely more than he could by fighting to finish.”

After paying tribute to Gandhi's sincerity and character Sankey concludes :

“Let him abandon civil disobedience and bend his great powers to task of bringing men together instead of keeping them apart, then I have no fear for future.”

I think, Sir, a student of politics who looks dispassionately at things will endorse every word of Lord Sankey. The reforms are well within sight. The constitutional questions that are troubling the Round Table Conference at the present moment, I think if all of us, all shades of political opinions in the country, if we all put our heads together to find a solution, a solution can be found, and a very favourable solution too. Then, Sir, another

[Mr. Bijay Kumar Basu.]

argument that was put forward is that this measure which we have before us will be liable to abuse. Every law can be abused but my friends forgot that this law will be administered by people from the same strata of society from which we ourselves are drawn. This law will be administered by magistrates who, I think, come from the same strata of society as ourselves. What reason is there to suspect that these people will not act according to the law or that they will abuse the powers with which they may be entrusted? To say that all the magistracy is corrupt is to put the blame on ourselves and to admit that we are absolutely unfit for power. I for one would never give any thought to the proposition that all the magistracy was corrupt. I refuse to believe it.

Objection has also been taken that this measure deals very drastically with the press. As was pointed out by the Honourable the Home Member in the other House and the Honourable the Home Secretary here, this measure is admittedly drastic and exceptional. It is only necessary to point out the exceptional nature of the circumstances that have arisen in the country which do call for an exceptional measure of this character. About the press—I do not find my friend Mr. Natesan here—every clause of this measure against the press was debated upon both in the Select Committee of the Assembly as well as on the floor of the Assembly. There have been amendments after amendments on this clause, and the vast majority that supported the measure in spite of the amendments is to my mind convincing proof that the country wanted this legislation. There may be one man here or one man there who do not like it, but the vast majority which passed this measure in the other House gives us full confidence to say that the country wants to arm the Government with these powers. Sir, in a country which has about 94 per cent. illiterate people, who cannot even sign their names—to them, Sir, whatever is in print is true. They believe that it must be true because it is in print as Autolycus said, and there you have got to safeguard the good government of the country by taking the press in hand. Fair comment, fair criticism of measures or steps taken by the Government cannot come under this Bill. Honest criticism need have absolutely no fear from the provisions of this Bill.

There has been another contention of my Honourable friend Rai Bahadur Lala Ram Saran Das that the new constitution will be in this country within a period of two years. He asked, why then the life of this Bill should be three years? May I tell my Honourable friend that it is because we are going to have the reforms here within two years that the life of the Bill should be a little more than that. If the new Government of India do not want these powers, it will be quite easy for them to repeal this Act. If they think that the country do not like a measure of this sort, it will not take them more than a week to repeal this measure. If they found, after coming into the Government, that they wanted these powers, it would not be possible for them, being, I take it, a popular Government, to carry a measure like this through in the Legislative Assembly or this Council in less than a year's time. So give them another year. If they want it, let them have it; if they do not want it, let them throw it out. There will be very little trouble in throwing it out.

So far as the general tendency of the Bill is concerned, there is one thing about this measure which makes me very glad. This measure intends to cover all communities. It is not only the Congress or the civil disobedience led by the Congress which it wants to suppress. It means to suppress the

sinister movements of other communities, such as the Ahrar movement or the Jamait-ul-ulema, if they ever go beyond the pale of law ; because coming from Bengal, we have found that in Chittagong a collective fine of Rs. 80,000 was levied from the Hindu inhabitants alone—a place the population of which consists of 74 per cent. of Muslims and 21 per cent. of Hindus ! Then again in Midnapore, the punitive police tax was levied on Hindus alone because we were told that amongst the Hindus there were the terrorists....

THE HONOURABLE MR. MAHMOOD SUHRAWARDY : On a point of order, Sir.

THE HONOURABLE MR. BIJAY KUMAR BASU : On a point of order ?

THE HONOURABLE MR. MAHMOOD SUHRAWARDY : Yes. There is not a single instance in which we find that Mussalmans are identifying themselves with the terrorists at Midnapore ; so why should they pay police tax ?

THE HONOURABLE THE PRESIDENT : Order, order. The Honourable Member is not raising a point of order.

THE HONOURABLE MR. BIJAY KUMAR BASU : I am only trying to review the fact that this is a general penal law and will be applied with equal severity or leniency to all. I have therefore no hesitation in supporting this measure.

THE HONOURABLE SIR MANECKJI DADABHOY (Central Provinces : Nominated Non-Official) : Sir, this is, to my mind, the most momentous session of the Indian Legislature, and as far as I can recall to memory, since the days of the Criminal Law (Emergency Powers) Bill, commonly known as the Rowlatt Act, no Bill has invoked so much criticism, so much comment, so many adverse remarks and so much discontent as this Bill. I understand that there is a strong feeling in this Council as well as in the country against this Bill, and I therefore propose to speak with a measure of restraint and moderation. I quite appreciate the other point of view, but I feel, at the same time, that the real situation has not been correctly grasped by my Honourable colleagues, especially by my Honourable friend Rai Bahadur Lala Jagdish Prasad, when he pointed out in conjunction with the Honourable Mr. Jagdish Chandra Banerjee that there was no justification whatsoever for the introduction of this Bill. It makes it therefore necessary for me to prove to him what justification there is for this Bill, and I would therefore give in chronological order the history of the second civil disobedience movement, and I feel quite certain that when I recall that sorrowful narrative to him he will agree that opposition to this Bill would not in the circumstances be either just or proper.

Sir, in order to clearly comprehend the necessity and justification for the launching of this Bill it is expedient to recall to our memory the events which necessitated the suppression of the second civil disobedience movement. It is only by understanding the real nature, the genesis and the potential but sad results of that movement that we would perceive as reasonable men the justification for passing this Bill. As pointed out by Mr. Hallett, human memories are generally short and we are apt to forget more frequently recent events that have taken place than those that occurred years ago. Honourable Members are aware of Mr. Gandhi's famous march to Dandi Beach on the 6th

[Sir Maneckji Dadabhoy.]

