

Wednesday, 25th September, 1935

THE
COUNCIL OF STATE DEBATES

VOLUME II, 1935

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TENTH SESSION

OF THE

THIRD COUNCIL OF STATE, 1935

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COUNCIL OF STATE.

Wednesday, 25th September, 1935.

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

QUESTIONS AND ANSWERS.

QUALIFICATIONS FOR APPOINTMENT IN THE WATCH AND WARD ESTABLISHMENT.

120. THE HONOURABLE MR. HOSSAIN IMAM: Will Government state what action, if any, they have taken on my question No. 224 of the 5th September, 1934, regarding qualifications for appointment in the Watch and Ward establishment?

THE HONOURABLE MR. T. SLOAN: Government consulted the Public Service Commission on the Honourable Member's suggestion that educational qualifications should be prescribed for recruitment otherwise than through the Public Service Commission, and in agreement with the Commission decided that heads of offices could safely be trusted to see that men whom they recruited were sufficiently well educated to do their work. For the Watch and Ward staff men who have studied up to or passed the Matriculation Standard are selected, provided they are otherwise suitable.

ASSISTANCE TO THE HANDLOOM INDUSTRY.

121. THE HONOURABLE MR. P. N. SAPRU: (a) Was the question of assistance given to the handloom industry by the Government of India considered in July last at the Conference of Provincial Directors of Industries?

(b) Were any conclusions arrived at at this conference?

(c) Do the Government of India propose to give any more assistance than they have been so far giving to this industry?

THE HONOURABLE MR. D. G. MITCHELL: (a) Presumably the Honourable Member is referring to the Industries Conference which was held in July, 1934. If so, the reply is in the affirmative.

(b) Yes: They are set out in Bulletin No. 52 of the Bulletins of Indian Industries and Labour.

(c) Yes: They propose to give at the rate of Rs. 5 lakhs a year during each of the next three and a half years, i.e., up to October, 1939, or about Rs. 24½ lakhs in all.

PLIGHT OF SUGAR FACTORIES IN THE UNITED PROVINCES.

122. THE HONOURABLE MR. P. N. SAPRU: (a) Is it a fact that many sugar factories, particularly those situated in the western districts of the United Provinces have been finding themselves in considerable trouble?

(b) Have Government considered whether the plight of these factories is due to the imposition of the excise duty on sugar ?

THE HONOURABLE MR. P. C. TALLENTS: (a) The Government of India understand that certain sugar factories, especially in the western districts of the United Provinces, experienced difficulties during the season of 1934-35 owing to a partial failure of the local crop of sugar-cane. As a result of this shortage they found it necessary to import cane from other districts at higher prices and had to close their working season earlier than usual.

(b) The plight of the factories was, as stated, due to the partial failure of the crop.

VALUE OF GOLD EXPORTED FROM INDIA.

123. THE HONOURABLE MR. P. N. SAPRU: Will Government be pleased to state the total value of gold exported from Bombay to Europe since England went off the gold standard ?

THE HONOURABLE MR. P. C. TALLENTS: The total value of gold exported from India between the 2nd September, 1931 and the 7th September, 1935 was approximately Rs. 254 crores. The major portion of it was exported from Bombay. Separate figures for export from each port are not readily available.

AERONAUTICAL TRAINING CENTRE, DELHI.

124. THE HONOURABLE MR. P. N. SAPRU: (a) Is it proposed to establish a centre of aeronautical training at Delhi ?

(b) Is it a fact that Madras, the United Provinces and Karachi Flying Clubs have taken objection to the establishment of this centre ?

(c) Are the flying clubs in a position to give the requisite training ?

(d) Has Government considered whether the new centre proposed at Delhi is likely to compete with the flying clubs in the matter of aeronautical training ?

(e) Has Government considered the suggestion that the existing flying clubs should be utilised as centres for preliminary training of those who wish to take up aviation as a profession ?

THE HONOURABLE MR. D. G. MITCHELL: (a) A Company has been formed to establish and maintain an aeronautical training centre at Delhi.

(b) Certain subsidized flying clubs have objected to the establishment of the Centre.

(c) The flying clubs are able to train pilots for "A" and "A-1" pilot's licences and ground engineers for licences in categories "A" and "C".

Not all the flying clubs are in a position to give the training in night flying required for the pilot's "B" licence, and it is probable that certain flying clubs only will be in a position to give instruction in instrument flying, which will, in future, be necessary to meet the international requirements of the pilot's "B" licence.

The Aeronautical Training Centre will specialise in advanced instruction.

(d) and (e). Yes. It is understood that the Aeronautical Training Centre will give preference in admitting pupils to a certain number of men who have obtained their preliminary training at the flying clubs.

PROPORTION OF PURCHASES ACTUALLY MADE BY STATE-MANAGED RAILWAYS THROUGH THE INDIAN STORES DEPARTMENT.

125. **THE HONOURABLE MR. P. N. SAPRU** : Will Government be pleased to state what proportion of the purchases of State-managed Railways is actually made through the Indian Stores Department ?

THE HONOURABLE SIR MAURICE BRAYSHAY : During 1934-35, the percentage of stores purchased by State-managed Railways through the Indian Stores Department was 31½ per cent. of the total. This percentage has been calculated on the total purchases of stores made by those railways. There are, however, certain classes of stores, which are not handled by the Indian Stores Department such as stone, bricks, lime, ballast, etc. Also the purchase of certain stores (rails, fish-plates, I. R. S. wagons and underframes, sleepers and coal) is centralised under the Railway Board. These items should be excluded in forming an idea of the extent to which the railway purchases have been transferred to the Indian Stores Department. The proportion of Indian Stores Department purchases on this basis may be taken to be 60 per cent. approximately.

APPOINTMENT OF SIR OTTO NIEMEYER.

126. **THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA** : With reference to the appointment of Sir Otto Niemeyer to make financial inquiries preliminary to the introduction of the New Constitution, will the Government be pleased to give the following information :

(a) Are there going to be Central and Provincial Committees to work with him on the lines of the Delimitation Committees ? If not, why not ?

(b) Will officials and non-officials be called to give evidence ? If not, why not ?

(c) Will the Central and Provincial Legislatures have an opportunity of discussing the report before it is finally accepted by the Government ?

THE HONOURABLE MR. P. C. TALLENTS : (a) No, because the problems to be examined by Sir Otto Niemeyer are highly technical and have no affinity with the problems to be examined by the Delimitation Committees.

(b) The Provincial Governments will place all material which they consider relevant before Sir Otto Niemeyer in writing or orally through their official representatives, and Sir Otto Niemeyer will be at liberty to call for any further information which he may require. The question of taking evidence from non-official bodies is one for Sir Otto Niemeyer himself to determine. As far as the Central Government is concerned, they are quite prepared to transmit written representations. I have no doubt that Provincial Governments will do the same.

(c) I cannot say whether His Majesty's Government will require expressions of opinion from the Central and Provincial Legislatures before arriving at final conclusions.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Was the Government of India consulted when this appointment was made or when the terms of reference were drafted ?

THE HONOURABLE MR. P. C. TALLENTS : This is a matter between the Government of India and the Secretary of State and I am not prepared to reply.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : May I know if there is any difficulty in replying ?

THE HONOURABLE THE PRESIDENT : That is a hypothetical question.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Will Sir Otto also make recommendations about the financial relations between British India and the Indian States ?

THE HONOURABLE MR. P. C. TALLENTS : That, Sir, is not within the terms of reference, as the Honourable Member will see if he will read the press communiqué.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : Will Government be pleased to state how long this inquiry will take ?

THE HONOURABLE MR. P. C. TALLENTS : I am unable to say how long it will take.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : May I know if the inauguration of provincial autonomy will be delayed if the report of this inquiry is delayed ?

THE HONOURABLE THE PRESIDENT : That is a mere matter of opinion. I disallow the question.

CRIMINAL LAW AMENDMENT BILL—*contd.*

THE HONOURABLE THE PRESIDENT : Discussion will now be resumed on the Bill to amend the Criminal Law.

THE HONOURABLE MR. V. V. KALIKAR (Central Provinces : General) : Sir, when this measure was under discussion before us in 1932 it was claimed on behalf of the Government that it was brought for the consent of the House for dealing with the civil disobedience movement. It may be said that the then Home Member also said that the measure was aimed also at terrorism and communism, but the speeches that he made then in the other House clearly show that his intention then was simply to deal with the civil disobedience movement and no other movement of any kind. I infer this from the position that existed at that time, because, Sir, the civil disobedience movement, some months ago in 1932 when this Bill came before us, was in full swing and in 1930 certain Ordinances were passed and with a view to incorporate the provisions of the Ordinances in a Bill they brought this measure before us for our consent. Sir, with your permission, I will refer to two short passages in Sir Harry Haig's speeches wherein he said that this Bill was mainly devoted for putting down the civil disobedience movement. He said :

"The objects of the Bill were to deal with the manifestations of the civil disobedience movement and in particular to deal with certain forms of intimidation, particularly picketing and boycotting, with certain matters connected with unlawful associations and with

control of presses. On the foundation of this Bill which is before the House which was intended to apply to manifestations of the civil disobedience movement which are apt to occur throughout India, various Local Governments have also introduced supplementary legislation in their Local Councils, legislation which appears in general, though of a more drastic character than the proposal before this House, to be receiving the approval of the Local Councils”.

Then, Sir, he further said that if this movement were to be abandoned or if this movement were to disappear in a short time this Bill would lapse. He said :

“ We hope that, by the end of that time, the futility, the waste of effort, the injury to the country both moral and economic caused by the civil disobedience movement will have been fully appreciated, and the negative, destructive and non-co-operative mentality, which under the influence of success or supposed success, has been flourishing so long will have been finally discredited and when it has been discredited, then, Sir, let this Bill lapse. In any case within three years we hope that the decision as to the continuance or discontinuance of these provisions will lie in other hands than ours ”.

Especially the last sentence in this quotation shows, Sir, that Government had in mind the suppression of the civil disobedience movement and they clearly told us that as soon as the movement disappeared they would not find any necessity for repeating the Bill. Taking into consideration that position, Sir, I am afraid I must remark that Government have broken their pledge in this respect. It may be said that certain provisions of the old Act have not been repeated in this Bill, but I submit, Sir, that from the position that the Government had taken at that time and from the speeches which the Government spokesman made at the time it was perfectly clear to the country that this measure was meant for putting down the civil disobedience movement and for nothing else.

Then, Sir, I submit that the Government have no case practically for bringing this measure before us at this time because they themselves have claimed that this measure was meant for civil disobedience which is now in abeyance. It is now claimed on behalf of the Government that the measure has been brought before us for dealing with three sorts of evils, terrorism, communism and communalism. They further say that they have brought this measure for allowing the future Government to function smoothly. In my humble way I will try to examine whether their claims are legitimate or not. Sir, so far as terrorism is concerned, I and the Government see eye to eye with the legislative methods, but my submission is they have failed to take into consideration the root causes of terrorism and therefore have not been able to eradicate this evil from the country. The cult of terrorism is a foreign thing to Indian tradition and Indian culture. We Indians in general and Hindus in particular are non-violent in thought, are non-violent in deed, and we hate terrorism in whatever form it is. We desire this country should be purged of this cult. We will try our utmost to help the Government in purging this country of the evil of terrorism. But the past experience of the last 30 years tells us, and tells us clearly and definitely, that the measures adopted till now by the Government have totally failed to stamp out this evil. It is said—and some of the responsible Members of the other House have said—that terrorism started since the old partition days. Since that time Government brought on to the Statute-book various repressive laws, various Acts, the Seditious Meetings Act, 1907, the Newspaper Incitement Act, 1908, the Criminal Law Amendment Act of 1910, the Indian Press Act, 1910, another Criminal Law Amendment Act of 1913, the Defence of India Act, 1915, and

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other repressive legislation. Now, Sir, all these repressive measures have been passed since terrorism started in a particular province in this country. But why has not terrorism been stamped out? Sir, in my humble opinion it appears that the root cause of this terrorism has not been properly diagnosed. If the Government had properly diagnosed the root cause in the very beginning, then this cult would have vanished from this country long ago. Statements and very responsible statements have been made in the other House. I refer to the speech of Mr. Akil Chandra Dutt, the Deputy President of the other House, where he has given the genesis of the terrorist movement in Bengal. He says—and many other Bengali friends say—that the repressive measures which the Government have passed have been administered very severely, that innocent people have been brought under the clutches of the law and in fact they state that there is terrorism on both sides in Bengal. Terrorism on the side of the terrorists and terrorism on the side of the Government. I have no doubt that the statements made by these responsible persons are correct. If that is so, Sir, then I submit Government have failed in their duty of protecting the country as a whole by not stamping out this evil and by not taking proper measures to prevent terrorism from spreading to other parts of the country. I am told, Sir, that terrorism exists in the Punjab. Some of my friends in the Punjab say that terrorism started after the Rowlatt Act was passed. After the Jallianwalla Bagh affair those incidents took place. If that is so, Sir, who is responsible for the spread of terrorism? Even big statesmen, people who cannot be accused of holding extreme views in India, say that if Government had tackled this problem from the economic point of view instead of tackling it from the political point of view, they would have helped in suppressing this movement. Sir, I do not want to quote the speech of His Excellency the Viceroy before the European Association in 1934 but the sum and substance of his speech is, that if these misguided youths are given employment, if these misguided youths are shown a way of public service, this cult of terrorism would disappear. Sir, I know the present Governor of Bengal is trying his utmost, but, I must remark that they are very late in taking these measures and it is no wonder this cult of terrorism has lasted for such a long time.

Now, assuming for argument's sake that this measure is needed to stamp out terrorism, I submit the Government of India is not justified in imposing this form of all-India legislation on other provinces. In my province there is no terrorism at all and I submit that if they had consulted the Government of my province, I believe they would not have given their advice to the Government of India to put a measure of this sort permanently on the Statute-book. My Madras friends say that there is no terrorism in Madras. I have no ground for thinking that their statement is not correct. Then what is the use of this all-India legislation? If terrorism really exists in the Punjab and Bengal, as they say, there are already special measures to deal with this cult, special measures have been passed recently in the Punjab and Bengal, and on that ground also I see no necessity for this all-India measure. I submit that we hate this sort of thing and we will be with Government provided they bring forward proper measures to eradicate this evil from the country.

Then, Sir, they say that this measure is intended to suppress communism. Now, Sir, I may submit that the ideas of communism are quite foreign to this land; they cannot take root in this country, and who, may I ask, is responsible for these ideas? People in the western countries who have developed these ideas and printed books on these questions—I say they are responsible for spreading the ideas of communism in India. In England various books by various authors have been written on this subject. If really you do not want—as I certainly do not want—communism to spread in India, you ought to stop the spread of this sort of literature in England. But you cannot do that because you are responsible to Parliament. If you try to do that sort of thing there, you will be removed. Here you know you are not responsible to us and therefore you can pass any sort of measure. I know many of us will not like the idea of communism taking root in India and that also for a very good reason. But if you allow this sort of literature to go on in circulation in England it is no fault of ours that some misguided youths read these books and take up those ideas. I may bring to the notice of this Government, Sir, the learned judgment of the Calcutta High Court. Your High Court judges say that it is no offence to express such ideas. They are perfectly right, because they wish that you should rule India by rule of law and not by decrees passed by the Executive. So far as communism is concerned, we hate it; but it is for you people in England to see that this sort of trouble does not spread to India. It is no use for you to come to us with this sort of measure. We will support you. We do support you provided there is an overt act on the part of the communists which leads to violence. But when you admit that a communist can express his views with impunity you can not say that he should be muzzled and he should not be allowed. I therefore submit, Sir, that the fault lies with you and not with us.

Then, Sir, the third evil of communalism for which this measure is alleged to have been brought to deal with should also be taken into consideration. Sir, communism of the type which Government avers to exist in this country does not appear to me to exist. But I must admit, Sir, Government as well as the two or three major communities of India are responsible for the spread of this trouble. What of the special representation? What of the special electorate? What of this communal award? Do Government really believe that these things are meant to stop the evil of communalism? You cannot hope to eradicate this evil of communalism unless you do away with all these things. Communalism, according to my humble opinion, started long ago, when Lord Minto received that famous deputation for special electorates. If this evil had been nipped in the bud at that time, if no special facilities had been given to one community or the other, then this evil would not have manifested itself in the way in which we find it at present in certain parts of the country. My submission therefore is that Government are to a certain extent responsible for the existence of this evil.

I now come to the sections dealing with the Press, picketing and unlawful associations. Sir, the Press and the newspapers are responsible for educating the adults of this country just as educational institutions are responsible for educating the youths. Newspapers are responsible for bringing about a change in the mentality of the adults. Newspapers have helped in measures of political emancipation, in

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measures of industrial development, and in measures of reform in this country. If a few newspapers which you call the gutter press do make attempts to circulate certain articles, we do not appreciate that attitude. But for the fault of a few newspapers or journalists, you want an all-India legislation of such a severe type that you want to muzzle the press, and to stifle legitimate discussion on public questions. An argument has been advanced that the ordinary law of the land is quite insufficient to deal with this trouble. The other day, my Honourable friend quoted sections from the Indian Penal Code and the Criminal Procedure Code which he considered quite sufficient to cope with the situation. I do not want to quote them again. I agree with the Government that the ordinary law of the land is not sufficient to deal with the situation, and why? Because, under the ordinary law, you have to take the accused to a court of law; you have to presume his innocence and to give him an opportunity of pleading his case before the court. He also gets an opportunity of going in appeal, and if the high courts or the appellate courts find that your case is not a true one, the man is let off. I quite see your point that the ordinary law of the land is not sufficient, because you do not want them to be heard. That is why you want to pass such a drastic measure whereby you can convict the men behind their back, and you do not want to give them an opportunity of being heard.

