

Thursday, 16th August, 1934

THE  
COUNCIL OF STATE DEBATES

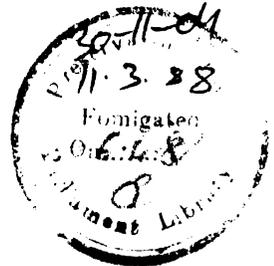
VOLUME II, 1934

*(8th August to 6th September, 1934)*

EIGHTH SESSION

OF THE

THIRD COUNCIL OF STATE, 1934



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## COUNCIL OF STATE.

*Thursday, 16th August, 1934.*

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

### BENGAL CRIMINAL LAW AMENDMENT SUPPLEMENTARY (EXTENDING) BILL.

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

"That the Bill to extend the operation of the Bengal Criminal Law Amendment (Supplementary) Act, 1932, as passed by the Legislative Assembly, be taken into consideration."

Sir, at the very outset I must convey to the House the apologies and regrets of the Honourable Sir Henry Craik, the Home Member, that he is unable to be present here today. He was very anxious to return to this Council of which he was for a considerable time a Member and he trusts that he will have some further opportunity of addressing this House. Unfortunately, the Home Member, as long as the Assembly is in session, is not entirely his own master and it is necessary for him to be present there today to deal with two very important measures which are under consideration there. It thus falls to my lot once again to ask this House to accept this Bill—a very short Bill as it stands but a Bill which is stigmatised in certain quarters as a piece of repressive legislation. I rather object to that word "repressive" as it conveys the impression that we are repressing something which is good. On the contrary, we are taking steps by this Bill and by the other Acts which are on the Statute-book to prevent something which is entirely bad, which is entirely evil—the terrorist movement in Bengal.

It is necessary for me today to explain, I trust not at very great length, the purport and object of this Bill. Many Members of this Council were present two and a half years ago when the original Bill which we are now asking you to extend was discussed. Members of this Council will remember the discussions that then took place, they will remember the speech that was made by my predecessor, Sir Herbert Emerson. If I repeat the arguments which he then put forward, I trust they will excuse me but it is necessary to explain briefly but still clearly what exactly is the effect of the Bill which I am asking them to take into consideration.

The Bill before us is a supplementary Bill. It supplements the legislation which had recently been passed by Bengal and I feel certain that this House will finish the work that was begun by Bengal in February and March last and will put the finishing touch to the legislation which was at that time passed by the Bengal Council by a very large majority. On the final reading, I think the voting was 61 votes to 15. That shows that the Bengal

[Mr. M. G. Hallett.]

Legislative Council were determined to give Government the powers which they considered necessary to deal with the evil of terrorism.

Under the Bengal Bill the power is given to the Local Government to order the detention in jail or in a detention camp of persons who are connected with and taking part in the terrorist movement. No doubt it is a matter of repugnance to many people that we should have to have these powers, that we should not deal with these people openly in the courts, but experience has shown that it is quite inevitable for Government to have these powers. That was explained fully by my predecessor when he addressed the House in April, 1932. He explained how we had to rely on the evidence of informers and that if their names are made public those informers are put in grave risk of their lives. We have also had experience of many cases in which witnesses who have given evidence against the terrorists have themselves suffered at the hands of terrorists shortly after. It is really for these reasons that we have to adopt this admirable method.

The idea is I am afraid prevalent in some quarters—I do not think for a moment that it is shared by the Members of this Council—that these terrorist offenders are put away in jails and detention camps without adequate reasons. That is a criticism I have seen made in certain quarters in the press. It is suggested, that merely on the statement of some police officer Government step in, accept his statement without any very careful examination and on that put a man away for an indefinite period in a detention camp in Bengal or in a detention camp at Deoli. That is not in the least true and in support of my statement I will cite a fact which may possibly be known to some of you but which happened some time ago and therefore I would like to recall it to people's memory. During the terrorist movement in 1915-17, it became necessary to take action similar to that which we are taking today, that is to say, to send people under the Defence of India Act of that time to detention in camps or in jail. The Government of Bengal appointed two High Court Judges, Mr. Justice Beachcroft and Mr. Justice Chandravarkar, to examine all the cases in which orders of detention had been passed by them. They made a very careful examination of these cases and it is very significant that out of 806 cases that were examined by them there were only six in which they thought that there were not sufficient grounds for assuming that the persons concerned had been acting in a manner prejudicial to the public safety or to the defence of India. That is a very striking testimony to the care which the police took in putting up these cases before the Local Government. I may also mention that at that time there was not the same safeguard as there is in the Bengal Act now, by which all cases are examined by two judges. The police marshal their evidence before these judges and the judges consider it with as much care as they consider all cases tried in open court. After that the case comes for a third examination by the Governor in Council in Bengal and it is as the result of that examination that the final orders are passed. I think, therefore, that if once again we have these records examined by High Court Judges we shall find the same result that in less than one per cent. of the cases there is reason to hold that the order was not justified.

These judges also recognised fully the inevitability of these secret proceedings. What they said, in a lengthy report which was published at the time and which I can show to anybody who would care to see it :

“ Under these circumstances it is impossible to secure a fair trial by the procedure of the Evidence Act and the Criminal Procedure Code which would be appropriate only to the normal conditions of crime. The procedure to deal with revolutionary crime has to be practical in the sense of being appropriate to the special conditions so as to secure as fair a trial as is feasible under the exceptional situation ”.

I recognise that that was said in the year 1919, or 1917, but I feel certain that the House will recognise that the Government of Bengal under the able guidance of His Excellency Sir John Anderson are today as careful as they were in 1917, to examine these cases with the utmost care and to see that no order is passed which is not fully justified. That is the provision of the Bengal Act.

I now come on to the provisions made in the Act of 1932, which I am asking you to extend and to put permanently on the Statute-book. Again we have to profit by experience. Experience has shown that if the most dangerous, most desperate terrorists are kept in their own province of Bengal, it is very difficult to segregate them effectively in Bengal. It is difficult to prevent communication with the outside world. There have been instances in which plots have been concocted by these detenus when they are actually in the camps in which they are detained. My predecessor quoted examples of that, which occurred shortly before he made his speech two and a half years ago. I would quote other instances which will make the House realise the danger of keeping these more dangerous prisoners in Bengal. An example of this came to my notice only a few days ago where four prisoners who were under trial in a terrorist conspiracy case in Calcutta escaped from the Presidency Jail. Not only can I quote the example of Bengal ; I can quote the example of other provinces also. Madras unfortunately had an outbreak of terrorist crime about this time last year. Luckily the police was successful in arresting the offenders and placing them under trial. It was found by the judge who tried the case that there was no doubt that these persons had been contaminated by association with the Bengal terrorist prisoners who were confined in the jails of that province. That is another example of the difficulty of segregation. In Bihar there was a case of which I knew a good deal at one time of a very dangerous gang of terrorists which was ultimately prosecuted and convicted. They were responsible for several murders including one of an unfortunate station master. After they had been convicted, the Government of Bihar represented to us very strongly that it would be very difficult to keep them in safe custody in the jails of that province. I myself know that when these accused were under trial we had on two occasions, I think, information that they had very nearly secured their escape by a plot which they had concocted in jails.

**THE HONOURABLE MR. BIJAY KUMAR BASU :** They were not detenus ?

**THE HONOURABLE MR. M. G. HALLETT :** They were under-trials. That is one of the reasons why we had to remove these people to this camp that we have got in Deoli. There is a further reason too, and I think this point

[Mr. M. G. Hallett.]

was made by my predecessor when he addressed this House on the last occasion, and that is, that if you remove the more dangerous prisoners, it is easier to deal with and to try and reform the less dangerous. The more dangerous are removed to Deoli, the less dangerous are kept in the detention camps at Buxar, Hijli, and other places in Bengal itself. The reformation of these detenus is a problem to which the Government of Bengal has devoted attention and they are doing their best despite, I am afraid I must say, some opposition from the terrorists themselves—and very ill-founded opposition—to give them a training which may fit them for earning an honest livelihood. If the worst are kept with those who are less infected with the poison of terrorism, then it is difficult to control them, and in a speech made by an Honourable Member in the Lower House who has experience of these camps in Bengal that point was emphasised. Thus, the segregation, the removal of these people to the camp at Deoli is for these two reasons. One is to make it safer, to prevent the possibility of escape, to prevent the hatching of plots within the camp itself, and secondly, to facilitate dealing with those who are not so desperate and not so dangerous.

I would like to refer briefly to this camp at Deoli. When the Bill was under consideration on the last occasion, both the Home Member, Sir James Crerar and the Home Secretary promised that they would do as much as they could to make conditions similar to those in Bengal. That promise has, I submit, been fully implemented. The Home Department cannot work miracles; it cannot of course make the climate of Rajputana similar to the humid climate of Bengal, but as far as possible, steps have been taken to make the conditions similar to those in Bengal. I have myself visited the camp—I regret though only for a very short time—and from what I saw in that short time, everything seemed to me extremely suitable for the detention of these prisoners. They had excellent barracks, some to accommodate four or five persons, some a larger number. I was particularly impressed by the hospital which was very well fitted up and had all the necessary apparatus for treatment of diseases of all kinds. They had good playing fields where they could play badminton or football, and altogether the conditions there were certainly not as bad as they seem to be painted in some quarters. As regards the question of treatment, it is a matter which is very carefully looked into and no doubt Members of this Council are fully aware that the late Home Member took a particular interest in this problem. He visited Deoli himself and whenever any question arose regarding the treatment of detenus he took a keen personal interest in it. The present Home Member, the Honourable Sir Henry Craik, in his speech the other day in the Assembly, promised that he himself would also visit Deoli on the earliest possible occasion and make himself fully acquainted with the conditions which prevail there. But there is one point I would like to make. It is impossible to run everything from headquarters. We cannot look from this distance into the details of the work of that camp and I think we owe a deep debt of gratitude to the Superintendent of the Detention Camp, Mr. Finney, for the work that he has done there during the last one and a half years that he has been there. I was particularly glad to see that his services were recognised during the last Birthday Honours and that it was

thereby shown that Government appreciated what he had done in maintaining order and discipline in the camp and in doing all he could for the terrorists who were under his control.