April, 1930, and with the assistance of his followers how he broke the Customs laws by manufacturing salt. From that date onwards the civil disobedience was inaugurated and serious disorders and disturbances started throughout the country and not a single province was secure from unrest, serious upheaval and riots. It will be remembered that on the 11th April, 1930, the principal cities of Bombay and Calcutta were involved in terrible riots and bodily injuries were inflicted on innocent men and women and murders, arson and rape and other offences were openly committed. The tragedies of Ahmedabad, Malegaon and Viramgaon are still lingering in our memories. Shortly afterwards, on the 15th April, other serious and disastrous riots broke out in Calcutta resulting in a terrible loss of lives and on the following day similar riots occurred in Karachi. On the 18th April, a dastardly attack was made by the terrorists on the armoury at Chittagong. On the 23rd April, the frontier town of Peshawar was disturbed by a serious upheaval followed by riots of a serious nature at Sholapur in the first week of May and the Government were obliged to proclaim martial law there. It would be difficult to find a parallel in the recent history of the country in the matter of crime and carnage as one witnessed in Sholapur. In order to stem these movements it will be remembered that Lord Irwin was compelled to promulgate Ordinances between the 19th April and 7th July, 1930, and was even forced to arrest and incarcerate some of the leaders of the Congress. On the 5th March, 1931, an agreement was arrived at between the leaders of the Congress headed by Mr. Gandhi and Lord Irwin's Government and a pact was signed which will descend to history as the famous Irwin-Gandhi Pact. The terms of that agreement were published in the Gazette of India and by virtue of that pact the civil disobedience movement was called off and picketing conditionally stopped. Unfortunately, the Second Round Table Conference broke down on the communal issue and Mr. Gandhi's followers made the excuse of re-starting the civil disobedience movement on the ground that the terms of the agreement of the 5th March, 1931, were broken by the Government of India. The Government, on the other hand, accused the leaders of the Congress of violating the provisions of a solemn pact that was ceremoniously entered into. The annual administration report of the Northern India Salt Revenue Department for 1931-32 has now thrown a lurid light on the working of the Delhi Pact by the followers of Mr. Gandhi. It is well known that under the Delhi Pact villagers living in close vicinity of salt outcrops were allowed, as a special concession, in response to Mr. Gandhi's request, to collect small quantities of salt for their daily use or for limited sale in their villages. This permission conceded under the Pact was deliberately, seriously and mischievously abused and we have now before us the definite information that a large number of persons from all over the country and mostly from Gujrat visited the salt range and removed not only as much salt as they could carry away but even resorted to animal transport not only to re-kindle the smouldering embers of the civil disobedience propaganda but also for the purpose of making illicit gain and causing serious loss of revenue to Government. We are now authoritatively informed that altogether 42,290 maunds of salt were removed within a brief interval from numerous circles of the range. The excessive quantities that were removed and the distances to which they were carried indicated too plainly the desire to set up an organised traffic which was never contemplated by the pact and which was done in order to deliberately violate the pact and to make it a handle for re-starting political trouble in the country. If any further proof was needed to establish which party was guilty of breach I have only to remind the Council of the statement Mr. Vithalbhai

Patel made within three days of the signing of the pact that the Congress should sheathe their weapons for a couple of months and that they should see that they were not rusted. As if this was not enough, Pandit Jawaharlal Nehru at another meeting, which shortly followed in Bombay, said that the pact by no means meant a final peace and that—

“people should keep up the war mentality in the country so that in case of another fight they would be in a position to fight more vigorously”.

Honourable Members will also remember that when Mr. Gandhi attended the Second Round Table Conference in England last October and he was confabulating with the representatives of His Majesty's Government and his brother delegates from India and he was discussing a formula which would reach the greatest measure of agreement as the basis of the new constitution, two most significant movements in this country were started by his ardent and less scrupulous followers in order to undo the good work which he was endeavouring to do overseas, and I may tell you that this action on the part of his followers was not without reason or premeditation. Two most dangerous and disastrous movements to the peace of the country were started, first in the United Provinces and which took the form of a scheming and cunning appeal to the people of that province to refuse the payment of Government dues and also the payments of rents which tenants legitimately owed to their landlords. That movement was particularly dangerous at a time of great economic depression which had practically strangled trade and industry from every point of view, which had ruined agricultural industry and had rendered homeless and without food many thousands of people, which had caused serious unemployment in the country and when particularly the financial and economic basis of society had been cruelly disturbed and torn to pieces. The second movement was started in the North-West Frontier Province in which conditions are not as a rule peaceable and happy and the martial people of that province were instigated to start an organised movement against Government of a semi-military character and in plain defiance of the control and authority of that Provincial Government. The Local Governments had to take immediate, necessary and effectual action for the suppression of these movements and to counteract the efforts of Government a renewal of the civil disobedience movement throughout the country was wantonly started in order to thwart the efforts of the Round Table Conference to arrive at an agreed settlement on the one hand, and, on the other hand, to create disturbance and economic loss in the country. In order to justify their action in re-starting the civil disobedience movement some of the leaders and representatives of the Congress also started baseless rumours that it was the intention and desire of Government to attack and crush the spread of nationalism and not to give responsibility in the centre and to counteract the movement of Government the civil disobedience movement was justified. The renewed movement was in fact a well considered and deliberate attempt to coerce the authority by mass action and combined force. I shall not refer to consequences that generally result from misguided mob psychology nor dilate on the series of other crimes—on the dastardly and despicable offence committed at the Railway Institute when innocent and inoffensive people were entertaining themselves at a dance, nor will I refer to a series of murders and attempted murders of public officers and private citizens, both Europeans and Indians. It will be unquestionably admitted that all these offences either directly or indirectly can be traced to the existence of a subversive propaganda against an orderly and constitutional Government and the direct result of a policy of boycott, molestation and harassment by which Congress was seeking to serve its nefarious ends.

[Sir Maneckji Dadabhoy.]

My Honourable colleagues will see that it was under these circumstances

3 P.M.

that the civil disobedience movement was revived with all its tyranny and vigour. His Excellency Lord Willingdon was then obliged, from time to time, to promulgate nine Ordinances which expired in June last. He also promulgated another consolidated Ordinance, No. 10 of 1932, known as the Special Powers Ordinance, embodying the main and important provisions of several previous Ordinances and which would expire on the 29th of this month. To replace the provisions of the said Ordinance No. 10 this Bill has been introduced and it may also be remarked that it does not include all the provisions of the previous and existing Ordinance but only those provisions which have from experience of practical working proved to be absolutely necessary to control the situation as it exists today in this country, and the Central Government have left to Local Governments to supplement these provisions in different provinces by means of local legislation to meet local conditions. It is a matter both of gratification and satisfaction that most of the Provincial Legislatures have already passed supplementary Bills to adequately meet local conditions and exigencies. I may also remark that the Bill was framed in consonance with the wishes of the many Members of the Assembly and particularly the Honourable the Leader of the Nationalist Party in the Assembly who invited the Government in September last, on behalf of his party, to govern the country not by Ordinances but by a legislative enactment, and it was then urged by him that the Government had only to place before the House their Bill and they would receive their co-operation and support which that side of the House (the Opposition) had never stinted. I have endeavoured, Sir, to recapitulate these salient and important facts in order to prove to my Honourable colleagues that not only stringent measures are still essential to extirpate the final stage of the present civil disobedience movement but also to effectually check its revival or recrudescence in any shape or form. It was under these circumstances that this Bill has been introduced and I hope this brief narrative will convince my Honourable friend Rai Bahadur Lala Ram Saran Das who questioned the justification of the introduction of this Bill, and I feel he will agree in the face of these hard facts which I have stated that the Government had no option, the Government would have been gravely responsible for a dereliction of their natural duty if they had not brought this Bill immediately forward before the Legislature.