THE HONOURABLE THE PRESIDENT: Are there no other countries where there are special laws?

THE HONOURABLE MR. V. V. KALIKAR: I wanted to deal with that point. These English people have very great faith in parliamentary institutions; they have very great faith in democracy. They must come forward now and say they have no faith in parliamentary institutions; they must say that all these legislatures and all these high courts are a farce; they must say that they have no faith in democracy; they must come forward and say that they want to rule as Mussolini wants to rule in Italy or as Hitler wants to rule in Germany. Then I will agree with them. But with their faith in parliamentary institutions and democracy they should not bring such a measure forward. In Germany people are sent to jail without trial. But that is not the point here. If the Government really want to substitute executive power for judicial judgment, then their measure is quite reasonable. But so long as they do not wind up the whole show of these high courts, appellate courts, the Indian Penal Code and the Criminal Procedure Code, they have absolutely no right under modern conditions to bring in such a measure. Sir, I am really surprised that a modern Government, which has very great faith in parliamentary and democratic institutions, should come before this House with such a measure which only a Hitler or Mussolini can bring in his country before his Parliament. The Government have no respect even for the very high courts they have established. My Honourable friends, Mr. Sapru and Sir Phiroze Sethna, cited the remarks of Sir Lawrence Jenkins. I do not want to repeat those remarks. The Bombay, Madras and Calcutta High Courts have unequivocally held that any sort of writing can come under the provisions of a Bill of this nature. So, this measure will not help to eradicate the evil of the gutter press, but will really stifle legitimate criticism by the Press of the actions of the Government which they do not want them to criticise. I cannot do

better than read the remarks of Mr. C. Y. Chintamani, ex-Minister, who was President of the Conference at Calcutta. This is what he said :

“ We can but cry, and have no language but a cry. But while in one breath we are mockingly told that while the dogs bark the caravan passes on, even the consolation of a cry or a bark is grudged to us and laws have been placed on the Statute-book in restraint of our legitimate liberty to speak out our mind ”.

You cannot accuse Mr. Chintamani of holding extreme views ; you cannot accuse him of being a terrorist, or a communalist or a communist. But the feeling that exists in this country so far as this legislation is concerned is clearly indicated in his speech. Therefore I submit that this measure does not become a modern Government like the British Government we have in India. I want to bring to the notice of Government one item of news from England. If you will allow me I will read from a newspaper cutting.

THE HONOURABLE THE PRESIDENT : No, I will not allow you.

THE HONOURABLE MR. V. V. KALIKAR : Then I will only tell the House that newspapers in England are also used by burglars. There is a newspaper there called *The Burglar's Times*.

THE HONOURABLE THE PRESIDENT : Do not burglars read newspapers in this country ?

THE HONOURABLE MR. V. V. KALIKAR : I am glad that our burglars do not.

A newspaper was found in the pocket of a burglar.

THE HONOURABLE SIR HENRY CRAIK : This is a journalistic stunt !

THE HONOURABLE MR. V. V. KALIKAR : It is news from London and I will give this cutting to the Honourable the Home Member after I have finished my speech. As he has circulated writings of the gutter press to us, I will also give him a specimen of the gutter press in England. The newspaper was found in the burglar's pocket and he was taken to the court. In that paper were articles about forcing doors, cash boxes, strong rooms, and it is said that there is actually a school where these burglars are trained and the masters of this school have graduated from Borstal where they have passed with honours ! The court ordered that the newspaper should be kept in the museum. So, that sort of press also exists in England, but Parliament or the Government there do not bring in such a measure as this to stop that sort of mischief in England. So, my submission is, that for the fault of a few, if you enact such a measure, there is every likelihood that the innocent might be punished, which is against the fundamentals of your jurisprudence.

Then, Sir, they say that the section about picketing is retained for meeting the position when it causes annoyance to any body, though in the speech of my Honourable friend Mr. Sloan it was said that peaceful picketing cannot be an offence. But, as far as I read it, peaceful picketing will come under this section. It is known to all of us that under the Gandhi-Irwin pact peaceful picketing was not regarded as an offence. Lord Irwin in a famous speech also said that peaceful picketing could not be an offence and if a picketer advocates use of *swadeshi* cloth and goods, that cannot be regarded as an offence. Sir, I cannot do justice to my argument without quoting a sentence or two from the memorable speech of Lord Irwin. He says :

“ No Englishman can without being false to his own history, and in recent years to his own pledges, take objection to the pursuit by others of their own political liberties ;

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nor have I ever been able to appreciate the attitude of those who might be the first in Great Britain to exhort their countrymen only to buy British goods and yet would regard the movement for the encouragement of *swadeshi* in India as altogether reprehensible if not almost disloyal."

What do these picketers say? They say, buy *swadeshi* goods; they say, help your people who are dying on account of poverty; they say, help your industries so that these young men may find some employment. But if this clause is used as it has to my knowledge been used in the past, and as I have no doubt it will be used by enthusiastic officers of Government in the future, then peaceful picketing of this nature would come under the Act.

THE HONOURABLE MR. T. SLOAN: May I explain, Sir, that what I said was that this section was never intended to be used against peaceful picketing in purely industrial disputes and had, so far as I was aware, never been so used.

THE HONOURABLE THE PRESIDENT: Peaceful picketing is a contradiction in terms.

THE HONOURABLE MR. V. V. KALIKAR: Sir, if according to you there cannot be peaceful picketing, I humbly beg to differ. Peaceful picketing is a necessary element in public life. If my opponent does not agree with me on certain matters, I am entitled to pursue methods to convince him.

I have to persuade him, to canvass him, to cajole him, to bring him round to my view. If this section does not apply, Sir, I ask what is the necessity for having this section? Is not the ordinary law sufficient for it. Sections 349, 350, 351, 352, 504, 505 and 506 of the Indian Penal Code are quite sufficient. If I had the time I would have proved by reading these sections that there are sufficient sections under the ordinary law under which you can take a man to task for any violent act on his part. Then, Sir, they say that this measure is intended to deal with unlawful associations. The section about unlawful association is so full of dangers that according to me if this section were to be applied no association would have the opportunity of being heard when it is once declared by the Executive to be unlawful. You declare by an order of the Executive that a particular association is unlawful and it becomes unlawful. This very thing goes against the fundamental principle of law. You cannot convict a man without hearing him. Sir, no safeguards have been provided in this measure for innocent persons who would be declared by the decrees of the Executive to be unlawful. Section 5, Sir, is so wide that according to me if I want to condemn a passage from proscribed literature and if I cite that passage in a public meeting I will come under the clutches of this section.

THE HONOURABLE MR. D. G. MITCHELL: Why not?

THE HONOURABLE MR. V. V. KALIKAR: My Honourable friend Mr. Mitchell says "Why not?" What is the remedy for me to condemn that particular passage. A book has been written which has been proscribed by the order of the Governor in Council. I want to condemn that book, I want to condemn particular passages and if I speak in a public meeting that I condemn these passages, I have to do so after reading and if I read those passages I come under the clutches of the law.

THE HONOURABLE MR. D. G. MITCHELL: How did you get the book ?

THE HONOURABLE MR. V. V. KALIKAR: I have to manage to get that book, Sir, (Laughter) because I desire that proscribed literature should not be circulated.

THE HONOURABLE MR. D. G. MITCHELL: It does not belong to you.

THE HONOURABLE MR. V. V. KALIKAR: As a layman I will explain the position further. When the orders are published in the Government Gazette, many of us do not know what literature is proscribed. It is only when we read through the journals we know that such and such books are proscribed ; we say that these books should not be proscribed or we say that these books should be proscribed.

THE HONOURABLE THE PRESIDENT: When the notification is published, you ought not to read anything.

THE HONOURABLE MR. V. V. KALIKAR: When the notification is published it is only those people who are in touch with Government know of it ; it is only lawyers who know, but the man in the street is not expected to know it.

THE HONOURABLE THE PRESIDENT: He is not expected to read the book.

THE HONOURABLE MR. V. V. KALIKAR: We wish that literacy so extends in India that everybody should be able to read books.

So, Sir, under this provision there is a double offence and I cannot bring myself to understand how this provision has been thought fit to be enacted in this Bill. Sir, I think I am tiring the patience of the House.

THE HONOURABLE THE PRESIDENT: I am afraid you are.

THE HONOURABLE MR. V. V. KALIKAR: Sir, I will cut short my remarks.

My last request to the Government is that when you pass any repressive legislation you ought to take the representatives of the people into your confidence. You see from the reception received by the measure in the Lower House that the representatives of the people are against it, public opinion is against it, and you also know when you pass a repressive law—for instance the Rowlatt Act—what the effect of it will be in the country. I submit, Sir, that there is bankruptcy of statesmanship in the Government of India ; otherwise past experience should have taught them that the public feeling in the country is against such sort of measures, measures which are designed to take away the power of the judiciary, measures which are designed to bring the offenders to book without giving them an opportunity, measures which have been planned and designed in the Secretariat without consulting the Legislature and measures which you bring on to the Statute-book permanently when there is no emergency existing—these measures will not have a salutary effect on the country. If you are passing such measures by instructions from Whitehall, you must represent to them that there is no necessity for this sort of legislation. You are going to introduce reforms soon and you say that for the smooth functioning of the new Government you are introducing these measures. My Honourable friend, Mr.

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Sapru, the other day said that it will strengthen the hands of the new Provincial Governments which are likely to come into power. My submission is that I do not see eye to eye with him in that argument. It is not to strengthen the hands of the ministers that these measures are being enacted, but my conviction is that these measures are being enacted to strengthen the hands of the Governor so that he should not have the opportunity to exercise his special powers. If the ministry does not agree with the Governor, he can bring into operation these measures. So, Sir, my last request again to the Government is that if you want to bring such sort of measures you must consult public opinion before doing so, you must pay heed to public opinion and when the opportunity comes, when the emergency comes, then only can you bring such measures. In the circumstances which exist in the country at present, I do not see any necessity whatever for bringing in this measure and I therefore oppose it.

THE HONOURABLE SIR HENRY CRAIK (Home Member): Sir, Honourable Members of this House have many advantages over a humble stranger like myself from the Lower House. They have the general advantage that they debate important measures in a much calmer and more dignified atmosphere, and they have the particular advantage in regard to the special measure that we are discussing today that they have not like myself been wearied by eight or nine consecutive days of argument for and against the measure in the Lower House. Sir, to my mind the arguments both for and against this measure have been worn so threadbare that I find considerable difficulty in saying anything novel in defence of it. I will therefore crave the indulgence of the House if I have to some extent to repeat arguments and phrases that I have already used.

Sir, to begin with, I should like to say one word regarding the circumstances in which this measure has come before the Council of State. One or two speakers have referred to those circumstances as constituting "an insult to the House" or "an insult to its intelligence". Well, Sir, if that be so, the fault is not ours. The fault is that of the Lower House which refused even to take into consideration a measure which only three years ago—let me remind the House—was passed by large majorities in both Houses and in regard to which I can find no change in circumstances which can in any way justify the action of the Assembly in now contemptuously rejecting this measure. For, Sir, what changes have taken place since the measure first became law in 1932? The only one that I can think of is that the civil disobedience movement has been suspended—suspended, mark you, but most explicitly not abandoned? The leaders of that movement and the party that supports that movement have made it clear beyond all possibility of doubt that the movement is still alive. In the words of speakers in the Lower House, civil disobedience "will never die", and they further made it perfectly clear that it is their intention to revive it whenever they feel themselves strong enough to do so and whenever it suits their convenience. That, Sir, is the only change of any importance which has happened in the country since the Act which we are now discussing was passed into law three years ago, as I said, by large majorities in both Houses. In those circumstances, Sir, it is not the Government who is to blame for the way in which this measure has to be presented before this Honourable House. It is

not Government who is responsible for it coming before *this House* in a recommended form which deprives the House of the power of making any changes. The fault lies not with us but with the majority of the Lower House.

I have said, Sir, that the only relevant change of which I am conscious that has taken place in the circumstances of the country since 1932 was the suspension of the civil disobedience movement. The other dangers which this Act is designed to meet,—terrorism, communism and communal hatred, are still with us. Terrorism has, I admit, to some extent improved in Bengal, but it is still a most serious menace not only in the Punjab, as certain speakers have tried to make out but, as I shall show presently in many other provinces in India. It is a menace of such a character that Government would be entirely failing in their duty if they relaxed in any way the precautions that they have taken to deal with it.

On communism I shall touch very briefly but I can assure the House that though its activities are known to few outside official circles it is, in my opinion and in the opinion of all thoughtful men who have studied the spread of this insidious movement not only in India but in other countries, a very serious and steadily growing menace. Against that too, although it is possible that it will not gain an ascendant position in India for some years to come, against that too again we should be wrong if we relaxed any of our precautions.

As regards communal unrest, I have said and I say again with the fullest sense of responsibility—and I am sure my opinion will be shared by all who are directly or indirectly concerned with the administration of the country in practically every province—that never in all my long experience in India which now extends to 36 years have I known a time when communal unrest was so grave a menace to public peace as it is at present.

Sir, the only change which we have made in the law that has been in force for the last three years is that we have, in response to the professions of the Congress Party that civil disobedience has been suspended, repealed certain of the sections dealing with some of the more ordinary manifestations of that movement. I need not repeat the provisions of these sections which are no doubt known to all the Members of this House. The only other change that we have made is that we have given this measure permanency instead of a temporary life. Now, Sir, that is no doubt a change of considerable importance and one which has been considerably criticised. Our justification for it is two-fold. Our main justification and the one to which the greatest importance must be attached is this, that we do not foresee within any measurable space of time a period when this triple menace to which I have referred of terrorism, communism and communal unrest will be a less serious threat to the peace and advancement of the country than it is at present. That is our main justification for deciding that this measure should be retained in the hands of Government as a permanent weapon against this menace. The second justification is this, that all temporary legislation has this drawback; the mere fact that it is known to those whom the legislation is designed to counter that it has only a temporary life and is bound to come to an end within a specified time encourages them in plotting and scheming to devise measures that they can bring into force again immediately the law comes to an end. In other

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words, Sir, it is impossible that there can be any permanent change of heart or change of outlook or mentality as the result of temporary legislation which everyone, and more especially those who are affected by the legislation, knows is shortly coming to an end.

Sir, the opponents of this measure may be divided roughly into three classes. The first and perhaps the largest class, certainly the class which has given most expression to its views in the debate that I have been privileged to hear in this House, is the class that denies the existence of the dangers which this Bill is designed to meet. The second is the class which, while admitting the existence of these dangers, think they are such that they can easily be met by the ordinary and permanent law of the land and that no special legislation is necessary. The third is a class, which I am glad to say is not represented in this House, the class which quite frankly admits the existence of these subversive methods but denies that Government are justified in taking any action against them; in other words, that class desires that subversive movements should have a completely free hand and that the country should be plunged into chaos and misery and economic loss, merely in order to discredit the present administration and to wreck the chances of the success of the future Constitution. I will deal with each of these classes in turn.

I take first those who deny the existence of the dangers which this Bill is designed to meet. These dangers are, as I have already said, terrorism, communism and communal unrest, and also the possibility of a revival in the comparatively near future of the civil disobedience movement. Let me deal first with terrorism. More than one speaker on that side of the House has asserted that terrorism is a rapidly vanishing danger. They assert that this danger exists only in two provinces, namely, Bengal, where there has admittedly been a considerable improvement partly owing to the drastic measures taken by the Local Government and partly, I gladly acknowledge, owing to a very real revulsion of feeling against the terrorist, and in the Punjab. That, Sir, is an assertion which is wholly at variance with the actual facts. Within the last few months, that is, since this House last met in Delhi, there have been 26 or 27 outrages or incidents showing clearly that terrorist plots are in active existence in many provinces. These 26 or 27 incidents include three murders and a very desperate attempt to commit another murder at Ajmer. Apart from these, they include terrorist dacoities, cases of armed robbery and numerous cases of the explosion or finding of bombs and other weapons. Many of these incidents occurred in the United Provinces and some in Assam and Bihar. Only last night, Sir, I received news of a fourth murder in Ajmer where terrorist activities have lately been prominent and where the vigilance and skill of the police have, I am glad to say, broken up within the last few months a most dangerous gang. In Ajmer, on Monday evening, a police constable arrested two suspects and was taking them to the police station. One of them pulled a revolver out of his pocket and shot and killed the policeman on the spot. That news has not yet appeared in the papers. In the face of the figures I have given and the facts I have related I do not see how anybody can seriously maintain that terrorism is not still a living and a most serious menace in many provinces.

