

Wednesday, 23rd November, 1932

THE LEGISLATIVE ASSEMBLY DEBATES

(OFFICIAL REPORT)

VOLUME VI, 1932

(7th November to 28th November, 1932)

FOURTH SESSION OF THE FOURTH LEGISLATIVE ASSEMBLY, 1932



SIMLA
GOVERNMENT OF INDIA PRESS
1933

Est. B. N. A. N. H.

Legislative Assembly.

President :

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

Deputy President :

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

Panel of Chairmen :

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

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

MR. G. MORGAN, C.I.E., M.L.A.

MR. MUHAMMAD YAMIN KHAN, C.I.E., M.L.A.

Secretary :

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

Assistants of the Secretary :

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

RAI BAHADUR D. DUTT.

Marshal :

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

Committee on Public Petitions :

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

MR. G. MORGAN, C.I.E., M.L.A.

MR. C. S. RANGA IYER, M.L.A.

SIR ABDULLA-AL-MAMUN SUHRAWARDY, KT., M.L.A.

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

CONTENTS.

VOLUME VI.—7th November to 28th November, 1932.

PAGES.

MONDAY, 7TH NOVEMBER, 1932—

Members Sworn	1677
Questions and Answers	1677—1718
Short Notice Question and Answer	1719—22
Death of Sir Ali Imam	1722—26
Governor General's Assent to Bills	1726
Statements laid on the Table	1727—31
The Criminal Law Amendment Bill—Presentation of the Report • of the Select Committee	1731
Resolution <i>re</i> Trade Agreement signed at Ottawa—Discussion not concluded	1731—62

TUESDAY, 8TH NOVEMBER, 1932—

Questions and Answers	1763—1803
Resolution <i>re</i> Trade Agreement signed at Ottawa—Discussion not concluded	1803—45

WEDNESDAY, 9TH NOVEMBER, 1932—

Member Sworn	1847
Questions and Answers	1847—89
Statements laid on the Table	1890—96
Resolution <i>re</i> Trade Agreement signed at Ottawa—Discussion not concluded	1896—1938

THURSDAY, 10TH NOVEMBER, 1932—

Resolution <i>re</i> Trade Agreement signed at Ottawa—Discussion postponed	1939—70
Statement of Business	1970

MONDAY, 14TH NOVEMBER, 1932—

Questions and Answers	1971—2020
Unstarred Questions and Answers	2020—29
Statements laid on the Table	2029—33
The Indian Merchant Shipping (Amendment) Bill—Presenta- tion of the Report of the Select Committee	2033
The Bengal Suppression of Terrorist Outrages (Supplementary) Bill—Discussion on the motion to consider adjourned	2033—48
Appendix	2049

TUESDAY, 15TH NOVEMBER, 1932—

Questions and Answers	2051—87
The Bengal Suppression of Terrorist Outrages (Supplementary) Bill—Consideration postponed .. .	2087—90
The Criminal Law Amendment Bill— <i>Continued</i> .. .	2090—2101, 2102—32
Resolution <i>re</i> Trade Agreement signed at Ottawa .. .	2101—02

WEDNESDAY, 16TH NOVEMBER, 1932—

Questions and Answers	2133—67
Presentation of the Report of the Public Accounts Committee .. .	2167—83
The Criminal Law Amendment Bill— <i>Continued</i> .. .	2184—99, 2200—30
Resolution <i>re</i> Trade Agreement signed at Ottawa .. .	2200

MONDAY, 21ST NOVEMBER, 1932—

Members Sworn	2231
Questions and Answers	2231—74
Unstarred Questions and Answers	2275—82
Statements laid on the Table	2282—85
Resolution <i>re</i> Trade Agreement signed at Ottawa—Time for submission of Report extended	2286
The Criminal Law Amendment Bill—Motion to consider adopted	2286—2321
Appendix	2322

TUESDAY, 22ND NOVEMBER, 1932—

Questions and Answers	2323—53
Short Notice Questions and Answers	2353—59
The Criminal Law Amendment Bill— <i>Continued</i> .. .	2359—2401

WEDNESDAY, 23RD NOVEMBER, 1932—

Questions and Answers	2403—12
The Criminal Law Amendment Bill— <i>Continued</i> .. .	2412—62
Committee on Petitions	2432

THURSDAY, 24TH NOVEMBER, 1932—

Short Notice Question and Answer	2463—68
Statements laid on the Table	2468—77
The Criminal Law Amendment Bill— <i>Continued</i> .. .	2478—2528

MONDAY, 28TH NOVEMBER, 1932—

Member Sworn	2529
Questions and Answers	2529—64
Unstarred Questions and Answers	2564—66
Statements laid on the Table	2566—67
The Criminal Law Amendment Bill— <i>Continued</i> .. .	2568—2610
Resolution <i>re</i> Trade Agreement signed at Ottawa—Presenta- tion of the Report of the Special Committee .. .	2610

LEGISLATIVE ASSEMBLY.

Wednesday, 23rd November, 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.

QUESTIONS AND ANSWERS.

LORD SANKEY'S APPEAL TO MAHATMA GANDHI.

1410. ***Mr. S. C. Mitra** (on behalf of Mr. B. Das): (a) Has the attention of Government been drawn to Lord Sankey's appeal to Mahatma Gandhi in the *News Letter* as published in the *Statesman* of the 12th November, 1932? What steps are Government taking to bring Mahatma Gandhi to the path of co-operation?

(b) Are Government now prepared to permit public leaders to negotiate with Mahatma Gandhi to bring about a spirit of co-operation?

The Honourable Mr. H. G. Haig: (a) and (b). I have seen the summary of the article which has appeared in the press. I would refer the Honourable Member to the replies which I have recently given in this House and to the statement made by the Secretary of State in the House of Commons on the 29th April last.

Mr. M. Maswood Ahmad: For releasing Mahatma Gandhi, do Government require any written assurance that he will not revive the civil disobedience movement?

The Honourable Mr. H. G. Haig: I do not think anything has been said about a written assurance.

Mr. M. Maswood Ahmad: Are Government aware that Mahatma Gandhi has directed all his efforts nowadays to the upliftment of the Depressed Classes?

The Honourable Mr. H. G. Haig: No, Sir; I am not aware that he has devoted his whole attention to that subject.

STAFF REQUIREMENTS IN THE ACCOUNTS BRANCH OF THE HEAD RECORD OFFICES OF THE RAILWAY MAIL SERVICE.

1411. ***Mr. K. P. Thampan** (on behalf of Sardar G. N. Mujumdar): (a) Will Government be pleased to state whether, as in the case of Post Offices, any data has been fixed to regulate the staff requirements to work in the Accounts Branch of the Head Record Offices of the Railway Mail Service and, if so, to what effect?

(b) If the reply to part (a) above be in the negative, will Government be pleased to state whether they intend to make such arrangements?

Mr. T. Ryan: With your permission, Sir, I shall take questions Nos. 1411 and 1412 together. The replies given by me to the Honourable Member during this Session—on the 9th of this month—to the same questions, numbered 1098 and 1099, still hold good.

TAKING OF REST BY THE RAILWAY MAIL SERVICE OFFICIALS AT OUT-STATIONS.

†1412. ***Mr. K. P. Thampan** (on behalf of Sardar G. N. Mujumdar): (a) Will Government be pleased to state whether any standard has been laid down, in the case of Railway Mail Service officials working in sections, with regard to the taking of rest at the out-stations after the completion of their prescribed duty in running trains and, if so, to what effect?

(b) If the reply to part (a) above be in the negative, will Government be pleased to state whether they intend to prescribe one?

PROTECTION TO THE COTTON HOSIERY INDUSTRY.

1413. ***Mr. J. Ramsay Scott:** (a) What are the obligations of the Commerce Department of Government *vis-a-vis* the industries of India? Are its duties to consider the complaints of foreign competition?

(b) Is the Department able to help Indian industries which are suffering from foreign competition?

(c) Does the Department consider whether or not a case should be sent to the Tariff Board?

(d) If Indian industries consider that they are not being fairly treated by other Government Departments, is the Commerce Department the Department to which an appeal should be addressed?

(e) Have Government had an appeal for protection from cotton hosiery manufacturers?

(f) Did the Tariff Board suggest that this industry should be treated "not otherwise than cotton piece-goods"?

(g) As cotton piece-goods are on the protected list, will Government please state why cotton hosiery goods do not enjoy the same protection as cotton piece-goods?

(h) Are Government aware that the cotton hosiery industry is suffering from intensive competition due to the depreciated currencies of some foreign countries?

(i) What steps do the Commerce Department propose to take to save this industry from being ruined?

The Honourable Sir Joseph Bhore: (a), (b) and (c). Applications made by Indian industries for tariff assistance, are examined in the first place in the Commerce Department, but it does not act independently of the other Departments of the Government of India which may be concerned. As regards the policy of the Government of India in regard to such applications, the Honourable Member is referred to the Resolution of the Government of India, Department of Commerce, No. 3748, dated the 10th July, 1923, which was published in the Gazette of India of the 14th July, 1923, a copy of which is in the Library.

(d) No.

(e) Yes.

†For answer to this question, see answer to question No. 1411.

(f) and (g). The Honourable Member is presumably referring to the Cotton Textile Industry enquiry held by the Tariff Board in 1926-27, but, in the first place, he has not quoted the Board correctly and, in the second place, the extraction of a single sentence from its context is likely to be misleading. The Board's own summary of its recommendations is contained in the following words:

"No justification has been established for the special treatment of the hosiery industry."

(h) and (i). The Government of India have received representations to that effect from certain manufacturers of hosiery who have, it is understood, also made representations to the Tariff Board. These representations have presumably received attention and the recommendations of the Board will receive the consideration of the Government of India.

PREFERENCE TO GOODS MANUFACTURED IN INDIA.

1414. *Mr. J. Ramsay Scott: (a) Are Government aware that the Report on the Indian Stores Department, London, for the year 1931-32 shows that woollen goods to the value of £41,741, comprising sewing, braids, felt (if woollen), cap comforters, shalloon, socks and cardigans were purchased in London?

(b) Are Government aware that such articles as felt (woollen), cap comforters, socks and cardigans are manufactured in India?

(c) In view of the fact that the Indian Stores Department is supposed to give preference to goods manufactured in India, will Government please state why these goods were not purchased in India?

(d) Were manufacturers in India asked to tender for these goods?

The Honourable Sir Frank Noyce: (a) Woollen goods to the value mentioned by the Honourable Member are shown in the report on the Indian Stores Department for the year 1931-32 as having been purchased. He is, however, not correct in assuming that the articles purchased were those mentioned by him. The figures of purchase shown in appendix B of the Report refer to the main classification of stores given in the first column of the statement which is headed "Government of India's classification". The description of stores given in the second column appears year by year in the Report and is merely an additional and amplified classification which does not purport to specify the articles purchased during the period under review. Full details of the stores under the heading "Woollen Goods" valued at £41,741 are not available in India. Particulars, however, regarding purchases of woollen goods to the value of £37,400 are available, but none of these purchases relate to any of the articles mentioned by the Honourable Member.

(b) Yes.

(c) and (d). I am not at present in possession of precise information as to why the goods of which particulars have been given in my reply to part (a) were not purchased in India, but I am making enquiries on the point.

Mr. Gaya Prasad Singh: May I know for what purpose these woollen goods were purchased in England?

The Honourable Sir Frank Noyce: I have explained in my reply to parts (c) and (d) that I am not at present in possession of precise information as to why they were not purchased in India, but I am making inquiries on that point.

Mr. Gaya Prasad Singh: My question was, for what purpose were they purchased there?

The Honourable Sir Frank Noyce: Because they were required.

Mr. Gaya Prasad Singh: By what Department?

The Honourable Sir Frank Noyce: I think by the Army Department.

Mr. M. Maswood Ahmad: Will the Honourable Member be pleased to lay on the table the result of the inquiry?

The Honourable Sir Frank Noyce: Certainly, Sir.

Mr. J. Ramsay Scott: Is the Honourable Member aware that the headings I have given are those mentioned in the report?

The Honourable Sir Frank Noyce: I am quite aware of that fact. If the Honourable Member will look at the report again, he will see that the heading of column A is "Government of India's classification". The heading of column B is "Indian Stores Department additional classification". What that means is merely that the articles under that head are also included in heading A, i.e., that the various things, such as comforters, sewing, braids, caps, etc., if they are made of wool, come under the head of woollen goods. That is all that it means: it is merely an *aide memoire*. As a matter of fact, I do feel that the classification is somewhat misleading and I am taking up that point.

Mr. J. Ramsay Scott: Thank you.

COMMUNAL COMPOSITION OF THE SUPERINTENDENTS OF POST OFFICES IN THE UNITED PROVINCES POSTAL CIRCLE.

1415. ***Mr. M. Maswood Ahmad:** Will Government please state what the total number was of Superintendents of Post Offices in the United Provinces Circle on (i) 1st August, 1926, (ii) 1st August, 1928, (iii) 1st August, 1930, and (iv) 1st August, 1932, showing separately the total number of (1) Hindus, (2) Muhammadans, and (3) others on each of these dates?

The Honourable Sir Frank Noyce: A statement giving the required information is laid on the table.

Number of Superintendents of Post Offices, including Assistant Postmasters General, in the United Provinces Circle on various dates.

Date.	Number of Superintendents.	Hindus.	Muslims.	Others.
1st August, 1926	90	5	9	6
1st August, 1928	20	9	6	5
1st August, 1930	21	9	8	4
1st August, 1932	18	11	4	3

DECREASE IN THE NUMBER OF MUSLIM SUPERINTENDENTS OF POST OFFICES IN THE UNITED PROVINCES POSTAL CIRCLE.

1416. *Mr. M. Maswood Ahmad: (a) Will Government please state the present total number of Superintendents of Post Offices and Railway Mail Service in the United Provinces, showing separately the total number of (i) Hindus, (ii) Muhammadans, and (iii) others who actually hold charge of the Divisions either as permanent or officiating Superintendents?

(b) Is it a fact that the total number of Muhammadan Superintendents in the United Provinces Circle has been constantly on the decrease for the last several years with the result that now, out of a total number of 15 Postal and Railway Mail Service Superintendents in that Circle, there is only one Muhammadan Superintendent or so actually holding charge of a Division against 12 or 13 Hindu Superintendents?

(c) Is it a fact that the Superintendents of Post Offices and Railway Mail Service have recently been given much wider powers regarding punishment, and do Government propose to increase the number of Muhammadan Superintendents in the United Provinces? If so, when do Government expect to do so?

The Honourable Sir Frank Noyce: (a) The total number of Divisional Superintendents of Post Offices and the Railway Mail Service in the United Provinces at present is 15, of whom 12 are Hindus, 1 is a Muhammadan, and 2 are of other communities. In addition, one Hindu, one Muhammadan and one member of another community are acting as Assistant Postmasters General.

(b) The actual position is given in the statement laid on the table in connection with the reply just given to the Honourable Member's question No. 1415.

(c) The reply to the first part is in the affirmative. I may mention in this connection that certain representations have been received which are being examined. As regards the second part, Government are not at present considering any proposal to increase the number of Muslim Superintendents in the United Provinces Circle, as the postings of Superintendents of Post Offices are not made solely on a communal basis, but to meet the requirements of the service.

REPRESENTATION OF MUSLIM OFFICERS IN THE OFFICES OF THE POSTMASTER GENERAL.

1417. *Mr. M. Maswood Ahmad: (a) How many gazetted and other officers are attached to each of the Postal Circle Offices in India and how many of them are Muhammadans as actually working at present?

(b) Is it a fact that in some of the Postal Circles in India the number of Muhammadan officers at the headquarters of the Circle is only nominal or very low, and, if so, how do Government propose to secure an adequate representation of Muslim officers in the offices of the Postmasters-General?

The Honourable Sir Frank Noyce: (a) As regards the gazetted staff, a statement is laid on the table. As regards the non-gazetted staff, the information is not readily available and Government do not propose to collect it as the time and labour involved would not be commensurate with

the result. The composition of the total staff of the Posts and Telegraphs Department by communities is given on page 53 of the last Annual Report of the Department, a copy of which is in the Library of the House.

(b) As regards the first part of the question, the Honourable Member's attention is invited to the statement referred to in the reply to part (a) above. As regards the second part, the postings of gazetted officers are made not on a communal basis, but to meet the requirements of the service.

Statement showing the number and community of the gazetted officers attached to each Postal Circle.

	Hindu.	Muham- madan.	Other.	Total.
Bengal and Assam	5	1	5	11
Bihar and Orissa	3		1	4
Bombay	1	3	7	11
Burma	1	..	6	7
Central Circle	4	..	3	7
Madras	3	..	7	10
Punjab and N.-W. F.	2	2	6	10
United Provinces	3	1	5	9
Sind and Baluchistan	2	..	2	4
	24	7	42	73

Mr. M. Maswood Ahmad: With regard to the statement of Government that "the time and labour involved would not be commensurate with the result", are Government aware that the Member who puts the question is in a better position to judge whether or not it will be useful to the community or to the country, than Government?

The Honourable Sir Frank Noyce: I have referred the Honourable Member to the last annual report of the Department from which he can extract information which will, I think, be of use to him.

PROMOTION OF QUALIFIED JUNIOR OFFICIALS TO THE LOWEST SELECTION GRADE IN THE POSTAL DEPARTMENT.

1418. ***Mr. M. Maswood Ahmad:** (a) Is it a fact that some "junior officials", qualified for promotion to the lowest selection grade of Rs. 160/250 in the Postal Department, became eligible and reached their actual turn for promotion to that grade in vacancies which occurred before the 15th March, 1932, due to deaths or retirements other than those under the retrenchment concessions, but were not given the promotion, only due to the existing orders prohibiting such promotions permanently or due to the fact that the vacancies were not filled up and were utilised for the abolition of appointments in the grade?

(b) Will Government please state the total number of such officials in the various cadres in each Circle and Circle Office separately?

(c) Is it a fact that the turn of these officials for promotion to the grade had already come before the introduction of the present system of promotion to the grade and that this fact has adversely affected their case without any fault on their part?

(d) In case the number of such officials in each Circle Office and Circle is really very small, are Government prepared to consider their case and remove their grievance by issuing orders to the effect that these officials should be allowed the same position in the list of qualified candidates as was held by them under the "fifth vacancy" system and should be promoted to the grade in the existing and future vacancies accordingly, being given full benefits of the previous system?

Mr. T. Ryan: (a) Yes, but the "junior" passed officials are not the only ones thus affected by retrenchment.

(b) Government have no information.

(c) Yes, but it is retrenchment which has prevented their promotion.

(d) These officials like many others have no doubt been adversely affected by retrenchment, but Government are unable to admit that they have any other special, or remediable grievance. Under the revised system of promotion, they will have ample chances of promotion to the Inspectors' cadre, which carries the same pay as the Lowest Selection Grade. In the circumstances, Government regret that they do not see their way to according to this staff the special treatment suggested by the Honourable Member.

EXPORT AND IMPORT OF GOLD FROM INDIA.

1419. *Mr. M. Maswood Ahmad: Will Government be pleased to state, in rupee value and in quantity, what the total export and import of gold is from the time England went off the gold standard up to the 10th November, 1932?