I do not think it necessary for me to go into further details about the actual condition of the prisoners in this camp. If anybody wishes to hear about them, I shall be very pleased to tell him all that I know. Those are the main features of the primary Bills which this is designed to supplement. But, as I said at the beginning, the main point of this Bill is to extend and put permanently on the Statute-book the powers which were given by the Act of 1932. I shall, I understand, have an opportunity of talking at greater length on the question of permanence of these Acts during the discussion of the amendments of which notice has been given. At this stage perhaps it is only necessary for me to indicate briefly what my arguments will be. It is clear that the Act must be extended, otherwise it will expire in April next year, three years after the Act of 1932 was passed by this Council. No one can hope that six or eight months hence it will be possible to get rid of and set free all these detenus. If the Deoli Camp were shut down it would mean these prisoners would go back to Bengal, Bengal would have to build a new camp and Bengal cannot afford any money for luxuries of that kind. But the main point is whether the Act should be permanent, whether it should not be for a term of years. The points I would make and which I will amplify later are, first, that Bengal, the Bengal Government and the Bengal Legislative Council, have recognised the necessity of making their Acts permanent. Experience has shown that temporary legislation is of very little use in dealing with this menace of terrorism. As I have said, they passed that Bill by a very large majority and the special clause which dealt with the question of permanence was passed by an equally large majority of 63 to 15. Secondly, having regard to the history of terrorism, having regard to the fact that it is now between 27 and 30 years since terrorism first showed itself in Bengal, we should be unduly optimistic if we think that we can see the end of terrorism. I regret to have to make that remark, but one has to be guided in a matter of this kind by experience and experience has shown that though this movement has, as a result of the action taken by Government, at times decreased in vigour; as soon as Government have relaxed their efforts it has shown its head again and shown its head again with greater violence than before. That is a point on which I am prepared to say more when we are discussing these amendments of which notice has been given. Thirdly, and I think this is an important point, and a point made by the Honourable Home Member of the Bengal Government, the fact that these Acts are permanently on the Statute-book should have a deterrent effect on the terrorist himself. It should make clear to him that Government will carry on these measures as long as he carries on his subversive movement. That is one of the main reasons why Bengal and the Bengal Legislative Council decided that it was necessary to make these Acts permanent. I do not think I need say any more on the provisions of the Bill itself. We do not regard these Acts to amend the criminal law as the only measures to be taken against terrorism. We regard them, however, as essentially necessary in order to carry on that campaign. But as the late Home Member made clear in the Lower House, we and the Government of Bengal attach equal importance to other measures more radical and less drastic

[Mr. M. G. Hallett.]

to improve conditions in Bengal. The whole problem of terrorism is one to which the Government of Bengal under the able guidance of Sir John Anderson are devoting their most careful attention, and it is one to which the Government of India are devoting equal attention. There are, I am glad to say, hopeful signs that the situation is considerably improving. Public opinion is now expressing itself against this menace and I trust that that opinion will grow and that within a short time we may see an even more marked improvement in the conditions in Bengal. I trust in making those remarks I have not been too optimistic. It has sometimes happened that one happens to say that the situation in Bengal is improving; the next day one hears of some new outrage. After all it is only a year since we heard of the murder of Mr. Burge; it is only a few months since we heard of the unsuccessful attack on His Excellency the Governor. But if we have the powers which Government consider necessary for dealing with the terrorist by the means which this Act provides, and if at the same time public opinion consolidates and takes active measures against terrorism, I have no doubt that in a short time the position will be considerably better than it was two or three years ago.

Sir, I move.

THE HONOURABLE MR. VINAYAK VITHAL KALIKAR (Central Provinces: General): Any attempt on this side of the House, Sir, to discuss this Bill may probably be interpreted as indirect sympathy with the terrorists and the movement, and so I at the outset want to make it perfectly clear that I and my Honourable friend Mr. Hallett are both equally anxious that this movement should be stamped out from this unfortunate province of Bengal and also from India. Last year, in this very august House, I had an opportunity to deal with a similar question and then at that time also I made it clear that we who do not see eye to eye with Government on certain measures do really desire that this menace should not only be suppressed but should be stamped out, and that the misguided youths should be trained and employed in such activities that they will be able to do good to their country and province. With this prelude I desire to discuss as briefly as possible the measure before us. In this measure I find three important issues involved, the detention of political suspects outside Bengal for an unlimited period, the taking away of the powers of the High Court which we regard as *habeas corpus* powers or as our *Magna Charta*, and thirdly, making the Act of 1932 permanent. It is admitted on behalf of Government that the movement has been in existence in Bengal unfortunately for the last 30 years. I am afraid, Sir, to state that in spite of there being so many Acts from 1908 up till now the movement could not be controlled by Government. It is most unfortunate that the movement could not be stamped out in spite of these Acts and the stringent measures taken under these Acts. Bengal has produced the best politicians, Bengal has produced eminent lawyers, Bengal has produced famous scientists, Bengal has produced the best poets and therefore I cannot really find out why Bengal should produce the worst sort of these anarchists and terrorists. One really fails to understand the mentality of these terrorists. But I may submit, Sir, that these manifestations of terrorist activities have taken place in other parts of India also, but with very few exceptions, Sir, I find that in other parts of India those movements have been nipped in the bud and there was no further

outburst. If one may care to refer to the Rowlatt Committee Report in which they have exhaustively dealt with this question, one may find that terrorist activities in other parts of India have been nipped in the bud and there have been no manifestations again of those activities in other provinces. If that is so, what is wrong with Bengal? Why are these activities not controlled, not checked, and not stamped out of Bengal? Is it due, as stated in some quarters, as alleged by public men of Bengal in the Bengal Legislative Council and also as alleged by some Members of the Legislative Assembly in the other House, that there is something wrong with the actual operation of these measures in Bengal that the movement is not controlled? Statements, very grave statements, have been made, Sir, in the Bengal Legislative Council when this Act of 1934 was passed, alleging against the misconduct of officials in dealing with these measures. Statements have been made to the effect that on account of these measures being used in the most tortuous way that these terrorist activities are not controlled, but they are practically increased. The Bengal Members in this House may know, they may be able to say definitely whether those statements made by public men in Bengal in the Legislative Council and by other Members in the other House are correct or incorrect; but to an outsider like me it appears that there is something wrong with the administration of Bengal which is responsible for this movement making headway every now and then. I find, Sir, that the case of Government as stated by my Honourable friend Mr. Hallett and as stated by the Honourable the Home Member in the Assembly is that these terrorist activities are controlled to some extent, but when these terrorists find that the powers are going to expire soon they again start their nefarious activities. Well, Sir, if these terrorist activities have been controlled—and I am glad to find that they have been controlled to some extent—I think I may be right in saying that if by these measures that have been controlled to a very great extent, Government will not find it difficult in stamping out the movement in a very short time and therefore this measure before us is inopportune. If Government is not optimistic about the menace disappearing, then I submit, as I have already said, that by making a measure like the one under consideration permanent you cannot expect, as you have not been able to do within the last two years, to drive away this menace. There are other points for consideration for rooting out this menace, and I am glad to find that those other points have appealed to Government. In this connection, Sir, I may be excused if I read just a sentence or two from the Address of His Excellency Sir John Anderson, Governor of Bengal, to the Legislative Council. He says:

“While we have been compelled by circumstances to assert the authority of Government and to seek and where necessary to employ exceptional powers to deal with movements which aim at undermining that authority and destroying respect for law, and while I claim that all experience goes to show that the outward manifestations of disorder can only be dealt with by what are called repressive measures and that any Government that neglects or fears to employ such measures is sealing its own doom, my Government have always realised that there are certain underlying or predisposing causes of unrest that must be removed if lasting improvement is to be achieved. It is not enough to meet force by force or to overbear lawlessness by asserting the majesty and power of the law. An atmosphere must, if possible, be created in which the seeds of disorder will not readily germinate. Here in Bengal, as any careful observer must realise, there are problems political, social and economic, formidable no doubt in character but amenable, I am sure, to treatment, given imagination, resolution and goodwill, the solution of which would, in a short time, change the whole aspect of affairs”.

[Mr. Vinayak Vithal Kalikar.]

Here is a responsible authority which tells us, Sir, that it is expected to stamp out this menace within a very short period by employing other methods to tackle this problem. But here the Government of India want us to make a measure which my Honourable friend had an objection to call a "repressive measure", but we, Sir, do call it repressive in the sense that under the ordinary criminal law we do not find any measure wherein the right of liberty is denied to a criminal, the worst of criminals, without a trial and without giving him an opportunity to put his case before a proper court of law. And therefore, Sir, I submit we call it a repressive measure.

THE HONOURABLE THE PRESIDENT: Are you not aware that they do worse things on the Continent?

THE HONOURABLE MR. VINAYAK VITHAL KALIKAR: Sir, we are living under British rule and not under Hitler rule and I expect that under British rule in these progressive times when we are promised so many constitutional reforms we should be treated in the light of modern conditions. Then, Sir, I am also further glad to find that Government has stated that public opinion has begun to assert itself against this movement. Government wants public opinion to be mobilized but, Sir, from the speeches that have been made by public men in Bengal—those who know about things, those who have dealt with those things,—it seems I at least must come to the conclusion that if public opinion is against this menace of terrorism it is equally against the introduction of such repressive measures. I do not want to read sentences or passages from the speeches of these public men made in 1934 when the Bengal Act was passed, but I want to draw the attention of the Honourable Members of this House that if one cares to read them he will find that only one conclusion can be drawn from those statements, and that is that public opinion in Bengal is equally against the introduction of such repressive measures.