I next turn to communism. As I have said, Sir, the facts about the communist movement in India are known only to a few. The movement is one that works underground and by secret methods and processes. It is my business and the business of the officers working under me to keep in touch with the movement so far as we can. But naturally we are not in a position to publish all we learn. But the House may take it from me that there is a steady infiltration into India of communist ideas, of communist money and of communist propagandists trained in foreign schools.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA (United Provinces Central: Non-Muhammadan): What have newspapers got to do with that ?

THE HONOURABLE SIR HENRY CRAIK : The influx of newspapers is comparatively easy to check and is checked. We have powers to seize and detain communist literature coming into this country and comparatively little, I am glad to say, gets through. But money is sent by devious and roundabout methods. Propagandists, mostly Indians, who have gone through a course of training in communist schools in foreign countries, come back secretly, very often under forged passports, and their presence is not always easy to detect. As I say, the House may take it from me that steady and persistent attempts are going on to bring communist ideas, communist funds and communist propagandists into the country by these methods, although I agree with one or two Honourable Members opposite that communism should not find a favourable soil in India—I agree with that view ; I think in India the ideas of personal property, the ideas of religion and of the sacredness of family life are very much stronger than they are in other countries where communism has penetrated. None the less, it is a real danger and anybody who does not believe that has got only to read the judgment of the Allahabad High Court in the Meerut case and more especially the statement made by the prisoners themselves in that case, where they openly admitted that their objects were not the peaceful organisation of labour or anything like that, but a general strike. The first stage was to be a general strike for political reasons and the second stage, about which they made no secret whatever, was to be an armed and violent rising of the peasantry and the workers. That, Sir, is a danger against which any Government must guard itself and practically every Government all over the world is so guarding itself. We should be failing in our duty most gravely if we stood aside and allowed these red revolutionary ideas, which are bound to culminate in bloody revolution eventually, to penetrate into India steadily and insidiously.

So much, Sir, for communism. Let me now turn to those Honourable Members who deprecate the contention that communal unrest is a very grave menace at present. Let me remind the House that here again I will only take the period since the House was last in session at Delhi. In those few months we have had riots culminating in bloodshed in places so far apart as Ferozabad near Agra, Lahore, Champaran and Hyderabad in the south of India. Only within the last few days I have read accounts of a most serious communal rioting in a village in Noakhali in Bengal and a combined attack by one community on the other culminating in bloodshed, looting and worse crimes at a village in the Rajshahi district of Bengal. Those Honourable Members who have read the papers within the last few days will have seen the dangerous

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manifestations of communal feeling that have quite lately been prominent in the Punjab. Only today I read that the action of the Punjab Government in relaxing the prohibitions of the Arms Act on swords in certain districts had led to the establishment by one community of a company to manufacture swords and daggers, and that was immediately countered by the starting of a company by the other community with the same object. Surely that is an ominous sign of the feeling which is now prevalent between the two communities. Sir, it is often said in discussing communal unrest by critics of Government that Government itself is responsible for communal unrest, that the policy of the Government is to divide and rule. Now that is a stereotyped and time-worn assertion which does not seem to me to gain any force by its parrot-like repetition. Even if it were true, it would be in the present connection entirely irrelevant. But although I do not for a moment deny that communal tension has been intensified in recent years by the struggle of the various communities for political power, I do altogether deny, and I think anybody with any close association with the administration must deny entirely, the truth of the completely unsubstantiated assertion that Government is mainly responsible for communal unrest. Nothing could be further from the truth and any one who has the slightest knowledge of the administration knows perfectly well that the main preoccupation of every Government in India, of almost every district officer in India—and remember that by far the great majority of the district officers are now Indians—is to allay and do what they can to assuage communal passions. (Applause.) It is within my own knowledge, and I speak from long experience, that for one communal riot that occurs, 20 are prevented by the prompt action of Government officers. From my own experience, and I have had a long experience as Chief Secretary to a Local Government with the special responsibility of choosing officers for district charges, for judicial posts and for police posts, I assert unhesitatingly that wherever there is communal trouble the general and immediate cry is, "Send us if you can a British officer", it may be for a judicial or for an executive or for a police post. That is my experience, founded on more than five years as Chief Secretary of the most turbulent communal province in India. And may I add in that connection that whenever actual violence has broken out, the general and immediate cry is, "Send us British troops".

Lastly, Sir, I come to those who take the line, I think there are comparatively few of those here, that as the present Act was designed to deal with the menace of civil disobedience and as civil disobedience has now been abandoned the Act can be allowed to lapse. As I have said, it has been made most clear by the statements of leaders of the Congress that civil disobedience has not been abandoned. The President of the Congress himself said that only a few weeks ago in a public statement. He said it had been stopped but not abandoned, and it is quite clear that it is the intention to revive civil disobedience and to chose for that revival the moment most convenient to the Congress themselves. That has been made abundantly clear by the speeches delivered within the last few days in the other House. They made no secret of the fact. "Civil disobedience", they cried, "will never die! The mentality behind it will never die", and it is quite clear that they contemplate its revival

at a comparatively early date. It is not surprising, Sir, that in those circumstances the Congress Party is extremely anxious to see the repeal of the existing Act because they know that it was that Act which succeeded in crushing the movement and they know that if the movement is revived and we still possess these powers, it will again be unsuccessful. They want us to be unarmed when their next attack is delivered, but that is naturally not a position which Government are prepared to accept.

Sir, the legacy of the civil disobedience movement is, I regret to say, a mentality that has penetrated into far wider circles than ever supported that movement. That mentality has spread to such an extent that now whenever we have a clash of opinion on any subject, communal, religious, political or even economic, there is always a section of the people who turn to the ideas of mass action or direct action. The student who has a grievance against his professors thinks he is justified in striking and in picketing his college. The followers of one faith if they think they have a grievance against the followers of another faith resort to the same methods. A trade concern that has a grievance against a rival concern very often thinks it is justified in picketing its rival. Now there could be nothing more completely in conflict with the basic ideas of democracy than that mentality. We should not, Sir, be moved by any false sympathy with ideas like that, for it is our duty to do what we can to ensure the peaceful and steady progress of India towards complete democracy, and that progress cannot be continuous unless we can eradicate that type of mentality which claims that any one is entitled to resort, if he disapproves of a law, either to civil disobedience or to some form of direct action. Nothing could be more completely opposed to the basic principles of democracy than that.

Now I would like to turn for a few moments to that line of argument which says that these menaces to peace, these subversive movements, can be dealt with by the ordinary law. Let me take first the offence of picketing. Now, if picketing could have been dealt with by the ordinary law why should we have passed this special law? Government officers are not all fools; they know their law pretty well and if they do not know it themselves they have the best possible advice available; all over India hundreds of district officers and magistrates, confronted with this menace of picketing, did their best to deal with it under the provisions of the Penal Code, that is the sections regarding intimidation and so on. But their efforts were completely unsuccessful and it was not till this special law was passed, at first in the form of an Ordinance that we were able to stop picketing. I would ask any Honourable Member present, who had personal contact with the civil disobedience movement and who saw with his own eyes what really was done in what was called picketing, the intimidation, the bullying, the fear created and so on, if he considers that picketing was a thing that could be dealt with under the ordinary law? The ordinary law was tried in a hundred districts and failed and it was only because it failed that we had to resort to these special methods.

Now, let me deal with the most criticised sections of this Bill, those which reimpose the press legislation, and let me examine the contention put forward by certain speakers on the opposite side that the vagaries and excesses of the Press can be checked by the ordinary law. It is within the knowledge I think of every Member of this House that the Press Act of 1910 was repealed in 1922 and for the next eight years, that is until

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the passing of the first Ordinance in 1930, there was no control over the Press other than the ordinary law, that is the sections of the Penal Code and the sections of the Criminal Procedure Code which deal with the publication of seditious statements or incitements to murder or incitements to communal hatred; and what was the result? Between 1922 and 1930 the tone of the Press became steadily worse. Incitements to murder of the most open and barefaced character were a daily feature of a certain section of the Press in three or four provinces, in Bengal, in Bihar, in the Punjab and in the United Provinces. Honourable Members have asserted that this evil was confined to two provinces. That is entirely incorrect. I can quote numerous cuttings from the Press of the United Provinces where incitement to murder and incitement to communal hatred were every bit as bad as in Bengal or in the Punjab.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan): May I ask, Sir, is there any passage in the selection supplied to us from the United Provinces?

THE HONOURABLE SIR HENRY CRAIK: No, Sir. The Honourable Member is perfectly correct. I did not want to invite Members of the Legislature to wade through the enormous mass of material at my disposal, but I can inform the Honourable Member that though the pamphlet supplied to him contains only 25 or 26 pages, I have in my possession supplied to me by Local Governments with particular reference to this Bill 429 printed foolscap pages of similar extracts from the Press. They come from every province in India; they include incitements to murder, incitements to communal hatred, the foulest obscenity, the most deliberate vilification of religious persons and so forth, and any Honourable Member who would like to wade through those 429 pages of incitement to murder, of obscenity, of filth, and of incitement to hatred is welcome to do so; but I warn him, as I warned Honourable Members of the Legislative Assembly, that he will have to have a strong stomach if he can digest more than 10 or 12 pages at a time. In the Punjab alone the cuttings supplied to me, dealing with a very brief period of less than six weeks between the expiry of the first Ordinance in October, 1930 and the imposition of the second Ordinance in December of the same year cover, I think, 53 pages. As I have said, during the eight years when the Press Act was not in force, the tone of the Press steadily and rapidly deteriorated till Government was obliged to promulgate the first Ordinance of 1930. That Ordinance expired in October, 1930 and the moment it expired the same rapid and immediate deterioration set in till Government was forced to promulgate another Ordinance only six weeks after the expiry of the first, because the section of the Press to which I am now referring was again immediately full of incitements to murder, incitements to communal hatred and so forth. The second Ordinance was promulgated in December, 1930 and as soon as that expired the Emergency Press Act of 1931 had to be enacted, because on the expiry of the second Ordinance there was in the brief interval the same rapid and immediate deterioration in the tone of the Press. Thus, we have the experience of three periods, the first period from 1922 to 1930, the second period the short six weeks between the expiry of the first and the promulgation of the second Ordinance, and the third period, the short period between the expiry of the second Ordinance and the passing of the Emergency Press Act, and on each of these three occasions our experience has been

precisely similar. Immediately control is removed, immediately this section of the Press indulges in the most inflammatory, seditious and murderous writings. In the face of that experience, Sir, who can ask us to remove this control? Is it not as certain as anything in human life can be, that the same results as have appeared on three occasions would appear again if there were to be no control?

We are told, Sir, that we should deal with the Press under the ordinary law, that we should punish an editor after he has committed an offence. Now, in the first place, experience has shown that that is impossible. Within my own knowledge two of the worst papers in Lahore were prosecuted in 1926 or 1927 for inflammatory writings, inciting to communal hatred six or seven times within a brief period of a few months. In every single case the only person whom it was possible to prosecute was a dummy editor, a man hired at a few rupees a month, usually illiterate, almost always an ex-convict, merely to go to jail. In both cases the editor and the proprietor of the paper were the same person. Every one knew that the person in question was the editor and proprietor and also the principal contributor. The men themselves made no secret of it, but the dummy was there; his name was on the paper as editor and it was quite impossible to catch the real culprit. The only way in which the real culprit can be caught is if on searching the press a manuscript in his handwriting can be found and obviously they are never foolish enough to leave such a manuscript there. On no less than six or seven occasions, a dummy editor of each of these papers went to jail, while the editor and proprietor of the paper escaped scot-free and the paper went on with as much seditious, inflammatory and revolutionary matter as ever. How can anybody assert in the face of that experience that the ordinary law is sufficient? Even if it were, if we could bring the real culprit to book, we could only strike when the mischief has been done. Our object, Sir, is not to punish these writings, but to prevent them. If an article is published, under the ordinary law all we can do is to prosecute the keeper of the press or the editor of the paper, but the mischief has been done by the time we do that. Give an article two hours' start and the necessary publicity is obtained.

Let me turn for a moment to section 5 of the present Act—the section under which the republication of a proscribed document is punishable. That section has received a certain amount of criticism in this debate. The Honourable Members who criticised it evidently are not aware of the circumstances in which proscription usually takes place. Proscription, Sir, is not as a rule an arbitrary act of Government acting on its own initiative. In the great majority of cases, proscription is resorted to on the complaint of the person who feels himself aggrieved or injured or feels his religion insulted by the document which it is sought to proscribe. And when we are asked to proscribe a document which gives bitter offence to one religion or one community, surely we must act at once, we cannot afford to let the offending article gain wide publicity while we move the court and get the decision of the court. It must be suppressed and suppressed at once. Honourable Members here, those who come from the north of India especially, will remember some seven or eight years ago a book that was published in Lahore that gave the direct offence to all followers of Islam. It was a book which I had to read myself in the course of my official duties, and it was abominable. It was a book about the Holy Prophet and it attacked him in vile and obscene terms. Does any

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Honourable Member seriously suggest that, when Government is informed of the publication of a book of that kind, it should have to wait, while it runs the editor or the author or the publisher into court and prosecutes him for the offence of offending another's religion. What would happen if we did so? There would be a trial lasting possibly five or six months. It would attract enormous publicity, and communal feeling on both sides would be worked up to the highest pitch, and meanwhile the publication and dissemination of the book would be going on all the time. Sir, no practical administrator would seriously support the proposition that we should have to resort to the ordinary law and trial under such circumstances. There is only one thing to do in the circumstances—seize the book and destroy it.

THE HONOURABLE MR. HOSSAIN IMAM: But that is not part of this Act. You can proscribe them under those Acts.

THE HONOURABLE SIR HENRY CRAIK: I am meeting the argument that you can deal with seditious publications under the ordinary law and I think I have proved successfully that the ordinary law is not sufficient for the purpose. If we had left that book to be circulated, there would have been bloodshed in many towns in the Punjab and the North West Frontier Province. Even as it was, the author was some months later murdered by one of the members of the community that he had offended. I cannot think how any practical person can seriously support the proposition that seditious or inflammatory writings—and when I say inflammatory I mean inciting either to communal hatred or to murder—can be left to be dealt with by the ordinary law.

It has been asserted that this Bill is a grave infringement of what is called the liberty of the Press. My submission, Sir, is that for the properly-conducted and responsible journal this Act has no terrors. But there is a section of the Press in India—I would ask the House to remember this—there is a section of the Press which owes allegiance to no party and to no principles. It is run entirely for personal profit and the more sensational its contents are, the greater is that profit. If sedition is in the air, this type of journal must be as seditious as any. If communalism is in the air, it must seek out fresh causes of offence, fresh opportunities of vilifying the other religion and give these the greatest publicity it can. It is perfectly true, Sir, that the Press is a great organ for the education and uplift of the people but it is equally true in India that it is capable of the vilest prostitution and abuse. For that type of journal, Sir, we should have no false sentiment of sympathy. That type of journal is better out of existence and if this Act is considered a restriction on the liberties of the Press, let me remind the House that with a certain section of the Press unrestrained liberty immediately—and I have shown this by many examples—immediately degenerates into the most unbridled licence.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: May I know why 15 papers were penalised in connection with the Quetta earthquake?

THE HONOURABLE SIR HENRY CRAIK: I will tell you, Sir, why 15 papers were penalised in connection with the Quetta earthquake. Because

those papers gave publicity to a string of the most vile and unfounded lies. As the Honourable Member has raised the question, let me give him one or two examples. A paper published a statement alleged to have been made to one of its correspondents in the Relief Camp at Delhi after the Quetta earthquake by a man called Brooks. His name was given, and when a name was given, in every single instance where a specific allegation of that kind was made we followed it up and proved it to be false. Now, this is what Brooks told the correspondent of a Delhi newspaper,—that he was the Superintendent of the Military Grass Farm or Dairy Farm (I forget which) at Quetta, that when the earthquake destroyed his house he was buried under the debris, with his head sticking out; and that his wife was buried close to him but only her arms were sticking out; that a party of British soldiers came along and according to this man's statement after repeated requests they dug him out. He then pointed to his wife's hands which were still showing and said, "For God's sake pull her out" but they refused and walked away. Now, Sir, it is difficult for me to speak calmly of so vile an allegation. But let me tell the House the sequel. We made inquiries. We found that this man Brooks was completely unknown in Quetta, that no one of that name had been employed either by the Grass Farm or by the Dairy Farm or by any other military unit in Quetta for the last six years; that neither the Grass Farm nor the Dairy Farm had suffered any damage in the earthquake; that the whole story was a complete invention from beginning to end, that this man was a drunken, half-witted loafer, and that he is now in an asylum. Does the Honourable Member suggest that when a paper publishes a statement of that kind, Government is to take no action against it?

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: It should be contradicted.

THE HONOURABLE SIR HENRY CRAIK: That is only one instance. There were a great many more. But I will not weary the House with them. That kind of lie is so disgusting that I really do not think I need tell the House any more such stories.

Sir, I have dealt with the argument that the movements which this Act is designed to meet can be perfectly well met with the ordinary law. The *reductio ad absurdum* of that argument has been furnished by the last interjection of the Honourable Member opposite.

