

LEGISLATIVE ASSEMBLY DEBATES

WEDNESDAY, 30th NOVEMBER, 1932

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OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY.

Wednesday, 30th 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.

SEPARATION OF BURMA FROM INDIA.

1522. ***Mr. S. O. Mitra** (on behalf of Mr. Bhuput Sing): (a) Will the question of the separation of Burma from India rest entirely on the voting of the Burma Legislative Council or will a Second Burma Round Table Conference be called to give the final verdict?

(b) Is it a fact that the decision now taken will be conclusive and final for all time to come? If so, what is the special reason for this?

(c) Will Burma be represented at the Third Round Table Conference in view of the results in the recent election? If not, why not?

(d) Are Government aware that the subject has aroused much public attention in India and are they prepared to allot a special day for its discussion in the Assembly as early as possible?

The Honourable Sir Brojendra Mitter: (a), (b) and (c). I regret it is not possible for me to make any statement in reply to these parts of the Honourable Member's question until the separation issue has been debated and voted upon in the Burma Legislative Council. In this connection I invite the Honourable Member's attention to the Reuter's report of the replies given by the Secretary of State in the House of Commons on the 16th instant to questions on the subject.

(d) Government are aware of the public interest in the question. They do not propose to allot a special day for its discussion.

Mr. K. Ahmed: In view of the fact that India is not yet separated and it is still under the supervision, control,— and what is the other thing? (Laughter)—direction, do Government propose to make a statement on the subject stated in the question, because it is relevant to this issue?

The Honourable Sir Brojendra Mitter: I do not understand the question, Sir. There is no question of separation of India.

Mr. K. Ahmed: I never said the question of separation of India, I meant the separation of Burma from India. Do Government propose to give an answer since the direction, control and supervision are in their hands, and they are responsible?

The Honourable Sir Brojendra Mitter: Answer to what?

Mr. K. Ahmed: The answer to the question I have put on the floor of the House.

The Honourable Sir Brojendra Mitter: I have answered that.

Mr. K. Ahmed: That is no answer. That is a denial of answer. In view of the fact that it is clearly implied from the answer given that the Government of India have shaken off their responsibility and in view of their denial to give an answer under the circumstances, do Government propose to state what their own experience of control, supervision and direction for the province is at present?

Mr. President (The Honourable Sir Ibrahim Rahimtoola): The Honourable Member keeps on repeating these words.

Mr. K. Ahmed: Yes, Sir; the question was put to the Government, and the Honourable the Law Member will not appreciate it.

The Honourable Sir Brojendra Mitter: I said in answer to the question that it was not possible for me to make any statement until the separation issue had been debated and voted upon in the Burma Legislative Council. I have no other or better answer to give.

Mr. K. Ahmed: Then do I take it that the responsibility for direction, supervision and control has been given up by the Government of India, that the Honourable Members of this House are not to ask any questions and that they will have to depend on the Burma Legislative Council?

The Honourable Sir Brojendra Mitter: The assumption is unwarranted.

Mr. H. P. Mody: Are we to understand from the reply given by the Secretary of State in Parliament that the Government of India and the British Government propose to lay down for all time to come the policy which the Federal Government is to adopt on this question?

As the Honourable Member has not apparently understood me, I would like to remind him that the Secretary of State made a statement that Burma's choice shall be irrevocable. Are we to understand that the British Government and the Government of India propose to lay down for all time to come that the Federal Government will have no rights in the matter?

The Honourable Sir Brojendra Mitter: This is a matter which is within the competence of His Majesty's Government. The Government of India are not in a position to make any statement one way or the other as to

what the policy of His Majesty's Government will be in the framing of the new constitution.

Mr. H. P. Mody: Do the Government of India propose that the Round Table Conference should at least have a say, or are they content to leave the whole question to His Majesty's Government?

The Honourable Sir Brojendra Mitter: This is a question which I am not in a position to answer.

Mr. K. Ahmed: What is the reason?

The Honourable Sir Brojendra Mitter: The reason is that this is a matter which is within the control of His Majesty's Government and not within the control of the Government of India at the moment.

Mr. K. Ahmed: Since when? (Laughter.)

Sir Hari Singh Gour: Though the Honourable the Law Member cannot answer that question, it is within his special domain as Law Member to answer this: is it not constitutionally sound that the federating units can by contract make a federation and by contract rescind it?

The Honourable Sir Brojendra Mitter: So far as I know constitutional law, there is no absolute law to that effect. No two Federations are alike and, therefore, you cannot say that this is the immutable law of Federation. What form the new Federation will take is not known to us, and, therefore, I am not in a position to answer that.

Dr. Ziauddin Ahmad: Have the Government of India sent any communication to His Majesty's Government about the separation of Burma, and, if so, what is the purport of it?

The Honourable Sir Brojendra Mitter: I am not in a position to disclose what communication was sent by the Government of India on the subject to His Majesty's Government.

Mr. H. P. Mody: In view of the statements which have so frequently been made, do the Government of India support the position that Burma, if she chooses to enter the Federation, can never get out of it?

The Honourable Sir Brojendra Mitter: That is a matter which will be discussed by the Round Table Conference. I do not see how the Government of India at this stage comes into the picture at all.

Mr. H. P. Mody: Have not the Government of India an opinion on the subject?

The Honourable Sir Brojendra Mitter: Oh, yes, undoubtedly the Government of India have an opinion as the Honourable Member has an opinion.

Mr. K. Ahmed: What is that? (Laughter.)

The Honourable Sir Brojendra Mitter: That I am not going to tell you.

INDIANS TRAINED AS GROUND ENGINEERS IN ENGLAND.

1523. ***Mr. Jagan Nath Aggarwal:** (a) Will Government kindly state the number of Indians trained as Ground Engineers in England who are at present in India; how many are employed and on what pay? What steps are Government taking to give them preference over non-Indians in employment in Flying Clubs and other companies?

(b) Is it a fact that "A and C" Ground Engineers cannot be full-fledged ones, unless they possess "B and D" Licences, which are acquired after practical experience and initiative, and are Government prepared to insist on the employment of Indian "A and C" Ground Engineers as Assistants in different Flying Clubs, so that they may acquire the necessary experience and initiative for "B and D" licences?

(c) Are Government prepared to direct the different Flying Clubs in India to report periodically as to whether they have employed Indians as such Assistants and also make the grant of subsidy conditional on the employment of such Assistants?

The Honourable Sir Frank Noyce: (a) Government have no definite information as to the number of Indians at present in India who have been trained in England as Ground Engineers. A list of Indian candidates trained in England who have applied for employment or for the grant of Indian Ground Engineer's licences is laid on the table giving the information required, as far as it is known, Government have already brought to the notice of Flying Clubs that they should give preference to Indians for employment, when suitably qualified candidates are forthcoming. There are only two aircraft operating companies at present in India, namely, Tata Sons, Limited and the Indian Air Survey and Transport, Limited. Both these firms employ Indians but Government cannot compel them to do so. By the terms of the agreement between Government and Tata Sons, Limited, however, the company undertakes to employ Indians when suitably qualified applicants are available.

(b) Owing to the fact that there are at present no aircraft and aero engine factories in existence in India, it is not possible for Indians to gain the full experience required in categories "B" and "D" of the Ground Engineer's licence in this country. The statement already laid on the table shows that the majority of the Ground Engineers trained in England who have returned to India have been found or have found employment. In addition to those enumerated in the list, other ground engineers who have been trained in India are employed by the Flying Clubs. Government have always urged the employment of Indian Ground Engineers as Assistants where suitable.

(c) Reports are already received from the Flying Clubs showing the number of Indians employed. In view of the facts stated above, it is unnecessary to impose the condition proposed.

List of Indians trained in England as Ground Engineers who have applied for employment or the grant of Indian Ground Engineers licences.

Name.	Nature of employment.	Salary.
R. P. Nair	Was until recently employed as officiating Ground Engineer on a salary in charge of the Madras Flying Club during the absence of the Principal Ground Engineer on leave. Is at present employed as honorary Ground Engineer at the Delhi and U. P. Flying Club, Delhi.	
M. L. Sodhi	Is at present employed as Ground Engineer in charge of the Kathiawar Flying Club.	Not known.
T. N. Khatri	It is understood that he has recently proceeded to England for further training.	
H. D. Bharucha	Is employed as a pilot with Tata Sons' Karachi Madras Air Mail Service.	Not known.
J. L. Castel	Is employed as Assistant Ground Engineer with the Bombay Flying Club. Recently took charge of work at the Club in the absence of the Chief Engineer on leave.	Believed to be Rs. 300—400 p. m.
M. P. Chablani	Is employed as Ground Engineer in charge at the Cawnpore centre of the Delhi and U. P. Flying Club.	Not known but is believed to be approximately Rs. 300 p. m.
H. S. Bawa	Is employed with Messrs. The De Havilland Aircraft Co., Karachi on a nominal salary with a view to his gaining experience for employment as Assistant Ground Engineer with the Bombay Flying Club.	Rs. 100 p. m.
B. K. N. Rao	Is at present employed as a pilot with the Madras Flying Club.	Not known.
A. B. Ray	Is understood to have found employment with a private aircraft owner in Bengal.	Not known.

Mr. Arthur Moore: Will the Honourable Member be pleased to say whether it is intended to start a school for the training of Ground Engineers in this country?

The Honourable Sir Frank Noyce: I am afraid I must ask for notice of that question.

Mr. F. E. James: In answer to the main question, the Honourable Member stated that Indians would be given preference. Does the term 'Indians' include Anglo-Indians also?

The Honourable Sir Frank Noyce: I think so.

Mr. H. P. Mody: Does it include Parsis?

Mr. K. P. Thampan: May I know the number of Flying Clubs in India and the number of Ground Engineers these Flying Clubs are capable of employing?

The Honourable Sir Frank Noyce: Will the Honourable Member please repeat his question?

Mr. K. P. Thampan: I want to know the number of Flying Clubs in this country and the number of Ground Engineers each Club is capable of employing?

The Honourable Sir Frank Noyce: There again I have not got the information in my head. I think there are six Flying Clubs in India, but I cannot state the number of Ground Engineers employed by them. I shall be glad to make inquiries and then let the Honourable Member know.

THE CRIMINAL LAW AMENDMENT BILL—*contd.*

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Further consideration of Mr. Jadhav's amendment:

"That clause 7 of the Bill be omitted."

Mr. B. Sitaramaraju (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): Even the gallant Knight of Moradabad is dissatisfied with the provisions of this clause. His dissatisfaction is not that this clause is bad, but his dissatisfaction is that this clause is not as bad as it ought to be. To use his own words, it is not as apprehensive as it ought to be.

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Comprehensive I said.

Mr. B. Sitaramaraju: My Honourable friend says that he wanted to say comprehensive. But it makes no difference to me, because, according to my Honourable friend, the provisions of this clause are not as wide as they ought to be. There I congratulate the Honourable gentleman for the courage of his conviction, a conviction evidently

Sir Muhammad Yakub: Do you mean conviction of the Congress volunteers?

Mr. B. Sitaramaraju: a conviction influenced undoubtedly by the memory of a thirst in the bar room, but the agony of that thirst is, I am afraid, lost on this side of the House in our agony over the provisions of this Bill during the last four or five days. (Laughter.) But I would respectfully ask my Honourable friend from Moradabad whether, as a legislator who ought to inspire people with humanity, he would not think it better that he should set an example himself. He referred yesterday to the women who partook in the civil disobedience movement. I would request him to show respect to those lives and the circumstances which influenced their sensitivities. They have played a prominent part in the

political life of this country at great sacrifice. As a member of the Select Committee, I would like the gallant Knight of Moradabad to explain to me what this *Explanation* means. Yesterday one Honourable gentleman said that on a perusal of this *Explanation*, the ordinary meaning which one can attach to it, would show that what is not an offence under this clause is not an offence under this clause. (Laughter.) That seems to me to be the plain meaning of this *Explanation*. The Honourable gentleman has not, in spite of the opposition to this *Explanation*, chosen to explain what it really means. The *Explanation* was added in the Select Committee, and it was evidently made for the purpose of satisfying some member in the Select Committee that the encouragement of indigenous industries and the advocacy of temperance are taken out of the purview of this clause. I wish to sympathise with that Honourable Member who has undoubtedly been the victim of a confidence trick. The clause, as I have said, in no way helps the encouragement of indigenous industries or the advocacy of temperance, and as my Honourable friend to my left is saying, it is nothing short of a fraud. We hear so much from day to day in the English press that "Buy British" is a virtue. What is a virtue in England appears to be a vice in this country. We know, when the Ordinances were being worked, that even some of the Swadeshi shops which had nothing to do with the Congress movement were closed. In this country "Buy Indian" is a crime and "Buy British" is a virtue. I remember, several years ago, during the days of the Partition of Bengal, it was a crime to cry "Bande Mataram". At that time we were in the schools and we were treated to a substantial dose of loyalty. We were asked to sing songs of loyalty, and what was considered to be a crime was transferred into virtue by crying *Bande Mataram*. We must give a little bit of credit to students for commonsense. Patriotism cannot be instilled, nor can it be discouraged and prohibited by official or executive action. The clause is very wide. When we come to some of its provisions, we find that even an overt act is not necessary to come within the clause. A mere loitering near a shop or the residence of any businessman or official is a crime under this clause. Mere intention would constitute an offence under the provisions of this clause. May I ask, how that intention is to be proved? Who can judge whether the mere loitering or walking up and down a residence is with the intention of depriving a person of the liberty of doing his legitimate business. Again, not only loitering, but it would be an offence to commit "any similar act". And yet my Honourable friend from Moradabad would say that the clause was not wide enough! I do not know exactly what is intended to be covered by this phrase "any similar act". I would consider that the mere walking up and down a street where the house of an official is located or the residence of a businessman is located, would be construed to be an offence, and it would be in the discretion of the official who is to administer this law whether the person concerned had that intention or not, for it is not susceptible of proof in a Court of law when you constitute a mere intention as a crime. This clause necessarily must give power to a class of inferior men, where a singular necessity combines in its exercise all the causes of partiality and all the characteristics of injustice. I would like to add one word more, and it is this. Government ought to bear in mind, laws, however sanguinary, have always showed tendency to render men cruel by fear, by imitation and by fostering a spirit of revenge. Mild laws humanise a nation. The spirit of Government is reproduced among its citizens.