THE HONOURABLE MR. BIJAY KUMAR BASU: What is the conclusion about the voting?

THE HONOURABLE MR. VINAYAK VITHAL KALIKAR: My Honourable friend Mr. Basu has drawn me to a very very difficult and complicated question. I wanted to keep silent on that point and I did not like to make any mention about it. Though I know that the Bengal Legislative Council has passed the measure by a majority of 61 to 15 votes but as he has drawn me to an expression of opinion I may state that the conclusion that one is obliged to draw from it is that the Bengal Legislative Council has lost its representative capacity on account of the Congress ban. (*An Honourable Member*: "Are there no elected Members on the Council now"?) There are elected Members. Then, Sir, about the detention of these political suspects in Deoli Camp and sending some of these State prisoners to other provinces, I am afraid I cannot see eye to eye with my Honourable friend, Mr. Hallett. Unfortunately, some four or five State prisoners or political suspects—call them what you like—have been sent to my province also. I wish my province had been left out of it. By God's grace my province has been free up to now and it is not a wise act on the part of the Government of India to send these people here.

THE HONOURABLE MR. M. G. HALLETT: All provinces have to bear their share.

THE HONOURABLE MR. VINAYAK VITHAL KALIKAR: Let those provinces which are willing bear their share but my people are not willing to bear their share.

THE HONOURABLE MR. BIJAY KUMAR BASU: They are not at large. You need not be afraid.

THE HONOURABLE MR. VINAYAK VITHAL KALIKAR: They may be in jail but as stated by the Government they are a very dangerous type of criminals and they may contaminate my prisoners.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated Indian Christians): They have in Madras. Our good name has been lost owing to these people.

THE HONOURABLE MR. VINAYAK VITHAL KALIKAR: The question is, Sir, whether those people who have been sent to Deoli or who have been sent to other provinces do get equal treatment and the same facilities as in Bengal? I was reading the other day, Sir, the debates in the Bengal Council and there I found that the Honourable the Home Member in Bengal stated that as the jails in Bengal were overcrowded with the civil disobedience prisoners, these political suspects should be sent out of Bengal and the other reason similar to that given by my Honourable friend today was also stated by the Honourable the Home Member. Now, so far as the civil disobedience prisoners are concerned, I believe the Bengal Government should not find it difficult to accommodate their prisoners in the Bengal jails as many of the civil disobedience prisoners have been released.

THE HONOURABLE MR. M. G. HALLETT: Can the Honourable Member give me the reference to the Home Member's speech in Bengal?

THE HONOURABLE MR. VINAYAK VITHAL KALIKAR: We find from the various questions and answers in the Lower House and the speech of Mr. S. C. Mitra made while this Bill was being considered—

THE HONOURABLE THE PRESIDENT: Was that speech made this session?

THE HONOURABLE MR. VINAYAK VITHAL KALIKAR: Yes, Sir. I am not quoting that speech. I will only refer to it.

THE HONOURABLE THE PRESIDENT: You may refer to it as if they were your remarks. Do not refer to Mr. Mitra by name.

THE HONOURABLE MR. VINAYAK VITHAL KALIKAR: The allegation has been made that the Deoli prisoners do not get the same facilities that they would get in their own province.

THE HONOURABLE MR. M. G. HALLETT: In what particular?

THE HONOURABLE MR. BIJAY KUMAR BASU: Eating fish!

THE HONOURABLE MR. VINAYAK VITHAL KALIKAR: Concerning food, concerning climate. As my Honourable friend said just now, Government cannot change the climate of Deoli. If the Deoli prisoners do not really get the same facilities as they do obtain in Bengal, I see no reason for spending public money for creating such a big camp at Deoli for housing these prisoners. It does not reflect on the credit of the Bengal Government that they are not

[Mr. Vinayak Vithal Kalikar.]

able to put under control their own prisoners and that they require to send them out of Bengal. With all this paraphernalia at their beck and call I really fail to understand how these terrorists find an opportunity of communicating with others outside the jail when they are in their jails in Bengal. If this fact be true, that shows that there is something wrong also with the administration of jails in Bengal. My Honourable friend Mr. Hallett has told us this morning that the cases of these detenus were examined by two eminent judges, one from the Calcutta High Court and one from the Bombay High Court, in 1915, and after examining their cases, they were sent to jail. But may I know from him if the same procedure is followed even now? Because public men in Bengal say that the same procedure is not followed nowadays.

THE HONOURABLE MR. M. G. HALLETT: Sir, I will make that point clear. It is provided in the Act that every case is to be examined by two persons of the rank of Sessions Judge. That is a statutory provision and that statutory provision is complied with.

THE HONOURABLE MR. VINAYAK VITHAL KALIKAR: Well, Sir, I take it as absolutely correct that every case of a suspect is being looked into by two Sessions Judges nowadays, and after the cases are examined by two Sessions Judges, they are sent to the Deoli camp or to other places as State prisoners. I had an opportunity of reading some portions of the Rowlatt Report, a report which was regarded as most reactionary in those days but which is regarded as something better than the present measures taken by the Government now, so far as these detenus are concerned. The Rowlatt Report—

THE HONOURABLE MR. BIJAY KUMAR BASU: That is ancient history.

THE HONOURABLE MR. VINAYAK VITHAL KALIKAR: Unfortunately we have to deal with ancient history. We have to deal with the terrorists for the last 30 years. We cannot do without it.

On page 207, the Rowlatt Committee which was appointed to examine this question and which exhaustively examined this question made a recommendation about the ways of dealing with the cases of these suspects. They say:

“The duty of the investigating authority will be to inquire *in camera* upon any materials which they may think fit and without being bound by rules of evidence. They should send for the person and tell him what is alleged against him and investigate the matter as fairly and adequately as possible in the manner of a domestic tribunal”.

If my information is correct, this procedure is not being followed nowadays. The cases of these suspects are being examined by two Sessions Judges behind his back without giving him any opportunity whatsoever of meeting the charges against him, and on the recommendation of those Judges the Governor in Council makes an order and puts him in the Deoli camp or somewhere else.

THE HONOURABLE MR. BIJAY KUMAR BASU: The order is passed before the Judges look into the case?

THE HONOURABLE MR. M. G. HALLETT: Sir, may I again correct the Honourable gentleman to avoid any confusion on this point? He suggested

that the accused had no chance of making a reply to the allegations made against him. Section 9 of the Bengal Criminal Law Amendment Act, 1930, says :

“ \* \* \* The Local Government shall place before two persons, who shall be either Sessions Judges or Additional Sessions Judges having, in either case, exercised for at least five years the powers of a Sessions Judge, or Additional Sessions Judge, the material facts and circumstances in its possession on which the order has been based or which are relevant to the inquiry, together with any such facts and circumstances relating to the case which may have subsequently come into its possession, and a statement of the allegations against the person in respect of whom the order has been made and his answers to them, if furnished by him ”.

He has an opportunity of giving answers to the charges and those answers are considered by the Judges.

THE HONOURABLE MR. VINAYAK VITHAL KALIKAR : So may I understand that the detenu is given an opportunity of answering the charges made against him ?

12 NOON.

THE HONOURABLE MR. M. G. HALLETT : Yes, Sir.

THE HONOURABLE PANDIT PRAKASH NARAIN SAPRU : 'Of testing the material against him ?

THE HONOURABLE MR. M. G. HALLETT : Of answering the allegations made against him.

THE HONOURABLE PANDIT PRAKASH NARAIN SAPRU : That is, the material is placed before him and he is required to answer that material.

THE HONOURABLE MR. M. G. HALLETT : I cannot quite follow the Honourable gentleman. He will doubtless make it clear in his speech ?

THE HONOURABLE PANDIT PRAKASH NARAIN SAPRU : You may in a general way say to the accused what is the charge against him ; you can also place the material before him and ask him what answer he has to give to the material, whether it is documentary or oral ?

THE HONOURABLE THE PRESIDENT : You cannot expect him to answer without placing some evidence before him. The Honourable Mr. Kalikar.

THE HONOURABLE MR. VINAYAK VITHAL KALIKAR : They further say, Sir, that should such person against whom the charge is made indicate that other persons or any other inquiry may throw light on the matter from his point of view the investigating authority would endeavour to comply with the suggestions if it seems relevant or reasonable. Then, Sir, about the composition of the investigating authority they say :

“ If the functions of the investigating authority are such as we have described, the difficulty of its composition is minimised. For an inquiry in a judicial spirit into facts, knowledge and experience are the requisites. It has been suggested to us that the judicial, the executive and the non-official element should be represented upon the body or bodies in question. Having indicated the functions which we recommend for the investigating authority, we do not feel that we are driven to give our views as to its exact composition. But we think we may say, as based upon the experience gained in the course of our labours, that one member should be a non-official Indian selected for his knowledge of the people ”.