Now, Sir, let me conclude by asking Honourable Members to consider briefly what will be the effects of this Bill when it is passed into law. We have heard a great deal in the debates—I have heard a great deal more than Honourable Members here for my sins in the debates of the last few weeks—not only of the liberty of the subject but also of the freedom of the Press and freedom of association. That these phrases embody great ideas I do not deny. But when we come down to facts, let us consider with whose liberty is this Bill going to interfere? It is going to interfere, I admit, with the liberty of the sedition-monger, of the terrorist, of the communist, and of the revolutionary. That I admit. But have they not interfered with the liberty of individuals? Does the terrorist not interfere with the liberty of his victim when he murders him? Does the communist not interfere with the liberty of the subject when he seduces the honest working man into a strike for which there is no economic

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reason, and which he knows must fail, merely to produce political discontent? Does the sedition-monger not interfere with the liberty of the individual when he vilifies Government officials, and when he tells the sort of stories like those which I have just narrated about Quetta, when he ascribes the vilest motives to persons striving to keep peace in this country? And lastly, Sir, what of the civil disobedience movement? Did that not interfere with the liberty of individuals? What reply will be given to that by the merchant who steadily saw his trade declining, by the shopkeeper who saw his clients scared away from making their ordinary purchases, by the lawyer who was compelled to abandon practice in the courts, by the student who was shut off from his studies by the civil disobedience movement? Were their liberties not interfered with? I say, Sir, that we are bound to protect ordinary peaceful citizens like those in the pursuit of their lawful calling, and if we are going to interfere with the liberty of the sedition-monger, the revolutionary, the terrorist and the civil disobedience man, we are fully entitled to do so.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce): Sir, had I come into this House this morning with any doubts in my mind at all, they would have been completely removed by what the Honourable the Home Member has just told us. Unlike the Honourable Mr. Sapru, I have always thought that the principle of the Bill was the maintenance of tranquillity in India and that Government, in framing it, intended to provide for the continuance of those criminal laws which would otherwise expire which they regarded as essential to that end.

If I am right in my surmise as to what the Government of India had in mind in drafting this Bill, it seems to me that the logical sequence after the rejection of it by the Assembly was for His Excellency to certify the Bill as essential for the tranquillity of British India. I submit that the question which Honourable Members in this House have to answer is an easier one than that which the Governor General has answered. I will put it this way. Are the provisions of this Bill likely to tend towards the maintenance of tranquillity in British India or not? The answer seems to me to be an emphatic affirmative.

Although we in Bombay have not had quite such serious experiences of a lack of tranquillity as some parts of India, and Bengal in particular, no one who has, as I have, spent nights in the bazaars assisting in the maintenance of order during the riots can possibly deny that we have suffered greatly from this cause.

I cannot help wondering whether some of the Honourable Members who are prepared to oppose this Bill have really read the speech of the Honourable the Law Member in the Assembly on the 12th September. He clearly shows that as regards the so-called "Freedom of the Press" the result of Government ceasing to have powers of the kind concerned in the past has been, to use almost his own words, that the morality of the tone of the Press changes with the existence or repeal of Press Laws.

Surely, my Honourable friends will agree that no sane Government can be expected to make experiment after experiment in a case of this kind. Let there be no misunderstanding. The Government of India in introducing the

Bill for the repeal of the Act of 1910 were completely conscious that they were taking a considerable risk and that risk was taken despite the fact that some Local Governments were strongly in favour of the retention of the Press Law. This is the Government who are now accused of introducing this Bill for purposes of repression!

Let Honourable Members make no mistake ; they, every one of them, share the responsibility which the Governor General feels and the duty lies upon them just as much as it does upon him to exercise their powers to pass this Bill into law.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Sir, the Bill before the House is of very great importance to Indians in general and to us in particular, because it seals for all time the liberty of association, the liberty of expression of opinion, and other liberties. I am ready to admit the dictum of the Honourable the Home Member that liberty uncontrolled is not liberty. I go further and say that uncontrolled liberty is the prerogative of brutes, and civilised humanity means that it must submit to certain rules and regulations of morality, jurisprudence, and practices of the world. That restraint, Sir, is applicable to citizens as well as governments. Governments are not immune from that restriction on liberty which they want to impose on us. Sir, in the name of liberty, many crimes more heinous than murder have been committed. At the present moment, in the name of saving the liberty of those who want to sell their country, this Bill is brought forward. It is they who are being safeguarded, not we, Sir. (*An Honourable Member : "Question ?"*) Questions will be answered. Sir, I am ready to join issue with the Honourable the Home Member as to who the real culprit is for bringing this measure in a certified form, whether it was the fault of the Assembly that Government was forced to do this or whether it was the intoxication of power which made the Government do this silly thing. I should like, first of all, to say that I have tried to study this Bill dispassionately. If you exclude all these sentiments and appeals which are not often made with decorum by certain Honourable Members from the centre of the House, and if you look at the Bill with an unbiassed mind, without taking into consideration what has been said by either side, but looking at it from the rock bottom principle of universal practices, you will find that it has got no legs to stand upon. In their advocacy, Government have not hesitated to hit below the belt. They have disregarded all the rules of the game and referred to things which are not even remotely concerned with this Bill. The Honourable the Home Member has referred to the proscribing of books which forms no part of this Bill. The Government enjoys that power, even if this Act be rejected. What had that to do with the present measure ? Section 5 simply penalises re-publication, not the fact of its being proscribed. That is a power you already have.

THE HONOURABLE SIR HENRY CRAIK : May I interrupt the Honourable Member by pointing out that if section 5 of the present Act were not in force, anybody could re-publish a proscribed book, and I have not the slightest doubt that the book I mentioned would have been re-published by a dozen shops if it had not been proscribed and the type seized.

THE HONOURABLE MR. P. N. SAPRU : You could proscribe the re-published book under sections of the Penal Code.

THE HONOURABLE SIR HENRY CRAIK : Certainly, but the point is that when you have proscribed it, it is not an offence to re-publish it unless section 5 is in force.

THE HONOURABLE MR. HOSSAIN IMAM : The Honourable Member is referring to the book by Rajpal. That was probably published in 1924 and this Act came into effect in 1932. Eight years elapsed before the Government became wise to the fact that they required an Act of this nature !

THE HONOURABLE SIR HENRY CRAIK : But they had seized all copies of the type.

THE HONOURABLE MR. HOSSAIN IMAM : That you could do even before this Act, and if that was sufficient for eight years, I take it, it would be sufficient in future too.

Sir, the Honourable Member said that the responsibility was of the Legislature in not passing this Bill and for its certification. I have to join issue with him and to find out whose defect it was. The Government had three courses open to them. The first and the best course was to have dropped the measure when the Assembly refused permission, sound a note of warning to the Press and the public that if they indulged in action of the nature penalized in this Act, the Government would not hesitate to pass an Ordinance.

THE HONOURABLE THE PRESIDENT : You always take exception when Ordinances are passed !

THE HONOURABLE MR. HOSSAIN IMAM : I was going to say that this Act is worse than any Ordinance ever passed. What would have been the effect ? Only two effects could possibly have come out, either this warning would have sufficed and the people would have desisted from such action or it would have failed. If it had sufficed, both sides of the House would have been glad, and we could have slept calmly over the matter. But had it failed, the Government would have had a very weighty argument in favour of bringing forward a measure of this nature, because they would have been able to show from recent history what an ill-effect the disappearance of this Act had on the public mind. *And the Government knew that the mere announcement that as soon as actions penalised in this Act were again resorted to, they would issue an Ordinance which would have had a deterrent effect, and they knew that the reasons for bringing forward a permanent measure of this nature would have disappeared.* That was the reason why they did not take that course.

The next best course open to them was the constitutional method of dissolving the House which had not passed this measure. There are precedents in British history where Parliaments have been dissolved because of this want of co-operation.

THE HONOURABLE THE PRESIDENT : There is no such provision in the Government of India Act.

THE HONOURABLE MR. HOSSAIN IMAM : The Governor General has the power to dissolve the House whenever he likes.

THE HONOURABLE THE PRESIDENT : Not for a reason like that suggested.

THE HONOURABLE MR. HOSSAIN IMAM : Well, Sir, no definite reason is given in the Act for which the Assembly may be dissolved, but the power to dissolve the House vests in the Governor General any time he likes. They could have dissolved the House on the distinct constitutional ground that the country wants the Act and the Legislature will not pass it. But, Sir, even this ill-informed and impervious Government knows that it has not the support of the country, that if the House was dissolved it would return in a more overwhelming majority members of the same type as the 43 already in the Assembly. Therefore they did not have recourse to this action.

The third and the worst course open to them, the rule of thumb method which they have always adopted, was to bring the Bill in a recommended form to the Assembly. Now, Sir, I beg to ask the Honourable the Home Member whether he did anything, took any action, to make the Assembly reconsider its decision? I would remind you, Sir, and the House that on two occasions during the last five years when the Government had certified a measure, it was modified in a certain manner to make it more acceptable to the people. Did the Government take any steps in this direction? Was this their last word in criminal legislation? If it was then the Assembly was perfectly justified in not allowing this discussion to be prolonged, because you clearly were not prepared to give into the Assembly in any respect. There should have been some ground for people to reconsider their decision. You cannot ask us to be so false to ourselves, so false to our constituents, as to swallow whatever you like to give us.

THE HONOURABLE THE PRESIDENT : Was the Assembly in a mood to reconsider the question?

THE HONOURABLE MR. HOSSAIN IMAM : Did the Government take the initiative to make it possible to reconsider? If they were ready to modify, why did they not bring a modified Bill for reconsideration?

Now, Sir, I shall deal with the three defects of the course which has been adopted by the Government. The Honourable the Home Member told us that some people have taken exception to the fact that this House has been deprived of its right of considering this Bill in detail because of its certification. I say it was the fault of the Government. Why should they have persisted in this? They could have brought forward a measure in this House in the Delhi session, and the Council of State could have had an opportunity to take it into consideration, to amend it or to reject it. But, Sir, I know this House does not deserve this course and therefore Government has treated it in the way they have. But nevertheless it is a principle of vicarious punishment. We are being punished for the faults of others and that without being condemned or even charged; without being brought into the dock a punishment has been inflicted upon us so that our mouths are sealed. Then the second defect, Sir, which I greatly deplore is that it is a misnomer to call it a legislative Act. *According to world precedent, legislative enactments and executive pronouncements have this difference, that the former are the result of the collective wisdom of representatives of the people, whereas executive pronouncements are the decisions of executive authority alone.* You call it an Act? By what stretch of imagination can you call it a legislative Act? That is why I said that it is worse than an Ordinance, because an Ordinance has this saving grace that it is a

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temporary measure, whereas a legislative enactment in a certified form deprives the Legislature of the opportunity of expressing any opinion on it and it is a misnomer. It is taking undue advantage of the letter of the Government of India Act which never conceded the passing of such enactments as permanent measures.

The third and greatest defect of this certified method of passing a law permanently is that it deprives the representatives of the people of the right to bring forward amendments to that Act even in the future. In the Manual of Business, section 64 states that it is not lawful without the previous sanction of the Governor General to introduce at any meeting of the Council any measure affecting the repealing or amending of any Act or Ordinance made by the Governor General. It is at the bottom of page 20, Sir. *By means of certification you have not only deprived us of the right to amend this Bill now, but you have deprived us of our inherent right to bring forward an amending or repealing Bill except with the sanction of the Governor General which can never be given.* In face of this the Government have the hardihood to say that it is the fault of the Assembly that the Bill has been brought in a certified form. Then, Sir, there is another disadvantage in this Bill. We know that a new Viceroy is coming to India shortly. What would be his attitude on this question? How could he have proceeded about it? *Would he have been more conciliatory, or would he have liked the same mailed fist and the iron heel method?* These are things which only the future could tell; but the Government by their action, by their present action, have taken away his liberty of action also. They have faced him with a *fait accompli* by placing this law permanently on the Statute-book; he can neither allow it to be repealed nor give the hand of friendship to Indians and thereby bring himself into better relationship with us Indians.

THE HONOURABLE THE PRESIDENT: He is not coming for six months.

THE HONOURABLE MR. HOSSAIN IMAM: This Act would not have expired for three months more.

THE HONOURABLE THE PRESIDENT: It expires in December.

THE HONOURABLE MR. HOSSAIN IMAM: On the 18th of December, Sir. It is only three and a half months between the expiry of the Act and the coming of the new Viceroy. Sir, they could have had an Ordinance. An Ordinance would have been a better substitute than the permanent irremovable halter round our neck.

Sir, there are any amount of defects, but I shall point out three cardinal defects in this Act. First, I would like to take the House back four years when Act XXIII of 1931 was on the anvil in this House. That Act, as then passed and brought before us, was for a duration of one year, with a possible extension for another year more. The name of that Act was something quite different. Its provisions were quite different from what they have become now—the Indian Press Emergency Powers Bill. The provisions were stringent, because the measure was to check heinous crimes. That

Act, by a mere stroke of the pen, by sleight of hand, was extended by Act XXIII of 1932 and certain other provisions were incorporated in it. The original Act was widened but the stringency remained the same as it was for heinous crimes. It is the same as if we were to say in section 302 that slapping would also be treated under section 302, punishable with hanging. That is what the Government have done in the past and that is what they are doing now. They are not bringing forward the Acts in their entirety before the House to be amended, to be recast, or to be modified. *Whatever stringent measures we had provided for those heinous crimes they are being now utilised for paltry crimes.* Secondly, Sir, I very much object to the smuggling method of the Government. By giving permanency to this Act they have incidentally given permanency to a thing about which there has been no mention either in the speeches or in the statement of objects and reasons to this Act. I refer to Act XI of 1934, section 3. This section affecting the Indian Press has been given a lease of life without a word being uttered by the Government or warning being given to us that this portion of the Act is being made permanent—section 3 of Act XI of 1934, the Indian States Protection Act, in which the press provisions were of a unique character. When Act XXIII ceased to have existence, those provisions of the Indian States Protection Act would have been a dead letter and they would have died unsung and unhonoured. *The Government has perpetuated the Act without mentioning a word about it in the statement of objects and reasons, without saying a word in support of that in any speech of the Government Members in the two Houses of the Legislature—*

THE HONOURABLE SIR HENRY CRAIK: And without hearing a word of criticism about it.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, people did not know that, because the Government are so adept in jugglery.

THE HONOURABLE THE PRESIDENT: Do you mean to say that the Members of the Legislative Assembly, some of whom are great lawyers, did not understand the implications of this Act ?

THE HONOURABLE MR HOSSAIN IMAM: Unless a man looks at all the Acts he would not know. The amending Act which is before the House and the two Acts which have been placed in our hands by the Honourable the Home Member mention not a single word that that Act is going to be extended—

THE HONOURABLE THE PRESIDENT: Was it not apparent from the Bill itself ?

THE HONOURABLE MR. HOSSAIN IMAM: No, Sir. Not a word was said and no warning has been given by the Government that this was being done.

THE HONOURABLE THE PRESIDENT: No warning is necessary. The Bill is before you. You ought to exercise your own intelligence.

THE HONOURABLE MR. HOSSAIN IMAM: It is a matter of opinion whether it was the inaction of the Government or whether it was the ineptitude of the Legislature which made it difficult to find it out. We do not think we are here to fish and to find out what are the hidden intentions of the Government.

THE HONOURABLE THE PRESIDENT: I do not think you are quite correct in using the word "smuggling".

THE HONOURABLE MR. HOSSAIN IMAM: Now, Sir, I come to the third fundamental defect in this Act. Sir, as I said in the beginning, uncontrolled liberty is not only restricted for human beings, but it is also restricted for Governments. World opinion, world practice and world procedure are things which have the same effect, the same morally binding effect on a Government as on individuals, and therefore, Sir, when a penal law is brought forward, we demand that it should be on the lines of universal practice. This Bill violates all the fundamentals of criminal law. Because, Sir, except in cases of heinous crimes which are accepted by the world as crimes, all the rest have this qualification that the man must have done it with the knowledge that it is a crime and with the intention of doing harm. *But in this Act, Sir, the peculiarity is that knowledge, intention, nothing counts.* For instance, about section 5 which formed the theme of the Honourable the Home Member's oration that extracts from proscribed books could be penalised. I quite admit, Sir, that that is a right principle but it will be necessary to have a provision that whoever does so should do so "knowingly". You will remember, Sir, that in another connection, when we were considering the Resolution of the Honourable Sir Nasarvanji Choksy about drugs, I stated that the penal law has made knowledge and intention a cardinal factor in establishing a crime, but in this Bill one can hunt till Doomsday without finding any mention of this cardinal piece of safeguard for human liberty. Because the first principle of English law is that everyone is presumed to be innocent until he is proved guilty whereas in this Act every one is presumed to be guilty until he proves his innocence which is almost an impossibility. It is for these reasons, Sir, that we oppose this measure.

