

LEGISLATIVE ASSEMBLY DEBATES

SATURDAY, 3rd DECEMBER, 1932

Vol. VII—No. 5

OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY.

Saturday, 3rd December, 1932.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock. Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

STATEMENTS LAID ON THE TABLE.

Mr. T. Ryan (Director General of Posts and Telegraphs): Sir, I lay on the table the information promised in reply to part (d) of starred question No. 1372 asked by Seth Haji Abdoola Haroon on the 22nd November, 1932.

LATE COMMUNICATION OF GOVERNMENT ORDERS REGARDING THE ADJUSTMENT OF COMMUNAL INEQUALITIES IN THE POSTS AND TELEGRAPHS DEPARTMENT.

*1372. (d) Of the seven other Postmasters-General, five communicated the orders in December, 1927, one in January, 1928 and one in May, 1928.

The Honourable Mr. H. G. Haig (Home Member): Sir, I lay on the table the information promised in reply to starred question No. 1191 asked by Sardar Sant Singh on the 15th November, 1932.

NUMBER OF ARRESTS AND CONVICTIONS UNDER THE CONSOLIDATED ORDINANCE.

Statement.

*1191.

Province.	Number of persons convicted not necessarily imprisoned under the consolidated Ordinance for offences connected with the civil disobedience movement during the month of October, 1932.	Number of persons arrested under section 3 of Special Powers Ordinance during the month of October, 1932.
Madras	7	..
Bombay	285	62
Bengal	21	76
U. P.	83	..
Punjab	10	1
B. & O.	200	..
C. P.
Assam	1	..
N. W. F. P.	..	3
Delhi	7	2
Coorg
Ajmer-Merwara	5	..
Total	619	144

Mr. G. S. Bajpai (Secretary, Department of Education, Health and Lands): Sir, I lay on the table the information promised in reply to starred question No. 842 asked by Dr. Ziauddin Ahmad on the 26th September, 1932.

ALLEGATIONS OF ILL-TREATMENT TO INDOOR PATIENTS IN THE DELHI CIVIL HOSPITAL.

*842. (a) The enquiries made by Government show that the present strength of the Superior Staff is not enough for efficient supervision of a big hospital like the Civil Hospital, Delhi. They understand that the matter is already engaging the attention of the Municipal Committee. No cases of ill-treatment to indoor patients or extortion of money from them have come to the notice of the Civil Surgeon. He took disciplinary action recently against a Ward Orderly who had neglected a patient in the hospital.

(b) There is no Director General of Civil Hospitals. If the Honourable Member means the Director-General, Indian Medical Service, the answer is in the negative.

(c) The Civil Surgeon, who is also the Chief Medical Officer, Delhi.

Mr. G. R. F. Tottenham (Army Secretary): Sir, I lay on the table the information promised in reply to part (b) (iii) of starred question No. 1221 asked by Mr. B. R. Puri on the 15th November, 1932.

RESUMPTION OF BUNGALOWS IN THE CANTONMENTS OF PESHAWAR AND KOHAT.

Statement showing the rent of the Bungalows acquired.

*1221 (b)(iii).

Kohat Cantonment.

Bungalow No.	Rent (Rs. per mensem.)
6	105
8	125
9	75
21	81
18	63
34	105

(No 34 was bought on 14th November, 1932, by private treaty.)

Peshawar Cantonment.

Description	Rent (Rs.)
19 The Mall	Is vacant at present. The last tenant paid rent at Rs. 60 a month.
8 Jheel Road	100 per mensem.
8-A. Jheel Road	50 " "
1 Warburton Road	120 " "
3 " "	100 " "
5 " "	150 " "
6 " "	100 " "
2 Roosekappel Lane	The owner is in occupation. In 1931, the rent was Rs. 110 a month.
5 Fort Road	The owner is in occupation. Rental value, as assessed under the Cantonments Act, 1924, is Rs. 80 a month.
51 The Mall	50 per mensem.
6 Michni Road	Bungalow burnt down.
21 The Mall	82 per mensem.
9 Willocks Road	153 " "
66 The Mall	115 " "

The price offered for 66 The Mall, Peshawar Cantonment, is Rs. 14,378.

Mr. P. R. Rau (Financial Commissioner, Railways): Sir, I lay on the table:

- (i) the information promised in reply to starred questions Nos. 791 and 798 asked by Khan Bahadur Haji Wajihuddin on the 26th September, 1932;
- (ii) the information promised in reply to starred question No. 1472 asked by Mr. K. Ahmed on the 28th November, 1932; and
- (iii) the information promised in reply to unstarred question No. 176 asked by Khan Bahadur Haji Wajihuddin on the 30th September, 1932.

CONTROL OF TRAVELLING TICKET EXAMINERS BY THE SUPERINTENDENT, STAFF, ON THE EAST INDIAN RAILWAY.

*791. The Travelling Ticket Examiners are under the control of the Commercial Officer on all Divisions except Moradabad, where the Commercial Officer was unable to take on the work without an Assistant. The work then was undertaken by the Superintendent, Staff, who has an Assistant and who has been carrying it out efficiently. The arrangement was approved by the Agent. It does not call for the sanction of the Railway Board, since provided the principles of the Moody-Ward system are generally followed, Government do not wish to fetter the discretion of the Railway Administration to make as a result of experience of actual working, such modifications of the general arrangements as may be necessitated by the exigencies of local conditions.

REPORTS OF CHIEF INSPECTORS OF TRAVELLING TICKET EXAMINERS ON THE TICKET CHECKING SYSTEM.

*793. Government are informed that no such report was called for.

HOUSE RENT FOR THE STAFF ON THE HARDWAR-DEHRA DUN SECTION OF THE EAST INDIAN RAILWAY.

*1472. This is not correct. All staff at Dehra Dun who are eligible for the house rent under the rules are granted the same.

ALLEGED FRAUDS IN THE EAST INDIAN RAILWAY HIGH SCHOOL, TUNDLA.

176. (a) Certain irregularities were reported in September, 1931, and the audit of the accounts by the Divisional Accounts Officer confirmed this. His report is a departmental document which Government do not consider it would be in the public interest to publish.

(b) The Head Master was first granted leave on account of ill-health from 15th September, 1931, to 7th July, 1932, and on the expiry of that leave was suspended by the President of the School Committee pending an enquiry into the irregularities reported.

(c) It appears that a Radio Physics Course, a Soldering Iron and a Water Radio Meter were purchased by the Head Master and the transactions appeared in the School accounts. As technical classes are held at the School, there is, however, nothing to show that they were not purchased for the use of the School.

(d) A preliminary enquiry was held and as a result of this a charge was formulated. On receipt of the Head Master's explanation, a senior officer's enquiry was called which included the Officiating Deputy Director of Public Instruction, United Provinces.

The report of this Committee was considered by the President of the School Committee, who was of opinion that the case would be met by a severe reprimand and by withholding Mr. Bansal's increase for a period of one year.

(e) The Head Master was admitted to the Agra Mental Hospital on the 22nd September, 1931, and remained there till about the 2nd November, 1931. The preliminary enquiry was not held until the following June

THE CRIMINAL LAW AMENDMENT BILL—*contd.*

Mr. Nabakumar Sing Dudhoria (Calcutta Suburbs: Non-Muhammadan Urban): Sir, I move:

"That for sub-clause (3) of clause 1 of the Bill, the following be substituted:

'(3) It shall remain in force for one year only, but the Governor General in Council may, by notification in the Gazette of India, direct that it shall remain in force for a further period not exceeding two years.'

Sir, my object in proposing to extend the duration of this Bill to one year in the first instance should not appear to the House either without reason or without precedent. Those of us who have closely followed the proceedings of the several Provincial Legislatures are aware that Bombay, Punjab, United Provinces and even Bengal Councils, that have recently enacted on the identical lines, have limited the life of such a legislation to one year only. Therefore, I see no reason why the Government of India should be so anxious to overdo their part in the matter and make the Bill run a three years' life all at once. Sir, it is anticipated that one year's operation of the Bill will bring about the desired result and so to propose to run it for a course of three years at one stretch will be galling to public feeling. My proposal does not preclude the Government of India to extend the life of the Bill for a period of another two years after it is in operation for a year, if there will be the real necessity for such an extension. Sir, we have got to move quite cautiously in the matter of a legislation of this character and should not allow ourselves to be carried away by any sort of over zeal or panic in the matter. Sir, if my amendment is acceptable to the House, it will on the one hand pacify the public feeling that has grown in this enactment and, on the other hand, will substantially take away the force and vigour at the time of the third reading. With these words, Sir, I commend my amendment for acceptance of the House.

The Honourable Mr. H. G. Haig (Home Member): In earlier debates on this Bill, I made it clear on behalf of the Government that we wished to ensure that the powers conferred by this Bill will be retained for a reasonable period. If there is any uncertainty about that, it will reduce considerably the effectiveness of the Bill. One year is not in my opinion a reasonable period and if it were supposed that at the end of one year these powers might be withdrawn, we should not be securing the effect at which we are aiming. If, on the other hand, it is clear that at the end of one year, the Government of India will not be in a position to dispense with these powers, then there is no advantage in having a provision expressed in this form, which really has precisely the same effect as the provision already in the Bill laying down the period of three years. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That for sub-clause (3) of clause 1 of the Bill, the following be substituted :

'(3) It shall remain in force for one year only, but the Governor General in Council may, by notification in the Gazette of India, direct that it shall remain in force for a further period not exceeding two years.'

The motion was negatived.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): Sir, I move:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'six months' be substituted."

I know there is no chance of my amendment being accepted; still I should like to make it clear why I have tabled this amendment. It is admitted even by Government that this legislation is only an emergency measure. Emergency by its dictionary meaning is a certain juncture calling for immediate action. That action has been taken and even in the Government of India Act there is provision for emergency occasions in section 72 where it has been provided that Ordinances promulgated by the Governor General shall last for a period of six months. If it is an emergency measure, the period should be only six months. Further, when Government accepted the period of three years, they were under the impression that by that time the new constitution would be settled and for this intervening period there should be special legislation. As the work of the Round Table Conference is proceeding, it is quite clear that within six months it will be settled. The amendment of Rai Bahadur Sukhraj Roy, which was not moved, wanted the period to be for only one month. Even that period is sufficient for us to know what is in store for India under the new constitution. I think the special legislation should last only for six months. Therefore, I move my amendment.

Mr. S. G. Jog (Berar Representative): Sir, I have great pleasure in supporting the amendment moved by my friend, Mr. S. C. Mitra. On the face of it, it looks no doubt ridiculous that since the amendments for limiting the period to one year and two years have been thrown out by the Honourable the Home Member, how can there be any chance of this amendment succeeding. But I, for one, would say that there is no principle in making the amendment for two years or for one year, but in making this amendment for six months there is a principle and we are following that principle. As explained by my friend, Mr. Mitra, this is an emergency measure. No emergency ordinarily lasts for more than six months, and, therefore, we maintain that this emergency measure should last for six months only. In doing this we are not doing anything more than what was done under the Ordinances. We are only assuming for the time being the power which the Viceroy exercised, by virtue of his position, with regard to the Ordinances. The issue of subsequent Ordinances was either unconstitutional or awkward and, therefore, this matter has been brought before the House. The House has also so often said that such measure should be placed before it and the power of issuing Ordinances should not be exercised. Therefore, it has come before the House in the form of this Bill.

[Mr. S. G. Jog.]

From the discussions we have had for such a long time the Home Member by now probably must be conscious of the fact that the provisions of the Bill even in their approved form are not approved of by this side of the House. However, as a lesser evil we would like to have the life of the Bill restricted to six months only. The next six months are the most critical in the life of this country as the constitutional changes are on the anvil and are being discussed. After six months, if the new constitution and the new reforms come up to the expectations of the people, I hope the so-called civil disobedience movement will be abandoned and there will be no necessity for this Bill. Under these circumstances, I submit that as there is a principle behind this amendment of six months, it should be accepted. We had a lot of discussion in the Select Committee also on this amendment and we had a substantial number on our side who pressed for the amendment of six months. The same thing we are doing here and we are not doing anything more than what the Viceroy had done by the promulgation of these Ordinances. I think we should not go beyond that period. I wholeheartedly support the amendment.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): Sir, a similar amendment stands in my name. I support this amendment, and my reasons for doing so are these. The Preamble itself says:

"Whereas it is expedient to supplement the Criminal Law and to that end to amend the Indian Press (Emergency Powers) Act, 1931, and further to amend *temporarily* the Indian Criminal Law Amendment Act, 1908, for the purposes hereinafter appearing;":

Sir, if an amendment is made and the life given to it is three years, it can never be said to be temporary at all. Therefore, to keep in conformity with the very intention of making this Bill temporary, I submit, that six months' time is the time which can be called temporary. Sir, the Bill is emergent and we should seek certain precedents and law with regard to the age of an emergent Bill. Sir, under the Government of India Act, it is only six months that is the duration prescribed for making an emergency Bill. It would be unconstitutional if we go beyond that. It is clear that the Viceroy also made the Ordinances which had their life only for six months and they were repeated. Of course, this House also could repeat the Bill if any necessity arose for doing so. But I cannot understand for a moment why is it that the Government are anxious and persistent in allowing this Bill to remain in force for three years. Sir, it may be that the Government might be thinking of carrying on the fight that they have indulged in with the people for three years, but, I submit, that will be a wrong idea. In these days Government should rather conciliate the people than irritate them. I submit that the Assembly meets not only once, or twice, but now-a-days meets three times in the year and if circumstances still require, it will not be difficult for the Government to come in again before this House for extension. I, therefore, support this amendment.

The Honourable Mr. H. G. Halg: Sir, the argument by which this amendment is supported appears to be that an emergency cannot last for more than six months and this proposition is sought to be established by reference to the powers in the Government of India Act which enable the Governor General to issue Ordinances for a period of six months. Sir,

I suggest that the reason that a limited period is placed on the powers of the Governor General is not that there is an inherent limit of six months to the period of an emergency, but that it is not considered reasonable that this very exceptional procedure of enacting legislation by the order of the Governor General should have more than a limited period of life. The theory is that after a certain period, if the emergency or the conditions which necessitated that legislation continue, the legislation should be put before this House and that is precisely the action which we have taken. Now, Sir, it is clear on the face of it that in the particular case we are considering, the situation has lasted already a good deal more than six months and he would be a very sanguine person who could assure me that at the end of six months the civil disobedience movement will be not only dead but buried. I would only add this that when we put a measure like this before the House it takes a great deal of our legislative time. We have already been engaged for, I think, fully three months in the deliberations on this Bill and if every six months we are to spend another three months on re-enacting a Bill for a further period of six months, I fear the business of the House will be very seriously impeded. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'six months' be substituted."

The motion was negatived.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, I beg to move:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'nine months' be substituted."

From the laughter with which the motion is greeted on my side of the House, let not my Honourable friends on the Treasury Benches think that they do not approve of this amendment. It is only a sympathetic laughter, because they know what will be the fate of this amendment. Sir, I still move it, and my reasons are these. The powers of the Governor General to issue an Ordinance is for six months. When Government have come with a Bill before this House we take it that His Excellency's Government think that more than six months is needed for a law like this and, as more than six months is needed, they have come to this House. We are also willing to accommodate them to some extent if that is correct and we will give them nine months.

Sir, by September next we will in all probability have the elections under the new constitution, and that being so, I think we should not leave this as a legacy to our successors and bind their hands. Let us be condemned throughout the country for having enacted a law like this, but let us not bind the hands of those whom the people in September next will return to our places and who will see whether or not such a law is required. With these words I beg to move the amendment.

The Honourable Mr. H. G. Haig: Sir, I think I need not repeat the general argument I have already adduced for the period of three years. I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'nine months' be substituted."

The motion was negatived.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): Sir, I move:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'one year' be substituted."