So this recommendation has not been followed and that seems so from the answer to my query given by my Honourable friend just now. The measure is going to be placed permanently on the Statute-book and we are asked to

[Mr. Vinayak Vithal Kalikar.]

support it. By it the citizens of Bengal will be deprived of their liberty for ever. Under it there will be banishment without trial and that too permanently, not for a limited period. Without a trial, without giving the accused an opportunity to prove his innocence, Government want us to support this measure, as if a measure conceived for an emergency and fit for an emergency, should be made permanent. We at least on this side of the House cannot be a party to such a measure. We can understand the difficulties of the Government in an emergency; we can understand the necessity for an emergent measure, but we cannot understand why measures like this should be put on the Statute-book for all time. Then I want to deal with the barring of the powers of the High Courts under section 491 of the Procedure Code. As I have said, it is a kind of *Magna Charta* and Government want to take away those powers permanently. The High Courts have been established by Letters Patent, by His Majesty's Order in Council and the public in India have come to have full faith in the High Courts established by the British Government in India, and if you, Sir, want us to lend our support to the deprivation of the High Courts of their powers, I do not know where we will be stranded. There are certain preventive provisions in the Criminal Procedure Code, sections 108, 109 and 110. You had enacted an emergency measure in 1932 to which the other House gave its support, and not the House alone but the Opposition gave its support, taking into consideration the situation at that time and the necessities of the Government. But in spite of these measures we find that the Government of Bengal have not been able to stamp out this menace. Then it is the duty of the Government of India to tell them openly in clear words that, as you have not been able to put your house in order in 30 years, you should not come to us for assistance by asking us to make this measure permanent.

THE HONOURABLE SAIYID RAZA ALI: Then matters will grow much worse.

THE HONOURABLE MR. VINAYAK VITHAL KALIKAR: I would have been glad if these measures in the last 30 years had improved the situation, and if my Honourable friend Mr. Raza Ali can tell me that by passing this Act this menace would be stamped out permanently, I will be one with him in supporting it. But what I find is that with four measures on the Statute-book during the last 30 years the menace has not been stamped out of Bengal. I am over-zealous, Sir, in guarding the powers of the High Court; and I believe that those who had dealt with criminal litigation in courts will also be over-zealous in guarding the powers of the High Court against interference by the executive. It is merely a substitution of executive action for judicial action and that too, Sir, not as an emergency measure, not for a limited period, one, two or three years, but permanently. As a lawyer, Sir, having some experience at the Bar, I at least cannot see my way to support this kind of measure when all it does is to deprive the High Court of its power. Then, Sir, it has been stated (and I am glad to find it) that other measures for stamping out this menace for ever are required and that the Governor of Bengal is considering the adoption of those measures. I would ask the Government of India to get an explanation from the Government of Bengal on this point as to why they have not adopted these other measures—barring the repressive measures—

to stamp out the menace during the last 30 years? If, as I just now quoted, His Excellency Sir John Anderson says that other measures are required to stamp out this evil, more importance must be attached to bring into effect those measures to stamp out this menace than asking us to put on the Statute-book measures like this permanently. I therefore submit, Sir, that it is not only in the interests of Government but in the interests of Bengal and in the interests of India that instead of adopting such repressive measures they should follow the other course; they should take some other measure, as stated by His Excellency, and they should try to mobilise public opinion in their favour and stamp out this evil. As the present measure takes away the powers of the High Court permanently in order to detain people without trial, I do not see my way to give my support to this Bill.

THE HONOURABLE THE PRESIDENT: There is a notice of amendment given by the Honourable Rai Bahadur Lala Mathura Prasad Mehrotra. That amendment has to be first disposed of before the consideration stage is reached. I shall therefore first call upon the Honourable Member to move his amendment, but I would like to know from the Member in charge if a Select Committee was appointed in the Lower House. I understand that a Select Committee was not appointed. I must, however, make sure on that point.

THE HONOURABLE MR. M. G. HALLETT: There was no Select Committee in the Lower House, Sir.

THE HONOURABLE THE PRESIDENT: In that case under rule 29 the Honourable Member is entitled to move for the appointment of a Select Committee in this House. I may point out that rule 29 crystallises the traditional practice and procedure of the House of Lords. The Honourable Member is entitled to speak, but this privilege of asking for the appointment of a Select Committee in the Upper House is very, very rarely exercised. This Council was constituted in 1921—it emanated from the Montagu-Chelmsford Reforms—and I have been in this Council from 1921 and as far as my recollection goes, not on a single occasion has this House appointed a Select Committee to reconsider a Bill. I mention this fact to the Honourable Member merely because it is a very small Bill and I find that the reference to Select Committee will cause considerable delay and would hamper the progress of the Bill. Though the Honourable Member has a right to move his amendment, I wish to point out to him that clause 2 is the only matter for consideration and the question whether this Bill should be made permanent or limited for a fixed period of three or seven years and this can be more usefully and expeditiously discussed and threshed out by the whole Council here today than by a reference to a Select Committee.

With these observations, I would ask the Honourable Member to consider whether he desires to move his amendment?

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA (United Provinces Central: Non-Muhammadan): Sir, I make this Motion and place my arguments as to why I want the Bill to be referred to a Select Committee and then Honourable Members will be free to decide whether this Bill is worth referring to a Select Committee or not. Sir, I beg to move:

“That the Bill be referred to a Select Committee of this House.”

[Rai Bahadur Lala Mathura Prasad Mehrotra.]

We are very thankful to you, Sir, for giving us the history of the case and saying that no Bill which had been passed by the Legislative Assembly has been ever referred to a Select Committee here; the reason is, Sir, that the other House is always zealous of its rights and privileges and always takes the opportunity of referring Bills to Select Committee.

THE HONOURABLE THE PRESIDENT: I am afraid you have entirely misunderstood my remarks. I did not say that this House has no right; the House has the right under rule 29 framed under the Government of India Act, but I merely stated that this privilege is very rarely exercised in the House of Lords, and so far as my knowledge goes it has not been exercised in this Council up to now and I therefore invited you to reconsider your decision.

THE HONOURABLE MR. P. C. D. CHARI (Burma: General): It has been exercised on one occasion.

THE HONOURABLE THE PRESIDENT: I said to the best of my recollection. I would like to know on which occasion it was done?

THE HONOURABLE MR. P. C. D. CHARI: On a Bill amending the Hindu Law in regard to the rights of Hindu women. There was a Bill which was passed there without a Select Committee in the Assembly and we had a Select Committee here.

THE HONOURABLE THE PRESIDENT: If a Select Committee had been appointed in the originating Chamber, there could not have been a Select Committee in this House, and therefore I am afraid your impression is incorrect.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Sir, I was saying the same thing and though this House has got a right to refer Bills to a Select Committee, Bills have not been referred under rule 29.

THE HONOURABLE THE PRESIDENT: Rule 29 does not apply to the lower House; it applies to the upper Chamber.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA: Rule 29 says:

“Any Member may (if the Bill has not already been referred to a Select Committee of the originating Chamber or to a Joint Committee of both Chambers, but not otherwise) move as an amendment that the Bill be referred to a Select Committee, and, if such motion is carried, the Bill shall be referred to a Select Committee and the Standing Orders regarding Select Committees on Bill originating in the Chamber shall then apply”.

Sir, I am referring to the same rule. This Bill was not referred to a Select Committee in the originating Chamber and therefore I am taking the opportunity for referring it to a Select Committee in this House. We all know that it is on very rare occasions that Bills are referred to Select Committees from this House, because all the Bills that come here have the Select Committee stage in the originating Chamber. Now, the question is whether it is worth while to refer this Bill, as it has been called a very simple measure having only two sections, to a Select Committee or let the whole House be formed into a Select Committee and discuss the Bill on the floor of this House. Sir, the Bill is very

simple but it depends upon other Bills which in no way can be called so. It depends upon the Bill that was passed in 1932 by both the Chambers and then it refers to a local Bill, I mean the Bengal Criminal Law Amendment Act that was passed in 1930. Unless one reads the two Acts together with this Bill he cannot come to a right conclusion what this Bill implies. Sir, the Bengal Criminal Law Amendment Bill has not been supplied to us and I understand, Sir, that there are very few copies in the Library. I do not know, Sir, why the Assam Criminal Law Amendment Act, local as it is, has been supplied to us together with the Bill that was placed on the table yesterday. I would request you, Sir, as the guardian of the rights and privileges of this House, that the local Bill of Bengal ought to have been similarly supplied with this Bill to enable the Members to go through it and come to the right conclusion. So, Sir, if this Bill is referred to Select Committee the Members will have a chance of going through all the three Bills and formulate their opinion. Then, Sir, this Bill is also very important although it looks very simple because it infringes the rights of the High Courts and was discussed in the lower House at great length that it goes against the Habeas Corpus Act. Under that Act the High Courts with their Letters Patent have the right to call any member and ask him to produce evidence before them to come to the conclusion whether he has been rightly detained or not. Sir, this Bill, though it looks very simple, infringes that very important Act, and it also nullifies the effect of section 491 of the Criminal Procedure Code. In that section similar powers have been given to every man who can redress his wrong if wrongfully detained by making a representation to the High Court and producing the evidence. So, Sir, my contention is that the Bill is not so simple as it looks and it certainly requires a thorough examination in Select Committee. Then, Sir, there is another important feature of this Bill and it is this that it wants to give permanency to an Act which was in the first instance introduced for three years only. Now, this is a very important question and it should have been discussed thoroughly in Select Committee, that is whether permanency is to be given to the Bill or its life should be extended for two or three or four years. In Select Committee the Members can have a heart to heart talk and there is always a chance of coming to a compromise with the Government and therefore if this Bill is referred to a Select Committee I am sure some solution may be arrived at which may be acceptable to all the Members and the Bill may be passed without any dissentients.

Sir, this is what I have to say so far as the Motion for reference to a Select Committee is concerned, and with these words I move :

"That the Bill be referred to a Select Committee of this House."

THE HONOURABLE THE PRESIDENT: Motion moved :

"That the Bill be referred to a Select Committee of this House."

The debate will now only proceed on this amendment.

\*THE HONOURABLE MR. BIJAY KUMAR BASU (Bengal: Nominated Non-Official): Sir, it seems to me that my Honourable friend Rai Bahadur Lala Mathura Prasad Mehrotra has moved his Motion about the reference of this Bill to a Select Committee more for jealously guarding the rights of this House and its privileges than really for some legislative purpose—

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\* Speech not corrected by the Honourable Member.