Mr. B. N. Misra (Orissa Division: Non-Muhammadan): We have heard the Honourable the Home Member say that this Bill was intended to combat the civil disobedience movement and the terrorist movement. As for the terrorist, no combat is necessary. They attack others with a pistol in one hand and poison in the other, and, after fulfilling their object, they take the poison themselves. They are beyond any body's power. They go beyond the pale of humanity and no law is necessary for them. Nor do we represent them or like them. As for the Congress, they have their own activities and the Government have their own activities. In the beginning, the Congress programme was one of simple non-co-operation and it has developed now into non-violent civil disobedience. The several phases of the movement are known to us all. Government have been trying to combat this movement and no side can be said to have been defeated.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): This general discussion has been going on for a considerable time. Will the Honourable Member specifically deal with this clause?

Mr. B. N. Misra: Yes. Now, take loitering. I do not know exactly what it means. If it means walking up and down or coming near, I think the Home Member has committed a blunder in not putting some other words there. We have heard of people prostrating before a car. Is that also included in the word "loitering"? Otherwise he is guilty of a grave omission which will perhaps crumble the British Empire to dust and paralyse the Government here. No one on this side thinks that a man by simply prostrating can paralyse the Government. We remember the saying: "The dogs bark and the caravan goes on." The administration will go on and Government will not be paralysed by this sort of action. Prostration is not molesting a man. Now take the words "similar act" in the clause. Can any Magistrate define what "similar act" means? I think the wording must be more clear than this. I do not know how the Courts will punish a man for a similar act. Now, as regards these loiterers, who invites them—the Congress volunteer or the Government? I have an experience of this picketing. A boy of eight or nine years was in front of a grog shop asking people not to drink. I do not know whether that will be considered as temperance movement or paralysing the Government. Then, immediately, four constables, *lalpagriwallas*, red-turbanned people, turned up. That excites the feeling of the people. These loiterers are invited more by the *lalpagriwallas* than by the Congress volunteers. Is it a vice to ask our fellow brethren not to drink? I think the loiterers gather more owing to the action of the Government who send the *lalpagriwallas* to deal with a petty matter like this. You give the dog a bad name and hang it. You call a man a loiterer and then punish him. We are not speaking of Congresswallas. They do not want to be defended by us. They go to jail voluntarily. They do not care to defend their case. They do not require us to oppose this law. The Congress volunteers do not even want us to speak on their behalf. What we are speaking about are those unfortunate people who come to the place out of mere curiosity. They see the *lalpagriwallas* and they come to see what the matter is. For that they will be punished. I say, these innocent people should not be punished, simply because they are there. With these words, I support the amendment.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): I think there is considerable misapprehension on the part of my Honourable friends and others as to the real object we on this side of the House have in asking for the deletion of this clause. Looking over the various amendments I find from the speeches that have been so far delivered that my Honourable friends on this side are against what is called peaceful picketing for the promotion of indigenous industry and the prevention of drunkenness. Amendments which are probably similar to the amendment by Mr. Jadhav are those of Mr. Ramakrishna Reddi, Mr. Puri, Nos. 52 and 55 and 56, and also Mr. Mitra's. Now, the amendment we are now discussing is the deletion of the whole clause, whereas the arguments that are being addressed to you, Sir, are not arguments against the deletion of the whole clause but in regard to this amendment to protect peaceful picketing for the purpose of promoting indigenous industry and preventing drunkenness. That is the object. That would be amply met by moving the amendment to which I have referred which is low down on the paper book at page 5. I would, therefore, ask Honourable Members whether they should not concentrate on one of those selected amendments on which the discussion has proceeded so far, namely, that the Government should further amend the *Explanation* given in clause 7 and enlarge its provisions so as to prevent the prosecution of persons who are engaged in peaceful picketing for the purpose of promoting temperance or Swadeshi. I think we are all agreed that that is the object of all these amendments, and if we are agreed upon that, there should be no difficulty in uniting our forces to concentrate upon that one point, upon which Members on this side of the House feel and feel strongly.

Sir, in addressing this House the other day I pointed out that the terms of clause 7 were too wide and that the *Explanation* that had been added by the Select Committee did not serve the purpose which the members of the Select Committee must have had at heart, namely, to save peaceful picketing for the purpose I have mentioned. Let me, therefore, Sir, address you on that point. The *Explanation* says: "Encouragement of indigenous industries or advocacy of temperance, without the commission of any of the acts prohibited by this section." (Laughter from the Opposition Benches.) Now I would ask the Honourable the Home Member, is this not a contradiction in terms? How can I have peaceful picketing without committing any of the acts prohibited by this section? My friend, the Home Member, remembers the great agitation that was going on under the ægis of a gentleman who came to be popularly known as Pussyfoot Johnson, who went about picketing liquor shops and who was the pioneer of the great temperance movement which culminated in the whole of America going dry. Now, in India, long before the advent of the civil disobedience movement, we have had a very strong movement for the promotion of temperance and Swadeshi. It is wholly unconnected with any political movement: it is a purely social reform movement, engineered and worked and operated by pure and simple social reformers. It is true that the Congress, finding this a very suitable weapon for their political practice, have adopted it as part of their programme; but the mere fact that the Congress have adopted it as a plank in their civil disobedience platform should not make us blind to the fact that this movement has been existing in this country quite independently of the activities of the Congress: and if you wish to suppress the civil disobedience movement, you must at the same time safeguard that other movement

[Sir Hari Singh Gour.]

against which you have nothing whatever to say. Sir, if I go out in the evening on the high-way for a walk and I find that that road is also haunted by pickpockets, would it behove the Government to close down the whole road on the ground that that road is used occasionally by pickpockets?—and that is what they are trying to do. Sir, under the guise of suppressing the civil disobedience movement, they are trying to suppress—not intentionally but in effect—all peaceful picketing, which might result in the suppression of all those social reform activities that are directed towards the promotion of abstinence and the cultivation of a national Swadeshi spirit. I, therefore, submit that these amendments which are printed on page 5, particularly amendments Nos. 55, 56 and 57, require our serious consideration, and I would ask the Honourable the Law Member and the Honourable the Home Member to ponder over the suggestion made from this side of the House and see that the *Explanation* is altered so as to safeguard this perfectly legitimate, if not commendable, scheme of social reform.

Sir Abdur Rahim (Calcutta and Suburbs: Non-Muhammadan Urban): Mr. President, I wish just to say one word about this matter, especially in connection with what has been said by my Honourable friend, Sir Hari Singh Gour. My Honourable friend is anxious that Swadeshi should be encouraged and also the cause of temperance. Sir, I entirely agree with him and I believe the whole country is at one with him in that respect, but may I suggest to my Honourable friend, the Leader of the Nationalists, that there is another very effective way of achieving his object and that is to give preference to all British goods, including ale, beer and spirits. Will not both the cause of temperance and Swadeshi be equally served if we adopt the policy of preference?

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): Sir, I accept the motion moved by my friend, Mr. Jadhav. We all know of excesses committed by the followers of the civil disobedience movement. Of course at the same time we see that there are excesses by the police. Certain instances were quoted yesterday about the excesses committed by the followers of the civil disobedience movement. I can quote hundreds of such excesses, but, at the same time, I can quote thousands of excesses committed in the name of law and order by the police. But it is not my purpose to dilate on that subject now. We are now concerned with clause 7. Now I differ from the opinion expressed by my Leader, Sir Hari Singh Gour, that our object is to safeguard the activities of social reform movements and of movements for temperance. Our objection is that this clause brings into its meshes everything connected with all activities of life, whereas it should have been confined only to the civil disobedience movement; and if by any means it can be stated that this clause only relates to the civil disobedience movement, probably our purpose would be served.

Sir, I may point out that in clause 8 a phrase has been used by the Government—"in furtherance of a movement prejudicial to the public safety". Why have they not said in this clause also that the person against whom this clause is to be operated must have been acting in furtherance of a movement against the public safety? That would have

included in this clause only a movement against public safety and not a movement which is in furtherance of temperance and of all other social activities including the parental duty towards the son. My object in rising now is to show that this clause not only covers the civil disobedience, but every other activity and it can be used or abused both against the innocent as well as the guilty. Sir, in our college days we heard that one of the principal ingredients of English Jurisprudence is that thousands of guilty persons may escape but not one innocent person should be wronged.

Now, my object is to examine clause 7 in the light of that adage and I will show that it works more against the innocent than against the guilty. Now, let us take the first portion of the clause which runs :

"Whoever with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing,"

The object of this portion is to prevent another person to dominate another person's will and for that purpose certain other acts are mentioned here, namely :

"obstruction, violence or intimidation."

Now, Sir, my son may go astray ; it is my duty to control him. For this purpose I obstruct him, I intimidate him. Do I not come within the mischief of this clause? The Honourable the Home Member pointed out that as safeguard against the abuse of that clause a provision was put in *Explanation 2*. He says that the Court can only take cognizance of an offence under this clause upon a report made by a police officer. Of course, he may think that all police officers are Buddhas or Christs, but I do not think that is so. I say that it will enable a police officer, if he so likes, to blackmail me. Similarly, it was stated by Diwan Bahadur Sarda only the other day that if he wanted to obstruct an old man of 70 from marrying he would come under this clause. Sir, the clause is so wide that it will bring into its operation everything where for the good of somebody else or for my own good I want to prevent another from doing an act which he has every right to do but which is regarded as a moral wrong. Therefore, I submit that the first portion of the clause must be confined before it can be accepted by this House to the operations of the civil disobedience activities. Now, let us take the second portion which runs :

"or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be,"

For the purpose of the illustration which I gave just now, I want to redeem my son from going to a house of ill-fame. I can't get hold of him. He is keeping himself in such a house. I keep persons there that loiter before the house for the purpose of catching the boy, and they come under this clause.

Then, Sir, it includes :

"or persistently follows him from place to place,"

The same remark applies in this case also. Therefore, the first portion of this clause prevents every person from doing something which, in the ordinary circumstances, would be considered to be beneficial.

[Mr. S. C. Sen.]

Now, Sir, let us take the second clause which runs :

"loiters or does any similar act at or near the place where a person carries on business, in such a way and with intent that any person may thereby be deterred from entering or approaching or dealing at such place,"

I may have a shop side by side with the shop mentioned here. It is my interest that customers should come into my shop and not go to the other shop. But I deter his customers by my action of loitering near his shop or in front of his shop and prevent them by persuasion from entering his shop. No overt act is necessary; mere loitering is sufficient. I am told that this clause has been taken from the English Act, but the safeguards there are omitted. In the English Act, something more has been given and something more is required. The English Trade Disputes Act, which was referred to yesterday, says :

"if they so attend in such numbers or otherwise in such manner as to be calculated to intimidate any person in that house or place, or to obstruct the approach thereto or egress therefrom, or to lead to a breach of the peace."

Therefore, mere loitering by one person will not do. Loitering must be by several persons and in such a manner as to cause intimidation or fear in the customers who are going inside that shop. In this clause mere loitering has been made a ground for punishment. Sir, these are the factors which are to be taken into consideration and these are the factors which may be calculated to bring into its purview not only the persons against whom it is intended, but thousands and thousands of innocent persons who have nothing to do with the civil disobedience movement or with any other movement which is prejudicial to the public safety. Under these circumstances, and with these observations, I support the motion of Mr. Jadhav.

Mr. S. C. Mitra (Chittagong and Rajshahi Divisions: Non-Muhamadan Rural): Sir, with the laudable object of cutting short the debate, Sir Hari Singh Gour suggested and appealed to the Government to accept the amendment that dealt with peaceful picketing. But we, who are constantly watching the attitude of the Government in the House, can tell him that, however reasonable he may think it to be, Government are determined not to accept any reasonable amendment. It has been made clear, times without number,—and unfortunately Sir Hari Singh Gour was not present in the House during these debates—that Government mean to put a stop to peaceful picketing by this clause. They are not only opposed to violent picketing, but they are determined by this clause specifically to put a stop to what is known as peaceful picketing. I think the Honourable the Home Member will make it clear again by repeating the same thing, namely, that he intends to put a stop to peaceful picketing. So, Sir Hari Singh Gour may not have any misapprehension on that score. Sir, I have given no amendment for the deletion of this clause in the hope that if Government will see their way to accept any of the amendments that are given notice of about peaceful picketing, there will be no necessity for deleting the whole clause. We have conceded, unlike our friend, Raja Bahadur Krishnamachariar, that where obstruction or violence or intimidation are involved, they should, by law, be prohibited. We are agreeable to go to that extent, but when Government by this

very wide clause try to prohibit picketing—whether by peaceful means or attended with violence—and if they put both on the same level, then we insist that the whole clause should be deleted.

