

Thursday, 8th September, 1938

THE COUNCIL OF STATE DEBATES

VOLUME II, 1938

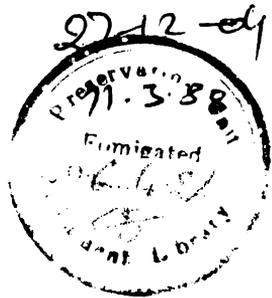
(5th September to 22nd September, 1938)

FOURTH SESSION

OF THE

FOURTH COUNCIL OF STATE, 1938

Chamber Fumigated...*18/X/38*...



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COUNCIL OF STATE.

Thursday, 8th September, 1938.

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

QUESTIONS AND ANSWERS.

CONDITIONS REGULATING THE USE OF BOMBING ON THE NORTH WEST FRONTIER.

76. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : Will Government state whether it is proposed to appoint an International Commission, or any other agency, to examine the conditions under which police bombing takes place on the North West Frontier, with a view to dissipate all misgivings from the public mind ?

THE HONOURABLE MR. A. DE C. WILLIAMS : The conditions regulating the use of bombing on the North West Frontier have often been publicly stated and I refer the Honourable Member to the statement contained in Command Paper No. 5495, a copy of which is in the Library of the House. As was recently stated by the Prime Minister in the House of Commons, there is no necessity for the appointment of any such commission.

ILL-TREATMENT OF INDIAN MERCHANTS IN CHINESE TURKESTAN.

77. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : (a) Will Government make a statement regarding the ill-treatment of Indian merchants in Chinese Turkestan within the last eight months, how many of them were looted, or otherwise maltreated, and were any of them killed or wounded ?

(b) What steps have been taken by Government in the matter and with what results ?

(c) Have the properties that were looted been restored to the Indians or was any compensation paid to them ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) Since October, 1937 there has been a boycott of Indian traders in Sinkiang which has undoubtedly resulted in cases of hardships. Government understand that certain

restrictions have been placed on the movements of Indian merchants and that other disabilities have also been placed on their trading activities. Twenty British subjects have submitted claims to His Majesty's Consul General, Kashgar, for losses sustained as the result of looting by rebel Tungan troops in the rebellion of 1937. One British subject was killed on the 22nd November, 1937, and another was reported missing and has not yet been traced. Except for these instances, no other cases of maltreatment or wounding of British subjects have come to notice.

(b) Government are fully alive to the difficulties of British subjects in Sinkiang and representations have been made to the Sinkiang Provincial Government through His Majesty's Consul General at Kashgar who is taking all possible action to bring about an improvement in the situation.

(c) As the looting of the property occurred in the course of a rebellion against the Sinkiang Government, there are obvious difficulties in establishing that Government's responsibility for restoration of the property or payment of compensation. No compensation has been received as yet, but the matter is still under negotiation between the Provincial Government and His Majesty's Consul General, Kashgar.

TRAINING OF AFGHANS IN INDIA FOR THE AFGHAN AIR FORCE.

78. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh): Will Government state whether they have undertaken to train a certain number of Afghan students in aviation for the Afghan Air Force? If so, how many; and where are they being trained?

THE HONOURABLE KUNWAR SIB JAGDISH PRASAD: Yes, 29, at the Aeronautical Training Centre of India, Delhi, and Royal Air Force stations at Karachi, Ambala and Lahore.

OFFICE OF THE DIRECTOR OF CIVIL AVIATION.

79. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh): Will Government state why the Director, the Deputy Director, Engineers one and two, and their staff of the Civil Aviation Department have been allowed to proceed to Simla and the Chief Aircraft Inspector, the Assistant Aircraft Inspector, the Technical Officer for licences and the Administrative Officer have remained at New Delhi?

THE HONOURABLE MR. S. N. ROY: The attention of the Honourable Member is invited to paragraph 2 of the Press Communiqué, dated the 19th January, 1938, issued by the Home Department, which gives the reasons for some exceptions being made from the general orders in respect of the Office of the Director of Civil Aviation during 1938.

INTRODUCTION OF THE KHADDAR (NAME PROTECTION) ACT, 1934, IN CHIEF COMMISSIONERS' PROVINCES.

80. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh): Will Government state whether they propose

to introduce the provisions of the Khaddar (Name Protection) Act, 1934, in Delhi, and other centrally administered areas ? If not, why not ?

THE HONOURABLE MR. M. SLADE : Power to bring the Act into force in Chief Commissioners' Provinces is exercisable by the Chief Commissioners, and the Act is already in force in Coorg and British Baluchistan. Government do not consider that any action on their part is called for.

SUBJECTS OF INDIAN STATES IN SOUTHERN RHODESIA.

81. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : Will Government state whether out of the Indians residing in Rhodesia (South Africa), there is a large number of subjects of Indian States, including many property owners ? If so, is there any differentiation between them as regards their status in the matter of vote, and Parliamentary franchise ? And what are the points of differentiation, if any ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : The reply to the first part of the question is in the affirmative. As regards the second part, the Electoral Act in force in the Colony provides that an applicant must, besides possessing certain qualifications, be a British subject, but any person who is not a British subject but is otherwise qualified can be registered as a voter if his name was upon any voter's list which was in force on the 27th July, 1928, or if during a state of war he has been on active service as an attested member of any naval, military or air forces of the Crown. Subjects of Indian States who are not British subjects can therefore be enrolled as voters only if they come within the exceptions that I have described.

THE HONOURABLE MR. P. N. SAPRU : Is there any differentiation so far as the franchise is concerned between British Indian subjects and European subjects ?

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THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : Sir, I must ask for notice of that question.

ENLISTMENT OF AFRIDI TRIBESMEN IN THE INDIAN ARMY.

82. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : (a) Is it a fact that the question of enlistment of North West Frontier Afridi tribesmen in the regular Indian Army is or is likely to come under the consideration of Government ?

(b) Had two extra platoons of Afridis been enlisted for the Tochi Scouts ? If so, when ; and for what purpose ?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD : (a) Yes. There are already 160 in the regular Indian Army, their enlistment being sanctioned in 1932.

(b) Two extra platoons of Afridis (one Aka Khel and one Kuki Khel) were enlisted in the Tochi Scouts in November, 1937, as part of the sanctioned increase in the strength of that Corps.

SCIENTIFIC EXPLORATION IN SIKKIM BY THE NEW GERMAN EXPEDITION.

83. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh): Have Government given any permission and facilities to the new German expedition to explore the Eastern Himalayas and Tibet, which has arrived or is about to begin operations from Assam? If so, is there any political background to this expedition?

THE HONOURABLE SIR JAGDISH PRASAD: The Sikkim Darbar have permitted the expedition to carry out scientific exploration within their territory. No other permission for exploration has been granted. The Government of India have accorded the usual customs facilities to the expedition. The answer to the second part of the question is in the negative.

FACILITIES PROVIDED BY GOVERNMENT TO THE GERMAN EXPEDITION TO NANGA PARBAT.

84. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh): What facilities, if any, have been provided by Government to the German expedition to Nanga Parbat? And what are the main arrangements in this connection?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: Government merely granted customs exemption on the expedition's equipment, which is usual in such cases. The arrangements were made by the organizers of the expedition.

DISCOVERY AND INSCRIPTION ON THE TOP OF THE ROCK FORT,
TRICHINOPOLY.

85. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh): Will Government state the main details and significance of the archæological discovery and inscription, which has recently been made by the Archæological Survey of India (The Madras Epigraphical Department) on the top of the Rock Fort, Trichinopoly?

THE HONOURABLE KUNWAR SIR JAGDISH PRASAD: I lay on the table a copy of a Press Note published in April, 1938, which gives the information asked for by the Honourable Member.

PRESS NOTE.

WINTER RETREAT OF THE ANCIENTS.

Cavern with early inscriptions.

MADRAS DISCOVERY.

A cavern with earlier inscriptions, one of which is attributable to the 1st Century B.C. has lately been discovered by the Archæological Survey of India (The Madras Epigraphical Department) on the top of the Rock-fort at Trichinopoly.

The approach to the cavern which lies on a ledge of rock above the upper rock-cut cave of the Pallava King Mahendravarman (Circa A.D. 625) is along a narrow belt of rock skirting the

northern flank of the hill ; and as a portion of the route has to be crossed by crawling on all fours underneath a projecting boulder,—a false step meaning a fatal drop down the precipitous side,—the cavern had escaped notice till now.

The cavern faces the west, and commands a picturesque view of the river Kaveri for a few miles along its course and must have been used by Buddhist or Jaina monks for their annual retreat in the early winter months, when the north-east monsoon breaks on the Southern Presidency with all its fury and must have made it impossible for the wandering monks to go about much to propagate the teachings of the Master. On the rocky platform measuring 30' by 25' in front there are scooped out in the live rock a few beds, smoothened and provided with pillow-lofts, one of which has a few archaic letters of the 5th Century A.D. engraved on it. The discovery explains also the origin of the suffix *palli* in the name of the town Tiruchchirapalli the correct Tamil original of its English equivalent Trichinopoly—and its connection with an early Buddhist or Jaina colony, and throws back the antiquity of the place by some centuries prior to the Pallava times.

With systematic search it is possible that some more early caverns may be discovered in this tract of country, which would give an idea about the spread of Jainism and Buddhism in South India in the few centuries on either side of the commencement of the Christian era.

RAISING OF SUBVENTION OF THE NORTH WEST FRONTIER.

86. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : Will Government state whether the question of raising the subvention of the North West Frontier Province has been raised and is under the consideration of the Government of India ?

THE HONOURABLE SIR JOHN NIXON : I refer the Honourable Member to the relevant portions of paragraphs 16 and 24 of the Niemeyer Report.

USE OF TEAR GAS IN INDIA.

87. THE HONOURABLE MR. P. N. SAPRU (on behalf of the Honourable Raja Yuveraj Datta Singh) : Will Government state whether the use of tear gas as a coercive measure to disperse or otherwise deal with mobs has been sanctioned for adoption anywhere in India ? If so, where ?

THE HONOURABLE MR. J. A. THORNE : The use of tear gas for the dispersal of mobs is in Governors' Provinces a matter for the Governments of those provinces. I understand that the Governments of Bombay and the Punjab have taken steps to train police in the use of tear gas. In Chief Commissioners' Provinces no police have yet been trained for the purpose.

THE HONOURABLE MR. HOSSAIN IMAM : Do the Government propose to train the police for this purpose in the centrally administered areas ?

THE HONOURABLE MR. J. A. THORNE : That is under consideration, Sir. A certain amount of expense is involved in the training.

COMMUNICATION FROM THE FEDERATION OF INDIAN CHAMBERS OF COMMERCE AND INDUSTRY ON INDO-AFGHAN TRADE RELATIONS.

88. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Will Government state whether they have received any communication from the Committee of the Federation of the Indian Chambers of Commerce and

Industry regarding India's trade with Afghanistan? If so, what is the nature of such communication and what steps are Government taking on it?

THE HONOURABLE MR. M. SLADE : The reply to the first portion is in the affirmative. As regards the latter portion, broadly speaking, the letter from the Federation of Indian Chambers of Commerce and Industry deals with questions relating to Indo-Afghan trade relations and the alleged restrictions imposed on Indians visiting Afghanistan on business. Government have already taken up the question of obtaining facilities for Indian merchants to trade in Afghanistan with the Afghan Government and the matter is still under consideration.

THE HONOURABLE MR. HOSSAIN IMAM : Is there any trade representative of India at the Afghanistan Court?

THE HONOURABLE MR. M. SLADE : There is an Indian trade agent in Kabul.

ESTABLISHMENT OF A SILK CONDITIONING HOUSE AT HOWRAH.

89. THE HONOURABLE MR. KUMARSANKAR RAY CHAUDHURY : Will Government state whether a silk conditioning house has been established at Howrah requiring all silks produced in Bengal to be taken there for purposes of conditioning? If so, do Government propose to reduce the railway freight on raw silk?

THE HONOURABLE SIR GUTHRIE RUSSELL : I am not aware of the silk conditioning house to which the Honourable Member refers, but its establishment is not in itself any justification for a reduction in railway freight rates.

INFORMATION PROMISED IN REPLY TO QUESTIONS LAID ON THE TABLE.

THE HONOURABLE SIR GUTHRIE RUSSELL (Chief Commissioner for Railways): Sir, I lay on the table the information promised in reply to—

- (1) Question No. 74 asked by the Honourable Mr. Hossain Imam on the 14th February, 1938.
- (2) Questions Nos. 292 and 294 asked by the Honourable Rai Bahadur Lala Ram Saran Das on the 4th April, 1938.

Question No. 74.

REPAIRS TO HARDINGE BRIDGE, E. B. R.

(a) Rs. 1,00,23,827.

(b) A statement is attached.

(c) Rs. 1,19,52,473.

Statement.