THE HONOURABLE RAI BAHADUR LALA MATHURA PRASAD MEHROTRA : I have given more reasons than that.

THE HONOURABLE MR. BIJAY KUMAR BASU : I know you have and I am going to deal with them. The first reason that he gave us was that the right of *habeas corpus* has been infringed and the rights of High Courts to interfere on that ground would be infringed if this Act were to be passed and that matter has to be more thoroughly discussed in a Select Committee than in this House to come to a definite opinion whether this House should allow that sort of interference with the High Courts' powers. If I may remind my friend that this very matter was discussed almost threadbare and if not threadbare certainly discussed very fully in 1932 when this Bill, the Bengal Criminal Law Amendment Bill, came up for discussion before us. Questions were raised whether it was within the competence of the Indian Legislature to take away the right of *habeas corpus* and on which, if I remember rightly, decisions were quoted as far back as from 1870. The second question that my Honourable friend wants to deal with in Select Committee is whether this Bill should have a time limit or be of a permanent character. Then, again, that question, my friend thinks, would be better discussed in a Select Committee than in this House. I have not as yet found any reason why that question cannot be thoroughly threshed out on the floor of this House.

As regards permanency, Sir, we have been talking of this feature being a permanent feature on the Statute-book as if anything permanent can be done by human actions. If no time limit is put today on this measure it is open to the Legislature hereafter to repeal it. Where is the permanency? If, for example, we have law and order as a transferred subject in Bengal at the next reforms, and if it is in charge of a minister who is responsible to the Legislature, and if they think that they can take the responsibility on their shoulders about terrorists, it would not take them two seconds to repeal this measure if they think that they can do without it. Therefore, Sir, talking of permanency I see no great reason why that question cannot possibly be tackled on the floor of this House.

Another point that was raised by my Honourable friend which is really the sheet anchor of his argument is that there was a possibility of a compromise with the Government if they have a Select Committee. My Honourable friend ought to have known by this time that on any measures of this kind which they have been pleased to call repressive—and my Honourable friend Mr. Hallett would certainly not like that expression to be used in these matters—there can be no compromise with the Government. The Government will not enter into any compromise whatever Select Committees you may form.

THE HONOURABLE MR. M. G. HALLETT : Sir, I can see no advantage in a Select Committee. The only advantage which I thought might accrue from a Select Committee is that it will consist of a few Members of this House and this will enable the others to go away and devote themselves to their own work. The Honourable Member however adopts a new procedure and proposes that the Select Committee should be a Select Committee of the whole House. The disadvantage of having a Select Committee would be, I understand, that you, Sir, will not be able to take the Chair. As the Honourable Mr. Basu has

pointed out, all these matters can be considered very easily on the floor of the House in full session. They have been considered previously in 1932 and they can do so again now. A Select Committee is usually formed only to discuss the details of an elaborate measure. This Bill contains only one section.

Sir, I oppose the amendment.

THE HONOURABLE THE PRESIDENT: Amendment moved:

"That the Bill be referred to a Select Committee of this House."

The Question is:

"That that amendment be made."

The Motion was negatived.

THE HONOURABLE THE PRESIDENT: The debate will now proceed on the original Motion.

THE HONOURABLE NAWAB MALIK MOHAMMAD HAYAT KHAN NOON (Punjab: Nominated Non-Official): Sir, the Bill we are discussing is not a new law. The Bill proposes to prolong the life of the existing law, and therefore I think we need not discuss its principles, because they were fully discussed two years ago. Sir, the main Act to which this Bill is supplementary was passed by the Bengal Legislative Council by a preponderating majority of 63 to 12, and I am sure that these 63 included a large number of elected Members. My Honourable friend Mr. Kalikar said that at the Deoli camp the authorities were more strict towards the detenus than in the detention camps in Bengal. The reason is obvious. The more dangerous detenus than those who are kept in Bengal are sent to Deoli. Then he said that when the "so-called" repressive measures have not succeeded in stamping out this terrorist movement from Bengal, what was the good of extending their life or re-enacting them. To this, I will simply repeat what was said in another place the other day.

THE HONOURABLE THE PRESIDENT: May I draw the attention of the Honourable Member to the fact that he is not entitled to refer by name to any remarks made this session in the other House?

THE HONOURABLE NAWAB MALIK MOHAMMAD HAYAT KHAN NOON: I will not make any distinction between the so-called political crime and ordinary crime. Murders are committed in the country. We have got a law in the country prescribing death sentence for murder. Now, the law has been in force for a long time and still murders are committed every day. Does it follow that because the capital punishment has not succeeded in stopping the commission of murder in the country, you should do away with the punishment? This is the very simple reply to his argument.

It was then said that one would not like to see such repressive laws under English rule. That is true, but I would certainly add a further sentence and say that I also would not like to see open-day assassinations under English rule.

Objection has been raised to the fact that this Bill is being given a permanent place on the Statute-book. I do not see much force in this objection.

[Nawab Malik Mohammad Hayat Khan Noon.]

As soon as the necessity for this law disappears it can be repealed. Why should we bother ourselves about the life of the Bill now? As soon as it becomes unnecessary it can be repealed. Why should we say that it must be limited to only three or four or five years? Our last experience shows that three years did not suffice and so this matter has been brought before the Council again.

Sir, I support the Bill.

THE HONOURABLE PANDIT PRAKASH NARAIN SAPRU (United Provinces Southern: Non-Muhammadan): Sir, the position as I understand in regard to the Bill is this. The Bengal Legislative Council has recently passed a measure by which the Bengal Criminal Law Amendment Act has become a permanent measure. The Bengal Government want certain further powers. Those powers can only be given to them by the Central Government. They have therefore approached the Central Government to give them certain powers which they consider necessary, and they want those powers to be given to them permanently. The Bill which has just been introduced seeks to give permanency to legislation passed by this Council. That legislation empowers the Bengal Government to direct that any person arrested or detained under the Bengal Criminal Law Amendment Act shall be committed for custody to any jail outside Bengal, and it also bars the jurisdiction of the High Court under section 491 of the Code of Criminal Procedure; that is, it deprives the subject of the remedy known as the writ of *habeas corpus* in cases which come under the provisions of this Act. And all this is to be done not temporarily but permanently. Sir, it is relevant therefore to enquire who these detenus are who are going to be deported out of Bengal. They are men who have not been tried by any court of law. They are men whom the executive Government suspects; they have not been given any opportunity of clearing themselves; no charge has ever been framed against them in a court of law or before a duly constituted legal authority; no opportunity has been given to them of meeting the case against them. In fact, as the Honourable Home Secretary suggested, the whole principle of the Bengal Act is detention without trial. That is the purport of what he said. It substitutes the reign of executive discretion for the reign of law. The question that we, as an all-India body, a body which is in a position to take an all-India view of the matter, have to consider is whether we shall be justified in empowering the executive to impose a heavier punishment upon those who have not been tried or convicted by a court of law than is meted out to a criminal who has been tried or convicted. For the power of detention outside Bengal—I want to emphasise this point—would really amount to giving the executive the power to impose upon them a punishment which would be analogous to transportation. Speaking for myself, Sir, I say that the whole principle of trial without detention, the whole principle of giving punitive punishment to a man who has not been found guilty by a duly constituted court of law is wrong. It is impossible to regard men who have not been convicted and found guilty by a court of law as confirmed criminals. They may be guilty of what the executive suspects them or they may not. We do not know. All that we do know is that they are not men who have been found guilty by a court of law. Now, Sir, it daily happens that a man is prosecuted by the police, convicted by the trial court and acquitted

honourably in appeal by the appellate court. It is not unusual for Sessions Courts, which have had the opportunity of hearing witnesses and watching the demeanour of those witnesses, to be upset by the High Court. There have been occasions when the High Court has been reversed by their Lordships of the Privy Council, which, as their Lordships have explained in DeLetts' case, is not a court of criminal appeal. I will remind you of only two cases. One was a case which went up from Madras, and in that case the Privy Council reversed the judgment of a very distinguished Member of this Council, because the High Court had in recording certain inadmissible evidence violated what they called the principles of natural justice. The other was a recent case in which the judgment of the Patna High Court was reversed.

**THE HONOURABLE SIR DAVID DEVADOSS :** In the first case it was not on a point of evidence that their Lordships interfered, but on the point of law that inadmissible evidence was admitted.

**THE HONOURABLE PANDIT PRAKASH NARAIN SAPRU :** That is what I said. The rule they have laid down is that they will only interfere where there has been a failure of natural justice. That was a rule laid down in DeLetts' case, and they have followed it consistently. The point I wish to emphasise is that the possibility of error cannot be eliminated even in cases in which the accused has had a fair trial before ordinary courts of law. If courts of law can go wrong and have to be corrected by superior courts, where is the guarantee that the Bengal Government will not? I have no doubt that the Government of Sir John Anderson examines these cases most carefully. I have no doubt that the investigating authorities investigate these cases most carefully. But after all they base their opinions on the material before them and if the material is defective or incomplete there can be no guarantee that a judgment based on that material is correct. It is therefore a presumption which we on this side, at any rate I, cannot accept that those whom the executive Government suspects are necessarily guilty. As lawyers we know that it often happens that the circumstantial evidence against a man is very strong and yet when he is put on trial he is able to give a satisfactory explanation of those circumstances and is acquitted. The principle of detention without trial is bad and it follows from this that men who have been detained on suspicion should be treated differently from those who have been convicted by a court of law. Now, Sir, I find that the view which I have just stated is supported by the Rowlatt Committee. They distinguished between what they call punitive measures which they reserved for those who had been convicted by a court of law, and other special or ordinary and preventive measures, extending to power to arrest, search under warrant and confinement in non-penal custody. They laid down certain safeguards in paragraph 189 of their Report regarding preventive action. I will just invite your attention to it, Sir :

"No interference with liberty must be penal in character. Nothing in the nature of conviction can be admitted without trial in strict legal form. If in the supreme interests of the community the liberty of individuals is taken away, an asylum must be provided of a different order from a jail".

