

Friday, 1st April 1932

THE
LEGISLATIVE ASSEMBLY DEBATES

(OFFICIAL REPORT)

VOLUME III, 1932

(14th March to 6th April, 1932)

THIRD SESSION

OF THE

**FOURTH LEGISLATIVE ASSEMBLY,
1932**



CALCUTTA: GOVERNMENT OF INDIA
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Legislative Assembly

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LEGISLATIVE ASSEMBLY.

Friday, 1st April, 1932.

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

MEMBERS SWORN:

The Honourable Mr. Harry Graham Haig, C.S.I., C.I.E. (Home Member); and

Mr. Satyendra Nath Roy, C.I.E., M.L.A. (Government of India: Nominated Official).

QUESTIONS AND ANSWERS.

CLASSIFICATION OF POLITICAL PRISONERS.

1099. *Mr. C. S. Ranga Iyer: Will Government be pleased to state:

- (a) whether any correspondence has passed between the Government of India and any of the Provincial Governments on the question of classification of ex-M. L. As, convicted for their civil disobedience activities or imprisoned under Ordinances and, if so, whether a decision has been reached that they should be treated as "A" Class prisoners, if not, why not;
- (b) whether the Government of India have instructed Provincial Governments to give "A" class treatment to all ladies imprisoned either under Ordinances or in connection with the civil disobedience movement; if not, why not; and
- (c) whether the issuing of such instructions is under contemplation; if so, when will the instructions take effect?

The Honourable Mr. H. G. Haig: (a) There has been no correspondence on the general question between the Government of India and Local Governments. The Government of India ascertained the facts in a particular case from one Local Government.

The classification of convicted persons depends partly on the nature of the offence and partly on the mode of living as determined by social status, education and habit of life. Generally, the classification is the function of the Courts, subject to confirmation and review by the Local Government concerned. This being so, it would be inappropriate for the Government of

India to issue general instructions of the nature contemplated by the Honourable Member. I have no doubt, however, that the fact that the person has been a member of the Indian Legislature or of a Legislative Council is taken into consideration with other facts by the Courts and by Local Governments.

(b) and (c). No such instructions have issued or are under contemplation, since they would be contrary to the principles which, as I have explained, govern the classification of convicted persons.

Mr. C. S. Ranga Iyer: In view of the special circumstances of the case when several ladies are taking part in the political movement, will Government be pleased to reconsider their attitude in regard to the classification of lady prisoners?

The Honourable Mr. H. G. Haig: I think, Sir, that the general principles already laid down after careful consideration some years ago by the Government of India in consultation with the Members of this Assembly are sufficient to meet the case.

Mr. C. S. Ranga Iyer: Will Government be pleased to consider the desirability of classifying political prisoners as political prisoners instead of mixing them up with ordinary prisoners?

The Honourable Mr. H. G. Haig: That, Sir, is an old question which we have been into many times and it has been explained repeatedly that it is not possible to establish a classification for political prisoners.

Mr. C. S. Ranga Iyer: Are Government aware of the disadvantage both to the political prisoners and to the ordinary prisoners in their getting mixed up together?

The Honourable Mr. H. G. Haig: That, I am afraid, is an inevitable accompaniment of the situation.

Mr. C. S. Ranga Iyer: Will Government take early steps to remove this disadvantage both to the political prisoners and to the lady prisoners, and appoint a committee to go into the question and make recommendations thereon?

The Honourable Mr. H. G. Haig: No, Sir. I am afraid Government are not prepared to do that.

Mr. B. Das: Is the Honourable Member aware that in the previous civil disobedience movement all *ex*-Members of the Assembly were put in class "A", but this year some of the *ex*-M. L. A.s have been put in class 'B', particularly Mr. Dwarka Prasad Misra, an *ex*-M. L. A. from the Central Provinces?

The Honourable Mr. H. G. Haig: I think it is the case that normally Members or *ex*-Members of the Legislative Assembly would under the existing principles be put in class "A."

Mr. C. S. Ranga Iyer: Will Government be pleased to state whether the particular reference which the Honourable gentleman was pleased to make about correspondence having taken place between the Government of India and one Provincial Government relates to *ex*-M. L. A. Mr. Dwarka Prasad Misra?

The Honourable Mr. H. G. Haig: I believe that is so.

Mr. C. S. Ranga Iyer: Will Government be pleased to state whether Mr. Dwarka Prasad Misra is at present in class "A" or in class "B"?

The Honourable Mr. H. G. Haig: I understand he is in the "B" class.

Mr. C. S. Ranga Iyer: Will Government be pleased to advise the Central Provinces Government to treat him as an "A" class prisoner in view of the fact that he was a Member of the Legislative Assembly?

The Honourable Mr. H. G. Haig: The Central Provinces Government considered that, in accordance with the principles laid down, he should not be treated as an "A" class prisoner.

Mr. C. S. Ranga Iyer: Is the Honourable Member aware that last year he was treated as an "A" class prisoner?

The Honourable Mr. H. G. Haig: No, Sir.

Mr. C. S. Ranga Iyer: Will Government be pleased to inquire into the matter and ascertain facts from the Central Provinces Government?

The Honourable Mr. H. G. Haig: We have already been in correspondence with the Central Provinces Government and I see no object in pursuing the matter further.

Mr. N. M. Joshi: Have Government considered the evil effects of segregating different classes of prisoners from each other and dividing them into different classes?

The Honourable Mr. H. G. Haig: Is it the Honourable Member's suggestion that all prisoners should be grouped together and treated alike?

Mr. N. M. Joshi: I want to know whether there are no evil effects of segregating prisoners from each other.

The Honourable Mr. H. G. Haig: The present policy is one for which this House must bear equal responsibility with Government.

Mr. Lalchand Navalrai: Will the Honourable Member be pleased to state if these classifications are at present being made by the Government of India or the Provincial Governments or the Magistrates?

The Honourable Mr. H. G. Haig: I explained in answer to the original question that the classification is made by the Courts, subject to confirmation and review by the Local Governments.

Mr. Lalchand Navalrai: Are the Magistrates instructed by the Government to award any particular classes?

The Honourable Mr. H. G. Haig: The function of the Local Government is to confirm and review orders made by the Courts.

Mr. Lalchand Navalrai: My point is, do the Local Governments give any instructions to them previous to their awarding the classes?

The Honourable Mr. H. G. Haig: The general instructions are contained in orders issued by the Government of India and I do not suppose the Local Governments find any necessity to supplement those instructions.

Mr. Lalchand Navalrai: Will the Honourable Member please place those instructions of the Government of India on the table?

The Honourable Mr. H. G. Haig: I think they must have been placed on the table long ago. There was a communiqué of about February, 1930.

Mr. T. N. Ramakrishna Reddi: Will Government take action if the Courts deviate from those rules?

The Honourable Mr. H. G. Haig: I have already explained, Sir, that the Local Governments do exercise a review over the action taken by the Courts.

Mr. N. M. Joshi: Do Government realise that if M. L. A.s are given "A" class, the protection which the other prisoners are likely to receive from M. L. A.s will be reduced in this House?

The Honourable Mr. H. G. Haig: That is a matter of opinion.

Mr. B. Das: Is the Honourable Member aware that lady prisoners from Delhi have been placed in mixed jails in the Punjab and that their health is suffering because they are not allowed to move about in those jails?

The Honourable Mr. H. G. Haig: I cannot follow the question very clearly but it does not seem to me to arise out of the original question we are discussing.

Mr. O. C. Biswas: Is the Honourable the Home Member satisfied with the reception he has got this morning on the assumption of his office? (Laughter.)

SUBSTITUTION OF AIR FORCE UNITS FOR GROUND TROOPS ON THE FRONTIER.

1100. ***Mr. Gaya Prasad Singh:** Will Government kindly state when the Howell Report on the possibility of substitution of Air Force units for ground troops on the Frontier was signed; and why has it not yet been published? When do Government propose to publish it; and what action, if any, has been taken on it?

Mr. G. M. Young: The report was signed a year ago. As regards the other points the Honourable Member's attention is invited to the reply which I gave on the 30th March to Mr. Moore's starred question No. 1071.

Mr. Gaya Prasad Singh: May I know what action has been taken on the report of the Howell Committee? That was not answered.

Mr. G. M. Young: The report of the Howell Committee has not been published. It is not therefore possible to give in full the action taken on the report. In my answer to Mr. Moore's question, I did give a certain amount of information relating to the action taken.

Mr. Gaya Prasad Singh: Is it the contention of Government that they are unwilling to give any information as to what action has been taken by Government or is contemplated to be taken on this report?

Mr. G. M. Young: Obviously not; I did place a certain amount of information on this point before the House the day before yesterday.

Mr. Gaya Prasad Singh: What is the nature of the action which they have taken on that report?

Mr. G. M. Young: I would refer my Honourable friend to the reply I gave on that day.

Mr. Gaya Prasad Singh: Will the Honourable Member kindly repeat that answer if he has got a copy in front of him?

Mr. G. M. Young: I will let the Honourable Member have a copy. The Honourable Member himself put a number of supplementary questions, so I assumed that he had heard my answer.

NON-INTERFERENCE WITH "BUY INDIAN" PROPAGANDA.

1101. ***Rao Bahadur B. L. Patil:** (a) Are Government aware that the Home Member in the Madras Legislative Council said that he would address a District Magistrate and Police Superintendent and ask them not to interfere with the "Buy Indian" work?

(b) If so, are Government prepared to issue special instructions of a similar kind to all the Provincial Governments?

The Honourable Mr. H. G. Haig: (a) I have seen a Press report of a statement by the Home Member, Madras, to the effect that instructions have been issued to District officers not to place obstructions in the way of the legitimate activities of the League.

(b) No. The matter falls within the province of the Local Governments, who are fully aware of the position and are competent to take such action as may be desirable.

GRIEVANCES OF RAILWAY STAFF OF THE HOWRAH GOODS SHED.

1102. ***Mr. Bhuput Sing:** With reference to the reply to starred question No. 406, dated the 17th February, 1932 (regarding grievances of Railway staff of the Howrah Goods Shed), will Government be pleased to state what action, if any, has been taken by the Agent, East Indian Railway; if not, why not?

Mr. P. E. Rau: With your permission, Sir, I propose to answer questions Nos. 1102, 1103, 1104 and 1105 together. I have called for information from the Agent, East Indian Railway, and will lay a reply on the table in due course.

STAFF OF THE HOWRAH GOODS SHED COMPELLED TO GO ON LEAVE ON HALF PAY.

†1103. ***Mr. Bhuput Sing:** (a) Are Government aware that each man of the Howrah Goods Shed (Outward) was compelled to go on leave for 15 days on half pay by rotation during the year 1931?

(b) If not, do Government propose to enquire as to who is the officer who forced the staff to go on leave on half pay and whether the officer concerned compelled the men to go on leave out of his own initiative or due to orders from the Agent; if not, why not?

†For answer to this question, see answer to question No. 1102.

**RAILWAY PASSES GRANTED TO STAFF OF THE HOWRAH GOODS SHED
COMPELLED TO GO ON LEAVE ON HALF PAY.**

†1104. *Mr. Bhuput Sing: (a) Will Government be pleased to state the number of second class passes issued to the staff of the Howrah Goods Shed (Outward) who were compelled to go on 15 days' leave on half pay?

(b) Will Government be pleased to state the money value of the passes issued and the economy effected by compulsory deduction of half of 15 days' pay of those men who travelled on second class passes during their compulsory leave?

ALLOWANCES OF THE STAFF OF THE HOWRAH GOODS SHED.

†1105. *Mr. Bhuput Sing: (a) With reference to the reply given to starred question No. 405, dated the 17th February, 1932, are Government aware that the Sunday allowance enjoyed by the staff of the Howrah Goods Shed (Outward) has been stopped?

(b) Is it a fact that Sunday allowance was sanctioned for those men in lieu of Presidency allowance granted to other staff?

(c) If so, will Government be pleased to state whether the Presidency allowance has also been withdrawn from persons enjoying it? If not, why not?

**ALLEGED RACIAL DISCRIMINATION IN PUNISHMENTS IN THE HOWRAH
GOODS SHED.**

1106. *Mr. Bhuput Sing: (a) With reference to the reply to starred question No. 407, dated the 17th February, 1932, is it a fact that one Mr. R. Blanchet, a Weigh Clerk in the Howrah Goods Shed (Outward), was fined Rs. 5 for being caught while taking bribes?

(b) Is it a fact that one Mr. S. K. Biswas was immediately dismissed for the same offence in the same office?

(c) If the replies to parts (a) and (b) be in the affirmative, are Government aware that this sort of racial discrimination in the Howrah Goods Shed (Outward) is causing much discontent; if not, do they propose to inquire; if not, why not?

Mr. P. R. Rau: I have called for information from the Agent, East Indian Railway, and will lay a reply on the table in due course.

**POSTS WITH SPECIAL PAY IN THE GOVERNMENT OF INDIA HELD BY
NONMUSLIMS.**

1107. *Mr. Uppi Saheb Bahadur: (a) Will Government please state the number of posts in each category, i.e., Superintendents, Assistants, Stenographers and clerks carrying special pay in each Department of the Government of India, and their attached offices, names and nationality of the incumbents holding each of them and the nature of duties for which special pay has been sanctioned?

(b) Is it a fact that almost all the posts carrying special pay are held exclusively by non-Muslims in each Department of the Government of India and attached offices?

(c) Is it also a fact that non-Muslims are in an absolute majority in each Department of the Government of India?

(d) Will Government kindly give the names of Muslims in each category senior to those non-Muslims drawing special pay and the justification for meting out this differential treatment to Muslims?

The Honourable Mr. H. G. Haig: (a) For a statement of the number of posts in each category and the posts carrying special pay in each Department of the Government of India and their Attached Offices, the Honourable Member is referred to the Finance Department Notifications No. D-7806-Ex-1/31 of the 16th November, 1931. I am unable to undertake the collection of the other information which the Honourable Member asks for.

(b) I have not complete information on the point, but I will obtain it and furnish it to the Honourable Member.

(c) Yes.

(d) It will be seen from the notifications to which I have referred in reply to part (a) of the question that generally speaking special pay is attached to the following categories of posts:

(a) Personal assistants to Honourable Members and stenographers attached to Secretaries, Joint Secretaries, and officers of corresponding status in some offices.

(b) Assistants and clerks in charge of sections in certain offices.

(c) Cashiers.

No question of differential treatment arises. Selection for such posts is made on the basis of fitness and not on communal considerations. The collection of the information asked for would therefore serve no useful purpose.

ALLEGED DISCONTENT AMONGST MUSLIM EMPLOYEES IN THE GOVERNMENT OF INDIA SECRETARIAT AND ATTACHED OFFICES.

1108. ***Mr. Uppi Saheb Bahadur:** Are Government aware that considerable discontentment prevails among the Muslim members of the Government of India Secretariat and attached offices on account of:

(i) their very meagre representation in the Secretariat and attached offices;

(ii) their utter exclusion from the appointments carrying special pay; and

(iii) the rejection by the Finance Department of the recommendation of Departments or attached offices for the grant of special pay to their deserving Muslim members?

The Honourable Mr. H. G. Haig: I am aware that Muslim representation in the offices referred to is regarded as inadequate, but as has been pointed out on many occasions, their representation during the past 5 years has shown a steady increase. I must repudiate the suggestion that any discrimination is made against Muslims in regard to selection for posts carrying special pay.

GRANT OF ADVANCE INCREMENTS OR SPECIAL PAY TO MUSLIMS IN THE GOVERNMENT OF INDIA OFFICES.

1109. ***Mr. Uppi Saheb Bahadur:** (a) Are Government prepared to reconsider the cases of deserving Muslims in each Department and attached

Office of the Government of India who are senior to those non-Muslims holding posts carrying special pay and are otherwise very well reported on and compensate them either by the grant of advance increments or by the grant of special pay?

(b) Is it a fact that precedents of the grant of such compensation to non-Muslims exist in the Government of India?

The Honourable Mr. H. G. Haig: (a) Special pay is granted for the reasons set out in Fundamental Rule 9(25). Government cannot accept the suggestion that if a member of the staff is selected to fill a post carrying special pay, those senior to him whether Muslim or non-Muslim should be compensated by the grant of advance increments. Its acceptance would be entirely contrary to the principle which underlies appointment to selection posts throughout the Services.

(b) The reply is in the negative.

AGE OF BABU KHUSHI MOHAMED, LATE CHIEF GOODS CLERK, NORTH WESTERN RAILWAY, FORCED TO RETIRE.

1110. ***Mr. Uppi Saheb Bahadur:** (a) Is it a fact that Babu Khushi Mohamed, late Chief Goods Clerk, North-Western Railway, was forced to retire four years before his time for retirement owing to the wrong entry in his service book?

(b) Is it a fact that for the rectification of the age entry in his service book Babu Khushi Mohamed produced proof of birth certificate duly attested by a Magistrate, a school certificate and also a certificate of the Civil Surgeon of the rank of Lieut.-Colonel?

(c) Is it a fact that four similar Hindu clerks' cases were decided favourably, *viz.*, Babu Tara Chand, Clerk, Agent's Office, Lahore, Babu Wazir Chand, Clerk, C. C. M. Office, Lahore, Babu Budh Raj, P. W. I. and Babu Radha Kishin, Station Master? Is it a fact that age entries in these cases were corrected as a result of which the men in question could continue in service? If so, why was the application of Syed Khushi Mohamed rejected?

(d) Is it a fact that various appeals and telegrams sent by Syed Khushi Mohamed failed to bring any satisfactory reply from the Agent and Railway Board? Will Government be pleased to say whether Railway employees of the class of Syed Khushi Mohamed have any right of appeal against the decision of the Agent? If not, what authority can they appeal to?

Mr. P. B. Rau: I have called for information from the Agent, North Western Railway, and will lay a reply on the table in due course.

SHORT NOTICE QUESTION AND ANSWER.

RECOMMENDATIONS OF THE RETRENCHMENT COMMITTEE REGARDING DAIRYING AND ANIMAL HUSBANDRY DEPARTMENTS.

Sardar Sant Singh: (a) Will Government please state what action they contemplate taking on the recommendations of the Retrenchment Committee regarding the Dairy Department of the Imperial Agriculture Department?

(b) Are Government aware that there is a strong public feeling against the proposed closing down of the Imperial Dairy Institute at Bangalore? Has this Institute proved very useful for providing training to Indian apprentices and for helping in developing the dairy and cattle industry of the country?

(c) In the event of the Bangalore Institute being closed down, do Government contemplate starting a new one anywhere else?

(d) Will Government please state if this kind of training can be given at the dairy farms in charge of the Military Department and whether the Military dairy farms are open to the public at present?

(e) In what ways are the activities of the Dairy Department to be curtailed?

(f) Are Government aware that the public appreciate the useful work done by this Department and that its discontinuance will cause considerable discontent?

Sir Frank Noyce: (a) and (e). I would refer the Honourable Member to page 57 of the Summary of the Results of Retrenchment Operations in Civil Expenditure and in Military estimates, which was circulated to Honourable Members with the Budget papers. As stated in that summary, Government have decided that the Imperial Institute of Animal Husbandry and Dairying at Bangalore and its allied stations at Karnal and Wellington should be retained, but that their activities should be somewhat restricted until financial conditions improve. All experiments in cross breeding with European cattle at Bangalore will be abandoned and attention will be concentrated on breeding high yielding strains of indigenous cattle only. Similarly, work at Karnal will be confined to cattle and that on buffaloes, sheep and goats will be discontinued. The training of students in dairying at Bangalore and its allied stations will continue to be given on the same lines as at present. The Creamery at Anand has been closed from March 1st.

(b) and (f). Government are aware that the valuable work done by the Imperial Institute of Animal Husbandry and Dairying in promoting the development of the dairying and cattle industry in this country has been widely appreciated. Any apprehensions in regard to its discontinuance should be set at rest by the statement I have just made

(c) Does not arise.

(d) I presume that what the Honourable Member wishes to know is whether the Military Dairy Farms are open to the public as schools of dairying. The only men trained on these Farms are the apprentices of the Military Farms Department.

MOTION FOR ADJOURNMENT.

UNSATISFACTORY REPLY OF THE LEADER OF THE HOUSE IN REGARD TO THE EXPEDITING OF THE REFORMS WITH MAHATMA GANDHI IN JAIL.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair has received two notices of motions for adjournment. One is from the Honourable Member, Sirdar Harbans Singh. He proposes to ask for leave to make a motion for the adjournment of the Assembly for the purpose

[Mr. President.]

of discussing an urgent matter of definite public importance, namely, the unsatisfactory reply of the Honourable the Leader of the House regarding the expediting of the reforms with Mahatma Gandhi in jail. The second notice is from the Honourable Member, Mr. B. Sitaramaraju. He proposes to ask for leave to make a motion for the adjournment of the House to discuss the unsatisfactory and disquieting reply of the Honourable the Leader of the House to the short notice question yesterday regarding the attitude of Government towards constitutional reforms for this country awaiting decision.

Before I decide as regards the admissibility of these adjournment motions, I should like to ask whether any objection is taken.