Sir, having given this brief narrative of the second civil disobedience movement, I propose now to answer the points raised by my Honourable friend Lala Ram Saran Das, my friend the Rai Bahadur and my friend Mr. Natesan, who, I am glad to see, is here. The first argument which has been advanced is that this Bill, if passed, will interfere with the primary rights of personal liberty and freedom. What is the primary right which, in the first instance, I am unable to see. Does not my Honourable friend there consider the safety of the State a most primary and essential requisite? Does my Honourable friend there think that if the safety of the country is not preserved by the maintenance of law and order he will be able to carry on his trade, his avocation, his industrial concerns? Will he be able to carry on the agricultural industry in which he is so much interested? I submit to my Honourable friend that the first essential of primary obligation of the State is to enforce law and maintain peace in the country and any Government that omits to do that would be an irresponsible Government and would not be regarded as a Government at all. Then about personal liberty, am I not entitled to ask whether personal liberty of a man should not be checked when he inflames the

public mind, when he instigates people to commit riots, when he instigates people to commit arson and murder? Is the Government to sit quiet and watch with folded hands events which are happening in the country? Is there no duty, is there no obligation, vesting in the Government to check such movement, and if the Government takes action in checking that movement can you regard it as a breach of the primary obligation of the Government?

THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD: What about vicarious punishments?

THE HONOURABLE SIR MANECKJI DADABHOY: I will deal with that subject presently if I have the indulgence of the Council for a few minutes.

Then the next argument which I have seen advanced both here and in the country is that if this Bill is passed it will enable the Executive to abuse their powers. Now, so far as I am aware, this is a stock argument. Every penal Act when brought before the country, before the Council, this argument is advanced that the Executive will abuse their authority, the Police will abuse their authority. Carry this argument to its logical consequence and see how ridiculous this argument is. If you say that the Executive will abuse powers vested in them when this Bill is passed, you might as well argue and ask that all the penal laws of the country should be abolished because the Executive will abuse them. You might as well say: "Repeal the Penal Code because the Police are liable to abuse, they are liable to arrest people and abuse their powers". What about the safety of the State under which alone society can exist, trade and business can go on. Is not special legislation necessary to meet national danger? So you will see that there is no reason or sense in an argument of this kind to advance against the introduction of a Bill of this character. I quite admit that occasionally mistakes are made by the Executive. I am not going to say that every Executive is infallible. Mistakes are often made, but when you compare the number of prosecutions that annually take place with the number of convictions that are obtained every year, you will realise that this argument has not much value.

Then you said these special Acts enable the Executive to abuse their authority. Now I will only take three important instances. I remember I was present when the Newspaper Incitement Act of 1908 was passed to meet the exigencies of the situation created by the Bengal Partition agitation against which the same contention was raised. This Act was repealed in 1921 and during the 14 years of its existence in a place like Bengal which was then a hot-bed of sedition, do Honourable Members know how many prosecutions took place, how often this Act was availed of? Only nine times, and in six of them the men were acquitted. You call that an abuse of authority? In the same way, the Rowlatt Act, when it was passed, you all remember the agitation that took place in the country. From every platform opposition was offered and most of the Members of the Imperial Legislative Council then spoke against the Bill and said it was going to cause terror in the country. It would make the lives and liberties of the people of this country absolutely insecure. And may I tell you how many prosecutions took place under the Rowlatt Act? Not a single prosecution took place under the Rowlatt Act. Take again, the Press Act of 1908. The same sort of argument was repeatedly and vehemently advanced. There were very few prosecutions under the Press Act. It was only in the case of the gutter press of India which is always irresponsible either to the country or to the Government or to themselves, that a few prosecutions were undertaken. So I am speaking now with reference

[Sir Maneckji Dadabhoy.]

to hard facts, placing hard facts before you in order to enable you to remove these apprehensions from your mind regarding the alleged abuses by the Executive in respect of these matters.

Then my friends, both Lala Ram Saran Das and the Honourable Rai Bahadur, have said that the policy of repression will do no good : stop repression. And the Honourable Mr. Natesan as well wound up his most eloquent speech by a reference also to the fact that we have to get to the root cause of this evil, namely, to give responsibility to India and if Government give responsibility to India everything will be well. I am not so optimistic as my friend there or my friend Mr. Natesan. I have grown grey in this Council and I realise that this sort of talking will never eradicate these evils in the country. What is repression ? The Bill aims only at law breakers. Is protecting law-abiding citizens, protecting public servants from murders, assaults, harassments repression ? Can the suppression of unlawful organisations be regarded as repression ? Is Government not bound to suppress those who have removed all fear and restraint from the minds of the people ? You require a stern hand. But my Honourable friend Mr. Natesan has asked : " Why does not the Government make any overtures and move for co-operation and conciliation ? " Has not the Government done that ? Has not the history of the last two years testified to that fact, that the Government have repeatedly and most sincerely and most earnestly endeavoured to bring about an amicable settlement with the leaders of this subversive movement ? Why was the Round Table Conference held three times ? Has not the Premier, has not the Secretary of State, from their places both in the Conference and in the House of Commons, made emphatic statements about the future policy of this country which the Government is going to adopt and is that not a gesture of goodwill ? Is that not a gesture of conciliation ? Is that not the gesture which you require ? What more do you require ? And if my Honourable friends need any further proof, what has His Excellency the Viceroy told us only a few weeks ago ? I will read an extract from his speech to remind you of what he said that you may dispel from your minds altogether that no gesture of goodwill has been shown by the British Government and British statesmen. Here is the first extract which His Excellency Lord Willingdon in his speech the other day said :

" The introduction of constitutional reform in India on the basis of an All-India Federation coupled with the widest practicable measure of responsible government at the centre and in the provinces could no longer be described even by its critics as a party decision. It is now the approved policy of the British Government, of the British Parliament and of the British people."

What more assurance does my friend Mr. Natesan require than this as a gesture of conciliation, as he said ? And here I will quote another passage from His Excellency's speech :

" Speaking on behalf of my colleagues and myself, I tell Honourable Members frankly that the conclusion we have reached is that all that is now required is goodwill and mutual confidence to carry us to the end of our journey, so that we may see rising before us the fruition of our hopes and labours."

What more definite statement than this can you have ? And only two days ago our esteemed friend, His Excellency the Commander-in-Chief in India, speaking at the inauguration of the Military College at Dehra Dun, advising the cadets told them :

" Be ready for the new responsibilities which you are shortly going to obtain."

What more emphatic statement than this can possibly be urged on behalf of Government? I submit, therefore, it is absolutely futile to say seriously that what is wanted is the sympathy and goodwill of Government. The goodwill must depend on us. We must try and meet Government now in the solution of this most difficult question. We must meet Government and give them every help. The country must give it. The Congress must give it and then even what answer do we get to that, which my Honourable colleagues have forgotten? Only the other day, Mr. Gandhi, from his place in jail, has announced that the civil disobedience movement has become an article of faith with him and it will never be given up. Is that the reconciliation on the side of the Congress? Is that the conciliation which you Honourable Members require? For these reasons I say this Bill was perfectly justified.