And they went on,

"Any interference with liberty must be safeguarded by an inquiry which, though circumstances exclude the possibility of its following forensic forms, must be judicial in the sense that it must be fair and impartial and as adequate as it can be made".

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I know that there is a provision under section 30 of the Bengal Criminal Law Amendment Act for an inquiry, but the inquiry contemplated by the Rowlatt Committee was of a different character, because the Rowlatt Committee had come to the conclusion that one member should be a non-official selected for his knowledge of the people. Now, Sir, the new enactments which the Bengal Criminal Law Amendment Act supplements and which we are asked to complete by providing punitive punishment does away with these necessary safeguards suggested by the Rowlatt Committee. What you are proposing is that the Bengal Government should be given power to take a comparatively extreme form of punitive action against men who have not been tried and whose cases have not been investigated by an investigating authority such as was contemplated by the Rowlatt Committee. Speaking frankly, that is a power which I think we should not be justified in giving.

I proceed, Sir, to consider the arguments the Government puts forward for the proposed power of detention outside Bengal. Detention outside Bengal is not a necessary corollary of an Act which empowers the executive to detain without trial, which substitutes executive discretion for judicial judgment. There is no logical connection between that Act and this. You may detain a man without trial and yet you may not send him outside his own province. Indeed, I would point out that in the discussion on the Bengal Act, as far as I have been able to discover, not a word was said which might have suggested to any one that Government were contemplating to remove the detenus outside Bengal and confine them in Dooli. The official argument for detention outside Bengal is that it is difficult to segregate effectively these hardened prisoners, that their presence has a bad effect upon the less confirmed criminals. I would only point out that that is not the argument which has always been put in the forefront and there has been some shifting of ground. At one time emphasis was laid on the congestion in Bengal jails. Fortunately civil disobedience is over now and there are not many civil disobedience prisoners in jails now. That reason no longer holds good and emphasis is now laid on the fact that conditions will not improve unless these men are segregated. I do not understand this, Sir. These men are kept in prisons. I suppose they are subject to prison regulations and prison discipline? Bengal is a big province and surely there must be some place in Bengal where these men can be segregated and kept apart from the less dangerous criminals. They cannot interview any one they like. Then, what is the difficulty? How can they get into touch with others and how will they, by remaining in Bengal, corrupt others? I confess, Sir, I have not been able to follow this part of the argument of the Honourable Home Secretary, and assuming that the Bengal Legislative Council think that detention without trial is necessary in the interests of Bengal, it does not follow that the men detained should be deported to provinces other than Bengal. It will be said, Sir, "What does it matter where you detain them if detain them you must?" Now, Sir, as lawyers we know that transportation is a heavier punishment than ordinary rigorous imprisonment and I think it is a very serious thing to ask us to agree to this form of imprisonment in the case of men who have not been convicted by a court of law or duly constituted judicial authority and who have not been given adequate opportunity of clearing their conduct. I think it does matter to a man whether you imprison him in the province in

which he is born and to the climate of which he is accustomed, or outside. I can hardly believe, Sir, that the Bengal Government cannot make adequate arrangements for their detention and if that is really the case, then I say in all humility and with all respect that there is something wrong with that Government. If these men are really, as you suggest, deep in the terrorist conspiracy then at any rate the other provinces are entitled to say, "Keep us clear of this contagion" and it is a point of view which we of other provinces would be well justified in pressing. Sir, there is no one in this House who does not hate, detest, condemn assassination. Murder is murder, whatever the motive of the murderer. Discussions about motive are entirely irrelevant and mischievous. It cannot and ought not to extenuate the offence. I would be deeply grieved if my country or my countrymen were ever to condone or sympathise with murder. We, on this side of the House, look upon human life as sacred. We do not wish our young men and our young women, with their high ideals of all that womanhood should stand for, to be brought up in an atmosphere of secret conspiracy, murder and terrorism. I would not have the freedom of my country even if it were possible to do so which fortunately it is not, by murder, and I think we cannot too severely condemn the terrorist and all that he stands for in the life of the community. But while there is no difference between us and you on the question of the end, there is difference on the question of the proper method to be adopted in dealing with terrorism. I was reading the other day a speech by that great and distinguished Liberal, Mr. Asquith—I prefer to call him Mr. Asquith—on the Irish reprisals and I came across a sentence there which sums up my position. I find, Sir, he said :

"It is all important that the executive should stamp out murders and terrorism, but in the performance of that task the means are almost, if not quite as, important as the end".

Sir, I would in all humility say that the means should be such as a wise and just Government would be justified in adopting. Your real difficulty in Bengal is that you have not the support of public opinion in the measures that you are taking notwithstanding that an unrepresentative Legislative Council has passed by an overwhelming majority the present measures, and public opinion feels alienated from you because it is not convinced that you are adopting the proper method of dealing with terrorism. I have often heard it said by respected Bengali friends—and I have a large number of Bengali friends—friends who have no sympathy with terrorism, Government servants, friends who in politics are much less advanced than I am, that what is keeping alive the terrorist movement in Bengal is the policy of which this Bill is the visible embodiment. May I explain this a little? You have armed yourself with measures of extraordinary severity, measures which deprive a man of all judicial safeguards. You arrest a man, keep him indefinitely without trial, give him no opportunity of explaining or clearing his conduct. You take him away from his home to some other province and his friends and relations find it difficult to meet him. You do all this no doubt in, according to you, the best interests of the province, but you also by this antagonise his friends and relations, for while you are convinced that he is guilty and your informers are right, his friends and relatives are not, and the result is that you keep alive the atmosphere in which anarchism thrives. You are not fair to the distinguished officers who have to administer the law. I have no doubt that most of them are men of fine sensibility, but when they have to administer a law like

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this, they make themselves unnecessarily unpopular with the people and become targets of attack by assassins and murderers. Put down terrorism by all means—you are entitled to our fullest support in putting it down—but do it by means which public opinion can support and which public opinion can recognise as just and humane.

I have said enough to indicate that I dissent most strongly from the main principle underlying this measure. A measure like this which suspends constitutional guarantees, which places vast discretionary powers in the hands of an irremovable executive, the power in effect of transportation, can only be justified, if at all, as an emergency measure, for a very temporary and limited period in the interests of the safety of the State. But your emergency is a permanent one. You do not visualise a time when you will be able to do without a measure of this character and you wish it to be placed permanently on the Statute-book of the land. It is a painful conclusion for any Government to have arrived at and it is a conclusion which ought to make one pause and think. You yourself say that the situation is a little more under control than it was before. If it is better now, why do you assume that it will not improve in a few more years and why do you then not think that in a few years you will be able to do without these measures? Your argument is that if the law is not placed permanently on the Statute-book the terrorists will be heartened. Now, Sir, I do seriously think that there is not much force in this argument. The terrorist knows that both Government and society—I include society because I know that we Indians are pledged to peaceful methods only and do not wish our fair name to be tarnished by murder and assassination—are determined to stamp him out and I can hardly believe that he would get heartened by the mere fact that the measure has not been made permanent. Sir, it has been said that there is no such thing as a permanent measure—and any measure can be repealed if the situation improves. We know what difficulties you have in repealing a measure. I have said that the conclusion you have to come to, namely, that you

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can only govern Bengal by extraordinary measures of a permanent nature, is one which ought to make us pause and think. I belong to a school of politics which believes that when you have serious trouble in the body politic, you must look beneath the surface and discover the causes which have given rise to it. It might seem strange that in a world dominated by Fascist and Communist ideas, I should still believe that it is the application of liberal principles which will enable us to find a solution of our problems. Sir, I was looking up that illuminating document—the Rowlatt Report—for the causes of this terrorist movement in Bengal. I note that they traced it to the Partition of Bengal and the passions which that decision roused. I note, Sir, that my Honourable friend, the Home Member, has not thrown much light on the causes that have given rise to this movement in Bengal. Why is it that in Bengal terrorism has found a congenial soil? What can we or what should we do to change the environment under which it thrives? Is its continuance due to political or economic causes, or is it due to a combination of both? Sir, I would suggest that, in order to find a permanent remedy for it, it is necessary to have some understanding of its deeper causes. I am glad to note, Sir, that Sir John Anderson realises this and is

determined to evolve, what ought to have been evolved long ago, a constructive policy, a policy which will keep the minds of the unemployed youth away from terrorism. It is necessary to administer the law firmly—and I do not deny this—but I would say this. A mere policy of negation has not succeeded anywhere and while stamping out terrorism by all the legitimate means open to it, it is but right and just that Government should remove the grievances which keep it alive in Bengal. Sir, the only effective safeguard against a revolutionary movement is a bold and courageous policy of political, social and economic reform. That is the policy which will enable you to carry with you the reasonable—and I believe the vast majority of the people of this country are reasonable—section of the community, and that is the policy which will create an atmosphere in which it will become impossible for the terrorist to work.

I will now proceed to consider what from my point of view are the most serious objections to the law being placed permanently on the Statute-book. Sir, the executive in this country is an irremovable one. It is not responsible to the Legislature. We have no means of controlling it, of censuring it, or of exercising supervision over it. The laws which we pass will have to be administered by this executive. I have no doubt that most of the men who will administer this law are excellent people but, Sir, their point of view and ours is not always identical. What you are asking us to do is to vest an irremovable and irresponsible executive—an executive the head of which possesses the completest powers of affirmative, negative and preventive powers of legislation—with vast discretionary powers. By doing this we shall be permanently depriving ourselves of such opportunities as we have today of criticising the administration of the measures which you ask us to accept as just and reasonable. I have no hesitation in saying that so far as I am concerned I shall be no party to a step of this character.

