

Tuesday, 2nd February, 1932

59

THE
LEGISLATIVE ASSEMBLY DEBATES

(OFFICIAL REPORT)

VOLUME I, 1932

(25th January to 17th February, 1932)

7-9-32
2

THIRD SESSION

OF THE

**FOURTH LEGISLATIVE ASSEMBLY,
1932**



CALCUTTA: GOVERNMENT OF INDIA
CENTRAL PUBLICATION BRANCH
1932

Legislative Assembly.

President :

THE HONOURABLE SIR IBRAHIM RAHIMTOOLA, K.C.S.I., C.I.E.

Deputy President :

MR. L. K. SHANMUKHAM CHETTY, M.L.A.

Panel of Chairmen :

SIR HARI SINGH GOUR, Kt., M.L.A.

MR. ARTHUR MOORE, M.B.E., M.L.A.

SIR ABDUR RAHIM, K.C.S.I., Kt., M.L.A.

SIR COWASJI JEHangIR (JUNIOR), K.C.I.E., O.B.E., M.L.A.

Secretary :

MR. S. C. GUPTA, C.I.E., BAR.-AT-LAW.

Assistants of the Secretary :

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

RAI BAHADUR D. DUTT.

Marshal :

CAPTAIN HAJI SARDAR NUR AHMAD KHAN, M.C., I.O.M., I.A.

Committee on Public Petitions :

MR. R. K. SHANMUKHAM CHETTY, M.L.A., *Chairman.*

MR. ARTHUR MOORE, M.B.E., M.L.A.

SIR ABDULLAH SUHRAWARDY, Kt., M.L.A.

DIWAN BAHADUR HARBILAS SARDA, M.L.A.

MR. B. SITARAMARAJU, M.L.A.

CONTENTS.

VOLUME I.—25th January to 17th February, 1932.

	PAGE.
Monday, 25th January, 1932—	
Address by His Excellency the Viceroy to the Members of the Legislative Assembly	1—12
Members Sworn	13
Death of the Honourable Mian Sir Muhammad Shafi	13—23
Tuesday, 26th January, 1932—	
Questions and Answers	25—66
Unstarred Questions and Answers	66—72
Motion for Adjournment <i>re</i> the arrest and internment of Mahatma Gandhi—Not moved	72—73
The Indian Partnership Bill—Presentation of the Report of the Select Committee	73
The Hindu Widows' Right of Inheritance Bill—Discussion on the motion to refer to Select Committee not concluded	73—104
Wednesday, 27th January, 1932—	
Questions and Answers	105—112
Resolution <i>re</i> Imperial Bank of India—Negatived	112—125
Resolution <i>re</i> Chief Justices of High Courts—Adopted	125—153
Thursday, 28th January, 1932—	
Statements laid on the Table—	
Election expenses of candidates for election to the Legislative Assembly	155—165
Horse-breeding grantees reported against	165
Election of a Member to the Council of the Indian Institute of Science, Bangalore	165—166
Statement of Business	166
The Indian Companies (Supplementary Amendment) Bill—Introduced	166
The Employers and Workmen (Disputes) Repealing Bill—Introduced	166
The Indian Income-tax (Second Amendment) Bill— <i>contd.</i>	167—209
Monday, 1st February, 1932—	
Members Sworn	211
Resolution <i>re</i> Recent Ordinances— <i>contd.</i>	211—266
Tuesday, 2nd February, 1932—	
Resolution <i>re</i> Recent Ordinances—Negatived	267—325
Wednesday, 3rd February, 1932—	
Member Sworn	327
Questions and Answers	327—366
Unstarred Questions and Answers	366—378
Panel of Chairmen	378

	PAGE.
Wednesday, 3rd February, 1932—contd.	
Election of a Member to the Council of the Indian Institute of Science, Bangalore	378
Report of the Public Accounts Committee—Laid on the Table	379—392
The Indian Companies (Supplementary Amendment) Bill—Passed	393
The Employers and Workmen (Disputes) Repealing Bill—Passed	394—396
The Indian Finance (Supplementary and Extending) Amendment Bill—Introduced	397
The Indian Air Force Bill—Introduced	397
The Sugar Industry (Protection) Bill—Introduced	398
The Wire and Wire Nail Industry (Protection) Bill—Introduced	398
The Bamboo Paper Industry (Protection) Bill—Introduced	398
The Bengal Criminal Law Amendment (Supplementary) Bill—Discussion on the motion to refer to Select Committee not concluded	399—434
Thursday, 4th February, 1932—	
Questions and Answers	435—440
Election of a Member to the Council of the Indian Institute of Science, Bangalore	440
Petitions relating to the Hindu Widows' Right of Inheritance Bill—Laid on the Table	441
Petitions relating to the Hindu Marriages Dissolution Bill—Laid on the Table	441—442
The Hindu Widows' Right of Inheritance Bill—Motion to refer to Select Committee negatived	442—481
The Hindu Marriages Dissolution Bill—Discussion on the motion to refer to Select Committee not concluded	481—493
Statement of Business	493—494
Saturday, 6th February, 1932—	
The Wheat Import Duty (Extending) Bill—Introduced	495
The Sugar Industry (Protection) Bill—Referred to Select Committee	495—498
The Wire and Wire Nail Industry (Protection) Bill—Referred to Select Committee	499—505
The Bamboo Paper Industry (Protection) Bill—Referred to Select Committee	505—522
The Indian Air Force Bill—Referred to Select Committee	523—525
Wednesday, 10th February, 1932—	
Questions and Answers	527—566
Unstarred Questions and Answers	566—567
Statement laid on the Table <i>re</i> Action taken on Resolutions adopted by the Legislative Assembly	567—570
Resolution <i>re</i> Establishment of a Supreme Court in India—Adopted	571—606
Friday, 12th February, 1932—	
Questions and Answers	607—657
Motion for Adjournment <i>re</i> Publication in the Press of the Assembly speeches—Postponed to next day	657—663
The Bengal Criminal Law Amendment (Supplementary) Bill—Referred to Select Committee	663—681
The Indian Finance (Supplementary and Extending) Amendment Bill—Passed	681—682
The Wheat Import Duty (Extending) Bill—Passed	682—694

	PAGE.
Saturday, 13th February, 1932—	
Questions and Answers	695—711
Unstarred Questions and Answers	711—721
Statement by Mr. President on Mr. C. S. Ranga Iyer's Motion for Adjournment <i>re</i> Publication in the Press of the Proceedings of the Legislature	721—722
Statement of Business	722
The Hindu Marriages Dissolution Bill— <i>contd.</i>	722—742
Monday, 15th February, 1932—	
Questions and Answers	743—755
Petitions relating to the Hindu Marriages Dissolution Bill	755—756
The Indian Income-tax (Second Amendment) Bill—Motion to refer to Select Committee negatived	757—780
The Wire and Wire Nail Industry (Protection) Bill—Presentation of the Report of the Select Committee	781
The Bamboo Paper Industry (Protection) Bill—Time for Presenta- tion of the Report of the Select Committee extended	781
The Sugar Industry (Protection) Bill—Time for Presentation of the Report of Select Committee extended	781
The Indian Partnership Bill—Discussion adjourned	781—806
Tuesday, 16th February, 1932—	
Questions and Answers	807—822
Unstarred Questions and Answers	823—828
Resolution <i>re</i> Stabilisation of Exchange and Prices—Withdrawn	828—843
Resolution <i>re</i> Appointment of a Committee to hear grievances of Retrenched Officers—Negatived	843—850
The Bamboo Paper Industry (Protection) Bill—Presentation of the Report of the Select Committee	851
Resolution <i>re</i> Appointment of a Committee on Education—Negatived	851—874
Wednesday, 17th February, 1932—	
Questions and Answers	875—883
The Indian Partnership Bill—Passed, as amended	883—925
The Workmen's Compensation (Amendment) Bill—Introduced	925
Demands for Excess Grants for 1929-30	926—932
Demands for Supplementary Grants	932—936

LEGISLATIVE ASSEMBLY.

Tuesday, 2nd February, 1932.

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

RESOLUTION *RE* RECENT ORDINANCES—*contd.*

Mr. President: The House will take up further consideration of the Resolution moved by Sir Hari Singh Gour.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Mr. President, I gave notice of a motion of adjournment for censuring Government for arresting Mr. J. M. Sen Gupta while he was landing in Bombay, after being absent from India for several weeks, under Regulation III of 1818. I did not press for that motion expecting now to get a better chance of discussing the wider question of the present situation that prevails in the country. Sir, at the very outset I am glad to say that I appreciate the turn of events that has taken place in this country. Now at the helm of affairs you have Sir Samuel Hoare, who like a true Briton says in effect,—and we found his echo in the words of our Home Member—that they are now out to reconquer India and he accepts the challenge of the country. I make bold to say—and I shall prove it later on—that it is the Government who have put forward this challenge, and on behalf of the country Mahatma Gandhi has accepted that challenge. It is no use denying that in the life of a nation a time inevitably comes when the nation must prove its worth and must prove before the bar of the world's public opinion that it deserves to be called a nation. Let no Englishman have the least remorse to say that this method of tyranny and repression was not tried. Do not use words of apology. Do not try to justify your measures in that way, but like true Britons as you are, say that you believe that might is right. It is good for the country as well; if by your repression you can destroy the morale of this great Indian nation then India does not deserve to exist as a nation, if you can crush it in that way. I am really glad at this turn of events. The Europeans, as Sir Hugh Cocks said, really do not believe in these conferences and arguments. Had it been possible to win Swaraj by arguments, I would have tried and everybody else would have tried. Mahatma Gandhi put forward all arguments but they were of no avail. There must be a chance for Englishmen to see that, in spite of all their repressions, they cannot kill this great nation. Let the fight be to a finish, so let them try to go on like this for the next three or four months. But why should there be any words of apology? As a matter of fact when I was going through the terms of this Resolution, I found that it was a very tame Resolution and I was hesitating whether I should support such a Resolution. But I do not care what the Resolution is; I do not care whether it is passed or not passed in this House, because I know that even

[Mr. S. C. Mitra.]

if you pass it you have no guarantee from the Government Members that they will give effect to it. How did they treat you when, time after time, the Finance Bill was taken up and all the non-official Members, including even Mr. Yamin Khan's party, voted for you? Even now I have enough faith in those gentlemen who sit on the border line to believe that if they felt that in case this Resolution were passed Government would give effect to it, they would vote with us. But when we approached some of them they said,—it is no secret—what is the gain by having a majority vote? They will treat it in the same way whether you pass it or not. Some of them are aspiring for a Knighthood and some for some other favour. Why should we stand in the way of these gentlemen when we cannot gain anything by their votes? Therefore I say to the Government, give up that disguise and be frank and bold. You have now a National Government dictated by a Conservative majority. Let them see and be convinced. You tell the people that you will try unalloyed tyranny and repression, and if you fail, as you have failed everywhere, you will yield. To my friends on this side I say, what do you expect? Did they concede freedom without a fight to their own flesh and blood, the Americans? You will say that is old history. But see what happened the other day in Ireland. They had to pass through the same fire and bloodshed before they could get freedom. Really I do not stand here to apologise for those who are being repressed. There have been several deaths. Here in India we die in millions of preventable diseases. Why do you speak of a few deaths? It is the necessary consequence. If this country is to stand to its full stature, if this country aspires to have full freedom, it will have to pay the proper price through sufferings, troubles and tribulations. So I have no quarrel with the British Government. Let them have this fight once and for all. Then they will hear our words of advice. I do not forget that the Congress demands cessation from the British connection, they demand full and absolute independence. I for one believe that is premature. That is a great ideal and I know the whole world appreciates great ideals. But I as a reasonable man think,—and I think the whole country is with me though they very much appreciate the great ideal of immediate freedom,—that when the British people will find that there is no other solution of the present troubles but by some settlement, then alone the time will come for us to move such a Resolution and ask the Government to listen to our words. But what is the attitude of the Government now? They are not willing to concede anything. It is all camouflage. On the vital points about the Army and about finance they will not yield anything. They indulge in very fine speeches and say they are willing to concede this and that, but by way of safeguards they will take away everything. Sir, I had the good fortune of associating for a few years with the late Mr. C. R. Das who was considered a great extremist. He told me very often in confidence that he was willing to settle with the British Government once he was convinced that in 10, 20 or 30 years they would confer full Dominion Status to India. But I tell you frankly that people have no confidence in your *bona fides*. They do not believe in your words or that you are now anxious to yield. And why should you yield your trade advantages, your rights and facilities and the opportunity of domineering over such a large country? What sacrifices have we undergone up till now? Really such a struggle is necessary to prove our mettle. And so I am glad that Government have now come in with unalloyed repression. Let them try it for a few months and then the time will come for real settlement,

and that settlement will not be with the Congress alone or with this Assembly which represents none but the whole people of India. Your respect for this Assembly has been shown by your selections for the Round Table Conference. There are of course some estimable friends, but you have neglected all the party leaders. You took some from the Assembly because of their other worth, men,—I do not like to name them,—who would be helpful to you in displaying to the world that India is not a nation but a conglomeration of warring creeds. You selected your own people. In my opinion they can not deliver the goods. If you can break the Indian nation, if that is so, I repeat that India deserves to be crushed. But if we are a nation, if we can survive this repression, then a real settlement will be possible. It will not come about if we merely go on our bended knees. Our leader, Sir Hari Singh Gour, may pray for anything; he may move a timid Resolution; it may be passed or it may not even be passed. Even if it is passed it will be thrown into the waste paper basket.

But now because the Government pleads justification for the Ordinances I wish to say a few words. I represent the Chittagong and Rajshahi Divisions of Bengal. My friend, Mr. Anwar-ul-Azim also represents the same constituency; he represents the Muslim interests. Government have made a very fine distinction of Muslims and non-Muslims. And Mr. Anwar-ul-Azim thought it perhaps was not his duty to mention the fact that punitive taxes levied in Chittagong are laid upon the Hindus alone, perhaps at the dictation of the Home Member, and the Muslims are exempt from payment. I cannot understand it. The cardinal principle of Muhammadanism is the unity of God and the acceptance of Muhammad as Prophet. I myself subscribe to it. I believe in the unity of God and I believe Muhammad is his Prophet; but by that may I go beyond the mischief of your criminal law or any of your Ordinances? I say it is a most foolish thing to enact that because of one's religion he must pay this tax. I can give numbers of such instances. I can show, Mr. President, if you will allow me two or three minutes more, I can show conclusively, as my friend Mr. Abdul Matin Chaudhury did, that the Government really engineered this movement and challenged the people of India and therefore the people had no other way but to accept it, and Mahatma Gandhi could not do otherwise than what he did. In his humble way he prayed and begged and proved to the whole world that he was most anxious to understand and settle peacefully the Indian question; but before Mahatma Gandhi reached India, you arrest Jawaharlal Nehru; you proscribed his meeting and he postponed it in order to avoid a clash; you wanted him to curtail his movements; he told you he was going to meet Mahatma Gandhi and you arrested him before he started.

My friend wants me to speak of Chittagong. You have your Press censorship there and so people cannot know what is happening there and you cannot accuse me if I tell this House what I have heard. Searches are made at about 3 in the morning under the plea that the absconders may escape in the guise of women. The police search every man and woman and what happens? How can a woman prove that she is a woman? I have heard of a number of cases—they may be true or they may not be very accurate—of women being molested in villages; they went and complained to the Gurkha Chiefs and they said, "You cannot expect ordinary soldiers to bring their wives along with them". These things are happening. (*Cries of "Shame" from the Opposition Benches.*) A case was reported—by whom?—the Indian papers are afraid even to publish this—

[Mr. S. C. Mitra.]

the *Statesman* published the case where a woman was raped and her husband was taken away and assaulted by Pathans. The case came before the court; and there are so many cases like that. I can give any number. But, Sir, I congratulate my country on the splendid response it is giving. This House cannot voice it. Any one who reads a newspaper knows what is happening in every village throughout India. My friend, Mr. French, said that Subash Chunder Bose advised ladies to take up the work. What can happen when you put all the men in jail? The ladies shall have to go out; they have gone and they will go. I have no time, but I can show that what you have said is false. You are now abusing a man like Subash Chunder Bose. There are very few people here who are even worthy of unloosing the latchet of his shoes. I have lived with him for years behind the bars of prison and I know what he is. He is not for bloodshed or violence. But you are free here to depict him in any way you like. I know him much more intimately than you do. You speak of the Calcutta Corporation's resolutions. There is no time; otherwise I could justify every thing that was passed there and I shall do it on a later date because now my time is up.

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): Sir, at the outset I must express my regret at my esteemed friend, the Honourable the Mover, who justly enjoys the reputation of being perhaps the most learned lawyer in India, putting his name to a resolution so inartistic, so inconsistent and so inane.

Mr. Gaya Prasad Singh (Muzaffarpur *cum* Champaran: Non-Muhammadan): You are echoing your master's voice!

Mr. N. N. Anklesaria: Apart from the fact that it drives a coach and four through the rules and Standing Orders of this House, apart from its absolute want of intrinsic worth

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): On a point of order, Sir. Is the Honourable Member justified in casting a sort of reflection upon the Chair in so far as he says that the Resolution drives a coach and four through the rules and Standing Orders? I think in saying that he is practically impugning the capacity of the Chair to interpret the rules in the proper way.

Mr. N. N. Anklesaria: I am not in any way protesting against the action of the Chair.

Mr. President: I take it that the Honourable Member had no intention whatsoever of casting any reflection on the Chair.

Mr. N. N. Anklesaria: Most certainly not. (Laughter.) I say, apart from its total want of intrinsic merit, this Resolution at this juncture is wholly ill-advised. My Honourable friends on the other side have been talking of inducing a peaceful atmosphere in this country for the discussion of the impending reforms. I ask them how the heat and eloquence generated here in this House at present is likely to conduce to a peaceful atmosphere for the consideration of the new constitution.

Mr. Gaya Prasad Singh: And the *lathi* charges outside!

Mr. N. N. Anklesaria: It has been said that this is meant to be a censure motion on the repressive policy of the Government against the Congress activities. I have looked into the Resolution very carefully, but far from there being any specific mention of any repressive policy of Government against Congress activities, I do not see so much as a remote

allusion to such a repressive policy, and indeed such a remote allusion cannot possibly find a place in a Resolution which most unequivocally and whole-heartedly condemns all Congress activities. I say on this point alone one is entitled to remark, "Can inconsistency further go?". I was surprised at the Honourable the Home Member getting up and wasting so much of his eloquence on a Resolution which ought to have been treated by the Government with the contempt it deserves. When I heard him I was reminded of the knight of La Mancha riding full tilt with his puissant lance levelled against a flock of sheep. What has the Government to complain against in this Resolution? What is there which can bite any body in this Resolution?

As regards the recitals, there is nothing which can possibly be taken as a censure on the Government. In fact, Government could have with perfect justification said in the House, "Gentlemen of the Opposition, we thank you for not disapproving of our policy. As regards the acts of our agents in the execution of our policy, if you can give us specific instances of any misdeeds, we undertake to look into them. As regards Mr. Gandhi and his friends, whose names are mentioned in the Resolution, if they will undertake to give up those activities which you so whole-heartedly condemn, we will also look into their cases". As regards the three recommendations, I do not see that there is anything in those recommendations which could in any way evoke any disagreement from the Government side. The first recommendation most guardedly states that, "This Assembly recommends to the Governor General in Council that he should place before the Assembly for its consideration such emergency Bills in substitution of the Ordinances as he may consider reasonable and necessary". Well, I submit that the Governor General in Council is bound to bring before this House any measure which he thinks it is reasonable and necessary to bring before the House. (Laughter from the Opposition Benches.)

Then as regards the second recommendation, I think the Government could have said with great reason, "Yes, Gentlemen, we are prepared to give you a committee of inquiry provided it involves no extra expenditure on the exchequer and Members are willing to serve on it from patriotic motives and would not claim any allowances". (*Several Honourable Members from the Swarajist Benches*: "Oh, yes, certainly".)