The Honourable the Home Member thinks that a period of six months is very limited and that he will be a sanguine person who will assure Government that the purpose for which this Bill has been brought forward will be fulfilled within that short period. I think, Sir, that when I move that the period of this Bill should be limited to one year, the Home Member will not think that I am a very sanguine person. Sanguineness or pessimism are temperamental. Government have been promising us a very liberal constitution at the conclusion of the deliberations of the Round Table Conference, and if Government are to be taken at their word, then that liberal constitution ought to satisfy the reasonable section of the Indian public; and one can very sanguinely expect that all the unrest that has been created on account of the political disaffection will subside and normal times will return. But if Government themselves have doubts about the liberality of the future constitution, then of course they are pessimists themselves and they expect that the unrest might continue. But in that case even three years will not suffice and the unrest will not go. But if the constitution is satisfactory, one year will be sufficient; and for this reason I place before the House this amendment that the period should be limited to one year.

The Honourable Mr. H. G. Haig: Sir, we want by this Bill to give some assurance to those who desire stable conditions for the introduction and starting of the new constitution. It has been suggested by my friend, Mr. Jadhav, that if in fact the new constitution is a reasonable one, there need be no further apprehensions. But that argument rests on the presumption that the behaviour of the extremists in this country will always be reasonable, and that is a presumption on which we cannot proceed. After all we have to remember that for the second time the civil disobedience movement was started on what we regard as quite inadequate grounds, and if an opportunity is afforded by a relaxation of these powers it may be started for the third time. Sir, I oppose.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'one year' be substituted."

The motion was negatived.

Mr. Amar Nath Dutt: Sir, I beg to move:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'fifteen months' be substituted."

Sir, I shall not attempt the impossible feat of convincing my friends on the opposite side, for those who are not willing to be convinced cannot be convinced. There is a story that a certain minister once promised that if any one could convince him of the reasonableness of a certain measure, then he would give up everything that he possessed in this world. When he went home, his wife was very morose and frightened and said: "What have you done? If anybody is able to convince you, we shall lose everything." Then he consoled her by saying: "Why are you so afraid? To be convinced and to express that I am convinced rests with me, and do you think I am such a fool as to ever acknowledge that I am convinced?" So is the case with my friends on the opposite side. They will never say that they are convinced with the reasonableness of any argument whatsoever on our side. But here is a period for which I ask the Bill to remain in force for reasons which I shall presently give.

It has been said that they want to hand down the present administration to those who will be in charge of the Indian Government after the new constitution comes into force. Sir, considering the haste with which framing of the new constitution is going on, and considering that almost everything is ready save and except the outside veneer of showing to the world that they have taken certain Indians into their confidence, considering all these things, we may reasonably expect that the new constitution will come into working order in the year 1934—it is just 12 months from now—and that being so—and if you want to give the rulers under the new constitution some time, say for three months, then one would have expected us to consider whether we should pass such drastic legislation. And if they require a law like this, no doubt they can have the necessary legislation. It has been said ironically by my friend, the Honourable the Home Member, that it will take three months for re-enacting this Bill.

The Honourable Mr. H. G. Haig: I did not say it ironically. I said it seriously.

Mr. Amar Nath Dutt: Whatever it may be, I beg to submit that the next Government that will succeed the present one, if it thinks that such a measure is necessary, then they will not require so many months to pass a Bill like this, for, Sir, I hope that under that constitution neither obstructionists, as we are called by some friends on the other side, like ourselves will be here nor I hope and wish that men who would have such Draconian legislation as we are discussing at present will sit on the Treasury Benches. So these two factors which have been responsible for taking so much time as three months will not be there, and I do not think you can presume that they will be so unreasonable as ourselves or the Honourable Members opposite. That being so, I submit that one year for the coming of the new constitution into force *plus* three months is the proper duration for this Bill, and no reasonable man can oppose this. Sir, I move my amendment.

The Honourable Mr. H. G. Haig: Sir, I do not think it is necessary to repeat my general arguments, which apply equally to all the various fractional periods which my Honourable friend, Mr. Amar Nath Dutt, proposes.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years' the words 'fifteen months' be substituted."

The motion was negatived.

Mr. T. N. Ramakrishna Reddi (Guntur *cum* Nellore: Non-Muhamadan Rural): Sir, this is the last of the amendments for fixing the time-limit for this Bill and I request the Government to give their various consideration to this amendment. Sir, before I move this, I must make two things plain. In moving for a certain limitation of the period of duration of the Bill, I do not admit that the movement exists which requires this drastic Bill, and, secondly, that if there was a responsible Government, they would not have passed such a piece of obnoxious legislation. Now that the Bill is going to be passed, we have to face the facts now and the only way in which we can mitigate the rigour of this Bill is to fix a certain time-limit for this Bill. Now the Government admit that this is an extraordinary piece of legislation, designed for some extraordinary purpose, *viz.*, to put down the civil disobedience movement in all its forms and activities. I ask the Government, then, why should they fix a time-limit? It is because Government themselves think that this movement will come to an end in the course of three years, and that is why they fix this time-limit, and various amendments have been moved for fixing the time-limit at six months, one year and various other periods within that period of three years. Sir, I do not approve of any fixed time-limit. These civil disobedience movements are planned and destined for achieving a certain object. When that object is achieved, such movements will not exist. They are not designed to continue for some particular period. They are designed for some particular object and when that object is achieved, such movements cease to exist by themselves and there is no necessity for the existence of any repressive legislation. So my amendment runs, and I move it, Sir:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years from its commencement' the words 'the time until the new constitution for India comes into operation' be substituted."

When the new constitution comes into operation, there will be no necessity for this legislation, since the object of such movements is to get responsible Government for India and that is exactly what His Majesty's Government as well as the Government of India have repeatedly been saying that they want to give us responsibility at the centre. Now, when that responsibility comes, there will be absolutely no necessity for this movement. Now the Honourable the Home Member said that this has nothing to do with the introduction of responsible Government. It would thus appear that if the present behaviour of the extremists continue, then it is reasonable to presume that this Bill will also continue, that is to say, that the period of this Bill must depend upon the reasonableness of the extremists. Now, if that is the argument of the Government, why should they fix three years as the period? Do they think that after three years the whole attitude of the extremists will change? Or, they can now come openly and say that the measure will remain on the Statute-book for ever and ever. Government, however, themselves perceive that some limitation must be fixed for the duration of the Bill, and, I submit, this is the only reasonable limitation which ought to be agreed to. Further,

there is another fact also to be taken into consideration. His Excellency the Viceroy and many other responsible persons in England also have been stating repeatedly that we should create a favourable atmosphere for the working of the future reforms. Now, if that is really in their minds, Sir, then here is a good opportunity for creating such a favourable atmosphere for the working of the new reforms; moreover, by removing such obnoxious legislation, they would afford a great relief to the people in the country and that will conduce to the creation of the favourable atmosphere which is so much to be desired. It is for that reason also that I request that a time-limit should be placed and such limit I propose should be "until the new constitution for India comes into operation". With these words, Sir, I move my amendment, and I request the Government to give their serious consideration to this amendment.

Mr. S. C. Mitra: Sir, I support the amendment of my friend, Mr. Reddi. Sir, it is a very reasonable amendment also. I had my apprehensions that perhaps it would be considered to be not in order, not to fix a definite period, but if this amendment is in order, then I wonder what objection can Government have to accepting this amendment. I think in this matter we will have the co-operation of my friend, Mr. Yamin Khan, because it was his suggestion that this Bill should be for the *interim* period till the new constitution is launched fully; and so, if it is acceptable to other Members of the House, who usually do not vote with us, there is some chance of its acceptance by the Government.

Mr. O. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Sir, I rise to oppose this amendment, and I oppose it for this reason. I refuse to give the Government so far as I am concerned—and I speak for a constituency from the United Provinces where there has been a great upheaval of public opinion—I refuse to give the Government even the restricted—though I do not think it is restricted—power to continue the Ordinance so long as the new constitution does not come into operation. As I said, when I opposed the Ordinance Bill when it was introduced, it is most objectionable to suppress the agitation which is bound to surge in the country during the period when India wants to agitate and see to it that her agitation succeeds to secure new reforms. As Dryden said:

"More liberty begets desire for more :
The Hunger still increases with the store."

With the store of the Montague reforms, there has been growing hunger for greater reforms and that hunger finds expression in the Indian Press and I will not be a party to granting the Government any power to work the Ordinances in the country with the sanction of the Legislature until the new reforms come into operation, and, therefore, I oppose this motion.

The Honourable Sir Brojendra Mitter (Law Member): Sir, there are two objections to this amendment: one is the drafting objection which my Honourable friend, Mr. Mitra, indicated. It is one of the fundamental rules of drafting that you must have a definite commencement and a definite termination for any measure. The amendment suggested is, to say the least, indefinite "until the new constitution comes into operation". Therefore it is objectionable from that point of view. If you had said 1st January, 1934, or 1st April, 1934, or 1st January, 1935, it would have been a definite date and the objection would not hold; but this is too indefinite. The second objection is this: it is not outside the bounds of

[Sir Brojendra Mitter.]

possibility that the new constitution will come into operation at different times: for instance we have seen it in the papers that suggestions have been made that the new constitution will come into operation in the provinces in the first instance and, at some later period, in the Centre. (Laughter from the Opposition Benches) (An Honourable Member: "The cat is now out of the bag"). Which is the date of the new constitution coming into force—in the provinces or in the Centre? I am only indicating possibilities. That is the second ground of indefiniteness so far as drafting is concerned. Then on the merits. My Honourable colleague, the Home Member, has made it perfectly clear in the course of this debate that the intention of Government is to hand over the weapons to persons who will be running the new constitution and we do not want to handicap them at the start of working the new constitution by the absence of these powers. Sir, I oppose.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That in sub-clause (3) of clause 1 of the Bill, for the words 'three years from its commencement' the words 'the time until the new constitution for India comes into operation' be substituted."

The motion was negatived.

Mr. S. C. Mitra: Sir, I move:

"That for sub-clause (4) of clause 1 of the Bill, the following be substituted:

'(4) No section of this Act shall come into force at once, unless any Local Government may, by notification in the local official Gazette, direct that any particular section shall come into force in any area on such date as may be specified in the notification.'

In the Government Bill itself in sub-clause (3), there is a provision that sections 4 and 7 will not come into force automatically, unless any Local Government, by notification in the official Gazette, declare them to be enforceable. My purpose is only to enlarge that sub-clause. It has been admitted that the offences that are likely to be controlled by the provisions of this Act are not frequent in every province in India. If we look to the sections, e.g., section 2, that is, dissuasion from enlistment of persons entering the Military, Naval, Air or Police Forces, I think a large portion of it is not in any way concerned with my province. There are other provinces also where this section is not at all applicable, because there are no cases occurring there. If provisions like boycotting of public servant or section 7 dealing with molestation or picketing, if they are optional with Local Governments for applying for enforcement, why not the other provisions which are admittedly not so frequently happening in other parts of India, should not be left to the choice of Local Governments to apply for? Some of the provinces are already providing for some of these provisions. As regards clause 8, that is, the power to order parent or guardian to pay fine, Bengal, Madras, Bombay and United Provinces—four big provinces—have already legislation to that effect. So, on general grounds, instead of making this whole piece of legislation enforceable throughout the length and breadth of India from the day it is enacted, I suggest that Government may accept this amendment so that any province that may be particularly suffering from any of those difficulties might by notification alone have it enforced. The general ground of the Honourable the Home Member that

it will take a long time to enact the law again in the provinces will not apply, because by merely inserting a few lines in the local Gazette they can have it applicable in the province. Sir, I move my amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Amendment moved:

"That for sub-clause (4) of clause 1 of the Bill, the following be substituted:

"(4) No section of this Act shall come into force at once, unless any Local Government may, by notification in the local official Gazette, direct that any particular section shall come into force in any area on such date as may be specified in the notification."

Mr. C. S. Ranga Iyer: Sir, I rise to oppose this motion, and if I do so, it is because I refuse to put this powerful engine of oppression into the hands of any Local Government; for as Milton said, it is "a devilish engine" which "back recoils". I refuse to allow this engine to recoil on the struggle for reforms which is going on in the country. I do not have any confidence in the capacity of the Local Governments to administer the new measure any better than the Government of India. Therefore, I oppose this motion.

Mr. K. P. Thampan (West Coast and Nilgiris: Non-Muhammadan Rural): Sir, I have also given notice of an amendment more or less analogous to the one under discussion. Conditions, I mean the present unrests, vary in different provinces. In Madras, for instance, people have imbibed the non-violent character which is the essence of the great Mahatma's doctrine, and are confining themselves only to *khadi*, peaceful picketing of liquor and *Bideshi* shops and other non-violent activities. You must be aware, Sir, that since the lamented murder of the late Mr. Ash in Tinnevely about 20 years ago, there has been no political murder of any kind in my Presidency, and there is absolutely no need of a legislation of this kind there. It was widely talked about in Madras that the Local Government did not want this legislation. Besides Madras, there are other provinces where the political atmosphere is comparatively quiet. Why should this Bill be made applicable to such places? In the interests of peace and contentment, it is highly desirable that such a weapon as this, which is capable of being abused, should not be entrusted to subordinate officials throughout the country. I support this motion.

Mr. Amar Nath Dutt: Sir, I am also sorry that I have to oppose this amendment, except for the principle laid down by the Law Member. If, instead of the words "no section of this Act shall come into force at once", my friend had put the words "the Act will come into force from the 1st of April" like the official year, I would have been the first to accept the amendment, but since he has not done so, I am sorry I am obliged to accept the principle laid down by the Honourable the Law Member.

The Honourable Mr. H. G. Haig: Sir, the provisions relating to the Press must clearly be in force throughout India. It is not feasible to have these regulations relating to the Press in force in one part and not in another, for the fact that certain areas were omitted from this control would at once lead to papers being started there. We have in fact recognised that there are certain powers which it is desirable should not be in force if there is no definite organized movement at the moment to deal with which those powers are required. We have, therefore, provided in

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sub-clause (4) that section 4 dealing with boycott and section 7 dealing with picketing shall not come into force without notification. The other powers, Sir, I maintain, it is reasonable should come into force at once.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question which I have to put is:

"That for sub-clause (4) of clause 1 of the Bill, the following be substituted:

'(4) No section of this Act shall come into force at once, unless any Local Government may, by notification in the local official Gazette, direct that any particular section shall come into force in any area on such date as may be specified in the notification.'

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Sir Hari Singh Gour.

(The Honourable Member was not in his seat.)

Mr. K. P. Thampan: Sir, I beg to move:

"That in sub-clause (4) of clause 1 of the Bill, after the words 'Local Government may' the words 'on the recommendation of the Legislative Council of the Province' be inserted."

The object is quite obvious. I want that the Government should have the moral support of the people of the locality before they introduce these clauses in any province. It has been said that the Government and the Secretary of State are willing to introduce complete provincial autonomy without waiting for the next reforms, and so this is the acid test of their *bona fides*. If they are sincere in their declarations, the Government ought to accept this amendment.

The Honourable Mr. H. G. Haig: Sir, we propose by this Bill to give certain powers to the executive Government and to provide for certain new forms of offences. We cannot agree that these powers can be rendered nugatory by the Resolution of any local Legislative Council. Sir, I oppose the amendment.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question that I have to put is:

"That in sub-clause (4) of clause 1 of the Bill, after the words 'Local Government may' the words 'on the recommendation of the Legislative Council of the Province' be inserted."

The motion was negatived.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, may I crave your indulgence to move my amendment?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member ought to have been in his seat. He was called but he was absent from the House.

Sir Hari Singh Gour: I was doing some other work there.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): That has nothing to do with it. The Honourable Member must be present in the House.