Name of contractor.	Amount. Rs.
Hirjee Visram	10,54,899
Shewak Ram	10,98,253
S. C. Roy Chowdhury	17,891
Girdhari Lall Mehra	56,138
K. K. Mukherjee	1,74,911
P. C. Mukherjee	11,372
Nauji Mouji	1,78,520
Mehr Singh	40,079
Seth Sunder Pershad	5,70,057
S. Mukherjee	8,926
S. Paul and K. K. Mukherjee	44,611
A. Sirkar and Company	86,007
Ladha Singh	9,160
Chatterjee Shaw and Company	28,707
Seth Teomal	8,983
T. S. Semanto	2,04,839
Messrs. Bose Basunta Ram	24,954
G. Gupta	16,795
Pranjip Kumbha	40,718
Yule Engineering Corporation	11,429
S. G. Bose	1,43,232
K. L. Mazumdar	48,976
Rajshahi Stone and Coal Agency	1,04,777
R. B. Jagmal Raja	69,563
A. V. Sham	57,241
Meghji Gobabhai	29,761
Kumbha Mouji	17,629
Lakshman Hirjee	1,63,385
Bhagwan Das	1,52,342
Hari Singh	71,050
Mulla Mull	39,406
S. Jha	12,986
R. B. Teomal	10,127
Madanji Lira	10,314
	<hr/>
	46,17,838

Question No. 293.**NUMBER OF COOLY JEMADARS EMPLOYED BY THE N. W. R.**

The total number of cooly jamadars in June, 1938 was 76.

Question No. 294.**NUMBER OF LICENSED COOLIES ON STATIONS OF THE N. W. R.**

I am placing on the table two statements, viz.—

- (i) showing the number of licensed coolies at certain stations and the number working during night shifts where such shifts are arranged ;
(ii) showing the number of jamadars at each station at which jamadars are employed.

STATEMENT I.

Statement showing the number of licensed coolies at certain stations on the N. W. R. and the number working during night shifts where such shifts are arranged.

Serial No.	Name of station.	Total number of coolies employed.	Night shifts.	
			No. of shifts.	No. of coolies in the shift.
1	Lahore	350	..	..
2	Delhi	{ Summer 400	1	100
		{ Winter 500	1	150
3	Ludhiana	70	1	30
4	Amritsar	150	1	50
5	Rawalpindi	118	..	..
6	Multan Cantonment	45	..	..
7	Karachi City	75	..	..
8	Hyderabad	81	1	40
9	Peshawar Cantonment	35	..	..
10	Sukkur	30	..	..
11	Jullundur City	70	1	25
12	Bhatinda	45	..	..
13	Kalka	{ Summer 200	..	..
		{ Winter 60	..	..

STATEMENT II.

Statement showing the number of coolie jemadars at each station on the N. W. R. at which jemadars are employed.

Serial No.	Name of stations.	No. of jemadars.	Serial No.	Name of stations.	No. of jemadars.
1	Lahore ..	1	28	Meerut Cantt. ..	1
2	Moghalpura ..	1	29	Muzaffarnagar ..	1
3	Amritsar ..	3	30	Saharanpur ..	1
4	Jullundur City ..	1	31	Amabala Cantt. ..	1
5	Jullundur Cantt. ..	1	32	Patiala ..	1
6	Phagwara ..	1	33	Bhatinda ..	1
7	Ludhiana ..	1	34	Jakhal ..	1
8	Batala ..	1	35	Simla ..	1
9	Pathankot ..	1	36	Karachi City ..	1
10	Lahore Cantt. ..	1	37	Karachi Cantt. ..	1
11	Raiwind ..	1	38	Hyderabad ..	1
12	Badami Bagh ..	1	39	Kotri ..	1
13	Shahdara ..	1	40	Rohri ..	1
14	Gujranwala Town ..	1	41	Sukkur ..	1
15	Wazirabad ..	1	42	Shikarpur ..	1
16	Gujrat ..	1	43	Larkana ..	1
17	Sialkot ..	2	44	Tando Adam ..	1
18	Narowal ..	1	45	Quetta.. ..	1
19	Jammu Tawi ..	1	46	Montgomery ..	1
20	Ferozepore Cantt. ..	1	47	Khanewal ..	1
21	Ferozepore City ..	1	48	Multan City ..	1
22	Bahawalnagar ..	1	49	Multan Cantt. ..	2
23	Kasur ..	1	50	Lodhran ..	1
24	Kotkapura ..	1	51	Samasata ..	1
25	Delhi ..	1	52	Bahawalpur ..	1
26	Ghaziabad ..	1	53	Dera Nawab Sahib ..	1
27	Meerut City ..	1	54	Mahmud Kot ..	1

STATEMENT II—contd.

Statement showing the number of coolie jemadars at each station on the N. W. R. at which jemadars are employed—contd.

Serial No.	Name of stations.	No. of jemadars.	Serial No.	Name of stations.	No. of jemadars.
55	Shorkot Road	1	64	Rawalpindi	1
56	Lyalpur	2	65	Mandra	1
57	Chak Jhumra	1	66	Jhelum	1
58	Sangala Hill	1	67	Lalamusa	1
59	Qila Sheikhpura	1	68	Malakwal	1
60	Peshawar Cantt.	1	69	Sargodha	1
61	Nowahera	1	70	Mari Indus	1
62	Campbellpur	1	71	Kohat Cantt.	1
63	Taxila	1		Total	76

CRIMINAL LAW AMENDMENT BILL.

THE HONOURABLE MR. A. DE C. WILLIAMS (Nominated Official) : Sir,
I move :

“ That the Bill to amend the Criminal Law, as passed by the Legislative Assembly, be taken into consideration.”

I do not propose at this stage to take up a great deal of the time of the Council in explaining this Bill. The reasons underlying it are, I think, self-explanatory and, I submit, cogent. As Honourable Members are no doubt aware, the Criminal Law Amendment Act of 1932 contained certain provisions dealing with dissuasion from enlistment in the Defence forces. When that Act came in for revision in 1935, that provision was omitted for the reason that activities of that kind were not at that time prevalent. Subsequent events have proved that this omission was a grave mistake. During the past 18 months, the attention of Government has been drawn to a very considerable number of public speeches, principally in the Punjab, dissuading persons from

joining the Defence forces or in the alternative inciting would-be recruits before joining those forces to commit acts of mutiny or insubordination after joining. The information in the possession of Government is unequivocal. In the Punjab alone, in a period of nine months last year, no less than 115 different persons made anti-recruiting speeches at 71 public meetings. Since then, in a further period of eight months, 130 similar cases have been reported. And cases of this kind, though in smaller numbers, have been reported from other provinces. The general purport of these speeches takes two forms. Either the speaker dissuades his audience from joining the Defence forces at all or he advises them not to take part in any future war on behalf of the British Government. I am not in possession of the whole or the ~~exact~~ text of these utterances but I can assure the Council that the reports which have reached Government come from so many, so widely distributed, and such mutually independent sources that Government are fully convinced of the real existence and the grave dangers of these activities. Should Honourable Members express at a later stage a desire to that effect, I am prepared to cite to them the gist of a number of these speeches, if, Sir, you rule that that will be useful. I am aware that in another place a ruling has been given to the effect that quotations may not be made from speeches unless the entire speeches are made available to the Legislature.

But in any case, Sir, I submit that the inaccuracy or accuracy of these reports does not in any great degree affect the main case for this Bill, which hits what any sensible citizen must admit are intolerable activities.

THE HONOURABLE MR. HOSSAIN IMAM : May we know the names of some of the speakers ?

THE HONOURABLE MR. A. DE C. WILLIAMS : I have said, Sir, I would consider that later, should a desire be expressed by some of the Honourable Members to have further details.

There is surely no need for the Legislature before penalizing any undesirable activity to wait for activities of that kind to multiply and accumulate. Thus crimes of murder, rape or treason are universally made punishable by law without the Legislature waiting for an epidemic of these crimes to break out.

From the trend of recent discussions in this Council, I am sure that Honourable Members do admit, firstly, that India must in the present posture of world affairs have an efficient Defence force ; secondly, that that force requires adequate personnel ; and thirdly, that that personnel must observe adequate discipline. It therefore follows without question that anti-recruiting propaganda cannot be tolerated as removing the sources of personnel, and that propaganda advocating mutiny or insubordination after recruitment cannot be tolerated as destroying discipline. In fact, it is to my mind surprising that the provisions of this Bill were not long ago permanently embodied in the Statute-book. In my view, it would have been as appropriate, perhaps more appropriate, if this Bill had taken the form of an amendment *in loco* of the Indian Penal Code by way of supplying obvious *lacunæ* in the ordinary law of the land.

[Mr. A. deC. Williams.]

A variety of considerations which were not merely agitated but, I should say, flogged to death for a period of days in another place are, I submit, Sir, for your consideration, utterly irrelevant to the matter before this Council for its consideration. The debate on this Bill cannot, I submit, legitimately extend to such extraneous, though doubtless interesting and controversial, topics as Indianization of the Defence forces, non-violence, or Imperialistic policy. Once we grant the need for an adequate Defence force, no Government could possibly tolerate that even *bona fide* opponents of an Imperialistic policy or participation in an Empire war should instigate recruits to mutiny in the event of such a war. Quite manifestly the rank and file of any efficient Defence force cannot be permitted, and indeed in the nature of things would be wholly incompetent, to constitute themselves the judges of the policy of the Higher Command. The wildest of theorists could not expect efficiency or discipline in a force run on these lines.

A close study of the Bill, in particular sub-clause (a) of clause 2 and the Exceptions to clause 2, shows clearly that the Bill does not hit *bona fide* pacifist propaganda. The penalty provided in clause 2—one year's imprisonment or fine or both—is moderate in the extreme and falls far short of that provided in Chapter VII of the Indian Penal Code for analogous offences. Indeed, Honourable Members must be aware that in many countries today speeches of this character would be the last utterances, public or private, to pass the lips of the speech-makers.

In fact, the only criticism I have yet heard of this Bill which, if true' would be in any sense relevant is that some of the offences in question are already covered by the existing law. But, actually, the existing relevant law which is contained in Chapter VII of the Indian Penal Code only covers incitements to mutiny and the like which are directed to persons already serving in the forces and does not at all touch discouragement of recruiting. In short, though it is true that certain activities are now being constituted a new offence, such treatment is only logical and necessary.

I may add that the provisions of the Bill will not take effect in any province unless and until the Provincial Government sees cause to introduce them.

I, therefore, commend this Bill to the Council as a measure, moderate in its provisions, absolutely essential for the existence and maintenance of an efficient machine for the protection of this country and, quite apart from recent evidences of its desirability, long overdue. (Applause.)

THE HONOURABLE MR. RAMADAS PANTULU (Madras : Non-Muhammadian) : Sir, I rise to oppose this Motion. It was said in another place by the Defence Secretary—it was at any rate broadly hinted—that those who oppose the Bill belong to a class of persons who are friends of any one who is an enemy of the British Government. I assure you, Sir, and this House that I do not belong to that class of person. My opposition to this Bill is based purely on the merits of it. An appeal was made in the other House expressly, and in this House impliedly, to the loyalty and good sense of the people of this country

in support of this measure. Sir, firstly, if the Bill has merits, and if it is intended for the benefit of India, appeal to loyalty is wholly unnecessary. If it is not beneficial to India, or if it has not merits in it, appeal to loyalty is a very undesirable and a dangerous expedient. Sir, my friends on the opposite side, who are Englishmen, who breathe the air of freedom in England, must think twice before they appeal to the loyalty of the people of this country in support of a measure like this. They are aware that they rule this country without the consent of the people of this country, with the aid of an army of occupation and a mercenary force which is paid for by the people of this country, without having any voice in the defence policy. It is only the day before yesterday that the Additional Defence Secretary informed the House that he cannot accept a very moderate Resolution asking for the association with the Defence Department of an Advisory Committee of the Legislature to advise the Government of India on matters of defence policy. He with brutal frankness told us that it was the exclusive responsibility of the British Government in this country and that they could not share that responsibility with the people's representatives even in a consultative and purely advisory capacity. After that statement, and after the unquestionable fact that the British Government today rests in this country not on the moral and constitutional basis of the will of the people but on the physical force behind it, an appeal to the loyalty of the people of this country to support a measure of this kind is an absolutely untenable position. We on this side will do well to brush aside irrelevant considerations which my Honourable friend Mr. Williams has referred to and deal with the merits and the other side should no more indulge in these considerations than we on this side.

I will now come straightaway to the merits of this Bill, accepting the invitation of the Defence Secretary. In the first place I will refer to the Statement of Objects and Reasons which my Honourable friend has rightly said is self-explanatory. I congratulate the draftsman of this statement on the very excellent way he has drafted it. I am willing to concede that it is a true, frank and honest statement from the British standpoint. It says :

“ The object of the speakers is clearly not the spread of pacifism, but to dissuade would-be recruits from taking part in any war in which the British Empire may become engaged ”.