The Honourable Sir George Schuster: Exports and imports of gold from the 22nd September, 1931, to the 29th October, 1932, the latest date up to which figures are available, were as follows:

Exports—about 12½ million fine ounces, value about Rs. 94 crores.

Imports—about 330,000 fine ounces, value about Rs. 2-1/3 crores.

ESTABLISHMENT OF A FACTORY FOR THE MANUFACTURE OF CARBON PAPERS AND TYPEWRITER RIBBONS IN KARACHI.

1420. *Mr. Lalchand Navalrai: (a) Will Government be pleased to state whether they are aware that a factory for the manufacture of carbon papers and typewriter ribbons has been established in Karachi under the name of "Bharat Carbon and Ribbon Manufacturing Co."?

(b) Is it a fact that that is the only factory of its kind in India?

(c) Will Government be pleased to state if articles of the kind turned out by this factory will have any relation to the Ottawa Agreement?

(d) Are Government prepared to see that this industry is not affected by the Ottawa Agreement or the proposed amendment of the Indian Tariff Act?

The Honourable Sir Joseph Bhore: (a) and (b). Yes.

(c) The attention of the Honourable Member is invited to items Nos. 84 and 128 in Schedule F to the Trade Agreement made at Ottawa between His Majesty's Government in the United Kingdom and the Government of India and to items Nos. 195 and 198 in the new Part VIII which the Government of India propose should be added to Schedule II to the Indian Tariff Act, 1894, to implement the Trade Agreement. Copies of both the documents named have, I think, already been supplied to the Honourable Member.

(d) Government see no reason to suppose that the industry in question will be injuriously affected by the Agreement.

Mr. Lalchand Navalrai: What are the reasons for Government to think so? This is an infant industry and it should be supported.

The Honourable Sir Joseph Bhore: Because, even under the proposed rates, there will be a duty of 20 per cent. *ad valorem* even against British goods and 90 per cent. against all others.

PROTECTION AGAINST TEMPLE ENTRY BY UNTOUCHABLES.

1421. ***Pandit Ram Krishna Jha:** (a) Will Government be pleased to state whether His Excellency the Viceroy and the Governor General in Council received a memorial submitted by the orthodox Hindu community and priests of the temples of Benares, praying for protection against temple entry by the untouchables?

(b) Have the Government of India received a similar memorial from the Meerut Branch of the All-India Varnashram Swarajya Sangh?

(c) If so, has any of the two memorials yet received the consideration of the Government of India and have Government decided to give the protection prayed for?

(d) If the memorials have not yet received the consideration of Government, when are they likely to receive it?

The Honourable Mr. H. G. Haig: (a) Yes.

(b) No.

(c) and (d). The policy of Government in regard to controversies on religious questions is one of neutrality.

Rao Bahadur M. C. Rajah: Will Government be pleased to state the definition of the term "orthodox Hindu community" and whether the orthodox Hindu community comprises of non-Brahmins or Brahmins, and whether the orthodox Hindu community and the priests of the temple of Benares are the owners of those temples or whether the priests are the servants of the temples depending for their livelihood upon the income of the temples?

The Honourable Mr. H. G. Haig: The Honourable Member has prepared a very elaborate supplementary question and I would suggest that he should put it down in writing and give me due notice.

PROTECTION AGAINST TEMPLE ENTRY BY UNTOUCHABLES.

1422. *Pandit Ram Krishna Jha: (a) Are Government aware that amongst the Hindus in every part of India the number of persons holding orthodox views is overwhelmingly large, as compared with that of the dissenters from the orthodox Hinduism?

(b) Are Government aware that there is a very strong feeling amongst the orthodox section of the Hindu population in every part of India against temple entry (either forcible or otherwise) by the untouchables, as it is regarded as a clear infringement of the *Shastric* rules?

(c) Are Government aware that persons, who advocate temple entry by untouchables or removal of untouchability, are mostly, if not exclusively, those who did not observe untouchability from before or who very seldom, if ever, care to go to any temple or attach any importance to worship in the temple?

(d) Have the Government of India decided upon any policy to be followed in the matter of the present agitation for forcing entry in the public and private temples by untouchables?

(e) With reference to the answers given by the Honourable the Home Member, to supplementary questions put by Pandit Satyendra Nath Sen on the floor of this House on the 7th November, 1932, are Government prepared to issue a communiqué clearly dissociating themselves from the present movement as to the temple entry and expressing complete and unqualified neutrality in the matter?

The Honourable Mr. H. G. Haig: (a), (b) and (c). Government are aware that there is opposition to the proposal that untouchables should be allowed to enter temples. They are not prepared to give an estimate of the strength of that opposition.

(d) and (e). I would refer the Honourable Member to the reply I have just given to question No. 1421 and to the reply given to Pandit Satyendra Nath Sen's question No. 1306 on the 21st November.

Diwan Bahadur Harbilas Sarda: With regard to parts (b) and (c) of this question, are Government aware that Pushkar, which is called Pushkar Raj in India, as being the King of Hindu places of pilgrimage, there is the temple of Brahma which is the only important temple in the whole of India dedicated to God Brahma, and that the Mahant of that temple has thrown open that temple to the untouchables of all classes without any protest on the part of the Brahmins or the orthodox people of that sacred place?

The Honourable Mr. H. G. Haig: That, Sir, is a piece of information which, I am sure, the House will be glad to receive.

Mr. Gaya Prasad Singh: Is the Honourable gentleman who put the original question in a position to quote Shastras to prove that temple entry is prohibited to the untouchables?

Pandit Ram Krishna Jha: Undoubtedly any number; but this is not the occasion.

STATEMENT REGARDING THE CAMPAIGN AGAINST UNTOUCHABILITY ISSUED
BY MR. M. K. ACHARYA.

1423. *Pandit Ram Krishna Jha: Has the attention of Government been drawn to the statement regarding the campaign against untouchability issued by Mr. M. K. Acharya, an *ex-M. L. A.*, as published in the issue dated November 11th, 1932, of the *Statesman*?

The Honourable Mr. H. G. Haig: I have seen the statement.

Mr. B. S. Sarma: Has the attention of Government been drawn also to the counter statements from influential quarters published in the press in complete repudiation of the views that this *ex-Swarajist* has been airing?

The Honourable Mr. H. G. Haig: I have seen a number of statements on both sides of this controversy.

THE CRIMINAL LAW AMENDMENT BILL—*contd.*

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question is that clause 3 do stand part of the Bill.

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

"That clause 3 of the Bill be omitted."

My reason is that this clause, too, is unwarranted and unnecessary. So far as the principle of this clause is concerned, it relates to tampering with public servants and it is unexceptionable. But I think it lies with the Government to show that there are numerous cases in different provinces in India where attempts had been made to tamper with public servants. So far as I have heard, I think the Honourable the Home Member could only refer to certain very few instances in Guzerat. Even admitting them, there is no justification to have a general law for the whole of India. It is not that the Legislature of a country is required to legislate against every thing that may be considered by Government or anybody as not strictly moral or for the best interests of the existing Government. If there are frequent infringements where public servants are actually tampered with, I think there will be no objection to have a clause like this. So I repeat my argument that I urged against clause 2 that unless Government could show that there were cases even during this Ordinance period or even earlier to that, certainly we should revise our opinion and see if there was any necessity for such legislation.

It seems that Government are anxious to create a new caste in an already caste ridden country like India. The officers of Government enjoy great privileges and, because of their high salaries, they have already formed an aristocratic class. But it seems they are anxious to become untouchable also, because even the terms of this clause are very vague as it says that: "whoever induces or attempts to induce any public servant to fail in his duties as such servant", and so on. Any number of cases can be brought under the purview of the phrase "to fail in his duty". I

know some of the higher officials think that all their inferior servants are in duty bound to carry out all their orders, whether they are legal or illegal, constitutional or otherwise, and, therefore, if you make the phraseology so vague and so wide, it is not clear to what class of people the scope of this clause may not be extended. Further, the definition of the words "public servant", though it has been improved by the Select Committee by making it definite, is still so wide that it includes a railway servant, a village *chowkidar* and an employee of a public utility service as defined in section 2 of the Trade Disputes Act. Sir, in the Ordinance itself "public servant" did not include all these classes such as any public servant on a railway administration or a village *chowkidar*. Now, the definition of "public servant" is so wide that a railway coolie, who may be asked to take a passenger's luggage in preference to taking another passenger's luggage, may also take shelter under this clause, and any man may be put to difficulties. There are large numbers of village *chowkidars* throughout the length and breadth of India, employees of public utility services like Corporations, Municipalities, District Boards, Local Boards and Union Boards, and all these people will come under the definition of a "public servant", and any inducement or attempt to inducement to fail in their duty will be punishable with imprisonment for a term of one year or with a fine of an unlimited amount. Unless, therefore, the Honourable the Home Member can make out a specific case that there is an urgent necessity for such a clause in this emergent Bill, I urge that this clause should be entirely omitted.

Mr. B. N. Misra (Orissa Division: Non-Muhammadan): Sir, of the several clauses in this Bill, the present clause, which is now under discussion, seems to be the most imaginary. As my friend, Mr. Mitra, pointed out, there may be 20,000 or more public servants in India, I am putting a most moderate number

Mr. S. C. Mitra: The Railway Administration itself has got several lakhs of people.

Mr. B. N. Misra: All right, there may be some lakhs, but can the Honourable the Home Member point out even a hundred cases of public servants who have failed to discharge their duties either in pursuance of the Congress movement or any other movement? This is like the Sanskrit saying. . . . "Siro nasti kutah hyatha?", which means "you have no head, but wherefrom are you getting headache?" (Laughter.) I want to know from the Honourable the Home Member whether he can cite any cases in which the public servants have failed in their duties? Can my friend point out, out of the several lakhs of public servants in the country, at least 1,000, 500, 100 or even 10 cases which have come to his notice, of public servants who have failed in their duties? Can he say that even one per cent. of the total number has failed? As has been said, the whole Bill is directed against the Congress movement. It appears to me, Sir, as I said in the beginning of my remarks, that this is a most imaginary case. Supposing a cook fails to prepare food at a proper time and he delays to prepare the food by, say, 20 minutes, then certainly he will come under this definition (Laughter), because the cook has not prepared the food by a certain time and, therefore, the master, a public servant, has failed in his duties and so he must be punished with one

[Mr. B. N. Misra.]

year's imprisonment. I appeal to the Honourable the Home Member to consider the effect of this vague clause. Of course, Magistrates will be ready to hear such cases and award punishments. It reminds me of a talk I had with a Magistrate who, in a particular case, had gone wrong in his judgment. He said: "Well, our superior advisers have said we must have an elastic conscience, i.e., a conscience that will not feel pricks and so we should also have no conscience. The biting of conscience must be like a foot ball; it will come and go, but it will not affect our conscience." So, perhaps, this Legislature is now played like a foot ball; anything can be carried in this House. I am sure the Government will carry even this vague motion. I appeal to all Honourable Members not to agree to such an absurd clause as this. The question is: are there many cases at all to justify the introduction of such a clause like this?

Major Nawab Ahmad Nawaz Khan (Nominated Non-Official): There have been many such cases.

Mr. B. N. Misra: I am asking the Honourable the Home Member to tell me how many such cases there are.

Mr. M. Maswood Ahmad (Patna and Chota Nagpur *cum* Orissa: Muhammadan): Were those cases in the North-West Frontier Province?

Mr. B. N. Misra: Sir, this clause ought not to be on the Statute-book at all without sufficient justification. Now, what is the meaning of this phrase "induces or attempts to induce a public servant"? Suppose a child has a fall, and if the doctor is late by half an hour, if the wife asks the husband to stay, she comes under this definition, because he fails in his duties. The motive must be taken into consideration, but nothing is said about the motive. Supposing a boy is ill, and his mother tells the father to take care of the boy for just half an hour, but if the father happens to stay away owing perhaps to more pressing or urgent work, can she be punished? I appeal to the Home Member that, before he hears any further speeches, he should at once agree to withdraw this clause. Of course, as an Englishman he is equipped with a better command of the English language than I can claim to possess and he will be able to give a proper explanation. The whole clause is absolutely vague and meaningless. Suppose when a carriage passes along the road, a dog barks and the carriage tumbles down, will the dog come under the purview of this clause? (Laughter.) What is the motive behind all this, I for one cannot understand. Sir, I, therefore, whole-heartedly support the motion that this clause be omitted.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadan Rural): I rise to support the amendment moved by Mr. Mitra. The clause, as originally drafted, was very drastic and the Select Committee tried its best to amend it. Even in this amended form it is not worth acceptance by this House. I am conscious that when Government, in their overweening confidence allowed Mahatma Gandhi to proceed in his progress to the seashore where he broke the Salt Law, there were a number of village officers in Guzerat who were induced to give up their service and, in many places, Government servants, on account of the boycott

proclaimed against them, were put to very great inconveniences. I have to admit all that, because I am personally aware of what things were done in the province of Guzerat in the name of boycott. But, Sir, all those persons, who took part in that propaganda and all those who gave up their services or offices on account of the propaganda, ultimately came to repent of their hastiness and many of them approached Government to pardon them and to take them back in their service. All these people have come to realise that such attempts to make Government futile are failures and certainly recoil on their heads. So I do not think that even if the Congress were allowed to make a serious propaganda even in Guzerat, they will find a considerable number of officers and men who will be foolish enough to comply with their demands to give up Government service. The experience of the past has been enough for them and I am quite sure that any person who attempts such inducement will meet with a severe rebuff. I do not know what the condition was in other parts of India, but I am led to believe that it was not so very serious, and if there were any attempts at all, they must have been very sporadic and of no consequence whatsoever. Under these circumstances, I hold that there is no need for such a clause which, without assisting the Government in administration business, will give a very wide loophole to low-paid officers to bully and to frighten innocent people with prosecution.

If we consider the provisions of the clause, we will at once find that an accusation under the clause can be very easily brought by an unscrupulous person. "Whoever induces any public servant—that is something. If a person induces a public servant to fail in his duty, he must have done some act causing inconvenience to Government and, therefore, it might be argued that he should be hauled up before a Court of law and punished. But what is the second part? "Or attempts to induce". The attempt is not successful. The officer against whom that attempt has been made is staunch in his devotion to Government, sticks to his duty and no evil effect has arisen. Still the person who attempts to induce any public servant to fail in his duty is held equally liable to be punished. And who are these officers? Not only those who come under section 21 of the Indian Penal Code, but also a servant of a local authority, etc. A local authority may be a municipality, or a village panchayat of a district local board. The servants of such local authorities are very poorly paid, are very badly paid, and, therefore, this power places in their hands an inducement to frighten other people with prosecution under this clause and to get gratified in some other way. The clause again says: "a servant of a railway administration". We are not at all afraid of high paid officers, but we are afraid that false and frivolous complaints may be lodged by low paid officers in order to benefit themselves. And that is the reason why we, on this side, are so very strong in opposing this clause. As regards village *chowkidars*—I do not know what the condition is in other parts of the country, but the *patil* in a village in the Bombay Presidency is, I understand, the same as the village *chowkidar*—we know for instance in the village the *patil* is a very important person, and he belongs to one faction and there are other people who belong to another faction, and it is not very rare that *patils* take one side and accuse members of the other faction. And this clause will give opportunities to these village *chowkidars* to wreak their vengeance on people who do not side with them.

Dr. F. X. DeSouza (Nominated Non-Official): The *chowkidar* is a watchman and not a *patil*.

Mr. B. V. Jadhav: I understand he does the same work as the *patil* does in the Bombay Presidency.

Rao Bahadur B. V. Sri Hari Rao Nayudu (Madras: Nominated Official): He is not a village headman, but a *talaiyari*.

Mr. B. V. Jadhav: The matter becomes still worse. I do not think that there is any necessity to give protection to the servants of local authorities or railway administrations. If the administration of a local authority is disorganised, the people themselves will suffer, and I do not think that any sane person, any sane Congress worker will attempt to induce the servants of local authorities to give up their service and thus cause inconvenience to the locality in general. Therefore, there is no necessity for bringing the servants of local authorities under the definition of a public servant. So also in the railway administrations. The low paid officers of railways cannot disorganise the railway administration or the railway service, and I do not think that there is any necessity for bringing the servants of a railway administration under this clause. Similarly, in the case of a village *chowkidar* or an employee of a public utility service, as defined in section 2 of the Trade Disputes Act, 1929. It is very dangerous to include all these persons in the definition of a public servant, because it will deprive any labour worker to organise such bodies and to advise them to go on strikes in order to get their grievances redressed. This strikes at the root of the whole labour question and, therefore, I claim that these persons ought not to be included there. For these reasons I submit that the clause is not needed and I strongly support the amendment.

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): I very strongly support this amendment. The first and the most important ground upon which I support this amendment is this. Reading the clause as I do and not being acquainted with the English language perfectly, what I want to understand and what I want the Member in charge of the Bill to make the House understand is this. The clause runs:

"Whoever induces or attempts to induce any public servant to fail in his duty,"

and so on. When are you supposed to fail in your duty? I can understand a person preventing a public servant in the discharge of his duty. It is more easily capable of proof. When am I supposed to fail in my duty? A sympathetic officer considers that a lapse on the part of the subordinate is not a failure. Another man, probably attacked with a fit of indigestion, thinking that the official is a habitual shirker, pounces upon the least chance and says: "Oh, the man has failed in his duty". He asks him for an explanation and he turns round and says "I am not responsible". There is an old story among Tamilians which says that a potter was accused of not making his pot properly. The potter's reason was that there was a dancing girl passing and re-passing in front of him and he was always looking at her and, therefore, he was not able to do his work properly. He was ordered to be put on the stocks and when he was taken to the stocks, it was found that he was too lean and the stocks would

not fit him. There was a fat Komati who was passing that way and they said that the Komati was just the man who would fit into the stocks and so they got hold of him and put him in it. This is exactly what is happening here. We used to hear this story in the olden days, but here, in the most solemn manner, the same thing is being enacted into law. You have not defined what constitutes a failure. It all depends upon the state of feeling in the country how cases of this sort will be disposed of. The case would probably go before a Second Class Magistrate. He has got his eye on his promotion.

An Honourable Member: First Class Magistrate.

Raja Bahadur G. Krishnamachariar: Even if he is a First Class Magistrate, he is only a human being and he wants to get into the next higher job. The regret is all the greater in his case, because the thing is within his grasp and yet it does not come within it.

Well, Sir, my friend, Mr. Jadhav, has pointed out the danger of keeping the word "attempting". Who is there to decide properly that there has been an attempt to make a man fail in his duty? I think ridiculousness cannot go beyond this. Here is a man who has shirked his duty, but he has got a troublesome neighbour and he says "this other fellow prevented me from doing my duty" and straightaway the poor fellow gets six months' rigorous imprisonment. With the amendment that was adopted to the Criminal Procedure Code the other day, there is no chance of asking for an adjournment and taking the case before another Magistrate. You may break your head and yet there will be no redress. I warn this House of the great danger that underlies this clause. If you are a resident in a mufassil station, if you are not particularly anxious to be in the good books of the local officials by *khushamading* them and confessing in many ways that you are their inferior, the even tenor of your life will be at their mercy. I am not exaggerating the position. If you have lived in the mufassil and if you are an influential man, you will know what the position there is. Sir, I have had something to do with legislation and I warn this House that anticipatory legislation is a dangerous thing to resort to. I do not know what happened in the Select Committee, because I have not had the honour of being a member of it, but so far not a single material has been placed before us to show the danger that is attendant upon society by not enacting this provision.