Not only the Honourable the Home Member, but the other gallant Knights, every time they get a chance, abuse the great Congress institution. The other day, Sir Muhammad Yakub said that, in the name of the Congress, ears have been cut off and people have been murdered and other atrocities have been committed. I should like to appeal to him that if the same logic were to be applied, in the name of religion, not in the middle ages, I am not now speaking of the Christian martyrs who were burnt alive, but even the other day, in this House, my Honourable friend, Pandit Satyendra Nath Sen, was arguing that there should be no interference by Government for removing untouchability, in the name of religion; and, on the same ground, in the streets of Calcutta a book-seller was murdered for publishing a portrait of the Prophet of Islam. I can cite innumerable instances of what has been done in the name of religion—much more than what one could contemplate having been done by the Congress. Should we make religion responsible for these atrocities? In the name of freedom, the atrocities of the French Revolution and the Russian Revolution have been committed. Is that any reason why there should be no propaganda for political freedom or freedom of thought? My Honourable friend's argument comes to that. He is an *ex-Speaker*, and so I cannot lightly brush his arguments aside. My Honourable friend, Diwan Bahadur Harbilas Sarda, made it absolutely clear that what Government want to prohibit is the sale of Swadeshi goods. If that is their intention, let them specifically say so. If there is obstruction or coercion or intimidation, by all means let the Government stop it. But do not frame a clause which, under the pretext of prohibiting these admittedly wrong things, put a stop to all propaganda in this country for the purchase of indigenous goods. Examples have been given by the Leader of the Nationalist Party. It may be said, if there are thefts, the effective remedy is to cut off the right hands of the suspects, and thus stealing may be put an end to. But is that a commendable thing? That is the logic of my friend, Sir Muhammad Yakub. He has forgotten that for the last forty or forty-five years the spirit of nationalism and Swadeshi that we can boast of was from the inspiration of the Indian National Congress. Certainly we do not subscribe to every phase of the modern Congress movement. We have said we do not support the Congress method of direct action. We have said, this boycott of the Legislatures was foolish. That is no reason why people should decry the Congress on every possible occasion and make it responsible for all possible wrongs. About this clause where is there anything about the civil disobedience movement? If we read it with a fair mind, we will see clearly that the clause is meant to protect the foreign trade in the country and that is quite patent to anybody. It is this kind of attitude that makes people suspicious about Government. Why should Government not allow the people of this country by peaceful persuasion and appeal to their sentiments to make sacrifices, if necessary, to encourage the purchase of indigenous goods? Thus they will be able to help the development of national industries. If the Congress persuades people to purchase Swadeshi goods, why should a third party, the police, interfere and arrest a person? The offence is not even bailable; and that is the point I should like to draw the attention of the House. As a true Briton, Sir Leslie Hudson says we are in the midst of war. He has the true Churchillian and die-hard

[Mr. S. C. Mitra.]

conservative mentality. If this piece of legislation is really a pretext of putting down civil disobedience, but actually meant to do propaganda for British trade—we cannot accept it. It is that which we are apprehensive of. We are not thinking of imaginary cases, we believe that true Swadeshism, honest Swadeshism, as one of the Viceroy's used to call it, will suffer. I will read to the House a letter addressed not to me personally but as the General Secretary of the Independent Party written by Virchand B. Setti and this shows how, in the name of law, even honest Swadeshism is being hindered. This is the statement of Mr. Kashiram Laloobhai Mehta, a village schoolmaster and carrying on the work of village reconstruction in the village of Zinzavadar (Kathiawar):

"I, my sister Veniben and three students of mine, of late, move about in villages for the propagation of Swadeshism and "*Bhajan kirtan*". We distribute leaflets about Swadeshism and village reconstruction published by Ramji Hansraj of Amreli and printed by Saraswati Printing Press of Bhavnagar. One copy of each of the leaflets is enclosed. . . . Over and above distributing these leaflets and singing "*Bhajan Kirtan*" (religious songs) we exhort the villagers to take to simplicity, to leave off bad habits and to use Swadeshism.

In connection with the above general programme, on the 12th instant, we happened to go to the village Khambhada in Dhandhuka district where, at the village chowra, a few persons gathered round us. I began to read the leaflets appended to the appendix when the village headman came there, thrust me in the chest with the butt-end of his lathi and ordered me to stop reading the leaflets. The people were all asked to disperse. All the five members of my party and Gopal, a Kumbi boy of the village, were put under arrest and carried to Utara, the village police *chowki*. At the *chowki*, they released Gopal asking him not to co-operate with people like us and snatched away from us all the Swadeshism literature, blank papers, pencils, holders, etc. We next were sent to Barvala, one of the four principal towns of the district, to the assistant police sub-inspector there. At night we were not given any food or bedding.

At Barvala the sub-inspector threatened us for the propaganda of Swadeshism and abused one of our party in profane language even though my sister was present there.

Next afternoon, we were taken to Dhandhuka, the principal town of the district, to the sub-inspector there, where our reception was no less hostile, and, over and above, abusing us, he threatened to prosecute me for the offence of kidnapping the two students who were with me. The same evening we were sent away by a train to Botad, outside Dhandhuka Taluka."

Sir, my Honourable friend, Mr. Sorley, cited some cases of abuse of Congress propaganda; if you will permit me during the third reading, I shall cite ten times the number of cases which he has cited of the abuse of powers by the police and lower grade officials throughout Bengal. I know similar atrocities are happening everywhere, but owing to the curtailment of the liberty of the press, the papers are afraid to publish anything. I have got piteous letters from editors of papers. They appeal to us and say that under the present Press law, they cannot give vent or publish even a hundredth part of the cases that are reported to them. And because these cases are not published by the papers, owing to liability to forfeiture, that is no reason to think that the country is, under the Ordinances, being properly governed. If Government really see their way to be reasonable, as Sir Hari Singh Gour said, if they are ready to accept the provision about peaceful picketing, certainly we shall withdraw all our amendments and will be agreeable to pass the clause for prohibiting picketing where obstruction or coercion or intimidation is involved. If that suggestion is not accepted, we shall support the motion for the deletion of the clause.

Mr. Jagan Nath Aggarwal (Jullundur Division: Non-Muhammadan): Sir, I rise to support the amendment on a two-fold ground. First, I carefully considered this clause and tried to see whether it was possible to amend it. From the attempt of the Select Committee to amend this clause, it is fairly clear that they have failed in the attempt. The clause is so wide and so involved that it is an impossible proposition to amend it and, therefore, I think the best way of dealing with it is to end it. The other reason why I support the deletion of this clause is that this clause is likely to be an engine of oppression in the hands of people who are vested with these powers. It is likely to lead to petty tyranny and to promote a feeling of autocracy among people. If you are out to give people powers of this most vague and indefinite kind, it is just as well to think what use is likely to be made of them. In fact it appears that in the framing of this clause the means used by the civil disobedience promoters were in the brains of the framers and all ideas of legal precision have been thrown to the winds in the drafting of this clause. Let me take these things one by one.

First, you find intention. They say that if this man has a certain intention, he shall be punished. What is the intention? The intention is to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, which is, in short, to influence the volition of a person. You may have that intention with the most laudable of objects or with the most perverse of objects. You may have the intention of persuading that man to use indigenous things, you may have the intention that he should go dry or in the form of a *pater-familias* persuasion you may ask him to do some other thing. So that intention may be exercised in a variety of ways. All kinds of persuasion have that intention at its back. Therefore, unless you have that guilty intention, you shall not be punished. This intention is the simplest of all possible things which a man may have, whether a man is persuading or using that moral pressure which we use every day. With that very simple of intentions, some acts are punishable under the Penal Code. First take these words:

"obstructs or uses violence to or intimidates such person or a member of his family or person in his employ."

That, you will be pleased to notice, is an offence to a person, to a member of his family, or even to his servant. If my servant, when going to the market for purchasing a certain thing, is obstructed, a precarious kind of complaint will have to be lodged. Anybody can complain for what happens to him or to a member of his family or to his servant. A curious extension of legal liability is visualized here. The first part of it, "obstructs, uses violence to or intimidates" is covered by the Penal Code, but even in the first part you have a very large extension of it and that is the handiwork of the Select Committee.

Then, Sir, we go further. It may be possible to amend the previous part, but look at what follows. The next is, where with that intention he loiters at or near the place where such person, etc. Loitering is a word of very vague import. We used to have it in the Vagrancy section. If a man is a vagrant and has no means of livelihood and comes up against a policeman, he can be got hold of. But here it does not refer to a man without any means of livelihood or anything of that kind. You are loitering with the intention of persuading somebody. Then, "loitering at

[Mr. Jagan Nath Aggarwal.]

or near a place where such person or member or employed person resides or works or carries on business or happens to be". It does not finish there. This is what takes one's breath away. This man or a member of his family or his servant goes to Connaught Place to buy a certain thing and somebody happens to be there. Immediately, not by the fact of the loiterer being there, but by the fact of this person going to Connaught Place, the thing becomes an offence. This man may be loitering there the whole day and the people of Connaught Place may not have the slightest objection to the presence of this person. He may be a candidate for one of the jobs that has fallen vacant with the words "No vacancy" staring him in the face; but the mere fact of his being there all day is no offence until one of these protected persons, a member of his family or his servant happens to come there. He happens to be there and, therefore, this person's loitering there, whatever that may mean, becomes an offence. I do not know whether any Select Committee on earth can improve on the words of this clause. Drafting in the Government of India used to be one of those things which we in the provinces always commended, but this will lead us to change our opinions. I do not know where words like "happens to be" are likely to lead us to. He has no business to loiter in any place where a certain person "happens to be". It is much better that such a "protected person" be locked up in a certain place.

Then we go further. A person with that intent "persistently follows him from place to place". He is like a beggar and, if he is doing it, it becomes an offence. "Or interferes with any property owned or used by him or deprives him of or hinders him in the use thereof". Now, Sir, the conduct of this person *qua* that man had become an offence, now the conduct of this person *qua* property becomes an offence. Sir, look at the vagueness of it. Trespass and other things you can punish, but now any man can come and say that because such a man was near his place he was afraid to go in. All cowards in the land will have a premium placed upon their cowardice and unnecessary fright. The man may say that he saw a nightmare and he did not like to enter, because of the white clothes this man was wearing. It really takes one's breath away and I think it is impossible to amend such a clause. Then, Sir, we do not stop there but go further. Loitering was by itself fairly ambiguous and vague so far as legal terminology went. We go further and we find "loiters or does any similar act". Loitering is bad enough, and doing any similar act means that if anybody approaches within a hundred yards of any person who does not like the look of his nose or the cut of his face or the shape of his coat, then it would be an offence. It is really impossible to improve upon this phraseology. Then:

"loiters or does any similar act at or near the place where a person carries on business, in such a way and with intent that any person may thereby be deterred from entering or approaching or dealing at such place."

It would amount to this: if anybody in the world is told that a ghost is white, then he could say "I could not even enter my house, because I saw that man in white and he looked like a ghost". This is a hopeless proposition to lay down and it is impossible of amendment. Our friends were very happy in having devised an *Explanation* which of all things is the biggest of frauds,—and I may be pardoned for using that expression—this *Explanation* is the very limit of legal tolerance that one can approve of. We are told that peaceful picketing and encouragement of Swadeshi or temperance would

not be an offence and the Honourable the Home Member and the Law Member must have put their heads together and with their tongues in their cheeks said: "Yes; we will allow these people to have this *Explanation*, because it explains nothing and it means nothing", as I shall presently show how the two Honourable Members have made a present of this to the opposition and to the whole country. If they had said "encouragement of indigenous industries or advocacy of temperance is not an offence under this section", it would be grand, but what do they say?—"without the commission of any of the acts prohibited by this section". What is not prohibited by this section? This section prohibits obstruction, use of violence, intimidation; it prohibits loitering at or near a place; it prohibits the following of a person, interference with property and any hindering or loitering or any similar act or being near a place which would prevent anybody doing anything. I would like most respectfully, without being frivolous, to know if it is possible to promote any Swadeshi or temperance without going near a person, without talking to him, without persuading him and using moral force or any kind of force, and without going to him or to his place? You cannot use any of these methods under this clause. You have to go near and you must do some propaganda; otherwise how is propaganda possible? This clause aims at the right of association, aims at the right of propaganda, aims at the right of people to go and talk to people and convert them to their views and it aims at all kinds of things. A clause like this, with this foolish *Explanation* added by the Select Committee,

An Honourable Member: It was added afterwards.

Mr. Jagan Nath Aggarwal: Added after the walk-out? I am very glad to hear that; if it was done after the walk-out, there is ample justification for those people to go back as that might lead to some improvement in the phraseology. This *Explanation* takes one's breath away. This *Explanation* is the most harmless and innocuous of *Explanations* that has ever been put into legal phraseology, and Sir Hari Singh Gour, my learned Leader, in his next edition of his Law of Crimes, can safely put it as one of the most harmless of legal *Explanations* that was ever brought before a legislative body

Sir Hari Singh Gour: Words without any meaning.