I emphasise the words “ war in which the British Empire may become engaged.” The Defence Secretary said that for 18 months there have been many speeches dissuading the people from joining the army to help England in any Imperialistic war in which she may soon be engaged. Though my Honourable friend is not able to produce the texts of those speeches or even authentic extracts therefrom, I am not going to dispute his statement that some speeches have been made. In fact, the Working Committee of the Indian National Congress has openly passed a resolution asking the people of this country not to help England in the next Imperialistic war in which India is not interested, and not to join the army in order to help her in that pursuit. Therefore, the Defence Secretary's statement may be taken to be correct. But, Sir, the Army in India is intended for three purposes. It is mainly for the internal security of the country and for the defence of Indian frontiers against external aggression. So far as these two objects are concerned, no patriotic Indian,

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whether he is loyal or not, will object to an army being efficiently maintained in this country. We are all interested in seeing that a very efficient and disciplined army is maintained in this country for securing internal peace and preventing external aggression. No Indian has ever asked anybody not to join the army so far as these two objects are concerned. Rightly and very properly the Statement of Objects and Reasons does not say that any speeches were made to dissuade any person from joining the army in order to strengthen it for the purpose of internal security or prevention of external aggression. That is why I say that the statement is correct so far as it goes. And when the statement says that speeches were made to dissuade the people of this country from joining the army to help England in her next war, I say the statement is also correct. I am going to show a little later that we have a right to make such speeches and a right to dissuade people from joining the army in order to prevent people from helping England in her Imperialist aims. So, the Statement of Objects and Reasons itself destroys the case for this Bill. That is why I agree with its draftsman.

Then, Sir, there is a reference to 18 months. I was wondering why this period of 18 months was particularly chosen. At first it struck me that it might have some relation to the position of recruitment in this country. Therefore, I tried to look up the figures to see whether there has been a falling off in recruitment in military provinces like the Punjab. I only got figures for the Punjab and there was no falling off. This point need not be laboured further because Mr. Ogilvie the Defence Secretary has frankly admitted generally that there has been no fall in the recruitment in the last 18 months. But why is this period of 18 months then mentioned in the Statement of Objects and Reasons? To me it has reference not to what has happened in India but to what is happening elsewhere. Sir, the attempt is being made to mechanize the army and to put the imperial forces on a war footing in the various parts of the Empire in view of the international situation which has necessitated many important reforms in the army. The people of India are painfully aware of this process of mechanization and of the placing of all the imperial forces on a war footing because we have only just been told that the process will cost us Rs. 2 crores of additional expenditure on the army. When first the scheme of mechanization was divulged in this House we were told that out of the total cost of £600,000, £200,000 was being made a grant of to begin with. We are now told that we have to find Rs. 2 crores from Indian revenues. Therefore, all intelligent people in this country know the implications of the process of mechanization has been going on for the last 18 months and some may have preached its implications to the masses. I suppose the reference is to that process. The British Army Department in collaboration with the Defence Department of the Government of India have been trying to place the forces in India and elsewhere on a war footing. Otherwise, I do not see the significance of these 18 months and why anti-imperialists in India should have started their activities all of a sudden 18 months ago.

Sir, even if the Statement of Objects and Reasons is accepted in its entirety, in my opinion it does not furnish any valid foundation for a Bill of this sort,

unless we accept the assertion that the people of this country have no right to ask their fellow countrymen not to join in a war which is mainly intended to advance the imperial interests of Britain. If once you say that the people of this country have no such right, then certainly there is basis for a Bill of this sort. But if the people have such a right, and they have an unquestioned right which people in every country enjoy, then I submit the Bill is wholly unjustifiable.

Sir, let us take the position in the other self-governing Dominions. It is well known that the Dominions now reserve to themselves the right to join in any war which England may declare for offensive or defensive purposes. I do not wish to labour that point. In the League of Nations the Premier of Canada has made a statement which is explicit on that point. It was made on the 29th September at the Ninth Plenary Session of the League of Nations by the Right Honourable Mr. Mackenzie King. He said :

“ The Canadian Parliament reserves to itself the right to declare in the light of the circumstances existing at the time to what extent, if at all, Canada will participate in conflicts in which other members of the Commonwealth may be engaged. Certainly the experience between the Commonwealth and England and Canada has had the effect of convincing Canada of the possibility of preserving close and friendly co-operation without the existence of a central authority or of military commitments ”.

So, Sir, the position is that the other members of the Commonwealth have the right to decide whether they will join in any war to help England or not. And why should India not have the same right ? The plain answer is because we are not a self-governing country. We are being governed as a subject race and therefore our military policy is controlled by Britain and not by us. Therefore they can recruit by law people in this country to fight their wars. That is an answer which this country cannot accept. Self-respecting Indians at any rate cannot accept it. I do not say that under no circumstances would India fight on the side of England. It is a matter of self-determination. If India is going to get a tangible share of the benefits or stands to gain by the war, India may decide to join it. But simply because a war is helpful to the Empire does not mean that every member of the Commonwealth stands to gain to the same extent. It is on that ground that the Dominions have reserved the right to join or not, according as it is beneficial or not. I claim most emphatically that India has the same right. Sir, I came across a passage in the latest issue of the *Round Table*, a well known review, of the politics of the British Commonwealth which is relevant to this occasion. It says :

“ In considering the possible role of the defence forces of any self-governing member of the Commonwealth it is today necessary to concentrate first on those political interests and defence needs which apply particularly to that member ”.

In this case that member is India. I listened very carefully to the Defence Secretary's speech to see whether he would say whether in the near future he expects any war in which the political interests and defence needs of this country are in danger or require protection. He has not said a word about it. If he is not contemplating any such war at all, I do not see why he should come forward with a Bill at this juncture. There is always a power of doing things by Ordinance through the Governor General. He can always promulgate an Ordinance if there is an emergency. But he does not say there is an

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emergency threatening war in which India's political interests and defence needs are in jeopardy.

THE HONOURABLE THE PRESIDENT: When an Ordinance is passed you object and say the Governor General should not pass an Ordinance but refer to the Legislature.

THE HONOURABLE MR. RAMADAS PANTULU: Yes, Sir. I agree that the Governor General should not pass legislation himself. But we are not in sight of any such danger to Indian interests and defence needs to ask this Council to pass such legislation.

THE HONOURABLE THE PRESIDENT: Are you the best authority to know whether it is necessary or not?

THE HONOURABLE MR. RAMADAS PANTULU: I am mentioning this for a different purpose. The Defence Secretary does not say that the political interests of England and the defence needs of England are in danger. That is what I was emphasising. He does not say it. The reason for this Bill then is not the political interest and defence needs of India but the interests and needs of England which are perhaps in danger. The British Government must take full responsibility for the legislation, not this Legislature.

Sir, that passage which I am reading runs as follows:

"It is dangerous to assume an equal interest among all members in a strategic asset or liability anywhere in the world even though it may be represented as an asset or a liability for the whole Commonwealth. The Dominions in brief cannot be regarded merely as a reserve source of strength for a centralized scheme of Imperial defence, controlled and maintained by Great Britain".

It proceeds to say—this is more relevant for our purpose—

"Although India has not yet achieved the status of a Dominion she is on the road to that goal and the same conditions apply in a large measure to her also".

It is this last aspect of the question that was entirely overlooked by the spokesmen of the Government of India in both the Houses on this Bill. Then, Sir, may I ask if it is not sedition, if it is not disloyalty, for the Dominions to say, "We will not take part in an Imperialistic war, we will not recruit our armies to be made cannon fodder for England's purposes", why should it be disloyalty, why should it be sedition, on the part of Indians when they say the same thing to their fellow citizens?

THE HONOURABLE THE PRESIDENT: Because you have not yet got Dominion status. That is a distinction which you overlook.

THE HONOURABLE MR. RAMADAS PANTULU: If they will frankly say, "We will do what we like with this country, we will recruit armies by legal compulsion and you have no voice in the matter", then there is no question of getting our consent for Bills like these. If we are going to be told, "Because you have not got Dominion status, therefore your voice does not count", then why bring this Bill and why this farce of asking for the consent of the representatives of the people? Why make us commit ourselves to this Bill which cuts at the very elementary rights of Indians in this country.

Government might as well under its extraordinary powers pass an Ordinance. That would be more consistent with the position that has been taken up, namely, India is a pure subject country and Britain is the sole arbiter of its destinies and the laws need not be passed with the consent of the people because they have not got Dominion status. Let them say it frankly, then I shall not waste one more moment of this House; but the Honourable Mr. Williams was not addressing us in that strain but on the other hand was trying to convince us of the reasonableness of the Bill, and of its necessity in the interests of India, etc. It is simply hypocrisy in my opinion. Therefore, I am trying to expose the hypocrisy. If the mask is thrown off and if Mr. Williams says to us, "You are a subject people and that your consent is not necessary", I have no more argument. Because he is seeking our consent I have been trying to make it clear while India has no objection to improve the personnel of the army, to improve the efficiency of the army and to promote discipline in the army, so long as the army is required for internal security and the prevention of external aggression; we have every objection to increase the strength for imperial purposes and that is the only purpose that is mentioned in the Statement of Objects and Reasons. The Government themselves know that no Indian will object to recruitment to the army in the interests of India itself. That is, Sir, where the whole question lies.

Then, Sir, it may be said that though India may not be directly interested, though India may not be directly benefited by an Imperialist war, there will be indirect benefits by England being helped in a world war or any other war she might wage. We were told, when the Great War was declared in 1914, that that war was in the cause of justice and righteousness and the liberty of the small nations. We have seen what has happened. When India was asked to join the war in the interest of democracy, in the interests of justice, in the interests of righteousness, we did so unquestioningly, we did not bargain with England at that time for anything that England might promise us in return for our services. We ungrudgingly placed men, money and munitions at the disposal of England. Our people died in Flanders, in Gallipoli, in Palestine, in Iraq; and everywhere, and I am told on reliable authority that over one-third of the total forces which England put into the field at that time came from India. And what was the result, Sir? First of all to ask India to fight a war in the cause of democracy is mockery when democracy is denied to India itself. We have no democracy ourselves, but you ask us to fight a war for democracy of the world. It is ridiculous. Sir, not only nothing came out of our participation in the Great War, but the results of the war have been disastrous to India. Sir, at that time Mr. Lloyd George, the War Prime Minister, said this in the House of Commons. When a Member of Parliament asked what would India get in return for her services; are you going to give her self-determination? That was the word which was the fashion at that time. This is what Mr. Lloyd George said in the House of Commons:—

"If we can conquer the war, certainly statesmanship is not dead to find out the way in which to grant self-government to India".

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Events have turned out to show that statesmanship was as dead as a door nail in England in regard to the grant of self-government to India. Sir, even the modest reforms scheme of Mr. Montagu and His Excellency Lord Chelmsford was considerably cut down. Read the scheme and the Government of India Act of 1929. The Act has not given full effect even to the disappointing scheme formulated by their Secretary of State and by their Viceroy. That was statesmanship indeed. Then, Sir, the amnesty was signed on the 11th November, 1918. To this day we observe it as Armistice Day with two minutes' silence and lots of poppies as buttonholes. I do not think the ink on the paper on which the terms of the armistice were put down had dried before the Jallianwallah Bagh tragedy and the declaration of martial law took place in the Punjab. It was in April or May, 1919 and the armistice was signed on the 11th November, 1918. Hardly had six months elapsed when India was exposed to the terrorism of Dyers and O'Dwyers who ruled this country in the name of British Imperialism and British democracy. That was what we got. Therefore, we are not going to be cheated any more by these promises that if you join England in her war, though it may not concern you directly, it will benefit you indirectly, for justice and righteousness will triumph. You go and ask any country in Europe whether democracy has triumphed in Europe after the Great War. We see the aftermath of the war. Liberty and prosperity did not follow the war in any country. Therefore, the alluring promises like those which were shamelessly broken on the last occasion cannot deceive us any more.

Then, Sir, I will take the Bill itself. Before I deal with the clauses I should like to know why the Government thought it fit to bring this Bill in the Central Legislature when it might as well have been brought in the Punjab Legislature from whose Premier the demand for this legislation seems to have come. An attempt was made in the other House to show that this is a Federal subject and not a concurrent subject. I entirely demur from that opinion, Sir. The Government of India Act to my mind is very clear and it is really incapable of being argued that this legislation could not have been introduced in a Provincial Legislature.

Sir, I will refer to the relevant items of the legislative lists of the Seventh Schedule to the Government of India Act. Part I of the Seventh Schedule, which is the Federal List, contains these items :—

“ His Majesty's naval, military and air forces borne on the Indian establishment and any other armed force raised in India by the Crown, not being forces raised for employment in Indian States or military or armed police maintained by Provincial Governments ; any armed forces which are not forces of His Majesty, but are attached to or operating with any of His Majesty's naval, military or air forces borne on the Indian establishment ; central intelligence bureau ; preventive detention in British India for reasons of State connected with defence, external affairs, or the discharge of the functions of the Crown in its relations with Indian States ”.

Now, I contend with all the emphasis at my command and as a lawyer I am prepared to stake my reputation on this opinion, that this is not a Bill

for regulating His Majesty's naval, military or air forces. On the other hand, it falls under the first item in the concurrent list which runs thus:—

“Criminal law, including all matters included in the Indian Penal Code at the date of the passing of this Act, but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of His Majesty's naval, military and air forces in aid of the civil power”.