My friend, Mr. Misra, has asked where is your trouble, what is the inconvenience to which you have been subjected, that you should rush to this House and ask for these powers. We may cry ourselves hoarse, but the official block and the rest of the community who do not suffer and who have no personal experience of the suffering will pass this law, but you are sitting on the top of a volcano. It is only an imbecile Government that cannot control their servants that will ask for these powers. A strong Government that have control over their servants will not ask for these powers. Therefore, I ask the House not to agree to this vague, indefinite and ununderstandable clause. Now, the explanation puts the coping stone to the ridiculousness of this clause. I shall take it from the end. It mentions a *chowkidar*. We have not got a *chowkidar* in the Madras Presidency, but my friend here says it is a *talaiyari*. The *talaiyari* or *vetti* is a servant of the village. He is the servant of the village munsif or patel as they call him in the Bombay Presidency. I will tell you

[Raja Bahadur G. Krishnamachariar:]

what exactly are the duties which he performs. The *karnam* sends his demand for the *kist* to the village munsif and the village munsif sends the *talaiyari* to the landholder to bring in the money. Directly the *talaiyari* comes, you have got to give him four annas for toddy. If you don't do that, you will have a two-page report against you and the whole force of the revenue department—I can quote chapter and verse in support of what I say,—will come down on you, simply because you did not pay four annas to the *talaiyari* for his toddy. And, then, he is not able to collect the money, because in these times of depression there is no money to pay. He tells him: "Baba, come tomorrow". He goes and then comes back. That man will not yet pay him. What is the result? Krishnamachariar is prosecuted! Six months' rigorous imprisonment. Why? Because the four annas for the *talaiyari*'s toddy has not been paid! I am not exaggerating. I am talking of things that are happening everyday. These *talaiyaris* have got to be paid for it. The District Magistrates know it only too well. If you privately ask some of my friends who are District Officials and who are sitting here, . . .

Rao Bahadur B. V. Sri Hari Rao Nayudu: I demur to that statement. It is quite wrong, Sir.

Raja Bahadur G. Krishnamachariar: You must have then been living in Paradise yourself.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order.

Raja Bahadur G. Krishnamachariar: Very well, it does not matter. There is no question of what is happening in Hyderabad. I am only paying my *kist* to the British Government and that is a very large sum, and that is why it is troubling me. Then the next person protected is the servant of a local authority. I will tell you exactly what happens. The servant of a local authority has got to collect taxes. Quite recently there was a municipal prosecution instituted against my man—not against me, I was here—because he did not pay the house tax for a house which he does not own. The house is in my name. He was prosecuted. Why? Because the tax-collector came to blows with him over another matter not connected with my house. He can easily report "He saw me at a distance and he closed his door." He could not break open the door unless he goes to the chairman and gets an order from him. Then a prosecution starts. You will thus see that there is a very easy way of getting money in these days of depression. Sir, I cannot lay too much stress upon this point. I can quite understand that it is the duty of a Government to govern; I have held something of a responsible post myself although my friends would say it was in a backward place where *talaiyaris* are being bribed and in British India you do not do it. I know a Government has got to govern and that it has got certain duties and that it is impossible to carry on a Government with the threat always hurled at them that unless "you do this or do that, civil disobedience will follow". But surely you do not want a *chowkidar*, a villager, and a *talaiyari* to be protected everywhere "from failing in his duty". That man never does his duty. (Laughter.) And, then, when taken to task why he does not do his duty, he says: "Is it so? Very well, I am not

particularly in the good books of the officials, because I do not go to railway platforms with garlands in my hands to meet them, nor do I use mellifluous phrases in addresses." Very well, next time the *talaiyari* is accused of failure of duty, he will report that certain things have not been done because of me! Sir, that is the danger, and I warn this House not to agree to this clause but to throw it out lock, stock and barrel.

Mr. Goswami M. R. Puri (Central Provinces: Landholders): Sir, I rise to support this amendment. My Honourable friends, Mr. Mitra, Mr. Jadhav and Raja Bahadur Krishnamachariar, have dwelt exhaustively on the point and so I do not think I need elaborate it, but I want to say one thing here that this clause, as at present drafted, is too wide and it will prove rather very objectionable to people like me who are believers in law and order. In the "Definitions", the village *chowkidar*, the servants of railway administrations and the servants of local authorities have been mentioned. The objections to that have been fully explained by my friend, Mr. Jadhav, so I do not think I need say anything more, but I would like to advise the Government that they should not try to rule India with an iron rod, but should try to invite the co-operation of the subjects. With these words, Sir, I support the amendment.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): Sir, this clause is another illustration of clumsy draftsmanship of the Legislative Department of the Government of India. It is one of the clumsiest drafts I have ever come across and a mere perusal of the clause will at once convince the House that it is so. "Whoever induces"—Sir, I think I can claim some knowledge of the language which is the mother-tongue of my Honourable friend, the Home Member. Sir, if it be conceded that sometimes English is better spoken and better understood in countries further off from England, as has been observed by a great statesman, I think my Honourable friends over there will not find fault with me if I quote from the Oxford Dictionary the meaning of the word "induce": "Induce" means 'prevail on, persuade, bring about, give rise to, produce by induction.' Do they mean by the word "inducing" that all these things will be punishable, or do they want to stick to one meaning of the word? If so, I would like to know which. Then, "to bring about": I draw the special attention of the House to the meaning of "bring about" as given in the Oxford Dictionary. Sir, "who brings about": "if he brings about", he is to be prosecuted. Certainly, he cannot "bring about" a failure of what is conceived to be the duty of a public servant! Then, again, "fail in his duty": the word "duty" means, according to that Dictionary, "moral or legal obligation" and also "what one is bound or ought to do": all vague phrases. Then, again, "duty" means "business, office, function". Now we must have a categorical list of all the duties of the various public servants who have been included in this clause even more than the definition in the Indian Penal Code, to which has been added the servants of a local authority, a railway administration, a village *chowkidar* and employees of public utility services as defined in the Indian Trade Disputes Act. They have taken the trouble of defining as to who

are to be treated as public servants and they ought to have defined also their respective duties. A man is not likely to know what are really the duties of a public servant contemplated in the clause.

[Mr. Amar Nath Dutt.]

Sir, I shall give one instance about that class of public servants who are called *chowkidars*. I do realise that it will be very difficult for any officer of the Government to define the actual duties and the legal and moral obligations of a *chowkidar*. I remember a *chowkidar* was once collecting fuel from a cremation ground, the remnants of the fire which were left behind after cremating the dead body. I was out in the morning for a walk by the side of a rivulet near my village and I found the man near the cremation ground where ordinarily a man does not go. I was surprised to find the man there and I asked him what was he doing there? He said: "Babu, I am collecting fuel for the *sala*". The '*sala*' here refers to the sub-inspector of police. I was told that every *chowkidar* is to collect fuel, and take the same to the *thana* on the day of his *hazri* which is once a week. Now, this poor man cannot purchase the fuel for the sub-inspector, nor can he steal it and, therefore, the remnants of the cremation ground are the fit things which ought to be supplied to the *sala*. Now, Sir, it may be that it is part of his duty. In Bengal, we know, formerly it was the part of our duty as Zamindars to supply rations for the officers. It is still the practice and, in fact, there are Zamindars—not of my type—who would approach the District Officer with one maund of *ghee*, a dozen fowls and other things which he can hardly consume when he visits the village. Now, Sir, I do not know whether it will also be considered to be a part of the duty of a Zamindar or a part of the duty of the sub-inspector of police or, for the matter of that, the *chowkidar* with the aid of his brother officers.

Mr. G. S. Dutt (Bengal: Nominated Official): The District Officers pay for everything that they take.

Mr. Amar Nath Dutt: I take it that officers of the type of Mr. Dutt do pay for everything.

Mr. G. S. Dutt: Is there anything to prove that other officers do not?

Mr. B. V. Jadhav: Do they also pay in Sind?

Mr. Amar Nath Dutt: It will not be proper to give out the names, but I may say at once that District Officers of the type of Mr. Dutt do pay for the things they purchase, and officers of the type of Mr. Dutt are not many.

Mr. G. S. Dutt: All District Officers observe the same practice.

Mr. Amar Nath Dutt: I do not know that, or it may be that they have no knowledge of what is done by their servants who have got to be pleased before one can approach those mighty individuals. I think Mr. Dutt himself may have some knowledge of these things or may have heard about them at least.

Mr. G. S. Dutt: I have already stated that I have not heard of any such things in any district.

Mr. Amar Nath Dutt: Then things have improved only in such Districts as were fortunate enough in having my Honourable friend as their District Officer and I would welcome him to my own District not to the detriment of his promotion, but as a Commissioner of my Division.

Sir, two gentlemen have spoken in support of my Honourable friend's amendment, one of them held the high office of a Minister under the Government of Bombay and the other was also a very high officer in an Indian State. Both these gentlemen cannot be accused of any anti-Government attitude, for they are absolutely loyal people. They have cited instances showing how this clause will work to the detriment of the true interests of the Government as well as of the public. With their experience at their back and having regard to the instances quoted by them, I think none but the perverse will say that this clause ought to be on the Statute-book of the country. Then, again, Sir, the labour has no representative in this House. The Government, in their wisdom, nominate a gentleman to represent labour, but unfortunately send him away whenever his services may be needed for some other business. In his absence, I congratulate my friend from Bombay for having taken up the cause of labour and I follow in his footsteps and say that this clause, if enacted, will put an end to all the possible redress of grievances by the one weapon that labour has in its hands, namely, the strikes. That being so, and if the Government really want that all the manifold grievances of labour should be redressed and that every opportunity should be given to the labour and the labour leaders for ventilating their grievances, I beg to submit that Government ought not to introduce at least the Explanation clause. With these words, Sir, I beg to oppose the insertion of clause 3 in the Bill and support the amendment of my Honourable friend, Mr. S. C. Mitra.

Mr. S. G. Jog (Berar Representative): Sir, I am glad to find that our old and esteemed friend, Raja Bahadur Krishnamachariar, has come to the House after his last serious illness. I used to see him on this side of the House very near me and often times I had to follow him in his remarks. Today I find that he has changed sides and has gone to the other end and I do not know whether it is the right end or the wrong end. I had thought that probably the change of seat would bring about a change in his angle of vision also. I am glad to find that the old experienced man is the same as while he was sitting here.

An Honourable Member: Why is he sitting there?

Mr. S. G. Jog: Whether he is on these Benches or on those Benches, it matters very little. He carries his own views with him and seats make no change on him. A man of ripe experience, and a keen observer, as remarked by my Honourable friend, Mr. Amar Nath Dutt, has thought of entering public life; he first entered the legal profession and, in his retiring days has come back to public service by entering the Legislature. He has got wide experience, both practical and judicial, and he has in strong and unmistakable terms said that the language of the clause is so vague that it is impossible to work it. My Honourable friend, Mr. Jadhav, also has condemned this clause as unworkable in practice. In this emergency legislation, I find vagueness of language, confusion of ideas, false notions of putting restraint and restrictions on liberty, and creating false alarm of imaginary grievances, these are the dominant features of this

[Mr. S. G. Jog.]

emergency legislation. The Government Benches probably think that in such an emergency Bill, accuracy of language, accuracy of thought and other propriety need not at all be considered. As it is an emergency measure, even the common meanings of these words also are brushed aside and the Government put in words they like, howsoever vague in meaning they may be. Emergency legislation is not prepared to obey or respect even these ordinary restrictions of language, etc. The wrong which the Government seek to remedy probably will, in the end, prove that the remedy is more dangerous than the wrong itself. (Hear, hear.) The real difficulty is that those who sit in this House, I mean the occupants of the Treasury Benches—most of them, I am sorry to say, are not concerned or connected with the realities of life in the mufassil . . .

An Honourable Member: Question.

Mr. S. G. Jog: They all sit here in this Imperial City making laws and, at the time of making laws, they do not bestow any attention as to how far these laws will be workable in the villages and other places. They do not correctly judge and gauge what sorts of factions there are in these villages and what sort of so-called public servants there are in these villages? What is their calibre? What is their education? From an I.C.S. of 30 years' standing down to the latest recruit of a *chowkidar* are included in this definition of public servants. What is their education and what is the status of these small officials? They have always got their own grievances. At times they want to take vengeance against other people in the same locality and it is very likely that in many cases, instead of doing good to the people, they will take advantage of measures like the present legislation to wreak vengeance against their own village folk. Probably this aspect of the case has not been brought to the forefront. Government have got only one idea, that is to put down the civil disobedience movement and they think that all possible safeguards must be given to the officers employed by Government, whatever may be the consequences. Government have not bestowed any thought as to how far the provisions of this clause are workable in actual practice and what will be the effects of such a clause.

The theory of legislation is that when we frame laws, we must see that they are properly administered. If the language of a clause is so vague, that while administering the law, it is very difficult to construe the language, then, in many cases, it will lead to injustice and more than injustice. This is one aspect of the case. The clause, as it is, is defective, and it has not made any provision for possible contingencies.

When this clause was under discussion in the Select Committee, I pointed out that there was no provision in the clause to safeguard the interests of the several members of the so-called trade unions which are being established all over India. When the matter was under discussion, I pointedly brought to the attention of the Honourable the Home Member, as well as the Law Member, and a sort of assurance was given that whatever may be the language of the clause, it does not cover the cases I referred to. I mean the members of the trade unions have every right to form associations and they have every right to place their grievances before the highest official and they have every right to call a member of

the union to go on strike and they have every right to ask him that, on a particular day, he should go on strike and thus fail to do his duty to the railway department or whatever the department be in which he is employed and to which the union might belong. It is perfectly legitimate that that right should be given to these unions. But the clause, as it stands, is capable of being misunderstood as to whether these unions come under the provisions of the clause. A layman will be perfectly justified in having such a sort of misunderstanding. You know, Sir, that my esteemed Leader, Sir Hari Singh Gour, whose knowledge of law is unquestionable, not only on the floor of the House, but also throughout the world, has also expressed the view that the clause is defective in that it has not made any provision for these strikes on the part of members of trade unions. It is because of this view that I am rising today and insisting upon Government that in case the clause is decided to be retained in the Bill, there should be a provision like the one I have suggested, so that there should be no misunderstanding. I should like to draw the attention of the House to the fact that such a provision does exist in other similar Acts, such as section 4 of the Police (Incitement to Disaffection) Act, Act XXII of 1922. In that Act, which is more drastic and which, according to the Government idea, is more dangerous and harmful, even there the provision exists, "saving of acts done by police associations and other persons for certain purposes". Section 4 of that Act reads:

"Nothing shall be deemed to be an offence under this Act which is done in good faith:

- (a) for the purpose of promoting the welfare or interests of any member of a police force by inducing him to withhold his services in any manner authorised by law; or
- (b) by or on behalf of any association formed for the purpose of furthering the interests of members of a police force as such, where the association has been authorised or recognised by the Government and the act done is done under any rules or articles of the association which have been approved by the Government."

This is the provision which has been incorporated even in the Act which is styled the Police (Incitement to Disaffection) Act.

As it appears from the newspapers, we are now faced with a general strike on the railways, and I think some such explanation is necessary for the clause either by way of explanation or in any other way that the Government draftsmen may wish to incorporate in this law. I think if the clause is allowed to stand as it is, it will probably lead to more abuse than use and I still stick to my opinion that the clause be better deleted. I support the amendment of my Honourable friend, Mr. Mitra.

Sardar Sant Singh (West Punjab: Sikh): Sir, yesterday the Honourable the Home Member, when advocating the retention of clause 2 in the Bill, said that in order to maintain the prestige of the services this provision was necessary. Here is another clause which does not deal with prospective public servants, but the public servants who are actually enjoying the confidence of Government. The introduction of this clause goes to prove that the administration has come to such a state that Government cannot repose any confidence even in their own public servants. If the prestige of public servants is to be kept high, it is but fair to them that this clause should be deleted. After all, if a public servant cannot be trusted to do his duty, simply because other persons come forward and induce him or attempt to induce him not to do his duty, then public

[Sardar Sant Singh.]

services do not carry that credit which Government say they ought to carry in the eyes of the people. They are not punishing any overt act of obstruction or deterring them from doing their duty; they are punishing mere inducement not to do their duty. A public servant is not worth his salt and should not be kept in his job for one minute if he cannot be trusted to look after his own self and see where his interest lies, whether he should be loyal to his service or otherwise. Such a provision in the Bill shows the weakness of the Government and not the strength of the administration.

Then, with regard to the policy underlying this clause, it is too general and too vague for administration by any Court of law. First of all, I will take the Explanation which defines a public servant. We know that section 21 of the Indian Penal Code defines what public servants are. There are 11 clauses to that section and 3 Explanations. It is made as comprehensive as legal ingenuity could make it. Besides those 11 clauses and 3 Explanations, we find a general clause which brings in every sort of individual who holds any responsible office under the Crown. We know also that besides this definition embodied in section 21 of the Indian Penal Code, there are certain other local Acts in which their servants are given the status of public servants. Even this definition at the time was objected to. We find the following in Sir Hari Singh Gour's "Penal Law of India", paragraph 162:

"The too comprehensive nature of the description of 'public servant' was objected to at the time of the draft, but the Indian Law Commissioners defended it, adding: 'Supposing the several descriptions he (*Mr Norton*) specifies to be as comprehensive as he takes them to be, yet it does not appear to us that they are faulty in this respect, with reference to the provisions in the two Chapters relating to public servants in the application of which recourse will be had to them. We think they will be found sufficiently distinct and definite for the purpose they are to serve. We have no apprehension that there will be any difficulty in determining who are positively excluded as not falling under any of the descriptions in clause 14.'"

So even at that time this definition of "public servant" was objected to. Today we find that not only is section 21 followed, but in the Explanation it is said:

"For the purposes of this section, a public servant denotes a public servant as defined in section 21 of the Indian Penal Code, a servant of a local authority or railway administration, a village chowkidar, and an employee of a public utility service as defined in section 2 of the Trade Disputes Act, 1929."

Now, in the report of the Select Committee on this clause it is said:

"In re-drafting the Explanation we have aimed at achieving definiteness by an exhaustive enumeration of the persons to be deemed public servants for the purposes of the clause."

I put it to Honourable Members whether there is any definiteness in this definition. The whole crowd of public servants is included. The village chowkidar, probably a railway pointsman or anybody who has anything to do with the services is included in this definition. Why add the word "public"? Say "a servant of the Crown in any capacity whatsoever is included within this definition". In that case one difficulty felt by the Magistrates will be removed and they would not be required to go into details as to what is the difference between a public servant and an ordinary servant employed in any department of the State. There is no definiteness there. We find that in interpreting section 21 of the Indian Penal Code, even

the High Courts have found it difficult in some cases to find what a public servant is. It depends on whether their duties fall within the categories mentioned in section 21, but here the public are asked to respect or to keep themselves away from the touch of a man who may call himself a public servant. It is not for an ordinary man to tell whether a particular individual within the service of the State is a public servant or not, when it is very difficult even for lawyers to decide it. Hence my submission is that in this definition attempt has been made to rope in all the servants of the State and the question will be, whether this will be found workable in actual practice.