The Honourable Sir George Rainy (Leader of the House): Sir, I should like to confine myself at this stage to the first of the two motions which you have read to the House. My submission is that the matter which it is sought to raise on the motion for the adjournment is not a definite matter of urgent public importance within the meaning of the Standing Order. It will be within the recollection of the House that in the short notice question which I answered yesterday, there was no reference to this question of the release of Mahatma Gandhi, though there was a reference to the question of reforms. That question of the release of Mahatma Gandhi arose only on a supplementary question asked by my Honourable friend, Mr. Ranga Iyer. Now, Sir, when the supplementary question was put, I did at one point say that it did not seem to me that it arose either out of the original question or out of any of the answers I had given, but I did not, Sir, as I might have done, ask you to rule the question out of order on the ground that it did not arise, nor did I ask for notice. The reason why I did not adopt either of these courses was that the matter was one on which the policy of the Government is well-known and on which statements had been made in this House recently, and I therefore indicated that the position of Government was unchanged. What is sought in this motion for adjournment to-day is to say that my reply was unsatisfactory because I did not indicate any change in the Government policy in the way of accepting the suggestion underlying the question. Now, my submission on that point is this, that apart from the question which was put, it would not have been open to the Honourable Member to have raised any question of a motion for adjournment of the House on account of the failure of Government to release Mahatma Gandhi or to take action in that direction—for that is the substantive matter that he has raised,—it would not have been open to him admittedly to raise it but for the question implying a suggestion and the answer given to it. Now, Sir, had I given an answer asking for notice, or had I asked you to rule that the question did not arise, and you had ruled accordingly, then I think it would have been very difficult to bring forward this motion for the adjournment, and the mere fact that, instead of adopting either course I indicated that the policy of Government had already been stated and remained unchanged, is not sufficient to make it become a definite matter of urgent public importance within the meaning of the Standing Order. There is nothing new, there is no new element in the situation. All that has happened is, that my Honourable friend put a question containing a suggestion and my answer is judged unsatisfactory because that suggestion was not at once acceded to. For these reasons.

Sir, I would submit that the motion does not raise a definite matter of urgent public importance within the meaning of the Standing Order. That, Sir, I think, completes the submission I wish to make to the Chair.

Mr. President: Has the Honourable Member, Sirdar Harbans Singh, anything to urge in reply to the objection raised?

Sirdar Harbans Singh Brar (East Punjab: Sikh): Yes, Sir. The Honourable the Leader of the House said that there is no new element in the situation which makes the matter a definite matter of urgent public importance. We have all along been told that His Majesty's Government, before deciding on the reforms, would enlist the co-operation of all parties in India and then decide the whole question of reforms. Yesterday's answer of the Honourable the Leader of the House shows that in December last when the repressive policy was already started, the Government had announced that they were going to expedite the reforms with Congress leaders in jail. So, I submit, that we had that answer from the Government yesterday, and this is the first opportunity when we could raise the question on the floor of the House. This is all I have to say.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, the Honourable the Leader of the House stated that the adjournment motion does not arise because it has nothing to do with the original short notice question put by my friend Mr. Lalchand Navalrai. Sir, the adjournment motion of my friend Sirdar Harbans Singh relates to the unsatisfactory reply of the Honourable the Leader of the House in which he used the expression "expediting of the reforms", which should be taken in the light of the original short notice question. The Benthall circular, and particularly the attitude adopted by Government in the light of that circular, the expediting of the reforms becomes absolutely objectionable because of the imprisonment of Mahatma Gandhi and the determination of the Government to continue that imprisonment. The whole question of reforms and repression, examine in the light of the Benthall circular, introduces a new situation which this House is entitled to consider, and the Honourable the Home Member and the Honourable the Leader of the House will, and I hope, Sir, you will also give due consideration to this fact, that we are not concerned with anything more or less than the answer given on the floor of the House by the Honourable the Leader of the House. The answer is unsatisfactory because he proposes to expedite the reforms in the light of the Benthall circular and with Mahatma Gandhi in jail. That introduces a new feature altogether, and I cannot understand how the Honourable the Leader of the House . . .

The Honourable Sir George Rainy: I think the Honourable Member is unintentionally putting into my mouth words which I did not use. I did not say we wished to expedite the reforms in the light of the Benthall circular.

Mr. C. S. Ranga Iyer: Sir, it is open to this House to take the entire short notice question and the reply of the Honourable the Leader of the House in the light of the Benthall circular. The expediting of the reforms in the light of the Benthall circular with Mahatma Gandhi in prison assumes a new aspect which this House is perfectly entitled to discuss, and the question has no relation whatever to the short notice question, but the short notice question and the reply have got to be taken together and also the supplementary questions put on the floor of the House, which are

[Mr. C. S. Ranga Iyer.]

the property of the House and which were perfectly in order. The Honourable the Leader of the House did not raise a point of order that they were not in order; all these things have got to be taken together, and taking them together, I think, Sir, a definite matter of urgent public importance arises, namely, the expediting of the reforms as suggested in the Benthall circular with Mahatma Gandhi in prison.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which the Chair has to decide is whether the first adjournment motion which arises out of the reply given to a supplementary question is in order or not. The Chair does not propose at this stage to deal with the other motion. As regards the question whether the matter is of urgent public importance or not, the Chair holds that it is a matter of urgent public importance. If 25 Honourable Members regard the answer given to the supplementary question as unsatisfactory, they should be entitled to discuss it. It is for the House itself to decide whether they wish to discuss an adjournment motion on the reply given to one supplementary question or they prefer to discuss the reply given to the whole question. The Honourable the Leader of the House was right in saying that he could have raised the issue when that supplementary question was put. If he had done so the Chair would have decided the point; but he did not raise it; on the contrary he accepted the supplementary question as being in order and replied to it. That point cannot therefore arise on the present occasion. The Chair must therefore hold that the adjournment motion is in order, leaving it to Honourable Members to decide which one they will take up for discussion to-day. As objection has been raised, the Chair requests those Honourable Members who are in favour of leave being granted to rise in their places. As not less than 25 Members have risen I declare that leave is granted and that the motion will be taken up for discussion at 4 P.M. to-day.

Mr. N. M. Joshi (Nominated Non-Official): May I suggest that the second adjournment motion should be taken up for discussion? It would be better.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair left it to Honourable Members to decide. If they had not risen on the first adjournment motion, the second would have been put to the House. The fact that more than 25 Members rose in their seats leads the Chair to conclude that Honourable Members prefer to discuss the adjournment motion arising out of the answer given to a single supplementary question.

STATEMENTS LAID ON THE TABLE.

PRESSES ASKED TO FURNISH SECURITY.

The Honourable Mr. H. G. Haig (Home Member): I lay on the table the information promised in reply to starred question No. 54 asked by Mr. Lalchand Navalrai on the 25th January, 1932.

I place a statement on the table.

The Honourable Member will observe that the information relates to the period up to the 20th January, 1932.

I would remark with reference to part (d) of the question that security is demanded from the keepers and not the proprietors of presses.

Statements showing the action taken by local Governments and administrations against Presses under the Indian Press (Emergency Powers) Act, 1931, up to 20th January, 1932.

Serial No.	Province.	Name of Press from which security has been demanded and date of demand.	Name of Keeper of Press.	Reasons for demanding security.	Whether any warning was given before security was taken.	Remarks.
1	2	3	4	5	6	7
1	Madras	A new press proposed to be started in the South Arcot District (13th November, 1931).	Govinda Gurjall. Rao	His antecedents were reported to be bad. He was previously convicted of an offence under section 143, I. P. C.	..	
2	Bombay	Samrat Vaibhaw Press, Bombay (28th November, 1931).	Govind Narayan Vichare.	The previous keeper of this press was convicted under section 124-A, I. P. C., for printing a seditious booklet entitled "Bhagat Singbacha Powada", i.e., Balled in praise of Bhagat Singh. As the press printed such a book security was demanded from the declarant.	No.	
3	Do.	Hubli Printing Works, Hubli (Dharwar), (12th January, 1932).	Shrinivas Krishna Sagar.	The press was used to print objectionable matter in the past.	No.	
4	Bengal	Hari Press (16th January, 1932).	Amar Nath Mehre	For publishing articles containing words of the nature described in sub-section (1) of section 4 of the Act.	Yes.	
5	Do.	The Indian Daily News Press (16th January, 1932).	Hemendra Narayan Bagchi.	Ditto	Yes.	

Serial No.	Province.	Name of Press from which security has been demanded and date of demand.	Name of Keeper of Press.	Reasons for demanding security.	Whether any warning was given before security was taken.	Remarks.
1	2	3	4	5	6	7
6	Bengal	The Swatantra Press (6th January, 1932).	Mull Chand Agarwala.	For publishing articles containing words of the nature described in sub-section (1) of section 4 of the Act. Ditto	Yes.	
7	Do.	The Excelsior Art Press (19th January, 1932).	Habibur-Rahman	Ditto	Yes.	
8	Do.	The Sakti Press (19th January, 1932).	Makhan Lal Basu	For printing objectionable matter in the <i>Satnāk</i> newspaper.	Yes.	The District Magistrate had verbally warned the previous keeper of the Press.
9	United Provinces	Adarsh Press, Agra (8th January, 1932).	Ramesh Verma	To prevent breaches of the Act. Ditto	No.	No.
10	Do.	Brahma Press, Ekawah (19th November, 1931).	Brahmadeo Sastri			
11	Do.	V. N. Fine Art Printing Works, or V. N. Press, Ekawah (19th November, 1931).	Vedhnidhi Miara			
12	Do.	Fine Art Printing Cottage Press, Allahabad (23rd November, 1931).	R. Saigal	The papers emanating from this press were for the last few months, full of objectionable matter. There have been three prosecutions under section 124-A, I. P. C.		
13	Punjab	Kirpan Bahadur Press, Amritsar (9th December, 1931).	Bela Singh	For printing an article published in the newspaper <i>Kirpan Bahadur</i> praising revolutionaries executed or punished under the law.	No.]	

14	Do.	Virajanand Press, Lahore (6th January, 1932).	Jagat Chopra.	Narain	No.	For printing an article published in the "Punjab Kesari" newspaper advocating the use of organised force.
15	Do.	Khalsa National Press, Jullundur (20th January, 1932).	Balwant (Sewak).	Singh	No.	For printing an article published in "Desh-Sewak" newspaper in praise of Bhagat Singh.
16	Burma .	Swandantiran Press .	S. N. S. Mudaliar		No.	For printing in the "Swandantiran" newspaper words of the nature described in section 4 (1) of the Act.
17	B. and O.	Searchlight Press (7th January, 1932).	Murl Prasad.	Manohar	No.	For publishing articles in the "Searchlight" newspaper within the mischief of section 4 of the Act and read with section 63 of the Emergency Powers Ordinance.
18	Central Provinces .	Lokmat Publishing Company Raja Goundas Printing Works, Limited, Jubbulpore (18th January, 1932).	Dwarkan Mira.	Prasad	No.	For printing in the "Lokmat" newspaper an article containing words actionable under the Indian Press (Emergency Powers) Act read with section 63 of the Emergency Powers Ordinance.
19	Do.	Rajasthan Printing and Litho Works, Limited, Akola, (12th January, 1932).]	D. S. Abhyankar		No.	For printing an article in the "Matra Bhumi" newspaper dated 7th January, 1932 which was actionable under the Act and section 63 of the Emergency Powers Ordinance.

Serial No.	Provinces.	Name of Press from which security has been demanded and date of demand.	Name of Keeper of Press.	Reasons for demanding security.	Whether any warning was given before security was taken.	Remarks.
	2	3	4	5	6	7
20	Central Provinces .	Yeotmal Press, Yeotmal (18th January, 1932).	Hanmant Vyanketesh Havaldar.	For printing in "Lokmat" newspaper an article containing words of the nature described in sub-section (1) of section 4 of the Act, read with section 63 of the Emergency Powers Ordinance.	No.	
21	Do. . .	"The Arjun Press" Amraoli (20th January, 1932).	B. G. Khaparde .	For printing in "The Udaya" newspaper an article which offended the provisions of the Act read with section 63 of the Emergency Powers Ordinance, 1932.	No.	
22	Delhi . . .	The Imperial Fine Art Press (16th December 1931).	Mangal Sen .	For publishing photos of Bhagat Singh.	No.	
23	Do. . .	Congress Press (23rd December, 1931).	Danesh Bhargava	For printing objectionable books containing words of the nature described in section 4 (1) of the Act.	No . . .	Security was demanded from L. Manohar Lal, keeper of the Press and was deposited by his successor Danesh Bhargava.
24	Do. . .	Rajindra Printing Press (30th December, 1931).	Virendra Singh Verma.	Ditto . . .	No.	
25	N. W. F. P. . .	Lakshmi Art Steam Press (8th January, 1932).	Sant Ram (Manager).	For printing a seditious publication.	More than once.	

SUCCESS OF CANDIDATES IN ACCOUNTS SERVICE EXAMINATIONS.

The Honourable Sir George Schuster (Finance Member): I lay on the table the information promised in reply to starred question No. 784 asked by Bhagat Chandi Mal Gola on the 14th March, 1932.

(a) No. The result of the ordinary branch was 11 per cent. of passes.

(b) The markedly lower percentage of passes than usual this year is due to the comparatively large number of failures in two very important subjects, viz., the Public Works Account Code, Fundamental Rules and Civil Service Regulations papers and to the allotment of grace marks on a scale more restricted than in the past.

LEAVE FOR SUBORDINATES OF THE BENGAL AND NORTH WESTERN RAILWAY.

Mr. P. B. Rau (Financial Commissioner, Railways): I lay on the table the information promised in reply to unstarred question No. 124 asked by Mr. N. R. Gunjal on the 4th March, 1932.

The Agent, Bengal and North Western Railway, reports that the relieving staff maintained is adequate for requirements, and that the suggestion in (b) is without foundation.

ALLEGATIONS REGARDING POLITICAL PRISONERS IN THE NORTH-WEST FRONTIER PROVINCE.

Sir Evelyn Howell (Foreign Secretary): I lay on the table the answer to the supplementary question asked by Dr. Ziauddin Ahmad in connection with starred question No. 62 asked by him on the 26th January, 1932, regarding "Political Prisoners' Grievances" as published in the *Eastern Times* of the 13th December, 1931.

From enquiries made it has been found that the following allegations made in the letter in question are substantially incorrect:—

1. *Flogging of prisoners.*—The allegation is incorrect that any classes of prisoners have been flogged on slight pretext. Flogging has only been resorted to when all other means of restoring discipline have failed and has been inflicted strictly in accordance with the provisions of the Jail Manual which are the same in the North-West Frontier Province as in the Punjab.

2. *Use of bar fetters.*—Fetters are imposed on prisoners in accordance with rules prescribed for the purpose. No discrimination is made against any class of prisoner.

3. *Diet of prisoners and sale of vegetables produced in the jails.*—Allegations about the prisoners diet are incorrect. The standard of diet in the jails is high and quite adequate. The sale of jail vegetables is absolutely prohibited and frequent inspections and surprise visits show that the food is sufficient in quantity and wholesome, and that an abundance of vegetables grown in the jail gardens is kept for the exclusive use of the prisoners.

4. *Estimate of food charges per head per prisoner.*—The estimate of food charges per head is incorrect. The average dieting cost per head in this province is 0-2-3 per day while in the Punjab Jails it is 0-1-9 per day.

5. *Complaints of prisoners against the Chief Medical Officer and their grievances about allotment of grinding labour to them.*—It is alleged that by the instructions of the Chief Medical Officer certain prisoners are required to grind 15 or 16 seers for a period of four months. This is untrue. No prisoner is kept in the grinding cell for more than three months at a time provided he does his allotted task as laid down in the Jail Manual. The maximum task that is allowed in the North-West Frontier Provinces is 10 seers per diem.

TAXATION IN DEHRA DUN CANTONMENT.

Mr. G. M. Young (Army Secretary): I lay on the table the information promised in reply to starred question No. 361 asked by Sirdar Sohan Singh on the 15th February, 1932.

The total estimated revenue for the whole cantonment for 1931-32 is Rs. 47,430. But, out of this, only Rs. 4,300 are derived from the area occupied by the civil population. A very much larger sum is spent from Cantonment funds on that area. The total expenditure on education during the year amounted to about Rs. 1,900 inclusive of a special grant of Rs. 1,159 to the District Board for the provision of a school room with furniture, for cantonment boys. No separate schools are maintained by the cantonment authority, but two District Board schools, and the Gurkha Boys' School are aided by it.

THE FOREIGN RELATIONS BILL—*contd.*

Mr. President: Further discussion of Sir Evelyn Howell's amendment to Clause 2.†

Mr. C. C. Biswas (Calcutta: Non-Muhammadian Urban): I consider that the amendment which has been placed before the House by Sir Evelyn Howell is a decided improvement upon the clause as it emerged from the Select Committee. Fears were expressed by more than one Honourable Member yesterday that a new offence was being created by the present Bill. If however the House would accept the amendment there will be no question of any new offence at all. The offence will be the offence of defamation, an offence known to Indian law ever since Lord Macaulay applied his wisdom in drafting the Indian Penal Code. Under the existing law it is as much an offence to publish a statement defamatory of a foreign Ruler or any of his relations or ministers as it is to defame an ordinary individual within British India, but for practical purposes the difference is this. A foreign Ruler or his minister, or a member of his family, would not cross the frontier and lodge a complaint in British India. Therefore defamation of such a person practically carries with it a charter of immunity from punishment. What the Bill seeks to do, especially the amendment, is to take away that difficulty in the case of a foreign Ruler who may be defamed. Ordinarily in a criminal case a complaint may be filed by any one, but in so far as the offence of defamation is concerned, section 198 of the Criminal Procedure Code has laid down that the person aggrieved is the person who alone can lodge a complaint. That being so,

† "That for clause 2 the following be substituted :

"2. Where an offence falling under Chapter XXI of the Indian Penal Code is committed against a Ruler of a State outside but adjoining India, or against any member of the family or against any Minister of such Ruler, and, in the opinion of the Governor General in Council, the maintenance of friendly relations between His Majesty's Government and the Government of such State may thereby be prejudiced, the Governor General in Council may make, or authorise any person to make, a complaint in writing of such offence, and, notwithstanding anything contained in section 198 of the Code of Criminal Procedure, 1898, any Court competent in other respects to take cognizance of such offence may take cognizance thereof on such complaint."

any foreign Ruler, as the law now stands, if he feels aggrieved by any statement published against him, has got to appear before the Court himself and lodge the complaint. Now, Sir, the proposed amendment seeks merely to make an exception to the rule in section 198 in favour of the foreign Ruler. If you turn to section 198 of the Code of Criminal Procedure, you will see that a new proviso was added to that section in 1923. That proviso enacted an exception in favour of certain classes of persons, such as minors, lunatics, idiots, women, persons suffering from any infirmity or sickness. In the case of such persons, it was provided that the complaint might be filed on their behalf by somebody else with the leave of the Court. What is now sought to be achieved by the present amendment is that, instead of a complaint being filed with the leave of the Court on behalf of a foreign Ruler, a complaint will have to be authorised by the Governor General in Council. I fancy that the object of this Bill might have been attained by a simple amendment of that proviso to section 198. That is all. We are not creating a new offence at all. The offence is the offence of defamation. The amendment that adds further before the Governor General in Council decides to authorise a complaint, he must be satisfied that the publication in question is likely to disturb friendly relations between His Majesty's Government and the Government of the State concerned. This question of friendly relations has got to be considered only for the purpose of deciding whether the complaint should be lodged or not. In the Select Committee, the clause as drafted made this element an ingredient of the offence itself. That might lead to some difficulty. As a matter of fact, if you look at the opinions which have been received on this Bill, you will find it has been pointed out by several people that if this question as to whether or not any publication would have the effect of prejudicing friendly relations between His Majesty's Government and a foreign State, is left to be decided in a court of law, it might give rise to various complications and difficulties. Therefore very wisely, this amendment seeks to take away that question from the purview of the courts and to eliminate it from the composition of the offence altogether. The Governor General will merely decide on these grounds whether or not a complaint should be filed. An objection was suggested in some parts of the House yesterday that this might involve the Governor General—acting no doubt at the instance of the Foreign Secretary,—acting in a way not quite impartial; in other words, the Governor General might be showing favouritism in the case of some foreign Rulers, and not in the case of others. I do not believe that that will be so. But assuming that that is so, what is the position? Supposing that the Governor General does not authorise a complaint where a complaint ought to have been filed, my Honourable friends who are criticising the Bill cannot object if no action is taken because their contention is that no action should be taken against anybody. On the other hand, if a complaint is filed, it only means that the matter is brought before the Court, and when it is brought before the Court, the only question which the Court will be called upon to determine is whether or not the publication in question constitutes defamation. That is about all, and not the other question as to whether or not any foreign relations are going to be endangered. So, I submit that the clause as amended in the way suggested will meet all reasonable objections that can be taken. Why should it be an offence to defame a person in British India, but not to defame a person outside British India? Why should you put any obstacles in the way of a person who may be

[Mr. C. C. Biswas.]

outside British India, merely because he is outside British India, and is not likely to come over to British India for the purpose of seeking his remedy? So, I maintain, Sir, all the apprehensions to which expression was given in the House are utterly groundless.

Then, Sir, if you look at another clause of this Bill—clause 4—you will see there is an important safeguard. Clause 4 contemplates cases where an order of forfeiture may be made. If in any such case an order is made for forfeiture of the document in question, then any party aggrieved by that order has the right to go up to the High Court. That right is secured to him by virtue of the provisions of sections 99A to 99G of the Code of Criminal Procedure being extended to these cases. Therefore, the position is this. If it is purely a prosecution for defamation and nothing more than that, the Court will decide that question as in ordinary cases. If, over and above that, there is an order of forfeiture, the High Court will have the right to go into that question, and if necessary, to set aside that order. Where, then, is the difficulty, where is the danger, I do not see. No grave question of international law are really involved, unless you say that whether or not the Governor General should authorise a complaint to be lodged on behalf of a foreign State is a question of international law. After all, such as it is, it is not so very serious or so very dangerous that we need shy at that.

Some questions were raised as to the scope of this clause—that not merely a foreign Ruler, but members of his family or his ministers have also been included. I do not see what objection there can be to the inclusion of these persons. After all, every person is entitled to be protected against any attacks upon his reputation, and therefore, when we are including these persons, it only means that we do so because they are persons who are not likely of their own accord to take action by coming over to British India. There need not be any fear that the word “family” will be construed in such a sense as to include anybody and everybody. Even if it does, there need be no objection, I submit. As my lawyer friends know, the word “family” has been interpreted in various judicial decisions. It has come to be regarded as a term of art, and therefore there need not be any doubt whatsoever as to the precise implications of that word.