Mr. Jagan Nath Aggarwal: Then we were told that this sub-clause (2) is a great safeguard, and one of my learned friends pointed out that it was a real safeguard and I thought it meant that without the sanction of the Local Government or some such thing nothing could be done; but when I read it carefully, it means nothing more than an officer of the rank of an officer in charge of a police station can launch proceedings. That is the real thing. The whole point is that the police have got something on their nerves and some thing on their brains; and they see white everywhere; it is the white that is the real difficulty. I do not see why the liberty of a citizen in this land should be restricted by a legislative measure of this kind. If you want to restrict the liberty of every man in this land for a certain time, do it by a regular fiat of the executive; do not do it under the garb of a legislative measure. This is hopelessness in legislation and, as I said, it is an attempt to bring together in a compendious measure all kinds of sundry things which may have no connection with any legal offence. I, therefore, submit with all respect that this clause is impossible of amendment and should be deleted.

Pandit Satyendra Nath Sen (Presidency Division: Non-Muhammadan Rural): Sir, it is with great reluctance that I have to speak a few words on the amendment that is now before the House. I rise to support the amendment not because I actually want complete deletion of the clause, but because the clause has been very badly drafted, that is to say, because no law is better than bad law or mischievous law, because the former is the lesser evil than the latter. My grounds for rejecting this clause are three: first, because it is so badly drafted that it is hardly amenable to amendment; second, even if a reasonable amendment is proposed, it is certain that it will be refused by Government, and third, that this law has always been misused and abused by the police and is likely to be abused by the police in future, because it has the stamp of vindictiveness which has been made manifest in clause 9 (iv) that it is going to be made non-bailable. This clause 7 is directed against picketing and Swadeshi. I believe that there are very few Members in this House who are more closely connected with the sufferings of Swadeshi. All those that are near and dear to me—my two sons, my brother, my nephew, my niece,—all have been in jail once, twice or even thrice and they have been subjected to the most brutal treatment—caning, roping, beating and what not; and all this for peaceful and non-violent Swadeshi, quite in conformity with the Congress manifesto as was read out by my Honourable friend, Mr. Sorley, last evening. In spite of all this, as a peaceful citizen, from the true Swadeshi spirit which I have imbibed from my orthodox culture, I am against offensive picketing, because I regard that as a foreign import. I have already made it clear that I am not for complete deletion of the clause, because I feel that some of our countrymen are developing a tendency to thrust their own views upon others; and I now fully appreciate the dictum of John Stuart Mill that “there needs protection against the prevailing sentiment and feeling”. I would accept the clause if I could receive a guarantee from Government that it will be improved upon with proper safeguards. I say proper safeguards, not a safeguard like the one that has been suggested in the *Explanation*. Frequent references have been made to that *Explanation* and if I refer to it again, I have a special ground. When the discussion on clause 4 was going on, it was enunciated by the Honourable the Law Member that any addition which may be deduced from the principles of jurisprudence should be regarded as foolish. When that was enunciated by the Law Member, I wonder how this sort of *Explanation* could be allowed by the Chairman who happens to be a lawyer of great eminence. The addition of the clause “without the commission of any of the acts, etc.,” contained in the *Explanation* has made the reading of this *Explanation* much more ridiculous than it would otherwise have been. If it was not merely for the sake of clarity, I am inclined to take it as a mere hoax, and if the acceptance of my amendment which sought to specify some special grounds where Magistrates might take different views is to be regarded as foolish, I do not know how to characterise this *Explanation*,—may I with all humility call it idiotic?

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): That was from your Party.

Pandit Satyendra Nath Sen: That I do not know. It was allowed by the Chairman, and if it is so, I should like to put some questions to the Honourable the Law Member. First, at the time of discussion, did he or did he not realise the hollowness of this *Explanation*. and, second, if he did, why did he not point out the hollowness to the Members of the Select

Committee? My third question is, is he yet prepared, with the permission of the Chair, to delete that clause, that nonsensical clause which, if kept on the Statute-book, will be regarded as a reflection of the mental calibre of the Members of this Honourable House. (Laughter.) Sir, I do not want to prolong my speech as the Government are not in a mood to accept any of our reasonable amendments.

Mr. H. P. Mody (Bombay Millowners' Association: Indian Commerce): Sir, I am on principle opposed to incorporating in the ordinary law of the land provisions of such a drastic character as are embodied in this Bill. I cannot, however, support the entire deletion of this clause which is the object of the amendment before the House. I come from a City where picketing has been carried to lengths which have made organised economic life absolutely impossible. It would be difficult to conceive of the excesses which have been committed in the name of peaceful picketing were it not for the fact that we live in times which are abnormal. I, therefore, cannot possibly support the demand that there should be no provisions in the law of the land with regard to picketing.

A great deal has been said about the motives which have inspired those whose picketing activities have been most noticeable during the last two or three years. Even when the motives are of the most unexceptionable character, after all there is something like the liberty of the citizen, and you cannot allow the liberty of the citizen to be jeopardised, whatever the motives. It cannot, however, be said that in all cases these motives have been unexceptionable. Apart from the advocacy of temperance or of Swadeshi, there have been innumerable instances in which picketing has been carried on simply because an unfortunate shopkeeper or a householder, as the case may be, has made himself obnoxious to those who are organizing this movement. Now, Sir, if it was the case that this clause could not be altered or improved at all, then even if there have been excesses, I am not prepared to say that you should have a provision of this character, but I see there are several amendments which would make this clause unobjectionable, and which would carry out the object which, I think, we all have in view. I have not heard any of my Honourable friends contend that picketing has not been carried on to abnormal lengths. All that they have said is that this clause is much too wide and will engulf both the innocent and the guilty. I find, however, my friend, Mr. Anklesaria, has got an amendment, and it is one of many, which lays down that nothing in this section shall be deemed to apply to any act which is done without any coercive intent or which is not calculated to cause and does not cause any obstruction, violence, intimidation, alarm or annoyance to any person. I am inclined to think that if such an amendment were pressed, it would do away with a great deal of the objection which we entertain to the somewhat wide phraseology of this clause. Whether you haul up a man because he loiters near a house, or because he harasses a servant or family member of another, so long as the intention to coerce or the effect of coercing is not there, he could not be held liable. For these reasons, I am not prepared to support this particular amendment, but at the proper time I shall support such other amendments as, in my opinion, seek to do away with the obnoxious features of the clause.

Mr. K. Ahmed (Rajshahi Division: Muhammadan Rural): Will the Government accept it?

Mr. H. P. Mody: That is their look out. So far as I am concerned, I know what lobby to walk in on the particular amendments.

There is just one thing which I want to point out with regard to the *Explanation*. Several of my friends have characterised this *Explanation* in strong terms, and I agree with them. After all, is it intended by this *Explanation* that encouragement of indigenous industries or advocacy of temperance are the only things which can be advocated without the commission of any of the acts laid down in the clause? Supposing I take it into my head to advocate celibacy. Shall I be in trouble over it if I carry on its advocacy without the commission of any of the acts mentioned here? I say, this *Explanation* ought to go out altogether. It is not only the advocacy of temperance or encouragement of indigenous industries, but any kind of advocacy, no matter what it is, that ought to be outside the section, provided the prohibitions laid down have not been infringed. The *Explanation*, therefore, is not only silly, in my opinion,—but it is also dangerous. You ought not to have a proviso of this character, because it seeks to confine the immunity to two classes of acts, whereas it ought to extend to every class of act done in a lawful manner. While, therefore, I will not support the deletion of this clause, I shall certainly at the proper time press for the amendment of it.

Mr. C. S. Ranga Iyer (Kothilkund and Kumaon Divisions: Non-Muhamadan Rural): Sir, I was rather taken aback by the speech of the Honourable Member from Bombay. It is too early in the day to get mixed up whether for the Honourable gentleman who just spoke or, for that matter, the Leader of his Party who is not present, even though he made a rather unfortunate insinuation against the Leader of my Party. Sir, the Honourable gentleman who just spoke got mixed up with the *Explanation* which he condemned and the clause which he partly approved—Take away the *Explanation* and the clause falls to the ground, this is what he said

Mr. H. P. Mody: I did not say that at all.

Mr. C. S. Ranga Iyer: The Honourable the Leader of his Party got mixed up with preference and picketing. Coming events cast their shadows before

Mr. R. K. Shanmukham Chetty (Salem and Coimbatore *cum* North Arcot: Non-Muhammadan Rural): He mixed up ale and beer.

Mr. C. S. Ranga Iyer: My friend, Mr. Chetty, says that he mixed up ale and beer. That must make a poor cocktail to go to the head. (Laughter.) Sir, to talk of preference, while we are talking of picketing, is a presage of the combat on preference while we are today combating picketing. Coming events, as I said, cast their shadows before, and I prefer to deal with the substance when the time comes rather than the shadow, because even though the shadow may be bigger in size, yet the substance will be better in actuality. So much for preference.

And now, the Honourable gentleman from Bombay asked, how when you take away the *Explanation* the clause does not fall to the ground? The *Explanation* has been explained with various adjectives of a detrimental kind to the *Explanation* and the explainer's reputation. I for my part

think that the *Explanation* is certainly better; it makes the clause better; but I neither like the *Explanation* nor the clause. I want the deletion of both. You cannot delete the clause and keep the *Explanation*.

The Honourable gentleman said he came from a City demoralised by picketing. I hope that the Honourable gentleman is not ten years old. He is four times ten years to put it moderately. (Laughter.) (*Mr. H. P. Mody*: "Five times.") (Laughter.) He says five times. Were it so, he would have remembered that even in the absence of this law, ten years ago, when there was picketing in Bombay, it was possible to proceed against picketers of the kind he described, under the ordinary law. He knows the law. He knows the Penal Code. I am not a lawyer. There is a section in that Code, and he has read the intimidation section—section 506. That section is competent to deal with the class of people who have embarrassed him, who have embarrassed his comrades, and embarrassed all those who stand for this Ordinance Bill. I could not understand an Honourable gentleman standing on the floor of this House with a constituency to represent—I cannot understand Mr. Mody of all people standing up and saying that part of this Ordinance clause is good. Is this Ordinance Bill good like the curate's egg, in parts? (Laughter.) Sir, it is amazing that an Honourable gentleman with the reputation that he has should have approved in a kind of manner this clause

Mr. H. P. Mody: If my Honourable friend will allow me to interrupt him? (*Mr. Ranga Iyer* sat down.) I would say that if he had studied the subject at all, he would have known that the provision in the Penal Code, or wherever else it exists, was not at all adequate to the needs of the situation even when there was no civil disobedience movement. (Applause from Government Benches.) As a matter of fact, there was a demand sent up by several associations, including my own association, for the tightening up of the law, which is not even as adequate as the English law on the subject. (Cheers from the Government Benches.)

Mr. O. S. Ranga Iyer: I am satisfied with the punctuation of Official Applause with which Mr. Mody's observations were received. (Laughter.)

Mr. H. P. Mody: Does not my Honourable friend sometimes receive it too?

Mr. O. S. Ranga Iyer: I hope to get it.

Mr. H. P. Mody: You will, after a couple of days. (Laughter.)

Mr. O. S. Ranga Iyer: The Honourable gentleman is not only a lawyer, but a prophet (Laughter), and when I hope to get it, I believe I will get it not on an official motion, but on a motion that emanates from the Leader of my Party. (Cheers.) Sir, he said that the ordinary law has not been adequate. Does he think that the Ordinance Bill makes it adequate? If the Honourable gentleman were worried about picketing, he would have all these days not remained idle in this House, but tried to improve the ordinary law of the land, instead of applauding a clause in a most reprehensible piece of legislation—reprehensible from the Moderate and Opposition point of view, reprehensible from the Congress point of view, and reprehensible from the point of view of every lawyer or lover of the ordinary law. (Hear, hear.)

[Mr. C. S. Ranga Iyer.]

The Honourable the Home Member was saying yesterday,—while replying to my Honourable friend, Mr. Amar Nath Dutt, who with his characteristic stubbornness has been putting up a fight day after day—the Home Member said that when the Honourable gentleman from Bengal described them as impatient, they were sitting there day after day and thereby had shown that they were patient. I admit, though his “patience be a tired mare, yet she will plod”. But our patience, in fighting the Bill before us, is bitter, though the fruit that he reaps by the votes is sweet.

I can only say that if you take away the right of peaceful picketing, you are taking away one of the legitimate weapons of our people, and the *Explanation* which talks of encouragement of indigenous industries or advocacy of temperance does not justify the picketing of liquor shops, does not justify the picketing of shops of a certain kind where when foreign articles are dumped indigenous industries are put in danger.

As I said the other day, when we do not have the right of erecting our own tariff walls, when we do not control the tariff policy, when we do not have fiscal and financial autonomy, we must at least have the right of peaceful picketing. That right is being taken away by this political measure with a view to jeopardising the advance of the Swadeshi cause. For this reason, I condemn this clause. I oppose it lock, stock and barrel. (Cheers.)