Then as regards the third recommendation, Government could have said, "If the Opposition could show to the Government how the co-operation of the Congress could be secured, they would be quite willing to accede to the recommendation". However, Sir, this Resolution has been treated as a censure motion, and I will say a few words on it treating it accordingly. Before Honourable Members on the other side can blame Government for the present policy, I think they ought to give some credit to Government for knowledge of history, for ordinary common sense, I say for bare self-interest. Government as it is constituted at present could not possibly have embarked on their present policy without the most mature and the most anxious consideration. In fact, the history of the last 13 years proves to the hilt that this policy has been forced upon Government. All avenues of conciliation have been explored. Open defiance of constituted authority, and insults to Government officers have been patiently borne for this long period, and borne to an extent which has not only aroused the unqualified censure, but what is worse, the most unequivocal and undisguised contempt of the most ardent supporters of the British connection. All this forbearance, all these attempts at conciliation have

[Mr. N. N. Anklesaria.]

been wasted. On the contrary, they have made the enemies of India more bold, more recalcitrant, more intransigent, and when at long last Government, realising that the discontent of the peaceful, law-abiding citizens on account of their failure to perform their primary duty, was fast turning into disaffection, when at long last Government finding that loyal citizens exasperated by the tyranny of the Congress and despairing of Government protection were not hesitating to take the law into their own hands, I say, Sir, when at long last Government finding and realising all this wakes up and takes the only possible measures which can enable them to cope with the situation, up gets my friend on the other side and brings forward this motion which he calls a censure motion

Mr. B. Das: He did not call it a censure motion.

Mr. N. N. Anklesaria: Now, what does he expect by bringing forward this Resolution before the House? Does he expect this House to put its seal of approval on the doctrines of sedition and anarchy? Does he expect the Government to retrace their steps and stop measures which the activities of the Congress have called forth before those activities cease? Does my friend expect that Government should fold their hands and helplessly look on while the forces of violence, disorder, of murder and anarchy are working their will on this unhappy long-suffering land? I am quite sure, Sir, my Honourable friend the Mover, who himself has suffered so much from the Congress tyranny expects or desires nothing of the sort.

Again, Sir, look at what Mr. Gandhi and his friends have been doing. Just consider what they have been aiming at; just consider what they have sworn to accomplish. (*An Honourable Member from the Swarajist Benches:* "Freedom of the country".) I need not go into details

Mr. Gaya Prasad Singh: Your time is up. (Laughter.)

Mr. President: Order, order.

Mr. N. N. Anklesaria: If my time is up I cannot go on. (Laughter from the Swarajist Benches.)

Mr. President: The Honourable Member has got one minute more.

Mr. N. N. Anklesaria: Well, Sir, as my time is up, I would conclude by saying that I whole-heartedly join in the protest which my friend Diwan Bahadur Mudaliar has made against the Government treating this House so very cavalierly by not bringing these Ordinances before the House

Mr. Gaya Prasad Singh: Then why don't you vote with us for the Resolution?

Mr. N. N. Anklesaria: As this is intended to be a censure motion, however, I cannot possibly support it.

An Honourable Member: Who has intended it?

Mr. N. N. Anklesaria: Much as I have thought over it, I see nothing wrong in what the Government have been doing and nothing to deserve any censure whatsoever.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): I do not think that I can do justice to the Resolution, important as it is—I do not think that even the proverbial hurry and hustling of an American can do that and finish his speech within 15 minutes; still I will try to make the best of the time that is before me.

Believe me, Sir, that I am not a little surprised at the attitude that has been taken up by the Treasury Benches, and others in opposition to this Resolution, which I consider to be most modest, most sane and most sensible. Sir, I am not used to employ acrimonious terms towards any Honourable Member, but from what I have heard from Mr. Anklesaria, I must only say that he acted as one who is more loyal than the King himself. On this Resolution to be so light-hearted is a sin. We are all in such a condition in the country that we must weep and not laugh. In these circumstances, believe me, I feel it very much when I see that the Government do not stretch forth the hand of conciliation with regard to this Resolution.

Sir, let us examine what this Resolution asks for. It no doubt condemns the present repressive policy of the Government, but at the same time disapproving of the terrorist movement, it asks Government to come out and do what is needed and what is right for them to do, namely, to extend their hand of conciliation. That is what the Resolution aims at. The Resolution says, do not ignore the Legislatures through which only the law could be made. It requires the Government to co-operate with the Legislature and tells them that they should not stifle the Legislature of India. We are called here to virtually pass only small Acts such as the Companies' Amendment Bill, the Workmen's Amendment Bill and the like, whereas simultaneously, while the House is in Session, the Governor General is passing orders which vitally affect the country. The Government of India Act—I shall presently deal with that when I come to the constitutional aspect of this Resolution—requires the Governor General to pass Ordinances only to bring about peace and not to wage war. Was there not peace in the country when Mahatma Gandhi, the leader of the Congress, who has much support in the country, went to the Round Table Conference? Did not the truce bring about peace in the country? It is now well known that even Mahatma Gandhi was not allowed on his return to take part in the Round Table Conference Committees. As soon as he arrived he was arrested along with many other leaders, and yet Government say that the Ordinances are intended to restore peace in the country! Destruction and construction cannot go on together. No Government have ever destroyed the country and then governed it. It is the goodwill of the country that is the bedrock of all governments. Why do not Government accept this alternative and seek goodwill? Do they want that the country should be full of Congressmen to oppose them with non-violence? Or do they want that there should be terrorists all over the country to meet them? Or do they want the goodwill of the country? If they want the goodwill of the country, then let them come forward and accept this Resolution, this most modest Resolution, which only asks them to operate through the Legislature of the country, and to give the constitution which the country reasonably demands. They are having the Round Table Conference Committees, and at the same time they are launching repression of this extreme nature. Now, Sir, I am not going into the controversial question as to who is to blame for having created this situation. Reference was made to it by His Excellency the Viceroy when he addressed this House, but that is a controversial question. The Viceroy said that the blame is on the Congressmen, while on the other side there are many people who say that the whole blame is on Government. But I shall merely say that the arrest of Mahatma Gandhi, and the other leaders without giving them a chance to come and co-operate show what the true position is. However, that being a controversial point I do not want to enter into its details.

[Mr. Lachand Navalrai.]

Coming to the question as to how these repressive measures are operating, take it from me that it is not only in Bengal and the North West Frontier Province where this brutality is going on, but it is going on throughout the whole of India. Sir, yesterday, the whole case was given away by the Foreign Secretary when he told us an old adage. He told us that where bulls fight the grass is trodden. I ask him, why does he not see that the bulls do not fight? Who has made the bulls to fight and thus tread on the grass? The Honourable the Foreign Secretary was correct, absolutely correct, when he said that the grass is being trodden. In other words, other people, who do not profess to be Congressmen, other people who are not terrorists, are not free at all from this molestation. I may say that in my 'Sind' where the majority of the people are not Congressmen, the same brutality prevails. *Lathi* charges and firing are indiscriminately carried on and other innocent people are also being injured. In one word I may say that there is no one in India who is not exposed to the hardship and danger of this repressive regime.

In regard to the constitutional aspect of the question, it has been said that the making of these Ordinances is improper. I say it is illegal. I have read the jurisprudence of the British nation and I will say that that jurisprudence makes these Ordinances illegal. I have very little time but I shall hurry up through the whole history of it. In the 14th century the question arose whether the Crown in Council or the Crown in Parliament could make laws. And whether independently of the Crown in Parliament, the Crown in Council could make Ordinances. The question arose over the King in Council making an Ordinance of Staple. Staple was a market in towns. The Commons disputed the authority of this Ordinance, and the King promised that steps should be taken to publish the Ordinance of Staple, and in the next Parliament it should be rehearsed and put on the roll of the Parliament. The Parliament confirmed the Ordinance but provided against further dealing with the matter save by consent of Parliament. The history does not end there. Legislation by Ordinance, which had been so denounced at the end of the 14th century, disappeared during the 15th century but revived in the 16th, though it endured for a short time. This is from "Anson on Constitution". In Queen Mary's time Ordinances were called in question but the judges at once assigned to them their true legal character as statements of existing law and not sources of new law. Then the Tudor queens continued to legislate by way of Proclamation more freely and James the First followed the same course. The question then again arose during the time of Justice Coke when he and his brother judges decided the legality and gave an opinion:

"The King's prerogative is ascertainable by rules of law and is limited by those rules; he cannot make new nor alter existing laws nor create new offences nor constitute new courts for trial of offences otherwise provided for. He is the executive; his business is the enforcement of the existing law."

The Star Chamber was then functioning and when its jurisdiction had been abolished by the Long Parliament, Anson's book says:

"We hear little more of this encroachment of the Prerogative on the rights of the Parliament."

An episode of the 18th century furnishes an illustration when the Ministers of the Crown got a Royal Proclamation of a measure in view of a great scarcity occasioned by a bad harvest. The Parliament met and severely attacked the Ministers for the illegality of the Proclamation and after an acrimonious debate, an Act of Indemnity was passed in favour of the Ministers. So, Sir, the British legislators have always vindicated the abuse of their powers. Then, lastly the question came to the forefront in 1914 at the time of the Great War, yet the principle was not departed from and on account of far greater emergency the difficulty was met by Parliament passing an Act called the Defence of the Realm Act, 1914. So the legality of passing Ordinances was never admitted by the British. Now, Sir, what is the Indian constitution. What does section 72 aim at? Section 65 of the Government of India Act says the Indian law will be made by the Indian Legislature and then section 72 lays down that Ordinances can be made by the Governor General in Council for the purpose of keeping peace and order. This does not depart from the principle that has been enunciated and vindicated by the people of England. It does not give a blank cheque to the Viceroy to pass any Ordinance of this nature. He can pass such Ordinances only as do not come into conflict with the existing law. He cannot make any new laws or create new courts by Ordinances. Thus it is quite plain that the Ordinances as made are illegal, and I think every jurist and lawyer should take that view. The British people cannot possibly stultify the principle that they have been fighting for at all times either in England or in British India. Sir, I have done.

Mr. R. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadian Rural): Mr. President, in my experience as a Member of this House for the last eight years I have not come across a non-official Resolution which for its tone of reasoned moderation would surpass the one that is under discussion before the House today; and yet my Honourable friend the Home Member chose to describe this Resolution as a piece of mosaic, as a composite document and as consisting of incompatible sentiments. He did not choose to expand his ideas in order to show to the House in what sense the Resolution consists of incompatible sentiments. My Honourable friend the Home Member and the Government of India surely cannot have expected that in the face of the serious crisis with which the country is faced today this House will refuse to take note of that crisis. My Honourable friend spoke of this Resolution as a vote of censure, and he confidently expected that the House would pass a vote of confidence. If, Sir, the Government of India were properly constituted as Governments in other countries are in the face of a crisis of this nature it was clearly the duty of the Government to come before the Legislature with a clear demand for a vote of confidence. My Honourable friend not having had the courage to face the issue in that manner, we had no alternative but to table a Resolution of this nature. I fail to see in what sense this Resolution consists of incompatible sentiments. Any one who reads the Resolution with an impartial mind would discover in it a clear enunciation of the issues with which the country is faced today. I find in the Resolution three distinct issues raised. Firstly, who brought about this crisis, secondly, have the Government of India acted constitutionally in facing this crisis, and thirdly, have the agents of the Government been humane in carrying out the orders of the Government?

[Mr. R. K. Shanmukham Chetty.]

These are the three distinct issues raised by this Resolution. I for my part fail to see in what sense these are incompatible sentiments. In the time at one's disposal it is not possible for any one speaker to dilate upon these three definite issues raised in this Resolution. When the ashes of controversy have died down in the furnace and when the future historian of India comes to write the history of these times, he will then write that this crisis was brought about by the die-hards of the Government of India, and the die-hards of the Congress together. The future constitutional historian, when writing of the history of these times, again, will remark how the Government of India, faced with a serious crisis, threw into the waste-paper basket the constitution enacted by the British Parliament, and abused the power of Ordinances which the authors intended for entirely different purposes. I do not call the Ordinances unconstitutional, but I maintain that the authors of the Government of India Act clearly intended that the Viceroy must exercise his power of Ordinance-making only when he is faced with a crisis and the Legislature is not in Session or when the Legislature unreasonably refuses to grant sanction to any of the demands of the Government. May I ask if either of these two justifications can be given by the Government of India in support of the measures which they have put on the Statute-book without the consent of this Legislature?

I shall leave these two aspects of the question at that and shall come to the third aspect. Have the agents of the Government of India adopted humane methods in carrying out the Ordinances? My Honourable friend the Home Member said that the application of these drastic measures is carried out in moderation and in strict discipline. My esteemed friend Mr. Moore said that Members on this side contended that nobody's life was safe, that atrocities were committed and that he was sadly disappointed because no speaker on this side of the House filled up the picture. Sir, in the time at my disposal I shall fill up that picture, and in filling up that picture I will not give exaggerated stories of what one hears or what one reads in newspapers but of incidents which have come to my knowledge in my own small place of Coimbatore. When this so-called war began, four of the Congress volunteers started picketing on a certain day. I have been told by responsible advocates that with regard to the use of force the Ordinances give no more power to the police than the power already given to them under the Criminal Procedure Code. And yet what happened, Sir, in that place? There was no crowd gathered, and yet every one of these Congress volunteers was absolutely and mercilessly beaten. On that day, again, how was the leader of the Congress Party in that place, for whom by the way I hold no brief, beaten? He was not taking part in the picketing activities. I have got the authority of a respectable eye-witness, who is a personal friend of mine, to testify to this fact. He was watching this picketing sitting, from a particular shop. The policeman comes and tells him, "You ought not to sit here, and you must clear out". The man gets out and sits in another house about a hundred yards away. The policeman again comes and follows him to that house and says, "You ought not to sit in this house either; you must get away". This man gets up and goes in a direction, mind you, opposite to the scene of picketing, and, as soon as he walked ten yards, half a dozen constables followed him and, on the road, they belaboured him mercilessly with *lathis* (Cries of "Shame, shame", "disgraceful"). Is this, Sir, the Honourable gentleman's idea of the application of these drastic measures

"in moderation and in strict discipline"? And what happened in a small village near my own place? A volunteer actually succumbed to the injuries resulting from *lathi* charges! My Honourable friend, Mr. Ranga Iyer, spoke of the case of Dr. Paton in Madras. If only the Government of India were honest and instituted a proper inquiry into the case of Dr. Paton, then, they would have a sample of the methods of their agents in the provinces. A man is mercilessly beaten on the high road for no other cause than that he wears *khaddar*! And in justification of the beating, some charge is foisted upon him! If Dr. Paton was arrested under the Molestation Ordinance, may I ask, "What was the justification for the Local Government withdrawing the prosecution against him?" I do hope, my Honourable friend will make a due investigation into this case.

Only this morning, Sir, there is a report in the *Hindustan Times* about another example of the way in which "strict discipline" is observed by the officers of the Government in carrying out the Ordinances. In this case it is not an illiterate policeman that is concerned but it is an I. C. S. officer, the Magistrate of a place, called Tellicherry. Two ladies were charged before this Magistrate under certain of these Ordinances, and a fine of one thousand rupees was levied on one of them. The Magistrate, a European member of the I. C. S., asked one of these ladies to take away and surrender all the jewels that she had on her person. The lady immediately took off those jewels and surrendered them to the court. Everyone knows that for a Hindu married woman there is one insignificant piece of jewel round her neck the value of which is nothing—it probably costs five rupees—but which to her sentiment is the most sacred—it is called the *thali* or *mangalia* in Madras. It is a small piece of ornament worth about five rupees which the husband ties round the neck of the bride at the time of marriage, and it is only taken away when the husband dies. Now, nothing can be more distressing to a Hindu woman than any tampering with this small ornament that she wears, and yet this European Magistrate—a member of the boasted Indian Civil Service (*Cries of "Shame, shame"*) asks this woman to take off her *thali*! She explained the significance of it, an advocate explained the significance of that, and yet, Sir, this agent of the Government of India, who was carrying out these drastic measures "in moderation" and "in strict discipline"

Mr. Arthur Moore (Bengal: European): May I say that the report did not say that that had been done by a European Magistrate?

Mr. R. K. Shanmukham Chetty: It was done by a European Magistrate; his name is Mr. Dodwell.

Mr. C. S. Ranga Iyer: The *Statesman* has suppressed that report! (*Cries of "Shame, shame."*)

Mr. President: Order, order.

Mr. R. K. Shanmukham Chetty: Sir, this European Magistrate asked one of the policemen in court to *forcibly* remove this *thali* from her person, and then this woman asked her co-prisoner to give it into the hands of the court. I ask my Honourable friend, the Home Member, whether, in the face of these instances taking place in the provinces, he would still get up in this House and honestly say that his agents are carrying out these drastic measures "in moderation and strict discipline"? Sir, usually, as you know, I do not get excited when I talk in this House, but

[Mr. R. K. Shanmukham Chetty.]

when one hears of such instances taking place every day in the provinces, it is difficult to hide one's feelings, and that, Sir, is my excuse if I deviate somewhat from my usual course. In fact we are not in a position to know what is taking place in the provinces. On the day that the incident that I mentioned occurred in Coimbatore the reporter of one of the papers went to the Telegraph Office to send a report, and the Telegraph Master there said that he would not take in any report unless it was countersigned by the Collector. Then when he took this report to the Collector, the latter said, "You cannot send this report. Take down what I say" (Laughter). And he had to send the report dictated by the Collector. Next day in the shelter of his room he wrote a letter to his paper giving a description of the incident, but after this came out, he was sent for by one of the authorities of the place and he was asked to contradict that report himself (Laughter). That is the way in which censorship is carried on.

Then, here is another case. My Honourable friend Mr. B. Das—than whom it is difficult to imagine a tamer and a quieter person (Laughter) happens to be the editor of a paper, and he published on the 11th January in his paper a signed article called "The Wrong Move". Well, Sir, I gave this article, after reading it, to my friend, Mr. Jagan Nath Aggarwal and asked him to put himself in the place of the public prosecutor of his place and to underline those passages which he would place before the court if he were asked to charge Mr. B. Das under the Ordinance. Well, my Honourable friend did not succeed, and yet my Honourable friend, Mr. B. Das, gets this warning:

"I am desired to invite your attention to the article which appeared in the *Young Utkal*. This article appears to the Government to almost come within the mischief of the Press Act." (Laughter.)

and my Honourable friend has been warned.

Sir, these are the ways in which the agents of the Government of India are carrying out the Ordinance "in a spirit of strict discipline and moderation". Sir, I am not out to blame these poor agents and policemen. They are permeated with the spirit that rules in Whitehall. We have an example of that spirit in the broadcast speech of His Majesty's Secretary of State for India (Hear, hear) wherein he said, "Though the dogs bark, the caravan passes on". I suppose by "the dogs" he meant the howling Indian public, and by "the caravan" he meant himself and those round him here and in England. But, Sir, let me say, with due apologies to Oliver Goldsmith:

"And in that caravan a dog was found,
As many dogs there be,
Both mongrel, puppy, whelp and hound
And curs of low degree."

(Loud Applause.)

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Mr. President, the speeches that we have listened to since yesterday, and especially the speeches delivered by the Honourable the Home Member, Sir James Crerar, by the Honourable the Foreign Secretary, Sir Evelyn

Howell, and by two unpaid members of Government—the leaders of the European Group (“Hear, hear”) have made the issues now before the House absolutely clear. The main issue is whether this House will sanction “government by ordinances” as contrasted with “government by the ordinary law enacted by the Legislature in the ordinary way”. Sir, that is the principal issue that arises under these Ordinances. I believe every Member of this House has gone through these Ordinances; but I must admit that when I read the Ordinances, especially the Ordinance regarding the North West Frontier Province, I could hardly believe my eyes. What is the effect of it?

Mr. A. T. Ghuznavi (Dacca cum Mymensingh: Muhammadan Rural): How many Ordinances did the Honourable Member himself promulgate when he was a Member of the Bengal Government?

Sir Abdur Rahim: I never promulgated a single Ordinance.

Mr. A. H. Ghuznavi: The Honourable Member may have defended Ordinances in the Bengal Council.

Sir Abdur Rahim: I did not defend a single Ordinance in the Council.