Another point is that the punishment is directed against inducing a public servant to fail in his duty. The analogous sections in the Penal Code are section 353, and its aggravated forms, sections 332 and 333, etc. Therein certain acts of assault on public servants are made punishable, but what are the qualifications laid down in those sections? You will be pleased to find that the framers of the Code were very careful in qualifying the duties.

The section reads :

"Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done by such person in the lawful discharge of his duty as such public servant, etc. etc."

So many qualifications have been laid down and, even with all these qualifications, we find a good deal of conflict of authority in the various High Courts whether a particular duty in execution of which the public servant was assaulted was the lawful discharge of his duty or whether it fell within the purview of duty or not. Some High Courts have held that a particular act of the public servant falls within his duties, and other High Courts have held that it does not. Then the question of good faith and acting under the colour of office formed the subject of many authorities. But here we are faced with a bald section and the clause reads :

"induces or attempts to induce any public servant to fail in his duty as such servant."

There is a significant omission of the word "public" after "as such". May I ask, who is going to define the "duty" of such public servant? The term is beautifully vague. When penal enactments are couched in vague language, the Magistrates find it difficult to interpret them. In such cases what happens in the original Courts is that, instead of liberally interpreting the section in favour of the accused, the Magistrates generally say "let him be convicted, and we will have a ruling of the High Court on this point." The poor man has to suffer so that the public service may get an authority from the High Court as to what the meaning of a particular phrase is. Here everything is left undefined and vague.

Under the circumstances, my submission is that to be a party to such a law would be an act which will be inexcusable for any Member of this House. Lastly what I want to say is that such an enactment does not restore the confidence of the public in the administration. I tried my level best yesterday to emphasise this aspect of the case, that the administration

[Sardar Sant Singh.]

stood more in need of winning the confidence of the public than of losing it. Already the administration has lost a good deal of confidence. If you want to run this machinery of Government very smoothly, you ought to run it with some broadmindedness, with more statesmanship and not with the narrowmindedness of punishing anybody who wants to stand in the way of a public servant. Practically you are giving a blank cheque to the public service to commit acts of highhandedness to which you cannot call attention either in the press or on the platform. Why are you playing into the hands of the civil disobedience people? Practically you are dancing to their tune. The Government are dancing to the tune of those who are engaged in the civil disobedience movement. Therefore, I will appeal to them to be reasonable, to be statesmen, to be broadminded before they enact such a law as this. I support the amendment.

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): Sir, I support the amendment. My objection to this clause is that you cannot define what duty is. Secondly, if it is properly and strictly operated on, it would lead to absurdities. Nobody would be safe in this House if this clause is enacted into law, if I may say so. We commit offences against this clause every day of our life. Take the case of a servant of a local authority or a village *chowkidar*: local authority means a municipality. Under the municipal law, rates and taxes are payable on a particular day; no demand is necessary. A man comes to collect the taxes and we always say, come on such and such a day—there may be special days when we pay our taxes. But if we ask him to go away and come again, are we dissuading that man from performing his duties? He is not bound to come again. In that case, we should be liable to conviction under this clause. Moreover, this may be a trivial deviation in the particular case which I have stated. But, all the same, that will bring me within the purview of this clause. It makes no difference here between trivial failure of duty or gross failure of duty. By the addition of the Explanation you are enlarging the number of persons who are to be considered as public servants. The Bill has made the provisions of this clause cruel and incapable of execution without causing great hardship in certain cases. I was trying to find out the genesis of this clause and I found that this clause originated at the time of the war in the rules provided under the Defence of India Act. There, although it was a very great trouble at that time, the Government absolutely wanted to be secure that public utility companies and railways should be protected and that they should work properly; still the rules limited the operation only to public servants or rather the servants of His Majesty. I shall read that clause:

“No person shall induce or attempt to induce any person in the service of His Majesty to disregard or fail in his duty as such servant.”

Since then we had the non-co-operation movement in 1920; that was a time when a similar clause ought to have been put in the Statute-book, but nothing was done. The non-co-operation movement passed off without any such clause and, I ask now, what is the necessity of such a clause and such a comprehensive definition of public servant. I would ask the Honourable the Home Member to consider this matter and to delete from the operation of this clause, if he wants to retain this clause, such of the public servants mentioned above, namely, the servants of the local

authority or village *chowkidars*. Moreover, as I said before, it is impossible for any Court to define exactly what the duties are, where the failure comes in and whether it is possible for any person to know exactly the details of the duty. It is a penal Statute that you are making and, if you leave anything vague, it would be disastrous. With these words, I support the motion.

Major Nawab Ahmad Nawaz Khan: I oppose this motion as I think that clause 3 is the most important and necessary clause of this Bill. If we are to succeed in keeping down the civil disobedience movement, we must retain this clause. Without this clause, the Bill will be very ineffective.

Some Honourable Members said that these cases are imaginary ones, and that there have been no cases at all. It is all wrong. In Peshawar, the Red Shirts set up a parallel Government disobeying the orders of the Civil Courts, the Criminal Courts and the Revenue Courts. The Hindus went to these Courts with decrees and they were stopped. Policemen were stopped from performing their duties, railway people were dissuaded from discharging their duties, and, consequently, the Government were compelled to call for the aid of the Military. The authorities were forced to employ the Military, and, in some cases, the Military were compelled to open fire under the orders of the Magistrates when there was very much trouble and turmoil. If Honourable Members do not believe what I say, I would request them to read the statements issued from time to time by the Government in that Province and also the newspapers of those days. Unfortunately, the Chief Commissioner of the Province is not present here, otherwise he would have confirmed all that I say. There is one gentleman from that Province here, I mean the Marshal who sits behind the Chair, and he knows all these things.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Bring him into the witness box.

Sir Abdulla-al-Mámtin Suhrawardy (Burdwan and Presidency Divisions: Muhammadan Rural): Present him with a mace.

Major Nawab Ahmad Nawaz Khan: Sir, this gentleman has been rendering a lot of good service to the people in my Province, because people have been very much misled by the Congress propaganda. In so doing, these propagandists had not the political aims or objects in view, but they wanted to create trouble by misleading the people, because the Congress gives money to these people. They are all paid. Sir, on one or two occasions, when some of these Congress workers had a plain talk with some of the high officials, they plainly said: "Sir, those who are paid by the Government are the servants of Government, and they discharge whatever duties the Government ask them to do; but we are paid by the Congress and we will do whatever we are asked to do by the Congress as long as the money comes from the Congress. We are all poor and we must take some sort of service. Give us money and we will give up that propaganda." But as we all know, Sir, it is impossible for the Government to keep every soul happy and contented, nor can they offer service to every man in India . . .

Sardar Sant Singh: May I rise to a point of order, Sir? May I know the relevancy of my friend's arguments?

Major Nawab Ahmad Nawaz Khan: Yes, you wanted to know how many cases there were, and I am trying to give you the number of cases.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member is quite in order.

Major Nawab Ahmad Nawaz Khan: You put a certain question, and when a proper answer is given to your question, you say it is irrelevant. (Applause from the Official Benches.) Sir, this measure is not intended to apply to gentlemen. It is not directed against the peaceful public. (Laughter.) This measure, as has been clearly explained by the Honourable the Law Member and also by the Honourable the Home Member, is directed against mischief-makers to stop them from making mischief. Those Members who favour mischief-makers will naturally support them by opposing this measure, but those who really want a peaceful life in this country, why should they be afraid of this clause? This is another wrong logic which is sometimes used by my friends here. They say that if a man does not do his duty properly, he will go before a Magistrate and say that such and such gentleman stopped him from doing his duty and the Magistrate would be so rude that he would at once issue a warrant and send the gentleman to jail. Do the Honourable Members really believe that Magistrates as a class are not wiser than those who adorn the Opposite Benches? (Laughter.) Do Honourable Members believe that they are the only people in the world who are gifted with honest motives, that they are the only wisest men, the most prudent men on the face of this earth? If the Magistrates are dishonest, as they have been represented to be, then some of these Members must also be dishonest, because they are their own brethren. They hail from the same class or stock. Sir, I may tell you that the Magistrates know the people in their own Districts very well.

Sir Muhammad Yakub: Question.

Major Nawab Ahmad Nawaz Khan: The Magistrates know who are good and who are bad people in their own Districts, just as your noble self knows very well all Honourable Members and their mentality. (Laughter.) No policeman or no police report can mislead you. The Magistrates know very well when policemen come and tell them that they have been stopped from doing their duty. Magistrates generally know who are the propagandists, and they know who really are the mischief-makers.

Another thing is this. In every District the number of pleaders is very large. They are in such great abundance, and they are prepared for every petty case to go to, and plead in, a Court. In my part of the country—I do not know much about other provinces,—but in my part of the country a pleader takes a case even for one rupee (Laughter), and the duty of that pleader is to advise his client and to tell him how to tell lies. (Loud Laughter.) Is it possible, Sir, that in the presence of these pleaders the Magistrates can do any injustice, because, if the Magistrate is dishonest, the pleader will be doubly dishonest. (Laughter.) He at once tells the Magistrate: "Sir, this man is my enemy, there are party feelings and there are so many cliques." Therefore, as long as we have such nice pleaders in this country, it is quite impossible that this clause

will be abused in any way by the Magistrates or by the police. One of the Honourable Members once said,—I do not remember who it was,—that it was the duty of the Opposition to oppose the Government, whether they are right or wrong. Well, if that mentality prevails, God should help this House. (Laughter.)

Sardar Sant Singh: We agree here at least on this point.

Major Nawab Ahmad Nawaz Khan: If we have come here with an open mind to do everything to restrict the activities of mischief-makers, then we have nothing to be afraid of. But if we have come here with an eye to securing future votes from our constituencies and to please the public that we have done so much in the House, so that we may be elected again, then these tactics will be all right; but we should have also another idea in mind, and that is really to protect the country and the peaceful people. We here have assembled really to govern the country and to acquire the art of Government, and not to oppose any and every measure that is brought forward by Government

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Will the Honourable Member now come to the specific provisions of clause 3?

Major Nawab Ahmad Nawaz Khan: Sir, I am trying to repudiate those objections which have been raised against this clause 3. I do not wish to detain the House for very long, because I know no amount of arguments will convince the Opposition; it is the vote that convinces them. (Laughter.) Therefore, Sir, I oppose the amendment and support that clause 3 should remain as part of this Bill. (Applause from the Official Benches.)

The Honourable Mr. H. G. Haig (Home Member): Sir, we have listened to a great number of speeches from the opposite Benches, and I was struck by one common factor which I seemed to detect in them and that was a conspiracy of silence in regard to the conditions and circumstances which have made this clause necessary,—a silence which was broken only by my Honourable friend, Mr. Jadhav. It was started by Mr. Mitra who, with an air of engaging innocence, asked me to prove that there ever had been any interference with public servants. Well, Sir, even in a Court of law I think there are certain matters of common knowledge which it is considered unnecessary to prove, and I should have supposed that in this House it was unnecessary to prove a matter which every single Member of the House must know very well, and that is, that the object of the Congress in the civil disobedience movement has been to paralyse the Government, that one of the most obvious methods of attack on the Government has been to interfere with the loyalty and the good behaviour of public servants, and that in fact at various times there have been intensive efforts to induce public servants to fail in their duty. My Honourable friend, Mr. Jadhav, who hails from Bombay, gave the obvious instance, with which all Honourable Members must be well acquainted, of what happened in Guzerat in 1930 when in fact a very large number of public servants, particularly village officers, were induced to fail in their duty. Now, Sir, that is a condition which Government obviously cannot accept. My Honourable friend, Mr. Jadhav, says that at the present moment the efforts of the Congress are not directed to that particular object. He suggests that those who were inclined to fail in their duty in the past have now learnt their lesson and they are not likely

[Mr. H. G. Haig.]

to do so again. Sir, that assurance is not sufficient. Why have the Congress desisted from their efforts? Why have those public servants whose loyalty had been affected, now changed their minds? Very largely because of the existence of these powers. It is necessary for the Government to safeguard their position. If this clause were not enacted, there would be nothing to prevent the Congress starting up again, at any moment, this insidious and dangerous attack on the loyalty of public servants.

Mr. B. V. Jadhav: But they know by bitter experience the effect of this very pernicious propaganda.

The Honourable Mr. H. G. Haig: I am very glad to hear that that is so in Guzerat, but it is a question of atmosphere and propaganda, and if propaganda is allowed to continue unchecked, the atmosphere changes. Now, Sir, we have had an attack on the Government from a novel direction and on somewhat novel lines from my Honourable friend, Raja Bahadur Krishnamachariar. He has signalled the transfer of his seat by a display of fireworks which, I am sure, was much appreciated by the House. (An Honourable Member: "Send him back here.") As he was speaking, it occurred to me that the Raja Bahadur came from a very tranquil province and that in fact he has not been attending the debates on this Bill. Consequently he appeared to be ignorant of the fact that the civil disobedience movement was in progress; at any rate, he made not the smallest reference to it in the course of his long and ingenious arguments. He seemed to suppose that this clause was intended to give a certain protection to public servants, to strengthen their position, to make them better able to practise oppression on the people or demand illegal gratifications. If I may venture to say so, he had failed to observe that the principle of the clause is to protect Government rather than the public servant. It is the Government which cannot permit these inducements to be offered to their servants. Actually a great part of the argument that the Raja Bahadur directed against this clause could, I think, equally have been directed against the existing provisions of the law, as for instance, section 186 of the Indian Penal Code, which says: "Whoever voluntarily obstructs a public servant in the discharge of his duties . . ." Those were the kind of cases really which he seemed to have in mind and not those which the Government have in mind in proposing this clause, namely, an organised campaign to induce public servants to abandon their duties. Another matter may have escaped the notice of the Raja Bahadur in the remote tranquillity of Madras, and that is, that these powers have been in existence for nearly a year. It would have been more effective if, instead of giving us half a dozen highly interesting but purely imaginative instances of what might happen if we passed this clause, he had given us one single instance of an actual occurrence.

The debate on this particular amendment has ranged over a very wide field. It has covered by anticipation a great many of the specific amendments that are down on the paper, but I think it would be more convenient if we deal with questions of whether labour is in any way handicapped by this clause and various other points of that kind when the specific amendments are reached. I, therefore, do not propose to go into all those points now, but I would merely state that on general grounds I oppose this amendment. (Cheers.)

1 P.M.

Mr. President: The question is that clause 3 of the Bill be omitted.

The Assembly divided:

AYES—33.

Abdul Matin Chaudhury, Mr.
 Abdur Rahim, Sir.
 Bagla, Lala Rameshwar Prasad.
 Chandi Mal Gola, Bhagat.
 Dutt, Mr. Amar Nath.
 Gour, Sir Hari Singh.
 Iera, Chaudhri.
 Jadhav, Mr. B. V.
 Jha, Pandit Ram Krishna.
 Jog, Mr. S. G.
 Krishnamachariar, Raja Bahadur G.
 Lahiri Chaudhury, Mr. D. K.
 Lalchand Navalrai, Mr.
 Maswood Ahmad, Mr. M.
 Misra, Mr. B. N.
 Mitra, Mr. S. C.
 Murtuza Saheb Bahadur, Maulvi
 Sayyid.

Pandian, Mr. B. Rajaram.
 Parma Nand, Bhai.
 Phookun, Mr. T. R.
 Puri, Mr. Goswami M. R.
 Ranga Iyer, Mr. C. S.
 Reddi, Mr. P. G.
 Reddi, Mr. T. N. Ramakrishna.
 Sant Singh, Sardar.
 Sarda, Diwan Bahadur Harbilas.
 Sen, Mr. S. C.
 Sen, Pandit Satyendra Nath.
 Singh, Mr. Gaya Prasad.
 Sitaramaraju, Mr. B.
 Thampan, Mr. K. P.
 Uppi Saheb Bahadur, Mr.
 Ziauddin Ahmad, Dr.

NOES—61.

Abdul Hye, Khan Bahadur Abul
 Hasnat Muhammad.
 Acott, Mr. A. S. V.
 Ahmad Nawaz Khan, Major Nawab.
 Allah Baksh Khan Tiwana, Khan
 Bahadur Malik.
 Amir Hussain, Khan Bahadur Saiyid.
 Anklesaria, Mr. N. N.
 Anwar-ul-Azim, Mr. Muhammad.
 Bajpai, Mr. G. S.
 Bhowe, The Honourable Sir Joseph.
 Bower, Mr. E. H. M.
 Dalal, Dr. R. D.
 DeSouza, Dr. F. X.
 Dudhoria, Mr. Nabakumar Sing.
 Dunn, Mr. C. W.
 Dutt, Mr. G. S.
 Fazal Haq Piracha, Shaikh.
 Fox, Mr. H. B.
 Graffan, Sir Lancelot.
 Greenfield, Mr. H. C.
 Gwynne, Mr. C. W.
 Haig, The Honourable Mr. H. G.
 Hezlett, Mr. J.
 Hossack, Mr. W. B.
 Hudson, Sir Leslie.
 Ishwaraingji, Nawab Naharsingji.
 Ismail Ali Khan, Kunwar Hajee.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur
 Sardar.
 Lal Chand, Hony. Captain Rao
 Bahadur Chaudhri.
 Mackenzie, Mr. R. T. H.
 Marquee, Mr. P.

Meek, Dr. D. B.
 Metcalfe, Mr. H. A. F.
 Mitter, The Honourable Sir
 Brojendra.
 Moore, Mr. Arthur.
 Morgan, Mr. G.
 Mukherjee, Rai Bahadur S. C.
 Nayudu, Rao Bahadur B. V. Sri Hari
 Rao.
 Nihal Singh, Sardar.
 Noyce, The Honourable Sir Frank.
 Pandit, Rao Bahadur S. R.
 Parsons, Sir Alan.
 Rafiuddin Ahmad, Khan Bahadur
 Maulvi.
 Raghubir Singh, Kunwar.
 Rajah, Rao Bahadur M. C.
 Rastogi, Mr. Badri Lal.
 Rau, Mr. P. R.
 Ryan, Mr. T.
 Sarma, Mr. R. S.
 Schuster, The Honourable Sir
 George.
 Scott, Mr. J. Ramsay.
 Sher Muhammad Khan Gakhar,
 Captain.
 Singh, Kumar Gupteshwar Prasad.
 Singh, Mr. Pradyumna Prashed.
 Smith, Mr. R.
 Sorley, Mr. H. T.
 Suhrwardy, Sir Abdulla-al-Mamun.
 Tottenham, Mr. G. R. F.
 Yakub, Sir Muhammad.
 Yamin, Khan, Mr. Muhammad.
 Zulfiqar Ali Khan, Sir.

The motion was negatived.