Hony. Captain Rao Bahadur Chaudhri Lal Chand (Nominated Non-Official): After the suggestion made by the Leader of the Opposition and after the speech delivered by Mr. Mody, it was expected that the Honourable the Mover will stand up and ask for the withdrawal of this amendment. This he has not done, and there is no chance of his withdrawing the motion after the speech that we have heard last. (*Mr. B. V. Jadhav*: “No assurance from the Government Benches.”) I must congratulate Mr. Jadhav on the great courage, I won't say boldness, he has displayed in moving, not a toning down of the picketing clause, but its complete deletion, after the prolonged debates both at Simla and here and decisive verdicts of this House on the previous clauses of this Bill. All of us know that if picketing is allowed to continue, the Congress would not mind the other clauses, and if picketing is deleted, Government would not care to have this Bill at all. In spite of this knowledge, Mr. Jadhav wants such an important clause as this to be thrown out; in other words, he wants the play of Hamlet to be staged without Hamlet. Sir, there is one more reason for my congratulating Mr. Jadhav. If there is any place where picketing has made peoples' lives intolerable, as has been so ably pointed out by Mr. Mody, where the so-called riff raffs employed for picketing have brought bad name upon the Congress, where an ultimatum was given by the Congress which has thrown the greatest man of the day into prison, it is Bombay. It is in that Presidency that the Swadeshi millowners have kept the fire of disorder and lawlessness burning by giving large donations to the Congress for the civil disobedience movement. That being the case, it means great courage for an *ex-Minister* of that province to get up and ask for the total deletion of this clause. Mr. Sorley on this side was, therefore, fully justified in quoting instance after instance of the high-handedness of the agents of the Congress whom Rao Bahadur B. L. Patil has tried to brush aside by calling them riff raffs. Mr. Sorley has shown the absurdity of the movement in its nakedness, and no further arguments

are needed to supplement him. The Honourable the Raja Bahadur,— I am sorry he is not here today—treated us yesterday with his old arguments against the public servants and offered to produce documentary evidence from official records. He resented the remarks made by my Honourable friend, Mr. G. S. Dutt, the other day and challenged him by saying that he was prepared to bring certified copies. I may tell him that the instances that he quoted, and certified copies of which he promised to bring before this House, related to the period when he was practising in the mufassil in the last century. We have been moving very fast and conditions have since changed. In order to supplement his knowledge and in order to bring him up to date I may quote one instance, with your permission, Sir, in order to show under what strain the public servants, who have been abused so much in this House during this debate, have been working. Sampla is a police station 30 miles from this Assembly Hall. In the last week of October, the police force of that thana, which consists of 8 constables, two head constables and one sub-inspector, was subjected to severe attacks in three different villages. One constable was shot dead. Another constable had his leg broken and is lying in hospital, and the third had his arm broken. All this is the result of the propoganda that has been preached in villages against public servants.

Mr. B. V. Jadhav (Bombay Central Division: Non-Muhammadian Rural): By whom?

Hony. Captain Rao Bahadur Chaudhri Lal Chand: Need I answer that question? It has been going on for several years with impunity and I must say that Government has so far connived at it. But for the Ordinances things would have been worse. It is these Ordinances that have saved the country from revolution. My friend, Sir Muhammad Yakub, remarked yesterday that Government had not gone far enough and I noticed smiles on the Opposition faces. He did not point out in what way Government had not gone far enough and, with your permission, I wish to make good the omission. Government certainly have not gone far enough inasmuch as Government have allowed the burden of suppressing this lawlessness to be borne by peaceful citizens. They ought to have made a provision in this Bill in order to ensure that this extra burden that is being entailed and the extra expenditure that is being incurred, in order to suppress this movement, should fall on the shoulders of those only who are responsible for it. Government will, I hope, soon have to come before this House for this purpose and the Honourable the Finance Member will take note of it before he frames his budget.

Sir, I must confess that the measure proposed is liable to abuse in some cases and is drastic in its nature, but we ought to realise that the remedy ought to be always in keeping with the disease. Poisonous drugs are actually administered to some patients by the doctors. Cases have happened where patients have died because the doctor was careless or negligent. I would go further and say that there are black sheep among the public servants as well and we cannot expect everybody to be perfect. All that we should do is to bring particular cases to the notice of the Government and Government will, I am sure, take due notice of such negligence on the part of public servants. Times out of number Government have been reminded of the spirit of co-operation which the Opposition Members have shown in coming to this Assembly and Government have been warned not to tire their patience. With your permission, I may point out

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Will the Honourable Member explain how his speech is relevant to the clause now under consideration?

Hony. Captain Rao Bahadur Chaudhri Lal Chand: The trend of the argument that has been advanced so far

Mr. President (The Honourable Sir Ibrahim Rahimtoola): At present we are dealing with this clause only.

Hony. Captain Rao Bahadur Chaudhri Lal Chand: I am referring to the speeches that have been made on this clause alone. Speeches have been made deploring the idiosyncrasies of police officers and other public servants.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): Arising out of this clause. The Honourable Member has got to deal with this clause and the amendment seeking to repeal this clause. We have had on other occasions a comprehensive survey of the whole provisions of this Bill. That ought to stop now.

Hony. Captain Rao Bahadur Chaudhri Lal Chand: I accept your ruling and, without taking more time of this House, I will only submit that it will be expecting too much from this House to agree to the deletion of this clause and I oppose this amendment.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): After the exhaustive arguments, both for the deletion and in support of the retention of clause 7, it would not have been necessary for me to rise up at all but for the speeches of the Official Member from Bombay, of my friend, Mr. Mody, and of my friend, Captain Lal Chand. To some of their remarks I propose to reply.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): It must be relevant to this clause.

Mr. Amar Nath Dutt: Certainly. Mr. Sorley was trying to give a large number of instances of picketing and I will tell Mr. Sorley how those, who were said to have been harassed, have behaved elsewhere and they do not deserve to be entrusted with the power of prosecuting for picketing, though no officer below the rank of an officer in charge of a police station can institute complaints under this clause. He began by saying that there was law breaking of two kinds, that of mass civil disobedience and picketing. I submit that this clause has nothing to do with mass law breaking, but it has certainly everything to do with picketing and although we do not find the word picketing anywhere in this clause, still I think that was the one word which was in the minds of the framers of this clause. So I think the use of the word "picketing" will be allowed by the Chair to be used by me and also be considered to be relevant to the subject we are considering at the present moment. My friend over there said that this clause was necessary, because the definition of criminal intimidation in the Indian Penal Code was not sufficiently exhaustive. That was his argument and he has a supporter from the

Presidency, to which he belongs, in Mr. Mody. He also says that the existing provisions are not sufficient and, therefore, such a clause is necessary. I wonder if the society and the law by which the society is kept up is progressing or deteriorating.

Since the days of Thomas Babington Macaulay; who framed the Indian Penal Code, my idea was that criminal law should become more humane, more civilised rather than that it should go back to those mediæval ages when "an eye for an eye and a tooth for a tooth" was the rule of law: and, Sir, to ask the Legislative Assembly at the present moment for a more exhaustive definition of the words "criminal intimidation" by introducing such a stupid clause, if I may be permitted to so describe it, as that which we are asked to adopt, is absurd. Sir, I said deliberately that this is a stupid clause, because I beg to submit that it restricts human right altogether and—activities of every kind, however beneficial, as has been shown by Member after Member. That being so, I think, Sir, no man in his senses would try to put a stop to all human activities: by the enactment of a clause like this and thus restricting the elementary rights and liberties of citizens, about which my Honourable friend, Mr. Mody, whom I do not see here now, waxed so eloquent.

Sir, the Honourable the Official Member from Bombay was pleased to give instances after instances of how Congress picketing goes on in his Presidency. I shall not tire out the patience of this House by quoting on the other hand instances after instances—and if it were necessary I would have given him a hundred thousand instances, instances which are related in these papers which I hold in my hand and given over to me by a responsible person, pointing the other way. It may be necessary for these papers to be referred to either by one Member or another later on at the time of the third reading of the Bill, when Mr. Sorley will find to his utter surprise and disappointment that instances of police oppression are more frequent, far more frequent than instances of police being oppressed, as my friend, who has been briefed for the Government, Captain Lal Chand, tries to impress upon this House.

Now, there is one other thing I wish to say with reference to this. He has been pleased to say that the extra expense should be borne by those who are guilty of breaking a law of this nature. I would invite my Honourable friend's attention to what is being done in my own unhappy province of Bengal under the provisions of Ordinance law. At Chittagong, they have been fined Rs. 80,000,—so he need not advise the Government as to what they should do. They know what to do and what not to do. My Honourable friend has also expressed the hope that Government will take due notice of such public servants as transgress the law. Sir, I wish that were so, as not in one instance but in countless instances they try to shield the offender and at times encourage them by promotion and titles. That being so, I beg to submit that to invest any officer in charge of a police station with the power to institute complaints against having transgressed this clause is something to which we cannot be a party and I do oppose it and support the deletion of this clause.

The Honourable Mr. H. G. Haig (Home Member): Sir, the amendment before the House proposes the deletion of one of the most vital clauses of this Bill, for, as Honourable Members are well aware, the method of picketing, against which this clause is aimed, is perhaps the most

[Mr. H. G. Haig.]

characteristic and the most effective of those methods by which the Congress movement of civil disobedience is being supported and continued. It is, in fact, in our opinion, a most powerful engine of tyranny. I need not enlarge on the details which are well-known to Members of this House. The facts were given in a convincing way yesterday by my Honourable friend, Mr. Sorley. It has been suggested that while certain undesirable conditions may attend this picketing, these are accidental, that they are not part of the policy which underlies the movement. Well, I must entirely deny that suggestion. The manifestations which attend picketing lie at the root of this method. They are precisely the manifestations which picketing is intended to produce and invariably does produce. As Mr. Sorley explained to the House yesterday, one of the most common things is that when picketers stand in front of a shop, crowds collect, and, through the presence of those crowds, that species of intimidation and coercion is applied to the shopkeeper which the Congress people intend should be applied. But there are also more subtle methods: the picketers stand sometimes in front of a shop to watch what happens, and both the customers and the shopkeepers know perfectly well what that watching is intended to lead up to. What happens is always reported to the headquarters of the Congress organization. It is a species of spying of what goes on with a view later on to applying further methods of coercion to those who have dared to disregard the orders of this unlawful organization.

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): The same is the case with the C. I. D. men when they loiter.

The Honourable Mr. H. G. Haig: Well, Sir, what we wish to prevent by enacting this clause is action which goes beyond plain argument or persuasion. It has been alleged by a number of Honourable Members that in fact, if this clause is passed into law, people will be unable to conduct the ordinary methods of propaganda. That was the point that appeared to weigh with my Honourable friend, the Leader of the Nationalist Party. He said the Swadeshi or the temperance movement might be handicapped because people were not allowed to use, in furtherance of them, the methods of picketing. But, Sir, surely all the ordinary methods of propaganda are still open to those who believe in these movements. They can advocate Swadeshi or temperance by speeches; they can advocate them by the distribution of pamphlets. The story which my Honourable friend, Mr. Mitra, mentioned to us this morning is one which appears to me to have no bearing on the actual terms of this clause. Under the terms of this clause, it is no offence to distribute pamphlets in favour of Swadeshi or anything else. It is no offence at all. It is no offence to write articles in the newspapers or hold meetings to conduct any ordinary, normal, straightforward propaganda. What is an offence is to go beyond the ordinary methods of reasonable persuasion and to attempt in whatever way to coerce people, to intimidate them, to annoy them, to pester them into agreeing with you when you are unable to convince their intellects.

Now, Sir, my Honourable friend, Mr. Aggarwal, taking, I think, too modest a view of his own capabilities, made the same point and suggested that no propaganda was permissible under this clause. It is nothing of the sort. Under this clause, Mr. Aggarwal is perfectly at liberty to

persuade in his very convincing language everybody he can. What he is not permitted to do is, having failed to persuade them, to follow them about, to stand in front of their houses, to threaten them, to intimidate them. And why should he wish to adopt these methods? Can he not be content with his own persuasive tongue? We know, Sir, that the Congress is not content with persuasion. We know, if Honourable Members did me the honour of listening the other day when I read out an extract from the Bombay Congress Bulletin, that their object is, in the first place, if they can, to persuade, but everybody is aware that behind that primary intention of persuasion lies the resolution to force their opinion on other people if they cannot persuade them. They said so in the plainest language in that Bombay Congress Bulletin; failing persuasion, they adopt direct action. It is that mentality which is at the root of all this picketing. They start off by an action which, on the face of it, looks harmless. Everybody knows that if they do not agree or fall in with the policy of the Congress, then they are going to be coerced by them in one way or the other. Sir, what we have in this clause is merely a prohibition of the element of coercion.

Now, Sir, there are certain safeguards attached to this clause of which little mention has been made. In the first place, we recognise that provisions of this nature are unusual. They would not be required if there were not in existence a definite attempt on the part of a certain section of the community to force other people to their own will. We have, therefore, provided that this clause should not come into operation except in an area in which the Local Government may direct that it should come into force. That means, Sir, that unless these methods are being followed on an organised scale, the picketing clause will not be in operation and, therefore, a great many of the imaginary cases with which we have been entertained will not and cannot possibly arise. In the second place, we have provided in sub-clause (2) of this clause that no Court shall take cognizance of an offence except upon a report in writing made by a police officer. Now, the object of that provision is that the terms of this clause should not be utilised by private persons who may have a grudge to annoy other private persons. It might be that if we had not this particular safeguard, the Courts might be asked to investigate various frivolous complaints made by one individual against another merely for the purpose of annoyance. We have, I think, by this sub-clause provided against that contingency.

Sir, there has been much criticism of the *Explanation* which was added to the clause. I must make it plain at once that that *Explanation* was not added at the instance of Government and that Government would not be seriously upset if that *Explanation* were deleted from the clause. We were asked by those who felt that it was an advantage to have this plain statement of policy, we were asked by them to include this *Explanation* in the clause and we have no objection to doing so if the House so desires, but I quite agree with the Honourable Members who have criticised the *Explanation*. It does not add very much to the meaning of the clause. (Hear, hear.) The real point which we want to establish is that the advocacy of Swadeshi, of temperance or of any cause by legitimate methods is not in any way affected by this clause, but picketing appears to me not to be a legitimate method. I admit that Honourable Members opposite can talk to me, can persuade me with their eloquence, but why should they persistently follow me about? Why should

[Mr. H. G. Haig.]

they beset me in my house because I do not agree with them? I call that, Sir, an intolerable interference with my liberty. I oppose the amendment.