Sir, this Bill is itself called the Criminal Law Amendment Act. It creates a criminal offence and provides a punishment. I submit that the concluding words of item 1 in the concurrent list—“excluding offences against laws with respect to any of the matters specified in List I” are not attracted by this Bill. It does not come under that exception because there is no law in regard to the military, naval or air forces with which this legislation is concerned or which it affects. If there is any law in existence in regard to the military, naval or air forces and if any legislation is to be introduced to affect it, it will no doubt fall outside the scope of item 1 of the concurrent list. But it is frankly a Bill for amendment of the criminal law of the country. The Honourable Mr. Williams himself said in the course of his speech that he would prefer to put it permanently as a part of the Indian Penal Code. He said it was a grave omission in Chapter 7 of the Code and therefore he considers that its rightful place is in Chapter 7 of the Indian Penal Code. Therefore, it is not right to argue that this is a law relating to the military, naval or air forces. It is a law creating a new offence of dissuading a person not to join the army. It does not relate to the naval, military or air forces. The army, navy and air forces Acts relate to the members of those services.

THE HONOURABLE THE PRESIDENT : If it is an unconstitutional law, you can resort to the Federal Court and have the law set aside.

THE HONOURABLE MR. RAMADAS PANTULU : Well, Sir, I submit that if you will allow us to argue our own case, the Government are ingenious enough to meet our case, and you may hear both sides. Government is not in need of advice and you will be helping us if you will let us argue our own case in our own way.

THE HONOURABLE THE PRESIDENT : I am only pointing out to you that your remedy lies in the Federal Court.

THE HONOURABLE MR. RAMADAS PANTULU : Sir, there is no point in a ruling from the Chair on my interpretation of the law. I say it is in the concurrent list.

THE HONOURABLE THE PRESIDENT : I am not giving a ruling. I have no power. But the Federal Court can help you.

THE HONOURABLE MR. RAMADAS PANTULU : Well, Sir, the time is not yet ripe for a reference to the Federal Court, even if there is a case for reference.

Sir, I contend that this Bill might have been introduced in the Punjab Legislature, being in the concurrent list. My contention is if the conditions in only one province, namely, the Punjab, are favourable for the immediate

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passing of this Bill, why bring it here? Therefore, I say, Sir, the Government have not acted wisely in exercising their discretion in bringing the Bill here when the subject is in the concurrent list. They should have left it to the Punjab Government to introduce legislation there.

Sir, I have carefully read this very short Bill containing only a brief preamble and two clauses. I was able to congratulate the Draftsman on the way in which he drafted the Statement of Objects and Reasons but I am afraid I cannot congratulate him on the way he has drafted the clauses of this Bill. First of all, the preamble says that

"Whereas it is expedient to supplement the criminal law by providing for the punishment of certain acts prejudicial to the recruitment of persons to serve in, and to the discipline of, His Majesty's Forces "

Sir, the words used are "His Majesty's Forces"; the expression is not confined to His Majesty's Forces in India. I think on careful reading this has been done designedly. I at first thought perhaps it was an oversight and that the preamble was wider than the actual clauses of the Bill; but I found that in clause 2 also the words used are "the military, naval or air forces of His Majesty" without reference to India. So the Bill applies also to His Majesty's land, naval and air forces in England or Canada or South Africa—anywhere. And if any person who is resident in a province of British India, to which the Act extended has made a speech in England or South Africa or Canada, asking Indians or even other nationalities not to join the British Army in an Imperialistic war, he would come within the mischief of the statute. Therefore, Sir, when I felt that the Statement of Objects and Reasons of the Bill had something to do with the scheme of mechanization of the entire British Army, whether in India or outside, my suspicion was strengthened by the use of the words "His Majesty's Forces" without any reference whatever to India. Therefore, this Bill is very wide in its scope and speeches made outside British India, in Indian States or in a foreign country, will attract the provisions of this Bill. Sir, it is right that legislation of this wide character should be placed on the Statute-book? It is too wide, too drastic, and not confined to offences committed in India.

Then, Sir, the Bill purports to provide for the punishment of certain acts. What it really does is to prescribe punishment for *speeches*, because dissuasion is done generally by speeches and not often by acts. In asking a man not to join the army a man does nothing but speak. That is so far as the preamble is concerned. Then, Sir, the second clause says that:

"Whoever with intent to affect adversely the recruitment of persons to serve in the military, naval or air forces of His Majesty, wilfully dissuades or attempts to dissuade the public or any person from entering any such Forces "

Sir, I want to know what is meant by dissuasion of the public. Does it mean that a public speech to an audience, saying that this war is an unjust war, it is an Imperialistic war, and that therefore Indians should not join comes under this Bill? Supposing a speech like that is made, is it intended that people in this country should not have the liberty to generally criticise

the objects of a particular war on which England is going to embark and generally ask people not to join ? I can understand dissuading a particular person from entering the force. But I cannot understand dissuading the public. The public do not enter the force. It is only individuals that enter. As a matter of drafting, this is very inartistic.

Then, Sir, I do not think the Exceptions give any real protection at all. My Honourable friend said that the Exceptions are real safeguards against indiscriminate prosecutions. I do not think so. Exception 1 says :

" The provisions of clause (a) of this section do not extend to comments on or criticism of the policy of Government in connection with the military, naval or air forces, made in good faith without any intention of dissuading from enlistment "

" without any intention of dissuading " — that is an impossibility. If the object of a particular speech is to criticise the policy of the Government and condemn a particular war, then that certainly would have the effect of dissuading from enlistment. (*An Honourable Member* : " The intention will be presumed ") That is so. In criminal jurisprudence the burden of proof is on the prosecution, not on the accused. But here that has been reversed. The intention will of course be presumed. How can the accused disprove it ? How on earth a man can criticise the policy of the Government in connection with the military, naval or air forces and condemn mobilization in respect of an unrighteous war without at the same time at least by implication dissuading the people from enlistment, I cannot understand. Therefore, the Exception is wholly illusory and merely intended as an eye-wash. It is no protection whatsoever. You cannot really criticize the policy of the Government with regard to any war without the criticism having the effect of dissuading enlistment.

Exception 2 shows that the principal clause is intended to invade even the homes. If a father tells his son not to enter the army, then he comes evidently within the mischief of the clause, unless the Exception applies. The Exception says :

" The provisions of clause (a) of this section do not extend to the case in which advice is given in good faith for the benefit of the individual to whom it is given, or for the benefit of any member of his family or any of his dependents "

If the father says to his son. " If you go to war, you will get sick ; or your wife will weep, don't make her miserable ", that kind of thing will be permissible. But if the father says, " My dear son, this is a very unrighteous war ; it is not in the interest of our people, you ought not to enlist ; you will, if you join, be helping an unjust cause, and you will be injuring the interests of this country ", then that certainly is within the mischief of this clause. Again, how is one to prove good faith ? The condition laid down in both the Exceptions is that the advice must be given in good faith. " Good faith " in legislation, is not the English equivalent of the Latin expression "*bona fide*". " Good faith " is not defined anywhere. In the Indian Penal Code, " Want of good faith " is defined as want of due care and caution. Curiously enough there is only a negative definition. Therefore, in order to prove good faith,

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you have got to prove that you did not act without due care and caution. What is due care and caution in a matter like this I really cannot understand. This is the most extraordinary criminal statute which I have ever seen in my life. I have dealt with several criminal cases and I have defended many accused persons and have had to interpret the criminal law, not only the Indian Penal Code but also many other special Acts. But I have not come across an Act like this. The intention of this Bill is a peculiar one, the wording is peculiar and its operations are not confined to India, because dissuasion of recruitment to His Majesty's Forces anywhere in the world, is attracted by the wording of the preamble as well as the clauses of the Bill. Although this Bill is a small Bill of two clauses, sufficient thought has not been bestowed on it, and I cannot congratulate the Draftsman on the very wide and drastic scope he gave to it and the inartistic manner in which it has been drafted.

The Honourable the Defence Secretary said that these offences cannot be dealt with under the ordinary law. Dissuading a man from joining the army for an Imperialistic purpose is not expressly dealt with in the Indian Penal Code. I quite agree. But if it is not in the Indian Penal Code, it could not have been an oversight. The Indian Penal Code was enacted in this country long before the British had consolidated their power and almost before the echoes of the Indian Sepoy Mutiny of 1857 had died out. The Indian Penal Code was enacted in 1860. Not even three years had elapsed since the Mutiny. Therefore, the framers of the Indian Penal Code, which has got the reputation of a big Draconian Code, could not have overlooked an omission of this kind. It was really not an omission by oversight. It was presumably considered to be unjust, immoral, unrighteous and undemocratic to put any such provision into the Indian Penal Code even at that time. The right of the people of this country to ask their fellow-countrymen not to go into a war in which India was not interested was considered legitimate and so the framers of the Indian Penal Code—and Macaulay's name stands pre-eminent in that connection—must be considered to be better judges and better administrators than the present-day Englishmen who draft Bills like this. I give credit to the framers of the Penal Code for having omitted such a palpably obnoxious provision from the Penal Code, instead of accusing them for not creating an unheard of offence of this sort. They ought to be congratulated on not having stained their Penal Code with a wholly unjustifiable provision like this. I hope the Honourable Mr. Williams will not carry out his threat of putting this permanently on the Indian Penal Code. I feel that there is enough in the penal law of this country to deal with offences against the army, navy and air force. Mutiny is already provided for in the Penal Code. The Government have spoilt their good record by reviving in 1938 what they had rightly repealed in 1935. They found that the special provision in regard to incitement to mutiny in the Criminal Law Amendment Act of 1932 were unnecessary and opposed to public opinion, and therefore they had omitted them in the 1935 Act. I think our former esteemed colleague, Sir Harry Haig, who is now His Excellency Sir Harry Haig, was Member-in-charge then and

and he judged public opinion more correctly than his successor of today. Therefore, he rightly omitted those provisions from the Criminal Law Amendment Act of 1932. To say now that it was a mistake at that time is to admit a thing which generally British administrators do not do. I do not think they ever admit that they made a mistake. I am surprised, therefore, to see that the Honourable Mr. Williams has today said that the omission in the 1935 Act was a mistake. That is rarely done by a British bureaucrat. But it suits him to say it today. The fact is they want it now for a certain purpose and in order to get it back they have to say that somebody in 1935 acting on their behalf made a mistake. There is no justification for reviving a power which was in the Act of 1932 and which was properly omitted from the 1935 Act.

Sir, I do not wish to detain the House any longer by going into the provisions of the Bill in greater detail. There are many more points which are objectionable in it. My friend said that many things which are irrelevant for the purpose of this Bill, like the Indianization of the army and the treatment of the Indian officers of the army were brought up in the other House and he appealed to us not to go into those matters. I would remind him that these matters are relevant for the way to encourage recruitment, the way to convince the people of this country that their interests are promoted by improving the personnel of the army, lies in Indianization and equal treatment of Indian officers. We want British troops and officers to be withdrawn as early a date as possible. The leading members of the Progressive Party, who have specialized in army questions, have placed the Indian point of view very often before the Government. We do not want the British troops and British officers ; but so long as they are there, we want equal treatment for Indian officers and men. If the Government of India have such a scheme, it will help them in securing adequate recruitment of the right type of men to the army, better than a thousand Bills of this sort.

Before I conclude I will convey a warning to the Government. They want to see that recruitment in this country is not jeopardized by speeches. But I tell them that if under the provisions of this Act they put Indian leaders into jail, that will have a much more adverse effect on recruitment than any speeches which this Bill is intended to prevent. If for instance Pandit Jawahar Lal Nehru when he returns to India says that England is going to engage itself in an unrighteous war and that therefore the people of this country should not help her, and if he is prosecuted and put in jail, that will ruin the chances of adequate recruitment. Therefore, if they think that by this Bill they can improve recruitment, they are mistaken. Prosecutions will affect recruitment more adversely than the anti-recruitment speeches. Therefore, I hope that better sense will prevail and that the Government will instruct Provincial Administrations to let this Act lie sleeping, even if it is passed by this Council.

THE HONOURABLE SIR PHIROZE SETHNA (Bombay : Non-Muhammadan) : Mr. President, this Bill has come to this House from the other place with a small majority in favour of Government. Constituted as this House is we may take it for granted that Government will secure a far larger majority

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in this House. But I make bold to say that when this Bill is made an Act it will be condemned by far the larger proportion of the Indian public, even of that section of the Indian public which includes myself and which longs for the continuance of the British connection. At the same time I am of the opinion that in order to strike terror perhaps Government may have a few prosecutions in the beginning, but I have no doubt in my mind that before very long they will have to stay their hand; for if they do not there will be such a furore and agitation in the country that the only salvation for Government will be to repeal this drastic Act.

Sir, the Honourable Mr. Williams told us that there were several meetings. In the other place the Defence Secretary said that there were 280. The Honourable Home Member also gave the number of persons who spoke and the number of meetings at which they spoke. Fortunately they have dropped that part of the Statement of Objects and Reasons altogether, for, as was pointed out in the other place, no mention can be made unless the speeches are actually produced. The Honourable Mr. Williams has appealed to you, Sir, here this morning that if you so desire he will place the speeches before the Council—that is if I understood him aright. I do appeal to you, Sir, that you will ask him to put those speeches before us, and also let us know the names of the speakers. For it may be that those men are school boys or college boys or irresponsible people.