My friends there have stated that we are required to give our support to a set of laws which are entirely unsuited and which never could be obtained in any civilised form of government. I must say, with great deference to my Honourable colleagues, that they must be very imperfectly acquainted with the legislative history of European countries; otherwise, no such statements would have been made. Even in Ireland, the 17th Amendment was passed a short time ago doing away with civil powers and giving the Cabinet the right to appoint a Tribunal of five people, not civil officers conversant with law and usage but military people, with no appeal, no revision, no form of mercy over their decisions, and with powers to sentence to death any man who would not pay Government dues or who carried on or aided or abetted a boycott of public servants or a no-rent campaign. If you want a concrete example, the 17th Amendment of the Irish Free State Constitution gives you a vivid instance. Different countries have adopted different methods to deal with internal disorders. New methods must be provided for new forms of crime and for new circumstances which have actually arisen.

Then, as regards the doctrine of vicarious punishment. Is it a new law? Would you not, standing in the position of *loco parentis*, be responsible for the actions of your wards? Is that a doctrine unknown to all the civilised countries? I may say for the edification of my Honourable friends that this doctrine has been embodied in the English Statute, which is the Children's Act, 8 Edward VII, Chapter 67. This is a very old Statute. It is a law which has been recognised throughout England and which has also formed the basis of parental responsibility in America and in many European countries. But why go so far? We have passed long ago in various Presidencies in India similar Acts. The same principle is recognised in Bengal Act II of 1922, section 25. In Bombay Act XIII of 1924 the provision embodied is virtually a reproduction of the English provision. In Madras, the province from which my Honourable friend Mr. Natesan comes, the Act is known as Act IV of 1920, which reproduces a similar provision. In my own province, the Central Provinces, they have lately actually passed the Children's Act on similar lines. A provision of a like nature exists in the unwritten law of the tribal area of the Frontier province. To a certain extent it also existed in the Frontier Crimes Regulation of 1901 which has now been suspended. The Bill simply embodies provisions which impose vicarious liabilities on parents and guardians for the offences of young persons. Clause 8 has been so amended by the Select Committee that a parent or guardian is allowed to show in his defence that he has not helped in the commission of the offence by neglecting to control the offender. For any parent it is very easy to prove that he did not help or aid his ward in the perpetration of the offence. How many of us can honestly say in this country that we have prevented our young children

[Sir Maneckji Dadabhoy.]

from participating in the Congress propaganda, and in aiding and abetting it ? Thousands and thousands of children are allowed to go their own way without any restraint. Some parents actually instigate their children to go and participate in these activities. It is now considered patriotic and heroic to do all this. Is legislation to suppress this nefarious practice to be looked upon and detested as a piece of noxious legislation ? My friend referred to the doctrine of vicarious punishment and I have now given him full explanation. I am indeed very sorry that in the original Bill a punishment of imprisonment was provided, but the Select Committee, in its judgment removed that and made it only a question of fine. I think a few instances of imprisonments of the parents would have got rid of this form of the Congress propaganda much earlier.

Sir, I have already taken three-quarters of an hour and I am very grateful to you and the House for showing me this indulgence. I think that we shall our sound judgment and wisdom and keep up the traditions of this House if we today unanimously, with one voice, without a single dissentient, support this measure and I appeal to my Honourable friends there, who have spoken against this Bill, to see their way to show to the country that though they are prepared to safeguard all legitimate and varied and vested interests of the country, they are also interested in the maintenance of law and order and the good government of the country. Sir, I will not speak on the other provisions of the Bill now as I shall have another opportunity of speaking later on. (Applause.)

THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM (Bihar and Orissa : Muhammadan) : Sir, I had no intention of participating in this debate and if I do so now it is just to reply to certain points and direct references made by the Honourable Mr. Benthall to our Party and to certain remarks which fell from our Honourable friend the nominated Member from Calcutta and the gallant Knight of Nagpur.

Sir, the reason why we on this side are not prepared to offer our support to the Government is not due to the fact that we do not appreciate the difficulties of the present Government. Why we are not willing to give our support to this measure is because it is desired to have a one-sided bargain. In all business deals it is the custom that for each rupee to be paid there must be some value received. The price for the powers that the Government wants now is, that the future status of India should be so raised as to make it a land fit for free people to live in. Mr. Benthall appealed to our Party to show a progressive spirit. Well, it takes two to make a quarrel. If he wants us to be progressive, we would demand, on the other hand, that the Government should also be more liberal and less conservative in its safeguards and other provisions which are being forged now by Sir Samuel Hoare in the Round Table Conference. If the spirit that was shown by Lord Irwin and Mahatma Gandhi in March, 1931, to which Sir Maneckji referred, had continued, there is no doubt the whole country would have been in a better position. The Government on its side would have been saved from the necessity of bringing in a law of this nature, and the country would have been saved from the turmoil in which it is now. But, Sir, it is a moot point, who started the game first. The thing started, and now those who have the upper hand, those who have the power, ought to come out first and show compassion and give sincere proofs of their desire to do good by India, and it is not for the Congress men, who are rotting in jails, to give the lead. There is no doubt that the

Congress, if it had wanted to shorten the fight, could have done so, but the reasons which compelled them to continue this fight, knowing that it was a losing hazard, was that the mentality of the Government in England after the defeat of Labour had changed enormously and there was no more prospect of an honourable settlement being made in the case of India.

Sir, our very prescence in this Council Chamber is a proof positive that we are not like Congress men but are believers in the constitution and in co-operation. We have come here in direct defiance of the Congress mandate to non-co-operate and it should not be taken that the reason why we now turn round and do not support the Government is to be found in the Congress propaganda. It is because the Government by its action in India and outside has shown its utter disregard for the voice of its advisers who want to further India's good, that we have become despondent of having any fruit from co-operation. Non-co-operation may be barren but there is no doubt that those who are following it are doing so without any regard for their personal benefit, they are doing so patriotically, it may be that they are not well guided in selecting their part, but there is no doubt about their sincerity. They are doing it out of patriotic motives and this cannot be said about all of us who have come to co-operate with the Government.