Sir, then in many of these provisions and especially in Act XXIII of 1931 complete contravention of the British system of justice has been attempted. A person is to be penalised without being allowed even to submit his case. A person is to be penalised and taken to task on evidence which is not before him. A person is to be penalised for no action of his own. But as the Honourable the Home Member pointed out in the House the other day, any one else can write a letter to me saying that he is accepting a bribe for me and that can be used as evidence against me. Any one can come forward and say, God forbid, that the Honourable Members of the Government side have taken a bribe and that letter, if it is accepted by the post office and traced to the Honourable Member, can be used as evidence against him. *Government knows no law. Government knows no rule of the game. It must take advantage of everything that comes handy to it.* Then, Sir, in the famous Annie Besant case in the Madras High Court and the case of the *Conrade* in the Calcutta High Court, we had rulings that the Press Act language was so wide as to deprive the High Courts of any effective power of checking executive action. Those provisions still exist. It is one of the fundamental principles of the law that the injury or crime must be palpable and assessable; but here, Sir, these two fundamental principles have been given the go-by.

THE HONOURABLE THE PRESIDENT : You find fault with the language of the Act, but if the Bill had not been summarily rejected by the Lower House, Honourable Members would have had an opportunity of going into Select Committee on these questions.

THE HONOURABLE MR. HOSSAIN IMAM : Sir, in the first place the Government itself took the responsibility of moving for the consideration of this Bill in the other House. If they had had any intention of giving in to the united opinion of India they would have moved either for circulation or for reference to Select Committee.

THE HONOURABLE THE PRESIDENT : It was open to any other Member to do so.

THE HONOURABLE MR. HOSSAIN IMAM : Sir, if any other Member had done so, it might not have been accepted.

THE HONOURABLE THE PRESIDENT : That is another thing. Then you should find fault with the Members for not moving it.

THE HONOURABLE MR. HOSSAIN IMAM : They thought you would not be prepared to give in.

THE HONOURABLE SIR HENRY CRAIK : Not at all. I never announced that I was not prepared to accept a Motion for Select Committee.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : May I know, then, why the Bill was not brought in this House in a modified form ?

THE HONOURABLE THE PRESIDENT : I have already informed the House that as His Excellency the Governor General has in exercise of his prerogative recommended the Bill, we cannot go behind his recommendation.

THE HONOURABLE MR. HOSSAIN IMAM : But may I point out, Sir, that in the case of the Finance Bill of 1931, certain modifications were incorporated in the original Bill before recommendation ? There was no power under the Act or the practice of Government to prevent the Home Department from suitably modifying the Bill before they brought it in a recommended form to the Assembly, or certified to the Council of State.

THE HONOURABLE SIR HENRY CRAIK : Why should they suitably modify it ? The House refused to consider it. What modifications does the Honourable Member suggest should have been made ?

THE HONOURABLE SIR DAVID DEVADOSS (Nominated : Indian Christians) : How was the Government to know what modifications would be acceptable to the House ?

THE HONOURABLE THE PRESIDENT : Order, order. The debate will proceed.

THE HONOURABLE MR. HOSSAIN IMAM : Sir, it is well known that the law courts who are the guardians of our liberties and the executives who are administering these Acts pay no heed, and rightly, to statements made in support or against the measure in the Legislature. They regard it as their own prerogative to interpret the words and the intention of the Legislature as they think fit. Therefore, Sir, no amount of assurance by the Honourable the

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Home Member can change the courts' opinion. The only thing that has a binding effect on the courts of law is the wording of the Act. And therefore when he says that he requires measures to protect India from communism, though most of us are in agreement with him and most of us would be willing to go as far as he wants us to go in checking the communist menace to India, yet we have no guarantee that these powers will be used only against the communist and no one else. Our experience has been quite to the contrary. The Government has used measures designed to check communists and terrorists, to put a stop to natural activities of a political kind, and in this Act too, Sir, the difficulty remains. These measures, which will be quite justifiable if used against communists, have been and will be used against other inoffensive persons.

THE HONOURABLE THE PRESIDENT: Who is to decide whether a person is a communist or not?

THE HONOURABLE MR. HOSSAIN IMAM: That has been the bone of
1 P.M. contention between us. We want the Judiciary to decide.

We have confidence in the Executive, and we are not prepared to allow the policeman to be our justice of the peace because, after all, the district magistrate is an officer of that department. He is the complainant and judge. *Have you ever heard of a greater negation of justice than this that he should be complainant and judge?*

Sir, the Honourable the Home Member referred to the famous Meerut case. But did he consider the result of the verdict? Did he consider that it cost about Rs. 18 lakhs to send to jail—how many of them? When the case went up to the High Court, it was heard by one of the most eminent judges of India who found himself in disagreement with the District Magistrate, and who liberated many of those who were convicted by the trial court and reduced the sentences on many of the culprits. Is that not proof positive that Government were prepared to go to great lengths, and even the pronouncements of High Courts did not deter them from taking away the liberties of those who in the eyes of the High Court were honest?

THE HONOURABLE THE PRESIDENT: You do not mean to tell this Council that the Judges of a High Court are infallible?

THE HONOURABLE MR. HOSSAIN IMAM: I do, Sir. Judgments of High Courts deserve better treatment than the pronouncement of the Executive. I shall fight for the liberty, integrity and honour of High Courts. They are the highest courts of justice in India and it ill-behoves to question their impartiality. They are the guardians of our liberty and we are jealous of their reputation.

The Honourable the Home Member classifies the opponents to this Bill into three classes. The last class was people who while recognising the existence of this danger welcomed it. He rightly suggested that in this House no one belonged to this category. Sir, we are not ashamed of saying that most of us belong to the first or the second category, namely, of those who think that if the danger exists, the existing law is sufficient, or those who deny the

existence of some of the menaces which have been painted in vivid colours by the Government. Sir, I should like to preface my remarks here by quoting from an authority about whom I hope even the Government Members would admit that his dictum was perfectly justified. This is the dictum which I commend to the Honourable the Home Member :

“ In bringing forward any measure of legislation, it is the business of Government to convince the Legislature that the powers for which they ask do not exceed what is necessary and what is reasonable. It is particularly incumbent on Government to satisfy those two conditions when, as in the present instance, they propose to exercise some degree of control over the Press. Public opinion in all countries is jealous of the freedom of the Press and in India it is rightly jealous lest at a time when its destiny is in the making, restrictions should be placed on the expression of political views or on the exchange and conflict of ideas which might have the effect of impeding the attainment of legitimate aspirations. There has never been a time when the promotion of a sound and sane public opinion was more essential or when it was more necessary that the country should bring to the consideration and conclusion of the many problems which confront it a calm and cool judgment unbiassed by appeals to hatred and passion. If it were true that Government in bringing forward this measure were inspired by any desire to restrain the legitimate activities of the Press, or even if without that desire the effect of this measure would be of this character, then it would be difficult to defend ”.

Sir, I commend these words to the consideration of the Home Secretary.

THE HONOURABLE THE PRESIDENT : It is an excellent passage, but how can you convince those people who refuse to be convinced ?

THE HONOURABLE MR. HOSSAIN IMAM : Sir, I have to make out that Government have not made out a case, and I shall prove from the very documents supplied to us by Government that they have failed to do it on both grounds, namely, that the powers should be just sufficient and not more than necessary. From their own documents I will show that they have asked for more powers than they require, and thus they have controverted this very sensible proposition which I have just read out. From Statement V supplied to us, which is an analysis of the sections of the Indian Press (Emergency Powers) Act which have been used in controlling the Press, in the case of six provinces no action has been taken under this Act. I refer to the United Provinces, the Central Provinces, Coorg, Delhi, Assam, North-West Frontier Province and Bihar. In these provinces no action was taken under this Act, and yet the Act will be applicable to the whole of India. *When this Act was not required during the three previous years when feelings were running high, when there was a real strife, then why make this measure applicable to these provinces ?* The majority of prosecutions were confined to Madras, Bombay, Bengal, the Punjab, and partly Burma, and a very little portion of my province of Bihar and Orissa. Now, Sir,—

THE HONOURABLE SIR HENRY CRAIK : What is the point you make ?

THE HONOURABLE MR. HOSSAIN IMAM : That you should not have asked for these powers in this measure that you have brought forward. You should have asked for the minimum powers necessary and not the maximum powers if you follow the dictum that I have just read out.

THE HONOURABLE MR. D. G. MITCHELL (Leader of the House) : You would repeal half the Indian Penal Code !

THE HONOURABLE MR. HOSSAIN IMAM : But there we have the rule of law, which we have not in this Bill. That is why I ask the Government whether they do or do not accept the dictum that I have quoted.

THE HONOURABLE SIR HENRY CRAIK : What dictum ?

THE HONOURABLE MR. HOSSAIN IMAM : The portion which I read out to the effect that only such powers should be taken as are necessary.

THE HONOURABLE THE PRESIDENT : You need not dilate on that. Will you please proceed ?

THE HONOURABLE MR. HOSSAIN IMAM : There are other sections of the Act which have not been used in any part of India. I am referring to headings V, VII, IX, XI and under some other sections too there has been only one occasion on which action has been taken.

THE HONOURABLE THE PRESIDENT : The Honourable the Home Member has stated that preventive measures have a more deterrent effect than punitive measures.

THE HONOURABLE MR. HOSSAIN IMAM : Why not say, Sir, plainly that you want to penalise the teaching of English. If you close the colleges and schools and everything else, you can have the peace of the grave. If the aim of the Government is to frighten people, we can understand that. We may not like it but that will be understandable. But when Government say that they are trying to get the minimum powers essential, they accept the position which I read out from the speech of Sir Herbert Emerson when introducing the Press (Emergency Powers) Bill of 1931, and therefore I placed it as a dictum for the Home Department to follow. It is not the pronouncement of an irresponsible man, but of one who had realised his responsibility and who made out the Government case. *We have always maintained that when Government Members who give promises go away there is no continuity of policy.* Every one comes and remains for a few brief years and makes a policy for himself and everything done by his predecessor is given the go-by and not honoured, as it should be, as the policy of the Government.

THE HONOURABLE THE PRESIDENT : There are several other speakers to follow.

THE HONOURABLE MR. HOSSAIN IMAM : Sir, this measure was discussed in the other place for a number of days. I have purposely imposed on myself a self-denying restraint of not referring to any arguments as far as possible which have already been ventilated in the two Houses of the Legislature during the nine or ten days on which this discussion has proceeded.

Sir, the Honourable the Home Member had great solicitude for democracy in this country. Solicitude for democracy from the Home Department is something new. But this solicitude for democracy is for those who are in power, for those who have the privilege of thinking alike with the Government, and not for the common people who have the misfortune not to see eye to eye with Government. The liberty of those who differ from Government is not worth a scrap ; it has no price as a commodity in the Government of India's market. The Honourable the Home Member said that these measures against the Press have been used in order to restrain it. I ask him why did you not circulate to

us the articles of three newspapers of Lahore which have been penalized only recently within a month, in which security amounting to Rs. 12,000 has been demanded from the *Ehsan*, the *Zemindar* and the *Siyasat*. This is merely vindictiveness. It is not the intention of the Government to stop the publication of such articles, but the intention is to crush the papers for all time. Do you know for what? I have seen that article in the *Ehsan* for which it was asked to deposit a security of Rs. 2,000. It was nothing. It was a mere statement of facts, being retailed every day by word of mouth in the bazaars in Delhi and Simla. If he had really thought that he was using those powers with justice he would have given us at least those offending portions to convince us as to whether it was a fact or a fable.

Sir, in closing his speech the Home Member said that all criminal interference with the liberty of citizens should be checked. There we have no quarrel with the Honourable the Home Member. We all agree, but with this difference, that while he wants to check this interference with the liberty of certain classes of people only, while leaving others liberty to be interfered with as much as they like, we want the same treatment for each and every one. I mean that if it is sufficient to substitute the orders of the executive for judicial decisions, why not abolish all the sessions courts in India and the criminal jurisdiction of the high courts? Why not abolish them all and substitute the sweet will of the omnipotent district magistrate and save lakhs of rupees?

THE HONOURABLE THE PRESIDENT: May I request the Honourable Member not to go into extraneous questions but to stick to the Bill?

THE HONOURABLE MR. HOSSAIN IMAM: Sir, I now come to the detailed consideration of the Bill. As I said in the beginning in section 5 the necessary element of knowledge and intention does not find a place. It was essential under judicial practice that intention and knowledge should have been part and parcel of the section. Then, I come to section 10 because, barring section 7, all the others have been repealed. In section 10 —

THE HONOURABLE THE PRESIDENT: May I draw the Honourable Member's attention to Standing Order 38? At this stage only general principles can be discussed and the details will be discussed later on, if necessary.

THE HONOURABLE MR. HOSSAIN IMAM: Mr. President, my objection when I rose to speak on this Bill was that it tries to bring in through the back door matters which are substantially at issue.

THE HONOURABLE THE PRESIDENT: I have no objection to your discussing that matter, but as you say that you are now going into the details of the Bill, I object to that under the Standing Order.

THE HONOURABLE MR. HOSSAIN IMAM: Mr. President, as I said before, and the Leader of the House will bear me out, when we were discussing the Trades Disputes Bill in the Delhi session I objected to a single clause Bill being introduced extending the life of the Act and not bringing the Act itself before the Legislature to be argued.

THE HONOURABLE THE PRESIDENT: That objection was not raised as far as I remember, I have given my decision today.

THE HONOURABLE MR. HOSSAIN IMAM : So, I say that the method which the Government has adopted has deprived the Legislature of the right to amend the sections of the Act sought to be extended, because those sections do not happen to be part and parcel of the Act. It simply says that in such and such an Act of 1932 such and such sections will be repealed. But the rest which remain, how can we deal with them, when they are not before the House? This devious method was to a great deal responsible for throwing out the Bill in the other House.

Now, Sir, I was dealing with section 10 of Act XXIII of 1932 which gives power to Local Governments to declare certain sections of the Indian Penal Code as cognizable. Before the Government ask our sanction for this, it was their duty to bring forward before us proof positive. In the speech which the Honourable Home Member has made here and in the speeches which he made in the other House and in the Home Secretary's speech no substantiation of this section has been given; no proof has been given to show that it was necessary for the Government to change the penal law and the Criminal Procedure Code of 1898 in this direction. You want power from us. You ask us to authorise you to do certain things without giving proof. Is it not discourteous to the House, to the Legislature, that you want power without proof?

THE HONOURABLE THE PRESIDENT : What else can be proved? The Honourable the Home Member this morning went into great detail and placed all his facts and arguments before us.

THE HONOURABLE MR. HOSSAIN IMAM : Not a word was said on this section, that he wanted to make these offences cognizable. The necessity is not to be judged by anybody except the representatives of the people. We give power to the Executive to curtail our liberties and, as are representative of the Indian nation, I demand it as a matter of right. Full facility should be given and hole and corner methods should not be adopted.

Sir, I would have liked to go on further, but seeing that it is getting late, I shall simply close my remarks with a few general remarks about the character of this Bill. Those press powers that you wanted you got from the House in 1931; they were powers of an emergent nature given with the confidence that the Government was asking for power for an emergency and therefore it was in the fitness of things that the House should support the Government; but if the Government makes it a rule that whenever any power is given to it even of a temporary nature, then it would be made into a permanent thing without allowing the Legislature an opportunity of amending it, then I can only say that Government will lose confidence. Sir, people will be very suspicious of the Government and they will never like to arm the Government with powers even when an emergency arises because they have the sad experience of Government making emergent legislation permanent. Government is in effect going back on its pledged word and by this they will lose the confidence of the people of the country.

Sir, may I say a word about the Congress? The Honourable Member on my left the day before yesterday was very vehement in condemning the nationalists of India, as if patriotism and service was the prerogative of these

who make it their religion to support the Government in and out of season, as if the services to the country consisted only in saying ditto to everything that the Government said. That, Sir, is not what India regards as patriotism, that is not what the world regards as patriotism, that may be the patriotism of a special type applicable to a slave country like India, but it has no echo in the world. People are proud of their suffering for the country; people are proud of having lost their all in the service of the country and they will not be deterred from their work in the cause of the country by mud slinging of this type. Sir, the only defect of the Congress, the only crime of the Congress, consists of their failure to do anything. *Rebellion, revolt and war of liberation are but comparative terms.* We know, Sir, that George Washington was a rebel from George III, but he was the saviour of the United States. His successor Woodrow Wilson was the saviour of George V in the Great War and these are only relative things. *Those who are now called culprits, those who are called rebels, they may in the future be called liberators.* We have not forgotten English history and the trouble of the Roundheads and the Cavaliers; the person who was beheaded was after all sanctified and called a martyr. There is no absolute measure of finding out who is a rebel and who is a liberator. Sir, it is not for the Government, a foreign Government, to fling in our face such words always, which cause us to remember, cause us not to forget, that we have the misfortune under God's dispensation of being under foreign sway. Time was when we were really proud of Englishmen being our masters; time was when we thought that the Englishmen's mission of civilisation was a real thing; time was when we thought that the Englishmen really meant to do good by us. But, alas, it is no more! I do not deny, Sir, that many Englishmen have done the right thing; whatever we have learnt now is due to the English education that we have received and the study of English history. All the love of liberty, the love of freedom, that is born in India is due to English education and the fruits of English association with India. English association in India has been of great advantage to India. I am not one of those who think that India should have an independent existence now, because I realise my own weaknesses. I feel that India cannot do without English influence at present; but is it fit that you should bring your own Government into hatred and contempt by the Acts which you are passing and disregarding every time the wishes of the people. It is in the interests of the British Government that I solicit, I beg of the Government, not to be intoxicated by the powers that have been given to it under the Government of India Act. It is for this reason that I ask them to be moderate in their utilisation of the power and to go as far as they possibly can to meet the wishes of the people and not to be irresponsible to our needs, to our beggings. I ask the Government to be considerate, if they cannot take back the Act at the present moment, it is within their purview to issue such directions to their officers who administer it as to make it as inoffensive as possible. The way in which the Bill has been brought forward leaves me no option but to oppose this measure in its entirety. (Applause.)