Mr. President: The question is:

"That clause 7 of the Bill be omitted."

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.

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): Sir, I move:

"That in sub-clause (1) of clause 7 of the Bill, after the word 'Whoever' the words 'wrongfully or without any legal authority' be inserted."

After the insertion of these words the clause will read as follows:

"Whoever *wrongfully or without any legal authority* with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates" . . .etc., etc.

The object of this amendment is to take away from the purview of the clause certain, what I may call, beneficent kinds of obstruction or annoyance or lawful kinds of obstruction and annoyance. I see the Honourable the Law Member smiling at my saying beneficent forms of obstruction or annoyance and at the first blush it does sound a bit absurd, but when I give instances of what beneficent annoyance and malignant annoyance may be, I think the laugh will be on my side. Supposing my son desires to go to a meeting of non-co-operators and I am strongly against non-co-operation and I obstruct my son from going to that meeting, I come within the purview of this clause, because my son has got a perfect right to go to a meeting of non-co-operators and I obstruct him and intimidate him in order that he may not go to that meeting. From my point of view this obstruction or intimidation is beneficent in the interests of my son. Take, again, the instance which I have given in my Minute of Dissent. I obstruct my son from going to a house of ill fame. Though this is obstruction beneficent in the interest of my son from all points of view, I come within the purview of this clause. Then there are kinds of obstruction, annoyance and intimidation which are lawful. For instance, a police man meets me at the railway station and says "I suspect you have got contraband opium in your luggage and I want to search you". He is obstructing me from going my way. Under this clause the policeman can be hauled up, because he annoys, intimidates or obstructs me from proceeding on my way. In order to take away these beneficent and lawful kinds of obstruction from the purview of this clause, I have proposed this amendment.

Sir, if you read the clause you will find that the only intent mentioned in this clause is intent to cause any person to abstain from doing or to do any act which such person has a right to do or abstain from doing. I shall, therefore, in obstructing my son, in the instance of the son I have given, do the act, or the policeman obstructing me in the instance I have given does that act with the sole intent of making the person obstructed abstain from doing what the person obstructed has a perfect right to do. There is no other intent in the obstructor or the annoyer or the intimidator. Therefore, I say, this is a perfectly reasonable amendment and I hope the Government will be reasonable as regards this amendment. It might be said, you are creating difficulties for the prosecution. But these words—"wrongfully or without any legal authority"—I have taken from the English Law on the subject from which more or less this clause has been bodily taken. In the English Act, these words—"wrongfully or without any legal authority"—do occur, and this English Law has been the Law of England since 1825 to our present day and it was remodelled in 1927. If the English Judges, the English police and English Government do not find any difficulty in administering that law, I do not think that difficulty can possibly stand in the way of our Indian Government extending protection to innocent persons as suggested in my amendment. I am conscious of the unconscionable amount of time we have taken in discussing this Bill and, therefore, to set an example, I shall conclude my speech without any further remarks.

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

"That in sub-clause (1) of clause 7 of the Bill, after the word 'Whoever' the words 'wrongfully or without any legal authority' be inserted."

The Honourable Sir Brojendra Mitter (Law Member): Sir, my Honourable friend, Mr. Anklesaria, is super-subtle in moving this amendment. He says that it is no answer to say that it will be creating difficulties for the prosecution. That is not my answer; my answer is that in such a case, as he contemplates, there will be no prosecution. Therefore, no question of difficulty arises, and I will tell you why. His point is that he wants to exclude from the operation of the Act beneficent obstruction as a father obstructing his son with the intent of preventing the son from doing something naughty. If that be so, does not the principle of law embodied in section 95 of the Indian Penal Code come in?

Mr. N. N. Anklesaria: It does not apply to special laws, as I said yesterday, according to a Madras High Court decision.

The Honourable Sir Brojendra Mitter: I did not say section 95 would apply; I said the principle embodied in that section which is a principle of general application. In the Penal Code there are many sections which embody general principles of criminal law; in order to make the code self-sufficient and self-contained, those principles are embodied in sections. Sir, the principles embodied in those sections are of universal application, and the principle to which I appeal is the principle embodied in section 95:

"Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm."

[Sir Brojendra Mitter.]

When a father obstructs his son with the intention of preventing him from doing something mischievous, then the harm caused to the son is of such a character that no person would think of making a serious complaint of it. That being so, the principle of law which is embodied in section 95 comes into play and no prosecution can succeed. Therefore, the apprehension which my Honourable friend has in mind is more imaginary than real. I oppose the amendment.

Mr. N. N. Anklesaria: But you punish me under clause 8 for not preventing my son from going to a non-co-operation meeting.

The Honourable Sir Brojendra Mitter: That is another thing.

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

"That in sub-clause (1) of clause 7 of the Bill, after the word 'Whoever' the words 'wrongfully or without any legal authority' be inserted."

The motion was negatived.

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

"That in sub-clause (1) (a) of clause 7 of the Bill, the words 'or loiters at or near place where such person or member or employed person resides or works or carries on business or happens to be,' be omitted."

In moving this amendment, I do not like to make any speech. I simply refer to a fact to which my attention was drawn by my friend, Mr. Pandian, that the other day a blind man was sentenced to six months' imprisonment. He was probably loitering at or near a place and the old man being blind could not perhaps run very fast or walk fast and so he was punished. The wording is so loose and the word "loiters" may be taken in such a wide sense that it will make the whole clause ridiculous. I think Government may still consider whether they should accept the amendment and omit such objectionable features from the Bill.

The Honourable Mr. H. G. Haig: Sir, the story to which we have just listened from my Honourable friend is difficult to understand.

Mr. S. C. Mitra: It was reported in the papers.

The Honourable Mr. H. G. Haig: My Honourable friend no doubt considers that that gives it authenticity. I say it is difficult to understand, because this blind man was apparently doing nothing except getting along the road as fast as his blindness permitted. But, Sir, the section says that the act of loitering must be done with a definite intention; and what I should like to know from my Honourable friend, Mr. Mitra, is how the Court arrived at the conclusion that the intention of the blind man was to cause a person to abstain from doing some act which he had a right to do. It is of course well known that one of the common practices of picketers, that is, picketers who have not lost their sight, is to loiter in front of a shop or place with that definite intention. And when they have performed that act with that intention, it is reasonable that they should be punished.

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

"That in sub-clause (1) (a) of clause 7 of the Bill, the words 'or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be,' be omitted."

The motion was negatived.

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

"That in sub-clause (1) (a) of clause 7 of the Bill, after the words 'or loiters' the words 'in spite of protest' be inserted."

The meaning of my amendment is quite clear. If the man is obstructed or hindered in any way, let him protest against it. Without even any protest from the persons who suffer I think the offender should not be proceeded against. So I want to add that at least the man who is likely to suffer should make some protest before the law is put into operation against the offender.

Mr. B. V. Jadhav: Sir, I rise to support this amendment. I think Mr. Scerley will bear me out when I say that in the non-co-operation campaign in Bombay when picketing was going very strong, two European shops were picketed in that city; one was Whiteaways and the other was Evans Fraser. Whiteaways protested against the picketing and there was a good deal of rioting and a number of volunteers were arrested and taken to the police *chowki* almost every day. But Evans Fraser did not mind the picketing; they offered them chairs at their doors. The picketers were seated on those chairs and everything went on quietly there; there was no trouble, and the police also showed some sense in not arresting those people. We have seen in the city of Bombay *desha-sevikas* sitting in chairs at shops, which sold foreign goods, and spinning on their *taklis*. There also there was no protest from the shopkeepers, and, therefore, such cases of picketing ought not to be minded by the police. But there is no provision for that in this drastic Bill, and whether the shopkeeper protests or not, under the wording of the present clause, every picketer is liable to be hauled up by the police before a Court of law and punished. Therefore, I think it will not be right. If there is a protest from the man molested, then there will be some justification for bringing such molesters under the clutches of the law; but, if there is no protest, then there ought to be no prosecution and for that purpose I heartily support the amendment moved by my friend, Mr. Mitra.

Pandit Satyendra Nath Sen: Sir, I rise to support the amendment. It seems to be very reasonable. Protest from the person who is alleged to have been obstructed or aggrieved in any way should be regarded as the crucial test for the commission of the offence. If there is no protest from the person molested, then why should there be any prosecution at all? I thank my friend, Mr. Mitra, for his suggesting such a simple expression which will go a great way in improving the clause which has been so badly drafted as I have already said. If such a safeguard is not added, this clause is sure to be manipulated by the police against persons who are not in the good books of the Government. So I support the amendment.

The Honourable Mr. H. G. Haig: Sir, we are dealing with a system which really amounts to mass intimidation and it is characteristic of those conditions that individuals are afraid to come forward openly and protest against the pressure that is being brought to bear on them. If that were not the case, if individuals were prepared with more courage to face this kind of compulsion which it is sought to bring to bear on them, there would be far less necessity to enact this clause at all. But it is precisely because individuals are afraid to assert themselves against this species of mass intimidation that it is necessary for the law to give them this protection. My Honourable friend, Mr. Jadhav, made the point extremely clear in his illuminating contribution. He reminded us that when Whiteaway Laidlaws' shop was being picketed in Bombay, the proprietors had the temerity to protest, and what happened? The result was that the Congress redoubled their efforts, that they made a very special point of picketing Whiteaway Laidlaws' shop with all their forces, of collecting large crowds, creating disturbances and in fact in every way increasing their efforts to intimidate. If that is, as we all know it is, an actual statement of the facts, is it reasonable to suggest that people who are picketed in this way will be prepared to come forward and say: "We protest and we ask for your protection"? If these words were inserted, I think the main object of the clause would be defeated.

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

"That in sub-clause (1) (a) of clause 7 of the Bill, after the words 'or loiters' the words 'in spite of protest' be inserted."

The motion was negatived.

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

"That in sub-clause (1) (a) of clause 7 of the Bill, the words 'or happens to be' be omitted."

This particular part of the clause reads like this:

"or loiters at or near a place where such person or member or employed person resides or works or carries on business or happens to be . . ."

I would like by my amendment to omit this portion "or happens to be". Even if it is necessary to provide against loitering in all these places where a person resides or works or carries on business, why this particular phrase "or happens to be" should be added? I think it is absolutely unnecessary. The anxiety that this Government are showing for protecting British trade interests is not at all proportionate to their cares for the interests of the unemployed or the poverty-stricken of this poor unhappy land. Why this phrase should so vaguely be put that any person who may happen to be anywhere there should not be anybody to loiter about? I suggest that at least these words "or happens to be" be omitted.

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

"That in sub-clause (1) (a) of clause 7 of the Bill, the words 'or happens to be' be omitted."

Mr. B. V. Jadhav: Sir, I support the amendment.

The Honourable Mr. H. G. Haig: Sir, we have heard this morning some criticism of the drafting abilities of the Government of India. This is, I think, a drafting point and perhaps the House will be interested to hear that these words to which my Honourable friend, Mr. Mitra, objects are taken directly from the English Trade Disputes Act which reads:

“watches or besets the house or other place where such other person resides or works or carries on business or happens to be.”

I think in order to make the provision comprehensive it is necessary to have those words.

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

“That in sub-clause (1) (a) of clause 7 of the Bill, the words ‘or happens to be’ be omitted.”

The motion was negatived.

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

“That in sub-clause (1) (b) of clause 7 of the Bill, after the word ‘loiters’ the words ‘in spite of protest’ be inserted.”

This is a similar amendment which I proposed about sub-clause (1) (a), and I would like a similar provision in sub-clause (b) also and so I suggest these words might be inserted here.

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

“That in sub-clause (1) (b) of clause 7 of the Bill, after the word ‘loiters’ the words ‘in spite of protest’ be inserted.”

Mr. B. V. Jadhav: Sir, I support this amendment. I may point out that in Bombay when picketing was going on very strong, some liquor shopkeepers encouraged the pickets to stand at their doors in order to claim a refund from the excise authorities or to get the shop at a lower licence fee. In such circumstances, it is the shopkeepers who ought to be hauled up before the Court and not the innocent picketers. For this reason the words “in spite of protest” are very necessary for their safety. I, therefore, support this amendment.

The Honourable Mr. H. G. Haig: Sir, I have already dealt at some length with the general arguments which apply to this amendment. With regard to what was said by my Honourable friend, Mr. Jadhav, I understand that these liquor shopkeepers somewhat dishonestly encourage picketers to come and stand in front of their shops so that they can recover from the Government the licence fees they have paid. May I point out to him that if the words “in spite of protests” are inserted, it is perfectly obvious that these liquor shopkeepers will not make a protest and, therefore, the Government will be unable to stop this picketing and will infallibly be put to the loss which my Honourable friend desires to spare them?

Mr. B. V. Jadhav: May I point out that in that case the Government will say “well, you have not protested and so you do not deserve any rebate”.

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

"That in sub-clause (1) (b) of clause 7 of the Bill, after the word 'loiters' the words 'in spite of protest' be inserted."

The motion was negatived.

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

"That in sub-clause (1) (b) of clause 7 of the Bill, the words 'or does any similar act' be omitted."

The sub-clause reads like this:

"loiters or does any similar act at or near the place where a person carries on business."