Sir, the Honourable Mr. Pantulu has referred to the Resolution passed by the Congress in this connection in which they advise people not to engage in any wars in which India is not interested. Congress leaders, in season and out of season, advise both non-violence and on occasions non-co-operation. May I ask if those Congress leaders will be allowed to go scot-free on the ground that they are conscientious objectors? I should like an answer from Government on that point because I venture to say that Government will not dare to send these men to jail, at any rate in large batches.

Why is it that Government have thought this to be a favourable opportunity for introducing an objectionable enactment of this nature.

THE HONOURABLE NAWABZADA KHURSHID ALI KHAN: Because it was necessary.

THE HONOURABLE SIR PHIROZE SETHNA: I hope that my Honourable friend will admit that they did not consider it necessary 24 years ago in 1914?

THE HONOURABLE NAWABZADA KHURSHID ALI KHAN: Because there was no anti-recruitment propaganda at that time.

THE HONOURABLE SIR PHIROZE SETHNA: Government have thought it necessary to introduce this legislation because, says my friend who interrupted, there is the necessity for it. But will my friend ask himself why has such necessity arisen today? Are the public to blame or are Government to blame? Twenty-four years have elapsed; much has been promised within that

time and nothing, or very little, done. Can you therefore blame the Indian people if they deem it right in the interests of their own people to ask their people not to engage themselves in a war in which India is not directly interested? The Government of Great Britain cannot impose such conditions on the Dominions. The Statute of Westminster permits the Dominions to adopt any line of action they choose in such matters, to join in a war or not as they please. Government take advantage of our inferior position and try to impose this legislation. They have got to thank themselves if in spite of this legislation the Indian public deem it right to tell the people what they think they ought to do. There will be many patriots who will be willing to go to jail and think that thereby they will be doing their duty in advising people not to fight England's battles outside India.

Now, Sir, another reason why I enquire is to know if there is any reason to suspect that recruitment is on the decline? On the contrary, in the other place it was made manifestly clear that recruitment is not on the decline, but according to the figures given, there have been more recruits within the last 18 months than formerly. Why then all this anxiety? Is it because Government do anticipate trouble, not in India but in other parts of the world, and for the sake of the British Empire they will want to send Indian soldiers again to fight their cause? Why don't they say so plainly. That is at the root and bottom of this Bill. And do they tell us what will be the extra expenditure? We know that in India 56 per cent. of the central revenues are spent for the military. If you take the provincial revenues together with the central revenues, we spend nearly 30 per cent. and that is ever so much more than what is done in other countries. In the United Kingdom the percentage is 15. I am of course giving the figures of three or four years back and not since the race for armaments began. In Germany the percentage is 15, in Italy 25, in France 18, Russia 19, United States 22, Japan 46—that is the largest, but they have been on a war basis for a number of years now—Australia 13, Canada 4; the figures for India I have already given. But you must remember that we spend very little here for reliefs, whereas in England 20 per cent. is spent for social relief such as unemployment, public health, maternity allowance, invalid and old age pension and other reliefs. Now, if we go on spending more, as is clearly indicated from the speeches made by the Government speaker here this morning and by Government representatives at the other place, if the strength of the Army in India is to be increased, and increased considerably, it will mean that the percentages which we are spending will be very considerably increased.

Now, Mr. President, what I would like to ask Government is this. Why have they not introduced the same legislation in Great Britain itself? They have not thought it necessary to do so there. There the Common Law of the land is sufficient. Nowhere else in democratic countries is any legislation of this kind introduced. My friend Mr. Williams said that there are countries in which if a man dares to say anything against recruitment those will be the last words he would utter in this life. Will my Honourable friend Mr. Williams deny that that is only the case in totalitarian States and does he expect us—

THE HONOURABLE SIR JOHN NIXON (Finance Secretary): Left and right.

THE HONOURABLE MR. A. DEC. WILLIAMS : All kinds of totalitarian States.

THE HONOURABLE SIR PHIROZE SETHNA : Not democratic States. I want an answer to this question. Do you want India to follow totalitarian states or democratic States ?

Now, Sir, more than that. Pacifism is allowed in England. In Britain there is a Peace Pledge Union which not only preaches against enlistment in the army but takes a pledge that the member will not have anything to do with war. When England permits such activities there, why does she seek to penalize them here ? I hope my Honourable friend Mr. Williams when he replies will answer this question as well. Sir, if there was a great war at the moment and something was introduced as an emergency measure, I think Government would have had the unanimous support of this House ; but at present they cannot. I may be allowed to quote from a speech made by one of the Leaders of the Opposition in the other House where he gave reasons why Indians are perhaps behaving in the manner in which the Government of India find they are doing—

THE HONOURABLE THE PRESIDENT : Is this a speech delivered this session ?

THE HONOURABLE SIR PHIROZE SETHNA : Yes, Sir.

THE HONOURABLE THE PRESIDENT : Then I cannot allow it.

THE HONOURABLE SIR PHIROZE SETHNA : I think it is open to Members to read it—

THE HONOURABLE THE PRESIDENT : You can give the purport of it if you like.

THE HONOURABLE SIR PHIROZE SETHNA : He gave six very good reasons and pointed out that his arguments should be met firstly, by amending the Government of India Act and handing over Defence to a responsible minister ; secondly, by withdrawing British troops from this country—I do not agree with him there, I am perfectly frank and I want to point out where they are right and where I am prepared to back them up ; they are certainly wrong in this and Government were certainly wrong in not trying to meet Indian aspirations in the matter of Defence when the question was brought up recently by my Honourable friend. Look at the treatment that Government gave him. This clearly shows which way the wind blows. Your argument is : " Heads I win ; tails you lose. " We Indians cannot have anything. That is at the bottom of it all and that is the reason for the difference between the mentality of Indians in 1938 as compared with the mentality of Indians in 1914 and which Government ignore.

THE HONOURABLE SIR A. P. PATRO : Those six points were answered by Government—

THE HONOURABLE SIR PHIROZE SETHNA : You might answer me when you rise.

Thirdly, by frankly and honestly accepting a scheme of Indianization ; fourthly, by treating Indian officers well and encouraging them ; fifthly, by abolishing the 8-units scheme and making the British and Indian officers equals ; and lastly, by making it clear to His Majesty's Government that India will not take part in any war against the interests or the will of India.

Now, Mr. President, I do not think I will keep the House longer. I have explained the attitude of the British towards Indian aspirations. I had occasion just two months ago to address what is known as the Indian Group of the Overseas League in London. I explained to them by a story the attitude of the British towards Indians, and as that story will bear repetition, I will, with your permission, give it to the House here. A man called on his friend and his wife. The couple were not at home. He asked for permission to leave a note. The maid took him to the office room which was beautifully decorated and there was an excellent carpet on the floor. The man sat down to write, but accidentally upset the inkstand, with the result that there was a large black stain on the carpet. He was ashamed of himself and he vowed to himself that he would give a sovereign as a gift to the maid or any other servant if they could remove the stain. The maid said, " I will do what I can ". She brought a bottle in which there was some liquid. She rubbed the stain for a few minutes and the black stain was converted into a grey one. When he saw it was grey he thought to himself, " Why should I give one sovereign ; ten bob will do just as well ". The maid said I have got another liquid which might remove the stain altogether and convert it from grey into the state in which the carpet was before. In this she succeeded and the stain was removed. He left the house and all the tip he gave to the maid was a six-penny bit. That, Mr. President, has been the attitude of the British here for years together. As soon as they see dangers and difficulties ahead they not only make promises but they indicate in unmistakable terms that they will raise the political position of Indians. Have they done so ? The moment they find that things are settling down again they conveniently forget the past. Sir, the time has come when Indians will not agree to such methods. It is therefore in the interests of the British themselves, not to come forward with a repressive measure like this but to meet Indians in a manner that will reconcile them to the British, so that the estrangement which is widening every day will disappear and Indians and British will work hand in hand to their mutual advantage. (Applause.)

THE HONOURABLE SIR A. P. PATRO (Nominated Non-Official) : Sir, I fear I cannot play the role of a prophet ; perhaps it is the privilege of age to be prophetic, nor can I play the role of a party politician in a measure like this. All that I would say is that this measure is a very simple one consisting of two sections and this measure appeals not so much, as I said, to the loyalty of people but appeals to the common sense and patriotism of Indians to strengthen Indian's defence force. That is the real issue in this Bill. That is the real essence of this Bill and many matters extraneous to it have been introduced, specially party politics which should be kept away from the army and defence problems. The great vehemence with which the Honourable Member who has just sat down has spoken indicates the feeling no doubt in the country that there is dissatisfaction over certain things not being done and not being

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carried out according to public opinion. There is no doubt great justification for it but is this the occasion when such feelings should be exhibited? The Honourable the Mover in a brief speech summarized the reasons for introducing this Bill. On the other hand, much extraneous matter has been introduced in the discussion of the Bill and much party politics have been brought in by the Opposition, which should be avoided in discussing military problems. My own view is, Sir, that we should keep the Army clear of party politics. I realize that India at present has not got the same status as the Dominions for which we are pleading for and I am sure in course of time, if things develop along reasonable lines, we are sure to attain Dominions status. But no useful purpose will be served by getting impatient and by indulging in invectives against the British Government. In another place it was said: "Down with the British Empire". If the British Empire is down and if the British go out of India today, what will be the consequence? As a friend has described the other day it will be a zoo and a zoo in which all the animals will roam at large without guidance or control and destroy each other. This may be an exaggeration, but the fact remains that if the British Empire goes down, another Empire may come and take its place, and an Empire which has no regard for democracy, for freedom of speech and personal rights. Such an Empire may aspire for power. It may be perhaps satisfactory to those who now shout: "Away with the British and down with the British Empire". They do not consider what the consequences will be if the British Empire disappears today. This is the real mistake in advocating such extreme measures without looking into the consequences. Here there may be a few intellectuals, a few educated people. But what will be the condition of the masses, undefended, unprotected, uncared for, in the country? That is the point which I wish the Honourable Members of this House would consider in discussing the defence problem. It has been said, "Oh, it is very easy to have an army of our own, and to have Indianization". I am one of those who have been pleading for Indianization, but I do say that the training to become a politician is very different from that of being a military captain, major or a general. The other day, after the elections, young men, youths raw and fresh from college were put into the Ministries to administer important departments of State for the reason they went to prison. That is political training. In the case of a Ministry you can entrust the management to persons with some years' training and experience. But no one could be entrusted with the command of a battalion or a brigade unless he has had 25 or 30 years' training and experience. A general would require at least 30 to 35 years' experience and knowledge. Therefore, there is this difference between the politician of the day and the soldier who has to control and guide the defence of the country. If we forget this difference, then the whole problem becomes impossible of solution. (*An Honourable Member*: "How many years old was Napoleon when he commanded an army"?)

Then, what happened the other day? It was declared in the other House by the esteemed Leader of the Party that those who support this Resolution make themselves fools. He further said that those who voted for this Bill would be selling away the freedom and liberty of the country. Sir, it is quite

unworthy of the eminent Leader of the Opposition to have made this declaration. I am very sorry that he did so. He forgets in the discussion of party politics, in the enthusiasm of advocating his party's politics, the other side of the question. What happened when in April, 1937, the All-India Congress Party solemnly resolved that they should wreck this Act of 1935, that they would not touch it with a pair of tongs! The solemn resolution of the Working Committee was that the whole thing should be thrown into the dustbin. They would not work it; they would wreck it. The All-India Congress Committee most solemnly declared on the faith of those people in nationalism, on the faith of their people in the destiny of the country, that this was their resolve. What do we find today? The sweets of office are too much for them. They are working the constitution. They are working it, and working it with a vengeance. It is not for me to go into the details of the very many purposes for which they are using this power. But what I do say is this, that Honourable Members forget themselves when they say that this Bill would deprive the country of their liberty and freedom of speech. What Congressmen are doing at present in the provinces must be noted. They are riding rough shod over the rights and liberties of the public, the non-Congress people.

THE HONOURABLE MR. RAMADAS PANTULU: Two wrongs do not make one right.

THE HONOURABLE THE PRESIDENT: You spoke for an hour, Mr. Pantulu, and it is not fair that you should interrupt other Honourable Members. Will you please go on and not take notice of any interruptions?

THE HONOURABLE SIR A. P. PATRO: I don't care for these interruptions, Sir. They do not merit any attention. But what I do say is, here is the position, namely, that these people who solemnly declared that only a constitution framed by a Constituent Assembly convened by themselves would be acceptable to them—no more and no less—are thoroughly belying themselves. That was the solemn promise they made to the country. That was the card they placed before the country—that they would wreck the constitution. Now, what is it they are doing? They are working the constitution. Therefore, Sir, it does not lie with these gentlemen to say that anyone who supports this Bill is betraying the interests of the country, is betraying liberty. They have themselves been betraying the liberties of the people. The trust which the electorate placed in them to wreck the constitution, what has become of that trust? Sir, this is hypocrisy—nothing short of hypocrisy and selfishness.