The Council then adjourned for Lunch till a Quarter to Three of the Clock.

The Council reassembled after Lunch at a Quarter to Three of the Clock, the Honourable the President in the Chair.

THE HONOURABLE RAI BAHADUR LALA JAGDISH PRASAD (United Provinces Northern Non-Muhammadan): Sir, I shall be very brief in my observations and shall try not to import heat into the debate. Sir, at the outset I wish to congratulate the Honourable the Home Member for the lucid speech which he made on the floor of the House this morning. I confess I do not agree with all that he said but that should not deter me from expressing my appreciation of the lucid manner in which he placed the case of the Government before the House.

Sir, I have given the most careful consideration to the measure before the House. I feel that while there are certain provisions of the Bill which I should have personally been prepared to support, there are others which I consider go too far.

Let us take the case of terrorism. Sir, I unreservedly condemn terrorism and all that it implies. I also recognise that Government has to protect its officials and friends and loyal subjects from being murdered at the hands of misguided youths and assassins. I should therefore have been prepared to support the legislation had it been confined to terrorist activity. But while condemning terrorism I should also like Government to evolve a positive policy which would cure its root causes. I think unemployment is to some extent responsible for it and I should like Government to take some steps to provide more avenues of employment for our youths. Terrorism is against the teaching of our religion and I am sure that a constructive policy coupled with the enforcement of the law will improve the situation and enable this country to get rid of this great blot on her fair name.

As regards communism, Sir, as a zemindar I naturally detest communistic doctrines. But here again I would point out that the cure for communism is a rapid development of the economic resources of our country. All the same, I should have been prepared to consider favourably any legislation directed against communism and communistic activity. Sir, I agree with the Government that the ordinary law is not sufficient to deal with terrorist and communist activity of a violent nature. But my difficulty is that the Bill in its present form goes too far inasmuch as its scope also extends to activities which cannot be classed as terroristic or communistic. The chief defect of the measure is that it makes no distinction between violent activity and seditious activity. I recognise that the power to declare violent associations unlawful is, in the present circumstances of India, necessary. It is difficult to get hold of witnesses and to prove before a court of law that the activities of an association are violent. But here the scope of the section is much too wide, and no distinction is made between violent activity and activity which is harmful to the country but non-violent essentially. I see, Sir, that Government can under some of the clauses of the Act forfeit the property of an association declared to be unlawful under the Criminal Law Amendment Act of 1908. Now, while I should have given no right of appeal against this order to an association the activities of which in the opinion of Government are violent, I should have in the case of associations which are merely seditious given a right of appeal to the High Court against an order of forfeiture by the Executive Government. I therefore cannot go as far as the Bill in regard to this matter.

Coming to other points, Sir, I feel as follows. Happily, civil disobedience has been abandoned, at any rate for the time being, by Congressmen. If it is revived, and I see no reason why it should be, the Government can deal with it under the emergency powers which they possess and which the Governors and the Governor General will continue to possess in one form or another under the New Constitution. Therefore, civil disobedience cannot be urged as a ground for a stringent legislation of this character. The second ground urged is the growth of communalism in India. Sir, I deeply deplore communalism but I am bound to say, and to say in spite of the observations of the Honourable the Home Member to the contrary, that Government have not done enough to discourage communalism by their policies. Why is the law not enforced impartially by the agents of the Government in all cases? Sir, the cure for communalism is impartial administration of the law and no special favour for any one. I am sure that with the growth of the New Constitution when Indian political parties begin to work together and when they shoulder responsibility for law and order themselves the communal situation will improve and communalism will become a thing of the past.

I doubt if my Honourable friend Mr. Sapru, who I am sorry to find is not in his place at the moment, will agree with me on this point because he stated the other day in the course of his speech that he trusted the British Executive more than he trusted an Indian Government of vested interests, which presumably includes the zemindars and the propertied classes in a dominant position. If a statement had been made by me that I trusted the British Executive more than I trusted an Indian Government in which a certain section of my countrymen dominate, that would have been perhaps excusable as I am a more moderate person than my Honourable friend. But such a statement coming as it did from an enlightened and advanced gentleman like the Honourable Mr. Sapru came to me as a great surprise as it showed want of confidence on his part in his own countrymen. Sir, I have greater confidence in my countrymen and therefore I think that with the growth of the New Constitution, many of our evils would disappear.

Then, Sir, I consider that the provisions in regard to the Press are more stringent than the necessities of the situation demand. I should have limited the right to demand and forfeit security for writings which directly or indirectly incite to violence. But here again I find that the scope of the section is much too wide and that almost anything can come under the section as at present worded. I would have left seditious activity and writings which are of a communal character to be dealt with under the ordinary law of the land. Sir, the difficulties of pressmen are great and it is not always easy for our men to find the requisite capital for starting a newspaper. As we are having responsible Government, it will be necessary for us to have a good Press and we do not want our young men to be frightened of joining the journalistic profession. I do not say that the powers in relation to the Press have been misused but the point is: What is the effect these powers have upon the mind of those who wish to take to journalism as a profession?

Sir, I have tried to show briefly what provisions of the measure I would have been prepared to support and what I would have liked to be suitably amended in order to be acceptable. A careful scrutiny of the measure is absolutely essential, in the first place, because the Act is sought to be undeniedly and

[Rai Bahadur Lala Jagdish Prasad.]

and, in the second place, because this is being done on the eve of the introduction of the new reforms. I think, Sir, that the moment has not been wisely chosen and in any case I see no justification for placing the measure permanently on our Statute-book. Thus it is in regard to some important features that I would have liked the measure to be suitably amended.

But, Sir, it is a matter of great regret that the Bill should have come to this House in a recommended and certified form and we cannot alter even a comma or a full stop in it. The Honourable the Home Member has in his speech tried to show that the fault for bringing this Bill before this House in a recommended and certified form does not lie with the Government but with the majority of the other House. Sir, I know that the Lower House has rejected the Bill. It may be that the other House was hasty in rejecting it outright but that, I submit, is no justification, as pointed out by my Honourable friend, Mr. Hosain Imam, for not making any concessions to the criticisms of the many moderate men who are prepared to recognise the difficulties of the Government and support it to the extent they can. I submit that before certifying the measure the Government should have called an informal conference of the more moderate section of the Central Legislature, placed before them the material they had or such of it as could reasonably be placed before them, and asked for suggestions which would have improved the measure and made it less stringent than it is. But I am sorry that Government did not adopt this course and we have been compelled to choose between the whole Bill and no Bill at all. It is indeed a difficult choice. But in its present form as a permanent measure I feel that I cannot accept the Bill and I regret therefore that I have no option but to vote against it.

THE HONOURABLE DIWAN BAHADUR G. NARAYANASWAMI CHETTY (Madras: Non-Muhammedan): Sir, it is argued by some of my friends here that the present law is sufficient to meet the outrage of terrorism, communism and communalism. If one takes the trouble of going through the criminal law of the country, he would have found that dissuasion from enlistment, for example, could not be punished under the Indian Penal Code; so also the boycott of Government servants could not be dealt with under the present law. If Government have to maintain law, peace and order, they must be armed with certain powers to check the evils contemplated and the Bill before us provides that power.

In the recent Resolution of the Government of Bengal on the Police Administration of 1934 it is said:

"A series of terrorist outrages were committed and a large number of pistols and revolvers recovered during the year, evidence of the fact that, though the police have been able to get the measure of terrorism as they have done before, it is still an insidious and dangerous movement against which unremitting vigilance must be maintained."

This was recently published in the newspapers, Sir.

All the Provincial Governments desired to have this legislation and the Government of India have no other alternative but to introduce this legislation and place it on the Statute-book.

No innocent law-abiding person will have any reason to fear the effect of this Bill and the honest and well conducted press need have no fear of the

provisions of the Bill. I think the powers under this Bill are absolutely necessary.

No doubt, the Indian Press, especially the vernacular papers, have played a very important part in creating public opinion among the masses in India and at the same time some of the vernacular journals have created a good deal of havoc and mischief by misleading statements. The provisions of this Bill certainly empower the Government to put a stop to such mischievous writings of the Press.

If the Lower House had agreed to consider the Bill and referred it to Select Committee, any reasonable amendments which the Members have offered might have been acceptable to Government.

The Bill having been defeated, the Viceroy had no other alternative left than to send the Bill with his recommendation for the consideration of this House.

It is also stated that this will be a permanent measure on the Statute-book if passed. We are sure that within the next two or three years we are going to have Federation, and if the Federal minister in charge of law and order comes before the Federal Legislature and says that the country is peaceful and quiet and that this Act should be repealed, there will be no difficulty at all in repealing it. By a stroke of the pen it could be done. Therefore, though it may be called permanent now, I feel that any Federal minister of the future in charge of law and order could come before the Legislature and say that this enactment should be repealed, and therefore it cannot be said that it is a permanent measure. It all depends on how the public co-operate in stamping out the terrorist movement.

Sir, in Bengal, an anti-Terrorist League has been formed and they are doing very good work. I was also glad to learn that His Excellency Sir John Anderson, the Governor of Bengal, has taken a keen interest and is trying to give the detenus some industrial training so that they may lead a better and more peaceful life. We would like to pay our tribute to the great interest which Sir John Anderson is thus showing. These men are misguided. I hope there will be no opportunity for using the provisions of the Bill we are going to pass. I need hardly say, Sir, that every well-wisher, who has at heart the peace, order and happiness of this country, will support the measure before the House.

THE HONOURABLE MR. Y. RANGANAYAKALU NAIDU (Madras Non-Muhammadian): Mr. President, the Criminal Law Amendment Act of 1908 was itself enacted to suppress terrorism. But strangely enough, terrorist outrages have gone on multiplying themselves ever since. It is clear that that Act has not at all succeeded even in checking the growth of terrorism. What better condemnation of this present Bill, which wishes to tighten and strengthen the claws of that Act, is needed than the past history of that Act?

Indeed, this Bill will serve, as the parent Act has done, one terrible purpose. It will be able to destroy all those associations which try to transform this Government by peaceful means. In fact, many organisations had been banned, their funds confiscated, their houses notified, and all their activities, however harmless they might be, prohibited. It is no exaggeration

[Mr. Y. Ranganayakalu Naidu.]

to say that if this Bill is passed, it will be possible, as it has been till now, for any party in power in any Provincial Government to destroy the organisations of its rival parties, to confiscate their funds and to dismember them. Sir, once a Fascist party gets into power, this Bill will enable it to do away with its rival parties as easily and effectively, and all in the name of law and through the so-called constitutional means, as was done in Russia, Italy and Germany. Sir, if our rulers are sincere in their declarations that they are introducing democratic institutions into this country, they ought to withdraw this Bill. If the British wish to be loyal to their home traditions of liberty of the Press and liberty of association, they ought to withdraw this Bill. It seems to me, Sir, this Government has one set of standards for England and another for India, like the proverbial step-mother, but the time will come when our present rulers will feel sorry for placing such a dangerous weapon in the hands of its heirs.

Sir, the whole country is aghast at this unholy determination of our Government to put this most unpopular and unwanted Bill on the Statute-book. The special emergency which was supposed to have existed and justified the passing of this Bill in 1931 as a temporary measure has passed away, even according to official admission. India has had to suffer from many official measures of repression, but this is about the limit and is enough to exasperate the patience of our masses. If this Bill becomes law, the various Provincial Governments will not need any other legislative sanction to enable them to muzzle our Press, stifle our public life, and destroy all those public institutions which strive for the betterment of the conditions of life of our masses. Sir, the present Government has to its credit the creation of the system of safeguards which are enough to prevent even a slight growth of freedom, independence and industry. It wants to improve its unsavoury record by making a present of this Bill to the future ministers and thus disable our unfortunate country to recover from its age-long history of slavery and subjection. Sir, the powers to be conferred by this Bill will be enough for a Hindu ministry to shut off the Moslem press and *vice versa*, and I am afraid that communalism, instead of being stopped by this Bill, will only become a greater nightmare to our people; and if such is the result that this Government really anticipates, no wonder it will be in keeping with its gruesome traditions. Again, Sir, this Bill will create a large number of Mussolinis who will make mincemeat of every progressive movement. I, therefore, strongly oppose this Bill.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN (West Punjab : Muhammadan) : Sir, it is not without a certain amount of reluctance that I rise to support this Bill now before the House. That the Bill is most unpopular and much criticised is abundantly proved by the fact that His Excellency the Viceroy had to use his extraordinary powers to bring this measure before this House. But when I tried to analyse what this unpopularity is due to, I came to the conclusion that it is due not so much to the merits of the Bill as to the unpopularity of the agency which will work it. I have listened with great attention to the speech of my Honourable friend Mr. Hossain Imam but he has not shown that this three-fold danger of terrorism, communism and communalism does not exist in this country. He has only tried to show that the Government have committed certain excesses in the application of this law. Now,

Sir, if this Bill had been brought before the Legislature three years ago and I had been a Member of the Legislature at that time I should have felt very reluctant in supporting the Bill; but the Bill is being brought at a time when the New Constitution is coming into force after a short period and I have therefore no hesitation in supporting this Bill. The point which has been mostly criticised is, why is this Bill being brought permanently on to the Statute-book. And I must confess here that this is the greatest attraction to me in this Bill and that is why I am going to support it, because I do realise that in a country like India where communal tension, particularly during the last few months, has assumed very serious proportions and I do not see any possibility of its being dispelled from this unhappy country in the near future, I do realise that such strong measures and extraordinary powers will be most essential for any Executive Government to carry on the administration. I further realise that with the political parties as they are constituted at present in this country it would be very difficult for a popular ministry to introduce such measures, although they may feel the necessity for the same. On the other hand, if this measure is already on the Statute-book and the popular minister in charge of law and order finds that it should not be applied in a particular province, I have not the slightest doubt that it will not be applied. As has been shown by the Honourable Mr. Hossain Imam, this Act was not applied in certain provinces, for instance, Bihar and Orissa, Assam, and some others. That in itself shows that the Government was discriminating in applying this measure. Therefore, I do not see why we should be afraid of this law being applied by our popular ministers in different provinces after one year.

THE HONOURABLE MR. P. N. SAPRU: What guarantee have we about the popular ministers in the future?

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I personally think that any minister who enjoys a majority in the House will be a popular minister. That is the only definition of a popular minister that I know of. Whatever Government is in power, if they find that it is time for them to put these special laws into effect I see no reason why we should deprive them of that liberty. The Government acted very wisely in bringing this Bill permanently on to the Statute-book.

Sir, the other reason why this Bill is so unpopular is probably because the Government have not taken such measures as were necessary for removing the discontent which exists at present among the educated classes. We hope and trust that the new Government will take steps to remove that discontent by different methods, and after they have done so I can see no reason why the Government should put these repressive measures into force if they can help it.

But before I conclude I would make an appeal to the Government. In asking us to pass this legislation they are really taking a great responsibility upon themselves. They should realise that even one misapplication of these repressive laws defeats the very object for which the Government wants these powers. Therefore, they should strictly instruct their agents in the districts to be very careful in the application of these special measures. The other reason why this measure is not being welcomed by any section of the House is that we

(Raja Ghazanfar Ali Khan.)

find that the Government have used a certain amount of undesirable discrimination in applying them to suppress the communist propaganda and communal tension. Where a seditious party or communism is concerned, they do not hesitate for a moment to apply all the powers which the law has given them. On the other hand, when communal tension is developing in a certain part they do not take such prompt action. I would appeal to Government to realise that the spread of communism in this country is not at present so detrimental to law and order or to the peace and tranquillity of the country as the development of communal tension in any form. You will forgive me for referring for two minutes to what we have seen in the Punjab during the last two months. Fortunately in our province Hindu and Muslim feelings were very amicable, and it is only since the demolition of the Shahidgunj mosque that the communal tension has appeared in such a violent and acute form. I wish the Government had realised earlier and taken strong action to prevent such an unfortunate thing happening. But since this communal tension is there, I would still urge upon the Government not to lose time and to take all possible steps to suppress this communal tension without favouring one community or the other.

With these remarks, Sir, I support the Motion.