Mr. Benthall asked what the representatives of the people would do if they were faced with a situation of this nature? Would they ask for powers like this and would we support them or not? The question is not necessary. As Sir Maneckji pointed out, in Ireland we had a proof of it. The Black and Tan methods which failed to quieten Ireland were not half as stringent as the measures started by Michael Collins and Cosgrave but Ireland did not demur at the stringent measures of Cosgrave because they knew that the man at the helm was their own man and they had perfect confidence in him. They knew that whatever he was doing he was doing for the good for the country, and that confidence was lacking in the case of England, when they started Black and Tan methods during the war and afterwards. The same thing would happen in India. A responsible Executive could be armed with far more stringent powers than what the Government are asking us now, because there would be the security that the people in whose hands we were placing the administration of the powers would be responsible to us; they would have to face the constituencies and if they mismanaged things they would be liable to be turned out. If we could have a like assurance from the present Government they could have freely demanded unconditional support from the people of the country, provided they had behaved in the manner in which the National Government when formed in England does behave. But do we find, Sir, that the Government in India is behaving in the same manner in which the national Governments in England have behaved? I may say that the worst features of Party Government that could be found in England are perpetrated every day in India. All the Party preferences and the other evils of Party Government—I might even go so far as to say that Tammany Hall methods—are sometimes indulged in and still the Government demands from the representatives of the people that they should be above Party and support the Government. We would be perfectly willing to give our unstinted support to the Government when we find that the Government is in the interests of India, for the people of India and for no other cause. Mr. Basu asked us to support the measure so that an alien Government may continue to rule over India. That is a strange appeal from a patriot.

THE HONOURABLE MR. BIJAY KUMAR BASU: I did not say that.

THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM :
That is what I have taken down.

THE HONOURABLE MR. BIJAY KUMAR BASU : I am afraid you are wrong.

THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM :
Sir Maneckji has recounted the troubles and distress with which India was afflicted on account of this civil disobedience movement. There is no doubt, Sir, that India has suffered greatly from the civil disobedience movement, but there are times when sacrifices have got to be made and there are times when sacrifices do pay. The Honourable Mr. Hallett in this introductory speech referred to this civil disobedience movement as a sort of unarmed rebellion. I think he correctly described it. It is a sort of rebellion, but against what ? Against the present order of things ; and I should like that England should repeat the history and be as generous with us as they were with their armed foes who fought with them in the Boer War. That would enhance the lustre of the English name more than these pettifogging measures of repression. England will come out brighter, more glorious and better able to fight the economic battle if it has contented members in its Empire. I look forward, Sir, to the day when these talks that are going on in the Round Table Conference are finished. Sir Maneckji Dadabhoy has pointed out to us all the gestures that have been made by the Government. I admit gestures have been made. But when we come down to brass tacks we find that there is more loud talking than real good.

THE HONOURABLE SIR MANECKJI DADABHOY : Loud talking on whose part ?

THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM :
Loud talking on the part of the British Government. The constitution that has been framed for the Centre makes our position even worse than it is now. At the moment, Sir, this House has got only 12 Government Members, whereas then there will be 40 per cent. Members coming from the States who will be as much Government Members as anybody else.

The reason why people have, to a certain extent, grown weary of this movement and are really now wanting to have a respite is not because the laws have proved effective in crushing the movement ; the laws have simply tired them and let the movement go underground. People who have gone to jails have not been permanently incarcerated, they are likely to come back again, and we have seen that they can again go in for this disorder. The one reason we suspect to be underlying in this measure is that the present economic depression and the worsening of the Government finances may compel the Government to bring forward, at the next budget session, more and more taxes on the already overburdened Indians and we fear there may be such economic upheaval in the country that the Government will require more powers than they have now.

The Honourable Sir Maneckji pointed out that we must support Government to maintain peace in the country. I would appeal to him and remind him of the Irish example and the adage that " good government is no substitute for self-government ". We know that it is a good government, but it cannot be a substitute for self-government. The penal laws that are in existence and the penal laws that this Bill proposes to enact are far different. There is a world of difference between the two. The ordinary penal laws are

subject to all the ingenuities of the law of evidence and appeals. We can exhaust all the machinery of the law in the case of the ordinary criminal law, while in these laws the Government enact special provisions. We had a reminder of these special provisions in a debate in the Assembly last year, on the "Habib Noor case" in which the time between the attempted murder and the execution was only three days. The whole legal process was finished in three days. These are special laws. That is why people are so wary; they do not want to enact special laws, because of the fact that it shortens the procedure. By leaving out all the ways in which its correctness could be tested in ordinary courts of law, by shortening these processes, and by stopping appeals, power is given to the magistracy which the ordinary penal law does not give. What Mr. Basu pointed out about the magistracy is not correct. But can we deny that the magistracy of India is not as independent as the magistracy of England? Here we have got paid men and hirelings of the Government as the magistracy.

THE HONOURABLE MR. BIJAY KUMAR BASU : Are they all honorary ?

THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM : Most of them, Sir. Here they are paid by the Government and are therefore under their orders, while in England a great portion of the magistracy is free and not subservient to the Government of the day. These are the safeguards which we demand.

If the Government really wanted to arm itself and wished to make a real effort to get the support of this House, the right method would have been to have a Joint Select Committee of the two Houses. We are never given an opportunity to give our advice when legislative measures are on the anvil. When everything is cooked and ready to be served, it is brought to us and we are asked just to say "Yes." We have got no business with the shaping of the laws. It is here that the Government usually blunders, and it is this action of the Government which is more responsible for turning people of this House against it than anything else. Government does not want our co-operation. We have tried times out of number to be included or to be associated with measures when they are under discussion. If you will see the Report of the Select Committee, you will find, Sir, that a great deal of change has been incorporated in the Bill. In the Assembly only two amendments—and those two by the Government Members—were accepted. That shows that there is more scope for work in the Select Committee than there could possibly be in the open session of the Council. It is because the Government has got no regard for the feelings of this House, it is because they do not want our co-operation that they do so.

THE HONOURABLE SIR MANECKJI DADABHOY : How is that the fault of the Government? It is the constitution, it is the Government of India Act which precludes them. It is not at all different in any other Upper Chamber.

THE HONOURABLE MR. ABU ABDULLAH SYED HUSSAIN IMAM : The Rules provide that if it is the desire of any Chamber to have a Joint Select Committee, a motion to that effect can be made in the originating Chamber, and then it can be brought to the second Chamber, and if both concur, then the Bill will be referred to a Joint Select Committee. That provision is present in the Legislative Rules, and if the Government had really been anxious to secure the co-operation of this House they would have done this. They ought to have done it in September when they introduced the Bill and

[Mr. Abu Abdullah Syed Hussain Imam.]

referred it to a Select Committee in the Simla session when there was ample time. There was no question of want of time. Government seems secure in this House, as they really are. I admit that. They can very well disregard the Opposition, because it is very ineffective here; but that ineffective opposition cannot be justly condemned for taking this attitude, when we find that the Government is likewise behaving in the same irrational manner. They are non-co-operating with us. They give us the first lesson in withholding co-operation, and as a corollary we have got to follow suit.