Sir, as I said, let us look at the facts as to why this Bill has been introduced at this stage. The Honourable Sir Phiroze Sethna said: "Why should they take this occasion for bringing in this Bill?" I give him the reason. The reason, Sir, why this Bill is introduced, in addition to the information which the Honourable Mover of the Bill has furnished, is that there are other facts which will go to show that the position in certain provinces is such that if preventive measures are not taken, it may grow into a very dangerous state of affairs. It is with a view to prevent and anticipate the results that would accrue from

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the mischievous activities of a set of people that this Bill is being introduced. When did these activities begin? That must be remembered. They began in April, 1937. I draw the attention of the Honourable Member who spoke before me that it is very pertinent to note when these activities began. They began in April, 1937, after the general elections in this country under the Provincial Governments. That is the important point to remember. They began in April, 1937, and they were going on without any check or hindrance. That is the weakness of the Government of India. They wake up always too late when the danger is too much to control. They have never been on the alert. I may not be a prophet but from what I know of my people I am sure that if the Government of India do not take steps immediately they will have cause to regret later on.

It was said that the Government rely upon C. I. D. reports. The Honourable the Leader of the Progressive Party intervened and said, "Oh! C. I. D. reports". You do not know how the C. I. D. reports are operated upon by the Provincial Governments, responsible Governments, people's Governments, by the Governments who claim to represent you and me and the masses. One of them, the champion of liberty, the champion of freedom, has been utilizing these C. I. D. reports in order to crush the non-Congress people. Are you not satisfied that these C. I. D. reports are being utilized in Southern India? As the Government Minister has said, they are the two eyes and the hands of the Government. In the face of such a statement of the Prime Minister, you dare say that C. I. D. reports are invaluable, concocted, useless, and cannot be relied upon? If you become a Minister of a province tomorrow, what else would you have for guidance as to things that are going on in the country? Responsibility brings on that kind of moderation which is necessary for carrying on the administration. No use sitting on these benches and saying that it is a C. I. D. report. The C. I. D. is a very valuable asset in this country. From experience I say that but for the C. I. D. reports, many things would have escaped the notice of Government and the troubles would have been very serious. They are nipped in the bud on information received from the C. I. D. If Government have received reports from the C. I. D. that meetings have been held and speeches made to incite people not to recruit or after entering to rebel and mutiny against the Government, is it wrong, is it a crime that Government should make use of that information? What are the reports on which the non-officials who have been so vehement and so vituperative in the other House, have been acting? Is their information more reliable and truthful? There must be one standard of judgment for both. Please therefore do not run away with the idea that C. I. D. reports cannot be relied upon. There may be mistakes, there may be something wrong here and there, but generally you cannot do without proper investigation by a responsible set of officials, who should convey that information to the Government for necessary action. It is absolutely wrong to say that the C. I. D. reports cannot be relied upon.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: That may be your opinion.

THE HONOURABLE SIR A. P. PATRO : I will direct the attention of the House to a very important piece of evidence in addition to what the Honourable Mr. Williams has said. I refer to the *Congress Bulletin*. The Congress runs a parallel Government. "The Secretary for Foreign Affairs" of the All-India Congress Committee writes to say "that blockade of recruitment and killing recruitment is the aim of the Congress, that they have been doing it peacefully for the last so many months, and the time has now come that they must kill it". I would ask Honourable Members to refer to the *Congress Bulletin*. Referring to this Bill the "Secretary for Foreign Affairs of the All-India Congress Committee" said as follows. "The motive for legislation is said to be two reasons, our peace movement (that is, the anti-recruitment movement) the anti-recruitment movement is a peace movement, because it asks the people to be peaceful and not go into the army and fight. The anti-recruitment movement has been very effective and has struck cold terror into the heart of Britain. The world has come to the brink of a universal war. It has come near to our country for illegalization of the peace campaign (anti-recruitment propaganda)". These are the words used by the Secretary for Foreign Affairs of the All-India Congress Committee, writing in the *Congress Bulletin*. He says further :—"It is no longer the desire, the question of Indianization—"

THE HONOURABLE MR. P. N. SAPRU : On a point of order, Sir. Can a Member quote from a newspaper ?

THE HONOURABLE THE PRESIDENT : He is not quoting from a newspaper.

THE HONOURABLE MR. P. N. SAPRU : He is quoting from a Bulletin.

THE HONOURABLE THE PRESIDENT : It is not a newspaper.

THE HONOURABLE SIR A. P. PATRO : This is a Bulletin issued by what you call a responsible body, a very important political body, a body which has a monopoly of patriotism, and no other people have got any patriotism but the Progressive Party or the Congress people are the embodiment of patriotism ! It is this embodiment of patriotism and freedom which is speaking. "It is already a question of blockading this army from all possible reinforcement of man power and rendering it useless to British war purposes". That is the clear position enunciated by a responsible Secretary of the All-India Congress Committee. He further says :—"Our attempts at anti-recruitment have been successful. They have struck terror into the hearts of Britain and the time has now come when you must blockade all recruitment". He says : "You must render the army thoroughly useless for purposes of defence". What further evidence is required to convince this House or any reasonable person of the necessity for this Bill ?

Critics have further said that the Bill seeks to create a new offence. I am afraid there is again a great misunderstanding. It was cleared to some extent in the speech of the Honourable Mover who said that punishment for anti-recruitment propaganda is not a new one. It is to be found in the Act of 1932. The Government of India, in a very hasty way, in revising the Act of 1932, thought that all terrorism had ceased and they could therefore delete

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this provision in 1935. Soon afterwards they found out their mistake in 1937, and hence this Bill. It is not a new offence. Apart from the legal question, I do say that this is not a new offence. It is an old thing that has been revised and revived and they have corrected the mistake they made in 1935. So, there is no new offence created nor any new act done.

Then, further it is argued that the Bill involves serious infraction of civil liberty. I would like to know what those who say that it is an infraction of civil liberty mean by that expression; what does that party or section or who want to safeguard the liberties of the people mean by that? See what is happening in the country today in the way of protection of civil liberty. In our part of the country the leader of the Government is a clever man, and Government is in high favour with the Britishers. The Europeans and the Madras Government embrace each other in admiration; they fall on each other's necks and sing: "What a good Government it is"! And there, Sir, the Government is mercilessly and ruthlessly committing infractions of civil rights and liberties of the people, all those who oppose the introduction of Hindi in the province. Hindi is being sought to be compulsorily imposed upon the people under a fiat issued by the Government, an executive order, not a legislative enactment. There is agitation against it. And what do the agitators do? They sing songs and speak against it. And for this offence, according to the Government, there is no provision in the Penal Code or in any other enactment to deal with it. There is nothing but the Criminal Law Amendment Act. It is really very comic, Sir. The Criminal Law Amendment Act is even now being sought to be repealed by another champion, a Member in the other House, who spoke for four hours with such vehemence that he broke down. He is advocating the repeal of the Criminal Law Amendment Act in the Legislative Assembly, and here these other champions of civil liberty are merrily proceeding with the application of that same Act against innocent people who are picketing and singing songs, and each one of them, 180 people, have been sentenced to six months and one year's rigorous imprisonment. That, Sir, is not infraction of civil liberty. (*An Honourable Member*: "No.") No, my friend says. Either he has no sense or he is irresponsible!

THE HONOURABLE THE PRESIDENT: You must not use that expression, "no sense".

THE HONOURABLE SIR A. P. PATRO: I am sorry for using anything like that. The Criminal Law Amendment Act in South India today is being applied ruthlessly by the Congress Ministry, and at this end of the world an appeal is being made for the repeal of that law with vehemence. That, Sir, is infraction of civil liberty. But where is the reason for saying that this piece of legislation to prevent a crime is infraction of civil liberties? It is nothing short of hypocrisy to say that this is an infraction of civil rights. Has the Indian National Congress or its Working Committee raised its little finger in protest against what is going on in South India? No, Sir. The Leader takes a convenient rest, and at the psychological moment he embarks on an indefinite silence, when he should be doing something to suppress this abuse

of power. Indefinitely he rests, and nothing is done. That is where infraction of civil liberty is taking place.

Further, it is said, not only is this Bill an infraction of civil rights, but the little influence we possess at present will be taken away so far as army matters are concerned. I need hardly say that this again does not stand to reason. What does the Bill intend? It is directed only against those who wilfully dissuade people in such speeches as have been referred to. It is not directed against the honest man who expresses an opinion. Such a person is protected. It is only intended to stop wilful dissuasion for the purpose of destroying the army. The exceptions are very clear. They give protection to those people who really on grounds of conscientious objection make statements like those mentioned in clauses (a) and (b).

Now, Sir, what is likely to be the effect of the agitation which it is sought to suppress? The effect will be a deterioration of the army. Tomorrow we expect that we will have independence. We are asking every day for Indianization of the Army. Therefore it stands to reason that the depletion and deterioration of the army is suicidal.

It was said that the army would be used against countries with whom we have no quarrel. We do not support the British Empire. But what are we aiming at? We want to have an equal status with the other Dominions in that Empire. At present our position is anomalous and undetermined. We have the symbols of Dominion status but not the essentials. It is necessary that the British Government should see that constitutionally India takes her proper place in the Commonwealth of Nations. That is no doubt a matter which does not come under this Bill, but I would say this that a great deal of unrest in the country would be allayed if only the British would place India in her proper position among the other Dominions. That is very necessary. And if such a position is realized what are its implications? Even if we are weak militarily we will have the collective protection of all the States of the Empire. All the members of the Empire collectively support every other member thereof. That is the tradition and covenant under which the British Empire is working. This is a very great asset. I would draw the attention of Honourable Members to what His Majesty has said in connection with this matter.

THE HONOURABLE MR. P. N. SAPRU: On a point of order, Sir. Is it proper for the Honourable Member to introduce His Majesty's name into discussions in this House?

THE HONOURABLE THE PRESIDENT: He is referring to a speech of His Majesty.

THE HONOURABLE SIR A. P. PATRO: The Honourable Member in his excitement forgets and becomes very unreasonable! I would ask him to be a little more calm and recollect what the Leader of the Congress Group has said. He began his speech with loyalty and ended it in quite a different manner. Therefore, he can very easily see that I am not introducing that subject. This Bill is an appeal to the patriotism and common sense of the country. I have not appealed to loyalty. My Honourable friend will realize that he is rather too hasty.

[Sir A. P. Patro.]

Collective protection and partnership are the two elements in the Empire, which will help India whenever there is danger to India's peace and defence. If we do not have association and close collaboration with the British Empire, India is bound to go down. On the other hand, my Honourable friend said that the Empire would go down, but I would say India would go down much sooner than the Empire. What is the mission of Great Britain today? Do you not realize, Sir, that the mission of Great Britain has been carrying peace throughout the world. Some think and express that she has become weak and timid and not able to meet danger and difficulty, that the old Great Britain has gone, the lion has become weak and feeble. That has been the trend of speeches elsewhere. It is not that, it is due to diplomacy. She does not want to provoke war at a stage where it will bring danger to the whole world; it is maintaining peace in the world. Her peace mission in regard to Italy is well known. Peace is the policy of Great Britain. If today she is not active and aggressive in war affairs, it is assumed deliberately. What will happen if today other nations come to India? My friend has been talking of democracy. Democracy and personal liberty will not be there. What are the countries which are likely to be aggressive and come to India? You know what those countries are, they are no respectors of democracy. Therefore, the one nation which is an advocate of democracy is Great Britain and are you going to quarrel with her? Are you going to be the enemy of Great Britain? It is suicidal for you to do so. In matters of security, as I said, being in association with the Empire is safe for India. What is the position of India today? Have you any navy or air force? Without the Royal Navy and the Royal Air Force, where are you? You are completely dependent upon Great Britain. Therefore, either under the principle of partnership which has been emphasized in the Instrument of Instructions by His Majesty or under the collective security principle in the Commonwealth of Nations India receives all the benefits and all the security that we can expect. To my mind the real opposition is not so much to encourage the disruptive activities of a section of the people against recruitment, but they want to have what is called non-violent national militia, to substitute for the fighting army a non-violent militia. That seems to be the aim. They are going to discuss it at the All-India Congress Committee meeting. A scheme has been formulated. It is compulsory on every Congress province to raise a non-violent militia which will co-operate with the existing police; but this militia would dress in khaddar and khaddar cap; and it is expected that as soon as these soldiers of the national army stand before combatants their very sight would charm them, magnetize the combatants and peace will automatically be restored. I am not imagining, but I am referring to statements made in a paper called *The National Call*, a Congress paper. *The National Call* says a scheme for a—

THE HONOURABLE THE PRESIDENT: Order, order. Please do not read it; you may give the substance of it.