The question is:

"That clause 1, as amended, do stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is:

"That the Title and the Preamble do stand part of the Bill."

The motion was adopted.

The Title and the Preamble were added to the Bill.

The Honourable Mr. H. G. Haig: Sir, I move:

"That the Bill, as amended, be passed."

Mr. B. Sitaramaraju (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): Sir, though form requires before the third Reading that a motion should be made that "the Bill, *as amended*, be passed", I am afraid no amendment has been made except the rejection of an absurd *Explanation*. This Bill has emerged from the Select Committee as an Ordinance and has taken the shape of a steam roller on the floor of this House, and as such it has though slowly but steadily crushed every opposition made to it. Its easy passage does not reflect any credit on the Opposition, but that is another story. Degenerated and dispirited as we are, we could only appeal to statesmanship and humanity, but, Sir, a steam roller has neither statesmanship nor humanity, and we could not even save an invalid from being crushed by this repressive legislation. However, I would welcome the provisions of this Bill if I were a terrorist. The provisions of this Bill constitute an invitation to swell the ranks of terrorism by suppressing all expressions of political thought in this country, and that result is obvious. It is very remarkable that the Honourable the Home Member, who was very anxious to spare the future Government from the terrors of terrorist activities, should constitute himself as the recruiting agent to swell the very ranks of the terrorists. His intention may be good, but the remedy he has employed is the wrong remedy; for he is seeking to drive underground all political thought and all political activities. Provisions of this character must necessarily drive political thought underground, political action into secrecy and political opposition into violence. The Honourable the Home Member said that the civil disobedience movement had points of contact with terrorist activities. Orthodox Congress always dissociated itself from all forms of violence. But assuming for a moment that the unorthodox Congress activities have established points of contact, I would like to ask the Honourable the Home Member whether, by the provisions of this Bill, he is going to sever those points of contact or going to strengthen the bonds between the Congress and the terrorists? I would appeal to him to take a dispassionate view of the case. Whatever may be those points of contact, it must be admitted that the civil disobedience movement is, after all, a passive resistance movement, and in

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a movement of that description one would think that all the advantages are on the side of the Government. The civil disobedience movement is a passive resistance movement. A description of that movement has been given earlier on this debate by the Honourable the Home Member, but I would like to just describe what the civil disobedience movement really is. It is a movement which acts in the open, in a manner proclaimed from the housetops, and to an extent fully advertised. It goes about unarmed to violate a petty law, courting punishment, suffering indignities. It offers no defence, nor does it seek any evasion. It surrenders voluntarily and leaves the Government to punish it as much as they could, and bears that punishment cheerfully. That is the gist of the civil disobedience movement. (Mr. S. C. Mitra: "Hear, hear.") One would think that if a rebellion against law and order were to take that form, all the advantages were on the side of the Government, because Government would then be able to know with whom they were dealing, and they would be able to know to what extent those who were opposing them would go. Short of contentment with their Rule what other form would the Honourable the Home Member like a movement to take?

I remember the Honourable the Home Member the other day saying that when the Congress was taking to direct action they were placing themselves outside the pale. What was the Congress doing for half a century? For half a century the Indian National Congress never took to direct action. That was exactly the record of the Congress before they entered upon the course of direct action. For nearly half a century the Indian National Congress, with the whole of Indian political thought behind them, had carried political agitation in a manner which even Mr. Churchill would approve. In those days the Congress would not dare to think of being free, much less would they ask for it. They asked to be treated only as men, and that in the most orthodox way. They petitioned, they remonstrated, and supplicated. And what was the result? Those petitions were rejected, the remonstrances were set at nought, and their supplications were disregarded. No wonder, Sir, that the Congress lost its faith. They had to come to the inevitable conclusion that it is better to rely upon themselves than upon the justice and generosity of the rulers. They are asked to rely on the Round Table Conference methods. I am afraid, if all that we hear today and we have been hearing in the past were to be believed, our chains have been forged and their clanking can be heard now in the Robe Room of the House of Lords. It must be said to the credit of the Congress that they have chosen a form of activity which is least harmful to the Government or to the public, and which has excited the admiration of the disinterested world. Notwithstanding all the barbarities to which the agents of law and order have subjected them, they remained essentially non-violent under a severe test which did no credit to any Government which call themselves civilised. I might be charged with prejudice if I say anything, but I would like the House to know what disinterested American opinion has to say about it.

"Lathi beatings and other forms of governmental 'firm action' have gone on apace, yet the Indians have remained predominantly non-violent. The longer the repression lasts, the deeper and more widespread grows the Indian bitterness. . . Indian unity increases."

That was the opinion of a disinterested American gentleman.

I am not a Congressman, nor ever was. I have no sympathy with the civil disobedience movement, very much in the same way I would have no sympathy with a man who would like to convince a tiger on the virtues of a vegetarian diet. (Laughter.) The sacrifice, however little it is, is a waste. A Government which put their faith in the mailed fist are incapable of appreciating a sacrifice which could appeal only to all that is best in human nature. Had it not been for the due appreciation of the consequences that are likely to result by the suppression of all political expression, I would have thought the waste of Congress sacrifices would be saved under this Bill and that at any rate is a recommendation in its favour.

The Honourable the Home Member and the Leader of the European Group have both said that it is not the intention under this Bill to suppress nationalism. Nationalism, when once rightly awakened, cannot be suppressed. Nobody need take the trouble to tell us that. If it cannot be allowed to pass on the highways, it will pass through the byeways and if the byeways are blocked, it will pass through underground.

No repressive laws will have any decent chance of success unless public opinion is behind it. The Government ruled with these laws under the Ordinances and the severity of that rule has penetrated the busy cottage, the cultivated field and the industrial houses, and even invaded the seclusion of the *zenana*. What is the verdict of the country today on that rule? Need I remind what the verdict is? It is a strong condemnation of the measures that have been taken, and today that Ordinance regime is consolidated in the form of a legislative Bill, and it is needless for me to say that the worst features of that regime are incorporated in this Bill. They are entrusting unlimited powers to the executive officer. After all, he is an executive officer. He is an interested judge; and in some cases he is the sole judge. He is an arbitrary judge, who proceeds in secret, condemns without hearing, and decides even without appeal. In all these, the public opinion must necessarily rally round the victim of official *zoolum*, and the administration of law and maintenance of order will be rendered more difficult. The indulgence of the public will be in proportion to the rigour of the Government. I dare say Government can successfully suppress the civil disobedience movement as such. But suppression of political activities is another matter. The India Delegation has remarked that the creed of Gandhi was a shield to Government. The Honourable the Home Member was amused when Mr. Gandhi was called by them as the best policeman in India to protect the lives of Englishmen. He would not have smiled had he refreshed his memory with the very passages he himself read on the Terrorist Bill where those terrorists repudiated the policy of Gandhi and condemned the Congress activities, saying that it was too soft and no cure for the political evils of the country. Does not the Home Member think that but for Gandhi political activities might have taken perhaps a different course?

The Honourable Mr. H. G. Haig: Who moved the resolution in the Congress applauding Bhagat Singh's character?

Mr. B. Sitaramaraju: I do not know who moved the resolution which was moved in the Congress, but all I would say is this. I take my stand firmly on the fact that the Congress has never stood for any violence.

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and it is not the creed of the Congress to indulge in violent activities. The Congress has dissociated itself from violent activities. It has always done that. If, on that occasion, Congress extolled the personal character of Bhagat Singh, it had nothing to do with the terrorist activities of Bhagat Singh. I know that there is nothing which I can say that can alter the pre-determination of the Government. They blundered into a Great Empire. If they blunder out of it, they would be only following the way of Empires, but I would like to say that the consequences of their misgovernment will not only fall on them, but upon us also and we have to pay as dearly as the Government for this misconceived legislation. With these words, I oppose the Bill.

Mr. P. G. Reddi (Guntur cum Nellore: Non-Muhammadian Rural): I rise to oppose this Ordinance Bill at this late stage, because I am convinced that it is directed against the rights and liberties of the people and of the Press. If the right of holding meetings and conducting papers is to be regulated by Ordinances, all I can say is that our citizenship is reduced to a mere mockery, leaving us practically at the mercy of the police and the district officials. It looks as though India will never be allowed to walk with her head erect in the Imperial family as an equal nation, judging from the scope of the Ordinances which interfere with all the departments of political activity and even our social well being. The temperance movement cannot be promoted any longer than the Swadeshi movement by peaceful picketing. The laws invade even our social sphere and the tentacles of the Ordinances have been stretched so far that even the sins of the son will be visited on the father. I urge on the Government that they should observe restraint and instruct their officers charged with the operation of these Ordinances that they should observe moderation. Even the object of the Government will be defeated by excessive severity and good statesmanship demands that this excess should be avoided. The other day, my Honourable friend, Mr. Yamin Khan, disclosed that it was owing to pressure from the Army Department that this Bill had to be made more rigorous than before. Whatever that may be, and owing to the weakness of the House, it is going to be carried. I trust that Government will instruct their officers to observe moderation in the working of this measure.

Mr. N. B. Gurjal (Bombay Central Division: Non-Muhammadian Rural): (The Honourable Member spoke in the Vernacular*).

Mr. Muhammad Azhar Ali (Lucknow and Fyzabad Divisions: Muhammadian Rural): Sir, I must apologise for not having been able, owing to my serious illness, to speak on this Bill, but I do not now think it expedient that I should record a silent vote. Sir, the principles of this Bill, when judged from a juridical point of view and specially from the point of view of criminal jurisprudence, seem to be absolutely unfounded on reason. I say that there is not a principle in this Bill which is not against the principles of criminal jurisprudence. The one principle which runs in every clause of this Bill is, that of vendetta or vengeance. If we

*A translation of the speech will appear in a later issue of these Debates as an Appendix.

calmly stand here to consider the Bill, we find that it is actually to take vengeance not on young children who have committed some criminal act as defined in the Bill but to wreak our vengeance on parents and I call it nothing less than a vendetta. The other principle which I find lurking in the Bill is, that when in olden days individual vengeance was to be wreaked or satisfied, it was in the form of some monetary compensation. But, Sir, those olden days are gone, society has been formed, the State is here, still we find that that very principle of monetary compensation runs throughout this Bill. The third principle which runs through this Bill is that of terrorism. Government come here to legislate and abolish terrorism but, on the other hand, what do we find? We find that it is terrorism and intimidation which are the guiding principles of this Bill. If you want to confiscate property, if you want to levy fines and realise them in the most extortionate manner, it is nothing short of intimidation. Sir, in this century, to pass such legislation, specially through this Assembly, is simply an intimidation of the whole country and a challenge to rise against this terrorism. The fourth principle which runs through this Bill is that of suppression of justice and equity. You do not allow appeals to the High Courts, you stop civil actions when you confiscate property and you do not leave any remedies for those poor people who do not intend to do any act of civil disobedience. It is only a sort of panicky legislation, and why? Is there fear of any war on the frontier? Is there not peace in India and is there not sufficient army? What is it that you want? Without any rising, without any rebellion, you simply want to crush the spirit of the country and to destroy the civilisation which exists in India. The fifth principle underlying this Bill is the arresting of India's progress in every line, in every walk of life and in every way, in trade, in industry and even in education. You gag public speeches, and writings in the Press, even movements in public places you stop and you check every form of liberty which so long Indians have enjoyed under the peaceful British rule. Sir, the suppression of the Press has been the principle for some time of British rule in India, but at present what we find is that it will be absolutely impossible for any paper to comment on actions of Government or even of Government officials, even in their individual capacity. If you want to stop our lips, hands and feet in every way and tie us down to your orders, it will be absolutely correct to pass this Bill into an Act, otherwise not.

Sir, after enumerating these principles which actually underlie this Bill I will now enumerate the principles of criminal jurisprudence which they set at naught. The first is that elementary principle which you find in every system of criminal jurisprudence, that every person is presumed to be innocent. In every clause of this Bill what we find is that it will be not the business of the Crown to prove a man guilty, but it will be for the man to prove himself to be not guilty.

An Honourable Member: That is the case in France.

Mr. Muhammad Azhar Ali: I do not care what happens in France. I stand in India and I have to deal with British justice. I do not care for what the French people do or what the French Government are doing. To my friend it may be all right to go to France if he considers that country to be more salubrious than India, but it is only British rule that

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I want to stay under and fight my battle in my own country. The next principle is the principle of *mens rea*, that is, a guilty mind, which is the root of criminality and which has been absolutely neglected and given up in this Bill.

The third principle of Criminal Law is that burden of proof should be on the prosecution—unless it is proved or it appears to a certain extent, *prima facie* that there is some criminality in the offence. That principle also has been absolutely abrogated. Sir, I find that this enactment, even if put on the Statute-book, it would not uproot the civil disobedience movement. I challenge my friends on the Treasury Benches to show that there is a single provision in the Bill to restrict civil disobedience. If a person does any act, not with the intention or the motive of doing civil disobedience, still he will be punished. Is that to restrict civil disobedience? I submit not. At the same time, there are sections about the boycott of public servants. Is the State to guard the rights and privileges of the public servants alone? Is the State not to guard those who amongst the public want to help the Government? There is not a single section to restrict the civil disobedience against the public at large, it is only a form of vengeance on the people. If an ordinary man in the street wants to help the Government and if a Congressman goes to him and wants to behave towards him as they say in the Bill and to talk of taking measures of civil disobedience or some kind of boycott, there is nothing absolutely in the Act to prevent that man. They have taken in this Act certain clauses of English Statute and incorporated them, but I am sorry to mention in this House that though the Statutes may be all right for England, we have not even provided in this Bill any safeguards which exists in those Statutes there; for instance, when you say loitering in the public street will be punished. I submit, in the English Statute, the manner and number of people loitering is also mentioned, and a necessary condition precedents, but there is absolutely nothing in this Act which makes only that kind of loitering an offence. The fourth and the last is the provision of confiscation of property. Those people who know the history of India will support me that it was after the Mutiny alone that confiscation was the order of the day. But we find today after 150 years' rule of the British Government—a civilised rule—that confiscation of property is made the rule of the day by this Ordinance Bill. This monster of a Bill which had its creation in the Simla Session and which has unfortunately lingered on in spite of the attacks that were made by public representatives—it has survived and survived, I must say, again, with a vengeance. This will be only an index of the relation of the rulers and the ruled. I appeal to the Treasury Benches to think what the world outside will think of us Indians: after 150 years of civilized British rule, is this the condition in which they find India? Is this the education which they gave that has brought about such state in the country? Is this the reflection of your civilisation in the country which you have ruled for 150 years? It may be all right for your present purposes, when you are going to stifle our industries as well by the Ottawa Agreement, that you want to stifle our independence; now it may be all right to crush us between these two machineries, but probably this will linger on in the minds of Indians and in future generations: and I would appeal to the Honourable the Law Member and the Honourable the Home Member . . .

The Honourable Sir Brojendra Mitter: You appeal in vain.

Mr. Muhammad Azhar Ali: to reconsider this Bill and act according to the principles of criminal jurisprudence and not according to vengeance.

Mr. C. S. Ranga Iyer: Sir,

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Are you likely to take some time?

Mr. C. S. Ranga Iyer: I will finish my speech in ten minutes. I thank you, Sir, for asking me whether I would take some time. My object is to finish this Bill today as suggested by you yesterday, so that we might go on to the Ottawa issue and prove to my friend from Lucknow whether we propose to "stifle the industries" of India or not, to use his own expression. The actual experience of a calamity is less fearful than a prospective view of it, and when the Ottawa issue comes, I will be able to show whether our industries will suffer or will not suffer as I have had the opportunity of studying this question sitting late hours into the night and in Committee by day for full fourteen days. Now I would rather deal with something different from Ottawa, something that strikes at the liberties and rights of our people here. The Ottawa Agreement, in my opinion, if closely examined, is calculated to promote Indo-British co-operation in trade matters, whereas this Ordinance Bill is going to strike at the root of our very existence. These law and order people, so wrote Lord Morley to Lord Minto, are sometimes responsible for the "fooleries of history"; and if I may parody Tennyson I can only say, with apologies to that great poet:

Whatever fooleries of law
Home Member Haig assume,
Our work is ours,—the single note
From that deep chord which Gandhi smote
Will vibrate to the doom. . .