A further consideration which weighs with me and which I would say ought to weigh with the House is that you are by this measure tying the hands of the new Government which, under safeguards which we do not consider necessary, will have to deal with this menace. You say that law and order will be transferred. You are, by insisting that the measure should be made permanent depriving the responsible government of the future from evolving a policy of its own in regard to terrorism. I do not say that this is the real object of the Bill—but it does strike one as odd that you should be insisting, just on the eve of constitutional changes, on a law of this character being made permanent.

I will now come to the part of the Bill which bars the jurisdiction of the High Court under section 491 of the Criminal Procedure Code in cases in which action has been taken under this Act. Strictly speaking, we have no right of *habeas corpus* in India outside the Presidency towns. The remedy provided by section 491 is a remedy in the nature of a writ of *habeas corpus* and not the *habeas corpus* itself. What a court has to do in cases under section 491 is to inquire as to whether the arrest is legal or not? You have a statute here which empowers you to arrest and detain a man without trial. Now, I am not going to argue that that statute is void or *ultra vires*. That argument, in view of the decision of Their Lordships in several cases, is no longer open to us. The position is that

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there is a statute which give you the authority to arrest, and if a prisoner applies for a writ under section 491, all that the court would do would be to inquire whether his arrest is justified under some law or statute, and whether the procedure prescribed in the statute in regard to arrest has been complied with or not. The writ, as I have just shown, would afford hardly any protection to a prisoner who is imprisoned under the Criminal Law Amendment Act. It would not be open to the Court to call any evidence. The statute would be sufficient to justify the arrest. Why do you wish, then, the jurisdiction of the High Court to be taken away in these cases under section 491? I confess, Sir, I have not been able to follow this part of the Bill at all, and I must register my strong disapproval of this part also.

Sir, I have very little to add to what I have said already. The issue before the House is whether the Act which empowers the Bengal Government to send detenus out of Bengal should be made permanent or not? So far as I am concerned, I have no doubt as to what the answer should be. I shall consider it my duty to vote against the measure, whether as a temporary or as a permanent measure, and I have no doubt in my mind as to the correctness of the step I am taking.

With these words, Sir, I oppose the Bill.

THE HONOURABLE MR. P. C. D. CHARI (Burma : General) : Sir, I rise to oppose the consideration of this measure which I regard as extremely obnoxious and unwarranted, having regard to the conditions obtaining even in Bengal. I have carefully followed the speech which the Honourable the Home Member delivered in the other place on the Motion for the consideration of the Bill and I have listened carefully to the speech made by the Honourable the Home Secretary in moving for consideration here. Sir, I am prepared to accept every statement of fact made therein as correct, and I want you to consider whether having regard to these statements of facts, it is necessary to pass a Bill of this kind? It is made clear that the anarchist movement has been in existence for the last 30 years. For longer or shorter periods there have been various Acts and repressive measures passed against it. Whenever the Government thought they were bringing the movement under control they surrendered the powers taken. As a result of this surrender we are told that Government have discovered the very great blunder which they committed in giving the anarchist movement a new flip and a new start. The official and non-official Members of the Bengal Legislative Council have grown wiser and have placed permanently on the Statute-book this measure by the overwhelming majority of 61 to 15. Let the Bengal Legislature have the satisfaction of having this Act to adorn their Statute-book. I am not questioning the wisdom of the Bengal Legislature. It is their lookout. But I find from the statements made by the Honourable the Home Member and the Honourable the Home Secretary that by exerting unrelenting pressure during the last 18 months the movement has been brought under control in Bengal. It has also been made clear that owing to the senseless attempt on the life of His Excellency the Governor of Bengal, public opinion has been awakened. We are also told that the Bengal Government have not been slow to work upon this public opinion and that they are

trying to harness it to make it the foundation for rooting out this anarchist movement. When the anarchist movement has been brought under control and when public opinion is available, is it not proper that the Bengal Government should be told :

“ Well, rightly or wrongly, you have made the Bengal Criminal Law Amendment Act a permanent measure. You have got all the necessary powers to weed out anarchism from Bengal. You have also got the support of public opinion. You must now be able to make an honest attempt to stamp out anarchism with the powers available to you now. Why should you approach us to pass a measure of this kind ? ”

The facts made out by the Honourable the Home Member in the other place, the Honourable the Home Secretary in this House and the statement of the case for the Bengal Government are enough to condemn their case. We have been told that the very reasons which applied in 1932 would apply today. What was the position in 1932 ? The Bengal Government said in 1932 :

“ We cannot have a campaign against terrorism and at the same time take effective measures to segregate the very dangerous type of political suspects from their family and friends and relations ”.

They had that difficulty. They could have very well come up to the Government of India and said :

“ We cannot be expected to do the two things at one and the same time. Please allow us to send the more dangerous of our detenus to the other provinces. In the meantime we shall wage a ruthless war against terrorism. After we bring the movement under control we may not require this ”.

The Act of 1932 was passed under those conditions as a temporary measure. When they have brought the movement under control, is it not right and proper for us to tell them :

“ You have had time to put your house in order ; you have had time to bring the movement under control ; it is time for you to take the necessary measures effectively to segregate your political detenus in your own province. How can you ask for accommodation in other provinces ? ”

Apart from that, I have got very great objections from the point of view of other provinces. It has been pointed out that it is very difficult in Bengal to prevent these political detenus having communication with people outside or with men in the jail itself. It has also been shown that in remote provinces like Madras, the Bengal detenus were able to communicate with people outside and to hatch a conspiracy. Thus you cannot prevent the very object with which you sent them to other provinces. The only difference by sending them to other provinces will be that instead of hatching a conspiracy in Bengal, they will hatch it in other provinces.

**THE HONOURABLE SIR DAVID DEVADOSS :** They infect the people inside the jail.

**THE HONOURABLE MR. P. C. D. CHARI :** Nobody can say that Madras has ever been tainted with anarchism. The moment some of these political detenus were sent there, there was the infection. Fortunately for us, the Madras Government stamped it out.

**THE HONOURABLE SIR DAVID DEVADOSS :** They infect the people inside the jail. The virus is put into them.

**THE HONOURABLE MR. P. C. D. CHARI :** The people inside the jail are entitled to some amount of consideration. They may be criminals, but you must take care that they are not infected with this spirit of anarchy and terrorist movement. So, from the point of view of the other provinces, I submit it is not desirable that a provision of this kind should be put on the Statute-book. Speaking as a Member from Burma, it is well known that the people of Burma are extremely excitable. It is very easy to foment open rebellion. Such being the case, why should there be a provision enabling the Government of Bengal to send their prisoners to Burma and thereby infect those extremely excitable people with the virus of the subtle, mysterious and subterranean terrorist activities of the members of the terrorist movement in Bengal? So, Sir, speaking on behalf of Madras and Burma, we do not want this infection spread and we strongly oppose it on that ground in addition to those mentioned by previous speakers. I find some inconsistency in the statements of the Honourable Home Member and Home Secretary. We are told the movement has been brought under control, but at the same time they say the anarchist movement has come to stay in Bengal. Whatever reasons there may be for provinces to provide temporary jail accommodation to help a sister province, if it is a fact that the anarchist movement has definitely come to stay in Bengal, the other provinces may very well turn round to Bengal and say :

“ Well, we are very sorry that you have a chronic and incurable disease ; we are quite willing to help you to some extent by giving temporary accommodation to your sick men, but we cannot do it for ever ”.

That is the position of other provinces. (*An Honourable Member :* “ Suggest some other remedy.”) It is for the Government of Bengal to suggest it and to take necessary measures. This is a trouble which the Government of Bengal have to face. The other provinces which are free from this movement ought not to be saddled with any responsibility and ought not to be exposed to dangers of infection. The Bengal Government has got our sympathy but we have to put our own interests first.

My next objection is this. If a certain section of the people of Bengal are secret supporters of the movement, there may be a reason to curtail the powers of the High Court of Calcutta, but why, I ask, should the sins of the sons of Bengal be visited upon the people of other provinces? Why should the powers of the other High Courts be curtailed because some people in Bengal misbehave? I submit that the provision curtailing the powers of *habeas corpus* of the other High Courts is highly objectionable and stands condemned. The Bill is highly objectionable in other respects, as previous speakers have pointed out. It deals with political suspects who must be presumed to be innocent till they are proved guilty in a competent court of law. The Government of Bengal has been given power to curtail freedom of these men, but is it not enough to curtail their freedom and keep them segregated? Why subject them to banishment at a distance in unsuitable climatic conditions and increase the distance between them and their relations and practically deprive them of the right of interviews with their relations? Why should you enrage those *detenus* and goad them and their relations to despair? The Government could not do better than enact a permanent measure of this kind if they wanted

to breed revolutionaries and give a fillip to the anarchist movement. The measure is nothing short of an admission of defeatism on the part of the Government and still more a senseless attack of impotent rage against the terrorist movement.

With these words, Sir, I oppose the consideration of the Bill.