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

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

COMMITTEE ON PETITIONS.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Order, order. Under Standing Order 80(1) of the Legislative Assembly Standing Orders, I have to appoint a Committee on Petitions. I have, therefore, to announce that the following Honourable Members will form the Committee:

Mr. G. Morgan,
Mr. C. S. Ranga Iyer,
Sir Abdulla Suhrawardy, and
Mr. B. Sitaramaraju.

According to the provisions of the Standing Orders, the Deputy President, Mr. R. K. Shanmukham Chetty, will be the Chairman of the Committee.

THE CRIMINAL LAW AMENDMENT BILL—*contd.*

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

"That in clause 3 of the Bill, the words 'or attempts to induce' be omitted."

Sir, the House has not accepted the previous motion for deletion of the whole clause, but yet I hope that the Government might see their way to accept some of our minor suggestions and, with that hope, I move this amendment. Sir, speaker after speaker has made it clear that under this beautifully vague phraseology about the failure of duty of these thousands of public servants, the consequences of making people responsible, even where they merely attempt without any success, and of bringing them under the ambit of this clause will be very serious. Where an inducement succeeds, one can attempt to make a defence against it, but in the case where the allegation is that there was an attempt, I think it will be almost next to impossible for the accused to prove that he has not even "attempted". Where there is a failure of duty on any body's part, as has been pointed out by different speakers, the failure itself being a patent fact may be proved, but any "attempt" even at a failure of duty, by a public servant in the discharge of his duty, is very vague. So these are the grounds on which I think that the words "or attempts to induce" should be omitted.

Sir, as I was coming to the House, a friend was asking me what was the special significance of pressing these amendments before the House when there was hardly any chance of their being accepted either by the Government or by the House. But being in the Opposition, I think it is our constitutional duty to press our views before the House and to put it on public record as to how we wanted to improve the Bill and what apprehensions were in our mind and what abuses we were contemplating, because a time will come to prove the justification of our apprehensions. Theoretically speaking, I think in all countries there are well-defined parties—as for instance, in the British Parliament or in the American

Senate, where one of the Parties at the General Election has got a decided majority, as happens to be the case in England, the Labour Party having only 60 or 65 votes would have ceased to function from the day of the General Election, or, as it has happened very recently in America, the Democrats have come, and they have a majority in both Houses. Now, according to my friend's view of things, the Republicans should cease to function. The Labour Party in England makes itself felt and the Republicans in America will not cease to express their views. I think, therefore, it is our duty to press before the House all reasonable amendments that we think should be accepted. Sir, it has been said more than once from this side that the nominated Members were merely voting at the dictation of the Government, but I think they can at any rate take the credit to themselves that they are always present in large numbers, while in a House of 100 elected Members—even leaving out the 10 or 11 European Members, we have about 90 elected Members—there should be every chance of public opinion having the strength to carry all these amendments as the country demands. But, unfortunately, I find that though the Congress in its wisdom has ceased to co-operate with the Government, yet many of the gentlemen who thus have got themselves elected fail to discharge their duties by putting in their attendance while many of them are actually present in the city. It cannot be said against the few who are here that notwithstanding heavy odds they, from their sense of duty, did not try to do their best to improve such a drastic and obnoxious pieces of legislation. Sir, with these words. I move my amendment.

Mr. Lalchand Navalrai (Sind: Non-Muhammadian Rural): Sir, I support this amendment. I was really surprised to hear the Honourable the Home Member a while ago saying for the first time that what this clause aims at is the prevention of an organised campaign in the direction of inducing public servants to fail in their duty. I do take that that is the real gist which he has given us now and I accept the assurance, but may I ask, whether the fact that it will apply only to organised campaigns in the direction of tampering with public servants has been clearly brought out in the clause itself. The clause, as it stands, reads:

"Whoever induces or attempts to induce any public servant to . . . fail in his duty as such servant."

• • •
It is because the clause is so vague, so indefinite and can be interpreted in any manner especially as it has to be interpreted in the first instance by a police officer before it goes to a Magistrate, that we move such amendments to make its meaning quite clear. Sir, I do not wish in the least to throw any discredit upon the magistracy, but I will certainly not raise them to that sky to which the Honourable Member opposite . . .

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Surely the Honourable Member is not replying to the previous debate. The only amendment that is now before the House is that the words "or attempts to induce" be omitted.

Mr. Lalchand Navalrai: I do think, Sir, that I am within my rights to say that this clause will be interpreted in a particular manner by a police officer or a Magistrate and that, therefore, all care should be taken and an amendment as this should be accepted. What I am submitting is this that various interpretations have to be put on

[Mr. Lalchand Navalrai.]

this clause. Therefore, we should not leave it as wide as it is. It must be curtailed and the amendment moved by my Honourable friend is a very sensible one and I support it. Just as the Honourable Member said that the object of this clause is a particular one, may I not say that the Honourable Member himself, as well as the Law Member, fully know what are the stages leading to an attempt. As this clause does not define "attempt", there are difficulties which will be experienced by the police officer who sends the accused before the Magistrate. Now, there are several moves according to law in an "attempt". There is, first of all, an intention to commit an offence: then the preparation to commit an offence: and there after is the penultimate act, and in many cases it is only then that an attempt is complete. May I ask the Honourable the Home Member, whether it is not likely that this word "attempt" may be taken to apply to a mere preparation or it may be taken to apply to a mere statement or a word or an advice? Suppose a man has got only an intention to induce, that that will certainly not be an offence, but if he makes preparation, so far as to tell a public servant not to go to his office on a particular day for two hours, it may be turned into an attempt which it should not be. Therefore, I submit, that unless and until an attempt is defined and it shows to what circumstances it will apply, I am afraid, it is very indefinite and should be excluded from this clause. With these words, I support the amendment.

Mr. B. V. Jadhav: Sir, I rise to support this amendment. The clause, as it stands, has two parts—*whoever induces* any public servant to fail in his duty or *whoever attempts to induce* any public servant to fail in his duty. I have now nothing to say about the first portion of this clause and I shall confine my remarks to the second item only. I think Government are taking too much power in their hands now to stop any political propaganda. When a public servant is induced to give up the service or to fail in his duty, to that extent Government administration is disorganised. But this disorganisation takes place only when the attempt succeeds. If the attempt is abortive and the Government servant does not give up the service, then Government are not at all prejudiced. I do not see any reason why such an attempt should be made penal.

This act has been made penal on account of the extraordinary circumstances brought about by the present tension. The framers of the Indian Penal Code did not contemplate this action as an offence. This is a new offence and, therefore, there is no necessity for providing a punishment for the attempt. That there will be a great abuse of this clause, is the fear on this side of the House. Sir, when a person is charged with an attempt to induce a public servant to fail in his duty, the principal witness will be the public servant himself and his mere assertion that an attempt was made by the accused to induce him will be the only material evidence that a Court will be presented with, when the Court will have to decide whether the attempt was made or not. If the attempt is made in a public meeting and if the public servant is there in the audience, it is perhaps possible to bring further evidence to prove that the attempt was made in a lecture or a harangue or a speech. But if the public servant comes forward and accuses his adversary or a person with whom he is not on good terms, that the particular individual attempted to induce him to deviate from his duty, there will be no

other evidence and, in this way, the Magistrate will be placed in a very delicate position as to whether to believe A or B, the complainant or the accused, and as the complainant in that case will be a public servant, perhaps his words may carry more weight and a poor man may be convicted. As I have pointed out, Government are not at all prejudiced when the attempt is not successful and, therefore, Government need not take the precaution of even nipping in the bud any such attempt. If the attempt is an organised one, and if it threatens Government service, then, of course, Government will be right to take powers and to take measures to suppress that movement. But when, as a matter of fact, the attempt is so very weak that it is not likely to succeed and it does not succeed, I think it is not justifiable on the part of the Government to ask for such extraordinary powers. I, therefore, urge that Government in their wisdom will see their way to accept this amendment.

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): Sir, I rise to support the amendment moved by my friend, Mr. Mitra, for the very simple reason that this particular phrase in this clause will cause so much trouble and ambiguity that it will become very oppressive to the people. We know, Sir, how the law is interpreted by the lawyers and we also know how the Courts of justice deliver their judgments and we also know how the executive use their powers and, therefore, it is necessary that this phrase "or attempts to induce" should be omitted from clause 3. As has been very rightly explained by my Honourable friend, Mr. Jadhav, it will give rise to many complications. Under these circumstances, although the Government are in the absolute majority, they will come to an agreement with us which will be very reasonable and justified.

Sir, the phrase is a very vague one and I will place before the House a concrete case. Sir, during the last few years I have been in close touch with the Railway Mail Service Postal Union. I do not know whether luckily or unluckily I have been elected President of the Bengal Provincial Postal Union. Take, for instance, the strong rumour that the ten per cent. cut will not be restored in the case of subordinate services and that it will be restored only in the case of superior services. If, in a public meeting of postal subordinates, supposing I advise them: "It is the duty of every postal employee to resist this discrimination. You must exert your utmost and combine together and see that equality of treatment is meted out both to the subordinate services as well as to the superior services. You should not abide by the orders of the executive. You must stand on your own legs". Supposing I give such advice, then I will be liable for prosecution in a Court of law. So, this expression "attempts to induce" is liable to be applied in the case that I have just cited. It can bring any sort of people under its clutches, even people, who may be speaking in good faith, will come under this clause and will be penalised. Under these circumstances, I request the Honourable the Home Member, though he is in absolute majority so far as the votes of the House are concerned, I request him to support the amendment.

The Honourable Sir Brojendra Mitter (Law Member): Sir, I oppose the amendment. It is an unreasonable amendment and I shall show presently that it ignores an elementary principle of criminal jurisprudence. I should have preferred not to discuss elementary principles of Criminal Law in this House and I do wish that my Honourable and learned friend,

[Sir Brojendra Mitter.]

Sir Hari Singh Gour, would restrain his followers from raising futile points.

Sir, it has been said: "Oh! this word 'attempt' is too vague, it may include preparation and it would place the accused in a position of such difficulty that he will not be able to discharge the onus." Various legal points have been raised. Sir, I shall soon show the futility of each of those points. In the criminal jurisprudence both of England and of this country, "attempt to commit an offence" is a recognised ground of legal liability. That principle has been embodied in the Indian Penal Code, section 511.

Mr. Lalchand Navalrai: It applies to the Penal Code alone.

The Honourable Sir Brojendra Mitter: That principle has been accepted in the ordinary penal laws of this country. Section 511 runs thus:

"Whoever attempts to commit an offence punishable by this Code,....."

—then the punishment is mentioned:—

"shall, where no express provision is made in this Code for the punishment of such attempt, be punished with transportation, etc."

It shows this, that the principle that an attempt to commit an offence is a ground of legal liability is a recognised principle in the ordinary law of the land. With regard to preparation and other things, I desire, first of all, to draw the attention of the House to another elementary principle that there are ordinarily three degrees in the commission of crime. The first is known as incitement, the second is known as conspiracy, and the third is attempt. These are the three degrees in the commission of a crime. With regard to attempt, Sir James Fitz-James Stephen in his famous book on Criminal Law says this:

"An attempt to commit a crime is an act done with intent to commit that crime, and forming part of a series of acts, which would constitute its actual commission if it were not interrupted. The point at which such a series of acts begins cannot be defined; but depends upon the circumstances of each particular case. An act done with intent to commit a crime, the commission of which in the manner proposed was, in fact, impossible, is an attempt to commit that crime. The offence of attempting to commit a crime may be committed in cases in which the offender voluntarily desists from the actual commission of the crime itself."

Then, Sir, with regard to preparation, my learned friend, Mr. Lalchand Navalrai, says that the word "attempt" as used in this clause may include "preparation". I will now draw the attention of the Honourable and learned Member to a passage in the book which I cited yesterday, that is, Salmond's Jurisprudence, which is neither Simon nor the savoury fish, salmon. (Laughter.) At page 402, Salmond says this:

"To intend to commit a crime is one thing; to get ready to commit it is another; to try to commit it is a third. We may indeed say that every intentional crime involves four distinct stages, intention, preparation, attempt and completion. The first two forms are commonly innocent. An unacted intent is no more a ground of liability than is an unintended act. The will and the deed must go together. Even action in pursuance of the intent is not commonly criminal if it goes no further than the stage of preparation. I may buy a pistol with felonious purpose, and yet remain free from legal guilt. There is still *locus poenitentiae*. But the two last stages in the offence, namely attempt and completion are grounds of legal liability."

Sir, preparation is not a ground of liability under the English system of jurisprudence nor under the Indian system of jurisprudence. The apprehension in the mind of my Honourable friend, Mr. Lalchand Navalrai, is void of foundation.

Then, I take the Honourable Mr. Mitra who said that it would be impossible for the accused to prove that he did not make the attempt. He said that we were calling upon the accused to prove that he did not make the attempt. But who is calling upon the accused to prove anything? It is the duty of the prosecution to prove that the accused did make an attempt. If the prosecution succeeds in proving that, then the offence is established. If the prosecution fails to prove that, then no offence is established. The accused will not be called upon to prove the negative that he did not make the attempt.

I now come to Mr. Jadhav. He says Government are not prejudiced if the attempt is not successful. If that were a sound argument, you might as well say that attempt should not be a ground of liability at all. But we are faced with this fact that every system of criminal jurisprudence with which we are familiar makes attempt a ground of liability.

Mr. R. V. Jadhav: But this is a newly created offence and not a regular offence.

The Honourable Sir Brojendra Mitter: Then he further says that this clause is liable to abuse, because a public servant may go before a Magistrate and falsely depose that such and such a person did make an attempt to tamper with his loyalty. That danger is always present when a man is prepared to go and perjure himself in a Court of law; it is not confined to this clause only. That danger always exists when there is a possibility of perjury. Why there should be a greater possibility of perjury in connection with tampering with public servants than in connection with any other offence, I cannot imagine. So that is an absolutely futile argument.

Mr. D. K. Lahiri Chaudhury: What about my illustration?

The Honourable Sir Brojendra Mitter: I did not pay any attention to it.

Then, Sir, it is said that "attempt" is a vague term. I have shown from the books that "attempt" has a very clear legal connotation. The word has been used frequently in the Indian Penal Code and in all the systems of law with which we are familiar. There is no vagueness about that word.

Sir, I oppose.

Sardar Sant Singh: Sir, I agree with the legal exposition of the word "attempt" which has been given just now. I quite understand that an attempt has been considered to be a ground of liability in all systems of criminal jurisprudence, and I agree with this aspect of the case too that attempt by itself would be a legal ground of liability in cases where some overt act takes place in pursuance of that attempt. I quite realise the difference between preparation and attempt, that in the preparatory stage

[Sardar Sant Singh.]

no offence is committed and in an attempt everything is done by the culprit but for the interference of a third agency and the offence is not completed. I hope my Honourable friend will agree with me that it is a third agency which comes in and prevents the attempt from becoming a completed offence. Then the words in the clause are "induces or attempts to induce". What is the meaning of "induces"? Supposing he says everything that he can possibly say, that would be inducing a public servant and not attempting to induce. But if he is going to say something, and a third person stops him, that would be an attempt to induce, and it would be very difficult to distinguish between attempt and preparation at this stage. I just want to know what is implied by the term "attempts to induce". After all what is punished here is not an overt act but a mere statement. An attempt from the ordinary layman's point of view would mean that the culprit went there and probably wanted to speak to the public servant to give up his post or somehow fail in his duty. But what would be the meaning of "attempt to induce"? That is a point which ought to have been elucidated and has not been elucidated. My suggestion is that where a statement is punished, as in defamation, "attempt" is not punished, because an attempt in such cases will be meaningless. Here no overt act is committed, but a mere statement is made, and if the attempt to make that statement is made punishable, there will be difficulty in the application of this clause. Therefore, I will support this amendment, because the word "attempts" is superfluous and meaningless in this case.

Mr. Amar Nath Dutt: Sir, I congratulate the House on the very able psycho-legal exposition of the words in this clause. Sir, I was also a student of philosophy and probably sat at the feet of the same revered Professor of the Presidency Collège. But when I heard the Law Member, I said to myself, alas! what a difference! Had that revered Professor been alive, he would have said, have my pupils gone so far in their exposition of psychological principles? As for the legal principles, he has given an analysis from that book of which he is very fond and a book which was not in existence when he was preparing for Doctorate in Law, because had it been in existence at that time he, as a student preparing for the Doctorate in Law, would have given us the date of the 1st edition of that book. Sir, he had also Honours in English for his B.A. and I would have been glad if he had imported a little amount of his knowledge of philology, but unfortunately he has not done so. The word "attempt" means, according to the Dictionary, "try"; but a psychologist, whether he sits at the feet of Dr. P. K. Roy or at the feet of any other Professor, forgets him and goes over to some other authority and says that there are four stages, and the authority, however revered his name may be among the officials, is certainly not remembered with gratitude in India. I mean Sir James Fitz-James Stephen. When he quotes to us the authority of a jurist like Sir James Fitz-James Stephen, the Honourable Member's predecessor in office, I would remind him that there was another predecessor of his, whose claim to remembrance by Indians is far greater, namely, Thomas Babinton Macaulay, who drafted the law that my Honourable friend wants to revise. He referred to the Indian Penal Code, the handiwork of Lord Macaulay, but he forgets that Macaulay never dreamt that such things can be brought within the purview of the

Criminal Law. That being so, I submit, that all the psycho-legal arguments that have been adduced in favour of the language used fall to the ground, and we are sorry that we are unable to accept the exposition of my Honourable friend, the Law Member.

Then, Sir, the Honourable the Law Member will also excuse me if I only make a reference to a thing which inadvertently fell from his lips when he said that he did not listen to my friend, Mr. Lahiri Chaudhury. He may be a very insignificant Member of this House, he may have no position in life, but so long as he enjoys the Membership of this House, I think he is entitled to some courtesy.

The Honourable Sir Brojendra Mitter: I did not mean any discourtesy; 3 P.M. I was merely stating a fact.

Mr. Amar Nath Dutt: Thank you; of course it does not take away the sting of the thing, that he was not paying any attention when an Honourable Member was speaking. Referring to the amendment he was pleased to observe that Sir Hari Singh Gour should be asked to restrain his followers. He should have known that the gentleman who moved the amendment is not a follower of Sir Hari Singh Gour; he is no doubt a follower of another Knight, who was knighted long ago before the Honourable Member; but Sir Hari Singh has no hold upon him. I hope when a gentleman asks a Leader to do something with respect to a Member, he will inquire to which Party he belongs.

The Honourable Mr. H. G. Haig: Sir, I had not intended to speak on this amendment after the full exposition of the law given by my Honourable colleague and I must at once confess that I was not educated in the principles of law either under the revered Professor under whom my Honourable friend, Mr. Amar Nath Dutt, sat or anybody else. Consequently all that I can do is to bring my untrained intelligence to bear on this amendment. The case we have to consider is that of an attempt to induce a public servant to fail in his duty. What happens? A Congress agent goes round and either makes a speech or addresses arguments to public servants endeavouring to persuade them to abandon their duty. That is the act that we want to prevent; it matters little whether in fact that act has the desired effect or has not. It is the act itself we want to touch and that act is the attempt to induce: the very essence of the clause lies in it.

Sardar Sant Singh: What would be the inducement in that case, may I know?

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

"That in clause 3 of the Bill, the words 'or attempts to induce' be omitted."