Sir Abdulla-ál-Mamún Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): What poem is that?

Mr. C. S. Ranga Iyer: "England and America in 1782" by Tennyson. I would say here, "India and England in 1932"

An Honourable Member: By Ranga Iyer. (Laughter.)

Mr. C. S. Ranga Iyer: Yes, with apologies to Lord Tennyson. I will respectfully but anxiously warn the Government and appeal to the Home Member to instruct all those out in the country who happen to be their officials and officers not to override the stunt of law and order, not to ride this Ordinance Bill to death and rough-shod over the feelings of an exasperated people. Much depends on the operation of a bad measure. If a bad measure is operated in a good way, it will not be so bad as it looks at present. Sir, with these words I conclude, once again appealing to him to instruct Local Governments, to instruct local officers, the men on the spot, not to play with the lives and liberties of a liberty-loving people

Sardar Sant Singh (West Punjab: Sikh): Will you then accept the law?

Mr. C. S. Banga Iyer: My Honourable friend from the Punjab asks me "Will you then accept the law?" I have opposed the Bill, and I still oppose the Bill. I know owing to absenteeism of a most deplorable kind on this side of the House, this Bill is going to be passed into law. I know the law will legalise despotism. (Hear, hear.) That is why I oppose it, but I want the Government, if they do not want to disgrace themselves out in the country, to inform the men on the spot not to abuse the law further than they would like to have it abused. (Applause.)

The Assembly then adjourned for Lunch till a Quarter Past Two of the Clock.

The Assembly re-assembled after Lunch after a Quarter Past Two of the Clock, Mr. President (The Honourable Sir Ibrahim Rahimtoola) in the Chair.

Mr. S. C. Mitra: Sir, I oppose the passing of this Bill. We have tried in the course of this long debate to make some improvements in this drastic measure, but we have failed. I think the Government fail to appreciate the attitude which actuates us in opposing such measures. It is no pleasure for us to oppose Government measures all along, even when we find that ultimately we cannot gain anything. The time has come when Government should seriously think why this present state of affairs has manifested itself in India. The connection of the Indian people with the British people is not an affair of a few years. The two nations have been in close relationship for more than a century and a half. It was natural that in the beginning of the British connection misapprehension should arise about the attitude of one towards the other. But we find that in the earlier years of British connection, there was contentment and mutual admiration. It is only in the last 20 years that the whole country is seething with discontent, and it admits of no denial. True statesmanship does require that we should go into the inner meaning of the present state of affairs. It has been found that the conditions in the villages, not to speak of the unemployed educated people, have reached their limit. The exploitation that had been carried on for years has brought the people to the verge of starvation, and any attempt merely to suppress the popular discontent will not tend to any lasting result. That is one aspect which we on this side of the House wish to bring to the notice of the Government.

As regards this particular legislation, a mere reading of the clauses may not make it evident how, in the day to day administration, these apparently innocent looking clauses are destroying the peace of the illiterate villagers. Discontent was first confined to the educated classes, but legislation of the present kind is going to the very basis of society, and even innocent and illiterate villagers in remote parts of the country will be affected. My Honourable friend, Sardar Sant Singh, has quoted authorities and I can quote from the great English political philosopher Burke himself as to what conditions justify even extreme steps for a nation. But today I do not want to deal with those general principles nor shall I go in detail into the clauses, because we have done it for the last fortnight. I shall confine my remarks to the Press clause in some-

detail. As regards clause 2, as I have said, we in Bengal are not affected at all. Clause 3 deals with tampering with public servants. In these days of unemployment I do not know even the Congress agitator or civil resister will be successful in carrying out their object. As I have said many a time, these clauses are not useful or even necessary. But I should like to submit to the House how the application of these innocent looking clauses will hamper the people. Clauses 4 and 7 are very wide and will affect all classes of people. I shall not deal with those clauses now. Let me say something about the clause which deals with the Press—clause 16. When it is expected that India will have a better constitution, is it good even in the interests of the Government to alienate the sympathies of the Press? In the coming constitution, those who will be on the Government Benches as well as those on the Opposition will greatly need the full co-operation of a free and independent Press. I sincerely believe that the present piece of legislation will greatly and seriously hamper its work. Let me quote from my own personal experience.

We sometimes hear in this House of the abuses by the police and other officers. Last time when I had been to Calcutta, I made an endeavour to ascertain the actual facts from authentic reports so that we can place them before the public. The enquiry was made by a gentleman who served in the army during the last war; he was a temporary Captain. I have his report before me, and, if necessary, I shall produce it. When I got the report, I wanted all those things to be published in the Press, because that was the easiest way to draw the attention both of the Government and the public. It is not unusual that high Government officials who are far distant from these localities are not in touch with the daily administration. So with that purpose I asked the gentleman to have it published in the Press, but every Press in Calcutta refused because of the Ordinances, though the gentleman had accepted responsibility for the statements. This is the hardship that will happen if this drastic legislation, which has been in force for the past 10 or 11 months, under the Ordinance regime, is passed into law. I should like to put on the table* for the consideration of the Members some extracts from that report, as to how the abuses occur and how innocent people suffer. As I said before, it is both to the interest of the Government as well as of the people that they should know what is actually happening. The report is in Bengali. He gives instances under 23 categories of the illegalities that are being committed in the villages in the name of law and order. I shall only read a few of them.

I am speaking of two thanas, in the Tamluk Sub-Division of the District of Midnapore. This gentleman is a well-known man. He personally visited 16 villages, *viz.*, Kashipur, Dandipur, Dwaik Bari, etc. For the realisation of punitive taxes in the villages recourse was taken to kicking and other physical inflictions and sometimes they went so far as to give villagers a good ducking in the village ponds. The boys were beaten in the presence of their father and the parents were tortured in the presence of their sons and daughters. The furniture of the houses were broken. Paddy and rice were looted from the granaries known as *golas*. The wooden house doors and windows and even the ploughs were used as fuel by the police stationed in villages. Houses were razed to the ground and, in several places, burnt to ashes. He also refers to oppression on women. He gives instances of two women on whom rape was committed. I have here their photos together with their statements

*Placed in the Library of the House.

[Mr. S. C. Mitra.]

and thumb impressions which I place on the table* of the House for the inspection of Honourable Members as well as of the Government. It is known that in Eastern countries chastity is so highly valued that when a woman loses her chastity, she is outcasted. Therefore, no woman in India will ever make a false statement that rape was committed on her. I read one of them. In the statement, she says, her name is Kusum Kumari Mondal. On the 15th September, on Thursday night, she was sleeping with her husband. At about midnight, a contingent of police came and took away her husband and all the male members from the adjoining house. Sometime after, her brother-in-law alone returned. Afraid to live alone, she went to her brother-in-law's house. She was in bed with her sisters-in-law and other females when a Pathan police came and again took away her brother-in-law. That police man came back and with the help of a torch light picked Kusum and forcibly dragged her to her house and beat her, when she screamed, gagged her, and committed rape on her. Her thumb impression and statement are laid on the table* of the House. Another case of rape is that of Sushila Bala Pradhan of Sutahata. I place also her statement with thumb impression on the table* of the House. To save herself from police, she took shelter in the house of another woman, Puti, a neighbour, who was not assessed with any punitive-tax, because she was too poor. The police knocked at the door and asked if there were any volunteers in the house and wanted to see the house and personally satisfy themselves. They opened the door. Instead of looking for volunteers, they closed the door and forcibly thrust Janaki and the other female into another room. Then she was threatened and raped. These are the statements of the women and there are their thumb impressions also. I place them on the table* of the House so that Honourable Members can see them if they want to. There are here six other statements of Khemankari Banick, Giribala Roy, Bilashini, Parul Bibi, Bishnu Maiti and Saraswati Pal who definitely allege that attempts were made to outrage their modesty. I shall not go into details. The statements are in Bengali.

Now, I shall deal with cases of wanton destruction of property; I shall only read a few. On the 28th September, 1932, in the village of Hadia, in the house of one Purna Chandra Das, the police destroyed everything, not sparing even religious books, co-operative bank accounts, and the plough was also burnt. Here is a picture of that. (Shows the Photo). Then there is another photograph—it is of Kashipur—of the house of Hirday Nath Das, Pleader, showing how the Pathan police were cooking their food including fish and meat and how they destroyed some of the properties, and their family "Laxmi Thakur" was removed from the pedestal. That is a photograph to demonstrate how it has been done. There is another. The time of occurrence is 10th September, 1932. In the house of Mahendra Nath Jana of Dalimba Chauk, Sutahata P. S. All his moveable properties were looted, and even the image of the goddess "Laxmi Devi" was thrown away from its place. The other is about the occurrence of the house of Jogendra Nath Kalsa of Dundipur on the 22nd September, 1932. Here the District Magistrate, Mr. Burge, and the S. D. O., Mr. Richardson, were also present when the police destroyed their granary and spoilt the paddy collected there. This is the photograph of that place.

*Placed in the Library of the House.

(Shown.) Here is another case where, in the village of Bar-Basudebpur, in the house of Brojalal Kniti, the Bhagmat-Geeta was torn to pieces and put into the boiling *handi*, and the man was beaten. This is the statement, and this is the photograph, which will indicate how these things are done.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): These were in the pre-Ordinance days?

Mr. S. C. Mitra: I am giving you the date at every time—September last. In the village of Hadia, in the house of Kartick Chunder Das, the punitive police burnt the teakwood furniture and burnt the doors and windows. In the same village, in the house of Pran Krishna Das, they entered the temple and stole ornaments even from the body of the image of the family-god. I particularly give these instances to show that in eastern countries people are very sensitive when their religious sentiments are hurt in this way, so that the mighty Government at Simla also should know how the day to day administration is being carried on under the Ordinances that are now going to be made law.

Mr. K. Ahmed: Did not the parties file complaints before the Magistrate or lodge information at the police station?

Mr. S. C. Mitra: There are number of pictures taken. I am now showing to the House a few only to prove that we do not draw these pictures from our mere imagination. Here is another case where, on the 24th September, 1932, in the house of Bihari Lal Maiti, for a tax of Rs. 24-9, 320 maunds of paddy were taken away in the absence of male members. Then this is another picture of a place where Swadeshi Khadi is sold, and they have destroyed all these things. Of course they may have a special grudge against the Swadeshi-Wallas. (Photo shown.) This is the photograph of the house of Ajit Kumar Maiti of Dari-Bera, where the doors and windows have all been taken away, and property destroyed. Here is the photograph of a place of the house of Rukhal Chandra Samanta of Hadi where the corrugated tin shed has been destroyed. Here is a picture of a house belonging to Gora Chand Kalsher of Dundipur village where the cottage has been destroyed and all the thatched roofs have been brought down. In the picture here it is so clear—showing how the mischief has been done.

Honorary Captain Rao Bahadur Chaudhri Lal Chand (Nominated Non-Official): Are these instances of operations during the no-tax campaign?

Mr. Amar Nath Dutt: They are instances of the administration of British justice.

(Further interruption by Honorary Captain Rao Bahadur Chaudhuri Lal Chand.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Honourable Member does not yield.

Mr. S. C. Mitra: Sir, I am not yielding. Here is a photograph of a place where all the trees, banana trees, were cut, etc. How all these things are necessary for the realization of a tax one can easily imagine!

[Mr. S. C. Mitra.]

Here (showing the Photo) on the 24th September, 1932, at about one o'clock, the second officer of the thana, Dharendra Nath Chatterjee, went to the house of Sukumar Maity for collecting the tax, but he destroyed his thatched house and his walls. This is another picture of a house of Keshab Chandra Mandal of Dundipur where all the ceilings have been destroyed. How the destruction of property or the ducking of a man in the tank helps the realisation of punitive tax has got to be explained. This is another picture of a stationery shop belonging to Nagendra Nath Das where the entire property was destroyed. Now, this is the picture of a pharmacy where all the medicine bottles have been thrown out and destroyed.

The other day, my Honourable friend, Sir Muhammad Yakub, was very anxious for rendering medical assistance to the public servants, but perhaps in a village there is only one pharmacy and that being destroyed—of course the public servants can go to town—all the villagers are deprived of medical assistance at least for months.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhamadan Rural): Probably they were induced by the Congress volunteers.

Mr. S. C. Mitra: But that is no reason why the officers of Government should take law into their own hands and destroy the property of these villagers. It might be, as Sir Muhammad Yakub said, that they have been led astray. That may be admitted; but even then, where is justification for such tyranny? I have given instances of at least two occasions where women have been raped and six or seven cases where attempts have been made at outraging the modesty of women, and several cases where the people's religious feelings have been wounded by throwing away their family-gods, and cases where even the District Magistrate was present when some of these atrocities were committed. I place all these things before Honourable Members; there are a few others, but I do not like to take more time. I place them all here so that the Government might know that what they consider to be so simple—passing a law here, sitting here in the cool climate of Delhi—is not so simple; these laws are to be administered by unscrupulous officials, and I want to show that the people who are so "perverse-minded" like the Congress people are not the only sufferers, but so many others who are innocent.

Mr. Amar Nath Dutt: Some of the officers here are laughing!

Mr. S. C. Mitra: I do not like to refer to those who, upon hearing all these atrocities, may be laughing. Let them enjoy it to their heart's content. 'When Rome was burning, Nero was fiddling'.

What I say is, that these laws are not so innocent as they look, and day-to-day administration of such drastic laws generally leads to tyrannies. Most of the illiterate people, as Sir Muhammad Yakub said, might have been misled by the Congress people. Even conceding for the sake of argument that they refused to pay the taxes, why should Government officers go beyond the scope of the law? They went there to realise the punitive tax and they should certainly be entitled to do that, but there are innumerable cases to show that for the sake of realising two or three rupees they have destroyed property worth two or three hundred rupees. If in these hard days this sort of administration goes on, I can assure the Honourable the Home Member that no amount of further legislation will

help him. He may have martial law if he likes,—and perhaps the only difficulty in having martial law is that Government are short of military officers. My main contention was that if wide powers are given by any of these sections, they are sure to be abused, especially when some of the officers have the impression, as the Honourable Sir Leslie Hudson did say in this House, that they are in the midst of war and “everything is fair in love and war”. So, they are out to punish the people in any way possible, fair or foul. (Interruption.) My friend says, they want to strike terror. If that be the object, then let them do it by declaring martial law or suspending civil laws for some time, but not under the cloak of a law which was formerly an Ordinance for which His Excellency the Governor General alone was responsible and now this House is asked to share the moral responsibility of all those enormities that are being committed in the name of law in these villages in Bengal. Sir, these are the reasons why I oppose this Bill. I have in this report in my hand detailed instances how these two police stations of Sutahata and Nandigram in the district of Midnapore, in Bengal, are being dealt with, but, because of the Press law, it is impossible to ventilate the feelings of the people and give an account of the facts and occurrences that are happening every day. I think it is as much dangerous to the Government as it is to the people to suppress the Press by this drastic legislation and I oppose it.

Mr. Abdul Matin Chaudhury (Assam: Muhammadan): Sir, I have got in my hand a copy of a telegram that was sent to the Private Secretary to His Excellency the Governor of Bengal by the Imam of the Jama Masjid of Chittagong.

Mr. S. C. Mitra: I have already read it in the House.