12 NOON. Sir, the effect of the Ordinances, of which the North West Frontier Province Ordinance is the model and the type, is this. Every vestige of right and every sort of liberty has been taken away from the people altogether. It is not a question of suppressing certain movements or punishing certain crimes. It is not the question that there is a civil disobedience movement and special laws are required or amendment of the ordinary law is required. It is not the question there is a campaign, what is called the no-rent campaign, and there has to be framed a suitable law to meet that campaign. That is not the scope, that is not the intention of these Ordinances at all. The clear scope of the Ordinances is to deprive every one of every vestige of right—right to personal integrity, right to liberty, right to property, rights of association, and every right that a human being is capable of having. That is the scope of the Ordinances and we are asked by the Honourable the Home Member to give him and the Government a vote of confidence, that is to say, to sanction these Ordinances for the governance of the country. Now, Sir, I do not know what has inspired Sir James Crerar with so much confidence that we the representatives of the people are going to sanction this kind of law if law it can be called. He must hold us in very great contempt; he must think that we have no judgment to exercise and that we cannot understand the plain meaning of plain words or that we are all lost to all sense of self-respect and honour. Can an Indian, who finds that he is deprived of his liberty and everything that he holds sacred and dear, with any self-respect tell the Government that he has confidence in them and that what they have done is right and sanction that? Can the Honourable Member really believe this? I am sure that he cannot believe it. Sir, I say it is a mere piece of bluff. It is very difficult indeed to find words to describe such an attitude on the part of the Government.

Sir, a great deal has been said as regards the way in which these Ordinances are being applied in different parts of India, especially in that devoted province, the province of my friend Sir Abdul Qaiyum. Maulana Shafee Daoodi went there the other day to see for himself how things were happening because we have been receiving all sorts of horrible accounts of the state of things in the Frontier area. He has told us in extremely

[Sir Abdur Rahim.]

moderate and restrained language what he himself has seen there. He has told us that the people are terror-stricken from one end of the country to the other. They dared not even speak to him. They could not open their lips as to what was taking place in the country. This is the impression he gathered, and he has told us that. He had a lot more to tell us but he had not the time. Every one who heard him speak drew this inference that there is very much more behind than he gave out in this House. Now, Sir, I heard with great attention what Sir Evelyn Howell has told us. He has in fact only confirmed the impression given by Maulana Shafee Daoodi. The things that one has heard are simply indescribable and I find it impossible to describe them to this House. We want only an impartial committee of inquiry. Let some of us go there and see and satisfy ourselves what there is really wrong. If we can confirm Sir Evelyn Howell, so much the better for him. Why should he not trust us? Or are the facts such that they do not bear investigation from an outside body? That is the only inference we can draw if the prayer in the Resolution that a committee should be appointed to inquire into what is taking place in that province is not accepted by the Government.

What is the second prayer in the Resolution? We want Government to produce a proper Bill before this House to enable us to consider what is the mischief the Government want to strike at, to tell us what is the mischief they want to strike at. Ask the Law Member and the Legislative Secretary to frame a proper Bill. This is not beyond the ingenuity of a human being and of accomplished lawyers like these gentlemen. If the law is defective in any particular respect in order to meet certain evils, surely they can draft a proper Bill and place it before the House with proper provisions to meet the situation. Why should not Government do that? The only inference we can come to is that their intention is not merely to strike at a certain mischief or to suppress certain evils. The Government really want to go further. Sir Hugh Cocke has told us, "Now we have real government in the country. Hitherto they had been playing at governing the country. All the courts and the police, the Criminal Procedure Code and the Evidence Act, were a mere farce. Now we have got a proper Government". How delighted Sir Hugh Cocke and Mr. Arthur Moore are. We know now where the inspiration has come from. Pray, why do they want government of this sort? Because they want indeed to prepare the ground for Swaraj, Dominion Status and a free constitution. They are preparing the soil for freedom by destroying altogether the little freedom they have given us. And that constitution, Sir, is to come within a few months or a year and six months. Do they really believe what they say? It is impossible for anyone else to take them seriously at their own estimation. Now, Sir, they say, "How can any constitution work unless you restore peace and order?". For a hundred years your laws have been in promulgation and in operation, and your numerous courts have been working. Have all these Magistrates and Judges failed? All of a sudden they find out the true remedy and what is that remedy? Government can authorise any police officer, any military officer, any Magistrate they like to do whatever he likes. He can arrest a person on the spot and can keep him imprisoned for 15 days or even longer. He can take away his property, prohibit him access to public places and prohibit him from using the railways, the post office and the telegraph office. That is the law of this Ordinance. That is the real law they want. They want that as a preparation for Swaraj, for a free

constitution. Do they mean that we are such children that we can accept that sort of statement, such an explanation or apology. It is incredible that even the present Government could put forward such a plea. Why not tell us "We are making an experiment; we are seeing whether we can rule India in this way or not". If they succeed, what then? Do they really achieve their object? I ask seriously, will that revive their trade. Will that revive friendly and good feelings between England and India? Is it to their benefit? No doubt they have got the power, they have got bombs, aeroplanes, tanks, and poison gas, everything at their command. They can devastate the whole of India, I admit, but by devastating India, they ruin India, but at the same time they ruin England (Hear, hear) Are they really serious in pursuing this policy? If it is a mere experiment, they must know that it will fail, it is bound to fail. What then? It only leaves bitter memories behind. It makes the future task, the task of reconciling the people of India far more difficult than it is at present. I am not holding any brief for the Congress, I have never been a member of the Congress; I have denounced many activities of the Congress publicly and without any reserve. But that is not the question. They are depriving the entire people of their elementary fundamental rights. That is the point. That is where really I feel that Government are erring most grievously, most seriously. They are not paving the way for better feelings between the two countries. I ask the Government with all respect to seriously consider the position, and if they really believe that there are certain movements—I believe there are—which require to be checked, I believe it is possible to frame reasonable laws to be administered by the ordinary courts of law, in order to check and eradicate those movements. Why not ask the Law Member, ask the Law Secretary, ask the other legal luminaries that are in Government service, ask them to frame a proper Bill and place it before us?

An Honourable Member: You will reject it.

Sir Abdur Rahim: That depends on the necessities of the case. If the Bill goes beyond the necessities of the situation, we shall reject it, or we shall modify it, but surely, Government can check by reasonable methods all mischievous movements. Government have got a certain number of votes at their command and therefore they are not so helpless. I am absolutely sure that when Government bring forward a reasonable Bill, they can get it passed and that will really strengthen their hands. All these Ordinances are merely ephemeral measures and they will retard the progress of any constitution and will embitter the feelings all the more between the two countries.

The Honourable Sir George Rainy (Leader of the House): I should wish, Mr. President, at the outset to address myself to clause (1) of the operative part of the Resolution. No one who knows the kindly character of my Honourable friend, the Leader of the Nationalist Party, would accuse him of lacking a sense of humour, but sometimes it seems to me that his sense of humour is slightly obscured. That clause of the Resolution which he moved asked the Government to come to the House and confide in it in order to obtain all the powers Government consider reasonable and necessary. I confess that when I read the words "reasonable and necessary" I was not quite sure whether my Honourable friend meant what I might consider "reasonable and necessary" or perhaps what he considered "reasonable and necessary".

Sir Hari Singh Gour: This House, both of us, it is not for you alone.

The Honourable Sir George Rainy: The Resolution says "as he may consider reasonable and necessary" and 'he' in this case is the Governor General in Council. When my Honourable friend devoted more than half his speech to proving that the powers which the Governor General in Council had considered "reasonable and necessary" were beyond the competence of the Indian Legislature to pass, I thought that for the moment his sense of humour was not so keen and vivid as it sometimes is. I do not propose,—I am not competent indeed—to deal with the constitutional point, but there are certain other points which have been raised on which I should like to say something. It is said that, if the Congress were making preparations all through the year for the renewal of the campaign, why did not the Government come to the Assembly in September or in November and place before the Assembly the measures they considered necessary. I would ask this House to consider what the position of the Government would have been in these circumstances if, before the emergency had actually arisen and the danger point had been reached when we could hold our hands no longer, we had come to the Assembly and said, "We think it is probable that the need for these powers will arise, and we ask the Legislature to arm us with these powers in anticipation". Would that have been a reasonable course for Government to adopt, especially at a time when the constitutional discussions were proceeding, and both the Government and the Assembly were anxious to avoid what might interfere with the course of these discussions? (Hear, hear.) Had we come forward with emergency proposals of that kind not to meet an actual emergency but a possible one, the House would have refused, and I think rightly refused, to arm us with powers to meet a contingency which has not yet arisen. Now, Sir, when the actual emergency occurred at the end of December, it became necessary, if a very grave calamity were to be averted, that action should be taken. Honourable Members may ask, why could we not call an emergency session and place a Bill before the House and see what the House said to it. If I am asked why Government did not adopt that course, my first reply would be that even to summon an emergency session involved some time and time was the one thing which we could not afford to lose; but I would go further than that. This is not the first time that Government have had to place before the House measures involving in one way or another unusual interference with the liberty of the subject, and we could not dismiss from our minds the recollection of what had occurred on some of those occasions. We have not, some of us on this side of the House, altogether forgotten the discussions on the Public Safety Bill some three years ago, and the somewhat active policy of obstruction with which the progress of that measure was impeded. Some of us even had recollections of the Press Bill in Simla; and I think that if I had appeared with an emergency Bill before this House, the very first motion that would have been moved by my Honourable friend Sir Hari Singh Gour would have been that the Bill be circulated to elicit opinion thereon. (Laughter.) Therefore, Sir, it did not seem to the Government of India that to call an emergency session and to bring a Bill before it was the proper way to meet the crisis.

Now, another difficulty arises. Supposing we had put all the details of the Ordinances before the Assembly, it like any other legislative body would have wished to give it a detailed scrutiny, and that again,—even though there was no question of circulating the Bill—does involve considerable expenditure of time. And meanwhile the dangerous agitation which was

threatening the gravest danger to the country was going on, and what would the position of Government have been then? In similar circumstances in a country with full responsible government, I can imagine that, if the Government had a sufficient majority in its Parliament, it might produce a detailed legislation, suspend all Standing Orders and pass the whole thing in 48 hours. But much more probably the course adopted would have been a different one, namely, the course adopted by His Majesty's Government in Great Britain as recently as September last when they passed through both Houses of Parliament very rapidly an emergency Bill giving all sorts of extraordinary powers to the executive Government, or by His Majesty's Government in the Free State of Ireland on a still more recent occasion. The plan I am considering means legislation very much on the lines of the Defence of the Realm Act which was passed during the war, by which the power of sub-legislation to a very extensive extent was conferred upon the executive Government. Now, Sir, if the Government of India had put a measure before the Legislature it would have been necessary to proceed in that way owing to considerations of time. But if we had asked the Indian Legislature to confer upon the Executive Government extensive powers of sub-legislation, I do not know, Sir, but I am a little doubtful whether my Honourable friends opposite would have given quite such a cordial and friendly reception to such a measure as some of the remarks made during this Debate might lead one to expect. However, Sir, I do not wish to devote too much time to this point, and when my Honourable friends opposite ask us what Government are likely to do should the powers we have taken unfortunately require to be extended, I would merely say this that perhaps by tomorrow evening we may be in a better position to judge what is the wisest course, because tomorrow the House will have an opportunity of expressing its opinion on a Bill introduced last year which, I may mention, was circulated in order to elicit opinion thereon. I think perhaps when we have heard what my Honourable friends opposite have to say on that Bill we shall be in a better position to assess the importance we ought to attach to what they have been telling us of the readiness of the House to give the Government reasonable powers. But meanwhile we are not going to assume that the necessity for these extraordinary powers which have been taken will continue for a very long period, for indeed we should be very sorry prematurely to come to any such conclusion.

Now, Sir, I want to turn to the second clause of the operative part of the Resolution, and I must be brief for my time is limited. I should wish to emphasise again what fell from my Honourable friend the Home Member on this point that it is the desire and intention of Government that these drastic and extraordinary powers should be exercised only to the extent necessary. And for a very obvious reason. That is their desire and their intention because excessive severity in such cases always defeats its own object. I frankly admit that. Now, as regards certain cases to which my Honourable friend Mr. Chetty and others have drawn attention I should like to say this that when specific cases are given, specific cases in which the powers are said to have been abused, I do not believe that any Local Government in India would refuse to make suitable inquiries. As to the merits of the particular cases, naturally he will not expect me to deal with them because it does not fall naturally within my province. But I would wish to deal briefly with what has been said about the North West Frontier Province. When my Honourable friend

[Sir George Rainy.]

Mr. Shafee Daoodi rose yesterday. I had expected that he would devote the whole of the time at his disposal to telling us what he had seen during his mission to that province undertaken with the full concurrence of the Government of India and of the Local Government. In fact, however, Sir, he devoted the first five minutes of his speech to a totally different clause of the Resolution, and I was never more surprised in my life when I heard him adopt that course. I listened with the greatest care to every word he said, but I must quite frankly say that on the case he presented,—and he was in a better position I suppose than any other unofficial Member to present that case,—I do not think he succeeded in making out a reasonable case for an inquiry of the kind contemplated. But I would repeat what my Honourable friend Sir Evelyn Howell said yesterday that, if specific cases are brought to our attention, we shall certainly draw the attention of the Chief Commissioner to them and see that proper inquiries are made.

Now, Sir, before I sit down I wish to deal with clause 3 of the Resolution. The implication of that clause is that Government need an admonition because it is not their desire to bring all parties, all communities and all organisations in India into the constitutional discussions. I say that is the most preposterous proposition that has ever been put before this House. What has the whole policy of Government been through the last year? What risks did we not incur in order to bring about that very result so that all parties and all communities in India should take part in these discussions? We are not to assume that my Honourable friends opposite put forward this clause in their Resolution as a pious platitude. If it means anything at all it means that they think they are entitled to censure Government for not taking appropriate action in that direction, and I repudiate that insinuation. It has been the declared policy of Government, the policy on which they have acted and the policy in which, if other parties give them a chance, they are determined to persevere.

Mr. Jagan Nath Aggarwal (Jullundur Division: Non-Muhammadan): Sir, I have listened with great care and attention to the speech of the Honourable the Leader of the House, and I must confess that I was considerably disappointed. I expected a justification for this extraordinary resort to Ordinances. One may be permitted to mention that this Ordinance-making power originated in the year 1861, and at that time, as my Honourable friend Mr. Puri read yesterday, Lord Ellenborough in the House of Lords sounded a note of warning that he was not prepared to trust any one single individual to make laws for a whole country not only without going to his Legislative Council but, so much so, without consulting them. Now, Sir, this power practically lay unused from that year for well nigh 50 years. Resort was had to it during the war and for a very good reason. But the extraordinary use of it during the last two years needed a word of justification, and what is the justification that the House has received? We are told that if the Government had come to this House in September for arming the executive Government with powers to deal with an emergency that had not arisen, we would have said to them, "You are coming prematurely". We are told that if the Government had come at the time of the emergency, we would either have delayed the measures by our blocking motions or we would not have passed them, and that we would have taken a lot of time as in the case of the Public Safety Bill and therefore the Government could not consult us on either of

those two occasions. But, Sir, that is precisely the point of this Resolution. If you could not consult us before the emergency had arisen, and if you could not consult us when the emergency arose, you can certainly consult us now that the powers have been taken and this House is sitting. We now ask you that the Governor General in Council should:

"place before the Assembly for its consideration such emergency Bills in substitution for the Ordinances as he may consider reasonable and necessary in order to enable this House to function effectively as intended by the Government of India Act."

Some emphasis was laid on the words "such as he may consider necessary", but it is the privilege of the executive to place Bills for consideration as may seem to them to be necessary. It is then the duty of this House to consider them and give its assent to them or not. No one can therefore take objection to this part of the Resolution; and as my learned friend Mr. Anklesaria from that part of the House, after furious thinking, came to the conclusion that this was a very innocent part of the Resolution, I am surprised that it was not very eagerly accepted by the Treasury Benches in spite of his advice. He could find nothing objectionable in this and neither do I.

I am afraid the whole point underlying it has been treated as a vote of censure. If it is a vote of censure, then it is there; if the battalions of the Government wish to defeat it, we wish them joy of it; but the responsibility is a serious one. If you treat this as a vote of censure and defeat it by your solid phalanx, I will tell you the result, you will pass a death vote on this Chamber. Sheer self-respect demands that this Assembly shall rise in angry protest against Legislative functions being exercised by any other body than this House. If this Resolution is a vote of censure on the Government it is something more on the dignity and on the self-respect of this House. What are we here for? Why are we called from all corners of the country to make laws and to criticise the administrative acts of the executive and to vote money Bills? So far as money Bills are concerned, we have had experience of two sessions. But so far as legislation is concerned, it is time to consider whether we are really functioning. If the Governor General alone by himself can make all kinds of laws for all time and for all occasions, then it is just as well to disband this House and tell us so. (*Opposition cries of "Hear, hear."*) There will be some point in your rule by Ordinances if you are to disband this House; then you might also disband all these Round Table Conference Committees and send them back. You might proclaim from the housetops that you mean no nonsense about these reforms and Dominion Status and all the rest of it. I say in that case you will be perfectly entitled to rule with the help of Ordinances and with certification and with the suppression of ordinary fundamental guarantees. But one cannot understand that you on the one hand are propounding these theories of constitutional government and Dominion Status and committees and so on, and on the other hand using force to repress all opinion. One would like to understand what it is that is at the back of the minds of those who are promulgating these Ordinances and are engaged in this kind of talk. It is a puzzle to many people on this side and on that. The puzzle is the change, the unfortunate change in the attitude of the powers that be. It came very handy this morning from the late Secretary of State, Mr. Wedgwood Benn, in the papers, when he wrote to the present Secretary of State, taking objection to the remark that the policy of the present Government was the same as that of the late Government. No one could speak better on this subject. One Secretary of State telling

[Mr. Jagan Nath Aggarwal.]

another Secretary of State that the outward form, the shell, is there, but the kernel has disappeared, the spirit has changed. I would in my own humble way point out other things which show that all this talk about reforms, about Dominion Status and improvement of the constitution, and all that is all bunkum. Either you do not believe or you do not mean anything by it. If you do, then all these measures and all these acts that you are engaged in are mere deception; there is no point in them.

Last year we used to hear from Members opposite, when dealing with any measure in this House, talk of real co-operation. What is the language used now from the most authoritative quarter? "The caravan passes by, while the dogs are barking." What does this mean? No country likes to hear of its people who are out against any measure of the Government that they are like dogs. No nation with any self-respect can take these words with any measure of satisfaction or anything short of alarm. The whole point underlying it is that although the words remain, the essence has disappeared. No one is serious about reforms, and if that is so, then I say what is the use of all this talk about Dominion Status and reforms?

My learned friend, the Deputy President, when speaking about the Resolution and the alleged moderation with which these Ordinances have been worked, mentioned a certain article written by an Honourable Member of this House whom he called timid and mild. Some people on the other side seemed to take exception to the description of my Honourable friend on this side as timid and mild. I have read the article and I have been hard put to it to find something in it which could not be called timid and mild, and since the curiosity of this House has been excited I shall just give them an idea of it, lest the Home Member might complain that the House was not treated to the speech for which my friend may very likely be placed in the dock. The article is headed "Wrong Move". The first sentence is:

"We must warn the Government of India on their Himalayan blunder. Their action has not met any sanction except those of the Calcutta European Association", (*whom I will leave alone.*)

Then it goes on:

"It is false logic to put congressmen and terrorists together. It is folly to dream in Churchillian doctrines and believe that nations can be ruled by brute force and can still be exploited. There are other methods. There is the silk cord of friendship that will tie nations together."

That is palpably timid and mild in these days:

"That was what Mahatma Gandhi offered at the second Round Table Conference. Unfortunately the unparalleled victory of the Conservatives at the last election and consequent blood lust of imperialists like Rothermeres and Churchills helped Villiers to enunciate principles of governance that found reflection in the action of the bureaucratic Government of India."

Nothing very objectionable there. Then it goes on:

"The Government of India miscalculated. They based their manoeuvre on two flank supports. They expected that the dying liberals will sing with joy halleluiah over the arrest of Gandhiji. They expected that the Moslem leaders will remain still blind over the smoke screen and condemn from housetops congress perfidy. . . . Both the Viceroy and the Mahatmaji were kept in darkness of the real situation. Mahatmaji had little knowledge of no-tax campaign of his exuberant lieutenants of U. P. or the movements of Abdul Ghaffar Khan."

I do not know whether he will get credit for that.