The motion was negatived.

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

"That in clause 3 of the Bill, for the words 'one year' the words 'three months' be substituted."

My short point is this: that it being a newly created offence, if the period of sentence is lessened, it may help to mitigate the rigour of the

[Mr. S. C. Mitra.]

law. That is the only point that I would like to urge before the House; and, before I sit down, I should just like to remind the Honourable the Law Member that his appeal to the Leader of the Nationalist Party will be of no avail in discouraging me not to put forward my amendments. We from Bengal were vastly surprised and were extremely sorry to notice only the other day that the great Leader of the House, a man of such standing in law, in framing a Bill only the other day as regards the fundamental and elementary powers of the High Court, it was only by your kind intervention, Sir, was made to understand what were the fundamental and elementary powers of the High Court. So he can excuse me who had given up attending the High Court for the last twelve years; but, I think, before he asks others to understand elementary principles of law, he should understand on what basis the whole law is based; he should understand that what he is framing is not opposed to such elementary principles and

Mr. President (The Honourable Sir Ibrahim Rahimtoola): I have allowed considerable latitude to the Honourable Member. The amendment he is moving is that the punishment should be three months instead of one year. He will please restrict himself to that issue.

Mr. S. C. Mitra: I have made my statement that it is only to remove the rigour of the law that I move this amendment; I merely wanted to reply to the sermon on law from the Honourable the Law Member.

Mr. D. K. Lahiri Chaudhury: Sir, I rise to support the amendment which has been moved by my friend. In supporting the amendment, first of all I confess that I am not a lawyer; neither have I the capacity of advising the Government of India on law. But I have been guided by common sense and I put an illustration just to understand from the Law Member or from the Member who was piloting the Bill as to how far this amendment stood: I just expected a reasonable explanation, whatever that might be, and when I was just developing the arguments on the previous one, I thought it proper and it has been very rightly explained by the Honourable the Home Member in his reply on the previous amendment that it was with that intention

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The amendment is to reduce the punishment for the offence from twelve to three months.

Mr. D. K. Lahiri Chaudhury: I am coming to that

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Honourable Member has to come to it immediately.

Mr. D. K. Lahiri Chaudhury: And to this I think the attitude which has been taken by the Law Member previously will also be maintained in opposing this motion. I know it and I can foretell it; but, still, at least as I come from Bengal, I appeal that really instead of one year the punishment ought to be for three months, because we can easily understand how these prisoners are going to be treated in the jail. In the first place, if the Honourable the Home Member takes a little courage or a little trouble just to go and visit the jails and give a patient hearing to those prisoners

who are convicted in connection with the civil disobedience movement, he can easily understand what is the general treatment they get in jail. After all, though they are convicted by law, whatever may be the principles on which they have been convicted, whatever may be the spirit and ideas—I do not want to discuss them now on the floor of this House—the punishment which they receive in jail is beyond the conception of human knowledge; and sometimes if the Honourable Member will only look at the treatment of these unfortunate prisoners who are suffering from agonies under the imprisonment, I think, he will himself maintain that imprisonment of these gentlemen, for a year is a very long term. I think in this particular case at least the period of imprisonment should be reduced from one year to three months. Sir, I support the motion.

The Honourable Mr. H. G. Haig: Sir, we discussed a similar amendment on clause 2 at some length yesterday, and I do not think it is necessary to go once more into the general considerations that arise as to the nature of imprisonment and whether imprisonment is a reasonable punishment or not. The only question that arises here is, whether one year is an excessive period to impose as a maximum for this offence. It appears to me, Sir, that one year is a perfectly reasonable period. After all, though my Honourable friend, Mr. Lohri Chaudhury, has painted a picture, intended to rouse the sympathy of the House, of some patriot being sent to jail under this clause, I would ask him why it is necessary for anybody to launch an unprovoked attack of this sort on the organization and machinery of Government.

There is one other point which, I think, is worth making. The Select Committee, before it was shorn of any of its Members, considered this clause and did not propose any reduction in the period of imprisonment.

Mr. B. V. Jadhav: By the casting vote of the Chairman.

The Honourable Mr. H. G. Haig: Sir, I oppose the amendment.

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

“That in clause 3 of the Bill, for the words ‘one year’ the words ‘three months’ be substituted.”

The motion was negatived.

Mr. B. V. Jadhav: Sir, I move:

“That in clause 3 of the Bill, for the words ‘one year’ the words ‘six months’ be substituted.”

I am conscious, Sir, that I am leading a forlorn hope against the adamant heart of the Treasury Benches, and I need not expect any mercy from that quarter. But, all the same, I have to do my duty, and I wish to urge before this House that as the crime has been newly created and as it will not be a crime three years hence according to the proposal of Government themselves, and as this has been made a technical crime, the punishment for it should not be so severe as one year's rigorous imprisonment. I, therefore, move, Sir, that the punishment be reduced to only six months.

The Honourable Mr. H. G. Haig: Sir, my friend Mr. Jadhav's plea is that this is only a technical offence. I regard it, on the contrary, as a very practical and dangerous offence, and I have already given my reasons for thinking that one year is a suitable period. I oppose the amendment.

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

"That in clause 3 of the Bill, for the words 'one year' the words 'six months' be substituted."

The motion was negatived.

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

"That in clause 3 of the Bill, after the words 'or with fine' the words 'not exceeding two hundred rupees' be inserted."

I have made my submission about this when a similar clause was discussed before in connection with this Bill; still I should like to be enlightened as to why there should be so much difference between imprisonment and fine; when there is a maximum period fixed for imprisonment, why should there not be a maximum similarly fixed for imposing fines. I think the Home Member argued that certain classes of Magistrates under the Statute can inflict punishment both as regards imprisonment and fine up to a fixed degree, and that argument holds good both for imprisonment and fine. Here the accused will be in a predicament whether to prefer a First Class Magistrate where he can expect better judgment, because of the Magistrate's greater experience, or whether it will be preferable to him to go to a third class Magistrate whose powers are limited. Sir, I move.

The Honourable Mr. H. G. Haig: Sir, my friend, Mr. Mitra, suggests that there is some inconsistency between imposing a maximum period of imprisonment and leaving the limit of fine undefined. Well, Sir, if there is any inconsistency, it is one that runs all through the Indian Penal Code as I think my friend very well knows, and it would in fact be contrary to our general conceptions of the theory of punishment that the Courts should be authorised to impose in every case imprisonment without any limit. I do not suppose that my friend would suggest importing those principles into the Indian Penal Code.

On the general question, Sir, I argued the matter at length yesterday, and I have nothing to add.

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

"That in clause 3 of the Bill, after the words 'or with fine' the words 'not exceeding two hundred rupees' be inserted."

The motion was negatived.

Mr. Lalchand Navalrai: Sir, I move:

"That to clause 3 of the Bill, the following Proviso be added:

'Provided that no Court shall take cognisance of an offence punishable under this section unless upon complaint made by order or under authority from Local Government or some officer empowered by the Government in this behalf.'

I am conscious, Sir, that when I moved a similar amendment to clause 2, it was not accepted, but I must say that I am not disappointed on that

account, and so I put forward this amendment for consideration. I am also not hopeless of the Members of the Treasury Benches and I trust they will consider whether this amendment is not more appropriate and useful to clause 3 than to clause 2.

The object of this amendment is merely to see that the prosecution under this drastic clause should not be solely in the hands of the police, and such a difficult clause as this should be interpreted and worked by a higher authority than the police. We have also to consider that the object with which the prosecution is launched, namely, to aim at organised campaigns against tampering with a public servant, is fully realised and considered in each case. These are questions which, it should be admitted, are very difficult for a police officer to decide, and when it is a cognisable offence, it does not require him even to consult anybody before he can send up the accused directly to the Magistrate, thus putting him to all sorts of trouble. Therefore, as a safeguard, I am requesting that this proviso should be added. It has been pointed out today in the course of arguments that it will be very hard to interpret this clause, as it stands, in actual working. It took so much time to the Honourable the Law Member to explain what "attempt" is. He sought the help of the Penal Code and jurisprudence for the purpose of leading us to the meaning of the word "attempt". Therefore, as the meaning is not defined under the clause itself, and as there are some other undefined terms as "duty", and so on, in this Bill, it is very necessary that this proviso should be added. If a man were to ask a public servant not to impress certain carts or certain camels for the purpose for which they are needed, it will not be his legal duty. But the word used here is only "duty". Therefore, anything can come under this clause. These are things which have to be considered by a higher authority, and that is the aim and object of my amendment. The main reason why this proviso has not been attached by the Government seems to be that it might cause delay. But the number of cases in which the Congress has attempted to tamper with public servants is not much, nor has it been shown to be so. There may be one or two cases, but what delay would there be in asking the Local Government to give their consideration to this matter before instituting a prosecution? That safeguard should be given and the power should not be placed merely in the hands of police officers. I move my amendment.

Mr. Amar Nath Dutt: Although I did not see eye to eye with my Honourable friend on a similar amendment to clause 2, I must admit, after hearing the arguments of my Honourable friend, that I am fully convinced that this is a very good amendment and it ought to be accepted by every one of us in this House including the Members on the Treasury Benches. Our cry is a cry in the wilderness, and although we feel the contempt with which our arguments are being treated, still we have a duty to perform not only to our country and ourselves, but also to the Government. In this matter I have nothing but unqualified praise for my Honourable friend who, though defeated on a similar amendment before, has again come forward and put before us far more cogent arguments for the acceptance of this proviso, and I hope that the Government will see their way to accept it.

The Honourable Mr. H. G. Haig: Sir, I am sorry that my Honourable friend, Mr. Amar Nath Dutt, should suggest that the arguments on that side of the House are being treated with contempt. We do, it is true,

[Mr. H. G. Haig.]

endeavour to avoid unnecessary repetition and I hope he will forgive me if I do not repeat the whole of the arguments that I gave yesterday afternoon on a similar amendment. But, to the best of our ability, we do listen very carefully to the arguments put forward from the other side and endeavour to meet them. There is little or nothing to add to what I stated yesterday afternoon. Cases coming under this clause are not likely, in my judgment, to raise very difficult questions such as would require a previous reference to the Local Government, and though my Honourable friend, Mr. Lalchand Navalrai, said that the cases would not be many and, therefore, it did not matter if there were delay, I must altogether differ from him on that point. It does not matter whether the cases are many or few, but it is most important that they should be checked at once. Sir, I oppose the amendment.

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

"That to clause 3 of the Bill, the following Proviso be added:

"Provided that no Court shall take cognisance of an offence punishable under this section unless upon complaint made by order or under authority from Local Government or some officer empowered by the Government in this behalf'."

The motion was negatived.

Mr. B. V. Jadhav: Sir, I move:

"That in the *Explanation* to clause 3 of the Bill, the words 'a servant of a local authority or railway administration' be omitted."

I need not make any elaborate speech on this point. The expression "public servant", as defined in the Indian Penal Code, is understood by almost all, but the *Explanation* here extends the definition and includes other officers who were up to this time not considered as public servants. A servant of a local authority or a railway administration will be a public servant under this *Explanation*. But I think, that, as far as servants of local bodies are concerned, they are not exposed to the danger of being induced to fail in their duty. The civil disobedience movement has not, as far as I know, touched the servants of local authorities. People have come to understand the difference between a servant of Government and a servant of a local authority, and the Congress people at all events know full well that by inducing servants of local authorities to give up their work or to fail in their duty, they will not harm the established Government of the country. Therefore, whatever their foolish attempts may be to disorganise Government work, I do not think they have taken any steps to disorganise the work of local bodies, because, by disorganising the work of local bodies, they themselves will have to suffer from the ill effects of such disorganisation. For that reason, if they make any such attempt, they will be acting contrary to the welfare of the people and, therefore, the Congress bodies know full well that their interference or their meddling will not be tolerated. So there is no danger from any attempt to induce a servant of a local authority to fail in his duty. Therefore, I say that the words "a servant of a local authority" should be omitted. I want to point out the danger that will be there if servants of local authorities are included in this *Explanation*. We know that there are many grievances of these municipal and local board servants, and

if they try to combine and make attempts for redress of their grievances, the higher officials may take advantage of this clause and get the leaders of such a movement arrested, and, in that way, the right of combining or going on strike, which ought to be reserved for the servants of local bodies and the servants of railway administrations, ought to be protected and ought not to be taken away. If the servants of railway administrations are kept here in this *Explanation*, then their right of going on strike will be greatly prejudiced and they will not be able to go on strike, because their leaders will be immediately hauled up before a Criminal Court for infringing the provisions of this clause. I, therefore, move that the words "a servant of a local authority or railway administration" be omitted.

Mr. T. N. Ramakrishna Reddi (Madras ceded Districts and Chittoor: Non-Muhammadian Rural): I have great pleasure in supporting this amendment, as one who has got some interest in local board administration. The Government, in their anxiety to make the definition of public servants cover as many departments as possible, have included local bodies also. Thanks to Lord Ripon, he has given to Indians a form of self-government in the local boards so that it might be a training ground for Indians to take part in the wider field of public activities and everywhere there is a general desire to take part more and more in self-governing institutions and various Acts have been passed in the Local Councils to enfranchise as many people as possible and it has opened the minds of the people to take larger and larger interest in local administration.

There is absolutely no necessity for the Government to bring in these local boards also under this definition. The cry on the other hand should be a halt. Then, the Railway administration is also maintained for the convenience of the public and, if anybody wants to deter a railway servant from performing his duty, he will be acting to the detriment of the public and to the great inconvenience of the public. So there is absolutely no necessity to include these two departments under the definition. I have great pleasure in supporting the amendment.

Kunwar Raghubir Singh (Agra Division: Non-Muhammadian Rural): I beg to oppose this amendment. The Honourable Mr. Jadhav wants that the servants of local authorities and railway administrations be omitted from this clause. Local authorities mean, I think, municipalities, district boards, town areas, and so on. Now, Sir, the civil disobedience people are as much prone to induce the men employed by these bodies to give up their places and job, as other Government servants. If these people are tampered with in this way, the work of these bodies will suffer. So, in the interest of the public, this clause should stand as it is and I, therefore, oppose this amendment.

Mr. S. C. Mitra: I support the amendment of my friend, Mr. Jadhav. It seems that Government under this clause contemplate some improvement on the Ordinances themselves. I shall read the definition of "public servant" as it appears in Ordinance X of 1932. Clause 69, sub-clause (b) says:

"a public servant includes a public servant as defined in section 21 of the Indian Penal Code, and a servant of a local authority and a person belonging to any class of persons which the Local Government may, by notification in the local official Gazette, declare to be public servants for the purposes of this Chapter."

So there is no mention of railway administrations and, so far as I know, no Local Government, by notification in any official Gazette, made these

[Mr. S. C. Mitra.]

railway servants public servants. It is not the Government's case that the position has become worse since the promulgation of these Ordinances. As regards local bodies, I can say that the Congress programme is really to capture them. The Government at least care to know the Resolutions of the Congress. That was my impression, but this shows that they are not acquainted with the Resolutions that are passed. I myself attended the Lahore Congress where, in the Subjects Committee, we fought against both the Resolutions about boycott of the Councils and the boycott of local bodies and we showed the inconsistency of the position of the Congress Sub-Committee authorising the Congress members to capture local bodies. It is known to Honourable Members that the Congress captured some of the big self-governing institutions like the Calcutta Corporation and other such local bodies in different places. If the intention of this Bill is to control the civil disobedience movement started by the Congress, then, I say there is no necessity for a provision like this, so far as officers of local bodies are concerned. With these words, I support the motion.

The Honourable Mr. H. G. Haig: Sir, I think this provision would be altogether incomplete if the words, which it is now proposed to omit, were not put into the clause. The Congress or any other subversive body is not bound down rigidly to a particular programme. If they are shut out from activities in one direction and a large loophole is left, then in another direction, they will go in that other direction, and I think it would be an invitation to the Congress to concentrate their attention on local bodies if these words are left out of the Bill. After all, Local authorities have very important administrative functions to perform and any body of men, who are endeavouring to paralyse the administration, will not neglect that opportunity if it is offered to them.

Now, it has been said by one or two Honourable Members that because the activities of local bodies and of the railways are beneficial to the public, therefore, there could be no fear that the Congress or any other body would try to interfere with them. Now that seems to me to be a curious contention in view of the obvious facts with which we are all familiar. It surely is to the detriment of the public that trains on the railways should be stopped by pulling the communication cords, but the fact that that is detrimental to the public does not deter these Congress agents from performing this ridiculous trick. In the same way, the mere fact, that interference with local self-governing institutions would be detrimental to the public, would, in no way, deter the Congress from interfering, if they think it will help them in their main task of trying to paralyse the administration. Moreover, I find it difficult to follow the assumption that the only public activities which are of any use to the people in general are those carried out by local self-governing bodies. Surely, the normal activities of the Government themselves are of some use to the public. Surely, it is an advantage, one would suppose it was from questions that are addressed to me in this House, that there should be an efficient police force. Surely, it is an advantage that there should be a revenue staff, and that *patels* and people of that type should not be induced to abandon their functions. Sir, the Congress activities are not limited to interfering with functions that are not in the interests of the people.

There is one other point raised by my Honourable friend, Mr. Mitra. I was aware that he had a great affection and respect for the terms of

the Ordinance and that anything that could be found in the Ordinance would be sufficient authority to him and would perhaps ensure his acceptance. Well, Sir, he suggested that these words, which it is proposed to omit, are not to be found in the Ordinance and that they should, therefore, be omitted from this Bill. Now I should like to give him the authority he asks for, and I hope that in that case he will join me in voting for the continuance of this provision. I would refer him to section 24 of the Ordinance which corresponds to the clause we now have under discussion, in which he will see the words:

"whoever induces or attempts to induce any public servant or any servant of a local authority or any railway servant."

Mr. S. C. Mitra: Sir, I stand corrected.

The Honourable Mr. H. G. Haig: Sir, I oppose the amendment.

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

"That in the *Explanation* to clause 3 of the Bill, the words 'a servant of a local authority or railway administration' be omitted."

The motion was negatived.

Mr. B. V. Jadhav: Sir, I move:

"That in the *Explanation* to clause 3 of the Bill, the words 'and an employee of a public utility service as defined in section 2 of the Trade Disputes Act, 1929' be omitted."

Sir, I need not say anything more than what I did on the previous amendment. The servants of public utility companies are not likely to be tampered with by any peaceful movement such as that of the Non-Co-Operation Movement. Of course, when there is a revolution, the first thing that is done to disorganise a Government is to cut the wires of telephones and telegraphs or to interfere with the water supply or the lighting, and so on. But from the Non-Co-Operation Movement such interference need not be feared, because that will paralyse the local administration and cause inconvenience to the people themselves. Congress workers come from the people and they do not like to inconvenience the people. Therefore, I claim that this provision is quite unnecessary and ought to be omitted. Sir, I move.