Mr. Abdul Matin Chaudhury: I understand this telegram Mr. Mitra read out to the House yesterday. It gives a picture of the Ordinance rule at Chittagong and the incident occurred there during the days that the Honourable the Home Member was expounding before this House the exquisite beauties of the Ordinance. I think I had better read out to the House this telegram so that it might attract the attention of the Members that it deserves. It runs thus:

“Grossly insulting searches of about 150 respectable Moslem houses of Alkaran in the town made Wednesday 16th instant on meagre information regarding absconders. Indignities caused to pardanashin ladies, some inside the house and some dragged to considerable distance and exposed in public street after removing male members under arrest to another place. Some pardanashin ladies roughly handled and rudely treated in the name of searches and Moslem males beaten and some grossly insulted. Mosallies stopped from going to mosque. Moazzen of Alkaran mosque threatened with bayonet and revolver to prevent Azan of afternoon prayer. In view of these facts learn great consternation causing bitter resentment and indignation in the Moslem community. This large mass meeting assembled at Jameh Mosque premises on Friday 18th instant at 2 P.M., after Juma prayer under the presidency of Jameh Mosque Imam severely condemns such outrageous deed on innocent peaceful Moslem citizens of town and urges on His Excellency for an immediate inquiry by an impartial Commission of officials and non-officials and for proper and adequate redress.”

The Honourable Mr. H. G. Haig: Will the Honourable Member also read out the reply given in the Bengal Legislative Council to these allegations?

Mr. Abdul Matin Chaudhury: No copies were sent to me and I am not aware of them. Sir, I have read out this telegram for the benefit of those of my co-religionists here who are under the delusion that this Ordinance is meant only to deal with civil disobedience movement and only the Hindus will be affected by it. Sir, His Excellency the Governor

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of Bengal in the St. Andrew's Dinner testified that the Mussalmans had no share in the terrorist outrages. I am sure, my friend, Mr. Anwar-ul-Azim, will very vehemently protest that the Muhammadans kept themselves away from the civil disobedience movement. Not only that, when Inspector Ahsanullah was murdered, the Mussalmans went to the length of committing excesses on their Hindu neighbours. (Mr. Anwar-ul-Azim: "Question.") My friend, Mr. G. S. Dutt, reminded us the other day of the Bengali adage—"the man for whom you commit theft calls you a thief". The Mussalmans of Chittagong must be pondering over the wisdom of this adage these days. Sir, to give the Government the credit where it is due, it must be said that they are impartial, impartial in the abuse of their power where the Indian community is concerned. Speaking as a Mussalman, I feel that our community has been and will be the worst sufferer under these Ordinances because our power of resistance is the weakest. Under these Ordinances, the Frontier Mussalmans have been terrorised; the Red Shirt movement has been crushed; the Ahrars have been suppressed; the Muslim Press has been throttled; and even in this Imperial City of Delhi, under the very nose of the Government of India, the sanctity of the Muslim mosque was violated. Wherever the Mussalmans have shown any sign of life, activity or vigour, they have been put down with an iron hand and there is nothing to be surprised at this, because when you give this autocratic power to the irresponsible executive, it is bound to be abused. When pestilence like malaria or plague or Ordinance sweeps over the country, it makes no discretion of Hindus and Muhammadans and I hope my friends who are going to support this Bill will ponder over this. It must be apparent to the Honourable Members that my attitude towards the Bill is one of uncompromising opposition, because I agree with most of my friends on this side of the House that the remedy suggested will not cure the disease. If, Sir, I am permitted to draw an analogy from the medical science to which most of the Honourable Members have resorted for analogies, I would say that the Honourable the Home Member has failed to diagnose the temperature in the body politic of India. Finding, Sir, the rise of temperature in the patient, he has prescribed the quinine of the Ordinances, sugar-coated, if I may say so, with the genial smile of the Honourable the Home Member. But this, Sir, is a quack remedy. What India is suffering from is consumption, slow gradual decay of the vitality of the nation, the vitality which has been sapped and undermined by years of misrule and maladministration. It will not merely do to put down the temperature by an injection of Ordinances. What is necessary is the revitalising elixir of complete self-government, if we are to effect a radical cure. Quack remedies will only aggravate the malady. This civil disobedience movement owes its origin to misrule and maladministration, as I have said, and it gathers strength and momentum because of the continued stifling of the legitimate aspirations of Indians. The remedy for the present state of affairs does not lie in crushing the civil disobedience movement, but in putting an end to that system of administration which gave rise to the civil disobedience movement. For a radical cure you must deal with the ultimate causes and not merely with the approximate causes.

Now, Sir, what are these Ordinances? They restrict our freedom of movement, ban our freedom of association and gag our freedom of expression. So it practically means the strangulation of all healthy political

activities in the country. And yet the Honourable the Home Member thinks that we are so demoralised that he asked for our co-operation in passing this Bill and forging fresh fetters for our bondage. I for one refuse to be made a cat's-paw of the bureaucracy. It is their narrowness of outlook and short-sighted policy which has brought about this crisis in the country and it is no business of mine to draw their chestnuts out of the fire and help them in administering the country. Sir, I claim no originality for the remedy that I suggest; it has been placed before the House times without number. The remedy lies in granting full responsible Government, federation or no federation. These Honourable Members who are occupying those Treasury Benches have no right to be there,—those seats belong rightfully to the elected representatives of the people. They will have to be ousted from those seats. Those gentlemen who are sitting behind them have also no business to be there. That entire block ought to be chucked out of the House.

An Honourable Member: Then who will remain in the House?

Mr. Abdul Matin Ochaudhury: We will remain, Sir. If that means capitulation, I am afraid, the Honourable the Home Member
 3 P.M. will have to swallow that bitter pill sooner or later; and the sooner he does it, the better for all concerned.

Sir Hari Singh Gour: Sir, with a great deal of reluctance, but with a certain degree of confidence engendered by a recent ruling of the Calcutta High Court upholding your decision given the other day, I wish to recall my objections to this Bill; and, in doing so, I shall categorise the points upon which I invite your ruling. If you turn to clause 18 of the Bill and the various provisions which are intended to be added to the Criminal Law Amendment Act (XIV of 1908), you will find under the proposed section 17B, after the forfeiture has been incurred and made, an adjudication under sub-section (6), that is, a limited adjudication:

"Where any such representation is rejected, the representation, with the decision thereon, shall be forwarded to the District Judge, in the case of a decision by a District Magistrate, or, to the Chief Judge of the Small Cause Court, in the case of a decision by the Commissioner of Police, and no order of forfeiture shall be made until the District Judge or Chief Judge of the Small Cause Court, as the case may be, has adjudicated upon the representation."

Then, sub-section (7) says that the decision of such Judge shall be final. A point was raised yesterday by one of the occupants of these Benches that the use of the word "final" precludes an appeal and an application for revision to the superior Courts; and my Honourable and learned friend, the Leader of the House, assured him, and through him the House, that the finality of the order mentioned in this sub-section would not preclude the filing of an appeal or the making of an application for revision. My Honourable friend, the Law Member, nods his head. Well, I am then fortified by the nodding of my friend's head in my view that he did not mean it and that final means final. But he will have his chance to translate his dubious nods into audible words. In the meantime I may be permitted to state my objection. There have been rulings by the High Courts and by the Privy Council, and the cases are all collected in the latest case that I have been able to get, namely, I.L.R. 4 Rangoon, p. 506, and the point under discussion is at page 511. The point that arose in the Rangoon High Court was that under the Land

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Acquisition Act, the decision of the Chief Court, as the Rangoon Court then was, was made final; and the question arose as to what was the meaning of the word "final". Did it preclude an appeal to the Privy Council or did it not? And the language of the learned Judges at page 511 is as follows:

"It has been argued for the appellants that the word 'final' here used means nothing more nor less than the same word that is used in the Code of Civil Procedure as the opposite of interlocutory. In my opinion, however, and having regard to the special statute, the word 'final' is used in quite a different sense, and the word 'conclusive' represents its real meaning."

Then they go on to cite several cases including Lord Macnaughten's judgment in the Privy Council case and fortify their arguments which they have stated. And the conclusion to which they arrived was that whenever in any special Statute the word "final" is used, there can be no appeal. And their Lordships of the Privy Council have further said that it is the policy of the law that where the Legislature did not give a direct appeal, there cannot be an interference by the superior Courts in an indirect manner through the backdoor of revision.

Now, these were the cases that confronted us and do confront the learned occupants of the Treasury Benches. On the last occasion, in connection with this Bill and another previous occasion in connection with another Bill of the same character, I raised the objection that portions of this Bill or portions of that Bill which precluded the subject from filing an appeal to the High Court and took away the jurisdiction of the High Court were *ultra vires*, and you, Sir, upheld my objection. Since then a case arose in the Calcutta High Court. Unfortunately I have not been able to get the full facts of that case, because the only telegram I have is the Associated Press Telegram, dated the 2nd December, 1932: it came this morning and I will read a summary of the decision of that High Court:

"Treating petition of appeal filed by Manmatha Nath Biswas from jail as application under section 107 of the Government of India Act, Chief Justice and Justice Pearson at High Court today directed acquittal of appellant (Biswas) who was convicted by S. K. Sinha, Chief Presidency Magistrate, sitting as Special Magistrate under section 19(f) of Arms Act read with section 34 I. P. C. and sentenced him to two years' rigorous imprisonment. Chief Justice in course of judgment observed that on Magistrate's own view of fact, Lordship did not know how he could in law convict accused under section 19(f) Arms Act as in Lordship's view this conviction rested upon no evidence and Lordship think it should be set aside under section 107, Government of India Act. Neither Lordship could convict appellant on charge of abetment of offence in view of evidence."

The point that arises in this case is this: The Government have made the decision of the District Judge as final under that clause. The Privy Council and all the High Courts have held that the word "final" means conclusive; in other words, whenever the Legislature says that a certain thing is final, it precludes the possibility of an appeal; and Their Lordships of the Privy Council have held that when there is no appeal, there cannot be any revision, because the Courts cannot do indirectly what has been directly forbidden by the law

The Honourable Sir Brojendra Mitter: Has my learned friend any authority for the astounding proposition that where there is no appeal there is no revision?

Sir Hari Singh Gour: You want that? It is a case reported in 12 Bombay and I will give the very words shortly. I am quoting from the words of the High Court Judges. Now the position is this: we are driven to this position. The Government propose to enact in this Bill a clause making the decision of the District Judge as final and the question, therefore, arises as to whether the jurisdiction of hearing an appeal by the High Court is not excluded by the provisions of this Act. I have read to you the summary of the judgment of the Calcutta High Court. Let me recall to you the facts of that case so far as I have been able to gather them. I speak subject to correction, because my Honourable friend, the Home Member, must be in full possession of all those facts

Mr. K. Ahmed: Sir, may I ask a question? Suppose a First Class Magistrate fines you five rupees for a certain offence against the byelaws that you commit and then there no appeal lies against his order, because he is a First Class Magistrate; but there is a revision. Is that not so according to the Criminal Procedure Code on which you are one of the authorities?

Sir Hari Singh Gour: I am afraid my friend has not understood the point and I am not, therefore, able to reply to his question.

Mr. K. Ahmed: You cannot give reply, because you are caught and cannot get out.

Mr. Gaya Prasad Singh: This is a law point you cannot understand.

Sir Hari Singh Gour: My learned friend asked me, where is the authority for this astounding proposition? Here is the authority for that proposition. Ameer Ali's Civil Procedure Code, p. 460, and the footnotes give all the cases. The authority is:

"An erroneous decision of a Court having jurisdiction can only properly be corrected by appeal; and if the right of appeal does not exist, the same results which an appeal would give cannot be arrived at indirectly."

Mr. K. Ahmed: What is that again, the Civil Procedure Code?

Sir Hari Singh Gour: Now the point is very briefly this: the decisions of the Courts are as I have stated; and the use of this word "final" would, therefore, preclude not only an appeal but a revision. But I go further. If the intention of the clause by using the word "final" was to prevent an appeal being filed, then, I submit, it contravenes the provisions of the Government of India Act; and my authority is the latest ruling of the Calcutta High Court; and also the ruling which you, Sir, gave the other day. I submit that this Legislature, as a subordinate body, has no jurisdiction to take any case in which the participation of a judicial officer is invited from the cognisance of the High Court under section 107 of the Government of India Act. The position that has been created by this enactment is so absurd that I shall in a few moments explain it. All the Chartered High Courts are protected by section 107 of the Government of India Act under their power of superintendence, direction and control. Consequently they can defy anything that this House or the other House may do. But this Act is an all-India Act; it applies to our Frontier

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Province and other provinces; they have got no charter; the High Courts there are constituted by local Acts, and though in those local Acts the power of superintendence has been given, the fact remains that being Acts of a subordinate Legislature, even more subordinate than this, those Acts cannot give the non-Chartered High Courts the jurisdiction which the Chartered High Courts possess under section 107 of the Government of India Act. The position, therefore, under this Act would be an anomaly. Those who live under the direction of the Chartered High Courts can go to the Chartered High Court and defy this law and say "we come under section 107". Here also the attempt was made that whenever there is a trial by a Special Tribunal constituted under the Bengal Act, there would be no appeal; the decision would be final except in the cases where the sentence is of longer duration, and the Calcutta High Court held that they have jurisdiction in spite of the provisions of the Indian Act. But other Courts will be bound by the provision of this Legislature, because they have not the protection which is given to the Chartered High Court by section 107 of the Government of India Act. You are, therefore, giving some people justice and withholding it from the others. Is this fair? Is this just? Consider it and you will at once see that this objection that I am raising is not without force. This is my first point.

The Honourable Sir Brojendra Mitter: Will the Honourable Member kindly formulate what precisely his objection is?

Sir Hari Singh Gour: I hope, Sir, I have made my point clear to you, but I will now try to make it clear to my Honourable friend on the other side.

The Honourable Sir Brojendra Mitter: I do not want my Honourable friend to make the point clear to me, but I want him to formulate his objection that this Bill is *ultra vires* of this Legislature, or whatever his objection may be.

Sir Hari Singh Gour: The objection is that by enacting that the decision of the District Judge is final, this Legislature would be excluding the right of appeal which must be expressly given, and unless it is expressly given, it cannot be impliedly given by this Act, and so far as the Calcutta High Court is concerned, the Calcutta High Court shields itself by saying that though there is no right of appeal, it has the general right of power of supervision and, therefore, can hear an appeal. I hope the point is now quite clear. That being the case, the Calcutta High Court and the other Chartered High Courts will possess the appellate jurisdiction over all decisions under this Bill when it becomes law, but the same relief will be denied to the other Courts which are not chartered and established under the enactments of this country. That is my point.

My second point is this. I have been stating in this House for some years in connection with the legislative activity of the Government of India that it is against the fundamental rights of the British subjects that the Legislature should enact forfeiting a man's property without giving him a remedy in the civil Court. It would be an arbitrary executive act which can only be justified by the State when it is in a state of war.