So, on these grounds I think the House will be well advised in accepting this amendment in preference to the form in which the clause has emerged from the Select Committee.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Mr. President, I must congratulate my Honourable friend the Foreign Secretary on having found support not only in what is called the United India Party but also in a section of the Nationalist Party.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): He has resigned from the Party.

Sir Abdur Rahim: I did not know that. Is that a fact? Any way, Sir, my Honourable friend has found support from Mr. Biswas, who I thought was a member of the Nationalist Party. It is difficult for me, although I have also practised as a lawyer for a very long time, to understand the

necessity for this amendment at all. The main object of the amendment is that the Governor General should have the power to authorise any person to make a complaint under section 198 of the Criminal Procedure Code. The reason given in justification of this proposal is that the foreign Ruler or his representative in India, say his Consul, would not or might not care to go to Court and make a complaint that he has been defamed by certain persons who are citizens of British India. I can understand the case of the foreign Ruler, but I do not know why any one representing him in India could not come before a British Indian Court and make a complaint that he has been defamed or his Ruler has been defamed. I see no reason whatever. We have for the purpose of this Act opened the Courts of British India to such a complaint, and if as a matter of fact any foreign Ruler or his representative feels any grievance with respect to any writing in the Press or any utterance in public on the part of any British Indian citizen, why should there be any difficulty on his part to make a complaint? Once a complaint is made, by whomsoever it may be, the whole question is opened up whether the writing or utterance is likely to prejudice foreign relations or not. Then, where is the difficulty on the part of the representative of any Ruler or a member of his family to make a complaint here? If I followed the Honourable Member in charge of the Bill correctly, I think he said that a Consul may not know what the exact position is. If the Consul does not know, surely, it is too much on the part of the Foreign Secretary to expect us to accept the position that the Government of India are more solicitous for protecting the reputation of the foreign Ruler or his representative than the foreign Ruler or his representative himself. This is a proposition for which I do not see any warrant whatever. Any person on behalf of the foreign Ruler—his Consul or any other representative—might go to Court and say, "Here is a statement which is defamatory which I complain of", and prove that his character or reputation is injured. In that case the Court would proceed according to law. It is a very queer thing that while A's character is supposed to be injured, and he is supposed to be defamed, he should not come into Court, but somebody else, the representative of another Government should come into Court and say that he has been defamed, that his character has been injured and that his reputation has been brought low! Sir, I find no warrant for it whatever. It may be claimed that the Government of India prosecuting a person for defamation of this sort would put the whole matter in a securer position so far as the Courts are concerned. But surely the Secretary or whoever may appear on behalf of the Governor General in Council cannot be in the same position as the person who has been defamed or his representative to enlighten the Court on the question whether as a matter of fact the article in the Press in question or a particular speech has a tendency to lower the person who complains about it in the estimation of the public. Surely it is that person and that person alone who can best speak on the point. I submit therefore that there is no warrant for the proposition which is embodied in this amendment.

Sir I do not find my friend, Mr. Yamin Khan, in his seat. He admitted yesterday that he had committed an error in not agreeing with the proposition of the Government in this respect—the proposition that is now embodied in this amendment. Sir, we on this side of the House wish that Mr. Yamin Khan and his United India Party committed a few more

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mistakes like that. It was a very grave mistake indeed (*Dr. Ziauddin Ahmad*: "It is a disunited party now.") on the part of Mr. Yamin Khan and his party to commit. I realize that. He further complained that I did not choose to go to the Select Committee, but if my friend had been here in his seat, I would have assured him that my presence on the Select Committee would perhaps have helped him to commit more mistakes and not fewer mistakes of this character. (Laughter.) Sir, the whole amendment, as it is, contains several propositions and I find that there are a number of other amendments in which objection is taken to a certain phraseology in clause 2 of the Bill. For instance, any member of the family of a Ruler alleging that he is defamed would be protected by this Bill. Now, Sir, suppose a man like *Bachhai Sakao* happened to be a member of the family of the Ruler for the time being and his conduct is criticised and very severely criticized by the Indian Press

Sir Evelyn Howell (Foreign Secretary): May I interrupt the Honourable Member for a moment? *Bacchai Sakao* was never the Ruler of a foreign State within the meaning of this Bill.

Sir Abdur Rahim: I never said he was. I said supposing he was a member of the family of the Ruler and supposing his conduct, about which we all know, was criticized and very severely criticized and his character was attacked, then the Governor General in Council would be entitled under the provisions of this Bill to lodge a complaint of defamation. I am putting forward a suppositious case: it may be some other person. It may be *Abdur Rahman* or it may be some *Singh* or other. It makes no difference. But supposing a member of the family makes a complaint that he is defamed by being criticized in that way, then the Governor General in Council would be entitled under this Bill to lodge a complaint, though the criticism may be to the effect that he is acting against the best interests of the State concerned, and though the Ruler of that State may be an extremely enlightened and civilized ruler. Then, supposing such a publication is defamatory—that is, the allegations made against a member of the family of a Ruler like that—then in that case surely this Bill would entitle the Governor General in Council, or the Political Department, to make a complaint.

Sir Evelyn Howell: No.

Sir Abdur Rahim: My friend, the Foreign Secretary, shakes his head, but I should like to hear the Law Member on that point, if I am not correct. I should like the Honourable the Law Member to say that such criticism or such reflection on such a member of the family of a Ruler against whom there is nothing to be said would not come within the scope of this Bill. It most undoubtedly will, as any lawyer would tell the Foreign Secretary. Is that a position which can be supported for one moment? It would be a most serious position from any point of view. Of course we do not know the facts as regards the operations of the diplomatic or the Foreign Department. They have their own policy. That is another matter. But from the public point of view, it would be disastrous if the Press is going to be stopped from making criticisms of that character; and I say that there must be some object in including the members of the family of a Ruler. If the Honourable the Foreign Secretary agrees to delete that clause, as I understand

Sir Evelyn Howell: We are prepared to accept an amendment about it—the amendment of Mr. Maswood Ahmad which runs as follows:

“That in clause 2 of the Bill as proposed to be amended by Sir Evelyn Howell for the words ‘any member of the family or against any’ the words ‘the consort or son or the principal’ be substituted.”

Sir Abdur Rahim: Are the Government going to accept that amendment?

Sir Evelyn Howell: Yes.

Sir Abdur Rahim: Then, Sir, the amendment wishes to place on the statute the very words of the original clause, namely, that the offence would result in prejudicing the maintenance of friendly relations. If this amendment were passed, I take it that these words would remain, although there are amendments to delete it or to modify the language. That is another difficulty in the way of the acceptance of this amendment by this House. “Prejudicing the maintenance of friendly relations” is undoubtedly very loose language, and I am sure that the Court will find very great difficulty in obtaining definite evidence on a point of that character.

Now, Sir, these are some of the points against the acceptance of this amendment, but I understand that what the Government wish to secure by this amendment is that the complaint may be made by the Governor General in Council, and that is to suffice the requirements of the law. Sir, I do not think any case has been made out for this amendment. There is no reason whatever why the complaint should not be made in the ordinary way laid down in the law. Mr. Biswas cited the new proviso to section 198 of the Criminal Procedure Code by which lunatics, idiots and minors are authorised to make complaints through other persons. I do not know whether Sir Evelyn Howell is very happy over this argument of Mr. Biswas, but I am sure he does not think, seriously speaking, that there is any analogy between the two cases. Apart from that, there is a very serious objection from the point of view of the administration of justice. It is very difficult to understand why we should allow a third person in a case of defamation to come forward and say, “So and so has been defamed, his character has been injured and he has been brought down in the estimation of the public”. I can quite understand the Political Department giving evidence as regards the question whether friendly relations between India and any Foreign State are likely to be prejudiced or not. They have knowledge of these matters and undoubtedly they are in a position to give evidence on such a point. But whether a particular individual has been defamed or not, surely it is for that individual to complain, and I do not see any reason why any Department of Government should butt in when the person concerned or his representative does not complain. I submit, therefore, that this is a bad amendment and ought not to be accepted.

Mr. Gaya Prasad Singh (Muzaffarpur cum Champaran: Non-Muhamadan): Sir, I have very little to say after the able exposition of the subject by my Honourable friend, Sir Abdur Rahim. But I should like to add just one or two words. In the Bill, as it was originally introduced, the mere publication of a statement which was likely to promote unfriendly relations between His Majesty's Government and the Government of a

[Mr. Gaya Prasad Singh.]

foreign State was deemed to be an offence; but the Select Committee improved upon it and made two elements as vitally necessary in constituting the offence under clause 2. The two elements were, firstly, the offence of defamation, which must be proved by the prosecution to the satisfaction of the Court. The second element was that this defamation must be with intent to prejudice the maintenance of friendly relations between His Majesty's Government and the Government of the foreign State, or whereby the maintenance of such relations is likely to be prejudiced. These were the two elements which were incorporated in clause 2 by the Select Committee. Now, the question is—which is the authority to judge on these two points? The question whether a particular offence falls under defamation or not, clearly the Court has to decide. There was a difference of opinion in the Select Committee with regard to the latter point. The majority of the Select Committee held that the second element, which is to constitute the offence, namely, the intention to prejudice the maintenance of friendly relations, is also a question which should be decided by the Court. But my Honourable friend, Sir Evelyn Howell and my Honourable friend, Sir Lancelot Graham, on behalf of Government, objected to the latter ingredient in the offence being subjected to the decision of the Court. They therefore suggested that it should be the Governor General in Council who should decide whether the offence of defamation was likely to prejudice the maintenance of friendly relations, and so in the amendment which my Honourable friend the Foreign Secretary has moved, it is stated that this offence must be in the opinion of the Governor General prejudicial to the maintenance of friendly relations. That is all. I would submit that the best judge on the latter point should be the Court. We have got enough experience of the Executive Government not to leave such authority in their hands in regard to a decision on such points. The other day with regard to the Bengal Criminal Law Amendment Bill, we saw that the executive authority were very reluctant to place their cards on the table. They very often go on one-sided evidence, and in a case like that the Select Committee came to the conclusion that the best thing to do under the circumstances was to leave the decision of the second element, that is, the intention to prejudice the maintenance of friendly relations, to the Court to decide. My Honourable friend, Mr. Yamin Khan, who was also a Member of the Select Committee, was also of that opinion, but the revised edition of his opinion now is before the House; and he says he made a mistake in the Select Committee.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): I frankly admit it.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): To err is human.

Mr. Gaya Prasad Singh: I would therefore submit that no case has been made out for the substitution of the amendment which is now proposed to be made by my Honourable friend the Foreign Secretary, and I beg to offer my opposition to that amendment.

Sir Lancelot Graham (Secretary, Legislative Department): Sir, in the first place, I should like to tender my thanks to my friend, Mr. Yamin Khan. Not only did he see the error of his ways but he has publicly

confessed the error of his ways, which seems to me to be a very noble action. But, in the first instance, I should like to fix the blame on myself and Sir Evelyn Howell because we did not press our case with sufficient clearness and force in the Select Committee.

Mr. Gaya Prasad Singh: You did so.

Sir Lancelot Graham: I am very much obliged to my friend, but I think it is possible that this idea was put forward rather suddenly and they did not see the full implication of it and the difficulties of the actual clause which they adopted at the time sitting in that Committee. Therefore, I would personally express my gratitude and my admiration to my Honourable friend, Mr. Yamin Khan, for the conduct in this respect. I am also very much obliged for the valuable support of Mr. Biswas. My Honourable friend, Mr. Anklesaria, in giving us his support, at the same time did not refrain from giving what I might call a backhander. He said, we have blundered, groped and gavelled, and by a supreme element of fortune had arrived at the right conclusion. But I am not disposed to argue with him or quarrel with him as to how we have arrived at the right conclusion, and I am not prepared to say that our first Bill was altogether bad. But what I would say is this, we have found that we are more likely to get this Bill through and possibly, I might say now—I am sorry Mr. Mudaliar is not present—that we have exercised a little of that sympathetic imagination which we were instructed to exercise the other day. At any rate we thought we could get that amendment through and we are now pressing that.

I now come to my Honourable and learned friend, Sir Abdur Rahim, and I must confess that I find him a very baffling friend. Yesterday he attacked us very severely because we were making an addition to the penal law of the country. I felt inclined to interrupt him, but I did not like interrupting, and ask him then to look into our amendment for a solution because our amendment just takes out that new provision and if we carry our amendment, the Bill will make no addition to the penal law of the country. The prosecution

Sir Abdur Rahim: Then why this Bill at all?

Sir Lancelot Graham: I do not think I am going to miss that point. If we carry the amendment to clause 2, which particularly lies under the Penal Code, the difference would be that a person aggrieved will not be obliged to come in person for making his complaint. But the prosecution will be under the Penal Code and will be a plain prosecution for defamation, and it will rely upon us to make out a case under sections 499 and 500. As I said, that to my mind ought really to cause the Honourable Member to agree with me and in his heart of hearts I think he does so; otherwise we should not have had this very rambling and confused speech from him to-day. As far as I can make out, he asked why the law should be changed at all. Because if the Sovereign of a neighbouring State is aggrieved by some reflection on his character or conduct contained in the Press of India, he has only got to send his representative to file a complaint. Is that actually what the Honourable Member said? If so, I do certainly differ from him because the provisions of section 198 definitely lay it down that a complaint must be made by the person aggrieved. Does my Honourable friend suggest that a Court would accept as the

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person aggrieved the Minister or some friend of the Ruler? I maintain that that would be a complete negation of the provisions of section 196, and if there was any doubt on the matter, I think it would be cleared up by the proviso which says:

"Provided that, where the person so aggrieved is a woman who, according to customs and manners of the country, ought not to be compelled to appear in public, or where such person is under the age of eighteen years or is an idiot or lunatic, or from sickness or infirmity unable to make a complaint," etc.

Where a person of one of those classes is the person aggrieved, then and then only "some other person may, with the leave of the Court, make a complaint on his or her behalf". I cannot agree for a moment, and I do not think the Honourable Member would himself agree on reading that section again, that a Sovereign from abroad could send a Minister and say the Minister could act as the person aggrieved. But that is what we are going to do by our Bill.

Sir Abdur Rahim: Send a representative.

Sir Lancelot Graham: No. Under the law a complaint must be made by the person aggrieved and that must be the person whose character is taken away. It is no good my friend saying, for instance, that there is a representative of Afghanistan, or a representative of Nepal here who is entitled to make a complaint on behalf of the Ruler. That being so, I think my Honourable friend must really admit that he entirely agrees with this amendment. The only thing he might say would be, "Well, I think the Court ought to be left to be satisfied as to whether this particular libel affects or is likely to affect the friendly relations and that is the attitude which my Honourable and practical friend, Mr. Gaya Prasad Singh, took up. He said, that is the one point which really should be the test of this very difficult issue as to whether the particular article was likely to have the particular effect on foreign relations. I have no doubt that he said so even after reading our minute of dissent. But I maintain that that is a very difficult issue to be entrusted to a Court, and, indeed not the proper question to be entrusted to a Court. When the Government have taken upon themselves the burden of proving their case under libel, there is no need whatever to impose upon them the additional burden of trying to satisfy the Court on this question of the effect on foreign relations. Everybody must admit that my Honourable friend, Sir Evelyn Howell, or whoever sits in his place, is the person who is really more capable than any Court of adopting the correct position on that issue and knowing whether friendly relations are likely to be prejudiced. Not only that, but there is the fundamental difficulty of evidence being produced in the Court likely to have that effect upon the decision of the Court. The very production of evidence and arguing of the case is, as we stated in our minute of dissent, more likely to add fuel to the fire and further to prejudice friendly relations than if you leave it to the certificate of Government.

Sir Abdur Rahim: May I ask whether it is intended by this amendment to preclude evidence on the subject of friendly relations? Is that the object?

Sir Lancelot Graham: I am surprised that the Honourable Member should ask that question. I do not think there can be any possibility of doubt after reading the amendment.

Sir Abdur Rahim: Surely that is the object.

Sir Lancelot Graham: I submit it is not. But I do not know the opinion of my Honourable friend. What happens is this. In effect the Governor General in Council comes to Court and he says, "I am satisfied that the particular article is going to have a particular effect and I believe that article to be libellous. I lay a complaint of libel before the Court".

Sir Abdur Rahim: It is for the Court to decide upon that complaint.

Sir Lancelot Graham: The Court is to decide whether the particular person in respect of whom a complaint is made has been libelled.

Sir Abdur Rahim: And whether friendly relations are likely to be prejudiced.

Sir Lancelot Graham: No. I do not think my Honourable friend could have listened to the very clear speech made by my Honourable friend, Mr. Gaya Prasad Singh. It was made plain not only in our minute of dissent, but we have sought to make it plain in the amendment which we put in, and I hoped I had succeeded in making it plain. The real point in issue is as to why should Government be allowed to come in as complainant? The answer is because the foreign relations of Government are liable to be prejudiced. My Honourable friend said, let His Majesty, so and so, come or send his representative. We know that difficulties would arise in such cases, and as a matter of fact as practical men we cannot sit by and allow statements to appear in the papers when not only the character of His Majesty so and so is being affected, but our own political safety and our relations are being very gravely affected, and that is why we claim to intervene and it is because we know where the shoe pinches, and we know the danger to ourselves that we are claiming the right to put a certificate into Court and to take the place of the monarch who has been defamed and to discharge before the Court the burden of proving that that particular monarch has been defamed. On these grounds, Sir, I support the amendment.

Khan Bahadur H. M. Wilayatullah (Central Provinces: Muhammadan): I rise to oppose the amendment which has been moved by the Honourable the Foreign Secretary, and after what I have heard just now from my Honourable friend, Sir Lancelot Graham, I particularly oppose it. The object of the amendment is to dispense with the necessity of proving that the accused, by publishing a certain article held to be defamatory, intended to prejudice the existence of friendly relations between the British Government and the foreign State concerned. When a prosecution is instituted by the Government of India, it will carry with it the presumption that the accused had such an intention.

It will often be difficult to decide beforehand how far criticism of a particular measure will be treated as fair and reasonable, and at what stage the author of such an article will be considered to have overstepped the proper limits making the article defamatory and punishable under clause 2. The amendment if embodied in the Act will place a great handicap on the accused inasmuch as the presumption of the guilty intention on his part will always weigh heavily against him and he will be unable to rebut it to the satisfaction of the Court, and prove that, in fact,

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he had no such intention. Just now my Honourable friend Sir Lancelot Graham has said that all evidence on that point would be shut out. That will be very unjust, and I do not think it will be a fair trial at all if the Government of India are to be the sole judge as to whether there has been anything which is likely to prejudice the existence of friendly relations. In the circumstances it is very desirable that the point should be examined also by the Court for otherwise there will be nothing in the case except that there was an article, that it was defamatory and that it was published by a certain person. In order to decide whether a man has been really guilty or not, it is always necessary to ascertain exactly what his intention was when he committed the act. Any presumption of guilty intention on his part will be practically to prejudge the case against him, and it will place him in an exceedingly unfavourable position from the very commencement of the trial.

The offence constituted by clause 2 of the Bill is new in our legal system. Such offences have been and will be few and far between. It would therefore be undesirable to frame the law in such a manner as to give an impression that the object of the Government is not so much to punish the offenders as to stifle the public voice. Indians, whether Hindus or Muslims, have connections with their brethren in the adjacent countries, and they feel for their co-religionists or for their countrymen if they are subjected to harsh, unjust or discriminatory treatment in foreign States. It is for this reason that the Bill has been considered by a large section of the people as a piece of unwelcome legislation, and it is very necessary that the Government should proceed with great caution if they really have any regard for the feelings of the people of this country. The Honourable the Foreign Secretary has given an assurance in his speech that religious controversies will not come under the purview of this Bill. That is all right. But I would like to point out that there is no clause in the Bill itself to this effect. Religious and political questions often overlap each other and they become intermixed when controversies arise. Much depends on the point of view from which a particular question is looked at. A man with a genuine grievance may go to the Press to enlist public sympathy and support and he may even make a public disclosure of the conduct or policy of the foreign Ruler in regard to a matter of public interest and importance. The author of the article may do all this with howsoever an innocent intention, yet motives of mischief will be attributed to him if at his trial there is the legal presumption against him. He will be greatly handicapped.

Sir Lancelot Graham: There is no legal presumption under the section.

Khan Bahadur H. M. Wilayatullah: It was just now said by my Honourable friend Sir Lancelot Graham that the point whether the accused intended in fact to prejudice the existence of friendly relations or not between the British Government and the foreign State will not be a question for the Court to decide. There will be the presumption against him.

Sir Lancelot Graham: No, there is no presumption against him, because he is not being tried for that. He is being tried only for libel, and libel as laid down in the Penal Code.

Khan Bahadur H. M. Wilayatullah: As I pointed out in my speech at Simla in September last, if the Ruler of a foreign State proclaims himself as the Caliph of the Muslims, an Indian Muslim may subject this action of the Ruler to severe criticism. He may even point out defects in his character which in his opinion unfit him for that high and exalted office. It will not be denied that the author of the article had not the remotest intention of prejudicing the friendly relations between the British Government and that Ruler. In my opinion, in such a case proof of mischievous intention on his part is absolutely necessary before he can be held guilty of an offence which he never dreamt of.

Mr. Muhammad Yamin Khan: Does it not come within the purview of religious criticism if a man proclaims himself as Khalifa?