THE HONOURABLE MR. V. C. VELLINGIRI GOUNDER (Madras : Non-Muhammadan) : Sir, I should like to offer a few remarks based on certain points mentioned as causes which has brought about this condition of things in the country for which Government is seeking this drastic remedy. Of the causes mentioned, let me take only one ; in my view that is the chief one, namely, the economic cause. This cause contains everything either directly or indirectly related to the other causes. Let me try to explain what I feel. On the one side the population is increasing, the earning per head is decreasing ; there is hardly sufficient scope for increasing the income of the masses. Then there is this growing unemployment among the masses and the educated people causing much waste of human material and money. This condition of things has gradually become more and more felt as an important question. Knowing full well these conditions, the Government did not show sufficient interest, nor help nor co-operation. Then came the agitation from the public and the Press. It is natural to expect if forced to circumstances and sufferings that dissatisfaction and difficulties should arise in the country in the absence of correct, proper and suitable work by the Government and the public. Instead of that work, the question of law and order and the repressive measures to put down the dissatisfaction came to be enacted by Government, throwing the country for a while into great sufferings. It is a known fact that the after effects of the war and the economic conditions in the absence of any special remedy became very keen ; but the Government and its administration move on and on as usual with its ever increasing expenditure allotting no doubt provision to jail accommodation, famine, flood, fire, epidemics and recently, earthquake damages. I ask, is it all the duty of Government ? At the same time they are never tired of saying at all times that they have a great responsibility to protect the masses—the millions of illiterate masses and law-abiding citizens, prevent breaches of the peace and from the acts of irresponsible agitators, and

further refuse to believe from whatever source the condition and feelings of the people, but satisfying themselves from the information obtained only through their employees that the heart of the country is sound and what is heard otherwise is not the real condition. Now, what is the position of the country? No proper consideration appears to have been given to solve the growing economic distress which affected almost all sections of the people except Government apparently for the present, since the condition of this distress has not touched Government in any way, as we see from the restoration of the cuts in pay and planning for ever increasing expenditure, borrowing and also searching for new methods of taxation and from the ingenious ways they show from figures that our country has favourable trade conditions and thus show that normal conditions have been restored and there is no room for any other opinion in the country.

Sir, leave alone Government ignoring public opinion in these matters, but what Government is permitting to go on in the name of civilisation and development in spite of all round protests is more serious than their failure to take timely action. I refer to the policy of Government in the industrial development of the country, which next to agriculture is the only hope to improve the economic distress and the vast unemployment problem. Take for instance big industries like textile, cotton, jute, sugar, iron, etc., and such minor industries like silk, glass, weaving, match-manufacturing. Do we not hear frequent difficulties in the way of satisfactory working—

THE HONOURABLE THE PRESIDENT: I have allowed the Honourable Member sufficient latitude to refer to extraneous matters. I hope he will now confine himself to the Bill.

THE HONOURABLE MR. V. C. VELLINGIRI GOUNDER: My idea is to show in a short way how distress is caused and also unemployment, because industrial development has got a lot to do with unemployment and unemployment is one of the chief causes for this distress and to prevent the distress the Act is put in force. That is my view, Sir.

Do we not hear frequent difficulties in the way of the satisfactory working of them and often requesting Government help in several ways? Barring a few of our friends who have always similar views like the foreign capitalists, do not Government hear from prominent leaders of the country that more exploitation and misery are coming and real national interests are sacrificed by allowing foreign competition and, worst of all, by giving monopolies and concessions to key industries and natural resources under executive orders, ignoring even the advice of their own chosen men, the Tariff Board. Small scale industries, as I said before, are struggling and this is adding further to unemployment. Agricultural unemployment is also becoming keener due to low prices and foreign dumping of food grains—

THE HONOURABLE THE PRESIDENT: I have already informed you not to refer to these matters at great length. We are now discussing the Bill.

THE HONOURABLE MR. V. C. VELLINGIRI GOUNDER: Thanks to the small mercies shown by the grant of one crore and the new schemes of His Excellency the Governor of Bengal, the protection given to the weaving industry, and other schemes—these can be said only to touch the fringe of the problem. On the one side there is mass suffering due to economic distress, and then there

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is educated unemployment; on the other side there are inducements to create tastes of unsuitable kinds; when people and their natural leaders begin to represent and agitate, form an association, societies, *ashrams*, *talukhanas* and the *swadeshi* movement, they are all put down for one reason or another without a proper enquiry because a Congressman happened to be connected with it. Sir, we have heard it said by several of His Majesty's judges of the High Court that even though they have formed an opinion of the nature of cases coming before them under the Criminal Law Amendment Act they are unable to bring to bear their own conscientious feelings in passing their judgments. Sir, I ask is it not the duty of the State in all civilised countries to aim as its one and only purpose in running it infallibly and unmistakably with the maximum of convenience and with the minimum of suffering to the people and to interfere as little as possible with their free and unmolested every-day life? Sir, these time-serving and harassing remedies will never answer the eminent call of duty both of the State and the people to one another. We know well our loud protests in this House will be of no avail—not even a spectacular success such as we find in the other House. However, as we owe a duty to the public, we most emphatically oppose the Bill being placed as a permanent measure on the Statute-book. By placing this permanently on the Statute-book you will be giving proof of the fact that Government themselves admit that there will not be any remedy to improve the economic distress in the country. Only today I read an article in a paper with a heading, “Glutted market and hungry people”. It is more applicable to our country at present than to any other country under a civilised Government.

However, Sir, considering the great discontent in the country and considering that Government is so very determined to put this enactment as a permanent measure, I should like to make the submission that the Government of India may be pleased to place at least all the proceedings of the House on this question before both Houses of Parliament.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR (Madras: Muhammadan): Sir, I perfectly agree with my Honourable friend Mr. Hossain Imam in his view that if instead of initiating the measure in the Assembly the Government had introduced it in this House, this House would not have been deprived of its right to have its say in the matter. It would have been possible for this House to thoroughly scrutinise the measure and effect such modifications as would have made it more acceptable to the Members of the other House. Sir, this House has never been obstructive. It has always been ready to consider any question on its merits and it is highly regrettable, Sir, that things should have been so managed that this Bill should have come to this House in a form which makes it impossible for this House to do anything except either to accept the measure in its entirety or reject it altogether.

But, Sir, while agreeing with my friend in that view, I feel that I must differ from him in the other view which he expressed regarding the dissolution of the Assembly for its failure to pass this measure. I feel, Sir, that this will not result in setting up a healthy precedent, for, Sir, occasions on which such things are done by the Assembly, occasions on which the Assembly does not find it possible to see eye to eye with the Government, have nowadays become

more common. Only a few months ago, Sir, in the last Delhi session, the same situation arose in connection with the Finance Bill. If the Assembly, Sir, is to be dissolved for its failure to pass any measure which the Government might bring before it, if it is to be dissolved on every occasion like this, it would be demoralising that popular body. It would be then like holding a pistol to its head and asking the Assembly for its submission in every important measure that the Government brings before it. Sir, it would not conduce to any healthy working of that House if this Sword of Damocles were always to hang over its head.

Now, Sir, before I make my observations on the Bill before the House, I should like to correct a misunderstanding under which some of my friends seem to be labouring—friends who appear not yet to have succeeded in reconciling themselves to the Communal Award. I will not say much about it, Sir. All that I will say is that in this debate this Award and previous announcements by the Government in regard to the rights of minorities, have come in for unnecessary criticism. I wonder, Sir, if my friends who have criticised this Award in this fashion think that, if this Award had not been given, the minorities would have quietly submitted and resigned themselves to their fate; that the minorities realising their helplessness would have hastened to sink their individuality and abandon everything in favour of the majority? Sir, to delude oneself with this impression and to hug this fond hope to one's bosom is to my mind, Sir, to say the least of it, to live in a fool's paradise. If the rights of the minorities had not been recognised, I am sure, Sir, that every one of the minority communities in India would have challenged the unjust decision of the British Government and would never have rested until they had their rights duly recognised. I feel, Sir, that it is an entirely fallacious idea to think that it is the Award or the recognition of such rights on the part of the authorities that has aggravated the communal situation. In my own province, Sir, we Moslems form a very small minority and our share in the administration of the country, always very small, has of late deteriorated very considerably. The Moslems, Sir, have been ousted from all important positions, from all key posts in the country. We have no representation in the cabinet, no representation on the High Court bench and no representation on the Public Service Commission. In spite of all these facts, that all these places that were formerly held by Moslems are now held by non-Moslems, the Moslem community in Madras was not persuaded to fall foul of the other communities there and break their heads. If, Sir, there are these communal riots, it is not because of the fact that the rights and liberties of the various communities that compose the body politic in India have been recognised, but simply because of the fact that there is a very sad lack of tolerance on the part of the people, a very sad lack of mutual respect for each other's religion and each other's religious susceptibilities. Since, Sir, there is more of this tolerance in my province, there are practically no incidents of this kind.

Now, Sir, as regards the provisions of the Bill, I do not think it is necessary for me to make any lengthy remarks, inasmuch as these provisions are not new. They have been fully discussed and very carefully scrutinised about three years ago when the Criminal Law Amendment Bill was discussed in this House. Therefore, Sir, in determining our attitude on this measure, all that we have to see is, firstly, to find out how far these provisions, which under

(Shreef Mohammed Pasha Sahib Bahadur.)

the circumstances then existing were considered necessary, have succeeded in securing the object for which they were intended; and secondly, whether under the existing circumstances and in view of the situation that might arise in the near future, it is necessary for these provisions to be kept alive. Also, if we decided on the continuance of these provisions, we will have to examine whether there are circumstances which would justify us in making this law permanent.

As regards the first point, much need not be said, for it is admitted on all hands, both by those who have opposed and those who have supported this Bill that these provisions have certainly proved very effective in combating the evil which they were intended to combat. However there are other factors also which contributed to the improvement in the situation, namely, public opinion and the keen and genuine interest evinced in Bengal by the Governor in solving this problem and the schemes that have been evolved there for the purpose of giving industrial and agricultural training to the detenus which by solving the unemployment problem is sure to strike at the very root of the evil. There is also the change that has been introduced in the educational system there. All these factors have gone to improve the situation in the country. However, Sir, much of this effect has been brought about by these provisions. Now, the question is whether these provisions must be continued, and, if so, for how long? It cannot be denied that though the situation has considerably improved, it is not yet completely free from danger, both present and potential. Again, Sir, great constitutional changes are about to be introduced in this country, and a great experiment is going to be made in the art of self-government. We have got to keep in view the necessity to make things easy for the new ministries. We will have to take care that these new ministries have in their armoury all those powers that would go to secure peace and tranquillity in the land and would enable them to carry on their duties without being very much disturbed by these disruptive and subversive movements. Therefore, Sir, for the present, and for some time to come, it appears to me that these provisions are really necessary. But the question is whether for this reason we should seek to make it permanent now. I feel that there is hardly any justification for our seeking to make this law permanent now. This is a law which is intended for abnormal conditions and for extraordinary situations, and cannot in the very nature of it be regarded as one which could be always on the Statute-book as a part of the ordinary law of the land. Abnormal conditions may justify these extraordinary and drastic measures; they may also justify the substitution of executive action for judicial proceedings. But this would be only for a short time. These conditions can never be allowed to make inoperative for all time the fundamental principles of equity, justice, and jurisprudence. Honourable Members are aware of the strength of feeling which is opposed to this character of this measure. The Honourable Sir Phiroze ^Sethna, after all the criticisms he levelled against this measure, concluded his remarks by saying that if only this measure had not been intended to be permanent, it was quite possible that it would secure the vote of the majority in this House, if not the unanimous vote of the House. So, there is a strong feeling against making this measure permanent.

Again, Sir, whatever might be the character of a law, much depends on the way in which it is administered. I believe we have all heard of the zealous magistrate who was so obsessed with the notion of his duty to put down crime that he once prosecuted and punished a boy of eight or nine years for plucking fruit from a tree on the road. It is such use of the law which makes it obnoxious. Sir, indeed, it has got to be admitted that during all these years when this law has been in operation, it has been administered with great caution and discretion. But then, there have been occasions when the authorities became unnecessarily panicky and made improper use of these provisions. Sir, the incidents which recently happened in the Punjab and to which reference has been made by my Honourable friends Raja Ghazanfar Ali Khan, Mr. Hossain Imam and Khan Bahadur Syed Abdul Hafeez shows how it is possible for these provisions to be very much abused. As has been remarked by the Honourable Raja Ghazanfar Ali Khan, all this communal trouble in the Punjab would have been avoided if only it had been possible to avert the demolition of this Shahidgung mosque. Whatever it be, Sir, I feel that somehow, for no reason, the Government of the Punjab became panicky and took very drastic measures for which there was no justification whatever. Some Moslem papers have been prosecuted under the provisions of this law for publishing things which did not at all come under any of the three or four categories of offences for which this law is intended.

I understand, Sir, that a paper called the *Bhson*, said nothing about communal discord or to encourage terrorism or communism but only stated facts which were common property, well known to everybody in the town, and for doing that, this paper had to forfeit its security. Again, Sir, the Punjab Government became so panicky that on the very mention of civil disobedience, even long before the day on which the decision was taken regarding the launching or otherwise of the civil disobedience movement, they took action against some Moslem leaders and had them interned. I feel that in view of what has happened in the Punjab and in view of the strong feeling that exists there—

THE HONOURABLE THE PRESIDENT: You have already spoken three times of the Punjab. You know the time of the Council is very valuable today.

THE HONOURABLE SAIYED MOHAMED PADSHAH SAHIB BAHADUR: It is such an important question that I have had to stress it.

Well, Sir, I will conclude by saying that, in view of these happenings in the Punjab, I feel it is not possible for me to give my support to this Motion. (Applause.) But however, Sir, I will not vote against it. (Loud applause.) I feel, Sir, I will not be justified in opposing it inasmuch as I feel that there is every need for continuing this law for the present and for some time to come.

THE HONOURABLE MR. T. SLOAN (Home Secretary): Sir, in view of the lateness of the hour I shall be as brief as possible, but there are several points to which I should like to refer in what has been said from the opposite benches. In the first place I was surprised to hear from an eminent lawyer like the Honourable Mr. Sapru that this Bill is not within the spirit of the Government of India Act and that the power of certification was given only to

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be used in cases of emergency. Well, Sir, during the years 1917 to 1919 I was rather closely associated with the Reforms work of those years and I thought that the Honourable Mr. Sapru must be wrong and I have confirmed my own impression by turning up the report of the Joint Select Committee on the Government of India Bill. If you will excuse me I will read just one sentence:

“The Committee have no hesitation in accepting the view that the Governor General in Council should in all circumstances be fully empowered to secure legislation which is required for the discharge of his responsibilities”.

There is no mention whatever in that of emergency.

THE HONOURABLE MR. P. N. SAPRU: I made a distinction between the letter of the law and the spirit.

THE HONOURABLE MR. T. SLOAN: Exactly, Sir, this is the spirit. Now I should like to turn to certain arguments used by the Honourable Mr. Hossain Imam. He said that there were four courses which Government might have taken. They might have dropped the Bill and given a warning to the Press and if the Press did not observe that warning then the Bill could have been reintroduced and every one would have accepted it. They might have dissolved the House. The Governor General might have certified the Bill in a modified form. And lastly, Government might have reintroduced the Bill in its original form in this House. Well, I think the Government took the wise step in doing what they have done. Government have had experience of giving the Press a chance. It has been impressed on this House that for three periods during the last 15 years there has been no control and each time there has been immediate and serious deterioration. To drop the Bill and to wait would merely have given a chance to the mischief makers to set the house on fire, and with the present communal tension in the country that is a risk which Government obviously could not have taken. My Honourable friend Mr. Padshah has sufficiently disposed of the suggestion that we should have dissolved the House. As regards certifying in a modified form I need only say what was previously said by the Honourable Home Member that the Assembly had every opportunity, if they had wished, of modifying this Bill in any way that they desired. They refused absolutely to take it into consideration, and by so doing they deprived themselves, and also unfortunately deprived this House, of the opportunity of modifying the Bill in any way. Lastly, there was the proposal that we should have reintroduced the Bill in its original form in the Council of State. Well, there I think the time factor came in. The objection to that is that if we had done so it would have been very unlikely if not impossible for us to get the Bill passed before the Act of 1932 passed in December.

THE HONOURABLE MR. HOSSAIN IMAM: Could we not have had a second session in Delhi?

THE HONOURABLE MR. T. SLOAN: We might have had but there is no guarantee that we could have got this Bill through. One other point from the Honourable Mr. Hossain Imam's speech. He accused the Government for some reason or other of not playing fair. I do not quite know why? He did not seem to think that this Bill in its present form was quite cricket. It gave too much power to the Executive and he blamed the Government for

that. Among other remarks, he said that by a stroke of the pen in 1932 Government had extended the Press (Emergency Powers) Act for three years—by a stroke of the pen. Actually of course the Bill was discussed in the other House for 15 days, apart altogether from lengthy discussions in Select Committee. We are now only continuing in force two Acts which were shaped by the Assembly and by this House in 1932 and passed by large majorities by both Houses after very lengthy and elaborate discussions. Thus, Sir, if the Bill is not a fair Bill, then I think the Assembly and this House also must take at least a share of the blame for that.