Confiscation of private rights is only permissible when the State is at war and not in a state of peace. I pointed out the other day that section 65 of the Government of India Act supported my view, and I further added that, apart from section 65 of the Government of India Act, this Legislature cannot do what the British Parliament cannot, and this Act being passed by the British Parliament, it is not competent for this Legislature as wielding authority from the British Parliament to perform an act and confiscate property which it is incompetent for the British Parliament to confiscate without recourse to the civil law. That was the point I made. I know what my Honourable friend on the other side will say. I know all the cases from A to Z on the subject from the earliest days of Amir Khan. The last case was that of Bugga. There Sir John Simon appeared. It was a case tried by the Martial Law Tribunal. Sir John Simon argued that under section 65 of the Government of India Act, the Indian Legislature had no authority to constitute a Special Tribunal for the trial of certain political offences, but Sir John Simon did not argue the other point, namely that neither the Indian Legislature nor the British Parliament had the right of taking away the right which had been settled under the Act of Settlement to which I referred the other day. That he did not argue. Their Lordships of the Privy Council referred only to section 65, and, in so doing, they said that it was perfectly competent for the Indian Legislature to say by whom a person should be tried. There is the original Court A, and it is competent for the Indian Legislature to establish Court B for that matter. Their Lordships did not go into the further question that I have raised, and it has never been decided by any Court in India or England, that the Act of Settlement, to which I referred the other day, which embodies and incorporates the bundle of rights which constitute the fundamental rights of the English citizen and, therefore, constitute the fundamental rights of all British citizens wherever they are domiciled, cannot be derogated from by any Act of Parliament or by any Act of a subordinate Legislature, because the King and the people have entered into a contract and the contract was allegiance on one side, preservation of these rights on the other side. That being the position, it is not competent for any tribunal, much less for the Indian Legislature, to take away those rights which constitute the very basic rights of every British subject. That is the point which I wish to raise here and which I submit, is not covered by any ruling. My friend will cite Bugga's case. I have read that case over and over again, and may I be permitted, in passing, to mention that, with the utmost deference to Their Lordships of the Privy Council, this House will recall how often we had the misfortune to overrule Their Lordships' decisions in this House? I remember at least half a dozen cases

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member admits that this House has the power by legislation to override the decisions of all High Courts in India.

Sir Hari Singh Gour: This House has got the power of overriding the decisions of all High Courts including the decisions of the Privy Council, but this House has not got the right of overriding the *Habeas Corpus* Act, upon which is based the oath of allegiance and loyalty to the Crown. In fact, as I have said before, Their Lordships' decisions have been overruled by this House in several cases. I remember at least 6

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or 7 cases, but every second or third year we have the misfortune to do that. We can overrule all decisions, but we cannot overrule, and the British Parliament cannot overrule, the fundamental rights created by the *Habeas Corpus* Act and embodied in the Act of Settlement to which I made more detailed and pointed reference in the course of my argument the other day and to which my Honourable and learned friend has not yet vouchsafed any reply. I am only anticipating the reply that he would give, and let me tell him in reply that he is leading a forlorn hope if he thinks that he can shelter behind 1, Lahore or Amirkhan's case, because they have no application to the objection I am raising here. My point is this, that is not also covered by any Indian case, or an English case.

The third point I raised the other day was that Government propose by clause 13, sub-clause 17F, page 7, of the Bill, to protect all officers acting *bonâ fide* for anything in good faith done or intended to be done under the said clauses. The language is :

"for anything in good faith done or intended to be done under the said sections. . ."

The point I make is this. There is no law here, and no law in England or anywhere else that can tell a man, "You can go and pillage and plunder anybody you like, but so long as you act *bonâ fide*, however illegal your act may be, you are protected in advance of your illegality". I explained the other day at some length how a clause in favour of indemnity in advance was *ultra vires*, and it has long been settled in England that such a clause cannot be legitimately inserted in an Act of Parliament. If my Honourable friend on the other side consults any book on constitutional law, he will find ample authorities for that proposition. And we stand here upon a very higher pedestal than mere authorities of decided cases. This House, as the custodian of the rights and liberties of the people, must be most unwilling to give indemnity in advance to any servant without reference to his acts, whether they are legal or illegal. Protection, therefore, that has been given for his illegal acts under this clause is, I submit, too wide and cannot be conferred upon him under any constitutional law or practice. These are my points of order.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Before the Honourable Member resumes his seat, the Chair should like him to state definitely in the form of issues, the points on which he desires the ruling of the Chair.

Sir Hari Singh Gour: The points of order are these :

1. Whether this Legislature has authority to make a judicial order, passed by the District Judge, final?
2. Whether it is competent to the Indian Legislature to enact a law enabling the executive to confiscate property without compensation and preclude the party aggrieved from challenging its legality and propriety in a Court of law?
3. Whether it is competent to the Indian Legislature to enact a law indemnifying in advance the executive officers and servants without reference to the legality of their acts?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair understands that the Honourable Member's points of order are three, and they could be put in a very few words. The first point is, whether this Legislature has any authority to enact that the decisions of the District Judge and the Chief Judge of Small Cause Court are final. The second is, whether forfeiture of property with or without compensation, without providing a remedy to appeal to the Courts is within the competence of this Legislature; and the third is, whether the indemnity clause can be enacted by this Legislature before any cause for it has arisen. Is that so?

Sir Hari Singh Gour: Yes.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): In the first place the Chair should like to remark that it would have been better if the Honourable Member had raised each of his points of order when the relevant clauses were before this Legislature. It is perfectly true that our Rules and Standing Orders give wide authority to raise a point of order at any stage and at any time but, in the opinion of the Chair, it would have been more appropriate if each point of order had been raised when the relative clause was under consideration.

The Honourable Member contends that under section 107 of the Government of India Act, this Legislature has no power to make the decisions of subordinate Courts final. His contention is

Sir Hari Singh Gour: As against the power conferred under the Charter Acts?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair is trying to place before the House in clear perspective the issues involved before asking whether any Honourable Member wishes to speak on them. Section 107 of the Government of India Act on which the Honourable Member relies uses the word "superintendence" only. The Chair knows of Acts passed by Local Legislatures enacting that the decision of the Chief Judge of the Small Cause Court shall be final. Section 107 of the Government of India Act merely confers the power of "superintendence", and it appears to the Chair that by the enactment of the proposed clause, no bar is placed against the exercise of that power. If that view is correct, the point of order on the first issue would not stand. Most part of the Honourable Member's observations in support of the points of order were arguments on merit. Whether forfeiture of property should be allowed by this Legislature within the powers conferred upon it without an appeal or a reference to Courts, appears clearly to be an argument on the merits of the case. I have not heard the Honourable Member cite any authority in support of his contention that this House has not the legislative power to pass the clause in its present form. The same thing applies to the third point. The Chair has not been told on what authority the Honourable Member contends that the powers of this Legislature are restricted in the matter of providing an indemnity clause in a Bill in anticipation of claims which may arise hereafter. On these issues the Chair would be glad to hear any Honourable Member who may desire to address the House.

The Honourable Sir Brojendra Mitter: I have heard more extraordinary propositions of law this afternoon than I have during the whole course of my practice at the Bar. The first proposition which my learned friend, Sir Hari Singh Gour, lays down is that if there be no appeal there is no revision; and in support of that extraordinary proposition he cited a passage from Sir John Woodroffe's book on the Civil Procedure Code. The passage is this:

"An erroneous decision by a court having jurisdiction can only properly be corrected by appeal and if the right of appeal does not exist the same results which an appeal would give cannot be arrived at indirectly."

Sir Hari Singh's suggestion was that the results of an appeal must be the same as the results of a revision. They are not the same and that is all the passage means. The proposition laid down by my learned friend was if there be no appeal there could be no revision. That proposition I contest. Revision lies only when there is no appeal. They cannot exist concurrently. In support of this I shall only draw the attention of the House to section 115 of the Civil Procedure Code, which is the Revision section. It says this:

"The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto and if such subordinate Court appears to have exercised jurisdiction. . .";

then the various grounds are given. Therefore the right of revision exists when there is no appeal. There cannot be a concurrent right of appeal and revision. The proposition stated by my learned friend was that if there be no appeal, there could be no revision. Section 115 lays down that revision can take place only in cases where there is no appeal. I think that disposes of that wonderful argument. I come to the next point. My friend says "final" means conclusive. Who ever said it did not? Who ever said that when we said that "such decision shall be final" there was an appeal? I made it perfectly clear yesterday in answer to Mr. Lalchand Navalrai that appeals were intended to be barred by the use of the word "final". My learned friend's argument is this "Oh, this Legislature has no power to bar an appeal". I shall only remind him of a section in the Presidency Small Cause Courts Act and there is a similar section in the Provincial Small Cause Courts Act. I have not got the Provincial Act with me at the moment. The Presidency Small Cause Courts Act is an Act passed by the Indian Legislature. Section 37 says:

"Save as otherwise provided by this Chapter or by any other enactment for the time being in force every decree or order of the Small Cause Court in a suit shall be final and conclusive."

This was passed 50 years ago. The Indian Legislature laid down that every decree or order of the Small Cause Court should be final and conclusive. Sir, if the Legislature could make a decree or order final and conclusive in 1882, what has happened during these 50 years to take away that right of the Legislature? Why cannot we say now that in certain cases there shall be no appeal, as this Legislature said in 1882? Before I go away from the passage cited by my learned friend from Woodroffe's book, I find, after the passage which he read out that the same results cannot be obtained by revision as by appeal, there is a footnote and it says:

"Clause 15 of the Letters Patent does not give a right of appeal where none exists at all."

That is really what was decided in the case quoted—that where the Letters Patent did not give an appeal under section 15, in that particular case no other appeal lay. Sir, this Legislature, under section 65 of the Government of India Act, has got plenary powers of legislation, subject of course to the limitations which are mentioned in the Government of India Act itself. The Legislature can say that in certain cases there shall be an appeal and in other cases there shall be no appeal. This would not be *ultra vires* of this Legislature. Sir, I have drawn the attention of the House to section 37 of the Presidency Small Cause Courts Act. I now draw the attention of the House to the Criminal Procedure Code, which was also an Act passed by this Legislature. Section 413 says this:

“Notwithstanding anything hereinbefore contained, there shall be no appeal by a convicted person in cases in which a Court of Session passes a sentence of imprisonment not exceeding one month only or in which a Court of Session or a District Magistrate or other Magistrate of the first class passes a sentence of fine not exceeding Rs. 50 only.”

Here is another instance where this Legislature says that in certain cases there shall be no appeal. There are numerous instances (*Mr. Muhammad Yamin Khan*: “Further on, there are provisions about summary trials”), but I do not want to tire the patience of the House by citing more instances. Sir, the next point of my learned friend is still more extraordinary—about the right of forfeiture without compensation. He not only says that this House has no right to pass any such legislation but even the British Parliament has no right to pass any such legislation.

Sir Harj Singh Gour: “Without compensation, without indemnity.”

The Honourable Sir Brojendra Mitter: My learned friend's point, as I understood him, is this,—that neither the British Parliament nor the Indian Legislature can pass any law by which property can be forfeited without payment of compensation. Sir, in my younger days when I began the study of constitutional law one of the first things which I learnt was what is known as the Sovereignty of Parliament. There are two fundamental doctrines upon which the British constitution is based—one is the Sovereignty of Parliament, and the other is the Rule of Law. Sovereignty of Parliament means this that Parliament can enact anything. Our powers are not co-extensive with the powers of the British Parliament, because our Legislature is not a sovereign legislature; it is derivative. The British Parliament can enact anything; we can enact only within the limitations of the Government of India Act. We cannot go beyond that.

Raja Bahadur G. Krishnamachariar (*Tanjore cum Trichinopoly*: Non-Muhammadan Rural): Except that the British Parliament cannot make a woman man, or a man woman, as pointed out by Dicey.

The Honourable Sir Brojendra Mitter: As regards the right of forfeiture without payment of compensation—I have had no time to look up the authorities, but it is an elementary point. I can refer the House to the case reported in 41 Cal., known as the *Comrade* or Mahomed Ali case. What happened there? Mahomed Ali had a copy of a book which had been proscribed. Government forfeited that, and Mahomed Ali went up

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to the High Court to have that order of forfeiture set aside. Sir, that case was heard and decided by one of the greatest Judges who came out to this country, Sir Lawrence Jenkins, and if I remember aright, the case was argued by Mr. Eardley Norton on behalf of Mahomed Ali and the Advocate General represented the Crown. It cannot be said that proper legal knowledge was not brought to bear upon that case.

Mr. S. C. Sen: This point was not raised in that case.

The Honourable Sir Brojendra Mitter: Please hold your soul in patience, Mr. Sen. Even Mr. Eardley Norton had not the temerity to advance the argument that the order of forfeiture was bad because the Legislature had no power to legislate for forfeiture without compensation. The argument on the face of it is so ridiculous that it was not thought of nor advanced. When I mention the counsel who appeared in the case, it is only for the sake of suggesting that if there was anything in a point like that, it could not have escaped the notice either of Mr. Eardley Norton or the Advocate General or Sir Lawrence Jenkins. Then as regards "indemnity in advance"—there again my learned friend said, "you cannot give indemnity in advance". Sir, where does my Honourable and learned friend get his law? Where has anybody, any lawyer, either a constitutional lawyer or a municipal lawyer or any other lawyer said that you cannot legislate for indemnity in advance? Sir, we start with the proposition that Parliament or our Legislature has plenary powers. Unless it is shown that in a certain direction these powers are restricted, they can exercise those powers. My learned friend has not shown any restriction on the powers of the Indian Legislature in this matter. That being so, the powers exist and can be exercised. Sir, my learned friend goes further and says that even the British Parliament cannot do it. Sir, that is about the limit. (Hear, hear.)

Mr. President (The Honourable Sir Ibrahim Rahimtoola): (To Mr. Anklesaria) I trust the Honourable Member will be brief.

An Honourable Member: I rise to a point of order.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. The Chair is not bound to hear any Honourable Member on a point of order.

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): Sir, my Honourable and esteemed friend, the Leader of the Nationalist Party, has really put his foot in it as he always does when he tries to expound questions about constitutional law. Sir, the Bombay ruling which was cited can be explained by the comments in a case decided only last year in which I myself was counsel. The High Court of Bombay said that it will not exercise its revisionary powers, which are absolutely discretionary powers, in cases where the party aggrieved has got another remedy in law. In that case the remedy open to the party was a remedy by suit. I shall explain in a few words what that case was. That was a case which went up to the High Court in a

revisionary petition from the decision of a sub-judge on clause 15 of the Third Schedule to the Civil Procedure Code. It was a matter of arbitration in which the First Class Sub-Judge under clause 15 refused to file the award. The party aggrieved then took that case to the High Court and the Bombay High Court said that he had no right of appeal under Schedule III of the Civil Procedure Code. Counsel for the aggrieved party said that if that petition did not lie by way of an appeal, it may be treated as a revision petition. The reply was that the High Court will not exercise its revisionary powers, because the party aggrieved has got a right of suit as regards the matter of that award and the party, by invoking the revisionary powers of the High Court, was depriving the exchequer of the amount of court and stamp fees, which he would be obliged to pay if he filed a regular suit.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair would like to point out to the Honourable Member that the issue raised by the Honourable the Leader of the Nationalist Party is that the enactment of these three clauses in the Bill is outside the powers of this Legislature. That is the point on which the Chair would allow the Honourable Member to address the House briefly, if he wishes to do so.

Mr. N. N. Anklesaria: The Honourable the Law Member has already expounded the law on the matter. I only wished to bring to the notice of the House the decision of the Bombay High Court.

Sir Hari Singh Gour: Sir, in Forsyth's cases and opinions on Constitutional law, this very point has been the subject of long discussion and he sums up the decided cases thus:

"The right conclusion upon the whole matter seems to be this: Martial law may be justifiably imposed as a terrible necessity, and an act of self-defence; under it there is a suspension of civil rights and the ordinary forms of trial are in abeyance. Under it a man in actual armed resistance may be put to death on the spot by anyone acting under the orders of competent authority; or, if arrested, may be tried in any manner which such authority shall direct. But if there be an abuse of the power so given, and acts are done under it, not *bona fide* to suppress rebellion and in self-defence, but to gratify malice or in the caprice of tyranny, then for such acts the party doing them is responsible."

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, 4 P.M. order. We have taken considerable time in dealing with this point of order. I want the Honourable Member to give the Chair specific replies to the point the Chair has made. The Chair does not want any further discussion on the merits as to whether these clauses should be accepted by the Legislature or should not be accepted by it. I will give another opportunity to the Honourable Member to point out on what authority he relies that these clauses in the present Bill are outside and beyond the authority of this Legislature. I want nothing more than that. If the Honourable Member has anything more to say, I will hear him.