Khan Bahadur H. M. Wilayatullah: It is not excluded anywhere in the Bill. There is no clause showing what cases will be exempted and form exceptions. To presume that he intended mischief involving international trouble will be to confuse all the boundaries of crime. Surely you must draw a line where mischief began; and to presume, that because he published an article, he intended mischief of an international character is, I think, going too far, and indeed such a presumption is not justified. There are several shrines at Meshed which are held in great reverence, and visited by thousands of people from this country. Suppose they are touched under a wave of reform, or their *wakfs* are confiscated, or improper exactions are levied from the pilgrims. Do the Government of India expect that the Indian Muslim shall remain quiet and not agitate about it? And if they do agitate, because there is no clause in the Bill to the effect that anything will form an exception, it will be said that his intention was simply to bring the relations of the Government of India with the foreign State to a breaking point. That is at least what I understand from the wording of the Bill. It has been drafted with great care but it does not satisfy me. I have done judicial work for many years and, for that reason, I read it with great care. I found certain things wanting. No term has been defined in the Bill. The Bill is an extraordinary piece of legislation, and consequently people are very suspicious about its effects. For this reason it was vehemently opposed at Simla. Clause 2 is the only operative clause in it, and it was slightly modified by the Select Committee. The proposed amendment will take away the only relieving feature of the Bill; and if passed, the legislation will be held to be very arbitrary and perhaps even one-sided, because, whenever a prosecution is instituted, it will be sure that there will be a conviction. When there is an article and it is held to be defamatory and it has been published the case will be sent to Court only to fix the identity of the author. Other matters such as a guilty and mischievous intention on the part of the man need not be proved because they are already presumed against him from the very beginning.

Sir Lancelot Graham: It is not so.

Khan Bahadur H. M. Wilayatullah: It is a piece of unusual legislation and it is necessary that the burden of proof on the prosecution which is the only safeguard should not be removed from the Bill especially when people are very suspicious about it. I would therefore recommend that it should be worded in such a manner as to inspire confidence in the minds of the public, and used only with the greatest caution.

The Honourable Sir Brojendra Mitter (Law Member): Sir, I find there is some misapprehension with regard to the scope of the Bill. What does Sir Evelyn Howell's amendment mean? For the sake of brevity I will use the expression "foreign Ruler" to include all the categories in the amendment. All that the amendment means is this: as soon as a defamatory article or a defamatory speech is published or made against a foreign Ruler, instead of compelling that foreign Ruler to come and lodge an information, the Governor General in Council may lodge the information: with this proviso, that the Governor General in Council should be of the opinion that such defamation is likely to prejudice friendly relations. That is all that the amendment means. Therefore it will be a simple case of defamation, and the three elements of defamation will have to be proved in Court. The three elements as Honourable Members are aware, are first, imputation, second, publication of the imputation, and third, wrongful intention or wrongful knowledge. These elements will have to be proved in order that you can get a conviction for defamation. You must prove that something defamatory has been imputed. You must prove that that has been published and you must also prove that that was done with wrongful intention or wrongful knowledge

Khan Bahadur H. M. Wilayatullah: Will all those exceptions apply here also? If the writer says that the matter is true and that it was done in the public interest, would such a defence be admissible?

The Honourable Sir Brojendra Mitter: All the exceptions come in: for instance an imputation may affect the character of a person. If it be true or if it be *bona fide* criticism or in the public interest that the criticism was made, all these defences will be available to the accused. In order to be defamation it must be defamation within the meaning of section 499 of the Indian Penal Code, taking all the exceptions of section 499. All that the amendment says is this: do not compel a foreign Ruler to come and lodge a complaint in British Indian Courts. That is all; and as a safeguard there is a proviso that the Governor General in Council will not lodge a prosecution unless he is of opinion that such defamation is likely to prejudice the relations between the two countries.

Mr. Gaya Prasad Singh: Who is to be the judge?

The Honourable Sir Brojendra Mitter: The Governor General in Council. And that is the law in England also. That is what I want to point out. It is implicit in the defamation of a foreign Ruler that friendly relations will be disturbed. I wish to read one passage from Lord George Gordon's case, who defamed the Queen of France and the French Ambassador. The learned Judge, addressing the accused said:

"It was highly necessary that the governing powers of this country (that is, England) should take upon themselves the prosecution of so daring an offender. Other nations (who do not know how much the greatest of all blessings, Liberty, and particularly, the Liberty of the Press may be perverted in the hands of wicked men), could hardly be induced to believe that such daring and atrocious publications as yours could ever go forth into the world without the connivance of that State at least in which they are published."

Therefore it comes to this: that whenever there is defamation of a foreign Ruler, the implicatoin is that the State in which that publication

is made is conniving at that defamation. That is the implication and it is upon this principle that the law has been stated in Russell in these terms: (I desire Honourable Members' attention to the wording.)

"Upon the ground that malicious and scurrilous reflections upon foreign sovereigns or their representatives may tend to involve this country in disputes, animosities and warfare, it has been held that publications tending to degrade and defame such persons are indictable."

The whole point of the indictment is that the publication has a tendency to disturb peaceful relations. Disturbance of peaceful relations is not an ingredient in the offence. The offence is the offence of defamation as defined in section 499 of the Indian Penal Code. All that Sir Evelyn Howell's amendment is seeking to do is this: that instead of compelling a foreign Ruler to come and lodge his complaint, you authorise the Governor General in Council to lodge the complaint, provided the Governor General in Council is satisfied that that particular defamation has a tendency to disturb peaceful relations. That is all: nothing else. Therefore, the alarm which has been expressed in this House over this innocuous Bill is difficult for me to understand. There is nothing alarming in it; nothing dangerous in it. If, as my Honourable friend, Dr. Ziauddin, asked yesterday, some foreign Ruler on account of his policy towards religious institutions, be criticised in this country, then will the person making that criticism be liable under this Act? It all depends on whether it amounts to defamation or not. If it be *bona fide* criticism in the interests of the Muslim community as a whole, then certainly that writer or speaker will come under the protection of the *Exceptions* to section 499: it will not be defamation. But if it is defamation, then the Governor General in Council has still to consider its probable effect. It is not every petty defamation on which the Governor General in Council will take action: but if it be defamation of such a character that it is likely to disturb friendly relations, it is only in such cases the Governor General in Council will authorise prosecution. That is all the amendment says. Why there should be this alarm I cannot make out. We are bringing the law into line with the English law. In the English law all that you need say is that there is defamation of a foreign Ruler, and it is implicit in such defamation, that friendly relations would be disturbed. As I have said it is not every defamation by an obscure publicist which will come under the mischief of this section because in every case the Governor General in Council will

Mr. Jehangir K. Munshi (Burma: Non-European): In England who decides this point?

The Honourable Sir Brojendra Mitter: It is the Executive Government; and if my friend Mr. Munshi were to look up the form of indictment, he will find that there is only one averment in the indictment, that the publication is defamatory of the foreign Ruler; that is all. Who decides that? Whether it is defamatory or not will of course be decided by the Court; but whether to launch the prosecution or not is in the discretion of the Executive Government. In England it is in the discretion of the Executive Government when the Attorney General should lodge the information, and it will be in the discretion of the Executive Government here when to launch a prosecution. Once the prosecution is launched, you will have to prove your case up to the hilt. You will have to prove wrongful intention and knowledge; you will have to prove imputation and you will have to prove publication

Khan Bahadur H. M. Wilayatullah: What can the defence be in such a case?

The Honourable Sir Brojendra Mitter: The defence in such a case may well be it is *bona fide* criticism; it may well be that it is true; justification may be a defence; the defence may well be that the criticism was made in the interests of the community. There may be hundred defences. All the defences which are now available to a person prosecuted for defamation will be available to the person who will be prosecuted under this Act. Therefore, I submit that we are doing nothing new and nothing dreadful; and the House need not be alarmed at this simple

Sir Abdur Rahim: Supposing the publication was made not with intention to prejudice foreign relations, but in good faith.

The Honourable Sir Brojendra Mitter: If there be good faith it may not be defamation: *Exception 3* of section 499, or *Exception 9* will protect the writer

Sir Abdur Rahim: That comes in as an element of the offence.

The Honourable Sir Brojendra Mitter: This is an element in the offence of defamation. As I said, there are three elements in the offence: there must be first of all imputation; there must be publication; there must be wrongful intention or wrongful knowledge that by such imputation the reputation of the person defamed will suffer.

Mr. Gaya Prasad Singh: Then this should be left to the Court to decide.

The Honourable Sir Brojendra Mitter: Of course, it will be left to the Court to decide. What does Sir Evelyn Howell's amendment say? It says:

"2. Where an offence falling under Chapter XXI of the Indian Penal Code is committed against a Ruler of a State outside but adjoining India.".

Now, when is an offender liable? When you have proved against that person that he has published a defamatory imputation against a foreign Ruler with guilty knowledge or guilty intention that by such imputation his reputation will suffer

Sir Abdur Rahim: Then both the elements come in?

The Honourable Sir Brojendra Mitter: Not both the elements, but all the three elements come in; the element of imputation, the element of publication and the element of wrongful intention or knowledge on the part of the person defaming. All these three elements must be proved to the satisfaction of the Court.

You may say, if you authorise the Governor General in Council, who is not primarily the aggrieved person, to launch a prosecution, then a prosecution may be light-heartedly undertaken against any newspaper against whom the Government may have a grudge. I can well understand that, and therefore the safeguard has been provided that no prosecution will be launched against any person publishing a defamatory state-

ment against a foreign Ruler unless the Governor General in Council is satisfied that by that publication the friendly relation between India and the Foreign State is prejudiced.

Sir Abdur Rahim: Then the whole case is open, I take it, in the Court?

The Honourable Sir Brojendra Mitter: This opinion of the Governor General in Council only removes a bar. As soon as the Governor General in Council comes to the conclusion that a certain publication is prejudicial to friendly relations between India and a foreign State, then the bar which is there, that is to say, the bar to a person not aggrieved going to Court will be removed, and a prosecution will be launched by the Governor General in Council. Once the prosecution is launched, they will have to prove every element which constitutes the offence of the defamation.

Sir Abdur Rahim: Including the statement whether it is likely to be prejudicial or not.

The Honourable Sir Brojendra Mitter: That is not an element in the offence of defamation. That is the whole difference. Sir, I do not understand why my friend Sir Abdur Rahim does not see this point. In the offence of defamation that is not

Sir Abdur Rahim: That only makes our position stronger.

The Honourable Sir Brojendra Mitter: Stronger or weaker, I am explaining the position. The opinion of the Governor General in Council merely removes the bar to a person not aggrieved going to a Court, and that is a safeguard. And then, once the bar is removed, it is a plain sailing case of defamation; if there is a good defence like *bona fide* criticism, justification, public interest

Khan Bahadur H. M. Wilayatullah: Will it be open to the defence to say that he did not intend to prejudice the relations between India and the foreign Ruler?

The Honourable Sir Brojendra Mitter: That is not in issue at all. The only issues in the case will be these—is this statement defamatory to X—the Ruler of a foreign State? That is issue No. 1; issue No. 2, did the accused person publish that defamatory statement; and issue No. 3 will be, did the accused person publish that statement with intention to lower X in the estimation of the public or did he have knowledge that such statement was likely to lower X in the estimation of the public? These will be the three issues, and as regards the mutual relations, that is quite outside the scope of the Court.

Mr. Jehangir K. Munshi: Mr. President, as I have understood the Honourable the Law Member, the Government of India only wish to make it easier by this Bill for a foreign Ruler to have a remedy for defamation, and instead of making it obligatory on a foreign Ruler to file a complaint in the ordinary course, the Government of India would act as the agency for a foreign Ruler to file complaints for defamation. Well, if that is so, may I inquire of the Honourable the Law Member, so far as he is concerned, whether he has any objection to the amendment of clause 2 by

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the deletion of the words "and in the opinion of the Governor General in Council the maintenance of friendly relations between His Majesty's Government and the Government of such State may thereby be prejudiced"?

The Honourable Sir Brojendra Mitter: Not in the least. That is for the protection of the accused.

Mr. Jehangir K. Munshi: May I inquire of Sir Lancelot Graham whether he has any objection to the deletion of these words?

Sir Lancelot Graham: I think, Sir, that question should be addressed to the Honourable Member in charge of the Bill.

Mr. Jehangir K. Munshi: Before I ask the Foreign Secretary, may I inquire whether Sir Lancelot Graham has any objection to the deletion of these words from clause 2?

Sir Lancelot Graham: Personally, Sir, I shall have no objection.

Mr. Jehangir K. Munshi: Then may I inquire of the Honourable the Foreign Secretary whether he has any objection to these words being deleted from clause 2?

Sir Evelyn Howell: I must be guided by the advice of legal experts.

Sir Lancelot Graham: Personally, I have no objection, but it is a safeguard for the protection of the accused.

Mr. Jehangir K. Munshi: If the Opposition does not want to have this safeguard for the protection of the accused, as the Law Member described it, would the Government of India have any objection to the deletion of these words from clause 2? I have not been able to catch Sir Evelyn Howell's reply.

Mr. S. O. Mitra (Chittagong and Rajshahi Divisions: Non-Muhamadan Rural): They are agreeable. What are the words you want to delete?

Mr. Jehangir K. Munshi:

"And in the opinion of the Governor General in Council the maintenance of friendly relations between His Majesty's Government and the Government of such State may thereby be prejudiced."

Sir Evelyn Howell: Did my friend not catch what I said? I said that in the matter of the wording of the clause, I am necessarily guided by the opinion of the Honourable the Law Member.

The Honourable Sir Brojendra Mitter: That is merely for the protection of the accused. We are assuming a power, that is to say, to launch a prosecution for somebody else. Now, it is in the interest of the subject that there should be some safeguard, that we may not prosecute arbitrarily; we must come to the opinion that a certain writing is prejudicial to friendly relation.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): No arguments can be advanced. The Honourable Member can either answer the question that has been asked, or refuse to do so. The question which has been asked is whether Government are prepared to agree to the deletion of certain words, and the Honourable Member can say in reply whether he agrees or does not agree.

The Honourable Sir Brojendra Mitter: I have objection, Sir, because those words are in the interest of the accused person.

Mr. Jehangir K. Munshi: If we assume that the Opposition Benches are of the same view which I hold that this part of the clause should be deleted, would the Government of India agree to delete. . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is keeping on asking the same question over and over again. The Honourable Member has got replies from three Members of the Treasury Benches. Will the Honourable Member proceed with his observations on the assumption that the Government are not prepared to agree to the omission of those words.

Mr. Jehangir K. Munshi: Mr. President, in view of this last reply, I must press the contention that the existence of this particular part of the clause is objectionable, and if the Opposition Benches are anxious that this particular part should be deleted from the clause, why should the Government of India be so anxious to protect the accused?

Mr. President: I should like to ask the Honourable Member how long he is likely to take.

Mr. Jehangir K. Munshi: Another 20 minutes, Sir.

Mr. President: The House will now adjourn till 2-20 P.M.

The Assembly then adjourned for Lunch Till Twenty Minutes Past Two of the Clock.

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

Mr. Jehangir K. Munshi: Mr. President, in the course of the debate this morning, before we adjourned for Lunch, it was contended by the Honourable the Law Member and by my Honourable friend Sir Lancelot Graham that the object of the Government of India, in attempting to enact this Bill, is to afford facility to certain foreign Rulers to file a complaint for defamation, pure and simple, an offence punishable under Chapter XXI of the Indian Penal Code, and to create an agency for filing and prosecuting such complaints on behalf of certain foreign Rulers in a Court in British India: and it was further strenuously contended that once the complaint is filed by an officer authorised by the Governor General in Council, it will be purely a question of whether an offence has or has

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not been committed under Chapter XXI of the Indian Penal Code. My Honourable friend Sir Lancelot Graham says "Yes". But in spite of that, we have been faced with another amazing aspect of the Government's position when the Law Member said that the object of retaining those words, the deletion of which I suggest, is to protect the accused, and that these words have been inserted in the interest of the accused. I do not know if the Honourable the Law Member will persevere in this contention after further reflection, but if that is the only object, then I think there should be no difficulty on the part of Government to agree to the omission of that part of the clause. I will proceed to show to the House how the insertion of these words, or the deletion of these words, will react on the accused. If the object of the Government of India was only to enable a complaint to be filed and prosecuted without the foreign Ruler being present, that object could have been achieved by the addition of a further proviso to section 198 of the Criminal Procedure Code. My Honourable friend Sir Lancelot Graham has had wide and varied experience in the Legislative Department; and if that was the only object of the Government of India, he would have drafted and placed before this House a Bill to enlarge this proviso to section 198 of the Criminal Procedure Code; but he has not done so because that was not the object. But whatever the object of the Government of India may be, we have got to discuss this measure in the light of the effect it is likely to have on the interests of the accused for whom the Honourable the Law Member has expressed so much solicitude. (Laughter and Cheers.)

It has been made clear by Sir Lancelot Graham and also by the Honourable the Law Member that the Court which proceeds to deal with this complaint shall presume that the maintenance of friendly relations between His Majesty's Government and the Government of such State might thereby be prejudiced. Government are asking the Court to make an irrebuttable presumption.

Sir Lancelot Graham: No.

Mr. Jehangir K. Munshi: I repeat that by this clause as it is worded in my Honourable friend Sir Evelyn Howell's amendment the Court is bound to presume that that particular publication is likely to prejudice the relations of His Majesty's Government with the foreign Government. Sir Lancelot Graham shakes his head and says it is not so. I will now refer him to another amendment tabled by the Foreign Secretary, amendment No. 22: It reads as follows:

"That in clause 3, as renumbered, for the words 'in respect of which any person is punishable under section 2' the words 'which is defamatory of a Ruler of a State outside but adjoining India, or of any member of the family or of any Minister of such Ruler and tends to prejudice the maintenance of friendly relations between His Majesty's Government and the Government to such State' be substituted."

I do not know if Sir Lancelot Graham still adheres to his contention that this factor will not be brought before the Court. Now, Sir, if the Court has got to presume—it is an irrebuttable presumption—that the accused has already committed an act, the effect of which is to tend to prejudice the maintenance of friendly relations between His Majesty's Government and the Government of a Foreign State, then a very important question arises, what happens to the *Exceptions* to section 499 of the Indian Penal

Code? I will ask the House to bear in mind clearly that by this enactment the Court is definitely bound down to this irrefutable presumption. Now, let us examine the exceptions and see how they affect the interests of the accused. I do not propose to take the House through all the exceptions. I shall take only three exceptions and confine my observations to them. The first *Exception* to section 499 of the Indian Penal Code reads as follows:

"It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact."

Now, I ask the House to imagine the position of the unfortunate accused. If the accused pleads that it is for the public good, the Court has to decide as a question of fact whether that particular publication is or is not for the public good. How is the Court going to decide this question of fact when it is also bound to presume, a presumption which is irrefutable, that the publication tends to create unfriendly relations between the two Governments? It would be very difficult for the counsel appearing for the accused to contend, that although the publication may strain the relations between the two Governments and lead to war between the two countries, it is for the public good. I do hope that my Honourable friend Sir Lancelot Graham will give further reflection to this aspect of the matter. I now come to the third *Exception*; it reads as follows:

"It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further."

Now as regards the question of "good faith", it will be very difficult for the accused to contend successfully that the expression was in good faith when the irrefutable presumption is that he has expressed and published something with intent to create unfriendly relations between His Majesty's Government and the Foreign State concerned.

Then we come to the last *Exception*—the 10th *Exception*, which reads as follows:

"It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good."

Now some of my Honourable Muslim friends sitting on my right have expressed grave apprehensions that occasions may arise when Muslims in this country may have to sound a note of warning to the Muslim population in this country and also to the Muslim population in a neighbouring State that a particular action taken or contemplated by a foreign Ruler offends or would offend the tenets of Islam or the best interests of Islam. Such opinion of caution would be for the public good so far as Islam is concerned, but how can the accused successfully seek the protection of this exception, if the count is bound to hold as an irrefutable presumption, that although it is for the public good of Islam and of Mussalmans, nevertheless it tends to create unfriendly relations between His Majesty's Government and the Government of the foreign Ruler. (Hear, hear.)

Mr. President, this Bill does create a new offence, and it is idle to pretend otherwise. If it is purely a question of making it simple for the foreign Ruler to file a complaint for defamation pure and simple, then

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there is no necessity for these words in clause 2. The simplest course would be to enlarge the proviso to section 198 of the Criminal Procedure Code. But it will be contended that it cannot be done this session. Even if that is so, there is no difficulty in the way of the Government of India agreeing to delete these particular words from clause 2; and I have the authority of my Honourable friend, Sir Abdur Rahim, the Leader of the Independent Party, to inform the Government of India that if they would agree to delete these particular words from clause 2, which I have already read out to the House, then the Independent Party would have no objection to clause 2 being passed after such deletion. Now, Sir, if the Opposition in this House is concerned over this Bill, because serious restrictions are sought to be imposed on the liberty of the Press and on the liberty of the subject, and if the Opposition would not only welcome but desires that these words should be omitted from clause 2, then surely it is not for the Government of India to persist in their present attitude. (Hear, hear.) I think, Sir, the Opposition in this House, which consists of a number of lawyers drawn practically from every province, can be trusted to safeguard the interests of the accused more than the Treasury Benches. Then, Sir, if it is not a new offence, why is there a new punishment?

In the Bill as it has emerged from the Select Committee, clause 4 provides as follows:

“The provisions of sections 99 A to 99 G of the Code of Criminal Procedure, 1898, and of sections 27-B to 27-D of the Indian Post Office Act, 1896, shall apply in the case of any book, newspaper or other document containing matter in respect of which any person is punishable under section 2, in like manner as they apply in the case of a book, newspaper or document containing seditious matter within the meaning of those sections.”

I submit, Sir, that the insertion of this clause creates an additional punishment and imposes additional penalties for this offence; and there can be no doubt that this Bill creates a new offence and provides for a new punishment. Here is the acid test by which the Government of India will be judged, namely, their attitude towards my suggestion which has the support of the Opposition Benches and more particularly of the Independent Party, that these particular words should be deleted and the offence should be kept purely and simply an offence of defamation under section 499 of the Indian Penal Code, with the punishment provided in Chapter XXI of the Indian Penal Code; and there should be no other ingredient or punishment or penalties in this Bill. (Applause.)