THE HONOURABLE SIR A. P. PATRO: Sir, I am giving the substance of it from my notes,

The new national militia will be obligatory on the part of Congress Government and will work in harmonious co-operation with the existing police force. The new army will be dressed in khaddar and cap and their very sight will inspire some confidence in the minds of the people. If violence starts the militia man will be prepared to stand between fighters and risk his life and they will spread peace and stop spreading violence. This national militia is to defend us internally and they will strike the whole world with the mission of peace. This sort of militia is going to be compulsorily imposed in all the provinces and is going to be seriously considered by the All-India Congress Committee. Therefore, opposition against recruitment is not so much with a view to destroy the army but to create a parallel Government. They believe honestly I suppose that there is a parallel Government existing today and also a parallel army called the national militia. Therefore, it is impossible to convince such people by any argument that this Bill is absolutely necessary. I will conclude by saying that while there are exceptions to this Bill which protect *bona fide* speakers and *bona fide* writers there is no danger to any one from the provisions of this Bill.

I do not want to enter into the legal argument which the Honourable the Leader of the Congress Group has raised. The Honourable the Law Member in the other House has very clearly expounded the whole position and said that item 1 and item 40 of Schedule I are sufficient to establish the case for the Government, and in spite of the elaborate argument of the Leader of the Opposition it was not possible for him to dislodge what has been said by the Law Member in the other House. After all, whatever may be the opinions of party politicians here, look at what the other countries are thinking of Great Britain now. At no time has the prestige of Britain risen so high as it is today and the opinion—whatever may be your opinion—of a responsible minister, one who was in charge of the foreign affairs of the Turkish Government is that today British prestige is the highest among the nations and he further said, “No matter what happens, never will they be found in a camp opposing Britain”. As you remember they were in the opposite camp and friendly with Germany during the Great War. Now Turkey thinks that she will never stand in opposition to Great Britain; and the Minister further said that their friendship with Britain is one of confidence and solidarity. Britain may lose a battle, but will never lose a war. That is the view of an experienced patriot, soldier and statesman of Turkey, and what is our view here without any experience or knowledge of army and defence matters? The Bill was brought in not a moment late but in time and it is necessary that in the interests of our defence this Bill should be passed.

The Council then adjourned for Lunch till Half Past Two of the Clock.

The Council re-assembled after Lunch at Half Past Two of the Clock, the Honourable the President in the chair.

THE HONOURABLE THE PRESIDENT: The debate will now be resumed on the Criminal Law Amendment Bill.

THE HONOURABLE MR. P. N. SAPRU (United Provinces Southern : Non-Muhammadan) : Perhaps, Sir, you will allow me to explain my point of view

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in regard to the Bill which has been introduced by the Honourable Mr. Williams. I shall state at once the conclusion that I have arrived at in regard to the question of our attitude towards the Bill. That conclusion is that we ought not to support the Bill, that we ought not to share the responsibility with the executive Government for this measure and that indeed our vote should be against this Bill. I have listened carefully to the speech of the Honourable Mr. Williams and I must confess that the arguments in support of the Bill have struck me as particularly weak. This Bill would introduce a new offence into our criminal jurisprudence. It would make it penal for anyone to wilfully dissuade or attempt to dissuade the public or any person from entering any defence force. The proviso "with intent to affect adversely the recruitment of persons, etc.", makes no substantial difference so far as the offence contemplated by the Bill is concerned. A casual remark by a speaker that people ought not to participate in the wars of the British Empire or that they ought not to participate in any unholy wars of the British Empire would still come within the mischief of the Bill.

THE HONOURABLE THE PRESIDENT: What is the definition of "unholy" ?

THE HONOURABLE MR. P. N. SAPRU: Well, Sir, the definition of "unholy" is an individual one. You may look upon a particular war as holy and I may look upon that particular war as unholy. The Germans looked upon the war of 1914 as a holy war, as a war which they were waging for their national existence. The democratic world did not look upon that war as a holy war. The question of the proper relation between the individual and the social organization is one of the most difficult questions of all political philosophy and I belong myself to a school of thought which would restrict the activities of the individual in certain spheres and preserve the liberty of the individual in certain other basic spheres. (Hear, hear.)

Sir, the burden of proving intent would still be upon the prosecution. We have to remember the legal maxim *res lopsiquitur*. And the court would find it difficult to hold that a remark of the character I have referred to is not covered by the clause I have just referred to. I think, Sir, in a free society it ought to be permissible for an individual to express his opinions about vital questions freely. Whether a man should join the army or not is a question which ought to be allowed to be debated in a free atmosphere in a free democracy. That is the difference between a totalitarian State and a democratic State—free expression of opinion. The two clauses of section 2 would make it an offence to instigate mutiny or insubordination in anyone who joins the army, navy or air forces of the country. Now, Sir, so far as this section is concerned, you have provisions in regard to mutiny and insubordination on the part of anyone serving in the army under the present Indian Penal Code. I am referring to the sections in Chapter 7 of the Indian Penal Code. And I therefore fail to see the justification for this clause. As far as I can see, this clause is unnecessary. As the clause is worded, it would always enable a soldier charged with mutiny or a recruit charged with insubordination or

mutiny to plead that he did what he did because he was incited by some other person to do what he did. A casual remark in which the speaker says that people ought not to fight and that if they refused to fight they would help the cause of world peace would, I apprehend, come under the mischief of these two clauses. The clauses, therefore, are, I think, very widely worded and I agree with the Honourable Mr. Pantulu in the detailed criticism which he has made in regard to the drafting of these clauses. The executive Government, Sir, has come to us with the proposal that we should create a new offence. Now, what is the position? Up till 1932 this section was not to be found in our criminal jurisprudence. In 1932 we had the Criminal Law Amendment Act which was a temporary measure and in that Criminal Law Amendment Act we had a section corresponding with section 2 (a) in the present Bill. Now, Sir, that clause was repealed in 1935 and it must be assumed that that act of repeal was a deliberate act of repeal. It is therefore for the executive Government, which wants to create a new offence, to show that a change of law is necessary in the supreme interests of the State. Admittedly, the Bill would place certain restrictions on the right of public speech because it is speech and not any overt act that is penalized by this Bill and for those of us who believe in freedom of speech it is necessary to consider whether any case has been made out for such restrictions being placed upon the liberty of the individual to propagate views he may believe in. I would like again to emphasize that it is speech or writing which is punished by the Bill and not any overt act, and therefore I would say that a measure which restricts freedom of speech can be justified, if at all, on the ground of emergency and absolute necessity, and that too only for a temporary period in the supreme interests of the safety of the community. I have said, Sir, that a man in a free State ought to be allowed to say that an army career is not good for men, that all that Imperialism stands for can best be fought by refusal on the part of the subject citizen to offer himself for service in the army. Any other view would lead to the position that you must have conscription and that a State has a right to conscript men. I think, Sir, a man ought to be allowed to preach the pacifist doctrine and I am not quite sure whether the pacifist is protected by this Bill? I have a very great deal of sympathy with the pacifist point of view myself. I used to be an extreme pacifist, but I have had to revise that extreme pacifist creed in the light of modern developments, in the light of developments in Europe.

THE HONOURABLE SIR DAVID DEVADOSS : " You will be a militarist " ?

THE HONOURABLE MR. P. N. SAPRU : I will never be a militarist. I do not think I have got the militarist constitution of mind. I think a man ought to be allowed to say that armies and navies should be abolished. I would go further and I would even allow a man to say that the State should be abolished. It may look to you a very extreme doctrine, but democracy allows free discussion of these vital problems. That is the difference between democracy and fascism. If you are not prepared to face this position then I say that you do not believe in democracy. You may look upon a man who says this sort of thing as a crank. But, in a society which permits free competition of ideas, this sort of propaganda will not succeed if there is counter propaganda on the other side. Democracy is our goal in India. I am neither a believer

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in Congress Fascism or Hitlerian Nazism. I am for pure, undiluted, social and liberal democracy. Democracy rests on the assumption that the average man has intelligence and common sense to arrive at a right conclusion. Even during the late war, Mr. Ramsay Macdonald, who later became the Prime Minister of a predominantly Tory Government, who became a sort of hero with the Tories, was allowed to carry on his pacifist propaganda during the war. He refused to address recruiting meetings. You will find a reference to his attitude in Viscount Snowdon's Autobiography. Viscount Snowdon, again, who became temporarily with the Tories a great national figure, was allowed to preach his pacifist doctrine during the Great War of 1914. Another great luminary of the present Government, who was at one time a Liberal, and who yet calls himself a Liberal—though I do not know whether you can call him a Liberal—Sir John Simon, was allowed to oppose conscription and had to resign on that issue of conscription from the Cabinet. There are many thoughtful men, Sir, who say that Imperialism is wrong, that war is wrong, that the present fabric of society is wrong, and people can best help in the solution of present-day world problems if they will stand by their ideals and refuse to fight. You have the Oxford Union—no doubt a Union of Under Graduates, but these Under Graduates become later Prime Ministers of England—passing a resolution advising people not to fight for their King and country. If a similar resolution had been passed in a debating society in our country, with this Bill in operation, all the members of that society would have been sentenced to a year's imprisonment. The Trade Union Congress,—I was just reading the other day a reference about this in the newspapers,—has threatened a general strike if British foreign policy is not changed. Why have the activities of these groups and individuals not been checked in England? Why is it that propaganda of this character makes no appeal to the hearts or the imagination and the reason of the Britisher? The reason for that is that Englishmen have not only a national State, but a vast Empire to defend and live for, and the average man in England feels that he cannot afford to take this extreme line as it may destroy the very foundations of the Empire and the State in which he believes. Here you have done unfortunately little in the past to encourage a proper mentality towards questions of Defence. Government has done everything which it humanly could to make the average Indian feel that the army forces in this country exist not for defending the country but for maintaining an imposed Government responsible to the people of another country. The right solution, if you wish to stop all irresponsible talk, if you wish to develop a sense of responsibility in the Indian, if you wish to develop the right psychology in the Indian, is to make people more responsible for the defence of their country, and if you were to take any such step, I am sure you will not need any Recruitment Bills. The right solution is to give people the freedom they crave for, the Dominion status which has enabled General Hertzog to become an enthusiastic supporter of the British connection. If you were to take any such big step towards making India responsible, you would not need any special legislation to deal with irresponsible people who indulge in irresponsible and even at times mischievous propaganda. The common sense of the people would assert itself.

Now, Sir, coming to another point. What is the case for the measure as put forward by the Defence Secretary? It was admitted that recruitment to the present army has not been affected. Admittedly, on your own showing, the people have shown that they have common sense enough not to be influenced by the sort of propaganda that you allege is being carried on in the Punjab. We have not the Despatch of the Punjab Government before us. We have not the speeches which these gentlemen have made before us and I refuse to look into extracts. I know, Sir, how mischievous sometimes newspaper reports can be, how wrong and misleading they can be. I had an experience of it the other day. I found the Associated Press saying that I had asked for control over military strategy also. I had said just the contrary thing. Well, now, if your competent reporters can make such a mistake—I do not know whether those C. I. D. reporters are more competent than the Associated Press reporters—what shall we say about the reporters upon whom you rely. I could understand your coming to this House and asking for legislation if this agitation was having effect upon the classes from which you ordinarily recruit. But that is not your case. Your case is that you apprehend that if at some time it becomes necessary for you to expand your army you will not be able to get a sufficient number of recruits. In other words, you are not sure of your ground because in your subconscious mind, in your heart of hearts, you feel that you have not in the past followed a wise policy in this country. Would it not be better then for you to take stock of the present situation and to review your policy in regard to Defence and to see whether a reversal of that policy will not have a more salutary effect upon the public mind. Why can't you improve conditions of service as they have done in England for the army man and lessen the difference between the pay of the British soldier and the Indian soldier? You say that it may be necessary for you in a moment to expand your army and that you want to anticipate a situation which may arise if the British Empire gets involved in a war.

Now, Sir, our view has all along been, and I state it for all that it is worth, that the Army in India should be an army exclusively, solely and entirely for the defence of India. Our Group has frankly accepted the British connection, and when we speak of Dominion status we speak with no mental reservations. But our loyalty to the British connection can be no greater and no less than the loyalty of your own kith and kin, than the loyalty of the Dominions. We stand for Indian freedom and not the substitution of Italian and Japanese Fascism for British Imperialism. Whatever our quarrels with British Imperialism, we know that there are worse Imperialisms in the world today, and I would say that my sympathies are unreservedly with countries which are for democracy and my sympathies are not with the totalitarian Fascist States. No Liberal, no Radical, no Socialist, no Communist—I go even as far as that—if he is true to his creed can have any sympathy with the totalitarian Fascist States and all that they stand for. We can never wish success to the enemies and the enemies are the Fascist States. But we claim for ourselves the right which the Dominions claim and enjoy, namely, the right to determine for ourselves the extent, if any, to which we support you in any war you may find yourselves involved in. I would be untrue to my convictions if I were not to express my dissatisfaction with the weak and vacillating foreign policy which

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Britain has followed during the last six or seven years. You started with the Treaty of Versailles, which was not the clean peace for which the Allies had fought. You did little to revise that treaty and to help the forces of Liberal and Social Democracy in Germany. You were not prepared to stand by the principle of collective security, by the rule of law when Japan swallowed Manchukuo. Your policy towards Italy during the Abyssinian war was weak, and you have now entered into a pact with a country which we intensely dislike. I intensely dislike the so-called non-intervention policy in Spain, a policy which has handicapped the legitimate Government of Spain. You are trying to be friends with countries which are oppressing Jews, which are relying on force for the establishment of international disputes. You are trying to be friends with countries who glorify war and all that war means and involves. You have recognized the conquest of Abyssinia after applying sanctions against Italy. Can it be honestly said that the prestige of England stands higher in the world today than it used to do in the days of Gladstone and Salisbury? My Honourable friend Sir A. P. Patro said that the prestige of England stands higher than it ever did before. I wish it did. I think it does not. The Government of Mr. Neville Chamberlain has done everything it humanly could to lower that prestige.