Sir Hari Singh Gour: On the first point, I have pointed out, with as much clearness as I am capable of, that the High Court of Rangoon has laid down, in a special Statute, where you have the word 'final', which means 'conclusive', and no further proceedings can be taken under it. This is a special Statute; that is the point. My Honourable friend has

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recited from the Civil Procedure Code. What the Government should have said was: Nothing herein contained shall take away the power of the High Court under section 485 of the Criminal Procedure Code to revise an order passed by the District Judge. If my friend wants to make it clear, it will make that point clear. The second point and the third point deal with a constitutional question. I relied on section 35 of the Government of India Act and pointed out on the last occasion—I do not wish to read it again—to the full chapter dealing with the fundamental rights which cannot be derogated from, and they are under the Magna Charta, Chapter IV, in the English Constitutional History by Taswell-Langmead (Eighth edition). In my speech on the last occasion all these points were set out in greater detail and my Honourable and learned friend never gave any reply to them. He cannot now complain

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member should restrict himself to the point to which his attention has been specifically drawn.

Sir Hari Singh Gour: I have nothing more to say.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair does not wish to go into the various interesting and learned legal points made by the Honourable Member. The Chair is concerned only with one point, namely, whether the clauses objected to are within the powers of this Legislature or are outside those powers. The powers which this Legislature possesses are given in section 65 of the Government of India Act, and the Chair would like to invite the attention of Honourable Members to the wide words used in that section, giving authority to this Legislature to enact laws. Section 65 runs as follows:

“The Indian Legislature has power to make laws:

- (a) for all persons, for all courts and for all places and things within British India; and
- (b) for all subjects of His Majesty and servants of the Crown within other parts of India.”

Can words be more comprehensive than these? These wide powers are restricted in certain ways and in certain cases, and that was the reason why the Chair more than once asked the Honourable the Leader of the Nationalist Party to point out how these wide powers were restricted by other provisions of the Act which would make these three clauses *ultra vires* of this Legislature. Honourable Member has not done so. The Chair in giving its ruling must say that, so far as the Chair is concerned, it will never be a party to restrict the rights of this House in any way without clear and definite authority in support of such a contention. It appears to the Chair that Honourable Members of this Legislature ought to be very sensitive in the matter of their own rights and privileges and the Chair will stoutly uphold them, unless clear and definite authority is shown to the contrary. The Chair holds that this Assembly is fully competent to enact the three clauses to which objection has been taken and rules that the points of order raised cannot stand. (Applause.)

Sir Hari Singh Gour: Sir, neither I nor those for whom I speak can reconcile ourselves with the drastic provisions of this Bill which are about to be enacted into law, in spite of the emphatic and indeed vehement protest of Members on the popular Benches. We had hoped that, when the Bill emerged from the Select Committee, the Honourable occupants of the Treasury Benches would at least extend to us that co-operation which we have extended to them time and again and give us the same facility which we might enjoy, if these Benches had not been so deserted, as I lament they are.

[At this stage Mr. President (The Honourable Sir Ibrahim Rahimtoola) vacated the Chair, which was taken by Mr. Deputy President (Mr. R. K. Shanmukham Chetty).]

Honourable Members on the other side must remember that this Bill was announced to be taken at a special Session of the Legislative Assembly, of which a very short notice was given to the Honourable Members at the Simla Session. And I do not complain that many Members of this House, who had already made engagements during this month and the last, found it impossible to cancel them and subordinate their personal interests to their public duty. That may be some excuse, but I venture to submit that it is hardly any justification for the absence of so many representatives of the public, on an occasion when a measure of such momentous importance, affecting the lives and liberties of the people, is about to become law. As I said on the last occasion, Ordinances were passed, but they were passed by the executive without the consent of the representatives of the people. But today technically and to all appearance this measure is becoming law with the consent of the popular Chamber. And it is on that ground that I deeply lament the absence of so many Honourable Members, who might have been here to represent the views of their various constituents.

Having said that, Sir, I now turn to the provisions of the Bill. I have made it abundantly clear, on previous occasions, that while we are anxious to arm Government with exceptional powers, we are equally anxious to safeguard those legitimate rights of the people against which abuses have been reported or abuses can be foreseen. And it is on those points that I had appealed to the Honourable the Home Member to modify the Draconian terms of many sections of this Bill. But that was not to be. Sir, I know that this Bill will be now transferred to another sphere, and so far as we are concerned, our voices shall have been raised in vain. But one thing I can ask the Honourable Members still to consider. There is time yet to consider. I gave two amendments, one of which was withdrawn, which my friends behind me now find was a good amendment; the other amendment went by default while I was hunting authorities for the points of order which I have since raised. I ask my esteemed friend, the Home Member, to pilot those two amendments in the other House, under the power of attorney which I hereby confer upon him.

There is a third point on which I should like the Honourable the Home Member to mitigate the provisions of this Bill. We on this side of the House feel very strongly on two points in this Bill. One is the prohibition and the complete interdiction of peaceful picketing by bodies and associations entirely unconnected with the civil disobedience movement. You have a very large number of temperance leagues, a large number of missionary societies and other social reform societies, which have

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been in existence in this country long before the Congress and the civil disobedience movement were heard of. The plenary provisions against picketing, provided in this Bill, endanger the activity, the perfectly legitimate and, let me add, laudable activity of those large bodies of men engaged upon social reform.

The other point, which I should like the Honourable Member to seriously consider, is the very drastic provisions that have been added to those already existing in the Press Emergency law. I am not connected with the Press and, as I said the other day, I should be the last person in the world to prevent the passing of a law that would exercise a salutary check upon the illegal activities of that body. But, at the same time, the Press is the cry of the public, and I, as a representative of the public, would be deprived of any communication from them through the medium of their accredited agency. To that extent the Members of this Legislature would be the poorer. The Honourable the Home Member could not be unaware of the provisions of the orders that have recently been passed demanding exorbitant securities from two organs of the nationalist Press; and I, therefore, ask the Honourable the Home Member that if he is still obdurate, he might at least relent after he has had his pound of flesh and he retires into the room of that composure and calmness, in which he works, undisturbed by the *verbosum forum* here or elsewhere. May he then exercise a temperate and judicial judgment and reflect in his mind, as to whether the provisions of this Bill are not likely to be abused, not by high officers, but by irresponsible subordinate officers, against whose excesses complaints have frequently been made and are being daily multiplied. I hope, Sir, my appeal to the Honourable the Home Member will not go in vain.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): Sir, before this Bill was introduced in the Assembly, we had only the Ordinances, and before the Ordinances came into force we knew what the condition of the country was. We knew that the state of affairs was getting from bad to worse every day, which forced the hands of His Excellency the Viceroy and Governor General in promulgating the Ordinance. The result which had been achieved was a marvellous one and we found that on account of the Ordinances a great deal of peace had been restored in the country, and that was the justification for the introduction of this Bill before the House. I am glad that the House realised their responsibility and, by a huge majority, referred this Bill to the Select Committee, a majority which had never been, as far as I remember, obtained in this House on any serious measure introduced by the Government. Sixty-four members voted for the consideration of the Bill, thus adopting the principle of the Bill, while they were opposed by only 82. Now, that voice of the Members had been justified again by their rising to the occasion, and they have realised their responsibility as representatives of the constituencies, that their first duty is to help the Government in restoring law and order, and thus bringing peace and prosperity without which no progress is ever possible in any country. Again I am very glad that this House has passed all the clauses practically in the shape that had been amended by the Select Committee. (*An Honourable Member*: "Why practically?") Because there has been a little change in the case of one section, about the military. Without any serious change

if any Bill passes through the Assembly on all occasions by a huge majority, that shows that proper care had been taken to amend the law in the shape which might find response from all sections of the House. This Bill will go as an Act after sometime in the country, and I am sure that this Bill will have the same effect in keeping peace in the country as the Ordinances had brought it into the shape as we stand today in the country; and that is the greatest justification. I am not concerned with this question that it is not liked by certain classes of people. Undoubtedly there will be some people who will not like the provisions of any law which is enacted, but the support which the whole country will give to this Bill is known by the majority which we found on each clause, and, afterwards when the people will come under the new reformed councils, they will know and will realise what a boon had been given to them by this Assembly (Ironical Cheers from the Opposition Benches) in keeping the country into proper order. I think this Bill will be appreciated by the whole country and, though there may be some difference of opinion between me and some of my Honourable friends who may deny it, but if they will go and search the feelings of most of their dumb constituents, they will find that they really appreciate this law and they will wholeheartedly support it. Sir, I support the motion.

Raja Bahadur G. Krishnamachariar: Sir, we have come to the last stage of the Bill. Not all the eloquence of my friends of the Nationalist Party, who are not in their seats now and whose seats are all empty, nor even the eloquence of my friend, the Leader of the Nationalist Party, has moved the hard heart of the Honourable the Home Member to withdraw even an inch from the position which he took up. I must compliment him on the very firm fight he put up on behalf of the Government, and, yet if I get up to say a few words, it is because I do not want that the country should know that I have recorded a silent vote, and that I should even at this last stage tell the Government and the country exactly what men of my view of thinking consider about this Bill. Throughout the stages of this Bill, the Honourable the Leader of the Nationalist Party has been hammering away on certain questions of constitutional law which, unfortunately for him, nobody cared to take into cognisance,—nor even he, as I shall show presently. I am not a constitutional lawyer nor have I the capacity to write three volumes of annotation on a 140 section Act. I was a plain practising lawyer who has been for some time at the Bar, and, with the common sense, which I hope, I am endowed with, I shall tell him presently that all his questions of constitutional law are entirely misplaced and out of order in this Assembly at least. (*An Honourable Member:* “Why?”) I shall answer immediately why. The most important question, that he raised and which I know he has carefully avoided, as the Honourable the President pointed out when the question itself was being discussed, is about the forfeiture. Unless I am seriously mistaken, unless I have forgotten the whole procedure—I believe I was here when the debate on section 17F was going on in this House—that is the clause which deals with forfeiture—my friend the Honourable the Leader of the Opposition was, I believe, mum; he did not raise any objection to it; he never tabled an amendment asking that it should be omitted, nor did he put forward a single argument, with which we may now deal elaborately, in order to show how this provision is not *ultra vires* of the Legislature. Let me not be misunderstood. I do not support that provision. I say that provision is a very wrong one, and it ought

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not to have been allowed to find a place in an enactment deliberately passed by this Legislature which is supposed to be a popular legislature. But at the same time I very strongly object, even after the objection came from the leader of a distinguished party, that that objection should be formulated regularly, should be debated upon, that humble individuals like myself should be given an opportunity to show that

Sir Hari Singh Gour: May I intervene for one second and point out that if I had raised it by way of amendment before, it would have to be submitted to the decision of the whole House, whereas by raising it in the manner I did, I left it to the President as the custodian of the rights of Members to decide that point?

Raja Bahadur G. Krishnamachariar: I quite understand the position. The Honourable Member has made his position very very unfortunate by giving that explanation. If you read the report of the Select Committee, there is a long statement made

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): I must remind the Honourable gentleman that, so far as the point of order was concerned, a ruling has been given by the Chair, and I would request the Honourable Member to confine himself to the discussion with regard to the merits of the Bill.

Raja Bahadur G. Krishnamachariar: I do not know that I was going to say anything against the decision on the point of order. What I beg to submit and, if I may be wrong I stand corrected, not being conversant with the procedure of the House so much as other gentlemen perhaps, you will excuse my lapse—if I try to explain myself,—because I do not want even to be thought of by anybody that I am in any way lacking in respect to the Chair, to question its order, which has been given after a great deal of labour and waste of time of a whole hour. What I wanted to submit was, that the procedure adopted by my friend in getting a decision upon a question, which he called a point of order, which is not a point of order so far as I can understand it, I say that the explanation which he has submitted to this House has made his position very unfortunate, for this reason

Mr. Arthur Moore (Bengal: European): On a point of order, Sir. Is it in order to discuss a point of order which is not a point of order?

Raja Bahadur G. Krishnamachariar: It is not a point of order, and if I may be permitted to explain a little

Mr. O. S. Ranga Iyer: On a point of order. Is it proper for any Honourable gentleman in this House to comment upon the ruling which has been given by the Chair?

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): I would not permit any Honourable Member to start a discussion on a point of order on which a definite ruling has been given by the Chair, and I must, therefore, request Raja Bahadur Krishnamachariar once again to confine himself to the remarks on the third reading of the Bill.

Raja Bahadur G. Krishnamachariar: On a point of personal explanation, Sir. I am not trying by any means to trespass upon the decision of the Chair on the point of order

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): The Honourable Member, so far as I am able to understand him, is again trying to discuss the point of order raised by the Leader of the Opposition.

Raja Bahadur G. Krishnamachariar: You will kindly allow me to express myself in my own humble way. I am not so familiar with the English language, and, so I hope, you will permit me to express myself in my own way for just a few minutes. I have got as much, if not more, respect for the ruling of the Chair than anybody else, but what I want to submit by way of personal explanation is this. In the report of the Select Committee, it was suggested that this question was going to be debated before the House, and I said the Honourable Member occupied an unfortunate position by inviting the ruling of the Chair. What that ruling is, I am not concerned with, but my point is this. I object to the Honourable Member's procedure that he did not bring it as an amendment. He said he took a more favourable opportunity by getting a ruling from the Chair. That I say has placed him in an unfortunate position, because he did not give an opportunity for debate, and that is what I wanted to point out. Anyway, it is useless to pursue the matter further. But the most important point, as I said, was about this forfeiture, and, as far as I understood the ruling of the Chair, it was not concerned with the correctness or the merits of the question. It was only concerned with the power of this Legislature, and on that, Sir, I do not want to say anything. But, so far as the rights of this Legislature are concerned to enact section 17F, the position is perfectly clear, and, while I again say that I do not agree with the provisions of that section, I think the House is entitled to know what the position in law is and how it is entitled to enact a provision like this. Sir, there was a famous case in the Madras High Court, in which property belonging to Dr. Annie Besant was confiscated, and the case was taken before the Privy Council. In that case an identical objection was raised that an order of forfeiture under a law passed by the British Indian Legislature was *ultra vires* without the safeguard which my friend wants that this section should have. The case was reported in I. L. R. 48, Madras, at page 160. It says:

"It was contended in the High Court and before this Board that it was beyond the competence of the Indian Legislature to enact section 22 and possibly to enact the Press Act. Now, section 22 . . ."

Mr. F. E. James (Madras: European): May I rise to a point of order, Sir. As far as I understand it, the argument, which my friend is developing, is the argument which was developed by the Leader of the Opposition and disposed of by the President in his ruling. I, therefore, would like to put it to you that the whole of that argument at this stage is not in order.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): Do I understand the Honourable Member to say that so far as the forfeiture clause is concerned, this Legislature has not got the right of enacting that law?

Raja Bahadur G. Krishnamachariar: No; but it had the right to do so.

Mr. Deputy President (Mr. R. K. Shanmukham Chetty): On that point a ruling has been given, and a discussion on that point at this stage is wholly irrelevant.

Raja Bahadur G. Krishnamachariar: I bow to your ruling, Sir. It saves 15 minutes of my arguments.