THE HONOURABLE SIR GHULAM HUSAIN HIDAYATALLAH (Bombay : Nominated Non-Official) : Mr. President, my first complaint is that we have been given this Bill only this morning, which contains but two clauses and I do not find on the table of any of the Honourable Members the Acts which we are amending. (*Some Honourable Members* : "I have—from the Library, etc.") I think, Sir, we ought to be shown this courtesy. We ought to be supplied with a few copies at least of the Acts being amended, otherwise it is difficult for us to follow the debate in this House. However, when I heard the mover of the Motion, he made it clear that under the Bengal Criminal Law Amendment Act, 1934, the Bengal Government has the power of detaining any suspects and that Act they have made permanent, and at present the Government of Bengal is asking the Government of India to give them further power to detain the detenus or dangerous terrorists outside Bengal. The question is should this power be given permanently or for some time? The question is whether the terrorist movement in Bengal has ceased to exist or not? Well, I have heard from every quarter that it has not ceased to exist. Therefore the measure is necessary. Why it is necessary the mover of the Bill has told us. If we detain these dangerous terrorists in Bengal they carry on their intrigues and their nefarious activities and communications with their comrades and spoil others also in jail. Therefore it has been found desirable to send them out. Now the argument that has been urged against this Bill by the Honourable Mr. Kalikar is a double-edged argument. He says these measures have been in existence in Bengal for nearly 30 years, but the movement has not ceased. To that my Honourable friend Nawab Malik Mohammad Hayat Khan Noon replied that we have in the Indian Penal Code various sections dealing with dacoities, robbery and murder, and since those crimes are still existing therefore we should excise those sections from the Penal Code because they have not put a stop to dacoity and murder. Another argument of my Honourable friend Mr. Kalikar was that now that the movement has been brought under control there is, therefore, no necessity for this legislation. My reply to him is that if it is under control because of this legislation the necessity for continuing this legislation is all the greater, so that the offenders may know that there are stringent laws to deal with them.

I heard, Sir, the eloquent speech of my Honourable friend Mr. Sapru and my reply to him is that the Government has itself confessed that they are helpless to deal with these dangerous terrorists under the ordinary law. Therefore they have taken special powers. Therefore in taking those special powers if they have infringed the ordinary procedure of the ordinary law, I do not think we can blame them, Sir. Then, another point that my Honourable friend Mr. Sapru raised was this. He says we are on the eve of the new reforms and law and order is going to be a transferred subject. Well, my Honourable friend knows it is very difficult for the Minister to get through any legislation hereafter. I think it is in the interests of the country that we must at present

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strengthen the hands of our future ministers. If the Legislature to whom they will be responsible, if they do not like any of the enactments, they are welcome to repeal them or to amend them. Sir, to my mind though Government may take this power of dealing with these men permanently, yet that is not the only remedy. This disease in Bengal and in most of the other provinces is not merely political but it is economic. Now, Sir, who is responsible for this terrorist movement? I might say my English friends. It is their education. What did they teach us, Sir? Liberty of thought and liberty of action. They have taught the American War of Independence and the French Revolution. Now, when they have taught us all this, they must face the facts as they are and they must meet the aspirations of the people of India. Again, Sir, our educational system is very faulty. Our young boys go to the universities and when they come out there is no employment. Naturally they are human beings; they want something to live upon. They get into the hands of revolutionaries and they follow their methods. Therefore we must improve our educational system also. We must make our educational system such as to enable them to eke out a livelihood for themselves. Now, Sir, what is the difference between the terrorist and the congressman and the constitutionalist? The goal of all the three is the same. But the terrorist is employing different methods. He believes in getting self-government for India by violence; and the congressmen stuck to civil resistance, and that failed. Now, I think it is the duty of the Government to speed up the reforms and strengthen the hands of the constitutionalists; otherwise what will be the position of the constitutionalists in the eyes of the terrorists? They will say "Your civil disobedience has failed, your constitutional methods have failed, and the terrorist method is the right method". I am speaking in the interests of Government—they ought to speed up the reforms and give the country what they want.

THE HONOURABLE SAYYID RAZA ALI (United Provinces: Nominated Non-Official): Sir, at this late hour I do not think I will be justified in making a long speech on the Bill; but the Bill which has been placed before us being of a very important character I think it is just as well if I offer a few observations. Sir, there is not the least doubt that of all the boons conferred by the British Government on India the greatest boon is the boon of liberty. If we compare the British Government of India with previous Governments the great difference, the overwhelming difference, that we find as distinguishing the two is this, that whereas formerly one's personal liberty was not looked upon as sacred, the present system of government attaches sanctity to the personal safety and personal liberty of a person. Now, anything that narrows that sphere of liberty and that sphere of freedom should certainly be opposed with all our might and main. The difference, however, is that liberty should not be allowed, and no civilized government has ever allowed it, to sink to the level of licence. If, Sir, things in Bengal were normal and there was any proposal to put restrictions on the liberty of the people, I certainly would have been among the first to oppose it. That, however, is not the case today. As a matter of fact, if I may be allowed to say so, a certain amount of confusion of thought appears to prevail on the subject as to what is the exact nature of the Bill that is before us. As one who has studied the former Acts with which the present Bill has anything to do, whether they were passed by this Council or

by the Legislative Council of Bengal, I can say that there is no measure before us which proposes to put any restrictions on the liberty of any section of the people of Bengal. Unfortunately, it seems to have been taken for granted by some speakers that the measure before us is of a repressive nature. Now, that is not the case. No doubt Act VII of 1934 which was passed by the Bengal Legislative Council contains provisions that put very considerable restrictions on the liberty of the people. That measure was passed by the Bengal Legislative Council in March last and the only thing that we are being asked to do now is to agree to a number of people who have been interned under the Act of 1932 in Bengal being sent to various provinces in India. That is the only question before us, namely, that if we do not agree to the Bill that is before us, the net result will be that after April, 1935 it will no longer be open to the Government of India to maintain any camp at Deoli or in any other province, with the result that those people, about 500 in number, I believe, who are at Deoli will have to be sent back to Bengal, or if the Government of Bengal fail to make provision for their stay they will have to be released. That is the only thing that we are asked to consider.

Now, Sir, my submission is that our task is very light, namely, the only thing that is before us being of the simple nature I have explained, I do not think we need take very considerable time in considering the question. In this connection, we might also consider that the plea which the Government of Bengal has raised why we should receive these detenus, action against whom has been taken in Bengal, is this. They say that the essence of the whole action that is being taken against the terrorists by Government is effective segregation, namely, those people who are arrested should not be allowed to have any communication with the people outside. They say it is not possible to secure effective segregation in Bengal and therefore if these people are sent to other provinces which had no special facilities of communication with Bengal, then the activities of these persons, against whom action has been taken, will be limited and the epidemic will be segregated. Now, Sir, it seems that that plea is quite good so far as it goes. After all, the best judges in the matter are the Government of Bengal on the question whether they can maintain an effective segregation or not. If they can not, I for one do not see any reason why we, the other provinces, should not help the people and Government of Bengal. I may admit at once that a certain amount of inconvenience and discomfort attaches to a man who is forced to leave his own province and made to live in another province. There is the matter of food, of society, of climate. All these are considerations which certainly lend colour to the view that it is hard for a man to be sent to another province. All the same, Sir, if a proper case is made out, these steps have to be taken against these individuals. In this connection, I might illustrate as to what happens in courts of law in cases where an accused is charged with a non-bailable offence. If it is explained to the court to its satisfaction that if the accused is let out on bail it would lead to the accused by means of force or show of force getting at prosecution witnesses, that always is considered good ground for not admitting the accused to bail. Well, similarly, in the absence of anything to the contrary, these men could have stayed in Bengal. But if their activities are such that it is impossible to prevent them communicating with their political associates, that is a good ground for their being put to additional inconvenience and sent out to other provinces.

**THE HONOURABLE MR. VINAYAK VITHAL KALIKAR :** Well, if that procedure as is followed in the case of non-bailable offences referred to by my Honourable friend is followed I will be satisfied with that.

**THE HONOURABLE SAIYID RAZA ALI :** As I have explained, Sir, on the analogy of this principle, there is sufficient justification for putting these men to the inconvenience of sending them to other provinces, just as a man is not admitted to bail because of certain apprehended activities which are held objectionable. That is the point of analogy. I have made that clear.

Sir, on the main question, I do not think I need say much. As a matter of fact, these young men are misguided. They are very unfortunate young men and it should be the duty of all patriotic Indians to reclaim them. They have according to their own lights taken a short cut to liberty and freedom, namely, they have resorted to terrorism by use of the bomb and the pistol. That is most unfortunate. We know what these misguided young men mean. They think that this is the shortest cut and that by this means they can frighten the British Government and force them into giving India what the terrorist want. I need hardly say that they are very much mistaken. That is not the way to secure self-government. We should do all we can, though Members of this Council can do I am afraid, very little, but surely it ought to be the duty of all of us to explain matters to these young men and to make them see the error of their ways. As has been explained by some of my Honourable friends earlier in the day, the position really is the result of so many forces working in one particular direction. There is the economic question. There is the question of these men being conscious of not getting the rights which they think they should have as sons of the soil. Added to that there is the question of want of careers. A number of our young men are also suffering from the effects of bad education imparted in our schools. The net result is that our young men are lost in this tangle. I must make it quite clear to Government that, while we consider that it is our duty to strengthen the hands of Government and enable them to do all they can to maintain law and order it is at the same time the duty of Government, as my Honourable friend Sir Ghulam Husain Hidayatallah pointed out, to speed up reform and what is more than that to take as early steps as possible to improve the economic condition of the people. I know, Sir, that that is a question with which not only the Government of this country is faced but which is staring in the face of every civilised Government today in the world.

**THE HONOURABLE MR. BIJAY KUMAR BASU :** It is easier to speed up reforms than to give economic relief.

**THE HONOURABLE SAIYID RAZA ALI :** I say do both. Speed up reform. That you can certainly do and you ought to do it at a very early date. At the same time, do find means to improve the economic condition of the people. Without that it will be impossible for these misguided young men to see the error of their ways and to give up their present unfortunate and deplorable activities.

Sir, I support the Motion.

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The Council then adjourned till Half Past Ten of the Clock on Saturday, the 18th August, 1934.