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadan Rural): Sir, in this discussion not only religious matters are involved but political matters as well. It is to be remembered that Muslim interests, in so far as the declaration of the Khalifa or likewise is concerned, are bound to be involved in this discussion; and it has been shown that if any Ruler of a foreign State declares himself to be the Khalifa, or if any matter of a religious shrine arises in any of the foreign countries, then both on religious and political grounds the Mussalmans of India are bound to write something or to speak something or to hold meetings. So I do not see where is the reason why Government do not insert any exception in the present Bill for those matters, just as exceptions and explanations are inserted in section 499

of the Criminal Procedure Code. I see at any rate no force in the argument advanced by the Government that section 499—exceptions will be quite enough for those purposes; and I am bound to state that only political questions have necessitated the enactment which is at present before us. The affairs in the Hejaz and other Muslim countries have in fact been the cause of bringing in this Bill before the Legislature. Sir, we also find that the Government of India are very solicitous for saving the thin skin of foreign people, but they are quite oblivious of the fact that the thin skin of their own subjects is being affected. Sir, the money that will be spent out of the Indian exchequer on the prosecution of Indian themselves for the sake of the relations with the foreigners, will not be in any way compensated by the foreign Rulers. My submission is where is the necessity in these days of retrenchment for the undertaking of such expensive obligations by our Government for the sake of foreigners? Are not the Government aware that such litigation might involve the expenditure of hundreds and thousands of rupees of Government money? Government should not think that people will not defend themselves or newspapers will not come forward to save their own honour if they write something about foreign Rulers. I do not think that the question of friendly relations is so much involved in this Bill as is the question of suppression and gagging of the Press. Sir, the change that we find in the present Bill before us and in the present clause is not only of words. The change of words from "a member" to "any member" has made the scope of the section rather wider. At the same time, the word "intent" was formerly in the clause but now it has been removed and the word "prejudice" alone has been kept in, besides other minor changes, and the way in which the whole clause has been put, shows that from the very beginning the Bill was not very considerably drafted. Sir, the Government of India have been given wide powers under this Bill, and although one cannot say that they will be misused, there is at least a likelihood of their being misused. The Magistrates at present, when they receive any case from the District Magistrate or from the High Court, consider themselves in their heart of hearts to be bound to presume against the accused, and the presumption there is that that is the intention of the Government. So, when this thing goes from the Governor General in Council, the Magistrates, though they may be quite honest people, will pay more attention to such presumptions against the accused. With these remarks, Sir, I oppose the motion.

Sir Abdur Rahim: Mr. President, if I may be permitted by the House, I wish to move the following amendment:

"That the words 'and, in the opinion of the Governor General in Council, the maintenance of friendly relations between His Majesty's Government and the Government of such State may thereby be prejudiced' be omitted."

Mr. Mumshi has given reasons in support of this amendment and if I may be permitted

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Honourable Member has already spoken. He now wishes to move an amendment. The Chair has no objection to his doing so if the House is agreeable. I take it that the House agrees to allow the Honourable Member to move his amendment. (*Voices:* "Yes.") The Honourable Member may move it.

Sir Abdur Rahim: I move the amendment that I have already read out to the House.

Sir Evelyn Howell: Sir, on behalf of Government I accept the amendment.

Mr. President: It is on that assumption that I am proceeding. The House would not have been unanimous if Government had objected to the amendment. The amendment to the amendment is now before the House.

(No Member got up to speak.)

Mr. President: The question is that the following words be omitted from the amendment moved by Sir Evelyn Howell:

"and, in the opinion of the Governor General in Council, the maintenance of friendly relations between His Majesty's Government and the Government of such State may thereby be prejudiced."

The motion was adopted.

Mr. President: Sir Evelyn Howell's amendment, as amended, is now before the House.

Mr. M. Maswood Ahmad (Patna and Chota Nagpur cum Orissa : Muhammadan): Sir, my amendment may also be allowed.

Mr. President: It will come in due course.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions : Non-Muhammadan Rural): Sir, it is too late in the day for me to rise to associate myself with the observations made by the Leader of the Independent Party in regard to the objection that had been made by him to this amendment of the Government. We are glad that the Government have agreed to delete those words which the Honourable the Leader of the Independent Party put before the House. By so doing, I am glad that the Government have agreed to omit the passage which the Honourable gentlemen on this side of the House thought to be not in the interests of the accused. With these few words, I resume my seat.

Mr. President: The question is that for clause 2 the following be substituted:

2. Where an offence falling under Chapter XXI of the Indian Penal Code is committed against a Ruler of a State outside but adjoining India, or against any member of the family or against any Minister of such Ruler, the Governor General in Council may make, or authorise any person to make, a complaint in writing of such offence, and, notwithstanding anything contained in section 198 of the Code of Criminal Procedure, 1898, any Court competent in other respects to take cognizance of such offence may take cognizance thereof on such complaint."

Power of Governor General in Council to prosecute in cases of defamation which prejudice the maintenance of friendly relations with certain foreign States.

Sir Abdur Rahim: May I rise to a point of order. There is an amendment standing in the name of Mr. Maswood Ahmad for omitting the words "or against a member of the family".

Mr. President: Those amendments will follow. The Chair intends to explain the procedure which it proposes to adopt after this amendment has been disposed of.

The question is that the amendment which I have just read be adopted.

The motion was adopted.

Mr. President: The next amendment stands in the name of Mr. Anklesaria.

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): Sir, I do not want to move my amendment. †

Mr. President (The Honourable Sir Ibrahim Rahimtoola): That brings the question of the various amendments which appear on the Order Paper. When this clause was being debated, the Chair recognised that if the amendment was carried, it might prejudice the moving of certain amendments of which notice had been given to the original clause.

The Chair came to the conclusion that it would not be fair to disallow all those amendments on the ground that the original clause had been rejected by the House, and another substituted for it. The Chair decided that all amendments which are relevant to the wording of the amended clause should be allowed to be moved. Following that decision, the Chair proposes to call upon all those Honourable Members who have given notice of amendments for alteration of words which are common to both clauses.

The first amendment that stands on the Order Paper is that from Mr. Maswood Ahmad who proposes that "In clause 2 the words 'or against a member of the family' be omitted." Does the Honourable Member wish to move it?

Mr. M. Maswood Ahmad: No, I do not want to move that amendment.

Sir, I beg to move the following amendment:

"That in clause 2 of the Bill as amended for the words 'any member of the family or against any', the words 'the consort or the son or the principal' be substituted."

In my opinion the scope of clause 2 has not been so much narrowed down as we would have expected it to have been. Rather the scope of the Bill has been widened by the Select Committee, as the Bill stands especially after the amendment moved by my Honourable friend Sir Evelyn Howell. When the Bill was introduced, there was absolutely no idea of protecting the Members of the family of a Ruler. It cannot be denied that since the Simla Session when the Bill was introduced by my Honourable friend Sir Evelyn Howell, nothing new has developed. Since then no prosecution has been made, nothing has appeared in the Press about any State or any Ruler or any member of the family or any Minister. Amongst the opinions received, there is no mention of the members of the family, because this question was not before us at that time. When this was the situation, there was no justification for the Select Committee to add this word in this Bill. My second point is this, the words make the scope of the Bill very wide. Cousins up to eighth or ninth degree can be members of a family. My third point is that it will be very difficult for any Secretary of Government to certify who is a member of the family of a Ruler or who is not and it is very difficult for any office to keep a list of the members of the family of any Ruler.

† "That for clause 2 the following be substituted:

2. Whoever commits any offence punishable under Chapter XXI of the Indian Penal Code against a Ruler of a State outside or adjoining India or against a member of the family or against a Minister of such Ruler, with intent to endanger the maintenance of friendly relations between His Majesty's Government and the Government of such State or whereby the maintenance of such relations is likely to be endangered shall be punishable with imprisonment of either description which may extend to two years or with fine or with both."

Mr. Gaya Prasad Singh: What about consorts? There may be more than one in an Eastern country.

Mr. M. Maswood Ahmad: Mr. President, consorts cannot be more than one. There are many objections to leaving in the word "Minister" without any qualifying words before it. In view of these facts, I move my amendment. I appeal to the Honourable Member in charge of the Bill to consider these points and to accept my amendment. I appeal to the representatives of the public that, if we cannot save ourselves the stigma of passing such a drastic measure, we should try to decrease its hardship as much as we can. The amended clause would read:

"Where an offence falling under Chapter XXI of the Indian Penal Code is committed against a Ruler of a State outside but adjoining India, or against the consort or the son or the principal Minister of such Ruler....."

Before finishing my speech I want to say that we are very sorry that some irresponsible papers in India should have written irresponsible articles against the Rulers of the neighbouring States which we do not appreciate but rather condemn. We have every sympathy with those States, and we do not want to create any trouble in those States. We want to live in friendly relations with Persia, Afghanistan and other neighbouring States, and we will be very glad to see these countries prosperous. With these words, I move my amendment.

Sir Evelyn Howell: On behalf of Government, I accept the amendment.

Mr. President: The question is:

"That in clause 2 of the Bill as amended, for the words 'any member of the family or against any', the words 'the consort or the son or the principal' be substituted."

The motion was adopted.

Mr. Muhammad Yamin Khan: Sir, I beg to move:

"That after clause 2 the following Explanation be added:

'Explanation:—

For the purposes of this Act, Aden is not included in India.'

As Honourable Members are aware when the Honourable the Foreign Secretary was moving his Bill for consideration in his speech, he mentioned the States adjoining India and he gave a list of those States, but he did not mention any State which adjoins Aden. This was practically ignored in the Committee and that was the only thing which was not taken into consideration. Therefore I move this amendment.

Sir Evelyn Howell: On behalf of Government, I accept the amendment.

Mr. President: The question is:

"That after clause 2 the following Explanation be added:

'Explanation:—

For the purposes of this Act, Aden is not included in India.'

The motion was adopted.

Mr. President: The question is that clause 2, as amended, stand part of the Bill.

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Mr. President: The question is that clause 3 stand part of the Bill.

Sir Evelyn Howell: Sir, I beg to move:

"That clause 3 be omitted and clauses 4 and 5 be renumbered as clauses 3 and 4, respectively."

Sir, there are two parts of clause 3 in the Bill as reported by the Select Committee. The first part of it lays down that no court inferior to that of a Presidency Magistrate or a Magistrate of the First class shall proceed with the trial of any offence under clause 2, and the second part ^{3 P.M.} that no court shall proceed to the trial of any such offence except on complaint made by or under authority from the Governor General in Council. I submit that the first part of this clause has become superfluous, because that is already provided for in dealing with the offence of defamation, in which it is already provided in the Criminal Procedure Code that no court inferior to the status named shall try the offence of defamation. That part of the section therefore is otiose and may be removed.

With regard to the second part, if you will turn to clause 2 as amended, you will see that the Governor General may make or authorise any person to make, a complaint in writing of such offence notwithstanding anything provided in section 198 of the Code of Criminal Procedure, and that amply provides for the object which it was intended to secure in the form of the Bill as approved by the Select Committee. The net result is that the whole clause may drop out as not required in the Bill.

Dr. Ziauddin Ahmad (United Provinces Southern Divisions: Muhammadan Rural): On a point of order; if we accept this amendment, then all the amendments to clause 3 will fall?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Of course; if the clause is omitted, how can the amendments stand? You cannot amend an omitted clause. If no Honourable member wishes to address the House on this amendment, I shall put the question. The question is:

"That clause 3 be omitted and clauses 4 and 5 be renumbered as clauses 3 and 4 respectively."

The motion was adopted.

Mr. President: The question is that clause 4 stand part of the Bill as clause 3.

Sir Evelyn Howell: Sir, I rise to move the amendment which stands in my name and which runs as follows:

"That in clause 3, as re-numbered, for the words 'in respect of which any person is punishable under section 2' the words 'which is defamatory of a Ruler of a State outside but adjoining India, or of any member of the family or of any Minister of such Ruler and tends to prejudice the maintenance of friendly relations between His Majesty's Government and the Government of such State' be substituted."

The original intention as regards this amendment . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Will it not be better if the Honourable Member moves this amendment on the same lines as amended clause 2? I will allow him, if he so desires some time to frame an amendment in view of the amended clause 2.

Sir Lancelot Graham: I do not really see any trouble in it, Sir. If these words "tends to prejudice the maintenance of friendly relations between His Majesty's Government and the Government of such State" remain, it is certainly in the interests of the publishers of these papers that they should remain. These are proceedings which will eventually come before the High Court and have nothing to do with prosecution for defamation under 499; they are proceedings under the Criminal Procedure Code which begin with section 99A.

Mr. President: If the Honourable Member wishes to adhere to the wording he will explain why he wishes to do so.

Sir Lancelot Graham: The position is slightly complicated; but really we ought to move this amendment in the interests of publishers of papers; we do not wish to have these papers confiscated merely because they contain a libel.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member can move the amendment and explain why, while in clause 2 the words "any member of the family" and "Minister" have been modified, they should stand in their original form in this clause. The Honourable Member can move the amendment and explain that position and the Honourable Member Sir Lancelot Graham can, when he gets his chance, further supplement that explanation.

Sir Evelyn Howell: I move the amendment in the form in which it stands and when the further amendments which Mr. Maswood Ahmad and others have proposed in the matter come to be moved, we propose on behalf of the Government to accept them.

Mr. M. Maswood Ahmad: Sir, the consequential amendment here will also have to be made, that the words "any member of the family or against any" be omitted, and the words "the consort or son or the principal" be substituted. With your permission, Sir, I move this amendment to the amendment.

Mr. President: I allow the Honourable Member to do so. Both the amendments are now before the House.

Mr. Jehangir K. Munshi: Mr. President, the object of the Opposition will not be served if an attempt is made to retain these particular words and the principle underlying them in any part of the Bill. We have, I take it by common consent in the House, deleted from clause 2 all reference to foreign relations; and I do object to these words being retained in any part of the Bill, because they would cause serious prejudice to the accused; and our object will not be fully served if this clause 3 as framed by the Foreign Secretary is retained in the Bill. Apart from that I hope Government will be consistent in their attitude with regard to the subsequent clauses as they have consented to amend clause 2 in the manner desired by the Opposition Benches. Furthermore, Sir, I oppose this clause entirely, because the position of Government is that they are only making the offence of defamation punishable as such, by making it simpler for a foreign Ruler or his consort or his principal Minister to file

a complaint through the Government of India under the procedure laid down in clause 2 of this Bill. Why then provide for further penalties? The accused in a case where the complaint is launched on behalf of a foreign Ruler should have the same rights and should be subjected to the same punishment or penalties as he would on a complaint of defamation filed by an ordinary individual; and if Government insist on introducing these further penalties in the Bill they would be attempting to put a foreign Ruler or his consort or his Minister in a higher position in a case of defamation than an ordinary British subject in this country. (Applause.)

Sir Lancelot Graham: May I understand the Honourable Member to make an amendment? Would he please read out the words of his amendment?

Mr. Jehangir K. Munshi: I oppose the whole clause, Sir.

Mr. Muhammad Yamin Khan: Sir, in view of the fact that clause 2 has been substantially amended, the last words in the proposed amendment, "tends to prejudice the maintenance of friendly relations between His Majesty's Government and the Government of such State" should be omitted.

Sir Lancelot Graham: On behalf of Government, I am authorised to say that we accept the amendment. If Honourable Members want to take out those words we have no objection. But we do not agree to the whole clause going out. If Honourable Members want to move that the words "and tends to prejudice the maintenance of friendly relations between His Majesty's Government and the Government of such State" should be omitted, we do not object. If the House is happier by that amendment being made, we have no objection, Sir.

Mr. Muhammad Yamin Khan: I move that amendment, Sir.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): It appears to the Chair that a substantial change has taken place in the Bill, and instead of trying to amend clauses on the floor of the House the best plan would be that the Chair should postpone the consideration of this Bill till tomorrow. In the meantime those Honourable Members who are taking an active interest in the re-drafting of these clauses should meet Members of Government and bring before the House considered clauses tomorrow. In the meantime, I can call upon the Honourable Sir George Rainy to move his motion for the consideration of the Sugar Protection Bill. I think that will save the time of the House. I take it that the House agrees to this procedure. (*Several Honourable Members from all sides of the House:* "Yes, Yes.") Very well, then the further consideration of this Bill is postponed till tomorrow.

THE SUGAR INDUSTRY (PROTECTION) BILL.

The Honourable Sir George Rainy (Member for Commerce and Railways): Sir, I move that the Bill to provide for the fostering and development of the sugar industry in British India, as reported by the Select Committee, be taken into consideration. I have been waiting from day to day and wondering when the opportunity would come for me to move this motion, but until about five minutes ago it did not occur to me as possible that this Bill would be taken up this afternoon.

[Sir George Rainy.]

I propose to speak briefly on this motion, Sir, because notices of a number of amendments have been given by Honourable Members. They are all on ancillary points and do not affect the general principle of the Bill, and, when they are moved, I shall have an opportunity of speaking on them at length. At this stage, in moving for the consideration of the Bill as reported by the Select Committee, it will, I think, suffice if I endeavour to explain to the House the changes in the Bill as introduced which have actually been made by the Select Committee. In the first place, certain amendments have been made in the Preamble and in clause 3. As the House will remember, the Tariff Board originally proposed that a protective duty of Rs. 7-4-0 a cwt. should be imposed for 7 years and that thereafter for a further period of 8 years, making 15 years in all, the duty should be one rupee less, that is to say, Rs. 6-4-0 a cwt. The Government of India did not see their way to accept the recommendation of the Tariff Board as it stood, because of the practical difficulty they felt in determining, six years in advance, the rate of duty which would be appropriate and sufficient to give protection from the year 1938 onwards. They therefore limited the proposals in the Bill to the imposition of the duty of Rs. 7-4-0 a cwt. for the first seven years, but provided for a statutory inquiry before the expiry of that period, in order that at the proper time the rate of duty should be ascertained. The general feeling in the Select Committee was, I think, that something more than that was necessary. The Committee was not completely unanimous, but there were a considerable number of Members who felt that it was desirable to give the industry an assurance of protection for a longer period than seven years, and after a considerable amount of discussion, the plan embodied in the Bill, as now reported by the Select Committee, was adopted. What we have done is this. We have included in the Preamble of the Bill a declaration that the sugar industry would be protected up to the 31st day of March, 1946. The words are, "Whereas it is expedient",—here I omit certain words—"to provide for the fostering and development of the sugar industry for a period ending with the 31st day of March, 1946 by determining the extent of the protection to be conferred up to the 31st day of March, 1938 and by making provision for the determination of the extent of the protection to be conferred for the remainder of the period". The amendment in clause 3 amounts to this, that instead of merely providing that an inquiry should be held, a completely open inquiry as to whether protection is still necessary or not, the Bill now provides that the object of the inquiry shall be to ascertain if the protection to the sugar industry during the period from 31st March, 1938 to the 31st day of March, 1946, should be continued to the extent conferred by this Act or to a greater or lesser extent; that is to say, in the inquiry of 1937 the Tariff Board will not have to consider whether protection is needed or not, but it merely will have to decide what is the amount of the protection required. That is the first important change made by the Select Committee in the Bill.

The second change to which I should like to refer is the new clause 4. It was felt by the Members of the Select Committee that, in order to provide against the risk of sugar being imported into India at prices which would impair the protection intended to be given, the Governor General in Council should have powers to impose additional duties. The reason why a clause of this kind did not find a place in the Bill as introduced

was mainly this. I have always felt that this power of imposing by executive action additional duties is a power which it is difficult to exercise wisely, and which, on the whole, as a Member of Government I would rather be without. Therefore, I have never cared to put forward a demand before the House that the executive Government should be invested with those powers. But if the feeling in the House generally is that it is desirable that the Government should have these powers—and that was clearly the feeling in the Select Committee—then the Government are ready to accede to the general wish, but they prefer that the power should be conferred upon them by the House rather than that they should come to the House and themselves ask for it. In the report of the Select Committee there is a sentence which says :

“We consider that whenever the Governor General in Council exercises the power conferred by this clause, he should, as soon as possible thereafter, give the Legislature an opportunity to consider his action.”

That is entirely in accordance with the Government view of what is right and proper, and on the single occasion on which we have exercised such a power, that is the procedure which we have followed, and I have not the least doubt that that will be the practice which will invariably be followed.

Another small change made is this. In the interests of the growers of sugar-cane, power should be given to require sugar factories—that is what the Tariff Board thought—to post notices specifying such matters in connection with the rates being paid at the factories for sugar-cane as may be considered necessary. For that reason, the Select Committee have inserted a clause giving the Local Governments power to make rules to give effect to this recommendation. Government have always felt some little doubt as to the effectiveness of this measure, but they also felt that this was not a matter in which they should oppose their own view to the view of the members of the Select Committee because they recognise how important it is that, if the industry is to be protected, such steps as are practicable should be taken to ensure that the cultivator receives a fair price for his sugar-cane.

These are the only changes in the Bill to which I think I need refer. But there is another paragraph of the report of the Select Committee on which I might say something. The Committee considered at some length the question of the provision of funds for research. The Tariff Board's recommendation was that a sum of Rs. 10 lakhs a year should be placed at the disposal of the Imperial Council of Agricultural Research, and the Select Committee considered whether statutory provision ought to be made for making such a grant. In view however of the many difficulties involved in making a statutory provision of this nature, they preferred to recommend that the Government should guarantee the grant to the Council annually of sufficient funds, to the extent recommended by the Tariff Board, to enable the Council to carry out all schemes of research which have been or may be finally approved. I understand that the present position is this. The Imperial Council of Agricultural Research are in a position, from funds already at their disposal, to finance the schemes to which they are already committed. The figure of Rs. 10 lakhs a year is not one which can be immediately attained, but only by a series of stages, and it is not until some time after the schemes have begun to be initiated that the maximum figure is reached. But although the Council of Agricultural Research have sufficient funds at their disposal to carry on up

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till the 31st March, 1933, I gather they would have to curtail their operations to some extent if further funds were not placed at their disposal then. What I should like to say on behalf of the Government is this. They attach very great importance in connection with sugar to adequate facilities for research as a means of developing the industry. They entirely agree with the view expressed by the Select Committee that without such measures the whole purpose of the protection scheme is likely to be delayed, if not defeated, and they anticipate that it will be possible next year and in future years to make provision which will enable the Council to carry out the approved schemes. That is certainly their intention. Naturally of course, an absolutely binding pledge cannot be given because nobody knows what the financial situation is going to be, but sugar research is one of the things on which Government would be very reluctant to curtail expenditure, because they agree with the Select Committee that, if we are to protect the industry at all, it is very important that the research side should be fully developed. I thought it right to explain the attitude of the Government on this important matter.