The Honourable Sir Brojendra Mitter: Sir, I would draw the attention of the House to the definition of "public utility service" in the Trade Disputes Act (VII of 1929):

"A 'public utility service' means:

- (i) any railway service which the Governor General in Council may, by notification in the Gazette of India, declare to be a public utility service for the purposes of this Act, or
- (ii) any postal, telegraph or telephone service, or
- (iii) any industry, business or undertaking which supplies light or water to the public, or
- (iv) any system of public conservancy or sanitation;"

Sir, it would be obvious to Honourable Members that it is in the highest degree injurious to the public interest if employees of these public utility services were to be tampered with. It has been said by the Honourable

[Sir Brojendra Mitter.]

Mr. Jadhav, that the Congress were not likely to interfere with the employees of these services. Sir, we have heard of telephone lines being cut and of telegraph lines being tampered with.

Mr. B. V. Jadhav: That is punishable under other sections.

The Honourable Sir Brojendra Mitter: We have known of actual instances. As my Honourable colleague, the Home Member, pointed out a short while ago, if you omit public utility services and render them open to the attacks of the Congress, then their attention will be concentrated on these very services, which would involve very great injury to the public. Sir, I oppose.

The motion was negatived.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The question I have now to put is that clause 3 do stand part of the Bill.

The motion was adopted.

Clause 3 was added to the Bill.

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

"That clause 4 do stand part of the Bill."

Mr. Jadhav.

Mr. B. V. Jadhav: Sir, I do not move it*.

Mr. S. G. Jog: Sir, my friend having decided to withdraw the amendment that stands in his name, I rise to move amendment No. 57, namely:

"That clause 4 of the Bill be omitted."

Sir, it is necessary to go into the history of this measure. I am told that this measure has been copied from the Irish Law of Crimes.

I must congratulate the occupants of the Treasury Benches that they have got to have recourse to the Irish constitution for introducing legislation in India. We all probably know that the word "boycott" had its origin in Ireland. It is named after Captain Boycott who was an Irishman and it is from him that this manifestation or this phase of activity has assumed the name and it has taken a firm root in India as well as in the minds of the occupants of the Treasury Benches. I would like to give the House the original definition of "boycott" as given in section 89 of Ordinance X of 1932. We do not find any such definition in the Bill that is now before us. It runs thus:

"For the purposes of this Chapter, a person is said to 'boycott' another person who refuses to deal or do business with, or to supply goods to, or to let a house or land to, or to render any customary service to such person or any person in whom such person is interested, or refuses to do so on the terms on which such things would be done in the ordinary course, or abstains from such professional or business relations as they would ordinarily maintain with such person;"

and, then, it goes on to say what a public servant is. I have no quarrel with the occupants of the Treasury Benches as regards the definition of the word "public servant", but when we see that the very principle of this measure is pernicious, it matters very little to me whether it is this

*"That clause 4 of the Bill be omitted."

class or that class of public servants. As these Ordinances were made only for six months, probably the language was not closely scrutinised and, as it was considered an emergency measure, probably much thought was not given to it nor did the people give any thought to it. Now, this clause has been inserted in the Bill that was presented to us in the original form and, in this connection, I would like to read to the House the clause as it has emerged from the Report of the Select Committee, because it has undergone a drastic change. I would like to draw the attention of the House to the Minute that has been presented to the House. On this clause it says:

"The many alterations made in the drafting of this clause are aimed at achieving increased clearness."

When the Bill was introduced, they never thought about the actual words and clearness:

"We considered the word 'prejudice' to be unduly wide in meaning."

The object of the framers was to make it very wide and elastic:

"We have qualified by material insertions the words relating to the letting of a house or land, which we consider to be undesirably loose."

Who asked you to make it loose? Have you not got the whole Secretariat and the Secretary of the Legislative Department at your command who can draft Bills with precision and accuracy, and not put loose things?

"We have simplified the language, retaining the expression 'to deal with' as a comprehensive general description of the activities particularised in the draft clause. We have introduced a more definite expression for the words 'person in whom such public servant is interested' and we have made it clear that the words 'on the terms on which such things would be done in the ordinary course' qualify all the preceding phrases. We have also changed the reference to 'professional or business relations' to a particular reference to the withholding of medical services, these being the professional services which it is most important to assure to public servants in the mufassil. We have reduced the term of imprisonment and have imposed a maximum limit to the fine which may be inflicted. We have further provided by the new sub-clause (2) a safeguard against abuse of this section by indiscriminate complaints in the Courts."

The object of my reading this is to show to what extent this clause has been subsequently altered in the Select Committee. We did not reach that point when our ship wrecked. However, in this clause we found that its language, its ideas and its general expression were so loose that several amendments were proposed and, as a result of our discussion, we were able to carry a number of them. But, in spite of all the improvements, the clause is so loose, and, in actual practice, it is so difficult to work, that I for one see no reason why we should have this clause even in its present form. I will read to the House how it runs in its present form. My object in reading it again and again is that the more you read it, the more puzzled you become. It runs thus:

"Whoever, with intent to harass any public servant in the discharge of his duties, or to cause him to terminate his services or fail in his duty, refuses to deal with or to let on reasonable rent a house usually let for hire or land not being cultivated land to, or to render any customary service to such public servant or any member of his family, on the terms on which such things would be done in the ordinary course, or withholds from such person or his family such medical services as he would ordinarily render, shall be punished with imprisonment for a term which may extend to three months, or with fine which any extend to five hundred rupees, or with both."

Then an Explanation is added and also what they call a sort of a safeguard.

[Mr. S. G. Jog.]

Sir, if you scan the whole clause, you will find how difficult it is to work when the accused goes before the Magistrate. I will take the first point—"refuses to let on reasonable rent". If a public servant makes a complaint that such and such person has got a house and he did not give it to him on rental though he was prepared to pay the rent, naturally the question before the Magistrate will be what the rent of that house will be. It is impossible to come to any definite conclusion as to what the reasonable rent should be and, therefore, the House can see how difficult it will be in actual working.

The Honourable Sir Brojendra Mitter: Unless you raise your voice, we cannot follow you.

Mr. S. G. Jog: You want me to raise my voice. I thought I had already raised my voice sufficiently: however, I shall try to raise it still more.

Then, I come to another point—"land not being cultivated land". Then, this officer wants a piece of land, I do not know for what purpose. Then he enters into negotiations with the villagers and they do not come to any terms, because naturally he wants to strike the bargain as cheap as he possibly can. So, when he finds that he is not able to strike a bargain, he would naturally make a complaint to afford him facilities to acquire the land that he wants. Then the matter again goes to Court and
4 P.M. the whole thing is gone into again. The expression "render any customary service to such public servant or any member of his family" is very difficult to be understood. It is very difficult to say what sort of customary service the people have got to give to a Government servant. What are the residents of the village supposed to do for a public servant? What will be his demand? What does he want the residents to do for him? There will probably be so many services which the public servant expects to get from the residents of a village. When the case goes to a Magistrate, he may take evidence as to what is the customary service in that village or district or in the Presidency as a whole. Probably the poor Magistrate has to decide on a technical and complicated question before he comes to any conclusion or before he finds the particular person guilty of any offence.

The clause further reads:

"on the terms on which such thing would be done in the ordinary course."

Well, Sir, what are the things done in the ordinary course? Has there been any standard or meter or any fixity as regards the rent of a small house or land in those villages or towns? Is there any schedule or meter by which these things can be measured? Are you going to harass these poor villagers and haul them up before the Magistrate and put them to all these troubles and inconveniences?

The clause further goes on:

"or withholds from such person or his family"

Not only is the poor villager expected to do customary service for the public servant, but also to his family. What do you mean by the word "family". Who are all to be included in the word "family"? Surely everybody would like to be included in that word "family" with a view to getting customary services from the villagers.

The clause further says :

"such medical services as he would ordinarily render."

Sir, I think if we have to decide all the points raised in this clause, we will have to establish a Supreme Court or a regular Tribunal of Judges of great eminence who will be able to decide all these technical and complicated, and delicate and nice questions.

At the end of the clause, the period of imprisonment is given with which I do not wish to bother the House. There is the all-pervading and all-engrossing clause before the House and we should consider whether such a provision could be given effect to and whether we should be a party to allowing such a clause to be placed on the Statute-book. The Government are very keen in having this weapon in their armoury in order to combat the civil disobedience movement. They say that by this measure they will be able to create a sort of statutory affection towards the public servant. May I ask, Sir, whether this affection or the desire to satisfy the ordinary needs of public servants can be created by a Statute? Like ordinary citizens, if these public servants live in the village and cultivate good relations and if they discharge their duty honestly, and if they render proper service to the village, do you mean to say that the residents of the village will have any tendency to boycott these public servants? In spite of the Congress programme, even in these days, I do not think there are cases where any such boycott could take place or I do not think there are cases where such ordinary facilities are denied to these public servants, if they discharge their duties honestly and in the good interests of the citizens of the village. I do not think the Government are wrong in giving this protection to public servants. If by such measure the Government are successful in having good relations between the public servants and the residents of a village for whom the public servants are meant, if they succeed, then it is not wrong. But the whole question is, whether this is the right sort of way of creating affection between the people and the public servants. I should like to take a very broad view of the expression put into this clause. We have been saying that one of the purposes of this emergency measure is to arm not only the present Government, but even the future Government which will soon come into existence. The idea of the Government is that the future Government also should be armed with weapons which will be necessary for them in order to carry on the proper administration of the country whenever such future Government comes into power. I sincerely thank the present Government for their good wishes. I have no grudge or bias as regards your desire. I hope and trust that the time will soon come when the transfer of power will come to this side of the House. Let me assure you, Sir, that what is required at the present juncture is goodwill, mutual goodwill and mutual confidence between the Government and the subjects, and, if success of the future constitution is to be based upon these two principles of mutual goodwill and confidence, do the occupants of the Treasury Benches want that we should open this new Chapter of Reforms placing such black Bills as the present one on the Statute-book? I think this is the most unfortunate time to introduce a measure like this. I trust that this clause will be deleted from this Bill. It is not necessary even in the interests of public servants. What you propose to do will never benefit the public servants. I think you will make the position of public servants worse by this legislation.

[Mr. S. G. Jog.]

As I have already explained, even from the point of view of propriety, this is not the time to introduce such a drastic, nay, all-comprehensive measure which, instead of creating good feelings between the public servants and the people, will have the effect of more and more creating bad feelings amongst them. Sir, in spite of the so-called safeguard put at the end of this clause, I still move that this clause 4 be deleted. This safeguard was not inserted in regard to other clauses. No doubt the Government have made a sort of safeguard in sub-clause (2) of this clause. But, in my opinion, there is great danger here also. If a complaint is lodged "by order or under authority from the Local Government", this will be a sort of certificate and I do not think any Magistrate in India will dare go against the Local Government's desire, and the Local Government's order or sanction or advice, whatever you may call it, will be tantamount to an order to the Magistrate to convict the man, and the question of the period of sentence alone is left to the Magistrate. The question of safeguards is a double-edged weapon. In some cases, it may prove beneficial, in some other cases, it may prove a great hardship. Although this clause has been considerably improved in the Select Committee, yet, in its present state, I think it is sufficiently poisonous to kill our body politic. Sir, I move that clause 4 be deleted.

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

"That clause 4 of the Bill be omitted."

Mr. B. Sitaramaraju (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): Sir, I rise to support this amendment. I consider that the provisions of this Bill under this clause are an unwarranted interference with the ordinary rights of citizens and at times the clause would read a little ridiculous in its scope of what effect such provisions are likely to bring about. I also consider, Sir, that the terms, in which this clause has been drafted, are likely to prove to be an instrument of tyranny in the hands of petty officials and, on a perusal of this clause, we come to certain provisions which look, if not ridiculous, highly detrimental to the tranquillity and peace of the public. For instance, when we come to a provision like this, it would be a crime under this clause, if one refuses to deal with a public servant.

I remember, Sir, an illustration was given the other day that, under the shelter of a provision like this, it is open to any Government servant to compel a money-lender to lend money to him. It may be, as is very often the case, that the public servant may not be stationary in one place, and it is quite likely that a man, on looking at the security on the amount that he has to lend, may refuse on reasonable suspicion that he is not likely to realise the money lent to that officer. In that case he would come under this clause. Again, we have a provision under which it is obligatory on the part of a citizen to rent his house to a public servant and that on what is said to be a reasonable rent. Who is to judge what is a reasonable rent? I suppose the reasonableness or otherwise of that rent would be judged by the officer himself and there is no Court of appeal against his judgment. Then the provision is likely to create hardship among a certain class of persons, for example, the Jains. They will be bound, under this clause, to rent their houses to communities to whom they are usually not in the habit of giving houses on rent either on the

ground of caste or on the ground of religion or on any other grounds on which they would not be likely to rent their houses to any public servant, however great he may be. That is usually done in several localities where such class of people live. We have to remember, however deplorable it may be, that in certain cities particular localities are set apart for the use of particular communities and they would consider it an intrusion on the part of any person, not belonging to that particular community, to enter there. I am not discussing whether this exclusion is right or wrong, but we have to take into consideration what is, after all, a fact, and as such this provision is likely to create hardship. Again, Sir, we have a provision where we find that a medical man is bound to go to a public servant, because he wants medical service to be rendered to him. A provision, so loosely drafted, is absurd. They do not take into consideration the fact that the medical man may find his work so heavy on a particular day that he may not respond to the call of a public servant or that he may have duties more urgent than the public servant's call. For instance, he may have to attend a service which he is obliged to attend and for which he is paid a regular amount. He may have to attend a poor man who perhaps could not afford to call another medical man at a fee which the Government servant would be able to pay. This clause would compel the medical man to go and render service to the public servant in the first instance and then look to his other obligations, moral and otherwise, to society. Therefore, I consider that the provisions of this clause, taken as a whole, are a most unwarranted interference with the ordinary rights of a citizen and so I support the amendment.

Sir Muhammad Yakub: Sir, I rise to oppose this amendment. If the mischievous activities of the Congress are to be stopped and if Government servants are to be protected against the usual tyranny of Congress propaganda, then this clause is one of the most important clauses of the Bill. We know very well that a very common form of Congress propaganda, in order to harass a Government servant, is to boycott him. Now, Sir, consider the case of a Government servant who is transferred to a small town or a village. He goes there and finds that nobody would give him a house to live in. He finds that no washerman would wash his clothes, no barber would shave him and no merchant in the town would deal with him and give him his daily provisions. His life in these circumstances would become a hell for him and it would be impossible for him to discharge his duties. And this is not an imaginary state of affairs. Experience has shown that resort was taken to such methods not in one place, but in several places, and not in one province, but in several provinces. Therefore, if you want to protect Government servants against the ordinary tyranny of the Congress, this clause must form part of this Bill.

As regards the objections which have been raised to the wording of the clause, my friend, Mr. Raju, has said that even a money-lender may be prosecuted and hauled up for not dealing with the Government servant and lending money to him. I am surprised that a man like Mr. Raju, for whose common sense I have always had great admiration, should raise such an objection. If he only read the wording of the clause, he would find that:

"with intent to harass any public servant in the discharge of his duties."

This is a condition precedent to bring a man within the provisions of the clause.

[Sir Muhammad Yakub.]

Then and then alone he will come within the purview of this clause. Lending or refusal to lend money to a Government servant has no connection with the discharge of his public duties, and I submit that this objection is merely futile.

My friend, Mr. Raju, again said that the owner of a house might refuse to give his house on rent to a public servant on the ground of his belonging to a particular community. This is the real crux of the whole thing. My friend has not explained what he means by saying "on the ground of men belonging to a particular community". Suppose a Mussalman tahsildar is transferred to a small tahsil which is inhabited almost entirely by Hindus, which very often happens in small towns in the eastern districts of the United Provinces. The Mussalman tahsildar is transferred there and the houses, which are let out on rent, all belong to Hindus. So a landlord may say that his house is not usually let out to Muslims and that it would be an intrusion on his religious susceptibilities if a Mussalman were allowed to take his house on rent. Does my Honourable friend mean this contingency? I submit that this clause is meant to cover such cases, when communal hatred will be demonstrated in the garb of Congress propaganda. I submit that it is extremely necessary that a clause like this should be retained.

Now, as regards the improvements which this clause has undergone in the course of the Select Committee, I would only submit that improvements have been made to such an extent that the Honourable the Home Member has been forced to table two amendments to this clause. It shows to what extent this clause has been amended in the Select Committee. The Mover of the amendment, Mr. Jog, has raised objection to sub-clause (2) which provides a safeguard for the institution of complaints under this clause. It is very difficult really to understand the mentality of my friends on the other side. They try to blow hot and cold in the same breath: if a provision like this, which is really in the interests of the accused person, is not added to a certain clause, they say it ought to be added there; but when Government want to give the same protection, then they will say "No; it is injurious and should be withdrawn". This shows with what mentality they were discussing this Bill and what is the mentality of the Honourable Members who are opposing it. With these reasons, I oppose the amendment and support the motion.

Mr. H. T. Sorley (Bombay: Nominated Official): Sir, I rise to oppose this amendment. Boycott of public servants is a form of intimidation and molestation which has to be specially provided for. The civil disobedience movement has directed a very long and concentrated campaign against the Criminal Law of the country; and the course of that campaign has revealed many weaknesses in our Criminal Law, but only two serious defects. These two serious defects are the failure of the definition of the word "criminal intimidation" in section 503 of the Indian Penal Code; and the second great defect is the inadequacy of the law in dealing with unlawful associations. Now, the clause of the Bill, now before the House, deals with the first of these defects, namely, one of the manifestations of criminal intimidation. Criminal intimidation has been the chief motive force behind the civil disobedience movement. It

was because of its early success that the Congress organisers have managed to intimidate the general public and to bring force to bear upon Government servants; and this particular clause, No. 4, dealing with the boycott of public servants, is merely an extension towards the Government servants of methods which have been employed against the public at large. Now, the point I wish to make is, that the boycott of Government servants is dangerous and must be met, because it aims at an essential part of the scheme of administration. It is quite true that the people who are most affected by this manifestation are not the high officers: they are mostly able to look after themselves. The evil that lies in this movement is in the success which it is able to achieve in compelling those Government servants or public officers who are least able to resist it. I am going to make this point perfectly clear in a minute or two. As I said, the boycott of public servants is directed chiefly and most effectively against those who have no power or not sufficient power to resist. The persons who have been most affected by the movement are village patels, headmen, *talatis* or village accountants and clerks who happen to be stationed in small places and not in large towns and cities. The real driving force behind this movement is aimed at conditions in the villages and it is precisely there that it is most dangerous. There is no danger as far as the towns and cities are concerned; but it is most dangerous in the villages, because it is in those places that the movement has most power and the public servants, who are most affected and most hard hit, are usually persons, the solitary representatives of authority in the village. During the start of the civil disobedience campaign they were surrounded by a multitude of people who used every conceivable means they could think of, under the conditions laid down by Mr. Gandhi, to make it impossible for these Government servants to perform the duties which they are paid to perform and to perform which they are appointed. These public servants live in places where they are cut off from the towns and conveniences.