Then it goes on:

"Mahatma Gandhi was given no opportunity to know that Government gave reduction of six crores of land tax in U. P. nor did the Viceroy and the world know that Mahatmaji was for peace at any cost.

The Government of India ask for support of the saner public. No political school of thought can dream of settlement of India's constitution without the great Congress party. No Liberal, not even a Sapru can muster courage to deliver the goods. Nationalist India is undergoing pangs of sorrow, humiliation and depression. We never believe that Mahatma Gandhi was against settlement. The only thing that the Government of India can do is to accept Sir Tej Bahadur's advice, call an all-parties' conference. Let Government atone for their mistakes and release him and start reconstruction of the work where it was left at the Second Round Table Conference."

Well, Sir, this is the kind of article for the publication of which a notice was served on him. That is the kind of material on which it is said that the Ordinance is being worked with due care and moderation.

There is just one point more, Sir, on which I should like to say a few words. The Honourable the Leader of the House in regard to the second part of the Resolution said that it would be quite open to any one to bring to the notice of the Local Governments all cases of abuse of powers through the usual channels, but, Sir, the usual channels are practically blocked. There is strict censorship; nobody can get into the disturbed area, and ordinarily newspapers are not allowed to ventilate the grievances of the people.

And, Sir, there is another outstanding fact. In one breath we are told that the Frontier Province has blossoming up into a Governor's province with all the rest of its paraphernalia, while on the other hand we have severe repression and strict censorship and so on. Now, what does it mean? By suppressing the liberty of the people, are you going, by a magic wand, to create a Governor's province and give the people of the province liberal institutions? Where are the people to come from? Are they to drop from Heaven? When everybody in that province is put to so much humiliation and pain, how are you going to lead the people of that province to that consummation which everybody is supposed to look forward to and which requires the creation of a peaceful atmosphere in which alone representative institutions can grow? You are not by your Ordinances and repressive measures creating any such atmosphere in the Frontier Province. You are only driving discontent underground by using the powers that you are using in the province. Therefore, Sir, the third recommendation that has been proposed is because the House was not forgetful of the fact that Government had attempted the work of conciliation. Last year a very fine appeal was made by the Prime Minister for co-operation. The point why this was mentioned in the Resolution was because the Government of India had practically forgotten it, and they were not trying to secure the co-operation of this House or of the people, and therefore, it was intended to be a timely warning. Therefore, Sir, I submit that if you treat this Resolution as a vote of no confidence, I cannot help it, but if you reject it, you sound the death knell of the Assembly and its powers.

Lieut.-Colonel Sir Henry Gidney (Nominated Non-official): Sir, when I listened to the speech delivered by the Mover of this Resolution my friend, Sir Hari Singh Gour, my mind went back to a famous speech delivered by Mr. Winston Churchill in the House of Commons in which

[Lieut.-Colonel Sir Henry Gidney.]

he called the Prime Minister a "boneless wonder". My friend, Sir Hari Singh Gour, is like myself one of the Nestors of this House, and so I know of his peregrinations in this House for the past 12 years. I have often heard him make speeches in favour of Government just as reproachful as that he delivered yesterday against the Government. I also remember the many occasions on which he has crossed the floor of this House from seat to seat, from Party to Party, to suit his own ends and I feel he has well earned the sobriquet "The soulless Chameleon of the Assembly". Such an omnibus Resolution emanating from my friend, Sir Hari Singh Gour, supported as he is by his *chela*, Mr. Ranga Iyer, whom one might rightly call the Amplifier or the distempered Loud Speaker of the Nationalist Gramophone, and to whom I feel inclined to say,—“with all your barks I love you still”,—cannot find much support from this side of the House. Let us examine this Resolution for a moment. The Honourable the Home Member has called it an intricate mosaic containing incompatible propositions; somebody else has likened it to riding on two horses. In my opinion one part of this Resolution is antithetical to and directly contradicts the other. The first part of the Resolution protests against the way in which the Ordinances have been operated and which have resulted in the imprisonment and treatment of certain people who offended against these Ordinances. The second part of the Resolution with which I am in entire agreement states that the Mover and his part of the House condemn terrorism, violence, the no-rent campaign and similar activities and the third part of it recommends a suspension of the Ordinances, an appeal to the Government to secure the co-operation of all sections of Indian political thought and opinion, and the formation of a non-official committee to tour the North West Frontier and inquire into its disturbances. Now, Sir, no one will dispute the fact that if any one violates the law, whether it be Mahatma Gandhi or the Mover of the Resolution or anyone else, he must be punished. I ask this House: Have these laws been violated or not and is the law a respecter of persons? If they have been violated, what need is there for my friend Sir Hari Singh Gour to oppose the action of the Government? If these people have violated the laws, they deserve to be punished. If they have transgressed the law, and they certainly have done so, then how does my friend Sir Hari Singh Gour reconcile the first part of the Resolution in which he asks Government to exercise the law with moderation and to respect the status and position of those who offend against the law with the second part in which he completely dissociates himself from such offenders? What would my friend Sir Hari Singh Gour and his *chela*, Mr. Ranga Iyer, do if they were in the position of the Viceroy and the Home Member and were confronted with a situation similar to the one with which the Government are faced today? Would they after having failed in every other endeavour apply such ordinances or would they do what his Resolution asks the Government to do, *i.e.*, suspend all Ordinances and submit to Congress rule? This Resolution reminds me of the case in which a burglar has entered a man's house. The man who has been robbed condemns the burglar, and when the police enter the house to catch the burglar, he turns round and condemns the policemen. That is what this Resolution amounts to because although it dissociates itself from such offences and offenders, it desires to censure Government for punishing such offenders. Surely, if a National Government were in power

today it would act in the same way as the Government of India has acted and is acting and which action, in my opinion, was forced on the Government after they had tried all other measures of conciliation and forbearance. Sir, no matter who is ruling the country, whether it is the white bureaucratic Government of India of today or the brown Nationalist Government of tomorrow, they must either govern or get out, there can be no half measures. If the Mover and his Party object to Government operating these Ordinances and which they have been forced to adopt, why don't they make their objections heard outside this House in the same language as they have used in the House today? They won't because they are afraid to object outside lest they be jailed and that is why they show their Dutch courage in this House under the privileges of free speech and protection of this House and blame Government levelling all sorts of random charges and curses against them.

Mr. Lalchand Navalrai: But we don't curse you.

Lieut.-Colonel Sir Henry Gidney: I am not saying that you curse me, indeed I don't mind being cursed because curses "like crows go home to roost".

Sir, if there is one part of this Resolution, which has more than surprised me it is the sudden interest the National Party has evinced in matters of the North West Frontier. I have memories of the time when that side of the House bargained and with considerable reluctance supported Resolutions asking for reforms for the North West Frontier Province. We now find that a sudden interest has been aroused in the Frontier Province, so much so that the Mover asked my friend Mr. Shafi Daoodi to explain what he had personally seen in the Frontier. In this game of political bluff, surely, the Congress is not so blind, and the Moslem group, especially in the Frontier Province, is not so blind as to realise that each side is making a cat's paw of the other in the persons of Mr. Gandhi and Abdul Ghaffar Khan. Abdul Ghaffar Khan and his lot know that they will never get what they want unless they have Mahatma Gandhi behind them, and Mahatma Gandhi and Congress know that they cannot get anything unless they have the North West Frontier men behind them, and so the cat and mouse game goes on and the moment each has got what he wants, he will drop the other. And so my Honourable friend Maulvi Muhammad Shafee Daoodi was asked to supplement what Sir Hari Singh Gour was unable himself to say about the North West Frontier. Well, Sir, Maulvi Muhammad Shafee Daoodi has spoken and gone and let us examine what he did say. He said that the North West Frontier people were afraid to come near him, they were whispering to each other, they were afraid to speak out, and he heard that many of them had received bruises and put in water. But he never told us that he himself actually saw any of these bruises. We have heard all sorts of such things in this House, but we have not seen them and we generally accept such statements *cum grano salis*. I ask, did Maulvi Muhammad Shafee Daoodi see these bruises, and if he did, why did he not say so in this House? (*An Honourable Member:* "He was not allowed to see.") That is absolute skittles. Does the Member who interrupted me seriously expect this House to accept what he says? I refuse to. I go further and ask, did Maulvi Muhammad Shafee Daoodi make mention of having seen these bruises in his report to the Central Muslim League or Association? He did not.

Mr. M. Maswood Ahmad: How do you know that Maulvi Muhammad Shafee Daoodi did not mention it in his report?

(There were other interruptions also.)

Lieut.-Colonel Sir Henry Gidney: I know he did not and he cannot deny it. I submit, therefore, that this charge against Government by Sir Hari Singh Gour goes by default for want of evidence or support. Sir, I have the greatest respect for Maulvi Muhammad Shafee Daoodi, and I do not want to be misunderstood. (*Cries of "Oh" from the Nationalist Benches.*) But when he got up I did expect something more from him than a mere recital of his personal impressions; there was not one piece of evidence whatever to support the Mover. He did say that these people were given cold baths. Surely, Sir, we are all used to that. The water hose is used in the United States and other countries to quell riots and disturbances. Indeed in some countries tear gas and laughing gas are used. But surely, the Muslim Party here can speak for themselves as to what their position is in the North West Frontier without Sir Hari Singh Gour and his Party now posing as their benefactors and wanting to pass a Resolution to support them. There is another point to which I desire to refer, one which led to a wordy duel between Mr. Ranga Iyer and myself yesterday—when he claimed that Mahatma Gandhi represented the whole of India at the Round Table Conference. That bubble must be pricked and burst here and now and once and for all and I want this House to prick it. I ask: Does Mahatma Gandhi represent the Muslim community? Let the Muslims answer. Does he represent Feudatory India? Does he represent the depressed classes? Let Mr. Rajah answer. (*Cries of "Yes" from the Opposition Benches.*) I am not asking you. You are not a depressed class, your complaint is that you are a suppressed class. (*Laughter.*) Does he represent the Indian Christians? Let the representatives of the Christians answer that. Does he represent the Sikhs? (*Sardar Sant Singh: "Certainly he does."*) Sir, you do not represent the Sikhs, moreover, you would be a loser if he were to represent the Sikhs. Does he represent the European community? I ask the European Members to reply. And as for the Anglo-Indian community I maintain he does not represent it. Together these communities form more than 3/4ths of India and they certainly do not admit the Congress creed or Mahatma Gandhi as their leader. So let us hear no more of this nonsense.

Mr. K. C. Neogy: Does the Honourable Member himself represent his own community?

Lieut.-Colonel Sir Henry Gidney: I certainly do and the community is fortunate that the interrupting Member is not a member of it. Sir, I do not favour any Ordinance and I agree with those who say that ordinances should not replace the laws of the land. But there are certain occasions in the history of every nation when extreme measures demand extreme action, and I believe that Government have shown every forbearance, every toleration, and explored every means of conciliation in their power before it was driven to pass these Ordinances. And I would add; in the present state of affairs in India, if it were not for these Ordinances I can assure Honourable Members in the Opposition Benches that they would not be sitting there in their seats, unless of course they are a Congress Party and not a Nationalist Party. I ask you: Are you a Congress or a Nationalist Party?

Mr. President: Order, order. The Honourable Member must address the Chair.

Lieut.-Colonel Sir Henry Gidney: I ask you, Sir, and through you I ask them are they a Congress or a Nationalist Party? If a Congress Party, let them boldly say so. Let us be under no delusion about it. Judging from their speeches in my opinion a very thin line demarks them from the Congress Party and its creed.

Now, what are the objects of this Resolution? To my mind it has a three-fold object. One is to send a word of good cheer to their Congress brothers now in jail. I join in that, because I am sorry for anybody in jail but I do not subscribe to their creed and policy. Another object is to thwart the reforms that are about to be introduced in the North West Frontier Province. This is a cunning, subtle move on the part of the Opposition. They know well that the reforms are about to be introduced, and this is a cunning plan of theirs to thwart them and lend support to the Red-shirt movement. The third object of this Resolution is still more cunning, it is an attempt to pass a vote of censure on the Government and so embarrass it. Sir, the one practical accomplishment of the second Round Table Conference was the formation of the minority pact and the joint memorandum it submitted on the communal problem and I am happy to add that I was the father of that pact for I presented it on the 19th January 1931 to the first Round Table Conference.

(At this stage some Hindu Honourable Members on the Opposition Benches attempted to interrupt the speaker.)

You who are interrupting me were not in that pact and you have no business to talk about it. I was in that pact and I am jolly glad I was. That pact consisted of the Muslims, the depressed classes, the Indian Christians, the Europeans and the Anglo-Indian community. . . .

Mr. K. C. Neogy: And Sir Samuel Hoare.

Lieut.-Colonel Sir Henry Gidney: Sir Samuel Hoare was not asked to join any more than you.

Mr. K. C. Neogy: He promoted it from behind the scene.

Lieut.-Colonel Sir Henry Gidney: That is a falsehood. He certainly did nothing of the kind. Let me remind the Members of that pact. We entered into an honourable pact in London, that pact still remains and we must now in this country implement that pact and see that nothing destroys or undermines it. I therefore appeal to every Member belonging to those contracting communities to cement that pact and to solidly vote against this Resolution, for any vote given in favour of this Resolution will undermine and destroy that Minorities' pact and Memorandum. Believe me the Minorities will get nothing from that party (the Nationalist Party) or the Congress, for they are one and the same thing. I repeat you will get nothing.

Mr. N. M. Joshi: I was not in that pact.

Lieut.-Colonel Sir Henry Gidney: You did not come into it because you never asked and we did not therefore want you. Before I conclude I again appeal to every Member in this House belonging to those communities who signed that pact to give his vote against this Resolution and vote in support of the Government. (Applause.)

Nawab Sir Sahibzada Abdul Qaiyum (Nominated Non-Official): As my province figures so largely and so prominently in the debate and as I happen to be the only Member in this House from that province, I feel bound to say something on the subject, especially on that part of the Resolution which concerns my own province. But before doing so, I should like to clear my position. It is very often said in this House that a nominated Member has for his constituency the Government of India and that he has therefore to support the Government—or what some people call the voice of his master!! But I am not sure that that is not the case with every Member in this House, especially those who represent special constituencies—take for instance the millowners' constituency. Are these Members not careful to safeguard the interest of their constituencies? Is not every Honourable Member sent here to represent the interests of the constituency bound to safeguard those interests especially when those interests directly affect the safety of the lives and property of the people of India as a whole. The question is whether the constituency which I represent, namely, the Government of India, consists of men of inferior intellect, less honesty, less experience, and less practical men than the constituencies of others? I thought that some of the men in the Government, coming as they do from our own country, such as, Sir Joseph Bore, the Nawab of Chattari, and Sir B. L. Mitter, were as honest as members of any other constituency in the whole of India. But there is still another constituency behind every Honourable Member in this House, whether nominated or elected, and that is the constituency of his own conscience!! And in that respect I do not feel to be less honest to my

1 P.M. constituency than any other Member of this House. I may not be an extremist on one side or an extremist on the other side, and may not be able to make my speeches more interesting or more palatable to the House, at least for lack of command of the English language if for nothing else, but brief though my remarks on this occasion will be, I make bold to say that they will be honest and will be based on nothing but the full truth. I may not get time to develop my remarks or give all the details, but within the limited time at my disposal I shall try to be to the point and I hope that the House will give me a patient hearing and show me the same indulgence on this occasion as they have invariably done before.

The Resolution seeks to make three recommendations to the Governor General in Council. The first is the withdrawal of the Ordinances and their replacement by proper Bills and enactments. The second is the appointment of a committee of inquiry to go into happenings in the North West Frontier Province and the third is to ask the Governor General in Council to secure the co-operation of the Congress and other parties. As for the first, I am not a constitutional lawyer to say whether the Ordinances are legal or illegal, whether they violate the fundamental rights of the people or not, and whether they clash with the Great Queen's Proclamation or the Magna Charta of India. That is for Sir Hari Singh Gour and people of that sort to settle. I am also not one of the advisers of the Governor General to say whether the promulgation of the Ordinances in their present form was wise and politic, whether they are worthy to be shown to the world that the state of affairs in India had reached such a stage as to necessitate the promulgation of such drastic measures. It was for the Viceroy's advisers to decide whether the Ordinances were dignified enough to be put on the Statue-book and broadcasted to the world.

The one point with which I am more or less concerned is the justification or otherwise for the promulgation of these Ordinances. Even there I will not worry myself much with Bengal where anarchism has been going on for some time and requires special attention. I would not also concern myself with the United Provinces where the no-rent campaign is going on and may have necessitated the promulgation of the Ordinances, I will only confine myself to my own province, where the activities of Abdul Ghaffar Khan have been I believe the chief cause of the promulgation of these Ordinances. Here I shall be failing in my duty if I do not say plainly and boldly and openly that his activities had exceeded the bounds of the ordinary law. My chief reason for that is that his own supporters, men of substance and men of intellect and men with a greater stake in the country, had deserted him towards the end of the dangerous propaganda which he was carrying on in the country. Ever since his release from jail, he was going from village to village preaching to the people the doctrine of complete independence. I think he had either misunderstood the meaning of the term "Swaraj" as used by the Congress or was misinterpreting it to the ignorant public of the North West Frontier Province. Perhaps he thought that the Congress was really out for independence, a real and complete independence. At least his idea of "complete independence" appeared to be different from the ideas of the leading men of the Congress itself. The Mahatma himself had, in some of the Resolutions passed by the Congress, come down from that stage of complete independence to Dominion Status or some sort of responsible Government within the British Commonwealth, and had also, according to the Irwin-Gandhi pact, agreed to certain safeguards, or rather to a good many safeguards and conditions, as we had not yet reached that stage of nationalism when such safeguards would not be required. I am perfectly certain that Abdul Khaffar Khan's reading of the situation was mistaken. But one could forgive him for all that he was doing in the country before the 1st December last when the Prime Minister's announcement was made, but after the 3rd of December, when that announcement was published in the papers out here, he was not justified in precipitating matters by going about the country and declaring that nothing short of "complete independence",—and here I must remind the House once more that he meant perhaps complete independence in his own sense and according to his own light,—would satisfy the North West Frontier Province. This was not all. He held a meeting of his jirga on the 20th December, and there passed a Resolution that the reforms granted to the North West Frontier Province were unacceptable to the "jirga". Well, a point arises here, about which I am not sure myself, and it is whether he was doing this with the permission and consent of the Congress's sole representative at the Round Table Conference or whether he was going against the wishes and permission of that leader, but the fact is there that he was going on with his dangerous propaganda in the country, but what puzzles me more is that as far as I can make out from the papers, Pandit Jawahar Lal was also going on in that direction. I do not believe that Mahatma Gandhi could be a party to that campaign when he himself was co-operating at the Round Table Conference. But the Mahatma himself was not quite definite about his future attitude in the matter after the announcement. If he had definitely declared himself for or against the movement, perhaps we would have been clearer on the point about the activities of his lieutenants on the spot. But whatever it was, Abdul Ghaffar Khan should have waited until the Mahatma's return to India or

[Sir Abdul Qaiyum.]

for a definite announcement from Mahatma. As far the Premier's announcement goes, all that was announced was that the Conference was to continue. Nothing else could be done by the Prime Minister under the circumstances except that, as we could not come to terms on the communal questions and could not agree on the minority questions ourselves, and when certain Indian States were still doubtful about the practicability of an All-India Federation, and provincial autonomy divested of responsibility at the centre was not acceptable to the majority of the Delegates and when we could not unanimously and unconditionally authorise the Prime Minister to arbitrate in the matter. Well, if the British Government were not really honest, they would have availed themselves of the opportunity and simply declared, once for all, that as we had failed to come to any agreement among ourselves all this time there would be no advance until we had come to terms and that that was their final decision, and they would have had to run the same risk as they are running now.

Mr. President: The Honourable Member's time is up.

Nawab Sir Sahibzada Abdul Qaiyum: Well, I am afraid I must stop now. But before I sit down I must say that as things had gone so far I think that some extraordinary action in my province was justified to be taken. Whether indiscriminate action has been taken or excesses have been committed, I have no time to go into that. These things do happen occasionally but I hope they will be remedied and will not be allowed to occur again.

Mr. President: The Honourable Member will resume his seat now.