That, Sir, I think concludes all that I need say in moving this motion, and for that reason I will bring my remarks to an end.

Mr. B. Das (Orissa Division: Non-Muhammadan): I rise to support the motion moved by my Honourable friend the Leader of the House. Sir, for many, many years he will be remembered as a great protagonist of protection. As President of the Indian Tariff Board, he inaugurated a report whereby protection was given to steel, and he is ending his career by giving protection to sugar. I do not know whether the successor of my Honourable friend—we understand Sir Joseph Bhole is going to be his successor—will be allowed to introduce a number of protective schemes for Indian industries, as was the good luck of my Honourable friend Sir George Rainy. That has yet to be seen, but there have been ominous clouds.

The Consultative Committee, where I know for a fact that the Indian industries and Indian commerce were not represented, have come to a decision

Mr. N. M. Joshi (Nominated Non-Official): Why was not the representative there?

Mr. B. Das: My Honourable friend Mr. Joshi knows why the representative of the Federation of Indian Chambers of Commerce and Industry was not there.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Chair overlooked the fact that there is an amendment for postponement, which must take precedence.

Mr. E. F. Sykes (Bombay: European): Sir, I move that the consideration of the Bill be postponed to the September Session.

As there is no need for preliminaries in a matter of this kind, I shall proceed straight with the reasons why I want this Bill to be postponed to the September Session. One is the very familiar argument that Government are bringing forward important legislation at the fag end of the session before a tired and depleted House.

The Honourable Sir George Rainy: I should like to point out that I introduced this Bill at the beginning of the session.

Mr. E. F. Sykes: Sir, I will not argue with the Honourable the Leader of the House. I will alter my expression and say "continuing legislation".

This legislation, as indicated by the Honourable the Leader of the House, was initiated somewhat early in the session. The report of the Tariff Board, on which this Bill is based, was published about the time of the Budget last year. Session after session passed and no Bill was brought forward. On the 30th January the Government Resolution was issued and on the 3rd February the Bill was introduced and on the 4th February notice was given that on the 6th the Bill would be referred to a Select Committee. A good many Members attend this House at considerable inconvenience to themselves and have to make their arrangements to attend to their own affairs as best they can. Some of us had already fixed up our business for that day which we were unable to postpone and were not able to be present. I think, Sir, you will see that the opportunities for discussion of this Bill previous to this occasion were very small. In the case of a Bill which dealt with steel or galvanised wire or other factory product, this objection may not have much force because we would be dealing with industries that are moderately well organised and which have their regular organs of expression. This Bill, as you are aware, deals with the sugar industry, of which I may say the greater part consists of cane growers and *gur* makers. As everybody knows, there is no organisation whatever covering the whole of these two groups. Among cane growers there are one or two local associations, but of *gur* makers I have never heard of any association, although the *gur* industry deals with about 3 million tons. Now, Sir, can you imagine that it will be possible for anybody to collect the views of the *gur* makers between the 30th January and the 6th February? Indeed, Sir, I may ask whether it would be possible to collect it between the 30th January and the 30th of March. I myself have made some small effort in this direction. I have endeavoured to ascertain their opinion, I may say, with extraordinarily small success, and I advance this for the consideration of the House as the principal reason why the Bill should be postponed to the Simla Session. During the session Members of this House who naturally have opportunities for familiarising themselves with the Bill and the views of the industry are not in a position to move about to ascertain the opinion in the country. Between now and the September Session they will have these opportunities, and I am quite sure that every one will endeavour to ascertain how the Bill is viewed in the country and bring those opinions back to the House, if the Honourable the Leader of the House will allow it to be once more brought before this Assembly.

These are considerations extraneous to the substance of the Bill, but if the House will bear with me for a short time, I will go into the details of the Bill, and the House will find that there are matters in the Bill itself which call for very much greater consideration than they have had so far. The first occasion I came to this House was the occasion when the first Protection Bill was introduced, that is in June 1924. I have since seen all the protection Bills that have been brought forward, and I have studied them with special diligence. The earlier reports of the Tariff Board were of great interest to us. The subject was new to us and we took a great deal of trouble to understand the aims of the Tariff Board and the policy of the Government which was founded on it. There is one feature in this Bill which distinguishes it from all the other Bills that have been brought forward to protect industry in this country. In

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all the other Bills the fair selling price has been ascertained by reference to actual conditions and the amount of protection has been determined accordingly and in subsequent Bills,—I refer particularly to the steel industry,—when it has been found that improvements in management or changes in price of materials have made it possible to manufacture the article at lesser cost, the protection granted has been correspondingly reduced. In fact I have heard one frivolous person remark that when we have finished with the steel industry, we should have trained it to live on a straw a day. That merely shows that the Tariff Board in those days were very anxious that no expense should be caused to the consumer in excess of what was necessary to give the required protection to the industry. Sir, you will have noticed in this Bill and in the report on which this Bill is founded that the fair selling price of refined sugar is determined not by the costs which are demonstrably being incurred by the industry, at the present time but on a purely hypothetical basis. You will have noticed that in the chapter dealing with the fair selling price, the report first of all proceeds to ascertain the fair selling price of cane and they do so by an elaborate detail of costs. Those Members of this House who are familiar with agricultural costs will I think agree with me that this method is full of pitfalls. Only the other day I was reading the Report of the Central Cotton Committee, and found that the latter have been very anxious to ascertain the cost of production of different cottons in different areas but in their report they stated that they did not consider it possible to ascertain the cost of production of cotton separately from the other costs of those crops which would usually be cultivated in the same rotation with them.

Nevertheless the Tariff Board proceeded with the estimation of the details of cost and arrived at the figure of 8 annas per maund as the fair selling price of sugar cane, and from this they formally determined the fair selling price of manufactured sugar. But this inquiry was made I think in the year 1929, and in those two years the most prodigious changes have come over not only industry but agriculture; in fact the changes in agriculture have been more cataclysmic. As a consequence, what was considered to be a disastrous price for *gur*, namely, Rs. 5 per maund, would now be considered a very excellent one; and *gur* has been quoted during the last two months in Delhi at Rs. 3-4-0 a maund. In the previous year I think the price was rather lower, and no one concerned with the industry has the least hope that in the immediate future we are likely to see any higher price. This price of Rs. 3/4 in Delhi for *gur* has this interest that, calculating in the manner adopted by the Tariff Board and which I have no quarrel with, it corresponds exactly to a price of 5 annas for cane delivered at the factory; and I have ascertained by inquiry from the Government, made two months ago in this House, that at the present time milling cane is delivered at factories at prices varying from 4 to 6 annas or, if we like to take a mean, we will say 5 annas. Now, Sir, one would expect that, being in possession of these factors, when the Government knew that since the Tariff Board reported such a great change came over the situation, the Government would consider that it was necessary for them to revise their figures and, in calculating the fair selling price of refined sugar, to adopt prices for delivery at the factory more or less corresponding to those which are obtaining and have obtained for considerable periods. But the figure that is given here in the Schedule—Rs. 7-4-0

per cwt.—is the same figure that on this hypothetical basis of 8 annas per maund for factory delivery of cane was arrived at by the Tariff Board. Now what the Tariff Board say is that you get 9 per cent. of sugar on cane. Those who have taken the trouble to study the subject will then see that, according to the Tariff Board's calculations, a reduction of price of 3 annas in cane will correspond to a reduction in price of refined sugar of Rs. 2-1-0; that is, assuming the manufacturing costs remain what they were estimated to be by the Tariff Board, which is a question for separate examination; and Rs. 2-1-0 per maund is as near as possible to Rs. 2-12-0 per cwt., so that this protection of Rs. 7-4-0 per cwt. is in excess by Rs. 2-12-0; and a Tariff Board of the days when the Honourable the Leader of the House presided over it would I am quite sure have said that the protection that was necessary for refined sugar at the present time was no more than Rs. 4-8-0.

Now, this is a matter of very considerable importance. It is very well-known that the high duty on sugar has raised the price so much that in combination with the great reduction in the resources of the people of the country it has reduced the consumption of sugar by a very large percentage. I am not in possession of the latest figures; no doubt the Honourable the Commerce Member would be able to supply them if necessary, but I hope my friends will at least admit that the consumption of sugar has fallen by something like 50 per cent. in the last two years. Now, Sir, the consumption of sugar is a very important factor in the health of the nation, and anything that tends to reduce it is to be looked at with very great jealousy. If the protection that is necessary for the refined sugar industry is only Rs. 4-8-0, then money is being put into the pockets of one section of the population and taken out of the pockets of another section of the population, to the detriment of their health. I would suggest therefore to the House that the amount of protection necessary for the sugar-producing industry has been greatly over-estimated and requires revision.

(At this stage Mr. President vacated the Chair, which was taken by Sir Abdur Rahim.)

Nor can it be said that any harm whatever would come to the industry from the postponement of this Bill, because in the Budget of 1931-32 provision was made for a duty of Rs. 7-4-0 per cwt., and the surcharge of 25 per cent. in the Supplementary Finance Bill of November 1931 applied also to sugar, so that at the present time the industry is getting a bigger protection than it will get when this Bill becomes operative by the removal of the surcharge. There are other matters for estimation in the Tariff Board's Report which will also call for attention. If you look at the calculations of the protection required at the end of the period of production, you will see that they only provide for an increase in recovery of sugar from 9 per cent. to 9-4 per cent. And yet they are estimating for an efficiency equal to that at present obtainable in Java, which is 85 per cent. So that this low percentage of recovery presupposes a low percentage of sugar in the cane. Yet the Tariff Board in another portion of the book quotes the Coimbatore cane No. 215 at a very high figure. I may say that this particular cane is one of the most widely spread of all modern canes in the country, and I have no doubt that with the assistance of the research work that is carried on at Coimbatore, Shahjehanpore and Karnal and other places, the sugar content of all the canes

[Mr. E. F. Sykes.]

will correspond to that and enable the calculation for the fair selling price at the end of the period of protection to be based on an extraction of over 11 per cent. This, of course, is no place to deal with details of these figures. What I wish to indicate at the present moment is that it is not in one respect only that the estimates of the Tariff Board require to be revised but in several.

Now, Sir, there is another reason why the postponement of this Bill is desirable. The Tariff Board frequently makes it perfectly clear that the *gur* maker is the principal object of their solicitude. Nevertheless I have failed to find anywhere, either in the Tariff Board's recommendations or in the Bill, any provision whatever for him except in so far as the high duties now proposed will keep out low grade sugar with which *gur* can be imitated or prepared. The argument that is commonly used that this Bill is of great benefit to the *gur* maker is the Tariff Board's own argument. They say that it is necessary to find a fresh outlet for cane, and that this outlet will be found in the refined sugar factories. Now, Sir, as you will have noticed in reading the Tariff Board's report, the sugar industry is a very greatly expanding one. The House will have seen that I have very carefully left all my figures outside the House because this is **not an occasion for giving figures in detail**. But by the kindness of the Department of Education, Health and Lands, I have been able to see the comparative figures of several years, showing the development of the improved canes in the United Provinces, from which I found that the cultivation of improved sugar-cane in some years has gone up by 100,000 acres, in others by 200,000 acres, and once, I believe, by half a million. The Honourable the Finance Member in his Budget gave us his estimates of the possible expansion of the sugar manufacturing industry. He estimated that the new factories would be capable of producing 60,000 tons per annum. But, Sir, what is 60,000 tons compared to the enormous amount that can be produced by the cane growers in India? The Tariff Board says that the improved cane will produce not less than 50 per cent. more per acre than the unimproved canes. The actual figure that I took from the last report showed that the ratio was 100 to 189. As a consequence, this 60,000 tons required for the new factories annually can be provided by the conversion from country cane to improved cane of 70,000 acres. It is quite evident that the *gur* industry will have to go on competing with this which it has always done. Nothing that there is in this Bill will affect the price by one anna.

Now, Sir, there are other dangers in this Bill. The price which will be obtainable under the protection levied by this Bill will be very remunerative and there will be a great stimulus to the extension of the factories, and the situation which we shall have will be very similar to that we had in the cement industry as recorded in the Tariff Board's Report.

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

I do not say that the Tariff Board was responsible for this state of affairs because if natural forces have had been allowed to their way they could foresee what would be the consequence. But the consequence now is that the cement industry is controlled by a combine which, in effect, has throttled the industry. Instead of having enormous quantities of

cement available at low prices, we have a small quantity of cement available at high prices. I will merely give one figure. The price of cement in India is exactly double of what it is in England. That, Sir, is the result of protecting a highly organised industry.

Now, Sir, my time is up. I hope I have said enough to the House to convince it of the necessity of giving the Government time to reconsider this Bill, especially in the matter of the amount of the protection given to the sugar manufacturing industry, so that in September they may bring in a Bill which is more in accordance with the facts as they are known to everybody.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhamadan Rural): May I ask the Honourable gentleman, if the House does not meet in September, what happens then?

Mr. President: Order, order. Amendment moved:

“That the consideration of the Bill be postponed to the September Session.”

MOTION FOR ADJOURNMENT.

UNSATISFACTORY REPLY OF THE LEADER OF THE HOUSE IN REGARD TO THE EXPEDITING OF THE REFORMS WITH MAHATMA GANDHI IN JAIL.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): It is now 4 P. M. time to take up the motion for adjournment. Before I call upon the Honourable Member, Sirdar Harbans Singh, to move his motion the Chair wishes to point out that the House has definitely decided to restrict it to only one issue, namely, to censure Government for the unsatisfactory reply of the Honourable the Leader of the House in expediting reforms with Mahatma Gandhi in jail. That being so the Chair wishes to inform Honourable Members that in addressing the House they will have to restrict themselves to this one issue only.

Sirdar Harbans Singh Brar (East Punjab: Sikh): Sir, I move that the House do now adjourn. Yesterday, Mr. President, we got a reply from the Honourable the Leader of the House in answer to a question that efforts are being made to expedite the progress of the reforms. That reply indicated that the Government are trying to force the reforms on India with the leaders of the Congress in jail. We believed all along from the statement of the Ministers of the Crown as well as Members of the Government of India, that all sections of Indian opinion would be duly consulted before the next constitution is put into force. But since the second Round Table Conference has ended and the present policy of repression in India has continued, we now hear that reforms will be expedited with all speed. We have heard on the authority of that great statesman of the Empire, whose authority on imperial affairs is unchallenged, General Smuts, that as far as India is concerned, Mahatma Gandhi is counted with, and that the Mahatma is the only person—General Smuts says from his own experience—who can deliver the goods and that Government will be well advised to do nothing of a decisive nature without first settling about the question of reforms with him, as the representative of that

[Sirdar Harbans Singh Brar.]

great organisation, the Congress. The decision of forcing the issue with the leaders of the Congress in jail appears to be that India should have the minimum of reforms which Britain would like to grant.

(At this stage, Seth Haji Abdoola Haroon was seen reading a newspaper in the Chamber.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. Honourable Members cannot be allowed to read newspapers in the Chamber.

Seth Haji Abdoola Haroon (Sind: Muhammadan Rural): It is only in connection with yesterday's questions.

Mr. President: Newspapers should not be read on any account.

Sirdar Harbans Singh Brar: Then when the Congress comes outside the jail and the reforms do not work well, there will be another long period for the Government to continue their supremacy without handing over responsibility to Indians. The view on this side of the House and the view in the country has always been that no reforms can ever be workable or acceptable to the country without all the parties being agreeable to them and the Congress as the main and the most important factor in the political situation of the country, as the political organisation with the widest following, should be consulted before reforms are inaugurated. We desire to impress on the Government that the decision they have taken to bring the reforms into action with the leaders of the Congress in the jails is most ill-advised and most unfortunate and most unwelcome to the country at this time. In such circumstances, neither the reforms will be acceptable to the majority of our countrymen nor when put into force will they work. We have seen a statement published in the *Advance* of Calcutta, from the same place from which my Honourable friend Sir Abdulla Suhrawardy comes, the statement issued by Mr. Benthall. My Honourable friend Sir Abdulla Suhrawardy must be acquainted with that circular. But I do not desire to depart from the main issue before the House and would not like to be taken back from that. We have seen from the statements in the Press and from different sources that at the Round Table Conference, certain parties decided along with the Government that the reforms must be expedited with all speed. As a result of those negotiations behind the doors of the Conference, it appears to us that this decision has been taken as a result of a conspiracy or intrigue, so that India should not have responsibility up to that degree which public opinion in India and the leaders of political thought demand. With the Congress leaders in jail, the British Government thought that they could give any sort of constitution they liked, and according to Mr. Benthall, all the minorities entered into a pact which the European Association after consulting legal advisers of the Crown and the India Office and the Foreign Office have thought fit to advocate. With these few remarks, I propose to leave the further discussion of the motion in the hands of my friends. Since the luncheon interval, I have been actually having a temperature. I therefore crave the indulgence of the House to conclude my remarks by saying that I commend my motion for the acceptance of the House.

Mr. B. Das (Orissa Division: Non-Muhammadan): Sir, at the time when Mahatma Gandhi was arrested, most of us held that there was a certain conspiracy going on in England and in India. My Honourable friend Mr. Neogy, the other day, read out a passage from the speech of Mr. Winston Churchill, which showed that Mahatma Gandhi would not be allowed to remain free in India, but would be arrested as soon as he landed and that deep conspiracy was revealed when somehow Mr. Benthall's statement to the Associated Chambers of Commerce was published

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): Does my Honourable friend intend to say that I made that statement in exactly those words, or is that his inference from the statement?

Mr. B. Das: That is my inference and the inference of the country. Now, what does Mr. Benthall's statement

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair has informed Honourable Members that the question of Mr. Benthall's circular on which Mr. Lalchand Navalrai's question was based could have been discussed today; but the House deliberately decided to restrict itself to the one issue, namely, that Government are expediting constitutional reforms and keeping Mahatma Gandhi in jail; and the Honourable Member will have to restrict himself to that one issue only.

Mr. Lalchand Navalrai: Was it not inadvertently decided?

Mr. B. Das: I only refer to that statement in so far as it affects Mahatma Gandhi. I shall allude to the statement of Mr. Benthall where he refers to Mahatma Gandhi and how the conspiracy was hatched to arrest Mahatma Gandhi, and how representative Europeans were a party along with the Government and the die-hards in England to the arrest of Mahatma Gandhi. The particular passage I was going to refer to is that Mahatma Gandhi came back empty-handed to India. That was the report, the accredited report, of the representative of the European Chambers. That means that he knew a plot was hatched in London. The Secretary of State was a party to it; the die-hards, like Mr. Churchill and others, were parties to it; and my European friends here and their representatives at London were parties to it. Why was Mahatma Gandhi arrested? I have heard it said outside this House and also in the Press that if Mahatma Gandhi had been allowed his freedom, the Government could not have maintained peace and order. Before Mahatma Gandhi was arrested, there was the arrest of Pandit Jawaharlal Nehru; there was also the arrest of the Frontier Gandhi, Khan Abdul Ghaffar Khan. Had Mahatma Gandhi been allowed to proceed to Delhi to meet His Excellency the Viceroy, the heavens would not have fallen, nor would the earth have sunk into oblivion. But there was that conspiracy behind. They did not allow Mahatma Gandhi to meet His Excellency the Viceroy and to have a heart to heart talk with him. It has been suggested in the Press and outside, that Mahatma Gandhi might have carried on his negotiations as he did carry them on with His Excellency Lord Irwin, for two months, and that in the meantime the whole country would have been in flames. But with Jawaharlal Nehru arrested and the movement of the no-tax campaign completely under control of the United Provinces Government

[Mr. B. Das.]

and with Khan Abdul Ghaffar Khan arrested and the movement in the Frontier Province completely under control, those who plead that the Mahatma's freedom would have brought more trouble in the country simply bring out that plea only to defend themselves. Everybody knows that the country wants the expediting of these reforms; but with Mahatma Gandhi in jail nobody can say that the reforms could be expedited; and although the Churchills and the British Press gave us that impression, the particular passage in this statement of Mr. Benthall which was published in the Press shows that there was a conspiracy in England not to allow the reforms to be expedited; and there is a particular passage—I am not quoting anything lest it might be misconstrued—where Mr. Benthall says that there might be a land slide in the Government in England; in five year's time a Labour Government might come into power and so whatever there may be, let Mahatma Gandhi be arrested and everything that the die-hards in England and the European interests in India want about safeguarding and commercial discrimination and all that, let it be legislated so that the reforms could be postponed and the die-hards can have it all their own way. When Mahatma Gandhi went to the Round Table Conference as the sole delegate of the Congress, I know the British Press and the Press which is controlled by my Honourable friend the Leader of the European Group, my friend Mr. Arthur Moore, hailed it as a God-send, and in that statement it appears that the Congress delegation was described as “the most improbable people” and Mr. Benthall and his party could not understand how these most improbable people went to confer at the Round Table Conference to settle India's future. Another thing. My Honourable friend Mr. Moore will speak a few minutes hence, and I would like him to reply on behalf of his great community who live in India, though only for business reasons, about the particular reference to Mahatma Gandhi, when it talks of the “constructive vacuity of Gandhi's mind”. We know Mahatma Gandhi is a great saint; he is a prophet; he is a superman who is respected throughout the world. That the commercial representative of the European community should characterise his mind as “the constructive vacuity of Gandhi's mind”, what does that reveal? It reveals the fact that there was a deep-laid conspiracy, not only in India but also in England, and that everything was a mere show got up to entrap Mahatma Gandhi. Mahatma Gandhi was trapped there and he was not allowed to contribute constructively for the reforms in India, to bring peace between England and India, and when he landed in India, what happened? He sent a telegram to the Viceroy, the Treasury Benches advised His Excellency the Governor General not to allow Mahatma Gandhi to see His Excellency; and they arrested him and gave him enforced rest at Yerrowada jail; and with what purpose? With the purpose that has been revealed in the Indian Press by the publication of this document in the *Advance*, and actually revealed by the British die-hards. As one belonging to the commercial community, I find a serious charge is laid that “Mahatma Gandhi and the Federation of Indian Chambers were all combined and allied but they got nothing out of the Round Table Conference”. Commercial representatives have their respect for Mahatma Gandhi, but that they were offensively and defensively allied against the British commercial community, against the British Government and against the Government of India is a serious charge. I say it is a lie. It is a falsehood that has been mentioned in that particular document, if it is supposed to be true and came

from Mr. Benthall. My Honourable friend the Leader of the House will reply. I appeal to him whether he wants peace and good will between England and India, whether he wants expediting the reforms that will bring peace between England and India, that will bring peaceful times to many of his officers who are spending harrowing days out in the districts; and whether he wants that British trade should again revive in India. Everything can be revived if it is done through friendship; but these Ordinances which have been forced on the heels of Mr. Gandhi's arrest will not bring peace to India. Only Mahatma Gandhi's release and Mahatma Gandhi's participation in the constitution and the expediting of that constitution will bring everlasting peace between England and India.