THE HONOURABLE SAIYID MOHAMED PADSHAH SAHIB BAHADUR (Madras : Muhammadan) : Sir, my Honourable friend Mr. Hussain Imam has just remarked that we have no prospect at present before us of an honourable settlement. Sir, I contend that we have now much greater prospects than we had at the time when civil disobedience had not been restarted. Sir, what was it that we had when the civil disobedience movement had been in abeyance? All that we had was the pledge of the Labour Government, the support of the Labour Party, and what is it that we now have? Sir, as has been observed by His Excellency the Viceroy, we have now the pledge not only of one Party in England but of all the three leading Parties there. We have the pledge not only of the British Government but we have also the pledge of the whole British Parliament. Are not, Sir, our prospects now much better than they were at the time when the civil disobedience had not been restarted? And what was it, Sir, that changed our dim, flickering hope built merely on the support of one Party, the Labour Party in England, what was it that changed that prospect into the bright hopeful prospect that we have now before us? It was all due to the gesture of co-operation that was shown by the Party which is now non-co-operating. Even though, Sir, the deliberations of the Second Round Table Conference had ended in failure, even though, owing to our failure to reach an agreement on the communal settlement, the deliberations could not attain their full success, in spite of this, Sir, our prospects have become greater only because of this fact that the people in England were assured that they had a better atmosphere in India so that they could co-operate with us in evolving a form of government which would go to place more responsibility on Indian shoulders.

Now, Sir, as regards the Bill before us, Honourable Members are aware we are legislating for abnormal times. The conditions which obtain in the country today are exceptional requiring exceptional laws to meet the necessities of the situation. Sir, if we refer to the Preamble of the Bill we find it reads as "Whereas it is expedient, etc.". Sir, this expression, "expedient", connotes the subordination of a principle for the sake of achieving an aim or purpose. We shall not therefore be justified in rejecting the present measure merely on the ground that it is drastic or different in principle from the ordinary law of the land. I do not mean to contend, Sir, that the measure before us is perfectly flawless. I am conscious of the fact that there are provisions in the Bill which have an ambit only too extensive and a range of application so wide that they are apt to bring within the clutches of this law even such acts as, far from being reprehensible, are most necessary for the well-being of society. I am also conscious of the fact that the provisions about the press are somewhat drastic and it is just possible that free and frank criticisms of the actions of the Government and of their officials may become more difficult, and it may be contended that at a time when the Third Round Table Conference is sitting in London and deliberations and consultations are being held with Indians in England regarding the kind of constitution to be installed in this country, it

may be contended that this is not the opportune moment when anything should be done that might have the effect of stifling honest criticism or free and frank expression of views. I wish, Sir, these provisions had been improved at the time when other improvements had been effected by the Select Committee but, Sir, even if these defects are not remedied, I am sure that the law which is being enacted will be reasonably administered. I am sure, Sir, our Honourable friends here who have been opposing the Bill will give credit to the magistracy in our country to have some amount of common sense and discretion to administer these laws in a reasonable manner, striving their best to avoid mischievous consequences.

Now, Sir, the Bill has been immensely improved by the Select Committee.

4 P.M.

But for the vast improvements that have been made by the Select Committee and particularly for the fact that the Select Committee has prevented this legislation from becoming a part of the permanent law of the land it would have been impossible for most of us who are now supporting this Bill to have given our assent to it. Sir, it is admitted on all hands that the present is an extraordinary situation. It is in view of this fact that abnormal laws were promulgated to cope with the exceptional situation in the country. But, Sir, these Ordinances which had been utilised to cope with the situation could not be indefinitely issued over the heads of the legislatures in the land. It has therefore become necessary for the legislators of the country, for the representatives of the people, to play their part in the keeping of the public peace and in the maintenance of law and order in the country. It was in view of these facts, Sir, that in several provinces like the Punjab, the North-West Frontier Province, Bombay, the United Provinces, the local Legislative Councils have passed emergency laws. It was in view of this fact also that the Legislative Assembly only the other day passed the measure which is now before this House. Sir, the very fact that the Legislative Assembly which is considered to be the popular House has passed this measure should be proof patent of the necessity for this emergency law.

Sir, I was surprised to hear from my Honourable colleague Rai Bahadur Lala Ram Saran Das that this Bill reminded him of the Rowlatt Act. He compared this Bill with the Rowlatt Act. But he conveniently forgot the fact that the Rowlatt Act was the creature of a Council in which the elective element had hardly any effective voice. He forgot the fact that this Bill is one which reflects the view of the Legislative Assembly and as such reflects the view of the representatives of the people in the country. If only my friend the Honourable Rai Bahadur Lala Ram Saran Das had given some credit for the elected Members of the Assembly to have some sense of responsibility, some feeling of patriotism, which no doubt has animated my Honourable friend in all his utterances here, he would have realised the fallacy of his analogy.

Now, Sir, it is true that there are provisions in this Bill which have too wide a scope. True also that the law which this Bill enacts is drastic, severe and repressive. But, Sir, it is no less true that the object of the Bill is not punishment but prevention. The end aimed at is not the curtailment of the freedom of speech or action but the securing to ordinary citizens their bare right of existence. Sir, the object of this Bill is to make people more responsible, more tolerant, less prone to inflict their will upon others. Sir, in a word, this Bill is meant to ensure to millions of our countrymen and countrywomen their natural rights and liberties without which every improvement is a sham, every advance a mirage and even democracy only a mockery. Sir, without this securing of their natural rights to the masses,

[Saiyid Mohamed Padshah Sahib Bahadur.]

without this self-discipline, self-control which would make it impossible for us to interfere with the national rights and liberties of others, self-government will be a farce, because, Sir, it is of the very essence of self-government that it is a well-ordered, well-regulated form of government of the people, by the people and for the people.

THE HONOURABLE KUMAR NRIPENDRA NARAYAN SINHA (West Bengal : Non-Muhammadan) : Sir, although I come from Bengal where of late terrorist crimes are on the increase, yet I can not accord my support to this piece of legislation, because I feel that the Central Government has, in the first place no necessity for enacting a legislation of this repressive character. The Provincial Governments have betimes moved themselves in the matter and have posted themselves up-to-date with the remedial measures in order to cope with any emergency arising. In the second place, Sir, the life of the Bill should not be extended to three years because if the fresh instalment of reforms proves quite reasonable and satisfactory, as it is held out to us, all these sinister movements against which this measure is directed will die a natural death. In fact some of the Provincial Governments where the evil is admittedly on the increase, in bringing about legislation on identical lines have given it only a year's duration, evidently acting on that belief.