Mr. K. C. Neogy: Sir, I wanted to get up a little earlier but I found my Honourable friend, the Legislative Secretary, was busy instructing a non-official Member of this House, and he actually had to take him out, and as I was going to refer to my Honourable friend in my speech I had to resist the temptation to speak on that occasion. Now that he is back in the House after, I hope, having satisfactorily completed his task, I think I may speak now. I must, first of all, Sir, confess that I have never been able to keep a count of the innumerable Ordinances that have been promulgated with the rapidity of an automatic machine; and I make another confession, that I do not yet know much about the provisions of these Ordinances. But from all that I see around me, I draw the very comforting conclusion that there is one right yet left to us Indians which has not yet been declared unlawful and that is the right to breathe. It may be that my Honourable friend, Sir Lancelot Graham, with his characteristic foresight and resourcefulness, may be drafting yet another Ordinance seeking to restrict the supply of oxygen in the air, for the special benefit of the nominees of the European Group. The European Association, being considered the lineal descendant of the East Indian Company, is at present moment, I find, seeking to claim to share the sovereignty of this land with His Majesty the King-Emperor. My Honourable friends opposite would say that all this has been brought about by the inexorable logic of events. They say, "Look at the way the Congress broke the Pact". Well, Sir, I am not concerned with the question as to who actually broke the Pact; but I have heard Congress people, on the other hand, making certain allegations. In the first place, they allege that ever since the Pact was made, the diehards in India have been spoiling for a fight. They got their opportunity when they found a diehard Government installed in

England which is masquerading under the name of a National Government. They further point to the fact that the surrender of the India Office to the Tories was made a condition of the formation of this National Government; and they also allege that the diehards are really the liege lords of the India Office at the present moment. Furthermore, they say that there is a secret league and covenant between the India Office and Mr. Winston Churchill and all whom he represents. Moreover, they point in support of this latter theory of theirs to a remarkable statement which Mr. Winston Churchill made in the course of the debate in the House of Commons on the Indian Round Table Conference. Speaking on the 3rd of December, this is what Mr. Winston Churchill said:

“What are we to do? We are to send out committees to India.”

The committees have actually arrived:

“They are to roam around India, large parts of which may be under something like martial law. They will roam around India in places where the ordinary constitutional rights are superseded by measures of enforced protection.”

Later he proceeds:

“That is to go on for another two or three years *pari passu* with the repressive measures—stern repressive measures which I believe have largely arisen out of our foolish policy of fermenting this feeling of unsettlement.”

The Congress people have asked me as to whether I could throw any light on the point as to how it was possible for Mr. Winston Churchill, speaking in the House of Commons on the 3rd of December, to make this remarkable prophesy of what was to come about in the New Year. Sir, I have not found it possible to give any reasonable answer to them. As my Honourable friends occupying the Treasury Benches are in secret spiritual communion with Mr. Winston Churchill, will they enable me to give an answer to the Congress people who have put me this question?

Sir, in the brief space of time at my disposal it is very difficult to deal with all the points that I should have liked to deal with, but I would just take up a few of the points made by some Honourable friends who have gone before me. My Honourable friend, Mr. Arthur Moore, has asked for instances. He said, “Give us specific instances”. If my Honourable friend were really acting up to the traditions of honest journalism, it would not have been necessary for him to ask me for instances (Hear, hear). It was amply proved this morning that, apart from the strict censorship which the officials have been exercising on the telegrams and other news that appear in newspapers, the *Statesman* on its own account has its own special censorship. That point was made abundantly clear by one of those helpful interruptions which my Honourable friend, Mr. Arthur Moore, made this very morning.

Mr. Arthur Moore: What does my Honourable friend refer to?

Mr. K. C. Neogy: I refer to the fact that when my Honourable friend, the Deputy President, was referring to a European I. C. S. officer having done something, he at once pointed out that there was nothing to show that that officer was a European, which shows that the *Statesman* in its own version of the story had omitted that particular fact.

Mr. Arthur Moore: May I say, Sir, that, as it happens, I read this account in the other daily paper this morning, and I merely meant that in the account that I read I was not aware that it said that it was a European Magistrate. I was not aware who the Magistrate was.

Mr. K. C. Neogy: There may be other papers of the same type as my Honourable friend's.

Mr. Arthur Moore: I referred to the *Hindustan Times*.

Mr. K. C. Neogy: The *Hindustan Times* does publish the name. As a matter of fact, my source of information, as also Mr. Chetty's, is the *Hindustan Times* itself.

Now, Sir, when the news about the situation in the country gets through a process of double distillation like this, how is it possible for the country and this House to know exactly what is going on? Sir Samuel Hoare with a great fanfaronade in a broadcast speech stated that there is no censorship on foreign correspondents. Are we in a position in this House to know what exactly is the situation in the country? Does my Honourable friend Mr. Arthur Moore pretend that he is publishing all that he is getting or that the newspaper correspondents are being permitted, to send out true and accurate information of things that are happening? Sir, is it possible for us to know what is happening on the Frontier? Is it possible for us to know what is happening in Chittagong. Admittedly, there is a most strict censorship in Chittagong and naturally my friend Mr. Mitra, while speaking this morning with great feeling, had to refer to what incidents were reported to him and which could not possibly be published by any newspaper under the system of censorship that obtains there.

Now, Sir, if my Honourable friend will yet like to have some more instances, I will give him a few. Not very long ago there was an Honourable Member who used to sit on the non-official Benches with great distinction, a gentleman of the name of Mr. G. C. Nag, a retired Government official who had been made a Rai Bahadur for the services that he had rendered as a Deputy Collector and in other responsible positions. He is an inhabitant of my native town of Dacca. His daughter is one of the most cultured ladies that my part of the country has produced. She has been taking immense interest in the welfare of women. She has been organising and conducting institutions for the educational and other benefits of women. Now, naturally, she is a suspect because the authorities of the present day cannot appreciate this kind of public-spirited, philanthropic work to be carried on by non-officials. They want us to lead self-centred lives. So everybody who goes out of his or her way to do a little good to his or her fellowmen is, under the present régime, looked upon with suspicion, and it is no wonder that she is at the present moment interned.

Mr. W. A. Cosgrave (Assam: Nominated Official): Rubbish!

Mr. K. C. Neogy: You know nothing about what is happening in Bengal.

Mr. B. Das (Orissa Division: Non-Muhammadan): On a point of order, Sir. Is the word "rubbish" a parliamentary expression to be used on the floor of the House?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Our Standing Orders are even more strict than Parliamentary practice. No offensive expression is permitted in the House, and if the word "rubbish" is believed to be offensive to anyone, it must be withdrawn.

Mr. K. C. Neogy: I do not complain.

Mr. Gaya Prasad Singh: Better return the compliment to him.

Mr. K. C. Neogy: I have very often used such expressions myself.

Mr. President: When there is so much excitement in the debate the Chair would like every Honourable Member to refresh his memory by looking up the Standing Order dealing with limitations on debate.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhamadan Rural): On a point of order. In view of your previous ruling when my Honourable friend, the Leader, Sir Hari Singh Gour, said "taking mean advantage" you called upon him to withdraw that expression. I would respectfully submit to you that the Honourable gentleman on the other side who used the word "rubbish" be asked to withdraw that expression.

Mr. President: I have already said that the word was addressed to Mr. Neogy

Mr. C. S. Ranga Iyer: No, Sir, it was addressed to this side of the House.

Mr. President: I should like to ask the Honourable Member (Mr. C. S. Ranga Iyer) on what basis he has come to the conclusion that the word was addressed to the Opposition?

Sir Hari Singh Gour: It was an exclamation. Consequently, an exclamation was addressed to every one.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair cannot accept that view. The word "rubbish" was used with regard to the statement made by the Honourable Member (Mr. K. C. Neogy) while he was addressing the House. The remark conveyed the sense that the statements made were "rubbish", not worth listening to, and the Chair would have called upon the Honourable Member (Mr. Cosgrave) to withdraw it provided the speaker (Mr. Neogy) took exception to it. Does Mr. Neogy take exception to it?

Mr. K. C. Neogy: I do not. I have myself used expressions like this in the heat of the debate and I was not at all anxious to lose my time in the excitement that that interjection has caused.

Now, Sir, to return to my story, namely, the incidents which Mr. Arthur Moore wants to have. This lady is under detention and no charge has ever been framed against her under any of the provisions of the numerous ordinances. Now, Sir, there was a raid in the house of her father where she was living. The raids usually take place either at midnight or early in the morning. That is the usual practice nowadays. The armed policemen were led by a European police officer.

Mr. C. S. Ranga Iyer: On a point of order, Sir. I do submit to your ruling that when my friend Sir Hari Singh Gour used the expression already pointed out by me, he was asked to withdraw it

Mr. President: I cannot allow any further points of order. That point of order has been settled and the Honourable Member is now addressing the House.

Mr. K. C. Neogy: Now, Sir, when the raiding party secured admission to the house, the old Mr. Nag, the retired Deputy Collector, the Rai Bahadur, the ex-M. L. A., was roused from his sleep and as soon as he appeared before the police party he was grossly abused by the European police officer. He protested saying that he was not used to that kind of treatment, having himself been a Magistrate at one time. The European police officer said that if the Superintendent of Police himself had come he would have beaten him. Now, all this appears over a signed letter by Mr. Nag himself which has appeared in the press. Then Mr. Nag proceeded to relate his experiences. The police made a pretence of searching the House and destroyed the furniture. They said that they wanted to look into the book cases. Mr. Nag offered to open them with his keys, but the panes of the book cases were smashed. No search of any serious kind was conducted by the police party beyond removing an unopened box and then they left the father, taking, I believe, his daughter and a son. Now, Sir, this gentleman, apart from writing in the press over his own signature, has addressed a personal letter to me expressing his deep sense of humiliation at the treatment which his daughter is having at the hands of the executive authorities. She is being transferred from one jail to another with only male escorts; that is to say, two constables and one Sub-Inspector. She is not allowed the companionship of even an ayah on such journeys. Sir, my time is up and therefore I cannot say anything more.

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

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

Kunwar Raghbir Singh (Agra Division: Non-Muhammadan Rural): First of all I wish to congratulate the Honourable the Mover of the Resolution on the ingenuity with which he has framed this Resolution. Several criticisms have been made on the Resolution, but all Honourable Members differ in their opinions. Some of the Members were saying that the Resolution does not go far enough. Others say that it goes very far. Opinion in the House, as everybody knows, is very much divided and I am sure that the political India, India which is interested in politics, stands solidly for the Resolution. But the masses in general and those who have followed the Government papers carefully differ. The Resolution says in the beginning "This Assembly has reason to protest against the manner in which the Ordinances promulgated by the Government of India have been worked". We have to see the condition of the country just at present. The Congress happily decided to co-operate with Government in the work of making a constitution for this country which may be acceptable to most of the political parties here. But when that work was going on, a no-rent campaign was started in the United Provinces. Government afforded every opportunity to the Congress leaders in my province to confer with the officials, and they did confer. The non-officials knew that the tenants were not able to pay and this very disability could be worked for the propaganda of the Congress. They decided that they should no more confer with the Government officials but they should start a no-rent campaign. It is a pity that the Congressmen did not wait for the return of Mahatma Gandhi to this country. As far as I am aware, even Mr. Vallabhabhai Patel was not given a full opportunity to discuss the situation in the United Provinces. An old Congressman of my

province, Babu Bhagwan Das of Benares, was against the starting of this no-rent campaign. But younger counsels prevailed in the Congress. Several zemindars were murdered in my province. Of course, I admit that the condition of the whole of the province is not so bad as in some of the southern districts of the province. There is some truth in the criticism made by non-official Members that the Ordinances ought not to have been promulgated for the whole of the province. The condition in the northern districts is much easier than the southern. As I have just shown, the Congress made haste in starting this campaign. So I believe the Government also made haste in issuing these Ordinances. If we peruse the newspapers of America, we find that there is a mania for speed these days. In the same way the terrorists created havoc in this country. They did not wait for the results of the Round Table Conference. They went on murdering official after official. They did not leave even the non-officials, I mean the zemindars and those who were siding with Government. Everything was done in great haste on both sides. Although we may approve of some of the portions of the Resolution, the Resolution as it stands, I am sorry to say my party is not in a position to support. Then the first request made in the Resolution is that Bills based on the Ordinances should be put before the House. If Government accept this proposition, by the time these Bills are brought before the House, I doubt very much whether they will be passed at all. It will take a very long time, and by then, God willing, the situation might become clear, as it is apparent from the speech of Sir Samuel Hoare that the situation is improving. There is no doubt that if haste had not been made by the parties, etc., thing would have been all right. Every politician shudders to think what will be the result of all these. If repression goes on, how long it will go on nobody knows and nobody can say, but there can be no other thing except conciliation in the end. But Government say that there can be no conciliation so long as the Congress issues threats, and that is why His Excellency could not see Mahatma Gandhi.

As for the North West Frontier Province, except Sir Abdul Qaiyum, who has already spoken of what he believed of the present measures, there is no other Member from that side who can speak authoritatively on this question.

As for the third recommendation Government made it quite plain that they stood for co-operation. They extended the hand of fellowship from the time that Lord Irwin was here. It was grasped but the counsels in the Congress being divided it could not be worked to the satisfaction of the country. So in view of the special circumstances of the day, I think it was incumbent to make such laws to deal with the situation as it is today. As for the manner in which the Ordinances have been worked, I think there can be no other way than to crush those who want to defy law and order. We are here to make laws, and if somebody breaks the law, then we cannot be in favour of that organisation. With this idea my party came to the conclusion that we should support Government at this juncture.

Sir Zulfiqar Ali Khan (Nominated Non-Official): Sir, I am afraid I am addressing a rather attenuated House and a House which appears bored this evening, but as I had to work in some other place I am sorry I could not make this speech yesterday. As I sat listening to some of the speeches, I strongly felt that on such grave occasions and in times of crisis such as these we must not allow emotion to have the better of reason. And therefore I should like my Honourable friends on both sides

[Sir Zulfikar Ali Khan.]

to deal with this problem with *sang-froid* and I have no doubt that the representatives of the people, my Honourable friends, would not deny me a patient hearing and even a certain amount of indulgence. I know that some of the observations which I will make may not be tasteful or palatable to either this side or the other side, but I want to deal with the problem in the most impartial and unbiassed manner. The Resolution as it is framed is to my mind a strange jumble of incongruous ideas. On the one hand it condemns Government very vehemently for the policy of Ordinances, repression and so forth and on the other it prays Government to expedite the inauguration of the reforms. Well, I think we are as much interested in the inauguration of the reforms as the officials themselves are, because they are showing earnestness about it, but the question is whether we are affording Government that opportunity which is most favourable for the consideration in a cool manner of all the problems which now confront the Indian nation. Before Mahatma Gandhi returned to India the situation had developed in a manner which caused grave anxiety not only to the Government who are the custodians of law and order in the country, but to those people also who have some stake in the country. I do not think that anyone either in this Chamber or outside it, either capitalists or landholders who have a stake in the country can allow

Mr. N. M. Joshi (Nominated Non-Official): May I ask who has not got a stake in the country? Everybody has a stake in the country.

Sir Zulfikar Ali Khan: So much the better; that strengthens my argument. All those who have a stake in the country or who have any interest in the preservation of peace cannot allow the situation to drift into chaos or anarchy. Can even my Honourable friend on my left, who is the head of some labour organisation, honestly say that if there is any chaos in the country or anarchy prevailing, his labour corps will be allowed to work in peace? Before Mahatma Gandhi returned to this country, as I have said, the situation developed dangerously. In fact before he left the shores of India to attend the Round Table Conference, there were even in his presence and in spite of the Delhi Pact declarations made by responsible Congress people which not only disturbed that Pact but endangered the whole situation. I could give a quotation—I am not very fond of giving quotations but this is a very telling quotation,—to show what the situation then was in the country. This is from the printed statement supplied to us by Government and contains the opinions of the Local Governments of different provinces. This comes from Bombay:

“Mr. Vallabhabhai Patel in another speech at Bombay, on 25th June, admitted that the Congress was making common cause with the Princes, zamindars, millowners and capitalists because they wanted to achieve its common object, namely, the expulsion of the foreign masters.”

Another is this:

“The President of the Congress Committee made a rabid speech advocating the use of violence to drive the British out of India saying that it was the duty of Indians to kill every Englishman or to send him to the gallows.”

This was the aim and object of the party which was responsible for the situation which it was creating. There are statements made by the Local Governments in other provinces also, but I do not want to tire my Honourable colleagues with those quotations, but those of my Honourable

friends who have read this statement may know that the situation was practically similar everywhere. Before Mahatma Gandhi landed, the situation got worse. He himself, before he left the Round Table Conference, declared not only in London but on the Continent on his way back that he could very well sacrifice a million men in order to achieve his object. I believe Mahatmaji could afford to sacrifice a million men

in order to achieve his object. I do not know what exact 3 P.M. mathematical calculation he made that by the sacrifice of a million men exactly he could achieve his object. If the Government were determined to maintain law and order in the country and if Mr. Gandhi wanted to sacrifice a million people, I daresay that any organised military power in the world could blow up a million people very easily. Could that sacrifice have availed the country or the Congress Party in any way, or would it have improved the situation in any way? It was lucky that these poor innocent people, whom he wanted to sacrifice, have been saved because he has been safely lodged in a secure place. That being the situation, the Government who are responsible to God and to humanity for preserving the lives of people and the honour and security of their subjects had to resort to measures which naturally were not very pleasant to the people who objected to them. I am told that the Government introduced a reign of terror and are ruling by means of Ordinances. I ask my friends on my right, if they had been in power what would they have done under similar circumstances?

Mr. K. C. Neogy: Something different.

Sir Zulfiqar Ali Khan: Something different? Perhaps even worse than what is happening.

Mr. K. C. Neogy: It may be worse for you.

Sir Zulfiqar Ali Khan: No Government I think can afford to be defied in this manner, and if Ordinances have been issued, they have only been issued to meet the situation in the country. It is for us all to have them removed, and I daresay they will not be in existence a minute longer than there is necessity for them. Now, what are these Ordinances for and what is this turmoil in the country? On the one side they say the Ordinances come quick on them and the Government on the other side say that there is necessity for them. What do the Government want to do? I daresay we all know the object. My friends on my right know why they are issued. The object on both sides seems to me the same. On our side we want the advancement of India; we want the boundaries of Indian liberties to be enlarged, and on the other side I see that the British Government are equally earnest in giving reforms and in enlarging our liberties.

Mr. Amar Nath Dutt: Only the people are not in earnest about them.

Sir Zulfiqar Ali Khan: What is the Round Table Conference for?

Mr. Amar Nath Dutt: That is for Nawabs and Knights.

Sir Zulfiqar Ali Khan: Can you send any better set of men there?

Mr. Amar Nath Dutt: Thousands and millions if only these are eliminated.

Mr. President: The Honourable Member has got one minute more.

Sir Zulfiqar Ali Khan: The object on our side, on the nationalist side, on the Indian side, is to attain to freedom; and as I have said, on the Government side

Mr. S. C. Mitra: It is to crush it

Sir Zulfiqar Ali Khan: there is a disposition to meet those demands.

An Honourable Member: Which is your side?

Mr. President: Order, order.

Sir Zulfiqar Ali Khan: I do not mind the interruptions.

My side is the Indian side. I want the freedom of my country as much as you want it, perhaps more. I have reasons for it. The object on our side, as I have said, is to attain to freedom and on the British side there is a disposition to meet those demands. If the object is common and if the rulers are willing to grant us those liberties and we are anxious to secure them then, why this difference of opinion, and why this turmoil, what is repression for, I ask?

Mr. President: The Honourable Member's time is up.

Sir Zulfiqar Ali Khan : Can you give me some more time, Sir?

Mr. President: I have declared that I intend strictly to adhere to the time limit.

Sir Zulfiqar Ali Khan: Then I shall finish with one observation, that is to say, let both sides—the side to which my countrymen belong, I want to appeal to them most earnestly to allow the Government to create an atmosphere in which they can with peace of mind and with earnestness work for the liberties of the people.

Sardar Sant Singh (West Punjab: Sikh): Sir, I have heard with great interest the version of the Government Benches as well as that of those Honourable Members who profess to agree with the Government and yet profess to be Indians first and last. Specially the Honourable Sir Zulfiqar Ali Khan in his speech has disappointed me most when he said that the object of India is to gain freedom and the object of the Honourable Members who occupy the Treasury Benches is to grant freedom to India and therefore there should be no turmoil and no disposition to quarrel.