Mr. Arthur Moore (Bengal: European): Sir, I very much doubt if many Members of the Opposition, when they arrived in this House this morning, had the slightest idea that they would find themselves during the afternoon engaged in trying to censure Government for their earnestness in hastening on the reforms, and I cannot help thinking that the date the 1st of April must have something to do with the fact that we find ourselves in this position. But, Sir, I understood from the Mover of this motion and also from my friend Mr. B. Das that the reason why it is sought to censure Government on this head is in some way due to this alleged circular of Mr. Benthall, and because it discloses some deep conspiracy which is alternately represented as a conspiracy to hasten the reforms and to hasten to torpedo the reforms.—I am not quite sure which. (*An Honourable Member*: "Both.") But, Sir, as regards Mr. Benthall himself, with your permission, I am in a position to be able to tell the House that, although this circular, as it has been described, has appeared in the Press, it was privately sent out by the Royalist Association to its members . . .

Mr. B. Sitaramaraju (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): Can that circular be discussed now, Sir?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I was just going to interrupt the Honourable Member. The Honourable Member cannot go into the question of Mr. Benthall's circular in the manner he is doing.

Mr. Arthur Moore: I have no desire to go into it any further than to deal with the arguments that my friend Mr. B. Das put forward. May I do that, Sir?

Mr. President: Yes, but it depends upon how the Honourable Member does it. (Laughter.)

Mr. Arthur Moore: I confess, Sir, that the whole operation seems to me exceedingly difficult and that I have like Agag to walk very delicately. However, Sir, I will get down to Mr. Das's allegation that the Government are to be censured because Mr. Benthall's circular proves that there was a deep laid conspiracy hatched in London, and to which I understood him to say the Members of this Group were also privy to go back on the whole of the Conference scheme. Now it is quite clear that Mr. Benthall does say in effect that there was something of an attempt in that direction

Mr. B. Sitaramaraju: Did not the Honourable Member when he began his speech call it "alleged circular", and now he calls it Mr. Benthall's circular.

Mr. Arthur Moore: I don't understand the Honourable Member's point, Sir.

Mr. B. Sitaramaraju: In the earlier portion of your speech you described it as the alleged circular of Mr. Benthall, and now you admit it is Mr. Benthall's circular.

Mr. Arthur Moore: I was endeavouring to explain my point, but the Honourable the President did not consider that I was in order. May I say briefly, Sir, that I am authorised to state that Mr. Benthall says that the views attributed to him are accurate in substance and in no sense secret, being his personal impressions of the events of last November before the Government finally decided on its present clear-cut policy. Now, the real point it seems to me has been entirely overlooked by Honourable Members opposite. If they were to study the document in question, they would see . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The document is not before the House on the present motion. I should like to make it quite clear again that the motion before the House is to censure Government for expediting reforms in the absence of Mahatma Gandhi whom they have put in jail. That is the only issue.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhamadan Rural): On a point of order, Sir, I should like to know whether in this discussion, especially because of the difficulties that have been raised, the following observation of Mr. Benthall's circular is relevant to the debate, namely, expediting the reforms in the absence of Mahatma Gandhi . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): That is what the Chair has repeatedly pointed out. There is no point of order involved in it at all. The reason why this censure motion is brought forward is this. The Government of India have put Mahatma Gandhi in jail and are hurrying with the reforms. That is the only issue. The Chair allowed the House to choose between Sirdar Harbans Singh's adjournment motion and that of Mr. Sitaramaraju. If they had accepted the latter, they could have gone into the whole question of Mr. Benthall's circular, but the House deliberately decided otherwise, and they have now to restrict themselves to what they themselves chose.

Sardar Sant Singh (West Punjab: Sikh): May I know, Sir, in support of our argument that the reforms are being expedited in the absence of Mahatma Gandhi who is put in jail, if we cannot quote certain passages from Mr. Benthall's circular?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): These are all statements which the Honourable Member can bring forward. Mr. Benthall's circular can be brought in only very incidentally, because that is not the subject before the House. The subject before the House is the action of the Government of India.

Mr. Arthur Moore: May I say, Sir, that on the present motion before the House, in my view Mr. Das has succeeded in doing a very grave injustice to Mr. Benthall. What I wish to ask is whether it is in order that he should be able to do that, whereas it is not open to these Benches to attempt to put that right.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member may put any construction he likes upon the speech which Mr. B. Das made, but the Chair has been very attentive and it has pulled up Honourable Members when it thought that they were exceeding the limits which the House has placed upon itself. Honourable Members very often overlook the fact that each Member of the House is entitled to rise to a point of order if he feels that any Member is exceeding the limits placed on the discussion. The Chair must again say that Mr. Benthall's circular cannot come on the scene at all. The real accused, if I may use that expression, are the Government of India.

Mr. B. Das: I think my Honourable friend Mr. Moore ought to have done the rope walking I did.

Mr. President: Does the Honourable Member (Mr. Arthur Moore) wish to proceed?

Mr. Arthur Moore: No, Sir.

Mr. B. Sitaramaraju: Sir, I am not a Congressman. I never was a Congressman. If I have even an agreement with all the views held by the Congress, I assure you, Mr. President, I would have that much honesty to keep away from this House (*An Honourable Member:* "What is the dishonesty?") I would have had that much honesty to stay away from this House, because I would have had to non-co-operate and I would have been in jail.

Mr. President: Please go on.

Mr. B. Sitaramaraju: I do really think, Sir, if the future of India is to be satisfactorily solved and the constitution is to be worked, then all parties in the country should be given a fair opportunity to participate in the discharge of the duties set before us. Then only any satisfactory constitution can be brought into being. In view of the statement made some time ago by the Honourable the Leader of the House when we moved a comprehensive Resolution in this House on the necessity for the co-operation of all parties, he said that it was preposterous that the Government did not do their best to bring all parties together to work for the progress of constitutional reform. Now, matters have been disclosed which arouse a grave suspicion whether Government have really done their best to bring it about. For that reason I am in sympathy with this motion. If for no other. After hearing the answer given by the Leader of the House to the supplementary questions put by my Honourable friends here, I am forcibly reminded of the saying of a great Englishman of letters that the preacher of yesterday is the subject of to-day's sermon.

Seth Haji Abdoola Haroon: I want to oppose the motion of my Honourable friend Sirdar Harbans Singh Brar. I do not know what he means. Up till now, what I understood was that, so long as Mahatma Gandhi

[Seth Haji Abdoola Haroon.]

is in jail, further reforms should not be expedited. Sir, if that is so, I do not know when Mahatma Gandhi wishes to come out from jail. . . .

Mr. B. Das: What my Honourable friend said was that without the release of Mahatma Gandhi full reforms cannot be brought about.

Set Haji Abdoola Haroon: Please let me finish. The meaning is this, that until Mahatma Gandhi comes out from jail. . . . (At this stage there were several interruptions). Let me be allowed to speak according to my own views. I do not know when Mahatma Gandhi wishes to come out from jail. (Laughter.) Last year after the so-called Gandhi-Irwin pact was achieved, Mahatma Gandhi went to England, and after his return he sent a telegram to His Excellency and wanted to discuss some other matters than the R. T. C. My impression is that Mahatma Gandhi did not agree with His Excellency and he sent a notice that unless His Excellency heard him on the subject of the no-rent campaign and other things, he would start civil disobedience; that was an ultimatum he sent. My opinion is that at that moment the Government took the only action that could be taken by any Government in its position. Besides, I do not know what is the policy of my friends on this side of the House, whether they want reforms or not. If tomorrow the Government come forward and say, "Here you are", they will say, "We do not want to go on". I think at that time also Members from this side of the House will jump upon the Government and say, "You are wrong".

I draw the attention of the House to the fact that there are many other sects and communities who want immediately and at once responsible Government for India, and if you pass this motion, you will be doing great injustice to the many other communities who want reforms for their country. I do not want to go into Mr. Benthall's letter, but if somebody objects, the passage objected to may be taken out if the Chair considers that it is objectionable and must be taken out of the proceedings of this House. I have seen a statement from the Hindu Sabha or somebody else, which some Honourable Members of this House have signed. I am told that there is a conspiracy between the so-called nationalists and the Prime Minister. I do not know how far that is correct. Mr. B. Das spoke about the Federation of Indian Chambers and Mahatma Gandhi. I am associated with some of the mercantile bodies in Karachi. To-day I declare on the floor of this House with pain, that in 1930 when this civil disobedience started, the word of Mahatma Gandhi was immediately approved by the different mercantile bodies. They were always rightly or wrongly supporting whatever Mahatma Gandhi said. (Mr. B. Das: "Not always.") It was my experience; your experience might be different. My Honourable friend Mr. Sitaramaraju said that opportunity should be given to all the parties to sit in the R. T. C. and prepare a constitution for India. I think nobody will oppose that proposal in this House, but I do not know whether the party, who have started something ruinous to the country, will desire to come out and sit with others and decide the thing. With these few words, I oppose the motion.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): Although I rise to support this adjournment motion, in my heart of hearts I rather feel sympathy for the occupants of the Treasury Bench. They really are not guilty. Everybody knows that they are merely the

agents of the Great Moghul who reigns at Whitehall. But all Moghuls were not tyrannical. There was Akbar the Great among them and in the same way there were very good Secretaries of State like Mr. Montagu, Mr. Penn and Lord Morley and some others. But there have been frequent changes in the occupants of the Whitehall throne and sometimes we have a very sympathetic Secretary of State and at other times an unsympathetic or apathetic to the interests of India. We are very grateful to the great Emperor Akbar, for he treated Hindus and Moslems equally and the Government have shown their appreciation by naming one of the roads after him and they have shown their good sense by locating the House of the President on that road in order to awaken him to his duty to give equitable treatment to the different communities and parties in this House. It is well known that Akbar was a very impartial and very fair-minded sovereign.

We cannot censure in this House the Secretary of State; but we have his agents here, the occupants of the Treasury Bench, who will have to hear all the severe things that will be said from this side of the House. (*An Honourable Member*: "Who is Akbar on the Treasury Bench?") Akbar ought to be in Whitehall. It is a pity he is not there at present. My friend Mr. Raju has just now told the House that he was never a member of the Congress, and holding similar views I have to say the same thing. The non-Brahmins of Bombay did not accept the lead of the Congress and that of Mahatma Gandhi. When he started the non-co-operation agitation in 1921 we not only remained outside the movement but with the assistance of the Maharajas of Kolhapur and Gwalior, we organised a great demonstration in Poona to welcome His Royal Highness the Prince of Wales, and thus showed that the Mahratta of the Presidency were quite loyal and were not at all affected by the non-co-operation doctrine preached in those days. This was done at that time because of the trust we had in the intentions of Government. Distrust had not taken its place then. But during the last ten years events have been taking place one after another which have been gradually undermining the faith in the good intentions of Government, and I am sorry to say that one proof after another is being furnished to help that undermining process. When Congress boycotted the Simon Commission, the non-Brahmins of Bombay and Madras did not join in the boycott, and when the Round Table Conference was announced and Mahatma Gandhi and the Congress people preached non-co-operation with it, we did not follow that advice, but accepted the invitation and went there because we felt that the intentions of the Government were very fair and that India was to get some real advance in freedom. The first Round Table Conference came to very fair conclusions and we were under the impression that everything would be all right in the second Round Table Conference. But things were changing. There was revolution in England. The occupant at Whitehall was displaced by another gentleman and the whole outlook in England had completely changed. The Government of India as the agents of the occupant of the throne at Whitehall had also to change their views. While sweet words were being exchanged at the Round Table and assurances were repeated from Government members of good will and service to India, the Conservative politicians, who had obtained a dominating voice in the Cabinet, were hatching a plot to annihilate the Congress. Some astute men had a vague idea that something bad was to happen. But I must confess that I was not gifted with that power. When I heard the speech

[Mr. E. V. Jadhav.]

of Mr. Churchill in the House of Commons, I thought that the bitterness in the speech was due to his disappointment. He wanted to smash the whole Round Table Conference and was working in that direction. But the Conference was not only not smashed, but the Prime Minister by his announcement had produced an effect, that the efforts of the Conference were successful. Mr. Churchill I thought was surely disappointed in his tactics and therefore he had been using the bitter words to exhibit the innermost motives of his mind. But future occurrences have now shown to me that there was a deep laid plot to suppress the Congress movement, and although the Prime Minister and others were hearing very patiently and talking very glibly about justice to India, there were communications with their agents in Delhi to take severe steps for the suppression of the Congress movement. On my way to Bombay, I promised my friends in England that I would take to the work of educating my people about the good intentions of Britain and to prepare them for the acceptance of the reforms that would come. But as soon as I saw that the Government were bent upon suppressing the Congress movement and were catching hold of any excuse to justify their actions, my eyes began slowly to open, and now this Benthall letter that has been lately published in the papers completes the disillusionment of my mind. All the important leaders of the Congress, including Mahatma Gandhi, are now in jail, and Government are at the same time hurrying up with the work of the various Committees. Up to this time the Franchise Committee has made some good progress I must admit, and I expect something will come out of it. But franchise is a very minor subject; whether 10 per cent. of the population gets the right to vote, or only 3 per cent. enjoys it as at present, does not matter very much. (Mr. Muhammad Yamin Khan: "Does it not matter very much?") It has its importance in the case of the voters themselves or the candidates who have to solicit the vote of a very much larger number or a comparatively smaller number. The principal thing is that of the future constitution. I have grave doubts whether the constitution that is going to be evolved will be acceptable to the nation and will satisfy the ambitions of the leaders. The Government of India may evolve a constitution and may get an Act passed by Parliament. But it will be very difficult to get the reforms worked. You can take a horse to water; but you cannot make it drink. So if the leaders of the people are not satisfied with the reforms if they believe that they are not getting the substance of freedom but only a semblance and a shadow, no one will be satisfied and it will be very difficult to work the constitution.

Sir, the dyarchical form of Government was accepted in 1920 by some of the leaders of the people, although Congress was against it, because it was a genuine attempt at democratization and people had then faith in the good intentions of Government. But as I have just said, times have changed; trust has been undermined, and it will be very difficult to find worthy people to work the new reforms. This is not at all the time for the introduction and successful working of a new constitution when there is now an Ordinance raj, when nobody is feeling confident, when Mahatma Gandhi and other popular leaders are confined in jail, when some leaders now working on the various Committees are rather nervous, and do not know where they stand, and when the European and other Groups are striving their best to whittle down the reforms as much as possible.

Mr. Arthur Moore: May I say, Sir, that that is quite incorrect?

Mr. B. V. Jadhav: Well, that is my view,—and I am liable to err. Therefore, Sir, I think I ought to condemn this action of the Government in hurrying on with the reforms under these circumstances when there is nobody prepared to accept and work them.

The Honourable Sir George Rainy (Leader of the House): Sir, I have delayed rising for some time in the hope that I might hear from some of the Opposition speakers some considered expression of the reasons which in their opinion justify this motion, but from the speeches made so far I have got very little material indeed. There seemed to be a constant tendency for speakers to get away to comparatively minor points and to divert attention from the main issue, which as you, Mr. President, have repeatedly reminded the House, is the only issue before us. Sir, the motion proposes to censure the Government of India for expediting the progress of the reforms, with Mr. Gandhi in jail. I find that even at this stage of the debate it becomes necessary for me to state what I understand to be in the minds of Honourable Members opposite rather than to refer directly to anything they have actually said. I understand, however, the feeling expressed by Sirdar Harbans Singh, namely, that it is useless to proceed with the constitutional discussions if the Congress are left out, that they form so considerable a section of Indian opinion that without their participation the constitutional discussions can lead to nothing. This is a point of view which the Government of India fully appreciate, and they have shown by their actions in the past how fully they did appreciate the importance of securing, if it could be done, that all parties of India should join in trying to reach a settlement. What else did the Gandhi-Irwin Pact mean but that, and, as one of the Members of the Government of India responsible for the Delhi Pact, I am entitled to claim that we took great risks in order to bring the Congress in. What followed? It was made clear in the Resolution of the Government of India, which was published last January, that the Government of India almost from the first found great difficulty in carrying on on the lines agreed upon. In their determination to assist towards a peaceful solution of constitutional problems, the Government of India showed deliberate forbearance towards Congress activities and refrained from denouncing the Delhi Pact although justification for such a course was afforded on many occasions. They persisted in their endeavours, and when difficulties arose about Mr. Gandhi's attendance at the Round Table Conference, they spared no efforts to reach a *modus vivendi*. Of that also I can speak from personal knowledge. Then came the Conference and the anxious months during which the situation in the United Provinces and in the North-West Frontier Province was steadily deteriorating from day to day; and at last the moment came when the Government of India felt that they could not, if they were to discharge their responsibilities at all, refrain from taking the action which the situation demanded. Sir, I have never been a party to a decision which in one sense I regretted so much, but I have also never been a party to a decision about which I was so certain that we were taking the only possible course which our duty to India demanded. (Hear, hear.) And when it is now suggested—on the strength of a document which I understand does represent what has been said by Mr. Benthall—that the Government of India were forced into their action by anything that passed outside India or by any alleged plot or conspiracy, that to me seems purely grotesque, remembering as I do all our efforts during

[Sir George Rainy.]

these anxious months, and remembering the reluctance we in the Government of India felt—and the reluctance constantly felt and expressed by His Majesty's Government—to taking any action which could endanger a peaceful settlement. But the situation became so grave that it looked as if a week's further delay might have precipitated an appalling catastrophe, in which ultimately all parts of the country might be involved. That is what I have to say on that point, Sir, and I desire to make it clear on behalf of the Government of India that we repudiate altogether any allegation that our action in attempting to put down the pernicious activities of the Congress movement was influenced in any way by anything that passed in London.

Now, Sir, since the Government of India were compelled to take action against the Congress, what was to be their future line of policy?

5 P.M. I do not know whether it is seriously suggested on the other side that since the Government of India felt constrained to take the action which they did take, they ought then to have abandoned any attempt to push on with the reforms and to have made their policy a policy of repression. If that is their view, it does not seem to me to be shared by a great many people outside this House. It is not shared by the Members of the Consultative Committee, who have emphasised the desirability that His Majesty's Government should decide with the least possible delay certain questions in order that progress may be expedited, and it is not shared by the members of the Muslim Conference at Lahore; and it is not shared by anyone with whom I have talked. I think Members generally and the country generally understand what the dual policy of the Government of India is. It was clearly stated in the Resolution of the Government of India to which I have already referred:

“While they will take every measure that is necessary for the suppression of a lawless movement and for the protection of public and private liberty, they will also spare no effort to bring to completion the policy of His Majesty's Government.”

And if I may quote one more sentence from the speech delivered by His Excellency the Governor General at the opening of this session, he said:

“Our difficulties must and shall be surmounted and my Government are determined to allow no subversive or revolutionary activities to prevent us from achieving this great purpose for which many of us have worked for long years.”

These are the two aspects of the policy. It is our business, it is our duty, to put down a movement which must result, if left unchecked, in the destruction of all orderly government. On the other hand, it is equally and even more our duty to show that we and His Majesty's Government mean business and that we are anxious to get on with the reforms. Surely what has taken place during the last few months in connection with these various Committees does show a very real intention of doing our best to expedite matters.

Now, Sir, before I sit down there is only one other matter to which I wish to refer very briefly. I presume it is suggested that the proper course for Government to take now is to release Mr. Gandhi and the other Congress leaders forthwith in an effort to bring about conciliation and peace. But what has happened in the last three months to encourage the view that the action would, in fact, lead to a peaceful settlement?

On the other hand, we can reasonably say that it would lead to nothing except the immediate revival of all those activities which brought India very nearly to the brink of a catastrophe. And if Honourable Members opposite think that this is the right course to follow, I think it is incumbent upon them to show in what respects circumstances have changed since Government were reluctantly compelled to take the course of action which they did take at the end of last December and towards the beginning of January. I can only give my own opinion, Sir, and it is this, that I can find no reason at present for believing that the weapon of civil disobedience, that most pernicious and appalling weapon, would be abandoned, and in that case the only result would be that we should be landed back in a condition far worse than that in which we were last year and all the confidence in the policy of Government would be completely destroyed.