Sir, my own experience of the working in my province of the Ordinances, most of which have been incorporated in this Bill, has unfortunately hardened my feeling against them. The discretionary powers with which they have clothed the Police and the Executive have in effect brought about a suspension of the constitution and have paved the way for defiance of law and for the substitution of military rule or misrule in place of civil rule. Property and home are no longer inviolate under them. They have already begun to suppress even educational and other social service institutions which do not participate in political work. As a hereditary stake-holder in the country, I cannot but view such a state of affairs without considerable alarm, especially when the Press, whose main function is to bring to light all cases of just complaints on the part of the aggrieved public, is sought to be ruthlessly put down through their operation. Sir, it is not people like myself that have occasion to find fault with them. Your people—your Christian missionaries who have had experience of their working—have condemned them in no unmeasured terms. One must not forget that among those Scottish missionaries who have sought to draw the attention of their Scottish Members in the House of Commons to the unfortunate working of the Ordinances in this country are *ex-lord* bishops, *ex-vice* chancellors, principals of colleges, heads of medical missions and eminent divines. On the top of this comes the severest condemnation of the Ordinances from the pen of that servant of Christ, the Reverend C. F. Andrews, in the course of a thought-provoking article entitled "Asia in Revolution" in the October number of the *Modern Review*. Lastly, Sir, Father Elwin in his book *Truth about India : can we get it* has ruthlessly run down the Ordinance regime. Sir, if these opinions do not prevail with the Government, I wonder what sort of opinions will.

Sir, we cannot shut our eyes to the fact that of late there has been growing unpopularity of British rule in this country and that for causes too well known to need recapitulation on this occasion. But to consider this sort of feeling as revolution is really misreading of the true situation and amounts to a condemnation of the entire Indian population. One can call it a feeling of revulsion, but not revolution. Because if there were really revolution in the country, the Government could have hardly secured the backing that they

had in the Provincial Legislatures for their emergency legislations one after the other. Again, Sir, when one finds that there are some longstanding grievances of the people against the existing form of Government one can easily account for that revulsion of feeling. The civil disobedience movement is only the means to the end of remedying those grievances. But the policy of the Government in regard to the civil disobedience movement seems to me entirely misconceived in method as it is itself futile and meaningless in object. Civil disobedience is not a disease in itself, but only a symptom of a deep-seated disorder in the body-politic. Government should not forget that they might keep all Congress men in confinement for some time, some of them for all time, but they must remember that they could not keep all Congress men in confinement for all time either under a special powers Bill or under the ordinary law. The way of looking at the nationalist movement as an evil which must be put down at all costs is bound to fail. There is no better proof of this fact than the failure of the Ordinances in their effect necessitating their statutory permanence in this Bill. But I feel sure that no sooner the present form of government changes, that moment this movement will collapse. But from the moment this sort of reactionary legislation is put into operation all spirit of nationalism will be crushed amongst the people and they will be reduced to the position of serfs and villains, and in place of just and judicial administration an arbitrary and tyrannical form of government will reign supreme. The consequence will be that people will be driven to utter desperation and Congress, which, according to English, American and Continental authorities, has in fact been the bulwark standing between the British official and the assassin, will loose its hold upon the people and one shudders to think what may not happen then.

THE HONOURABLE MR. MAHMOOD SUHRAWARDY (West Bengal : Muhammadan) : Sir, I have no great enthusiasm for this Ordinance Bill. At the same time, it would not be wise to skip over the administrative difficulties created by the civil disobedience movement and by the terrorist outrages in the country. Some of my Honourable friends who preceded me have based their objections largely on the arguments that its provisions were liable to be abused. I admit, Sir, that any measure of this kind which confers such wide powers on the Executive might be abused. But I doubt if there is any one here or in the country who really in his heart of hearts believes that the ordinary law is capable of combating the triple menace of the revolutionary movement, communism, and terrorism or the civil disobedience movement. Therefore, Sir, like other countries in the world, Government has to resort to a measure of this kind. A Government has no choice : either it has to abandon its duty of defending itself and the State in the interest of the public safety or permit a revolution to plunge the country into chaos.

Sir, I come from the district of Midnapore in Bengal. Let me respectfully but forcibly bring to the notice of the House that the Midnapore district is the representative of the province. Here it was that two District Magistrates have been murdered in cold blood despite strong precautionary measures. Mr. R. Douglas, the latest victim, was personally known to me and was a very popular magistrate. He was very highly spoken of by the local public. He dealt with the Congress leaders and the Congress picketers in a very gentle manner and allowed peaceful picketing, but in spite of all this he was not spared. His murder was described by a section of the Hindus as *go-bodh*, that is, as heinous a crime for the Hindus as the killing of the sacred cow. Now, Sir, I should ask the House to judge if Congress tyranny and its sympathisers have compelled and forced the Government of Bengal and the Government of India to have this Ordinance Bill or not ? Sir, as we have all

[Mr. Mahmood Suhrawardy.]

noticed, out of 27 districts of Bengal, Midnapore, Chittagong and Dacca are the plague spots of terrorism. The terrorist section of the Hindus and these misguided but desperate youths organized the conspiracy to kill Mr. Douglas in the District Board Hall while he was actually discharging his public duties. Sir, six years ago I happened to be both Chairman and Vice-Chairman of the District Board of Midnapore. I am still in touch with the people there. These wanton assassinations have caused great panic and I know how high officers have to live in intolerable conditions. In my humble opinion, Congressmen and their leaders who are sympathisers of the terrorist section of the civil disobedience movement are responsible for this Ordinance Bill and such strong measures. Government are fully justified in taking prompt and effective action for the safety of the public and the State. Sir, when I notice the condition prevailing in the Calcutta Corporation and in the District Board of Midnapore and when I notice that the schools and colleges have become the nursery of revolutionary doctrine in my country, Government, in my opinion, have every justification in arming themselves with adequate power in the interests of good government and the protection of their officers. Sir, if you want the safety of your officers you are bound to do so. If you want to save them from all cares and anxieties of their lives, if you want to ward off the evils of terrorism, you have got to arm the Government with powers as provided in this Ordinance Bill. Sir, I do not see eye to eye or agree with those who say that the Act will not check the evil. If you want to remove the evil you have got to take extraordinary measures for these extraordinary evils wholly foreign to the people of this land. Congress leaders should have called off the civil disobedience movement, since liberal reforms and responsible government have been vouchsafed by the British Parliament and the dual policy has been very successful in India. I wish Congress and its supporters, from Mr. Gandhi, the apostle of non-violence, whose broad and liberal ideas are to uplift the depressed classes, with his soul force down to Hossani Methar of Midnapore, now an M. L. C. in the Bengal Legislative Council, representing the Congress section, would remember that the first law of all human progress is "to live and let live", and that the Hindu community cannot and should not be an exception to it. Therefore, Sir, I would impress upon that section of their community who want to adopt a high-handed policy towards honest citizens by threats and terrorism to call off civil disobedience and to bring peace and prosperity in the country.

THE HONOURABLE MR. SATYENDRA CHANDRA GHOSH MAULIK : Why not give the same advice to the Moslems of Dacca ?

THE HONOURABLE MR. MAHMOOD SUHRAWARDY : Well, I wish my friend there would himself go to Dacca and advise or preach this gospel to the Moslems there. But, Sir, I must, at the same time, sound a note of warning against encroachments on the inalienable right of the people, the free ventilation of one's ideas whether in the press or at public meetings. The Press and such meetings are the safety valves and give indications of public opinion, which is the basis of good government. I offer this criticism, Sir, not in a destructive sense, but to enable the Government to mould its policy towards the Press leniently. Sir, I support the Bill. I have no objection to Government assuming larger powers for the maintenance of law and order to combat this new pestilence in this country.