Now, Sir, I recognise that there has been a great deal of support for the principles of the Bill in this House and I welcome that. There has been general condemnation and hatred expressed for terrorism and for communism, but there has been at the same time a certain amount of criticism of our way of dealing with these evils, and we have been told that we should get down to the root causes in the case of terrorism and we should diagnose it properly and deal with it in that way. In the case of communism we have been blamed for allowing it to come in from western countries and that what we ought to do is to keep it out, that our policy has been a negative one. Well, Sir, I deny that absolutely. Our policy is not a purely negative one. If you take terrorism and ask what the causes are, I think you will find very many different answers. I am not going to go into that at present but I would remind the House that in that regard the Bengal Government are at present dealing with the economic problem and the education problem and that their policy certainly is not a purely negative one. In the case of communism admittedly most communist literature comes from Europe, but we do not sit still and allow it to flood into the country, even though the Honourable Mr. Sapru has told us that it is quite useless to try and keep it out. We do try and keep it out by the use of the Sea Customs Act. But, Sir, are these causes altogether relevant to the present discussion? The evils are admitted and the dangers are admitted, and it is also very generally admitted that the existing law is insufficient to deal with them. Then would Honourable Members have us to do nothing more? I should like to compare this with the case of an epidemic, say of small-pox or cholera. In such an epidemic would the patient be left alone while the doctors search round for the causes or the sources of infection? No, Sir, they would treat the individual patients while at the same time dealing with the sources of infection. That is what we are today doing in India. In Bengal they have got special Acts for dealing with terrorism. These are for dealing with the patients. We here by the Press Act are trying to stop the infection so far as we can. Our unlawful association provisions help us to deal with communism and there we try to stop the infection partly by the Sea Customs Act and partly by the Press Act. Honourable Members have recognised—and very rightly recognised—the work that Sir John Anderson has been doing in Bengal trying to deal with the root causes of terrorism. I should like to remind them that Sir John Anderson is also a supporter of this Bill. He realises that you cannot leave the evil alone; you must use every check you have got while also dealing with the root causes.

Now, Sir, I should like to say one or two words—quite briefly—about communism. Recently as a result of searches in Bombay we have acquired M7408

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some very valuable information about communism which has confirmed our suspicions and has enabled us to get valuable evidence of the work of the communists, showing how widespread their activities are and also showing in a very interesting way how effective our law has been. A resolution passed by the Provisional Central Committee of the Communist Party of India on October 30th, 1934, mentioned having received reports submitted by Madras, Calcutta, Nagpur—I call the attention of my Honourable friend Mr. Kalikar to this; he thought his province was free from all these things—Nagpur, and oral reports of party work from the United Provinces and from the Bombay Presidency, that is outside Bombay City. No reports had been received from the Punjab and the resolution went on to direct the Secretary to call for a report from that province. That shows how widespread is the work of this committee. We also got from the same searches a list of secret instructions for work in India drawn up by the Communist Internationale. The following information is from a paper found in one of the houses searched? After summarising the difficulties and the imperfections of the organisation, this paper says that these are borne out first by the textile strike of 1934 in Bombay, which, as Honourable Members will remember, broke down, and, secondly, by the virtually paralysed condition of the party since the ban. That ban is the ban under the Criminal Law Amendment Act. No more convincing proof could be got I think than this document of the effectiveness of our Act. In speaking on Monday I mentioned the difficulty the Communist Party had in getting funds and I have brought with me today rather an interesting document; actually it is page 363 of a well known novel called *The Good Companions*. It is a very innocent looking paper. Actually that is a receipt for £363 brought out from England by a certain lady and the initials of the recipients are given on the document. I show this to show the secret methods to which the communists are reduced for bringing out funds and for getting receipts for their funds.

Now, Sir, I will just say one word about one point on which there was a considerable amount of criticism, that is, the permanency of this Act. The Honourable Sir Phiroze Sethna told us that if it was not for that practically the whole House would support us and he went on to speak as though this Act was on the Statute-book for all time, a law, shall we say, of the Medes and the Persians, which never changes, which would be always there. That is not the position at all. The meaning of permanency is only that there is no period put to the validity of the law, but it is open and will be open to the Legislatures of the future to repeal this law at any time they want. My Honourable friend Mr. Hossain Imam suggested that this could not be done without the sanction of the Governor General. That is so under the present Government of India Act, but on my reading of the new Government of India Act such sanction will not be necessary and it will be open to any Provincial Government if they feel that they can do without this Act to repeal it at any time.

One other point, Sir, was a suggestion made by several Honourable Members that district officers should be asked to apply this Act with restraint and discrimination. There are at present, I understand, orders to that effect. We claim that the Act has been applied with restraint and with

discrimination, but I have no hesitation in giving Honourable Members an undertaking that these orders will be again brought to the notice of Local Governments. (Applause.)

One last word, Sir, before I close. I would ask Honourable Members with absolute honesty to consider the position in which India stands today and to compare it with the position in which India stood 50, 30 or even 15 years ago and then to ask themselves whether it can truthfully be said that the policy of Government has been such as to stifle the spirit of nationalism or indeed has been anything other than the gradual development of political institutions along lines which would ultimately lead to the establishment in this country of the greatest Federation which the world has ever seen, which would unite the whole of India under a single government deriving its authority from the Crown. If that has been the consistent policy of Government—and I claim that it has been—can it honestly be said that it has been a policy of denial of national expression or national pride or a policy of repression? And now that we are on the eve of the culmination of this policy, can we rightly be accused of base motives in desiring to see this Bill placed on the Statute-book? As I said, Sir, in concluding my previous speech, we believe that this Bill is in the true interest of the great mass of the people of India and that it is essential for the peace and good government of this great country and it is because of that belief that I confidently ask for the support of all Honourable Members in the Motion which will now be put before the House. (Applause.)

THE HONOURABLE MR. HOSSAIN IMAM: On a point of order, Sir.

4-5 P.M. The Honourable the Home Secretary did not enlighten us as to whether the effect of this Act will be to give permanency to section 3 of Act XI of 1934?

THE HONOURABLE THE PRESIDENT: There is no point of order in that.

THE HONOURABLE MR. HOSSAIN IMAM: The point of order is this, Sir, that because the Bill does not express anywhere that such and such an Act is being amended or given permanency to, I ask your ruling whether the Bill is in order, Sir?

THE HONOURABLE THE PRESIDENT: The Bill is perfectly in order.

Motion made:

“That the Bill to amend the Criminal Law, in the form recommended by the Governor General, be taken into consideration.”

The Question is:

“That that Motion be adopted.”

The Council divided :

AYES—35.

Besayah, The Honourable Sir Maurice.	Kameshwar Singh of Darbhanga, The Honourable Maharajadhiraja Sir.
Bute Singh, The Honourable Sardar.	Macqueen, The Honourable Mr. P.
Campbell, The Honourable Mr. G. B.	Maqbul Hussain, The Honourable Khan Bahadur Shaikh.
Charanjit Singh, The Honourable Raja.	Menon, The Honourable Diwan Bahadur Sir Ramunni.
Chetty, The Honourable Diwan Bahadur G. Narayanaswami.	Mitchell, The Honourable Mr. D. G.
Choksy, The Honourable Khan Bahadur Dr. Sir Nasarvanji.	Muhammad Din, The Honourable Khan Bahadur Nawab Chandri.
Commander-in-Chief, His Excellency the.	Noon, The Honourable Nawab Malik Sir Muhammad Hayat Khan.
Devadoss, The Honourable Sir David.	Pandit, The Honourable Sardar Shri Jagannath Maharaj.
Dow, The Honourable Mr. T. M.	Parker, The Honourable Mr. R. H.
Ghasanfar Ali Khan, The Honourable Raja.	Ram Chandra, The Honourable Mr.
Ghosal, The Honourable Mr. Jyotsnanath.	Ray of Dinajpur, The Honourable Maharaja Jagdish Nath.
Ghosh Manlik, The Honourable Mr. Setyendra Chandra.	Sloan, The Honourable Mr. T.
Glancy, The Honourable Sir Bertrand.	Spence, The Honourable Mr. G. H.
Habibullah of Dacca, The Honourable Nawab Khwaja.	Stewart, The Honourable Mr. T. A.
Hafeez, The Honourable Khan Bahadur Syed Abdul.	Suhrawardy, The Honourable Mr. Mahmood.
Haider, The Honourable Khan Bahadur Shams-ud-Din.	Talents, The Honourable Mr. P. C.
Jalan, The Honourable Rai Bahadur Radha Krishna.	Ugra, The Honourable Rai Sahib Pandit Gokaran Nath.
Johnson, The Honourable Mr. J. N. G.	

NOES—10.

Banerjee, The Honourable Mr. Jagdish Chandra.	Mehrotra, The Honourable Rai Bahadur Lala Mathura Prasad.
Gounder, The Honourable Mr. V. C. Yellingiri.	Naidu, The Honourable Mr. Y. Ranganayakalu.
Hessain Imam, The Honourable Mr.	Ram Saran Das, The Honourable Rai Bahadur Lala.
Jagdish Prasad, The Honourable Rai Bahadur Lala.	Sapru, The Honourable Mr. P. N.
Kalika, The Honourable Mr. V. V.	Sethna, The Honourable Sir Phiroze.

The Motion was adopted.

THE HONOURABLE THE PRESIDENT : The Question is :

“That clause 2 stand part of the Bill.”

*THE HONOURABLE MR. P. N. SAPRU : Sir, the effect of the subsections to this clause will be this. Suppose I am a journalist and I happen to read an article in the *New Statesman* and in that article there is a quotation from Trotsky's *History of the Russian Revolution*. I find it is an absolutely

*Not corrected by the Honourable Member.

inoffensive quotation and I happen to write a leading article and I quote that passage from that book. Well, Sir, then I get hauled up before a court of law for quoting from something that is proscribed, even though I did not know that it was proscribed, even though I do not possess that book, even though I have merely reproduced something that is written in that proscribed book from some other newspaper. Well, Sir, I think that is a very dangerous clause because it gives very wide powers to the Executive which place the Press absolutely at the mercy of the Executive. Then, Sir, as regards the other clauses—

THE HONOURABLE THE PRESIDENT: Do you wish to speak on them in conjunction with clause 2 ?

THE HONOURABLE MR. P. N. SAPRU: They are all parts of the same Act, Sir. So far as I am concerned, I am very strongly opposed to every clause of the Bill, and there is not a single clause which I can support.

***THE HONOURABLE MR. HOSSAIN IMAM:** Sir, I rise to oppose clause 2 of the Bill because it gives permanency to certain of the provisions of the States Protection Act. That section, Sir, states that certain sections of the Press (Emergency Powers) Act shall be so interpreted, etc. As regards that portion, I wish to bring to the notice of the House and the Government the opinion not of non-officials but of the highest officials who have said things about this, and my quotations will show that even your officials in the country are opposed to it. First of all, I take the opinion of the Commissioner of my division, who acts as Political Agent to some States. In this opinion, circulated to us, he said :

“ I doubt whether this or any other Act will be an effective remedy in cases where the personal idiosyncrasies of a ruler lay him open to attack ”.

Further on, he says :

“ There is unfortunately little reason to suppose that any legislative action will finally kill a nuisance which thrives on the willingness of a ruler to pay blackmail as the cheapest way to avoid trouble ”.

That is the opinion of the Commissioner of the Kumaon Division. I now come to the opinion of the Commissioner, Central Division, Bombay. He was also connected with the administration of Indian States. He says :

“ It is not desirable that the editor of a newspaper should be exposed to the risk of conviction for exciting disaffection amongst the subjects of an Indian State if he brings to light the true facts as to acts done by the administration which, if made known, can not but excite disaffection ”.

THE HONOURABLE THE PRESIDENT: You know very well that the Government of India is not bound by individual expressions of opinion.

THE HONOURABLE MR. HOSSAIN IMAM: Sir, the Government of India are bound by nothing on earth. They are bound only by their sweet will, but that is no reason why we should be bound by that dictum. We are here to voice the opinion of the millions of India and we cannot take their action as our guide. There is no reason why we should do so. If they want that there should be no opposition to them, then the best way is to close all the Legislatures, and if you, Sir, think that we are wasting the time of the House—

THE HONOURABLE THE PRESIDENT: I did not say you are wasting the time of the House.

THE HONOURABLE MR. HOSSAIN IMAM—on that it would serve no useful purpose to discuss this, it is better that you order this House to take a vow of silence rather than speak. If I do transgress the rules of business, you have every right, Sir, to stop me.

THE HONOURABLE THE PRESIDENT: But I have not stopped you.

THE HONOURABLE MR. D. G. MITCHELL: I suggest that the Honourable Member should proceed with his speech, Sir.

THE HONOURABLE MR. HOSSAIN IMAM: I will refer to the opinion of the District Magistrate of Poona who is the Political Agent for certain States in that area. His opinion on this Act was:

“The administration of the Indian States is an internal part of our Government machinery in India. Press agitation against a State is, I should imagine, mostly ineffective and when it is effective it is either desirable or can be dealt with under our present law or the provisions of this Bill”.

Sir, the Additional District and Sessions Judge, Ajmer-Merwara, said:

“The States as they are constituted at present.....require the healthy check on fair and fearless criticism from the press and platform of British India to keep them going right”.

The District Magistrate of Trichinopoly says:

“That this Act gives jurisdiction to Courts in British India to try offences committed by a subject of a State within the territory of a State”.

These quotations show that the opinion of the people most competent to judge is not universally in favour of giving permanency to this Act. My point is, that you are bringing in a thing by the back door and then confront us as if it were our action. I would like to inform the Honourable Mr. Sloan—I am afraid I did not make myself clear in my remarks—what I meant was that the drafting of amendments whereby the temporary nature of an Act is modified does not give the Legislature either the power or the opportunity to amend the entire Act. This was the point which I raised in connection with the Trade Disputes Act. Clause 2 (2) of the present Bill is drafted:

“Sub-section (3) of section 1 of the Indian Press (Emergency Powers) Act, 1931, is hereby repealed”.

By repealing this, you take away the temporary nature of that Act. But at the same time you do not give the Legislature an opportunity to amend that Act. Under the present rules of business, we are precluded from putting in any amendment of an Act which does not form part of this amending Bill. This difficulty under which we labour makes it impossible for us to improve the temporary Acts which have been made permanent. Therefore, Sir, what I meant when I said that the Government utilise the back door is not any reflection on the *bona fides* of Government. I am simply pointing out my own disability. I therefore request the Government to take a direct course by bringing the whole Act before the Legislature, if they wish to make it permanent, so that we may have an opportunity of discussing it in detail and amending the existing temporary Acts in order to make it suitable for the present purpose. Therefore, Sir, I oppose this clause.

THE HONOURABLE MR. D. G. MITCHELL (Leader of the House): Sir, I would like to make a few remarks on what the Honourable Mr. Sapru

said. He gave a somewhat hypothetical case of he himself reproducing a quotation from an article in the *New Statesman*. I think I can assure the Honourable Member that if he were to reproduce a proscribed article from the *New Statesman* and comment upon it, I have no doubt that there will be no prosecution.

THE HONOURABLE MR. P. N. SAPRU: I was not thinking of myself merely.

THE HONOURABLE MR. D. G. MITCHELL: So long as the comment on the quotation is reasonable there will be no prosecution. If such comment is objectionable then there is no reason why a prosecution should not be launched. As regards the remarks of the Honourable Mr. Hossain Imam, in which he became somewhat heated, I would point out that there is no reason why, in a Bill of this character, any of the provisions in the Act which is to be continued should not be amended. Any amendment of the Press Act or of the other Acts continued by this Bill would be in order. There is no question, therefore, of Government attempting to diddle the House out of its possible rights. He mentioned the Princes (Protection) Bill and he gave a large number of quotations from the opinions which were called for before the Bill was passed. I would point out in the first place that he gave the opinions of a few minor officials and entirely neglected the vast mass of opinions from Local Governments, other officials and even High Courts. His statement was a purely ex-parte one and very far from being fair. I would also point out in that connection that the quotations he made were from opinions taken on the Bill before it was passed. The Bill was fully discussed in the Lower House and it was discussed and passed by this very House, I think only last year. There is no point to be gained in raking up a few odd opinions here and there out of a great mass of opinions which have already been discussed and settled in this House.

To conclude, Sir, I would suggest that, as a further debate has rather unexpectedly arisen on clauses, we should adjourn now and resume the debate on clause on Friday morning.

THE HONOURABLE MR. P. N. SAPRU: People from all provinces have to do some obligations on Friday and would like to have it as a holiday.

THE HONOURABLE RAJA GHAZANFAR ALI KHAN: I feel some confusion as to whether by voting on this particular clause we will also be voting for the Princes (Protection) Bill and I would like the Government to explain to us whether it is not possible for them to take a vote separately, because those of us who are prepared to support the Government on this measure may be very reluctant to give support in regard to the Princes (Protection) Bill.

THE HONOURABLE MR. D. G. MITCHELL: In order to cut out the portion of this clause which would continue the Princes (Protection) Bill it would be necessary to give notice of a formal amendment. No amendment has been tabled so far.

THE HONOURABLE THE PRESIDENT: You can oppose it when the time comes.

The Council then adjourned till Eleven of the Clock on Thursday, the 26th September, 1935.