Sir, I hope the Honourable the Home Member in his reply will give us some instances of what he means by "does any similar act" and also about loitering. The example of English law is quite good, but are we following the English Government in other ways also? For the repressive laws we are to follow England, and for beneficial actions we are to follow the examples of other countries. Sir, I move that these words be omitted.

Mr. N. R. Gunjal (Bombay Central Division: Non-Muhammadan Rural): (Speaking in the vernacular the Honourable Member supported the amendment.)

The Honourable Mr. H. G. Haig: Sir, this is one of the cases in which in deference to the views of the Select Committee we made the provisions rather more precise than they were in the original Bill. If my Honourable friend, Mr. Mitra, looks at the original Bill, he will find that it was provided that "anybody who loiters at or near a place or does any other act which may have a like effect", we have introduced into the Bill the words "does any similar act". What we had in mind were acts of the nature, for instance, of lying down, or a practice which we were told was quite commonly adopted of having a number of persons continuously walking past a shop that was being picketed just like a stage crowd which marches across the stage and goes behind and comes and marches in front again. Acts of those kinds might not be covered specifically by the word "loiters" and as it is impossible to foresee all the ingenious plans that may be adopted by the picketers we thought it was desirable, and it is essential, to include a general expression of this nature "does any similar act".

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

"That in sub-clause (1) (b) of clause 7 of the Bill, the words 'or does any similar act' be omitted."

The motion was negatived.

Mr. N. N. Anklesaria: Sir, I move:

"That to sub-clause (1) of clause 7 of the Bill, the following Proviso be added:

'Provided that nothing in this section shall be deemed to apply to any act which is done without any coercive intent or which is not calculated to cause and does not cause any obstruction, violence, intimidation, alarm or annoyance to any person'."

Sir, if the bare statement of this amendment does not commend itself to the Treasury Benches, I do not think from my experience of the last so many days that any more words from me would make any difference. With these words I commend this amendment to the House. (Laughter.)

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

"That to sub-clause (1) of clause 7 of the Bill, the following Proviso be added:

'Provided that nothing in this section shall be deemed to apply to any act which is done without any coercive intent or which is not calculated to cause and does not cause any obstruction, violence, intimidation, alarm or annoyance to any person.'

The motion was negatived.

Mr. N. N. Anklesaria: Sir, I move:

"That the *Explanation* to sub-clause (1) of clause 7 of the Bill be omitted."

I think, Sir, this amendment at least will commend itself to the Government.

The Honourable Mr. H. G. Haig: Sir, I explained in my speech this morning that this *Explanation* was not inserted at the instance of Government, and if it is the wish of the House that it should be deleted, we shall raise not the slightest objection. ("Hear, hear" from several parts of the House.)

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

"That the *Explanation* to sub-clause (1) of clause 7 of the Bill be omitted."

The motion was negatived.

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

"That for the *Explanation* to sub-clause (1) of clause 7 of the Bill, the following be substituted:

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

Sir, I do not think there is any necessity of an elaborate argument in support of this motion. I think Government ought to accept it, but from the way in which they have treated the amendment of my friend, Mr. Anklesaria, I have got very meagre hopes. Sir, I hope the House will support me.

Mr. S. O. Mitra: Sir, I support this amendment moved by my friend, Mr. Jadhav, and I also congratulate the Honourable the Leader of the House for not raising any objection on a point of order to moving this clause, because it was on this very same clause, exactly word for word, we quoted in this amendment, that we had to come out of the Select Committee when the Honourable the Law Member ruled it out of order. However, when that question has not been raised, I do not like to dilate upon it now. We should like to have a categorical answer from the Honourable the Home Member whether he

[Mr. S. C. Mitra.]

will allow peaceful picketing to be continued as regards indigenous industries, temperance or in any other matter. That will make our position clear. We like to have a definite reply on this point. We agreed that any picketing that involves obstruction, violence, intimidation, alarm or annoyance of any kind can be taken exception to, but if it is merely persuasion not involving any of these elements, I want to know if such peaceful picketing will be permitted by the Government. With these words, I support this amendment.

Mr. Lalchand Navalrai: Sir, I heartily support this amendment. That picketing is permissible cannot be denied. That peaceful picketing is allowed by law and by practice cannot also be denied. Therefore, to make a clause or to enact a section without drawing a line of demarcation between violent and non-violent picketing would be meaningless and will serve no purpose. It is not at all difficult to draw such a line. From the present clause itself we find that a difference can be deduced between picketing which is harmless and picketing which is harmful. The Honourable the Home Member himself, as I understand him, clearly said that the use of persuasion in picketing is not an offence covered by this clause.

The Honourable Mr. H. G. Haig: I did not say in picketing. I said persuasion.

Mr. Lalchand Navalrai: Persuasion is no offence, then if a man simply stands out and then persuades,—picketing means something like standing out as a sentinel—or if he stands inside and makes persuasion, what difference does it make? Excesses may be punished, and a line can always be drawn in that direction. Picketing has stages. It begins like this. One or two men come and stand at the door of a shopkeeper. The man offers no objection, no protest is made from any quarter. They simply stand outside to influence. That is the first stage of picketing. The second is followed by the men beseeching or making entreaties. The third stage is when they persuade by means of lecturing or putting forward arguments in order to bring the man round. A line can be drawn here, and if any further proceedings are taken, such as catching hold of the man or his property, or intimidating him or insulting him, let these be made punishable. It has been said that if you draw a line of demarcation, it is likely to be crossed over, and the picketers will drift into using force or violence. That is exactly what I say that if excesses of that character happen, they come under the Act, and can be punished, but it cannot be said that simply because a particular law will be infringed, it should not be made at all. Make an enactment and punish the man if he exceeds the legal bounds, but don't punish an innocent man. Yesterday, Mr. Sorley, in an eloquent and able speech, gave certain instances of how this picketing was done in Guzerat. It would have been creditable to him and probably he would have gained the applause of this side of the House also if he had honestly and impartially come forward with instances of how the police acted in instances, where he must have seen that picketing drifted into violence owing to the aggressiveness of the police. I put him a direct question if he has not seen any such instances. I think every District Officer has seen such happenings. I submit, therefore, that there are instances where the police

have been the aggressors and have been responsible for converting peaceful picketing into violent picketing. The picketer simply stands at the door. A policeman passes by. No complaint is made to him, yet he puts on a face and says: "Why do you stand there?" The man replies: "I am standing here by my own right." The policeman loses himself and directs: "Go away", and not unoften assaults. The picketer turns round and also becomes violent in self-defence. Have not such cases happened? We have ourselves seen them. Therefore, to say that peaceful picketing should not be allowed, because it will run over the borders is no argument based upon any sense. I think the Congressmen themselves have not been taught by the Congress or by Mahatma Gandhi to do violent picketing. If the Government now put in a clause that peaceful picketing is no offence, then it will be as ordained by Mahatma Gandhi, and the Congressmen will realise that Government have also drawn a line of demarcation which should not be transgressed. At present they think that whether picketing is done violently or peacefully, it is the same thing, when they are prepared to go to jail; but if Government come round and draw a line of demarcation, the Congressmen will appreciate Government's action and will not go beyond the limits. With these words, I support the motion.

Mr. T. N. Ramakrishna Reddi (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): I have given notice of a similar amendment, No. 55 in the new list. I want to know if I will be called upon to move that amendment. If not, I will speak on this.

Mr. President (The Honourable Sir Ibrahim Rahimtoola): It is not exactly the same. The Honourable Member can move it when his turn comes.

Sardar Sant Singh (West Punjab: Sikh): I support this amendment, though not very heartily like the previous speakers. (Laughter from the Government Benches.) The Government Benches will not be laughing when they have heard me through. The point is this, Sir. Picketing of all sorts has been made an offence under this clause. The Mover of this amendment wants to exclude peaceful picketing. This weapon should be allowed to remain in the hands of the people for the benefit of the administration. If it were a Government of the country by the people, in that case laws could be enacted to punish a man who acted in a manner prejudicial to the best interests of his country. But we cannot forget that the country is being governed by aliens. Unfortunately there are Indians who deliberately act in a manner highly obnoxious to their countrymen in order to win the favours of the alien bureaucracy for themselves. In such cases, there are two courses open to the people, *viz.*, either to resort to violence against the person or property of such person, or adopt peaceful methods, non-violent methods to bring him round and make him realise the consequences of his evil ways. Violent methods are out of place. The Congress does not recognise them; the country does not want them. We are here to condemn those methods. The only methods then left are peaceful methods. But the Government do not seem to allow the adoption of even peaceful methods. What is to be done then? Sir, Austin, the greatest English Jurist, supplies us with the answer. After discussing the fundamental functions of a Government the great jurist says that when a Government ceases to function for the welfare of its subjects, a right arises in the subjects to rebel against such a Government. All know, Sir, that rebellion is an evil. It brings in its train

[Sardar Sant Singh.]

undescribable hardships. But the people have to make a choice between tolerating bad laws or evils of rebellion. Evils of the rebellion last only for a short time, while the evil inflicted by bad laws are more lasting and leave a permanent scar, and that is why rebellion is justified by Austin in certain circumstances. I would request my Honourable friends, the Law Member and the Home Member, to read Austin a second time. In the light of the second reading, they are requested to reconsider the position whether safety valves should not be kept. It is in their own interest and in our interest as well that violence should be eliminated and condemned. If such innocent acts are excluded, what are the people to do? You are sure to drive them to violence. It cannot be denied, Sir, that people are getting impatient. They have lost all confidence in the present administration. What do the Government want? Do they want to win back the confidence of the people or to further alienate them? Sir, the amendment says:

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

This amendment is circumscribed by many qualifications. What more safeguards do Government want? If the Government do not take a broad view of the situation at the present time, my submission is that they will not succeed in discouraging the civil disobedience movement, and that they will on the contrary be encouraging it. With these words, I support this amendment.

Rao Banadur B. L. Patil (Bombay Southern Division: Non-Muhammadan Kural): Sir, Government say that Congress workers are aggressive. On the other hand, the Opposition Members have said that it is more often the police who are aggressive; but let me bring to the notice of the Honourable the Home Member that this modest amendment does not in any way affect the Government point of view. It is unaggressive and it meets the point of Government as well. Therefore, in my humble opinion, I request the Home Member to yield to the suggestion of the Opposition. At the same time I should like to raise my little finger of warning. If this amendment is not accepted, the countryside will think that the Government are not sincere in what they say. Government have said that they have no objection if the picketing is peaceful if it does not involve any acts of violence and if the picketers do not resort to force. I think the words coming from Government are hollow and there is no sincerity behind them. Let me also tell them that the masses are not so ignorant as not to understand what is picketing meant for and what is Swadeshi and for whose benefit the Swadeshi movement is being carried on in this country. The masses are competent to understand what is peaceful picketing and what is not peaceful picketing. If Government deprive the social workers of even this right of approaching their fellow citizens with certain economic propaganda, I am sure the verdict of the masses will go against the Government and hereafter the Government may take it from me that they will alienate the sympathies of the masses. I come from the rural districts. I have had talks with several moderately educated villagers. I know for certain that they have begun to understand what Swadeshi means and why picketing is done. Therefore, in my own humble way, I request Government to think well and allow better sense and wisdom to prevail and accept this amendment.

Diwan Bahadur Harbilas Sarda (Ajmer-Merwara: General): As I understand it, there is no question of picketing involved in this amendment. The amendment is:

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

I do not think there can be any reasonable objection to its acceptance. If this clause is to be strictly enforced, I think the first victims will be the Honourable the Home Member and the Honourable the Law Member. They have been all these days trying peacefully to persuade us to vote for this Bill and we have a right to vote against this Bill. If this clause is to be strictly enforced, without regard to persons in high places, then my friends on the opposite benches will be liable to be prosecuted and punished. I do not want this to be done. I hope they will reconsider their decision and accept this amendment.

The Honourable Sir Brojendra Mitter: What does this amendment mean? The amendment says:

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

Who ever suggested that it does come within the purview of this clause? That is what I should like to know. The clause, as it stands, means this that in order to constitute the offence of molestation, two elements are necessary, first of all an intent to coerce and, secondly, some overt act and four categories of overt acts are mentioned in the clause. The first category is obstruction, violence or intimidation. The second category is loitering. The third category is what is known as besetting and the fourth is injury to property. In order that an offence can be established, there must be first of all the intention to coerce and, secondly, some overt act which comes under any of the four categories mentioned. I shall confine my observations to the first category, that is obstruction, violence or intimidation. What the amendment says is this,—that an overt act which does not amount to obstruction, violence or intimidation is not an offence. Of course it is not an offence. The clause does not say it is an offence. Sir, two more expressions are used in this amendment. The words "obstruction, violence, intimidation" are covered by the first category I have mentioned. Then two other words are used,—"annoyance or alarm". Now, alarm certainly is included in the first category, because "alarm" follows "intimidation". Then as regards "annoyance", obstruction, violence or intimidation may cause annoyance, loitering may cause annoyance and besetting may cause annoyance. Therefore, all the five things which the amendment says should not be an element in the offence are already dealt with in the clause itself. That being so, the amendment is, Sir, in my opinion, absolutely meaningless and unnecessary. I oppose the amendment.

Mr. N. B. Gunjal: (speaking in the vernacular the Honourable Member supported the amendment.)

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

"That for the *Explanation* to sub-clause (1) of clause 7 of the Bill, the following be substituted:

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

The Assembly divided :

AYES—30.