Sir Zulfiqar Ali Khan: I said that they ought to allow the Government to work those reforms and frame a new constitution.

Sardar Sant Singh: My Honourable friend, the Nawab and Knight of the Punjab, wants time to be given to the Government for fulfilling their professions. May I remind him, he being an older Member of this Honourable House than myself, to look up the several demands put forward in 1923 and 1924 in this House for the immediate calling of the Round Table Conference without any purpose? Was not five years' time sufficient for the purpose of granting further reforms in this country if the Government had willed to do so? Did they meet that demand? They did not, I do not want to pick up a quarrel with my friend on this point.

I shall proceed to the topic which is just before the House. The main ground on which the Government Benches justify their issue of Ordinances is the maintenance of law and order. I will certainly support the Government when it comes forward with legislation for maintaining law and order, but would strenuously oppose it if it wanted to maintain order alone. The jurist who conceived this expression "law and order" is entitled to our gratitude. He placed law first and order last, and not order first and law last.

An Honourable Member: Ordinances first.

Sardar Sant Singh: We find that these Ordinances, if they are anything at all, are a negation of all laws. Criminal jurisprudence, of which we are all proud, lays down certain principles of law which should govern any community in order to maintain order in that community. But here in these Ordinances there are certain provisions which go to show that the gentleman who is responsible for the drafting of these Ordinances did neither know the criminal jurisprudence nor did he care to act upon the principles laid down therein. Can you find any justification in any jurisprudence even of the most backward countries for this that a mother should be sent to jail because her son broke certain penal provisions of an enactment? This is what almost all the Ordinances provide. Can then any person justify these Ordinances? Sir, we are asked to place confidence in the Treasury Benches because they are out to maintain law and order in the country. I welcome this invitation, but I say before you are entitled to that confidence you ask us to repose in you, I ask you what I am here for? Am I here only to legislate that certain auditors from England be permitted to audit the accounts of the companies or to pass social legislation sponsored by my friend Mr. Harbilas (*An Honourable Member*: "He is Diwan Bahadur Harbilas Sarda"),—all right, Diwan Bahadur Harbilas Sarda? ("Hear, hear" from the Swarajist Benches.) What am I here for if I am not to be the guardian of the rights and liberties of my people whom I have the honour to represent?

Captain Sher Muhammad Khan Gakhar: It is a great mistake that you are here.

Sardar Sant Singh: Unless I expect a few crumbs from the tables of those who sit on the opposite Benches. (Laughter.) Sir, the only justification for my being here would disappear if I fail to protect the rights and liberties of my people who have sent me here. I can do so only when I am consulted in connection with legislation affecting the rights and liberties of my people. Do the Treasury Benches expect us to cooperate with them in this matter when we are ignored? If we are to repose confidence in the Treasury Benches, they must repose confidence in us, for trust begets trust. The only honourable course open to them is to lay all their cards on the table, to take us into their confidence, and then proceed to legislate in an atmosphere of peace and goodwill with the collective wisdom of this House. They think, as the Honourable the Leader of the House seemed to think this morning, that if they had brought forward legislation in this House, somebody would have come forward with an amendment that the Bill should be circulated for eliciting public opinion. Now that sort of amendment would certainly have been tabled if the Treasury Benches had not placed all their cards on the table.

[Sardar Sant Singh.]

If the Treasury Benches expect us to register all their decrees, they are entirely mistaken; we are not here for that purpose. If they want us to exercise our judgment, if they expect us to look into and examine the legislation that is brought before the House, then the only responsible way of discharging our duty is to subject the measure to a thorough and searching examination and place our views before the House in the form of criticism. The Government are expected to accept our criticism where just and honest, and reject it when not just. That is the way for seeking co-operation and for getting co-operation. We are willing to co-operate with you. We assure you that we came into this House to co-operate with you, but we have discovered that you refuse to co-operate with us. You have consistently ignored us by carrying on the administration of the country by Ordinances. This conduct of yours is a negation of the constitution which you say is a constitution which will lead us to freedom, but which, in our view, leads us nowhere. We are where we were, rather we are worse, when we help in wasting the money contributed to the exchequer by the worker and yet we find ourselves unable to help that worker to secure his liberty, to secure his life and property. Therefore, I would appeal to every Honourable Member here that if they are to function properly, they should tell the Government in the plainest language, in the bluntest manner, to be fair to us, should be honest to us and also be frank with us.

It has also been argued that this situation has been thrust on the Government. I beg to differ. We have only to recall a few incidents of the past six months, to come to the conclusion that this situation has been deliberately created by the die-hards in the Government circle, in their mad desire to crush the movement for independence in the country, the movement for freedom which my friend Sir Zulfiqar Ali Khan so much seems to like. We have not forgotten the Supplementary Finance Bill that was introduced only in November last for providing the executive with finances for 18 months. What was the necessity for it? The necessity was because at that time Government was repairing its forts and mobilising its resources to meet the situation which they intended to create. They wanted to strike terror in the country in order to re-conquer India, and so it was suggested even at that time. Government knew that the temper of the House would not tolerate the grant of any finances to the Government when these Ordinances were at work. That is why this precaution was taken to pass a Supplementary Finance Bill for 18 months. In order to fill in the picture, before Mahatma Gandhi landed in this country, the Anglo-Indian press had come out with a clear warning that he would not be allowed liberty when he landed in India. While he was in England it was brought out in the press there that as soon as Mahatma Gandhi reached India he would be arrested and placed behind bars. In India itself the *Statesman* in its issue of the 16th December, 1931, wrote as follows:

“There is to be no power parallel to the Government of India. That point is definitely and as we hope finally decided. We have every reason for believing that when Mr. Gandhi returns to India he will not be accepted as a negotiator on equal terms with the Viceroy.”

The words are very significant and full of meaning. Again in its issue of the 23rd December 1931 the *Statesman* said this:

"A story has been sedulously propagated in India that Mr. Gandhi in his last interview with Mr. Ramsay MacDonald obtained from the Prime Minister an undertaking that if Mr. Gandhi saw the Viceroy on his return to India there would be a chance of a bargain on the basis that the Ordinances should be repealed and civil disobedience should not be revived."

Mr. A. H. Ghuznavi: What is the paper you are quoting from?

Sardar Sant Singh: I am quoting from the *Statesman* dated the 23rd December 1931.

Mr. K. C. Neogy: The master of the Government of India.

Sardar Sant Singh: These are the words, Sir. If this documentary evidence is not sufficient evidence to prove my point that the Government was creating a situation in order to strike sharp and swift blows on the Congress, I wonder whether any other evidence will convince those who do not want to be convinced. As my time is up, Sir, I close my observations.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, when I read this Resolution it reminded me of a story. When a murder trial was going on, the judge asked the jury after the evidence had finished to retire for a unanimous verdict. When the jury returned, the judge asked them if they had come to a unanimous conclusion. They said, no, and that they were divided. Some of the members of the jury thought that the man was guilty under section 302, that is murder, while others thought that he was guilty of culpable homicide not amounting to murder, that is section 304. The judge asked them to retire and bring in a unanimous verdict. When the jury returned, the judge asked them whether they had come to a unanimous conclusion. The jury replied, yes. And what was that? They said, "we find the man guilty, under section 303,"—which is neither section 302 nor 304. When I read this Resolution, I found that a compromise had been arrived at on this Resolution which makes it neither section 302 nor section 304. It makes it a very anomalous Resolution, one paragraph of which has no connection with the other paragraphs. If the first paragraph is read, I do not see how the reasoning which is contained in it can govern the recommendation which is embodied in the Resolution. The preamble goes on, whereas this Assembly finds this and that, therefore it recommends the following. If the 1st and 2nd paragraphs of the preamble are to be related to the 1st and 2nd recommendations, I find that there is nothing in common between them. (*Mr. B. Das:* "What is your section?"). If there were paragraph 3 only as the beginning of the Resolution and it contained only the first two recommendations, there might have been something in common between those three paragraphs, but when we come to the third recommendation, I do not see how any connection can be traced between it and the third paragraph of the preamble. It should have been like this, this Assembly recommends to the people concerned, to the Congress and other organisations, to keep quiet in order to let the reforms come in a peaceful way to the country. That would have been more suitable. I find that it has been made out by some Honourable gentlemen that it is a very harmless recommendation made to the Governor General in Council and that it is not a vote of censure, while other Honourable

[Mr. Muhammad Yamin Khan.]

Members have interpreted it in a totally different way, who say that it is a Resolution of censure and it was meant to be a Resolution of censure. Sir, I do not know why the authors of the Resolution felt so shy, of not openly telling people that they meant it to be a vote of censure on the Government, and why they thought it necessary to bring forward this Resolution in such a crooked manner. I like open things. If people want to fight, let them fight openly. That will give them more credit. An open fight is much better than this sneaking way. People would then be able to come to a definite decision. Saying one thing on paper and talking another thing in their speeches,—that absolutely leaves one in a hopeless condition to come to any useful conclusion. That shows that the man is not believing what he is saying.

What does the Resolution want? There is one paragraph in the preamble which I could endorse, but I would leave the whole preamble altogether and see what the recommendations are. I will start from the third recommendation. It is suggested that the Governor General in Council should secure the co-operation of all organisations in the country in the inauguration of a new constitution for India. I am quite at a loss as to what kind of co-operation is intended in the Resolution. As far as I know, last year in Delhi there was a pact arrived at and the co-operation of all was sought by His Excellency Lord Irwin and his Government, and people who were not then willing to co-operate with the Government were asked repeatedly through the intervention of some gentlemen to come and co-operate, and full opportunity was given to them to go to the Round Table Conference and arrive at an agreement on the future reforms. This opportunity having been given, what more is expected from the Government? What my Honourable friend has in his mind I do not know. If he means by this co-operation that people should come up and say "Look here, you have afforded every opportunity to us to co-operate with you, but we are not going to co-operate with you. You have given the reforms, but as matters have not been finally settled, we are going to create a kind of row or disturbance and an atmosphere which can never be conducive to the ushering in of any reforms"—if that is the co-operation that he intends, I do not think that my Honourable friend was very serious when he asked for the co-operation of the Congress. What did the Congress do? I am aware of the events in my own province. Last year and this year their activities were to create disturbances in the villages, excite the tenantry against the zemindars asking them not to pay rent to the zemindars. In this way they sought to catch the popular imagination. It is very easy to ask anybody not to pay taxes. A villager does not want anything more than that. The tenant is very pleased if the future Government promises them that he will not be asked to pay any rent. If that is the co-operation that my Honourable friend has in his mind, that the tenantry must be let loose and must not be asked to pay a single pice as rent to the zemindars, I think he will be greatly mistaken if he expects any support to such a proposition. The zemindars in the United Provinces have given up more than four crores of rupees out of their rent, while they have been allowed only about a crore of rupees from the land revenue. This means that they have incurred a loss from their own pockets to the extent of three crores. When the zemindars have given up to the extent of Rs. three crores, some gentlemen come up and start a class war and incite the tenantry not to pay even this much to the zemindars. This is bound to create a feeling

of enmity between the zemindars and the tenants, and this will result in a war between the two classes. Can this be tolerated in the country? Does my Honourable friend ever think that this will bring about a peaceful evolution of the reforms in this country? Somebody will ask me why these people took it into their heads to support this. Some have suggested that the tenantry could not pay. I doubt it, because the zemindars have never asked the tenants to pay if they could not and because they were anxious to keep the tenants in their villages. If the villagers run away, then the zemindars cannot get people to cultivate their lands. The real reason is that these people want to capture the popular mind. It is the intention that soon after two years when the new reforms come in these people will capture all the seats in the Legislatures, and with this intention they are creating a disturbance in the country. That is the real hidden motive which they dare not say openly, and with this object in mind they are creating an atmosphere which can never suit the progress of the country and will impede the progress that has been made up to now. The economic depression is so acute that whoever has got to pay, zemindar or tenant, can be easily captured by this popular sentiment that they will not be required to pay.

Speaking about my own constituency, I say that one of the biggest landlords was attacked by the no-rent campaign. He was particularly chosen because his influence is so strong that if he could be destroyed the other zemindars could be easily destroyed. That gentleman is known to every one in the Indian Legislature. He had been a Member of the other House from the very beginning of the reforms. His name is Nawab Sir Mohd. Mozamilullah Khan. Then they started with the other estates. I do not think, Sir, anybody who has the interests of law and order at heart can sympathise with this Resolution. I have finished my time and I will conclude with only one word. If any peaceful atmosphere can be introduced by any measure which has been introduced, so much the better. If the law cannot be made by this House or the peace cannot be restored by a law made in this House, then we welcome any law made by the Governor General on his own responsibility in order to restore peace and support the Government, who have brought the Ordinances into force after consultation with the Ministers in the provinces who are the elected representatives of the Legislatures. Therefore I oppose the motion.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): Mr. President, government by Ordinances must always be repugnant to liberal principles; and however much Ordinances may or may not be justified, I think every Honourable Member in this House will agree that no Ordinance should interfere with the liberty of law-abiding citizens, and no Ordinance should infringe upon the civic amenities of life, and above everything else no provision in any Ordinance should hamper legitimate political activities. I think that is a principle which will be acceptable to every Honourable Member of this House, and I propose to examine some of the provisions of the Ordinances to see if they are in consonance with the principles I have just enunciated. Do these Ordinances interfere with the ordinary liberties of citizens? I make bold to say that, if these Ordinances are given to any impartial Judge outside India to examine whether he be a lawyer or layman, and if he comes to the honest conclusion that, taken as a whole, they will not interfere with the liberties of the people in the country in which they are enforced, I will stand corrected and will be prepared to oppose this Resolution. But, on the

{Sir Cowasji Jehangir.]

other hand, if it can be successfully proved that there are certain provisions in these Ordinances which cannot be worked without considerable harassment and without a curtailment of the liberties of the people, then I say it is time that this side of the House pointed out these facts to Government. I will only illustrate what I mean by two provisions in these Ordinances. Section 3 (I) of Ordinance II gives power to any Provincial Government and officers of Government to arrest a person who has acted or is acting or is about to act in a manner prejudicial to the public safety or peace. I will ask my Honourable friend the Home Member whether he will with certainty be able to say how a man is about to act. I can understand taking action against a man who has acted, but to talk about a man who is about to act is a most extraordinary and risky proposition, and if the officers of Government do make mistakes and act unjustly, I cannot blame those officers of Government. I lay the blame at the doors of those who have framed these Ordinances. It is they who are responsible and not any individual officer of Government. Sir, when such Ordinances are promulgated, we do not desire to attack officers of Government. At least I do not. I desire to attack the fountain source that promulgates them. I desire to attack the fountain source that puts officers of Government in the position in which they do place them; of trying to guess what particular individuals will do and so arresting them beforehand, of trying to guess what such men are about to do! No wonder injustice is committed! That is no fault of the officers themselves, it is all the fault of the Ordinances.

I will now point out another provision. Many Honourable Members of this House may be surprised to hear that the advocacy of temperance, the advocacy of the use of *khaddar*, even the advocacy of Swadeshi or the use of Indian-made goods is an offence under these Ordinances (*Cries of "Shame, shame."*) Sir, in England "Buy British Goods" has been advocated by the highest in the land so successfully that today "Buy British Goods" is almost an article of religion in England. Surely, then, no Government can make "Buy Indian Goods" even a technical offence.

The Honourable Sir James Crerar (Home Member): Will the Honourable Member be good enough to inform the House under what provisions of the Ordinance the action he refers to is a criminal offence?

Sir Cowasji Jehangir: I am surprised, I am astounded at that question. (*Some Honourable Members from the Non-Official European Benches: "Answer it."*) Under the Criminal Law Amendment Act. I am surprised that the attention of Government has not been drawn to it. (*Some Honourable Members: "Point out what you mean clearly."*) Any propaganda of an association carried on by any one who, mind you, may not be a member of the association that is declared to be unlawful is illegal: if such association advocated a certain thing, any propaganda carried on by a person independently is liable for an offence under the Criminal Law Amendment Act although such a person may not be a member of that association. You have declared certain associations unlawful. The main propaganda of those associations was the advocacy of *khaddar*, temperance and Swadeshi. You have made such propaganda technically illegal. (*Hear, hear.*) Now I have been drawing the attention of Government to this fact privately for some time, and asking for a declaration from Government that they will not act against these technical liabilities, and I have

not yet heard any member of Government, either here or in the provinces, declare that they will take no action against men who are advocating the use of *khaddar*.—and I am now asked, under what section this is illegal! (*Cries of "Shame, shame."*)

Mr. F. W. Allison (Bombay: Nominated Official): May I ask in what part of India such action has been taken? (*Some Honourable Members: "Everywhere."*)

Sir Cowasji Jehangir: I wish such questions would not be asked, because you will find that a good many officers are acting in this particular direction, and let us not complicate the matter further. I have heard of a Swadeshi exhibition having been broken up, it is said, by accident, by mistake. (*Some Honourable Members: "Deliberately."*) Technically, it is an offence, but I say it is up to Government here and on the spot to declare today that such activities will not be held to be illegal by them in practice, even though they are illegal in law.

Mr. K. C. Neogy: But what will happen to Lancashire?

Sir Cowasji Jehangir: I do not want for one moment to believe that Government want deliberately to do that.

Some Honourable Members: But we do.

Sir Cowasji Jehangir: I myself do not want to believe that Government have promulgated these Ordinances in order to help Lancashire (*Some Honourable Members: "But we do. You may not."*) I only want to say that the effects of these Ordinances are what I have stated them to be, and I ask any member of Government here to clear the position today by stating that neither they nor any Provincial Government will take action under these Ordinances in the particular directions I have pointed out.

Mr. F. W. Allison: May I ask my Honourable friend

Some Honourable Members: Order, order, Sir Cowasji is not giving way.

Sir Cowasji Jehangir: What is it my Honourable friend wants to ask?

Mr. F. W. Allison: May I ask if such action has been taken against the spinning associations of Bombay? Can my Honourable friend point to any instances in the Bombay Presidency where such action is alleged to have been taken?

Sir Cowasji Jehangir: I am very glad my Honourable friend has asked that question. I was coming to my own Presidency. I am not here to represent only my own Presidency. I very readily and gladly admit that in the city of Bombay the Government of my Presidency has worked these atrocious Ordinances with consideration and great judgment. (*Hear, hear.*) (*Some Honourable Members: "But they have asked for the recall of the Governor of Bombay!"*) I do not believe that story,—I believe, that story is absolutely untrue, but I do make this admission most gladly on the floor of this House, not because I happened to be once a Member of the Government of Bombay, but lest my remarks may be misunderstood. As for the stories one hears, most probably a good many of them are not quite correct, perhaps 99 per cent. of them are not true, but if only one per cent. of them be true, then surely it is time for Government to wake up.

[Sir Cowasji Jehangir.]

Now, Mr. President, so much for the provisions of these Ordinances. The Resolution complains about the working of the Ordinances. I complain most bitterly against some provisions of these Ordinances. I have no time at my disposal today to go into any more of the provisions of these Ordinances. There are several. One of them was mentioned just now under which a parent was fined and imprisoned for the act of his 16-year old boy, over whom he could have no control. There are several other provisions, and I am sure the Law Member knows them well. (An Honourable Member: "Does he?") Any way, let us not close our eyes to the effects of these Ordinances as they are at present worked. They affect the lives of people, men and women who have no connection whatsoever with any subversive movement, who take no part in any political movement. Surely, let us not close our eyes to the effects that these Ordinances must have upon this country. Do you, Mr. President, think that they can work some of the provisions of these Ordinances, which are really most objectionable, without creating a considerable amount of ill-feeling? Was it all necessary? Did the occasion demand that you should have such atrocious provisions? If you have such provisions, is it right for you to complain and throw the responsibility upon your officers if injustice is done? You yourself should boldly come forward and change the provisions and save your officers from working Ordinances which they are unable to work fairly and justly to the people. What are the consequences? Ill-feeling, bad blood,—ill-feeling that is not going to die out soon,—ill-feeling and bad blood, which may not be apparent immediately because of these Ordinances, as it may not be given expression to. But, believe me, Mr. President, as one who,—I repeat what I have declared at the Round Table Conference,—as one, who will fight for the British connection till the end of my days, I say some of the provisions of these Ordinances are weakening the links that tie England and India together and if Government persist in allowing these Ordinances to stand, then they will themselves help to break those links that men like myself are most genuinely anxious to strengthen with all the power that remains in us till the very end of our days. I just want to say a few more words. Have I the time, Mr. President? Mr. President, may I have just one minute more to complete my remarks.