One last word, Sir, before I sit down. This may be the last occasion on which I shall address this House on this very important and difficult subject. I do not know whether I have spoken more warmly than I ought to do, but I can assure the House that the only warmth that is in my mind and heart is the warmth of a very sincere desire for the future welfare of India and a determination that, if I can, I will not be a party to any action which in my view would seriously injure her future. (Applause.)

Mr. O. S. Ranga Iyer: Sir, the Honourable the Leader of the House concluded his observations with a very touching remark, namely, that this is his last speech on a controversial issue and that he had nothing else but the welfare of India at heart. Sir, we on this side of the House are quite willing and equally sincere in our willingness to admit that he has the welfare of India at heart. (Hear, hear.) I would exonerate the Honourable the Leader of the House from any initial responsibility for the imprisonment of Mahatma Gandhi. Sir, I would even go a step further and say that had the spirit that animates the Honourable the Leader of the House animated Whitehall, Mahatma Gandhi would not have been in prison but would have been working with the Lothian mission, of which he was a member originally, wandering in the country, examining witnesses and miles and miles of people from long distances would have come to have his *darshan*. Unfortunately, the Honourable the Leader of the House is a leader of a House which is not a sovereign Parliament and a Member of an Executive Council which has been described, and correctly described, by the late Lord Curzon as "a subordinate branch of the Imperial Administration". Sir, I wish that Whitehall and Sir Samuel Hoare had been animated by the same spirit that has animated throughout the Honourable the Leader of the House. We hold him responsible for one thing, and we are proud to hold him responsible for that, namely, for bringing about the Gandhi-Irwin Pact. What the Honourable the Leader of the House brought about last year or brought about before last year, has now been broken by the circular of Mr. Benthall, which has raised this discussion of our objection to the expedition of the reforms. This has happened as a result of the General Election. That is the whole issue.

Mr. Arthur Moore: May I ask, Sir, whether the Honourable Member is in order in raising this point if no answer is permitted?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member (Mr. Ranga Iyer) will abstain from drawing his extracts from Mr. Benthall's circular. The Honourable Member has seen that the Honourable Mr. Jadhav and the Honourable the Leader of the House have dealt with the issue that is before the House at considerable length without bringing in the circular of Mr. Benthall.

Mr. C. S. Ranga Iyer: I am not bringing it in either. I was suggesting that the root of this expedition of the reforms is in the Benthall circular, though we do not want the authority of the Benthall circular because there is some higher authority than that, namely, the *Statesman* of Calcutta. There is some higher authority still, namely, Winston Churchill; there are still higher authorities, namely, the Tory Press and Sir Samuel Hoare. I was saying that there are higher authorities than Mr. Benthall himself because the internal evidence in an important circular by a less important personality does not trouble me at all. I am concerned with the expedition of the reforms and the expedition of the reforms arose from the General Election. The whole spirit has changed after Sir Samuel Hoare replaced Mr. Wedgwood Benn

Mr. Arthur Moore. May I ask, Sir, again whether the Honourable Member is entitled to elaborate the same point as my friend Mr. Das when it is not permissible to point out that Mr. Benthall is bringing a charge against certain Conservative members of the Government after the election of having attempted to do something which he tried to prevent them from doing.

Mr. President: (The Honourable Sir Ibrahim Rahimtoola): If the Honourable Member does not mention anything about Mr. Benthall's circular he is entitled to say that there has been a change in the Government of Britain to which several other references have also been made, and that the reason why Mahatma Gandhi was in jail and the reforms were being expedited was the Parliamentary election and the change of Government in Britain. I do not see how that can be out of order.

Mr. Arthur Moore: May I point out that Members are referring to the circular, without apparently reading it, and they should not draw any conclusions. If they would read it, they would find that the circular points out that this movement did not succeed. There was an attempt to produce this change of policy in the Government after the elections, but no such change eventually came about, as they reverted to their former policy of the Labour Government.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member can deal with the British policy and the policy of the Government of India.

Mr. C. S. Ranga Iyer: I was just saying what the Honourable gentlemen said. I was not going to take my stand on a circular to which reference has been made and in this case, it was meant obviously, as he

himself pointed out, for the first of April. (Laughter.) I was replying to the observations which the Honourable the Leader of the House, a more important personality than any other personality in this country, made in this debate. The Honourable the Leader of the House said that he was anxious, his Government were anxious to get on with the reforms. I do not for a moment question the anxiety of the Government to get on with the reforms, but we are anxious that we should get on with not *mere* reforms, but reforms that have to be worked. Can any reforms in this country work unless you have the bulk of public opinion with you? If the Government do not want to carry the public opinion with them, they can afford to follow the present policy of repression *cum* reforms. The Honourable the Leader of the House asked, what do the Opposition want? Should we have indulged in naked and unashamed repression? Nobody wanted them to indulge in undiluted repression, but everybody wanted them to follow the policy of unmitigated reforms. Once you dilute the wine of reforms with the water of repression, ~~once you dilute reforms~~ in such a manner as they are diluted by the Ordinances, the country will not see the reforms but only the Ordinances. I would invite the Honourable the Leader of the House to take up any Indian morning newspaper and also the streamer headlines in that newspaper even under the Ordinances, and what will he find? He will find that the country is not interested in reforms but repression. You cannot under the blight and blast of repression build up reforms. Reforms cannot grow in an atmosphere like that. That is why we say, do not expedite reforms until you create the atmosphere necessary for the reforms. That atmosphere is now lacking, and why is it lacking? It is lacking because, as Sir John Maynard, a great Englishman who has known this country, has observed, Mahatma Gandhi, on his return to this country, asked for an interview and that interview was unwisely not granted. I say that the Honourable the Leader of the House was not responsible for the refusal of that interview, which was dictated from Whitehall. If there had been Mr. Benn as the Secretary of State for India, the interview would have been granted. The spirit in Whitehall changed. This is not the place for me to disclose

The Honourable Sir George Rainy: I must intervene now. I must challenge the statement of my Honourable friend that any action taken at that time was dictated from Whitehall.

Mr. C. S. Ranga Iyer: The Leader of the House is perfectly entitled to challenge my statement, but he cannot challenge the impression that I gathered when I was in London. He cannot challenge the impression that I formed after my long conversations with Mr. Benn and other Cabinet Ministers which was contained in a statement that I made on landing in India, that Mahatma Gandhi would be imprisoned but that he would be released to enable him to be present at the Second Round Table Conference, a statement which was contradicted by the *Sunday Times* of London, but a statement which subsequently turned out to be true. (Hear, hear.) I am therefore suggesting that the socialist mentality which was in Whitehall is not the Conservative mentality which is in Whitehall today. I wish Government had not declined the interview to Mahatma Gandhi, holding the opinion that Government themselves hold about him. What did the Private Secretary to His Excellency the Viceroy

[Mr. C. S. Ranga Iyer.]

himself state in his letter to Mahatma Gandhi? There is internal evidence in that letter that the Viceroy appreciated the attitude that Mahatma Gandhi took up in London, and what did Mahatma Gandhi himself say in his reply to the Viceroy? I should not like to take up the time of the House by reading that portion of the letter. There is plenty of evidence in that letter that Mahatma Gandhi was willing to co-operate with the Government and enquire alike into the Frontier and the United Provinces situation, and if he found that the Congress was wrong, he said in his letter to the Viceroy, "I will give the right lead to the Congress". Here is a leader of a people, a great man who was once admitted to the Viceregal Palace in loin cloth, who was entertained in London and respected at the St. James's Palace and on his return to India when he asked for an interview, he is told off

An Honourable Member: Under a threat.

Mr. C. S. Ranga Iyer: My Honourable friend says, "under a threat". This is exactly what Mahatma Gandhi wrote, and if there is a single threat in this letter, I will apologise to the Honourable Member. Mahatma Gandhi wrote:

"If it is not yet too late, I would ask His Excellency to reconsider his decision and see me as a friend without imposing any conditions whatsoever as to the scope or subject of discussion and I, on my part, can promise that I would study with an open mind all the facts that he might put before me. I would unhesitatingly and willingly go to the respective provinces and with the aid of the authorities study both sides of the question and if I came to the conclusion after such study that the people were wrong and that the Working Committee including myself were misled as to the correct position and that the Government were right I should have no hesitation whatsoever in making that open confession and guiding the Congress accordingly."

Such is the undertaking from Mahatma Gandhi to the Viceroy of India. Instead of seizing that opportunity, instead of trying to create an atmosphere of good will, dictated by Whitehall, by the new defiant spirit that is in Whitehall, which is not different from the spirit of Mr. Churchill himself, here is Mahatma Gandhi, a leader of a people, worshipped by the people, a leader with a following the like of which the world has not yet seen, here is a leader who is told off and then locked up in prison. I want the Honourable the Leader of the House to recommend to the Government of India to revise their attitude, send for Mahatma Gandhi and create the *status quo ante* internment and carry on important conversations. However, it must be borne in mind most clearly that in an atmosphere like this, by expediting the reforms, you may be able to have another election next year, but that election will be boycotted much more strenuously than the last election was boycotted. It is not the hurry or the haste or the waste of reforms that we want. It is the settlement of the Indian question that we demand. It has been recognised that Mahatma Gandhi is the Right Wing leader of the Congress, not the Left Wing leader, and therefore I would once again tell the Government not to follow the policy of rallying the moderates, harrying the extremists and rushing the reforms. (Applause.)

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I am opposed to this motion for adjournment because

my angle of vision is quite different from that of many others. The time has not come for Mahatma Gandhi to be sent for for any settlement. I agree with my friend Haji Abdoola Haroon that any Government would have done the same thing that this Government has been doing. I ask my friends on this side, do they seriously expect that a powerful Government will concede any substantial powers with this little sacrifice and suffering that the nation has undergone yet? I say you are wrong. I say the time will come later on to move a motion like this, and it will then be acclaimed by the Government Benches; but the time has not come yet. The nation must show and prove its mettle. Instead of moving these motions, I think we should wait and wait till the real time comes, when the nation will prove that they have not been crumpled up under the repression.

An Honourable Member: India is not one nation at all.

Mr. S. C. Mitra: My Honourable friend may shout that India is not one nation, and my friend Haji Abdoola Haroon was saying that his community was anxious to help the Government to any extent. I say there are many amongst the Hindus as well who are anxious to help Government; he need not think that loyalty is a monopoly for his community; I know of the minorities pact and the selfish motives actuating them and their anxiety to fish in troubled waters; I can assure Government that there are people even amongst the Hindus who will be glad to co-operate with Government. But that is not my point. There will of course be such men in any nation in the world.

An Honourable Member: Question.

Mr. S. C. Mitra: As regards Mahatma Gandhi himself, the esteemed Leader of the House said that Government reached the limit and they had to take steps. What was the limit? He particularly mentioned two provinces, the Frontier Province and the United Provinces. In the Frontier Province Khan Abdul Ghaffar Khan was arrested, Why? Because he refused to go to a dinner or tea party or to attend a durbar. And the situation in a nutshell, as regards the United Provinces, was this: negotiations were going on; Mahatma Gandhi was coming from England but Government took the pretext that all the rents about which negotiations were going on between the Congress Party and the Government for the year must be paid before the end of the month. If the rents were paid, then there remained nothing for these people to negotiate about. Men like Pandit Jawaharlal Nehru tried their best; when the Provincial Conference was forbidden in Agra, he agreed himself to postpone it and announced that he was anxious to go and meet Mahatma Gandhi and take his advice. The General Secretary of the All-India Congress Committee, Mr. Jawahar Lal, was arrested and my Honourable friend the Leader of the House tells us that these are the occasions when the limit was reached and the Government could not wait for a few hours, when Mahatma Gandhi on bended knees wanted to see His Excellency the Viceroy only to discuss—he did not make it a point that the Ordinances must be suspended; he merely wanted to discuss them,—but that was also denied.

I now come back to the point. I for one do not really believe that we will gain anything unless the fight goes on to a finish. And here I differ

[Mr. S. C. Mitra.]

very much from my old friend of the Congress, Mr. Ranga Iyer. He thinks that Mahatma Gandhi, if he was free, would be roaming with Lord Lothian to settle these terms. The difference is that, what Mahatma Gandhi wants is the freedom of the country, which in other words is full Dominion Status, and not tinkering with this reform or that reform, for which my moderate friends in the Round Table Conference are so anxious. That is the fundamental difference between the Congress and the so-called co-operators and moderates and liberals. I think, on second consideration, my friend, Mr. Ranga Iyer, who knows the Congress as much as anybody else knows it will see that until Government yield and come to a reasonable frame of mind, this fight will go on. As a matter of fact when the Irwin-Gandhi pact came about, the Labour Government in England felt that India had proved her mettle, that India had become a nation and the time had come for a real concession, for real Dominion Status.

Now, as has been said, after this new election a reactionary House of Commons think they can merely tinker with the little reforms. Some of our friends are very anxious to have provincial autonomy. Do they know what is provincial autonomy without responsibility in the centre? I have consulted with some Ministers, both Hindus and Muslims, of my province, who say that in the provincial exchequer there is no money. They were anxious to do something for their people. Free primary education is an essential thing for the country, which question had been raised decades before by you, Sir, and persistently pressed by the late Mr. Gokhale all his life. But even this elementary thing we have not been able to get out of the Government all these years. What is this provincial autonomy? It may be that some of our friends are very anxious to sit in the place of the European bureaucrats as Ministers and draw Rs. 5,000 a month, but how does it affect the interest of the people at large? But what will happen without responsibility in the centre? Without real control in the central finance, what is provincial autonomy? I know in my province of Bengal we get 10 or 11 crores, while our people pay 40 crores. The balance goes to the Central Exchequer, and Minister after Minister was most anxious to do some good for the people. They are loyalists and co-operators, but they say, those who have real experience admit, that there is nothing in this provincial autonomy with empty exchequers. Possibly it may help some of those friends here to get big positions, but for the nation it means nothing. The other day I was speaking about the question of unemployment. We were fighting, my friend, Mr. B. Das, will be fighting with the capitalists, but there is no national dividend to be divided; we will all be fighting and as long as this fighting goes on it is certain that the Britishers will rule over this country. Why should they yield? When the real time comes, and when we will all unite in our self-sacrifice and suffering, then we will prove our worth that we are a real nation, and then the time will come for Mahatma Gandhi to come and settle. Sir, I am against such motions.

Several Honourable Members: The question may now be put.

Mr. President: I accept the closure. The question is that the question be now put.

The Assembly divided:

AYES—48.

Acott, Mr. A. S. V.
 Ahmad Nawaz Khan, Major Nawab.
 Ahmed, Mr. K.
 Allah Bahak Khan Tiwana, Khan
 Bahadur Malik.
 Anklesaria, Mr. N. N.
 Azisuddin Ahmad Bilgrami, Qazi.
 Bajpai, Mr. G. S.
 Bajpai, Mr. R. S.
 Banerji, Mr. Rajnarayan.
 Bhore, The Honourable Sir Joseph.
 Clow, Mr. A. G.
 Dalal, Dr. R. D.
 Fazal Haq Piracha, Shaikh.
 Fox, Mr. H. B.
 French, Mr. J. C.
 Ghuznavi, Mr. A. H.
 Gudney, Lieut.-Colonel Sir Henry.
 Graham, Sir Lancelot.
 Gwynne, Mr. C. W.
 Haig, The Honourable Mr. H. G.
 Howell, Sir Evelyn.
 Ismail Ali Khan, Kunwar Hajee.
 Jawahar Singh, Sardar Bahadur
 Sardar.
 Lal Chand, Hony. Captain Rao Baha-
 dur Chaudhri.

Maswood Ahmad, Mr. M.
 Megaw, Major General J. W. D.
 Moore, Mr. Arthur.
 Morgan, Mr. G.
 Mukherjee, Rai Bahadur S. C.
 Nixon, Mr. J. C.
 Noyce, Sir Frank.
 Pillai, Mr. N. R.
 Rafiuddin Ahmad, Khan Bahadur
 Maulvi.
 Raghbir Singh, Kunwar.
 Rainy, The Honourable Sir George.
 Rama Rao, Diwan Bahadur U.
 Rau, Mr. P. R.
 Roy, Mr. S. N.
 Ryan, Mr. T.
 Sahi, Mr. Ram Prashad Narayan.
 Schuster, The Honourable Sir George.
 Scott, Mr. J. Ramsay.
 Sher Muhammad Khan Gakhar, Cap-
 tain.
 Suhrawardy, Sir Abdulla.
 Tin Tut, Mr.
 Wajihuddin, Khan Bahadur Haji.
 Yamin Khan, Mr. Muhammad.
 Young, Mr. G. M.

NOES—34.

Abdul Matin Chaudhury, Mr.
 Ashar Ali, Mr. Muhammad.
 Bhuput Singh, Mr.
 Biswas, Mr. C. C.
 Das, Mr. B.
 DeSouza, Dr. F. X.
 Dutt, Mr. Amar Nath.
 Gunjal, Mr. N. R.
 Harbans Singh Brar, Sirdar.
 Hari Raj Swarup, Lala.
 Isra, Chaudhri.
 Jog, Mr. S. G.
 Joshi, Mr. N. M.
 Lalchand Navalrai, Mr.
 Liladhar Chaudhury, Seth.
 Misra, Mr. B. N.
 Mitra, Mr. S. C.

Muazzam Sahib Bahadur, Mr.
 Muhammad.
 Mujumdar, Sardar G. N.
 Munshi, Mr. Jehangir K.
 Neogy, Mr. K. C.
 Pandit, Rao Bahadur S. R.
 Patil, Rao Bahadur B. L.
 Ranga Iyer, Mr. C. S.
 Rastogi, Mr. Badri Lal.
 Reddi, Mr. T. N. Ramakrishna.
 Sant Singh, Sardar.
 Sarda, Diwan Bahadur Harbilas.
 Sen, Mr. S. C.
 Sinch, Kumar Gupteshwar Prasad.
 Singh, Mr. Gaya Prasad.
 Sitaramaraju, Mr. B.
 Sukhraj Rai, Rai Bahadur.
 Thampan, Mr. K. P.

The motion was adopted.

Mr. President: Sirdar Harbans Singh to reply now.

(Sirdar Harbans Singh walked out without replying.)

I think he does not want to reply.

The question which I have now to put is that the House do now adjourn.

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Saturday, the 2nd April, 1932.

APPENDIX.*

Translation of the speech delivered in Marathi on the 19th March, 1932, in the Legislative Assembly, by Mr. N. K. Gunjal, M. L. A.

Mr. N. K. Gunjal (Bombay Central Division: Non-Muhammadian Rural): Sir, I rise to oppose the Demand in respect of the Home Department. During the last two years, I find that the administration of the Home Department of the Government of India is not being run satisfactorily. The Home Department is responsible for the proper administration of law and order, but recently the people of India have come to know the unsatisfactory administration of the Home Department in respect of preserving law and order in India. Government are ruling India, not by ordinary laws, but by Ordinances the application of which has been bad. Respectable men and women have been sent to jail, useful associations have been declared unlawful, and processions and things of that kind have been dispersed. Sir, I warn the Home Department against all these abuses of the law.

His Excellency Lord Irwin, the *ex-Viceroy* of India, having noticed all these abuses of law by his own officers, and having gauged the depth of public feeling in India, called Mahatma Gandhi for consultation and entered with him into a pact, now known as "Gandhi-Irwin Pact". This pact of His Excellency Lord Irwin as well as his good qualities of heart were much appreciated by the general public. In view of the conciliatory policy of the Government, Mahatma Gandhi agreed to go to London and represent the Congress view at the Round Table Conference there. But no sooner he came back to India, the Home Department issued orders to arrest him and put him under lock and key. The mischief caused by the Home Department does not end there. They issued orders for the arrest of revered and renowned leaders like Pandit Jawaharlal Nehru, Subhash Chandra Bose, Vallabhbhai Patel, Vithalbai Patel, Bhopatkar, Karandikar, Gokhle, Masurkar Maharaj and several others. Sir, all these go to show that there is somewhere something wrong with the administration of the Home Department. We, on this side, Sir, feel that it is a *sooloomi* administration and that all demands for the Home Department should be cut down, as the Department has failed entirely to preserve the necessary peace and order in the land, according to the country's desire.

The superior European officials are not permanent residents of India, but we, Indians, are the permanent residents here. This fact must not be forgotten. The Europeans, who eat the salt of India, are now persecuting Indians. This attitude of the Government is a sign of their downfall. It should be remembered that no Government who ruled Delhi enjoyed the throne for a long time, while persecuting their subjects. Look at the ancient history of the Delhi Empire? Government should pay heed to the events of history. Bhagwan Shri Krishna has said in the Gita:

"Adhi jate budhi ani mag jate rajya".—"The man loses his reason first, then his Kingdom."

The Kauravas, who were at one time ruling Delhi lost their kingdom because they perpetrated several crimes, inflicted *sulum* on the subjects, and persecuted and prosecuted sages and saints and convicted men of

*Vide page 2321 of these Debates.

light and leading. There is another example of Ravana. During the reign of Ravana, several atrocities took place with the result that there appeared on earth the incarnation of Rama to destroy Ravana.

At present, Ordinance *Raj* is going on, and Government are persecuting several sages and saints,—men like Masurkar Maharaj and Panchgonkar Maharaj, who is called Ramdas—and the younger generation for nothing. What does this indicate? It appears that the talents and reasons of the officials of the Home Department of the Government of India have deserted them and if the Home Department carry on administration without tact, skill and talents, Government will have to suffer consequences and will repent for all such acts.

The bureaucracy should remember that in case we get the powers in our hands we will not fail to retaliate against these bad acts of the Government. The British promises of peace and protection, mercy and safety, have now broken down; and it should be remembered that the time is not far off, when such repressions will lead to revolution. With these words, I support the motion to refuse the entire Demand* in respect of the Home Department, on account of its utter failure to preserve law and order in the country by their mishandling of the present political situation.

*"That a sum not exceeding Rs. 5,48,000 be granted to the Governor General in Council to defray the charges which will come in course of payment during the year ending the 31st March, 1933, in respect of 'Home Department'."