THE HONOURABLE MR. M. G. HALLETT : Sir, I do not think it is necessary for me to reply at any great length to this debate. My arguments

such as they were, have been supplemented very ably and fully by many non-official Members and they have answered most of the arguments put forward by those on the opposite side of the House who still consider that this Bill is not necessary and is in some respects dangerous. One of the arguments put forward, on which I would like to say a few more words, is that this Bill sets up a kind of martial law. I think my friend, the Honourable Mr. Banerjee, made that observation. Possibly the Honourable Member was reading the Special Powers Ordinance and not this Bill, for this Bill omits the more drastic provisions of the Special Powers Ordinance, Chapter II, and does not embody any of the regulations which are ordinarily brought into force where martial law is in force. Further, to say that it gives very wide executive powers seems to overlook the clear provisions of the Bill itself. The Bill makes certain acts penal offences. Those offences are triable in the ordinary criminal courts by the ordinary magistrates, subject to the ordinary appeals, subject to the ordinary revision. The Honourable Mr. Hussain Imam observed that there was no right of appeal. That is quite incorrect. A full right of appeal exists and there is no extraordinary procedure in regard to the trial of these offences. Then again, take the provisions about unlawful associations. The civil court has been brought in there and an appeal to the District Judge is allowed. Take again the law regarding the Press. The High Court comes in there under the provisions of the Act which was passed last year and an appeal to the High Court can be filed. I may make one other comment with regard to the Press. The last speaker, the Honourable Mr. Suhrawardy, mentioned that we should not close the safety valve. I may say on that point that the Government of India have always issued instructions that this Act should be applied with reason and with discretion. They were first issued by His Excellency Lord Irwin after he had met a deputation of journalists in June, 1930, when the first Press Ordinance was promulgated, and the Honourable the Home Member in the course of the debate in the Assembly has shown his readiness to re-issue those instructions to Local Governments as soon as this Bill is passed into law. The Council may therefore rest assured that the Act will be applied with discretion and moderation by Local Governments. Again, another point was raised—I think it was by the Honourable Rai Bahadur Lala Jagdish Prasad—it was suggested that this Bill would deprive many citizens of their liberty. I should be glad if people who make such criticisms would sometimes study the statistics which are issued by the Home Department from time to time showing the number of convictions under the Ordinances which are now in force. They would find, for instance, that in the United Provinces, from where the Honourable Member comes, since January of this year up till October only three people out of every 10,000 of the population have been convicted and thereby deprived of their liberty, convicted, mind you, and not deprived of their liberty by mere executive action. In other provinces the figures are equally striking. In the Punjab, for instance, only seven people out of 100,000 have been convicted since the 1st of January. That I think disposes of the argument that the provisions of this Bill or the Ordinances which preceded it deprive people unjustly of their liberty. It affects only a small part of the population, but a very tiresome and a very turbulent and a very talkative minority. Reference has been made to the vegetable seller of Midnapore. He has got a good deal of notoriety. He has been mentioned in this House, he has been mentioned in the Assembly; he has even been mentioned in the House of Commons, and in the House of Commons, if I remember correctly, rather an apposite question was put, whether the vegetable seller himself objected to the order. I think if an answer is obtained to that question it would probably be found that he was only too glad to return to his work without any let or hindrance. But if we

[Mr. M. G. Hallett.]

remember the vegetable seller of Midnapore let us not forget the toddy vendors of Bihar who were deprived of their livelihood by their trees being cut down by Congress volunteers. so much so in one case, of which I have knowledge, the toddy sellers turned on the Congress volunteers and killed one of them. I do not think we can make too much of the vegetable seller of Midnapore if we remember the other side of the picture.

I do not think it is necessary for me to add anything to meet the other arguments that have been put forward ; for, as I have said, this Bill has received a very full measure of support from non-official Benchos and I trust, in agreement with the Honourable Sir Maneckji Dadabhoy, that this House will unanimously take the Bill into consideration and unanimously pass the Bill.

THE HONOURABLE THE PRESIDENT: The question is :

" That the Bill to supplement the Criminal Law, as passed by the Legislative Assembly, be taken into consideration."

The Council divided.

AYES—32.

Akbar Khan, The Honourable Major Nawab Sir Mahomed.
Bartley, The Honourable Mr. J. Basu, The Honourable Mr. Bijay Kumar.
Benthall, The Honourable Mr. E. C. Charanjit Singh, The Honourable Raja. Chetti, The Honourable Diwan Bahadur G. Narayanaswami.
Choksy, The Honourable Dr. Sir N. Clow, The Honourable Mr. A. G. Commander-in Chief, His Excellency the. Cotterell, The Honourable Mr. C. B. Dadabhoy, The Honourable Sir Maneckji. Devadoss, The Honourable Sir David. Drake, The Honourable Mr. J. C. B. Fazl-i-Husain, The Honourable Khan Bahadur Mian Sir.
Ghosal, The Honourable Mr. Jyotsnath.
Habibullah, The Honourable Nawab Khwaja.
Hafeez, The Honourable Khan Bahadur Syed Abdul.
Hallett, The Honourable Mr. M. G.

Israr Hasan Khan, The Honourable Khan Bahadur Sir Muhammad.
Johnson, The Honourable Mr. J. N. G. Mehr Shah, The Honourable Nawab Sahibzada Sir Sayad Mohamad.
Muhammad Hussain, The Honourable Mian Ali Baksh.
Murphy, The Honourable Mr. P. W. Noon, The Honourable Nawab Malik Mohammad Hayat Khan.
Padehah Sahib Bahadur, The Honourable Saiyed Mohamed.
Pandit, The Honourable Sardar Shri Jagannath Maharaj.
Parsons, The Honourable Sir Alan. Ram Chandra, The Honourable Mr. Shillidy, The Honourable Mr. J. A. Sinha, The Honourable Rai Bahadur Madan Mohan.
Suhrawardy, The Honourable Mr. Mahmood.
Vachha, The Honourable Khan Bahadur J. B.

NOES—10.

Banerjee, The Honourable Mr. Jagadish Chandra.
Dutt, The Honourable Rai Bahadur Promode Chandra.
Ghosh Maulik, The Honourable Mr. Satyendra Chandra.
Hussain Imam, The Honourable Mr. Abu Abdullah Syed.
Jagdish Prasad, The Honourable Rai Bahadur Lala.

Kalikor, The Honourable Mr. Vinayak Vithal.
Kidwai, The Honourable Shaikh Mushir Hossain
Natesan, The Honourable Mr. G. A. Ram Saran Das, The Honourable Rai Bahadur Lala.
Sinha, The Honourable Kumar Nripendra Narayan.

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Wednesday, the 14th December, 1932.