Mr. President: The Honourable Member has got only half a minute more of his time.

Sir Cowasji Jehangir: Government may capture one or two votes by this censure stunt. A censure means that Government must resign. (Cries of "No, no" from Government Benches.) Oh, yes. But are Government going to resign if this censure motion is passed? I make bold to say that such Resolutions have been passed by dozens in this House and they have not had the slightest effect upon Government. Therefore, to call this a censure motion may be an excellent stunt, which will catch one or two votes and may bring you victory. The opportunity has however been given to us to tell Government exactly what we feel, and I trust Government will take some action in their own interests. (A Voice: "Very optimistic".)

Mr. E. Studd (Bengal: European): Sir, when I first read this Resolution, I was somewhat forcibly reminded of the experiences of childhood days when it was a favourite practice to wrap up a dose of bad medicine in something a little more palatable in the hope that it would go down.

As I read through this Resolution, I found that about three-quarters of it was given up to three long paragraphs of preamble each of them starting with the word "Whereas", a word beloved of lawyers but one which is rather inclined to confuse the poor ordinary business man. It seemed to me that the real sting of the Resolution was in the three recommendations at the end and that the three paragraphs of the preamble had been put in at the beginning in the hope of placating and possibly capturing the votes of a few waverers.

Mr. B. Das: We do not expect you to vote with us.

Mr. E. Studd: Quite right. I was little uncertain, and so were one or two colleagues of mine, as to how much weight ought to be given to some of these paragraphs of the preamble. Fortunately, my Honourable friend Mr. Ramaswami Mudaliar cleared that point up quite decisively, for he said the preamble is nothing; it does not count at all. I confess I hoped that it would count a little, because there is at least in the preamble an expression that this Assembly condemns terrorism and the no-rent campaign. But apparently that does not count at all, and I could not help being struck during the course of the debate by the fact that, while, a number of speakers have said that they do not belong to the Congress Party, that they do not back the Congress Party up, there has been extremely little said in the way of a definite and strong condemnation of terrorism and of the acts of the Congress Party. It seems to me that it is not sufficient nowadays merely to say that one does not approve of terrorism or one does not approve of no-rent campaigns. The days of pious expressions of that sort have gone, and I believe that the time has come when those who really and sincerely do not approve of them have got to come out into the open and be prepared to take strong and possibly drastic action to cope with these evils. Now, Sir, I have listened carefully to the speech of the Mover of this Resolution. Apart from his arguments on legal technicalities, which I neither desire nor am qualified to touch, it seemed to me that, while he devoted a certain amount of his time to destructive criticism, he really only had two points which he tried to make. The first was that these Ordinances interfered with the fundamental rights of certain citizens. The second was that excesses had been committed under the Ordinances. Now, Sir, one or two speakers before me have referred to the fact that if a citizen fails to carry out his fundamental duties as a citizen, he has very little right to talk about fundamental rights.

Mr. K. C. Neogy: What are the fundamental duties of this House?

Mr. E. Studd: There is a vast number of people in this country who, to my mind, have been suffering from the action of Congress and the terrorists. They have been subjected to social boycott and to picketing. They have been interfered with in every possible way in the ordinary avocations of their life. What about their fundamental rights? ("Hear, hear" from the Government Benches.) Have not they a greater claim to fundamental rights than the people who have been deliberately breaking the law and, in addition, are not there very many more of them? Therefore, it seems to me that there is every justification for the Ordinances which have been introduced and the Mover of this Resolution has a precious poor case when he starts arguing about fundamental rights being interfered with.

[Mr. E. Studd.]

Then, Sir, he talked about excesses. I imagine that there is no reasonable man who will maintain that with action such as has been necessary under these Ordinances over such a vast country—I might almost say continent—they could possibly be worked without in some cases excesses being committed. I yield to no one in my sympathy for those who have suffered wrongly through possible excesses of that sort, though I have not been impressed with details which have been given during the course of this debate on this subject. It is very easy to make sweeping statements about excesses, but that does not get anyone anywhere. To my mind, we have had ample assurance from the Government Benches that any definite instances of excesses that are brought to their notice will be inquired into. Sir, on this point there is still another side. What about the excesses committed by the Congress Party and others? What about the poor wretched policemen who had a brick dropped on their heads from the roof of a house, or people whose families have been boycotted and whose homes have been picketed? We have heard nothing about those excesses which these Ordinances are an attempt to stop. It seems to me that there has been a great deal of argument all round the real point or avoiding it, and I should like to repeat what my Honourable leader said. The real basis of the whole thing seems to me to be this: Are we all agreed that law and order must be maintained? I personally, not being a lawyer and not being very much of a politician, am disposed to disagree with my Honourable friend over there who said that he would only have the order if he could have the law too. I am rather inclined to think that if the man in the street was given the choice and told that he could have either "law" or "order" but not both, most of them would choose "order". The second point is: Are we or are we not agreed that the Congress has been a subversive body and that it should be so dealt with and that strong measures are necessary? Those two points, to my mind, have largely been ignored or avoided by the Opposition. Personally, I do not think that any sane and reasonable man can read through that budget which has been submitted to us giving a short history of what has happened in the provinces, without being profoundly convinced that the Congress has been a subversive body. For my own part, I am amazed at the forbearance that Government have shown in handling the situation.

Mr. K. C. Neogy: You had your Black and Tans at Chittagong: Go ahead with it.

Mr. E. Studd: It seems to me that the best possible answer to the last clause of this Resolution is that Government have done everything possible to try and get the Congress Party to co-operate. The Congress Party have thrown out a challenge to Government and Government had no option but to take it up.

My Honourable friend Mr. Mudaliar complained that Government
4 P.M. treated this House as if it was not to be trusted to pass adequate measures to deal with the emergent situation which has arisen. I admit that my experience of this House has not been a very long one. But I must confess that while I have been here, it has seemed to me that, whenever any question comes up for strong and rather unpleasant powers to deal with a difficult situation, the Opposition has always been eager either to dig its toes in and give no powers, or to criticise the action which Government have taken to deal with an unusual situation. He asked what

was the difference between this House and the Bengal Legislative Council. I think I can answer that question in a very few words. Most Honourable Members will no doubt remember the Bill to which the Leader of the House referred, the Bengal Criminal Law Amendment Act. That really consisted of two Bills, one which contained very wide powers which the Government of Bengal was asking for and which was submitted to the Bengal Legislative Council. The other which contained powers not nearly so wide as the ones in the provincial Bill, which was submitted to this House. The Bill in the provincial Council was passed by a large majority. To the Bill in this House for which the Government asked for a Select Committee an amendment by the Opposition was carried against Government and the Bill was circulated for opinion. That shows the difference between the two. I must confess that, as far as the community to which I belong is concerned, I believe that if only the Opposition could be induced to come out into the open and be strong enough to face the fact that exceptional measures have to be taken and unpleasant powers have to be given to Government to cope with an emergent situation, I believe, Sir, that that would do more to allay the misgivings which exist in a large section of my community than anything else.

Now, Sir, my time is almost up and there is only one other thing which I should like to say. We have heard a great deal of the evil effects of these Ordinances, the way in which they have been abused, how people dislike them and how they are creating hatred and mistrust. I should like to ask Members of the Opposition, if they can, to try and get away for a moment from the political atmosphere, to try and take an outside view of certain things which happened almost immediately these Ordinances were introduced. I am speaking at the moment, more particularly, of that province which my Honourable friend Mr. Amar Nath Dutt, so often describes as "unhappy". I think there are times when facts are more eloquent than words and when these Ordinances were first introduced there were a number of people in Calcutta, who while they were fully convinced that they were absolutely necessary, looked upon them with a certain amount of misgiving because they were afraid that they would be just one more depressing factor in the already depressed markets of trade and commerce.

Mr. President: The Honourable Member's time is up.

Mr. E. Studd: I shall finish in half a minute. From one market and another came in reports, not that the market had gone down but that the market had gone up, that there was a sincere sign of relief everywhere at the strong action taken, which is also borne out by the fact that Government securities rose instead of falling. I strongly support the Government. (Applause.)

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): I rise to support the motion before the House. As previous speakers have said, the motion before the House is the mildest that any body of sober-minded and reasonable men could draft, considering the gravity of the situation in the country, considering also the resentment caused by the contemptuous treatment accorded by Government to the meekest of the legislative bodies in the world, the Legislative Assembly of India, and considering also the anger, the alarm and the dissatisfaction which men and women in this country feel at the manner in which some of the affairs of this country are administered at the present time.

[Diwan Bahadur Harbilas Sarada.]

I wish to confine my remarks to only two points, but those two points go to the very root of the matter as they have caused serious searchings of heart even in the minds of the most moderate of men. Sir, I am no Congressman. I have never been one. My training, education, and outlook on life have not been those of a revolutionary; but even I find it impossible not to condemn and condemn severely the way in which things are administered with the aid of the *lathi* in the country.

Sir, before I go on to those two points, I wish to note the rapid progress which this country, in the opinion of British Government, is making towards its goal—the attainment of freedom—which fact is noted in the remark of the Secretary of State when he talks of the barking of dogs. Sir, not very long ago the Secretary of State for India, one of the predecessors of Sir Samuel Hoare, said “Mr. Gandhi was imprisoned and not a dog barked”. The present Secretary of State says, “The dogs are barking, but the caravan goes on”. And, as sure as day follows night, the next Secretary of State will say “The dogs have been barking, the caravan has stopped or is returning home.” And then the curtain over the struggle for freedom in this country will fall.

The first point to which I draw the attention of this House is the perfect non-chalance with which Government have ignored every legitimate interest and the utter contempt with which Government have treated the most authoritative body, established by law in this country, the Legislative Assembly. Eleven years ago with a flourish of trumpets and the tantare of bugles, the British Government declared that in gratitude for the invaluable help given by India to England in her hour of need, England had changed its angle of vision and was going to divest itself of all legislative authority with regard to the administration of the country, and that it had established a Legislative Assembly with an elected majority for making the laws of the country. But what is the fact now? Ordinance after Ordinance, the succeeding one going further than the preceding one, has been promulgated, and though the Legislative Assembly has been summoned, the Government have refused to place before the Legislative Assembly the subject-matter of these Ordinances for legislation. Does this not show the people the unreality of the whole thing? Under the constitution Government had two alternatives and they could adopt one of the two if they wanted not to flout the constitution. If they thought there was an emergency, they could promulgate the Ordinances, but when the Assembly met, they should have placed them before the Assembly. Whether the Assembly passed those Ordinances or not, Government were empowered to certify them and make them laws. The other alternative was to make these Ordinances, suspend the constitution for a time until they thought peace was established in the country to allow of the ordinary administration being carried on in the ordinary way, and then summon the Assembly and carry on the administration after the Ordinances had lapsed. In adopting any of these alternatives Government would have been technically right.

The Honourable the Leader of the House said that Government knew from their experience of the Public Safety Bill that this House would not pass any legislation which was placed before it to meet emergencies, and consequently it was no use wasting time. But is that any argument for flouting the constitution? Government knew very well that the Finance Bill imposing fresh taxation would not be approved by this Assembly and

yet they summoned the Assembly and certified the Bill when it was thrown out by the Assembly. Why could not the same thing be done in the case of the Ordinances to show respect for the constitution?

My second point is with regard to the frame and the working of the Ordinances. Even under the constitution, it cannot be said that unlimited power vests in the Government of India or the Governor General. There are limitations not only to law but on the power to make Ordinances. I am glad my Honourable friend the Law Member is here as I wish to ask him a question or two. It is ordained in one of the Ordinances that a man who, in passing through a bazar, is attracted by a fine Benares brocade or the variegated colours of a *sari* dyed in Jaipur, and stops there looking at it, can be arrested and imprisoned under the Ordinance.

The Honourable Sir Brojendra Mitter (Law Member): Which Ordinance is that?

Diwan Bahadur Harbilag Sarda: You don't know it? It is the Emergency Ordinance. Any man who loiters before a shop and stands before it without any intention of buying or interfering with the sale is liable, if the Government wish, to be arrested.

The Honourable Sir Brojendra Mitter (Law Member): Will my Honourable friend kindly refer me to the section?

Diwan Bahadur Harbilag Sarda: Sir, my time is short and I have not the Ordinance with me to answer him.

Another point is this. There is a *hartal* in a town and a nervous shopkeeper closes his shop not because he has any sympathy with the Congress, not because he does not mind losing his custom owing to the *hartal*, but simply because he is afraid of having his shop looted when he sees gangs of rowdies and groups of famished people going about the town. He shuts his shop, puts on a lock and goes home. Government can arrest that man, lock up his shop, stop his business and send him to jail. This has actually happened in Calcutta and in other places. Is such a power given by any constitution any Government possesses anywhere in the world? I ask the Honourable the Law Member who, having been a devoted votary of the law, has risen to this eminent position to rise and to uphold the dignity of law, explain for the edification of this House those principles on which this power can be legally obtained and used by a Government.

Sir, another point to which I wish to draw the attention of the House is the manner in which the agents of the Government in some places.—I do not say all places,—have administered the Ordinances. Respectable women, finding that their husbands or sons or brothers have been arrested or wounded or killed, go to some place to express their sorrow or grief, meet together to devise means for bringing the matter to notice of the Government, are arrested, imprisoned, and beaten with *lathis* and, what is more, they are treated in the prisons like felons, like moral delinquents and renegades and are placed in class III. These women never joined the Congress before, they had nothing to do with political agitation, but owing to domestic circumstances and afflictions they leave their homes and this is the treatment meted out to them. Sir, I have studied law to some extent: I have been a Judge myself for several years in the service of the British Government; but I have failed to find out under what law a man who is not guilty of any act of violence but simply sits down on the

[Diwan Bahadur Harbilas Sarda.]

road can be assaulted with *lathis* or fired at. The law is plain. Arrest him, imprison him, fine him, do what you like with him according to the provisions of the Criminal Procedure Code or the Indian Penal Code, but why assault him, why wound him? He has not raised his hand against anybody, he has not said a word against anybody; yet you thrash him with a *lathi*, and leave him wounded on the street. Is that not a clear case of assault by the executive on the people of India? I should like the Honourable the Law Member to explain to us under what law this is done. Sir, while these things are going on, much as we desire to co-operate with the Government, much as we desire to see peace and order prevalent in the country, it is not possible for the elected representatives of the people to come here and sing hallelujas to the glory of the almighty British Government in India.

Maulvi Sayyid Murtuza Sahab Bahadur (South Madras: Muhamadan): Sir, in supporting the motion before the House I have to bring a few points before your notice. First of all, no Member from the Treasury Benches has up till now justified the arrest of Mr. Sen Gupta. No one up till now has said a word in justification of his arrest. Because they can't succeed in justifying it.

As regards Gandhiji it has been admitted on all hands, even by his enemies, that he is the incarnation of non-violence. Non-violent he is, not only in action but also in thought. Christian missionaries have hailed him as a prophet. We the Mussalmans cannot accept that view, but we cannot but be his admirers. As regards Khan Abdul Ghaffar Khan, my friend Sir Evelyn Howell said yesterday that had it been any other Government but the British, Khan Abdul Ghaffar Khan would have been deported long ago, that he would have been subjected to many a greater hardship and so forth, but I will try and convince my friend,—I am sorry I do not find him in his seat here today,—that had it been any other Government but the Government of India, Khan Abdul Ghaffar Khan would have been given some *Jagirs*, some *Inams*—(An Honourable Member: "Why?")—I will give the reason presently as to why he deserves some *Inams* or *Jagirs*. The House knows what was the state of affairs in the North-West Frontier. During my collegiate days, Sir, I was surprised to learn that Europeans were murdered for nothing, simply because the people there were under the erroneous impression, which is of course against Islam, that killing an Englishman was a virtuous act. Those days are now over. How was this mentality brought about among the Pathans and the youths of that province? It is because gentlemen of the stamp of Khan Abdul Ghaffar Khan propagated the creed of non-violence and gave a splendid training to 'Red Shirts'. ("Hear, hear" from the Nationalist Benches.) When last year I referred to the atrocities perpetrated in the North-West Frontier Province, my friend Sir Evelyn Howell, after my speech was over, said that he felt hurt to hear the words from me like "atrocities perpetrated", and I said that if he had only read the Report of Mr. V. J. Patel, your predecessor, he would have been convinced of the truth of my assertion. Sir, . . .

An Honourable Member: Where is he now?

Maulvi Sayyid Murtuza Sahab Bahadur: He is now a guest of His Majesty's Government. I said that if my friend had read the Patel Committee's Report, which unfortunately has been confiscated, he would

have found that 250 Pathans were put to death for no offence and yet they exercised considerable restraint over themselves. The Pathans of the province acted up loyally to the principle of non-violence. This is the outcome of the teaching of Islam, which was renewed by Khan Abdul Ghaffar Khan. I am sorry, I have to observe that my colleague, Sahibzada Sir Abdul Qaiyum, in levelling a charge against Khan Abdul Ghaffar Khan said that he went about propagating the principle of complete independence. I say, Sir, there are so many amongst us here who are for complete independence even now. ("Hear, hear" from the Nationalist Benches.) My friend Sir Henry Gidney may say that we can only give expression to these words inside this House and not outside the Assembly. Sir, I am quite prepared to give expression to these words even outside the Assembly though I am not connected with the Congress. Sir, when the animal kingdom wants complete independence who is there among us not having a burning desire for it?

Mr. Arthur Moore: Has the Honourable Member not taken the oath of loyalty?

An Honourable Member: What a point of order!

Maulvi Sayyid Murtuza Saheb Bahadur: I am as loyal to His Imperial Majesty as my Honourable friend Mr. Arthur Moore is.

Mr. Gaya Prasad Singh: It is just like the Editor of the *Statesman*.

Maulvi Sayyid Murtuza Saheb Bahadur: Aspiration for complete independence does not mean that one is wanting in loyalty, and Mr. Moore, as an Englishman, ought to have realised this.

An Honourable Member: Send him to his moorings. (Laughter.)

Maulvi Sayyid Murtuza Saheb Bahadur: Sir, every one of us is an aspirant for complete independence. Much more so is the case with a Muslim. Now, according to Islam, what is patriotism? "*Hubbul Watane minal Iman*". Love of one's country, love for liberating one's country is the cardinal faith of Islam. ("Hear, hear" from the Nationalist Benches.) This is the tradition of our Holy Prophet. May Peace be on him. Can anybody challenge it? No, certainly not.

Now, as regards the specific charges which my friend Mr. Moore wanted to be convinced of my Honourable friend from Madras, Mr. Shanmukham Chetty, gave a good many this morning in his very eloquent speech. Those instances relate to my province, where the civil disobedience movement has not spread to the extent that it has in the Andhra District. Sir, my Honourable friends, Diwan Bahadur Ramaswami Mudaliar, Mr. Chetty, Raja Bahadur Krishnamachariar and myself represent Tamil Naidu where civil disobedience is not in full swing, and yet what do we find there? Two or three have succumbed to injuries caused by inhuman *lathi* charges. (An Honourable Member: "Shame.") And then what transpired in Tellicherry, which was questioned by my friend Mr. Arthur Moore? He asked us—"How do you know that the I. C. S. officer concerned is an European?" Even granting that the District Magistrate who ordered the removal of the *Thali* was an Indian I. C. S., we say that the agents of the Government do not work these Ordinances with moderation as has been stated by the Home Member.

Mr. Gaya Prasad Singh: The Magistrate is an European I. C. S. The name is given out in the *Hindustan Times* this morning, although the *Statesman* has suppressed it.

Maulvi Sayyid Murtuza Saheb Bahadur: I say that even granting that it was an Indian I. C. S., he will not work the Ordinances justly and moderately.