Then with regard to the question of constitutional law which has troubled some of my friends, I at least cannot understand where the point of order ends and where the question of merits begins, and therefore, I do not want to trouble the House over that matter. But, before I deal with one or two points of the merits of the Bill, I would like the Honourable the Home Member to consider one point, and that somewhat seriously. The Leader of the Opposition has invited the attention of this House to the fact that we were summoned here at very short notice, and I hope it will be admitted that some of us have got something else to do and not merely to knock about from place to place, merely for the pleasure of attending the meetings of the Legislature at a time when the cold weather is fast increasing and when we can really do nothing useful. We come here all the way and we offer co-operation. We do not belong to the civil disobedience movement, some of us at least have been sufferers at the hands of those who are propagating the civil disobedience movement. Our constituencies have elected us, and so we come here to offer co-operation. It is a matter which I cannot understand, probably I am very dense,—why outside the discussions which have been going on in this Legislature, most of us have been credited with a right to advise people upon difficult and knotty questions of everyday occurrences, and they have been safely acting up to our advice, and the world has been going on exactly on the lines on which we have been giving advice to our constituents, but, directly we come into this House, directly we say that a certain measure of the Government is not correct, we all of us become quite useless, not one of our suggestions is acceded to. And what is it therefore we are asked to co-operate except to register what the Government thinks is right? Is there no alternative view? Is it the idea that we should merely make speeches here and the Government should, by their majority, carry all measures, whether good or bad without properly considering our views? We know you have got the votes secure. There is an old story in the Tamil country. There was a zemindar who was not particularly conversant with music. Some of his friends brought some eminent musicians who began to show their musical skill. This zemindar got completely bored very soon. He sat for a few minutes and told the servants: "Look here, listen to the whole thing, and when the show is over, close the doors and go away". Is that the reason for which we come here? Is that the co-operation that you want from us, unless it be the co-operation of agreeing entirely with the Government, which results in, what my friend Mr. Yamin Khan said the other day, the peace of the grave and not the peace of a living community, which is quite satisfied with what has been done, and that is what is being attempted to be done. I want Government to take particular note of that fact, why it is that, directly we enter this House, we are supposed to have been deprived of all intelligence, of all sense of being able to discriminate between good and bad, and every time we get defeated. I have not been able to understand why.

This Bill is intended to safeguard the community from certain aspects of the civil disobedience movement. You run your eyes through the

sections of the Bill, even cursorily,—the operative clauses of it,—and there is not a field of the nation's activity which does not come within the purview of this legislation. What are those other phases of the civil disobedience movement that you have omitted from this Bill? Nothing. Snakes? No snakes in Iceland—that is the only answer I can give to this, because every phase of activity that a honest man is entitled to pursue has been roped in here, and it has been made so dangerous with Explanations explaining nothing, that it is impossible for any honest man, I say deliberately, I say advisedly, to do anything with a sword hanging over his head to fall at any time.

[At this stage Mr. President (The Honourable Sir Ibrahim Rahimtoola) resumed the Chair.]

I submit, therefore, that this piece of legislation is very objectionable and ought not to secure the assent of the House, though it be a cry in the wilderness. I do not think it is any use my going over the ground that has been covered here from beginning to end, but there is one point which I have not been able to understand, although I believe I tried to follow the debate, and that is with reference to what they call peaceful picketing. I do not know whether there can be peaceful picketing or whether there cannot be peaceful picketing. There are differences of opinion between Honourable gentlemen. We are all honourable people on both sides, and therefore it is impossible for me to decide between them as to who is correct and who is not correct. But surely when my Honourable friend, Mr. Anklesaria, who is not a particularly rabid Congress agitator, has thrown in his weight in favour of this peaceful picketing

Mr. N. N. Anklesaria: On a point of personal explanation, Sir. I have never said anything about peaceful picketing. I am against picketing of all sorts. That is what I say in my Minute of Dissent. I said peaceful persuasion.

Raja Bahadur G. Krishnamachariar: Beg your pardon. As I have said, I am not sufficiently conversant with the English language to understand the nicety of difference between persuasion and picketing. But if you refer to the Oxford Dictionary, persuasion and picketing come so very near that the line of demarcation,—I do not say in all matters,—in matters to which this particular Act relates, is somewhat difficult for a man to draw, and it is difficult for a man to differentiate between persuasion and picketing. I apologise to my Honourable friend for having stated picketing instead of persuasion, but I am concerned with the substance of it. He says:

"Peaceful persuasion or inducement which does not or is not calculated to involve any obstruction, violence, intimidation, annoyance, or alarm to any person does not come within the purview of this section."

It is stated in this printed book that this clause was finally given shape to by my Honourable friend, Mr. Anklesaria. What was the objection to that? Government would not agree even to that. That is my complaint. The reason why I brought in Mr. Anklesaria's name was that it was drafted by a person who has not committed himself to civil disobedience and who has absolutely no sympathy with that. Government are going to have this power, and I do not know whether I should

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congratulate them or not. But, if I am alive this time next year and continue to be a Member of this House, I hope we shall have some record of the manner in which this Act,—it would have been an Act by that time,—has been administered, and how the country, which is now claimed to have lost its peace, has got back its peace. I do not think I need take up the time of the House any more. I oppose this motion.

Some Honourable Members: Let the question be now put.

Mr. S. C. Sen: I have no intention of troubling the House with a long speech, nor do I want now to go into the merits of this measure. We have discussed the matter very thoroughly all these days. My point is this. This is a measure, as has been said by the Honourable the Home Member, intended to cope with the civil disobedience movement, but unfortunately, so far as I can see, the provisions of the Bill have not been restricted to the civil disobedience movement only. I find from the newspapers that in Allahabad they have made their Bill restricted only to the no-rent campaign. I do not know whether we can even now make the Bill restricted to civil disobedience only. I congratulate the Honourable the Home Member on the fact that he has got all he wanted, and he has not allowed even a "t" to be cut, or a comma to be added, or a dot to be put on. That is a matter on which he can well congratulate himself. There are one or two clauses on which I should like to say a few words. I am not concerned much with the first few sections, as we find that in Bengal those things cannot happen. We have no military there, nor have we any police officers whom we want to dissuade from their service. The country is so poor and the people are so starved that they want to get into any service they can enter, whether in the regular service of the police or as spies and informers. My grievance is as regards forfeiture. I pointed out in the Select Committee that there ought not to be a forfeiture of property or monies by executive order without reference to the civil Court. That would be an uncivilised method of grabbing somebody else's property. The Honourable the Home Member was kind enough to accede to my arguments and to put in a clause for referring the matter to the District Judge or the Chief Judge of the Small Cause Court. If he had left it there, I would have been satisfied, but he made the decision of the District Judge or the Chief Judge of the Small Cause Court final. We know that the Small Cause Court cannot have ordinary jurisdiction over Rs. 2,000. But in this case the claim may be for over Rs. 2,000, it may exceed Rs. 5,000, or Rs. 10,000 in Presidency-towns. In that case to provide for no appeal is I think wrong. It may be argued that this is a Court of special jurisdiction which has been created, and, as no appeal has been allowed, the High Court has no jurisdiction even in revision. I do not know whether that argument will succeed or not, but I may point it out to the Honourable the Home Member, so that he may consider even at this last stage whether he should not do something to remedy that defect.

As regards the Press, I have told the House that the proposals are very repressive and drastic, and will gag the activities of a very important section of the public. The result of the gagging of the Press has been shown by my friend, Mr. Mitra, this morning as regards the excesses practised by the punitive police and other police officers in Bengal. If

the Press had been free, these matters could have been disclosed in the Press and could have been brought to the notice of the Honourable the Home Member, but this cannot be done. In these circumstances, it is questionable whether this gagging of the Press is for the good of the country or the good of the Government which has to keep alive its good name, as good and civilised administration. In this connection I may refer the Home Member to a passage from the speech of Lord Minto when he was Governor General of this country and when the Newspaper Incitement to Offences Bill was being considered by the Legislative Council. He says that he was given advice by the public that the Government must be stern and must govern the country as has been done in this instance. We know that all the repressive measures, which have been put on the Statute-book, were more or less at the instance of other persons and because they insisted upon governing the country in the strict sense of the word. Lord Minto says:

"The public has that we are weak, that we have failed to maintain order, that the glory of England has departed, that strong measures have been neglected, I am no believer in hysterical demands in the hour of danger. I maintain that the strength of the British raj has been built up upon justice of its administration. Heaven knows that it was not weak but it has been a just one and I hope it will continue to be so:"

I appeal to the Home Member to consider this passage of Lord Minto and consider whether the provisions of this Bill are just. The Home Member has got all he wanted in the nature of the provisions of the Bill. I appeal to him to issue strict instructions to Local Governments and subordinates as regards the execution of the measures contained in this Act, and, as regards the policy which the Government of India would ordinarily take for the purpose of pacifying public opinion, I ask him to see that the drastic powers are not exercised except in extreme cases. I do not know whether the instances given by Mr. Mitra are correct or not. It seems to me that they are correct, and, if that be so, I appeal to the Honourable the Home Member to see that there is no repetition of such gross repression and, in the interests of justice, in the interests of the good name of British administration in this country, and in the interests of the good name of the Britishers, I ask him to make a public inquiry,—I do not care if it is by officials—a thorough inquiry into this matter.

Several Honourable Members: I move that the question be now put.

Mr. Amar Nath Dutt: I cannot support the passing of a Bill like this. This Bill contains provisions restricting the rights of citizenship in every sphere of human activity, both with regard to property and freedom of person. If I look at the history of this Bill, which we are now asked to pass, we find that there was a time when the Government thought that the condition of things, for which the Bill like the present one is necessary, will exist for all time to come, and that provisions like these in the Penal Code itself were necessary and that the Bill will have a lease of life till eternity. Fortunately they found the unwisdom of asking the House to pass a legislation like this, and in the Select Committee they restricted the life of the Bill to a duration of three years. In addition to the Indian Penal Code, to have a legislation like this shows that there are certain extraordinary conditions for which we are asked to legalise the illegal acts of the public servants. The Bill as it has emerged

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from the Select Committee is no improvement upon what the Government wanted at one time. The duration of its life may be shorter, but it takes away the valued right which a citizen possesses. Clause 2 says:

"Whoever wilfully dissuades or attempts to dissuade the public or any person from entering the Military, Naval, Air or Police Service of His Majesty shall be punished."

I think it is the inalienable right of every human being to offer advice to a friend or relation and one's own children. It is for me to decide whether my son will be a member of the bureaucracy or whether he will join the Bar. It is not for them to compel my son to accept service under the present political conditions in the country; and if I am to advise my son and say, "no, you must pass your law examination and join the Bar", I am liable to be hauled up, because thereby I deprive the Government of a very valued servant of theirs. I cannot dream of any civilised society where guardians, far less parents, can be compelled to act in the way in which this section wants us to act, and I think it will be more honoured in the breach than in the observance, and that our people will be more willing to undergo imprisonment rather than see their way to becoming the subservient tools of the bureaucracy. Then again, as has been suggested by several friends, considering the economic distress in the country, there is hardly any need to prevent people from joining the services, and the Government will never be in want of men for their services, unless the attendant danger be such as will dissuade them from doing so. Apart from the physical danger that it entails, there is also the moral danger of entering especially one of the services named in the Bill, I mean the police service; wherein, as soon as you get into the service, you have to do acts, willingly or unwillingly which your conscience won't approve of. Sir, the other day we had the sorry spectacle of an Englishman who came to India to serve India as they say and for our welfare, and he gave us a long list of the wrongs to which the members of the police service are subjected. Sir, he forgot the rights of the people for whom the police exists. It is common experience with us, if not with the officers of Government themselves, that the police, instead of being our servants act as our masters. I remember that only a few days ago a police officer prevented me from entering this very Chamber, where I am by the suffrages of the people and where, under the Government of India Act, I am entitled to be. I do not know who gave that order and from whom that order emanated, and when I complained to the superior officer, he said, "that man did not know and he had no such instructions". Look here, Sir, if in the very place, where you are to enact laws for the protection of these men, these men behave in the way in which they did only a few days ago, you can easily imagine how they behave outside with the people in the country; and I ask you to answer this question: "Can you honestly say that you have no experience of police oppression and zoolum?" If not,

5 P.M.]

I invite your attention to the lurid picture that was drawn by my friend, Mr. S. C. Mitra, a few minutes before, with respect to Midnapore. Sir, there are still heaps of papers with him showing how the people are being treated by the police, and I shall not tire the patience of this House by reading all those which will cause one's blood boil within himself. Sir, who is the manufacturer of these terrorists? Who is responsible for the advent of these terrorists in this land? It is legislation like this, and it is the attitude of Honourable Members on the Treasury Benches. Here in the name of law and order

they are manufacturing terrorists. Sir, remember the statement made by Miss Beena Das who was accused of firing at the Governor of Bengal,—and she gave out what impelled her to take the step, which she did in the very hall of her own *alma mater*. Sir, if you want to suppress terrorism, if you want to suppress all these revolutionary movements, it is up to you to be acting as you ought to, as members of a civilized administration. Sir, repression and mere repression will breed more revolutionaries. That is the history of all human institutions. You cannot expect me to love you. (*A Voice from the European Benches*: “No, no.”) They cannot expect me to love them if they will behave with me in the way in which they are behaving. Sir, in a land where even the life of the smallest creature that breathes in this world is considered to be sacred, the birth-place of Buddhism and Jainism, there to find young men, with all the fervour and enthusiasm for the love of their country, taking a revolver and shooting, surely there must be some reason behind that. Will you not try to understand the situation? I ask you, Sir, for your own interests, as my friend, Mr. Gunjal, has advised you, not to listen to those flatterers, those toadies and title-hunters and job-seekers. You cannot live with them. Take our advice if you want to be here,—and I believe that your destiny and our destiny are bound up together for some time yet, and that is my desire and, I believe, the desire of everybody, that we may work hand in hand and peacefully in this land for the common benefit of us all. But if you do not listen to us, if you enact legislation like this, I submit, Sir, that there will be no end of these terrorist crimes. What you have heard today from Mr. S. C. Mitra, would exasperate the mildest amongst us and incite us to put an end to the perpetration of the outrages at Midnapur.

Sir, is there any honest man, any decent man, who would not lay down his own life in order to protect the honour of our women? Certainly one would not be worthy of being called a man if he did not do so. And I know you also will do the same thing if such things are perpetrated before your eyes. All these things are not brought to your notice, or it may be that you do not care to look into these complaints. Here photographs are submitted with those detailed accounts of outrages upon women, and these statements are signed and bear the thumb impression of the outraged women themselves. There may be men, of course, like Lord Lytton who would say that, in this country, women come forward and charge the police falsely. Sir, he has misread the history of this ancient land, and a fitting reply was given by Mrs. Sarojini Naidu at the overflowing meeting held near the Calcutta Town Hall, in which she said that anyone who would accuse Indian womanhood like that was wholly wrong.

Then, again, we have got clause 8 about tampering with public servants

Mr. E. S. Sarma (Nominated Non-Official): On a point of order, Sir. Is it open to the Honourable Member to traverse clause by clause and discuss the Bill clause by clause, or has he got to confine himself to the general observations on the third reading?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Only general observations are usually made on the third reading. We have had enough of detailed discussion. It is not a point of order, but it is a point for consideration by the speaker himself as to what he should do.

Mr. Amar Nath Dutt: I shall try to be as brief as possible.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order: The Chair proposes to sit till the Honourable Member concludes.

Mr. Amar Nath Dutt: Sir, as it is the desire of my friends that I should conclude and, as I do not wish to trouble the Chair by a long sitting, I will not take up the Bill clause by clause. All that I wish to say is that a Bill like this should not have been brought before this Legislature. If there are extraordinary circumstances and conditions prevailing in the country, then Government have already got sufficient powers to frame Ordinances, and they ought to have recourse to that. Sir, there is a limit to human patience. With these few remarks, I oppose the Bill.

Several Honourable Members: The question be now put.

STATEMENT OF BUSINESS.

The Honourable Sir Brojendra Mitter (Leader of the House): Sir, the course of business for next week will be that on Monday we go on with the Ottawa Resolution and the amendments to it. If this Resolution is passed, we shall go on with the Criminal Law Amendment Bill. After that, the Ottawa Bill will be introduced.

The Assembly then adjourned till Eleven of the Clock on Monday, the 5th December, 1932.