Abdur Rahim, Sir.
 Aggarwal, Mr. Jagan Nath.
 Azhar Ali, Mr. Muhammad.
 Badi-uz-Zaman, Maulvi.
 Chandi Mal Gola, Bhagat.
 Chetty, Mr. R. K. Shanmukham.
 Dutt, Mr. Amar Nath.
 Gour, Sir Hari Singh.
 Gunjal, Mr. N. R.
 Isra, Chaudhri.
 Jadhav, Mr. B. V.
 Jog, Mr. S. G.
 Lalchand Navalrai, Mr.
 Liladhar Chaudhury, Seth.
 Maswood Ahmad, Mr. M.
 Miara, Mr. B. N.

Mitra, Mr. S. C.
 Murtuza Saheb Bahadur, Maulvi
 Sayyid.
 Parma Nand, Bhai.
 Patil, Rao Bahadur B. L.
 Reddi, Mr. T. N. Ramakrishna.
 Sadiq Hasan, Shaikh.
 Sant Singh, Sardar.
 Sarda, Diwan Bahadur Harbilas.
 Sen, Mr. S. C.
 Sen, Pandit Satyendra Nath.
 Sitaramaraju, Mr. B.
 Thampan, Mr. K. P.
 Uppi Saheb Bahadur, Mr.
 Ziauddin Ahmad, Dr.

NOES—56.

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.
 Anwar-ul-Azim, Mr. Muhammad.
 Bajpai, Mr. G. S.
 Bhore, The Honourable Sir Joseph.
 Bower, Mr. E. H. M.
 Burt, Mr. B. C.
 Dalal, Dr. R. D.
 Dunn, Mr. C. W.
 Dutt, Mr. G. S.
 Fazal Haq Piracha, Shaikh.
 Fox, Mr. H. B.
 Graham, Sir Lancelot.
 Greenfield, Mr. H. C.
 Gwynne, Mr. C. W.
 Haig, The Honourable Mr. H. G.
 Hezlett, Mr. J.
 Hudson, Sir Leslie.
 Ishwarsingji, Nawab Naharsingji.
 Ismail Ali Khan, Kunwar Hajee.
 Ismail Khan, Haji Chaudhury
 Muhammad.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur
 Sardar.
 Lal Chand, Hony. Captain Rao
 Bahadur Chaudhri.
 Mackenzie, Mr. R. T. H.

Macqneen, Mr. P.
 Meek, Mr. 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.
 Noyce, The Honourable Sir Frank.
 Rafuddin Ahmad, Khan Bahadur
 Maulvi.
 Raghubir Singh, Kunwar.
 Rajah, Rao Bahadur M. C.
 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 Prashad.
 Smith, Mr. R.
 Sorley, Mr. H. T.
 Suhrawardy, Sir Abdulla-al-Mámûn.
 Tottenham, Mr. G. R. F.
 Wajihuddin, Khan Bahadur Haji.
 Yakub, Sir Muhammad.
 Yamin Khan, Mr. Muhammad.
 Zulfiqar Ali Khan, Sir.

The motion was negatived.

Mr. T. N. Ramakrishna Reddi: Sir, I beg to move the following amend-
 ment standing in my name :

"That to sub-clause (1) of clause 7 of the Bill, the following further *Explanation* be
 added :

'Explanation.—Peaceful picketing, peaceful persuasion, peaceful argument for the
 purpose of promoting indigenous Swadeshi products and peaceful picketing of toddy,
 arrack and ganja shops, without involving obstruction, violence or intimidation to any
 person does not come within the purview of this section'."

Sir, with regard to the amendment that has just been defeated, Government took shelter on the protest that the *Explanation* is covered by the clause itself as all the ingredients in the *Explanation* are contained in the original clause itself and, therefore, the *Explanation* is unnecessary. On the previous amendment, Government argued that peaceful persuasion and inducement might be carried on not only for the purposes of developing Swadeshi enterprise, but also they might be carried on for the purpose of asking persons to join the Congress and many other subvertive activities. That is the reason why Government opposed that amendment. They feared that it would have opened the way for persons to carry on the Congress propaganda. But my amendment confines only to two particular activities. One is the encouragement of Swadeshi products and another is to dissuade people from taking to toddy and ganja. These are the only two activities that this amendment is directed against. Sir, the Government have again and again stated that they have absolutely no objection for carrying on any propaganda for the advocacy of Swadeshi or indigenous goods. It is clear from the minute attached to the Bill itself. They have stated that this clause is not intended to hamper the lawful advocacy of Swadeshi or abstention from intoxicating liquor. Now, Sir, by this amendment I am only making clearer the scope and the operation of the clause. I am only amplifying and clarifying it because the Honourable the Law Member has repeatedly stated that the law must be clear and unambiguous. Then, Sir, let us see what is the attitude of the Government with regard to the improvement of Swadeshi products. I will quote from the Gandhi-Irwin Agreement the attitude of the Government that was then taken up by the Government. They said:

"The position of the Government is as follows. They approve of the encouragement of Indian industries as part of the economic industrial movement designed to improve the material condition of India and they have no desire to discourage methods of propaganda, persuasion or advertisement pursued with this object in view which do not interfere with the freedom of action of individuals and are not prejudicial to the maintenance of law and order."

So, they are prepared to allow the encouragement of Indian industries except under two conditions, namely, that it should not interfere with the freedom of action of individuals or the maintenance of law and order. Now, that was the policy adopted then and the same seems to be the policy of the Government even today as has been stated by the Honourable the Home Member this morning. I was very carefully listening to his speech and he has stated that all ordinary methods of propaganda are open under this clause. As an instance he stated, the distribution of pamphlets in favour of Swadeshi or writing articles in newspapers are absolutely permissible. Thus it is clear that Government have absolutely no objection for carrying on propaganda for the improvement of Swadeshi industry. They have also no objection for the carrying on of a temperance propaganda, or propaganda for abstention from intoxicating liquors. I want to put the professions of Government to the test and see if they are going to accept my amendment. Under this amendment peaceful picketing, peaceful persuasion, peaceful argument for the purpose of promoting indigenous Swadeshi products and peaceful picketing of toddy, arrack and ganja shops without involving obstruction, violence or intimidation to any person do not come within the purview of this clause. But the Honourable the Home Member, while accepting any peaceful persuasion for the furtherance of these objects as being lawful, has only objected to the word "picketing".

[Mr. T. N. Ramakrishna Reddi.]

I again quote from the Gandhi-Irwin Agreement wherein the Government have agreed to the use of that term, and I am sure the Honourable the Home Member himself must have had a hand in drafting this clause. In clause 7 of that Agreement it is said :

"In regard to the methods employed in furtherance of the replacement of non-Indian by Indian goods, or against the consumption of intoxicating liquor and drugs, resort will not be had to methods coming within the category of picketing except within the limits permitted by the ordinary law. Such picketing shall be unaggressive and it shall not involve coercion, intimidation, restraint, hostile demonstration, obstruction to the public, or any offence under the ordinary law."

So, they must have had absolutely no objection for using the word "picketing" under this Agreement. I do not see any reason why they should have any objection for the word "picketing" when it had no objectionable meaning in the Gandhi-Irwin Pact. If a person goes beyond the limits imposed by this clause, he comes under the operation of the law and he can be hauled up. With these words, I move my amendment which is only confined to two objects,—encouragement of Swadeshi, and the temperance movement.

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

"That to sub-clause (1) of clause 7 of the Bill, the following further *Explanation* be added :

Explanation.—Peaceful picketing, peaceful persuasion, peaceful argument for the purpose of promoting indigenous Swadeshi products and peaceful picketing of toddy, arrack and ganja shops, without involving obstruction, violence or intimidation to any person does not come within the purview of this section."

Mr. N. R. Gunjal: (Speaking in the vernacular, the Honourable Member supported the amendment.)

The Honourable Mr. H. G. Haig: Sir, as far as I understand this amendment, in effect it differs from the amendment which has just been rejected by the House only in so far as it authorises peaceful picketing. The object of this clause is to stop picketing. Picketing, however peaceful it may appear on the surface, according to us has a very definite element of compulsion in it. It would be stultifying our object if we were to say, after prohibiting these various acts which amount to picketing, we were then to say that they are authorised. The amendment further proposes that this special privilege in favour of peaceful picketing should only be applied to certain movements. I have not been able to understand why two particular movements, the Swadeshi movement and the temperance movement should be given this preference . . .

Mr. T. N. Ramakrishna Reddi: Because the Government agreed to these two activities.

The Honourable Mr. H. G. Haig: Surely the Honourable Member does not suggest that we regard all other popular movements as undesirable. There are many other movements. There is the movement in which my Honourable friend, Diwan Bahadur Harbilas Sarda, is so interested. Why is the privilege of peaceful picketing to be denied to them? Sir, the form of this amendment is such that it could not possibly, I maintain, find a place in our legislation. And I would further ask Honourable Members opposite, why cannot Swadeshi be pursued except by the methods

of picketing? Is it a movement so unreasonable or so repugnant to the feelings of the people that it cannot make progress without exercising compulsion on them? Sir, I oppose the amendment.

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

"That to sub-clause (1) of clause 7 of the Bill, the following further *Explanation* be added:

Explanation.—Peaceful picketing, peaceful persuasion, peaceful argument for the purpose of promoting indigenous Swadeshi products and peaceful picketing of toddy, arrack and ganja shops, without involving obstruction, violence or intimidation to any person does not come within the purview of this section'."

The motion was negatived.

Mr. Lalchand Navalrai: Sir, I move:

"That to sub-clause (1) of clause 7 of the Bill, the following further *Explanation* be added:

Explanation.—Peaceful picketing does not come within the purview of this section'."

I will explain why I am moving this amendment. The former amendments that have been put before this House contained more or less a definition of what peaceful picketing was. They describe certain matters which they consider peaceful. But I was very sorry to hear from the Honourable the Home Member that the intention of Government was to stop all picketing. I think it is not right that Government should go so far. Then the Home Member qualified that statement by saying that picketing was peaceful on the surface of it. Therefore, I am putting only the words "peaceful picketing" and I am leaving it to the magistrates to decide in each case what peaceful picketing is and it will be for them to find out whether it is peaceful picketing on the surface alone or it is substantially peaceful picketing. If it is truly peaceful picketing, then it should not come under this clause, but if it is merely on the surface and considered violent or harmful, then the man should be punished. That is the difference I am making and I am leaving the definition of the words "peaceful picketing" in the hands of the judiciary. I submit that this amendment of mine is very reasonable. If an amendment like this is also not accepted, then I think the reply will be that Government are getting vindictive.

Mr. N. R. Gunjal: (Speaking in the vernacular, the Honourable Member supported the amendment.)

The Honourable Mr. H. G. Haig: Sir, I have already dealt with the point raised by my Honourable friend, Mr. Lalchand Navalrai, in my reply to the previous amendment and I have nothing to add to it.

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

"That in sub-clause (1) of clause 7 of the Bill, the following further *Explanation* be added:

Explanation.—Peaceful picketing does not come within the purview of this section'."

The motion was negatived.

Mr. Lalchand Navalrai: Sir, I beg to move:

"That in sub-clause (2) of clause 7 of the Bill, for the words 'officer in charge of a police station' the words 'an Inspector of Police' be substituted."

[Mr. Lalchand Navarai.]

Sir, I want to try and see how far Government will go even on very reasonable amendments. What I mean by this amendment is to have a simple safeguard that when there is such an important question as peaceful picketing or no picketing, it should not lie in the hands of a mere constable to decide whether to report against the offender or not. It is very necessary that in these circumstances some responsible police officer should handle the case and get it tried by a Magistrate. I do not think I am asking anything which is unreasonable. I said that under this clause cases would be handled by a constable only. I am fortified in that by the very definition of the words "officer in charge of a police station" in the Criminal Procedure Code, section 4, which says:

"Officer in charge of a police station includes, when the officer in charge of a police station is absent from the station house or unable from illness or other cause to perform his duties, the police officer present at the station house who is next in rank to such officer and is above the rank of a constable."

But, further on, it says that when the Local Government so directs, any other police officer or person may be placed in charge, and that would include a constable also. Therefore, a constable can take cognizance of the case or a head-constable can, so a sub-inspector, but, I want an Inspector to do so and, by virtue of section 551, Cr. P. C., he can act as an officer in charge of a police station. This will be a measure of precaution? Of course people have lost their faith even in Inspectors of Police. We know how police officers are treating these cases of boycott and peaceful picketing. At any rate, it will inspire some confidence to feel that a higher officer has investigated the case, and I submit that this amendment should be considered reasonable.

Mr. N. R. Gunjal: (Speaking in the vernacular, the Honourable Member supported the amendment.)

The Honourable Mr. H. G. Haig: Sir, the officer in charge of a police station is the officer who normally investigates a case and sends it up for trial. It is for that purpose that we have provided that these cases should not be instituted without that procedure having been followed. If it were made obligatory that a case of this nature should go before an Inspector of Police, that would mean considerable delay in procedure. These cases, when the picketing movement is in operation, are very numerous and it is particularly essential that they should be dealt with promptly. The amendment moved by my Honourable friend would defeat this very necessary intention of the clause.

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

"That in sub-clause (2) of clause 7 of the Bill, for the words 'officer in charge of a police station' the words 'an Inspector of Police' be substituted."

The motion was negatived.

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

"That clause 7 stand part of the Bill"

The motion was adopted.

Clause 7 was added to the Bill.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 1st December, 1932.