As regards the excesses which my Honourable friend Sir Abdul Qaiyum wanted to mention but which he could not for want of time, there can be no two opinions at all on the point. Again, I find that my friend Sir Evelyn Howell is not in his seat, and it is very unfortunate. Sir, it has been brought to my notice by responsible persons in the North-West Frontier Province that the jewels of some ladies who were saying their prayers were removed, and when after finishing the prayers the lady concerned brought the matter to the notice of her husband, he went to the station and complained to the proper authority. What was the consolation he gave to the husband of that lady? He was told—“Oh, you should regard yourself as fortunate that your wife has not been eloped, but only jewels were removed”. (*Voices:* “Shame, shame” from the Nationalist Benches.)

(At this stage Mr. President vacated the Chair which was taken by Mr. Deputy President.)

Can there be anything more disgraceful than this? Such disgraceful and barbarous treatment has been meted out to Pathans, and yet the Government say that it wants to create the North-West Frontier Province into a Governor's province placing it on the same lines as other provinces. Sir, first of all the Government have not given effect to the recommendations of the Frontier Regulations Enquiry Committee, although a month has passed since the publication of the report. And yet the Government say they want to raise the North-West Frontier Province to heaven as they have raised all other provinces! I am afraid my time is up. Before completing my speech, let me address the Honourable the Home Member. (*An Honourable Member:* “He is not here.”) Then I address it to the Leader of the House. There is a Persian couplet of Sadi which runs thus:

“*Ai Zabardast Zair dast azar
Garm ta kai bemanad een bazar.*”

‘Mother India says, ‘Oh, tyrant, you have got the upper hand now, and you want to oppress those that are under you, but know full well that this state of affairs cannot continue long. Your shop will collapse soon.’”

This is the appeal made by Mother India to the Government Benches. (Applause.)

Kunwar Hajee Ismail Ali Khan: Let the question be now put.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): I accept the closure. The question is that the question be now put.

The motion was adopted.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhamadan): After two days' debate and attacks and counter-attacks, there is indeed very little for me to say. But I rise with particular regret

because I find that the Leader of the House and the leader of the European Group both combined in giving the identical reason why these Ordinances were not placed before the Assembly, either before they were promulgated or immediately after they had been promulgated. The Leader of the House made no secret of the fact that, knowing the history of this Assembly which threw out the Public Safety Bill three years ago and enacted the Press Bill only last year, there was no assurance that the intention of the executive Government would be endorsed by the Legislature.

The Honourable Sir George Rainy: Might I say this, Sir? What I drew attention to was the length of time the Bill would be before the Assembly—that was my point. I might, also perhaps remind my Honourable friend that the Public Safety Bill was not thrown out by the Assembly.

Sir Hari Singh Gour: Sir, I was conveying the sentiments expressed and left unexpressed by the Leader of the House. The real reason why he did not take this House into his confidence was that he had apprehensions that the intention of the executive Government to give them a clean slate would not be carried out by this House.

The Honourable the Home Member in replying to the debate, very adroitly and in a skilful manner, evaded the issue. He gave absolutely no reason why the Ordinances were not brought before the Legislature, but he simply said that the Government must govern. Sir, I would ask the Home Member that if the Government have the right to govern, have they equally the right to misgovern? And what are these Ordinances? Has any justification come from any Members on the opposite Benches, justifying any single provision of the Ordinances dealing with and attacking the right and liberty of person and property in all parts of India? I complained, and I repeat my complaint, that these Ordinances have placed the entire population of India at the mercy of the executive Government. That is our complaint. That the plenary powers that you have taken off against the very fundamental rights of humanity and fair play to which, apart from the constitution and apart from constitutional precedents, every human being is entitled—can you deny it? You have suspended the operation of the ordinary law. You have annulled the ordinary procedure, and you have under these Ordinances placed the executive Government in sole charge and in sole custody of the rights and privileges and property of the people of this country. Is there any man so lost to sense or so lost to reason as to come to your rescue on this occasion? If he does so, all I can say is time will answer. (Cheers.)

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

Sir, we have been told by the Home Member that these Ordinances have been used with moderation and that they have been used by people subject to strict discipline. You have heard the answer from all sides of the House to the challenge made by Mr. Moore to give him specific cases. A multitude of cases has been given by the Members of this House; they are too horrifying for any Member of this House to tolerate. And what is the reply? The reply given by the occupants of the Treasury Benches is that if you give specific cases we shall enquire into them. What are you going to enquire about? Under these Ordinances which lay down that any man may be laid by his heels and kept in confinement for an

[Sir Hari Singh Gour.]

indeterminate period, what will the enquiry say? You will simply say that all that you complain of is justified by the Ordinances. That will be the result of your enquiry. And if we could trust the executive Government, surely we would not have been here to oppose the executive Government when the executive Government go wrong.

Then it has been said, and I think very frankly, by the official apologists, that these Ordinances had to be brought into being because the emergency arose and it had to be provided against. Whatever may be the reason for bringing into existence these Ordinances, what reason have you given for not placing them before the Legislature? Read the preamble. It may be superfluous, but has it not enlightened you on this crucial point, that what we complain of is not the genesis of the Ordinances. What we complain of is that you have not placed them before the Legislature. That is our first recommendation. The only reply that you have in your minds is that if you were to place them before the Legislature, it would cause delay. Sir, every piece of legislation placed before a democratic body does involve delay. Can my Honourable friend conceive of a similar Ordinance issued by the executive in England and the head of the executive standing before the House of Commons and declaring to the assembled representatives of the people that they have issued the Ordinance because the House of Commons would take months to enact it into law? Sir, if such intrepid explanation were given in the House of Commons, I am sure within 24 hours the gentleman who gave that explanation would have to quit his official post. The fact that this is a minority Government supported by a minority of the Members of the House, but is given the extraordinary power of determining the policy of the majority of this House and controlling the majority of this House, is one of the reasons why there cannot be any co-operation in the sense you desire it between these two sides of the House. For the last 12 years we have been crying and crying ourselves hoarse and saying that the existence of an irresponsible executive is inconsistent with an elected Chamber which controls your policy. What reply have you to give? You have given no reply, and now after 12 years of patient waiting, when you find a political organisation, impatient of delay and anxious to hurry on your pace, embarks upon what is a perfectly constitutional method of public agitation, a peaceful civil disobedience movement, you wish to crush it now and for all time by confiscating all its property. Can any Member of this House, who has any duty towards his constituents, reconcile his public duty with the Ordinances that you are promulgating? Sir, even the nominated Members of this House like Mr. Sarma had the candour to admit that these Ordinances have led to abuses. What remedy are you providing against these abuses? My Honourable friend says that these Ordinances will be worked with moderation and under strict discipline. If that is so, let us give you and your agents a chance to make no mistakes. If you think that these Ordinances are necessary, then work them and do not evade them, but if they are not necessary, delete them from the Statute-book. You are on the horns of a terrible dilemma. You cannot in one breath say that you will work them with moderation and discretion.

Mr. President: May I ask the Honourable Member to say "they" instead of "you"?

Sir Hari Singh Gour: I meant it impersonally. In either case it means the same thing. They had an example the other day. You had an example the other day. The Honourable the Law Member or some other apologist of Government ejaculated an interruption and asked, "What is there in the Ordinances to show that the cult of Swadeshi has been punished?" My Honourable friend the Deputy President, who has lost his right of speech, told me of one instance in Coimbatore; (Interruptions) there is another in Bombay, where a shop stored with Swadeshi goods absolutely unconnected with the Congress movement was locked up by the police because it contained Swadeshi cloth. The Swadeshi exhibitor in Madras was stopped. I ask my interruptor what influence he is going to exercise upon his colleagues to set right this flagrant example of the abuses of the processes of law.

Sir, I do not wish to tire this House but I wish to say one word in passing in reply to what has fallen from my friend Mr. Studd who said, "You are talking about fundamental rights. What about the fundamental rights of those peaceful citizens who are being terrorised by the Congress?" In the same breath he admitted that he did not exactly understand the constitutional objection I took, because he is not a lawyer. I entirely exonerate my friend if he does not understand the elementary meaning of the term "fundamental rights". The meaning of fundamental rights is that every citizen shall have recourse to the regularly constituted courts of law, that his person and property shall be immune from seizure by the executive, and that if he suffers from any wrong from the executive he has a right to go to the constituted courts for the purpose of punishing the man for false imprisonment or obtaining suitable damages. That is the meaning of fundamental rights which have for three centuries been established under the English constitution and it is because those rights are in consonance with the conscience of humanity that we want you to incorporate them in your provisions. Are you prepared to do that? You are not. That is the whole difference between you and me, and you want us to give unqualified approval to all the Ordinances that you have issued and may issue hereafter. I have done. I will ask Honourable Members to remember that they have a great duty to discharge on this memorable occasion. By their action the Government have made the Legislative Assembly impotent. Do not make it contemptible by your vote. (Cheers and ironical-counter Cheers from the non-official and Government Benches.)

The Honourable Sir James Crerar: It is impossible for me at this late hour or within the brief period of time which can be allowed me to attempt even a brief survey of the course of the debate, and I therefore propose to content myself with touching upon only one or two of the salient points. As regards the character of the Resolution, I think that one of the most remarkable of the criticisms which were made upon the attitude of Government was that they should have regarded it as a vote of censure. In view of the totally different views expressed on that particular point by many Honourable Members opposite, I think I should be acquitted of all misapprehension of the real tenor of the Resolution and I shall refer to that later before I finally conclude. In the meantime I want to reply to one criticism made by the Honourable the Deputy President. He thought that my description of the Resolution was somewhat misconceived as it did not in fact contain any incompatible sentiments. Let me tell him, if I may, how I felt on that point. It appeared to me that parts of the Resolution adhere, if they adhere at all, by a very ingenious process of agglutination

[Sir James Crerar.]

rather than by any direct logical connection or coherence. I had this difficulty in particular, that in the preamble to the Resolution, the Assembly was invited to condemn acts of terrorism and violence and to disapprove of the no-rent campaign and similar activities. The Honourable the Leader of the Nationalist Party has just astounded me by saying that he regards the non-co-operation campaign as a strictly constitutional method of agitation. It puzzles me therefore to understand even at this late stage what precisely the Honourable Member meant by "other similar activities". I will restrict my remarks therefore to what I do understand in this part of the Resolution, and that is, terrorism and the no-rent campaign. The House is invited to condemn them. But what is the practical inference drawn from that condemnation? Is it that this House should support Government in the measures that it has taken to suppress those two campaigns which the House is called upon to condemn? No, Sir, there is no practical support for that proposition; and when the Honourable the Deputy President wonders where my difficulties are, I present him with one of them. In the second place, a great deal has been said, firstly, about the Ordinances themselves—the method of procedure by Ordinances—and secondly, about their administration. I have only a few words to say on those two points. It has been suggested that the mere making of an Ordinance, whatever may be the circumstances, however grave the emergency is, something in the nature of an outrage upon law, of an insult to the Legislature, of an injury to the public, I think, Sir, that that was the point of view taken by the Honourable and learned gentleman from Bengal, whose absence I particularly deplore, partly by reason of the nature of his contribution to this debate, and partly because he did me the honour of addressing me personally by name. The Honourable the Leader of the Independent Party in the course of his speech in a very emphatic, I might almost say in a triumphant tone, denied that he had made or promulgated any Ordinance. We know perfectly well, Sir, in whom the authority of making an Ordinance is vested. I could have said that myself. But, Sir, I would not have said anything which might suggest that I was capable of evading my share of the responsibility for the general policy and action of Government of which the making of an Ordinance is merely a particular, though it may be a very important, incident. (Hear, hear.) If the Honourable Member had been present, I should have invited him to recall that in the year 1924 an Ordinance was made for the province of Bengal. It was made at the very strong instance of the Government of which the Honourable and learned gentleman was a Member (Hear, hear), and I remember that a strongly-worded representation of the Government of Bengal was not acceded to except after very careful and mature deliberation which many people thought to have been wrong. (Mr. B. Das: "Are not Indian Executive Councillors mere toys?") With regard then to the fundamental impropriety or unconstitutionality of the making of an Ordinance in the face of a grave public emergency, I think my Honourable friend should have justified his position at that time or he ought to be here to justify it now. ("Hear, hear," from the Official Benches.)

Now I have one word more to say with regard to the manner in which these Ordinances have been administered. It is impossible to deal with the merits of particular instances of alleged improper action under the Ordinances. But to Honourable Members who have urged that point let me say this. It would be easy for me, if I thought it profitable, to recite

on the other side of the account a multitude of cases of the grössest acts of violence, of arson, of murder, of attempts at murder; but it would be entirely unprofitable for me to do so. I contend that these allegations and their proof or disproof are not really of fundamental relevance to the issue before the House. The issue before the House is, was Government right or was Government wrong in its general policy and in its general proceedings? The issue before the House is, was this Government faced by a very serious public emergency, which threatened the peace and the most vital interests in the country? The question is whether the action of Government is directed to that end. I maintain, Sir, that it is. The question is whether the Government are sincere and honest in their efforts to promote the political and the constitutional progress of this country: and if they are honest and sincere in those efforts, as a vow they are, could they possibly have justified themselves if they had not taken the executive action under which alone that policy could be probably pursued? (Hear, hear.) That, Sir, I contend is the real issue before the House. That is the vote of censure which Honourable Members opposite have sought to pass upon Government, and I leave the verdict to the unprejudiced judgment of this House. (Loud Applause.)

Mr. President: The question is:

"Whereas this Assembly has reason to protest against the manner in which the Ordinances promulgated by the Government of India have been worked in various parts of the country by the agents of Government, and in particular, considers that the action taken against Mahatma Gandhi without affording him the opportunity he sought for an interview with His Excellency the Viceroy was unjustified, that the deportation of Khan Abdul Ghaffar Khan, and the arrest of Mr. Sen Gupta before he even landed on Indian soil were against all canons of justice and fairplay and ignored all elementary humane ideas and that the punishment meted out to ladies including their classification as prisoners is to the last degree exasperating to public opinion;

And whereas this Assembly disapproves of the fact that various Ordinances have been issued immediately after the conclusion of the last sitting of the Legislative Assembly;

And, whereas, this Assembly condemns acts of terrorism and violence and disapproves of the policy of a no-rent campaign and similar activities and is convinced that it is the earnest duty of all patriotic citizens to join in the constructive task of expediting the inauguration of a new constitution ensuring lasting peace in the country;

This Assembly recommends to the Governor General in Council:

- (1) that he should place before the Assembly for its consideration such emergency Bills in substitution of the Ordinances as he may consider reasonable and necessary in order to enable this House to function effectively as intended by the Government of India Act;
- (2) that in view of the grave happenings in the North West Frontier Province, a committee elected by the non-official members of the Assembly be forthwith appointed to enquire into the same, including the reported atrocities committed therein; and
- (3) that he should secure the co-operation of all organisations in the country in the inauguration of a new constitution for India."

Mr. Abdul Matin Chaudhury: On a point of order, Sir. Certain allegations have been made against the Leader of the Independent Party by the Honourable the Home Member. I want to ask whether he will be given an opportunity to clear his position.

Mr. President: The Honourable the Leader of the Independent Party was not present at the time.

Mr. K. C. Neogy: Cannot he rise to make a personal explanation if he knows what was said about him?

Mr. President: I will allow him to make a personal explanation at this stage only as a special case.

Sir Abdur Rahim: I did not hear the exact allegations.

Mr. President: That is exactly what I said.

Sir Abdur Rahim: I understand that when I was in the Government of Bengal as a Member of the Executive Council some Ordinance was passed, and it was stated that I had issued a certain Ordinance. If the Honourable the Home Member wanted to know what I did personally, he ought to have looked into the records of the case. (Hear, hear.) (*Some Honourable Members:* "Produce the records.")

Sir Abdullah Suhrawardy: But we know that you did not resign. (Laughter.)

Mr. President: Order, order. The question is that the foregoing Resolution be adopted.

The Assembly divided:

AYES—44.

Abdul Matin Chaudhury, Mr.
Abdur Rahim, Sir.
Aggarwal, Mr. Jagan Nath.
Azhar Ali, Mr. Muhammad.
Badi-uz-Zaman, Maulvi.
Bhuput Singh, Mr.
Chetty, Mr. R. K. Shanmukham.
Das, Mr. B.
Dudhuria, Mr. Nabakumar Sing.
Dutt, Mr. Amar Nath.
Gour, Sir Hari Singh.
Gunjal, Mr. N. R.
Isra, Chaudhri.
Jadhav, Mr. B. V.
Jehangir, Sir Cowasji.
Jha, Pandit Ram Krishna.
Jog, Mr. S. G.
Joshi, Mr. N. M.
Krishnamachariar, Raja Bahadur G.
Lahiri Chaudhury, Mr. D. K.
Lalchand Navalrai, Mr.
Mitra, Mr. S. C.
Mudaliar, Diwan Bahadur A. Rama-
swami.

Murtuza Saheb Bahadur, Maulvi,
Sayyid.
Neogy, Mr. K. C.
Parma Nand, Bhai.
Phookun, Mr. T. R.
Puri, Mr. B. R.
Puri, Mr. Goswami M. B.
Ranga Iyer, Mr. C. S.
Reddi, Mr. P. G.
Reddi, Mr. T. N. Ramakrishna.
Sadiq Hasan, Shaikh.
Sant Singh, Sardar.
Sarda, Diwan Bahadur Harbilas.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Singh, Kumar Gupteshwar Prasad.
Singh, Mr. Gaya Prasad.
Sitaramaraju, Mr. B.
Sohan Singh, Sirdar.
Sukhraj Rai, Rai Bahadur.
Uppi Saheb Bahadur, Mr.
Ziauddin Ahmad, Dr.

NOES—62.

Abdul Qaiyum, Nawab Sir Sahib-zada.
 Acott, Mr. A. S. V.
 Allah Baksh Khan Tiwana, Khan Bahadur Malik.
 Allison, Mr. F. W.
 Anklesaria, Mr. N. N.
 Anwar-ul-Azim, Mr. Muhammad.
 Azizuddin Ahmad Bilgrami, Qazi.
 Bajpai, Mr. R. S.
 Banerji, Mr. Rajnarayan.
 Bhardwaj, Rai Bahadur Pandit T. N.
 Bhoré, The Honourable Sir Joseph.
 Brij Kishore, Rai Bahadur Lala.
 Brown, Mr. R. R.
 Clow, Mr. A. G.
 Cocke, Sir Hugh.
 Cosgrave, Mr. W. A.
 Crerar, The Honourable Sir James.
 Dalal, Dr. R. D.
 DeSouza, Dr. F. X.
 Fazal Haq Piracha, Shaikh.
 Fox, Mr. H. B.
 French, Mr. J. C.
 Ghuznavi, Mr. A. H.
 Gidney, Lieut.-Colonel Sir Henry.
 Graham, Sir Lancelot.
 Gwynne, Mr. C. W.
 Heathcote, Mr. L. V.
 Howell, Sir Evelyn.
 Ishwarsingji, Nawab Naharsingji.
 Ismail Ali Khan, Kunwar Haree.
 Jawahar Singh, Sardar Bahadur Sardar.

Lal Chand, Hony. Captain Rao Bahadur Chaudhri.
 Macqueen, Mr. P.
 Moore, Mr. Arthur.
 Morgan, Mr. G.
 Mujumdar, Sardar G. N.
 Mukherjee, Rai Bahadur S. C.
 Noyce, Sir Frank.
 Pandit, Rao Bahadur S. R.
 Parsons, Sir Alan.
 Rafiuddin Ahmad, Khan Bahadur Maulvi.
 Raghbir Singh, Kunwar.
 Rainy, The Honourable Sir George.
 Rajah, Rao Bahadur M. C.
 Rajan Baksh Shah, Khan Bahadur Makhdum Syed.
 Rama Rao, Diwan Bahadur U.
 Ryan, Mr. T.
 Sahi, Mr. Ram Prashad Narayan.
 Santos, Mr. J.
 Sarma, Mr. R. S.
 Schuster, The Honourable Sir George.
 Scott, Mr. J. Ramsay.
 Seamen, Mr. C. K.
 Sher Muhammad Khan Gakhar, Captain.
 Studd, Mr. E.
 Suhrawardy, Sir Abdullah.
 Sykes, Mr. E. F.
 Wajihuddin, Khan Bahadur Haji.
 Yakub, Sir Muhammad.
 Yamin Khan, Mr. Muhammad.
 Young, Mr. G. M.
 Zulfiqar Ali Khan, Sir.

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 3rd February, 1932.