It has been said, not in the arguments on the present amendment, but in the previous discussions on this Bill, that Government need not fear forced resignations, because there are always plenty of persons willing to take the place of those who have resigned. As far as resignations caused by boycott of public servants go, that is precisely untrue. There is no rush to take the place of persons who have been forced to resign, because such persons are socially boycotted, and in Guzerat, which was the portion of the Bombay Presidency most affected by this particular form of intimidation, it was very difficult, for at least three months, for the administration to be carried on. I shall give the House facts and figures in a moment or two to show exactly what happened in Guzerat during the first three months of the civil disobedience campaign, because what happened there is typical of the evil which a movement of this kind can produce and will produce in similar circumstances, provided they are favourable. The effect of a successful boycott of public servants must also be considered. It is exceedingly bad for the public morale. Hardly anything can be more discouraging to the authorities responsible for law and order than to see public servants so cut off from assistance as they are and were in Guzerat, where it was practically impossible immediately to remedy the situation, and hardly anything could create in the minds of ignorant villagers a greater disrespect for law and order. These are precisely the conditions which existed in Guzerat at the start of the civil disobedience movement, and it was the condition prevailing in Guzerat

[Mr. H. T. Sorley.]

during April and May and part of June, 1930, that gave the civil disobedience movement a great deal of its momentum.

I wish to answer another objection that has been advanced on the other side. It was put forward particularly in the debate on the second reading, by Sir Abdur Rahim, when he suggested that if this clause is passed into law, it will be putting Government servants into a position of privilege. Sir, it will be nothing of the sort. The intention of this clause is merely to maintain the *status quo* of Government servants in villages before the civil disobedience movement started. It aims at nothing more than protecting the position in which they were before the movement started, and it will do nothing more. Sir Abdur Rahim used an argument which I was quite unable to follow, namely, he referred to the difficulty private individuals had in finding house accommodation in Calcutta; and he seemed to suggest that if this Bill were passed into law, it will make it easier for Government servants to get houses there to the prejudice of ordinary citizens; in fact, only Government servants would obtain houses easily, while private individuals would not be able. Sir, nothing could be further from the truth. The particular provision relating to houses in this clause is devised to meet the conditions which were prevailing in the Bombay Presidency and elsewhere, particularly in Guzerat, when this movement was at its height. What happened was that Government servants in small villages were sometimes served with notices by their landlords that they must clear out, and it is not easy, in the housing conditions prevailing in small villages, as Honourable Members are aware, to provide alternative accommodation for them. The problem we were really faced with was what, under these circumstances, we should do. I do not think it will be the intention of Honourable Members that in these circumstances the public servants, responsible in various ways for the maintenance of law and order, should continue to be exposed to such hardship or utmost of hardship or that Honourable Members will refuse to take appropriate remedy when the facts are placed before them. I cannot believe that that is the intention of Honourable Members.

The forms of boycott which were prevalent in the Bombay Presidency during the heyday of the civil disobedience movement, which was before the Ordinances were put into operation about July, 1930, were firstly, forcing village officers to resign by threats of boycott. This happened in Guzerat, and it was particularly prevalent along the whole line of Mr. Gandhi's march. Another form was not to let houses to village and taluka officers and clerks or to serve them with notices to quit the houses. In some cases mamuldarars were served with such notices and in Shimda in Ratnagiri district, where salt raids took place, clerks were threatened that they would have to quit their houses.

Another form of boycott was not allowing public servants to draw water from wells and refusing them bazaar supplies. In some places this was a great evil. It affected the lowest paid Government servants—people who had no spare money to buy supplies from towns at a distance and to lay by large stocks in advance so that they need not mind whether they got the supplies locally or not. In some places it was necessary for officers to raise funds in order to procure supplies for them from a distance in order that the ordinary sepoy and low-paid clerks shall be provided with the necessities of life.

Another form of boycott that was adopted was accompanied by threats to these people that false cases would be filed against them.

I wish now to give the House some information as regards the actual facts prevailing in Guzerat after the start of the civil disobedience movement. I have here in my hand a statement showing the number of resignations of village officers between the 6th of April and the 25th of April, 1930, in Guzerat, that is three weeks, at the very start of the civil disobedience movement. The four principal districts, chiefly affected by Mr. Gandhi's propaganda, were Ahmedabad, Kaira, Broach and the Surat districts. In these three weeks in Ahmedabad, 30 patels resigned out of 848, in Kaira, 110 patels resigned out of 617, in Broach, 91 out of 551, and in Surat, 242 out of 760. Then, as regards *talatis*, or village accountants, who are responsible for the collection of land revenue, though they have to perform many other executive duties in addition, in Ahmedabad, 141 *talatis* resigned out of 1,492, 669 out of 1286 in Kaira, in Broach, 173 out of 1,880, and in Surat, 22 out of 1,824, and in almost all these cases the resignations were forced by threats of boycott. It is quite true that in some cases the resignations were voluntary, but the fact that most of them were involuntary was clearly proved when many of these servants asked, soon after, to be retained in service, and many of them were taken back.

It is not necessary for me to go in detail into the construction of clause 4. I merely wish to point out its main features, namely, the nature of the intention which constitutes a constituent circumstance in the offence which is threefold; firstly, to harass a public servant in the discharge of his duties. That happened in Guzerat when village officers were not allowed to use wells, and their wives and children were threatened that they would not be allowed to get their bazar supplies; secondly, to force them to resign their posts. That happened, as I pointed out, in Guzerat right at the beginning of the civil disobedience movement by forcing the resignations of hundreds of village officers, and, thirdly, to cause a public servant to fail in his duty. That happened also in many cases, and the methods adopted to intimidate these persons was by refusing to let them be provided with supplies during the progress of this movement, or to let houses on reasonable terms, and so on. The clause then enumerates four kinds of action which it proceeds to penalise. These actions are first refusing to deal with a public servant, second refusing to let a house, etc., to him in the circumstances stated, third, refusing to render him customary service in the ordinary way of business and, fourth, withholding medical services ordinarily rendered. As regards the first, such actions were continually committed as I have shown. As regards the second, I have given examples of what occurred in Guzerat; as regards the third, the provision in the clause meets an obvious situation and the same is true as regards the provision about withholding medical services. I think it will be perfectly clear to the House that in these circumstances this clause is fully justified and that the House will not be doing its duty if it fails to put it on the Statute-book. (Applause from Official Benches.)

Raja Bahadur G. Krishnamachariar: Sir, I support this amendment, support it wholeheartedly, and not half-heartedly. I have gone through this clause very carefully. I must congratulate the previous speaker on the wealth of detail that he has placed before this House. There is, however, one point, and it is, I believe, an important point, which he, as an official, as the head of a District, ought to have realised by this time

[**Raja Bahadur G. Krishnamachariar.**]

and it is this. If you want to command the respect of a people, resort to Criminal Law is the last thing that you ought to take. I agree that no Government can be carried on successfully if the people have no regard for the official who has been put over them, to rule over them though the executive officers do allege that they are the servants of the people. In all official documents, towards the end, before they are signed by the official concerned, it is written "I have the honour to be, Sir, Your most obedient servant". It is not quite correct. It should be substituted by "Your most tyrannical master, your most pressing master", or leaving the adjectives alone "your master", and that would have been the more correct thing. However, taking them at their word, believing that they are our servants,—that is only in theory, but theory and practice do not always agree and particularly in the actual administration they very often do not agree,—anyway, if you want the respect of the people, do not have resort to the Criminal Law, do not wield the big stick before them. Indians are a set of grateful people. You simply have to show your sympathy to them, and though you may have an iron hand, you should put a velvet glove on it, and you will see that 99 per cent. of the Indian people will be so grateful that they will think that you are doing a very great thing for them

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Chair claims that it has always been sympathetic

Raja Bahadur G. Krishnamachariar: Sir, I was talking of the Government of India.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member was addressing the Chair in the second person.

Raja Bahadur G. Krishnamachariar: I beg your pardon. Unfortunately this is not the first time that I have been called to order and I have bowed to it. I beg to apologise for it and I assure you that when I say "you" I mean the Government of India through the Chair. What I submit, is, if you want to command the respect of the people, do not resort to the Criminal Law. If you have not learnt it already, learn it at least now. The clause says:

"Whoever, with intent to harass any public servant in the discharge of his duties, or to cause him to terminate his services, or fail in his duty, refuses to deal with him. . ."

Now, Sir, harassing a public servant is rather a difficult thing to prove except that you can presume it. You prove a certain act and you say that the result is that there has been harassment. That, I say, is not the correct way of drafting your law.

—"With intent to harass a public servant in the discharge of his duties"—

I will tell the House one or two facts in connection with harassing a public servant in the discharge of his duties. My Honourable friend, Sir Muhammad Yakub, was very rough to my friend, Mr. Raju, because he had come forward with an imaginary example. I suppose in the olden days he has read a book called the Indian Penal Code with Mayne's Commentaries. There is a section in the Penal Code which deals with obstruction to a public servant in the discharge of his duties. If you turn to Mayne's commentaries, he says that it would be scarcely credible, if it were not true, that you find a Government official prosecuting a respectable man for obstructing him in the discharge of his duty, because he would not lend his carriage for his own purpose. That is what

Mr. Mayne says. So that from declining to lend your carriage to declining to lend your money is not a very big step, and what Mr. Raju said is a matter which, though not capable of proof, is absolutely a matter within reasonable probability. There are Government servants who forget themselves so long as they are sitting in their chairs and drawing their pay. Whatever they want must be given, and if they are not given, then what happens? They are obstructed in the discharge of their public duties, and there is a section in the Penal Code, and this drastic clause places before them a power to prosecute the man.

That, Sir, is one particular instance. Another instance is this. A Government official goes at an unearthly hour to a certain village and he wants all sorts of conveniences. There are two or three houses there, old dilapidated buildings. The men are very unwilling to get up and welcome this, may I call, unwelcome guest at that unearthly hour. And early in the morning you will find the vials of his wrath poured upon the devoted heads of those two or three villagers, and immediately a prosecution might follow under this clause. If they have not committed any offence, at least there will be a charge that they have stacked their village sweepings in a certain place where it ought not to be and there will be at least a municipal or local board prosecution. My Honourable friend, the Home Member, whose speech I unfortunately missed in connection with the last amendment, is so nice in his speech that when you listen to him, you are almost inclined to abandon your point and agree with him. (Laughter.) Unfortunately, even he has not been able to read the fallacies of his own position. It is perfectly true that in the Madras Presidency we are comparatively in a peaceful position, but we know the official mentality. Human nature is human nature. What I protested against was not that this thing would happen in a certain remote village in the Madras Presidency, but if these conditions exist, wherever the official may be, human nature being what it is, he will do exactly the same thing, and I, therefore, beg of him not to give these large powers to these officials. We were told that it is the smaller official that would be put to difficulties. Perfectly true, because it is the smaller official who harasses the people a great deal. The bigger official does not harass; in fact, that is an argument in my favour. The higher you go in the official ladder, the greater is the courtesy they show to the people. The greater the courtesy, the greater is the gratitude they are able to extract from them and, therefore, there is no trouble. The lower the official, the greater is the impertinence which he brings to bear upon his dealings with the people, and the Indian people, although they are docile, although they are mild, yet, when they turn, they know exactly how to turn, and then the Indian official begins to whine and say they are boycotting him. Why don't they do it with the bigger official? Because these bigger officials do not exercise their power in the way in which the lower officials do. So far as Guzerat is concerned, I am perfectly willing to concede every point that my Honourable friend on the other side has made today. But Guzerat is not the whole of India.

An Honourable Member: What about the Andhra districts in the Madras Presidency?

Raja Bahadur G. Krishnamachariar: I do not know exactly about it until my Honourable friend, Mr. Sri Hari Rao Nayudu, gives us details in the Andhra country. Wherever you go, give the smaller official a little chance and he always stings; there is an old Tamil proverb which says, give the scorpion a chance and he will sting every third hour.

An Honourable Member: What about cobra?

Raja Bahadur G. Krishnamachariar: A cobra does with you once for all. (Laughter.) The clause says:

"...or to cause him to terminate his services, or fail in his duty."

I have already objected to the word "fail". I am afraid they won't change the word. Some day when it comes before a Court, they will find that the Judges say that they do not understand what it is, and then they will come up here hurriedly and try to amend it. I hope they will at least then learn a lesson if they do not listen to me now, because I do not understand English as well as they do, and, therefore, what I say may be brushed aside. The most important part of the clause is:

"...or to let on reasonable rent a house usually let for hire, or land not being cultivated land to . . ."

I shall reserve "customary services" for another occasion. I will tell you a little bit of incident that happened. There was a big official who was camping in my village. There were only half a dozen houses, and one of the best houses . . . (*An Honourable Member:* "Is it in Hyderabad?") I know Hyderabad a little bit, and we do not call Hyderabad a village.

Mr. D. K. Lahiri Chaudhury: The speech is interesting. Will you please speak up a bit?

Raja Bahadur G. Krishnamachariar: Thank you. There were only three or four houses and the best house had been selected for the official. Unfortunately for me I had a house which was a little better than the house which had been selected for the official. This official insisted that he should enter my house when I was living there, mind you. (Laughter.) I declined his request with thanks. What happened? I shall probably be doing him an injustice because he is not here to defend himself, but it is a matter that would not bear repetition in a respectable Assembly like this. That, Sir, is the official mentality. My Honourable friend, Sir Muhammad Yakub,—I do not know what sort of place he comes from—(Laughter.)—I want every one of these gentlemen who support this proposal to go and live in the mufassil, to go and disregard the official. That is to say, not insult him, but leave the official alone to do his duty and do not consider that there is an official in your midst. Go on like that for three days, and if, on the fourth day, his wrath does not come down upon you, take it from me, you may catch hold of my ear and wring it off. (Laughter.) My friend, Sir Muhammad Yakub, may not agree with me, but what I do say is perfectly right.

Sir Muhammad Yakub: My house is not usually let on hire. Probably your house was let on hire.

Raja Bahadur G. Krishnamachariar: As regards that, if you had lived in a cantonment, you would have understood the meaning of the expression. (Laughter.) I have had to do with cantonments for 20 years. I was a lawyer practising in Secunderabad. I know exactly how the words "usually let on hire" are interpreted when the house is wanted for Government purposes. We shall not discuss it here. If anybody challenges what I am saying, I shall within a week produce certified copies of the records to fully justify what I say. I never speak without chapter and verse. So the difficulty is this. I do not want to let my house on hire, but this gentleman comes along and says that communal

trouble will crop up as it has done in my town in Mannargudi in the Tanjore District. There is a tank. On all sides of it Brahmins live. A Muhammadan police inspector insisted upon getting into a certain house which was vacant in the midst of those houses. In the whole of that town, he said, there was not a single house available and so he wanted to occupy that house. Fortunately better counsels prevailed and, after three days' discussion in which I also joined, we persuaded him to go to some other place, as there will be great deal of trouble if he got into that place. It is not improbable that these things would happen. I submit, for Heaven's sake, for the sake of that very peace which you seek, and for the sake of the very respect for law which you want to inculcate in the people, don't make laws which would be harassment to the people under the cover of saving the officials from being harassed. My friend here is very angry that I have been conferred the title of Raja Bahadur. I am quite prepared to resign it in his favour if he would accept it. (Laughter.)

Now, I come to the customary service. We have been fighting what we call the *begar* system even in a place like Hyderabad. As for corruption which Honourable Member always applied to Hyderabad, we did not have committees to inquire into the existence of the leases of corruption there, although in three provinces in British India such committees were set up to inquire how far corruption exists there. That is another story. This customary service is a dangerous thing. You come at dead of night, wake up the *dhobi* and give him three huge bundles to carry and ask him to come back the next morning after delivering it at destination. That is one of the customary services. It is pressed even today. You go and live in a village for three days and you will find it out. It is no good challenging me. I am quite prepared to admit that the official does require every help in his tour, because presumably he tours for the benefit of the people. Therefore, he must be helped, but what is this customary service. The official comes and asks for milk. I have half a seer of milk in my house for my sick child. He says: "No. I must have it". If I don't give, tomorrow there will be a prosecution under this clause. I shall not go into further details. These are all difficulties. I am talking from my experience of these things. I am not talking from my imagination. What I say is this. You are going to ensure respect from the villager by saying that you were going to prosecute him. I say, don't do that sort of thing.

I do not want to take up much of the time of the House except to say a word about clause 2. It sounds very big, this sanction of the Local Government. It is perfectly good on paper. You say "what more do you want. There is the Local Government which is a responsible body and when they say, this is a fit case for prosecution, what more safeguard do you require?" I do not agree with my friend, Mr. Jog, when he says that directly a Local Government gives sanction, the Magistrate will convict the accused person. I do not go so far as that. There are Magistrates even of the lowest grade who stand up against false cases and, even at the risk of their appointment, they make very severe strictures against the prosecution, where they deserve it. But the sanction business is quite different. In the Madras Presidency, there was a very important and sensational press prosecution. The case was committed by the Chief Presidency Magistrate to the Madras High Court. Objection was taken that there had not been proper sanction. They all tried to sit upon the counsel for the defence by saying "here is the seal of the

[Raja Bahadur G. Krishnamachariar.]

Government, the signature of the responsible Secretary. What more do you want?" This gentleman said: "No. It is not the action of the Government. It is the action of one of the members of the Government who generally deals with this portfolio by an arrangement made by the Governor". That statement was made by the counsel for the defence and the prosecution was not able to deny it. The Court adjourned and, the day after the adjournment, the counsel for the prosecution comes and says that that was so. The counsel for the defence said: "That is not all. The Member has simply signed the paper without reading what was written, because there were two contradictory statements. One man said, there ought to be a prosecution. Another man said, there ought to be no prosecution. Then, at the end of it all, there was the signature of the Member". The counsel for the defence asked which was good and which was bad. The whole thing ended in a muddle. The prosecution was withdrawn and another was started. Is this the safeguard which is going to save innocent people from being prosecuted. For instance, the other day in the Andhra Desa, of which my friend, Mr. Sri Hari, knows a good deal, there was a prosecution against a man, because he wore a Gandhi cap and appeared on the platform of a railway station. There was a question asked as to the sanction, from the man who gave the sanction, and it was said that "the police wanted the sanction, and we gave the sanction". Sir, that is the mentality with which sanctions are given. There is absolutely no safeguard. I do not say that it always happens. There are, of course, conscientious people. But what I say is that there is a probability of these things happening. So I say: "Bear in mind the somewhat harsh nature of the clause together with the so-called safeguard", and I say "remove this clause".

Sir, before I sit down, I want to say one thing. In connection with the Bill, which I moved some time ago to amend the Sarda Act, the Honourable the Home Member told me, "Why not wait for a few months? Your expanded Assembly is going to come. You will get your own Government. Fight all these Acts before your own Government, and if they will not have them, let them repeal them". Now I want to bring the analogous argument against my friend, the Home Member, now. Whom does the threatened boycott affect? It will affect the official of the future Government. It does not affect the present-day British official, because the British Government are going, as they say, to hand over, the power to us. So, why not wait till then? Why are you in such a great hurry so that all these nice little repressive Bills should be passed? Who wanted these things? Did those who are charmed of democracy—and I am not charmed of the sort of democracy they want to give us if at all they do—ask for them? I do not think so. Therefore, I would very respectfully suggest, before I sit down, that the Honourable the Home Member should leave things alone. Let the new Government, which is promised to us, if they find that they cannot go on, frame such drastic laws and more drastic ones if they choose, as the Irish Free State had to do, and leave things alone. That is what I say to them.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 24th November, 1932.