Now, Sir, I have indicated that my sympathies are with the Democratic Powers and my ideology will determine my attitude towards any war. My allegiance to my ideology is greater than my allegiance even to my country. Now, Sir, I have no word to say in favour of those who are not *bona fide* pacifists and who are encouraging mutiny and disloyalty in the army. They are doing their country no good and we cannot too severely condemn their activities. But I will say this that if your policy had been more idealistic, if your policy had been more consistent, if your policy had been more democratic, you would have had larger support not only in India but in the United States of America also. I know you will be eventually, with all the vacillations that are to be found in your policy, bound to be on the right side, and speaking for myself and for the Group which we represent here, I say I do not wish to see the British Commonwealth destroyed. There are many chapters in the relations between England and India that I would like to forget. I always look to the future for my inspiration. I do not look to the past, I do not look even to the present for my inspiration. I wish this Commonwealth to develop into a real commonwealth of free nations working for peace, stability and economic justice in the modern world. But your policy has been different, and what has been your attitude towards us particularly in regard to questions of defence? It is after all foreign policy that determines defence policy, and we have no voice in the determination of our foreign policy. You will not consult us in regard to defence and foreign policies. You will consult Mr. Lyons, General Hertzog, and Mr. Mackenzie King, and even I think Mr. deValera; but you will not consult a subordinate branch of His Majesty's Government; and you will turn down the most moderate and the most modest of our demands so far as the army is concerned. Surely this is not the way for securing greater co-operation between England and India? I deeply deplore

this policy of yours, for our Group stands for strengthening the bonds that unite England and India and our interests require that we should have not violent upheavals but ordered transition towards freedom. I feel grieved at the shortsightedness you have shown. A gesture is necessary on your part and I will plead for it with all the earnestness at my command.

I come now, Sir, to a more vital reason why we must not support this

3 P.M. Bill. That reason is your recruitment policy in the past.

I have not looked up the figures—I am not very good at figures and I do not bother about them very much—but the present strength of your Indian Army is in the neighbourhood of 145,000 and you recruit nearly 90,000 men from the Punjab. Now, Sir, the present recruitment policy is absolutely unfair to the other provinces of India. Why should other provinces, why should Bengal and Bihar, contribute towards central revenues—

THE HONOURABLE SIR RAMUNNI MENON : What about Madras ?

THE HONOURABLE MR. P. N. SAPRU : I forgot Madras and I am glad that my Honourable friend Sir Ramunni Menon has reminded me of Madras. Why should these provinces contribute towards central revenues when their men are not to be taken in the army ? We of the other provinces are as much interested in the defence of our country as the Punjabis are. Why must we be at the mercy of one province alone ? Are we working towards a democracy or towards a democracy supported by a military caste in a particular province ?

THE HONOURABLE NAWABZADA KHURSHID ALI KHAN : We cannot have *baniyas* in the army !

THE HONOURABLE MR. P. N. SAPRU : I would prefer *baniyas* to my Honourable friend ! I think *baniyas* have more guts than my Honourable friend opposite ! I do not wish to see the domination of the Punjabi to be perpetuated and I feel I would be supporting the domination of the Punjab if I were to give an atom of support to this Bill. If you were to widen the basis of your recruitment, if you were to take recruits not only from the Punjab but from the other provinces also you would get plenty of soldiers in India and it would be possible for you to expand your army if you desire to expand your army at any moment. I do not accept the view that it is impossible for you to get the right type of men in other provinces. This recruitment policy you evolved after the Mutiny and throughout these 60 or 70 years your military policy has been determined by the Mutiny complex. We had the Bengal Army, we had the Madras Army, we had the Mahratta Army at one time. There is plenty of fine material in the other provinces and people would come forward if you would make the army an attractive career and if you would give the men of the other provinces a chance of enlistment. I am therefore opposed to this distinction which you have created—this distinction between enlisted and non-enlisted classes. You prefer to call them enlisted and non-enlisted ; I call them martial and non-martial. I am opposed to this distinction between martial and non-martial classes and I do not wish this distinction to be perpetuated. I do not see how the self-government of the future can be safe with an

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army which is not drawn from all provinces but which is class conscious and dominated by one particular province. I look upon this question of recruitment—speaking for myself—I look upon this question of recruitment as even more vital than the question of the Indianization of the officer ranks of the army and I feel I would be giving by this Bill powers to the Punjab Government, a Government which has everything to gain by its present policy and the prosperity of which is dependent upon the present policy. I would be perpetuating by supporting this Bill a policy which is fraught with danger so far as the future is concerned.

There are certain other considerations which weigh with me in determining my attitude. The Defence Department has always distrusted the Indian politician. It has resisted his most moderate demands. I had experience of the Defence Department only two days back. I had my very good friend Mr. Williams opposing a most moderate Resolution and I do not blame him for opposing that Resolution. He was not a free agent. He was just an advocate pleading a bad cause. But I do blame his bosses; I do blame the Defence Department and I do blame His Majesty's Government and I do blame the Government of India for resisting the most modest demands that were put forward on this side of the House. Sir, why should we with our experience of the Defence Department help you to enact a Bill which is open to the objection which I have just stated, namely, that it interferes unduly with the freedom of speech and freedom of public meeting and freedom of belief. Why should we help you to enact a measure the necessity of which you have not demonstrated to our satisfaction? In determining my attitude I have had to consider another aspect of the matter. I cannot forget that we have been saddled in the past with burdens which were not legitimately ours and which probably should have fallen upon His Majesty's Government. I cannot forget that in regard to the Indianization of the officer ranks a policy is being pursued of which we cannot approve. I cannot forget that you have a 16-units scheme and that you have segregated Indian officers. I cannot forget that constitutionally there is a distinction between King's commissioned officers and the King's Indian commissioned officers. I am not thinking of their salaries because I have never stood for higher salaries for Indian servants of the Crown. I am thinking of the status. I pointed out that there was a distinction in the status of the two at the time of the Army Bill and I will state again that the legal arguments which I advanced remain unanswered then and cannot be answered. I cannot forget that our men in the army, our Indian officers in the army—I want to speak with a certain amount of reserve in this matter—I cannot forget that some of our men in the Indian Army have not had a fair deal and that they have some just and legitimate grievances. I have a particular case in mind—I think my Honourable Leader Lala Ram Saran Das knows more about that case than I do—I have the case of a young Indian officer who was court-martialled only recently in mind and from what I have been able to see of that case I think that entire justice was not done to him. Therefore, Sir, I think there are vital differences between us and the Defence Department and apart from any objection that I may have to the principle of this Bill—and I have indi-

cated that I have objection to the principle of this Bill—I regard it as *legitimate parliamentary strategy* to refuse to co-operate with a Department which has consistently refused to co-operate with us. Sir, Government has got a majority in our House and it can do almost anything that it likes in the Upper House. (*An Honourable Member*: “Standing army”.) Well, you may call it a standing army. I don’t like standing armies, so I don’t call it a standing army. You can carry this Bill but you will not carry this Bill with our assent. I do not know, Sir, what the attitude of the Muslim League Group under the leadership of my former Deputy Leader, Mr. Hossain Imam, will be. I suppose their attitude will be the same as the attitude of their respected Leader, Mr. Jinnah, in the other House. Personally, I am prepared to give them full credit for a patriotic approach to the problem presented by this Bill. I do not wish, Sir, to belittle the importance of the concessions that they have been able to get, but I think, Sir, that they would have acted more wisely, they would have acted more prudently, if they had been stiffer and stronger in their attitude and had joined us in our opposition to this Bill. I think, Sir, the quarrel between the Congress and the Muslim League ought not to be carried to extreme lengths. I am not suffering, Sir, from a power-frustration complex and the difficulty with some of our politicians is—I have a respected Member of this House in mind—that they are suffering today from a power-frustration complex. Sir, country is greater than party. Ideology is greater than party. And I say that my allegiance to ideology and country is greater than my allegiance to any party I may happen to belong to. I cannot therefore help approaching the question presented by this Bill from a wider and broader point of view, and I have in the time that I have occupied indicated what my reasons for dissenting from this Bill are. It is unnecessary for me to examine this Bill in greater detail. The proviso that the Bill will not come into operation unless the Provincial Government wishes that it should come into operation is concerned is illusory, because, if the Honourable Mr. Williams is to be believed and I think he must be believed—the initiative in regard to this Bill has not come from the Government of India. The initiative in regard to this Bill has come from the Punjab Government. After having moved the Government of India that this Bill should be introduced in the Central Legislature, are they likely to refuse to promulgate it in their province? (*An Honourable Member*: “What about Mr. Jinnah?”) Well, Sir, I know that some of our Leaders claim to be Hitlers and super-Hitlers and I daresay Mr. Jinnah is a sort of Hitler so far as the Muslim community is concerned, but I do not know whether the Hitler Mr. Jinnah will be able to persuade Sir Sikander Hayat Khan not to introduce it in the Punjab?

THE HONOURABLE THE PRESIDENT: Please do not refer to personalities.

THE HONOURABLE MR. P. N. SAPRU: Well, Sir, I do not go into the question of the Congress High Command. I am no more in love with the Congress High Command than I am in love with the Muslim League and as a man who tries to approach political and social problems in this country from a detached point of view I have not been able to agree with all that the Muslim League has done. Sir, I should have liked to reply to some of the observations

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of my friend Sir A. P. Patro, but as he has not attacked my particular Group, as he has been relying upon the Congress bulletins for his speeches, I leave him to the care of my friend the Honourable Mr. Motilal. I am sure he will be able to give him a satisfactory answer. So far as I am concerned, I am speaking as a detached member of a Party which exists in this House but which has little following in the country outside.

With these words, Sir, I indicate my dissent from the principle of this Bill.

THE HONOURABLE NAWABZADA KHURSHID ALI KHAN (Nominated Non-Official): Sir, I submit that I have been listening to this debate in the other House as well as in this House but I am not convinced because so much has been said on this Bill which has no bearing on the subject itself. But I fully endorse the views expressed by my Honourable friend Sir A. P. Patro. Sir, I submit that there is no denying the fact that anti-recruitment propaganda is being carried on in the Punjab since more than a year, particularly in those districts of the Punjab which supply most of the recruits. People have been coming from outside the province and joining hands with the mischief-makers in the Punjab in misleading the people; and I may submit here for your information, Sir, that these people have been coming from the Congress provinces. (*An Honourable Member*: "You have no facts about those people yet from the Government or from the other speakers".) They will be supplied later if they are required. I submit, Sir, that no one has denied that there is no necessity for this Bill. The necessity for the Bill is there, and since the name of the Punjab has been dragged in time after time both in this House and in the other House, I would ask the Honourable Members what crime has the Punjab committed in asking the Government of India for a Bill of this kind to stop the mischievous propaganda that has been going on?

Our friends here are preaching that there should be no recruitment to the army. But I submit that if there is no recruitment to the army and the mischief-makers are left free to continue their nefarious activities, there will be no army left in India. How will there be an Indian Army and Indianization of the Army? They ought to realize that other countries are arming to the teeth all over the world, whereas here, if there is no recruitment to the army, the Indian Army will disappear in course of time.

Sir, so far as this Bill is concerned, it has received the unanimous support of the Punjab. I refer to the recent Zamindar Conference at Lyallpur held under the presidentship of the Premier of the Punjab, where there were over a hundred thousand people present who fully endorsed this Bill. (*An Honourable Member*: "What about the Kishan Conference?") That was a got-up show!

The sentence proposed in the Bill, I submit, is quite lenient, and that a year's imprisonment is not enough. If you take the example of Russia, which my Congress friends follow so much, and if there had been an agitation like this in that country there would have been no sentence for one year but the

sentence would have been death strightaway. And I submit, therefore, Sir, that this sentence of one year is extremely lenient. I therefore submit that the Government is fully justified in bringing forward a measure like this before the House to stop the propaganda which is done by hired people in the countryside.

My Honourable friend Mr. Sapru has just referred to the recruitment of the Indian Army from the Punjab alone. I submit that the Punjab alone has been supplying troops and I hope that the Punjab will continue to supply troops. Punjab is the province which is composed mainly of martial races. We do not want any *bantyas* in the army, we do not want other people who have nothing to do with the army and who know nothing of the army. I appeal to my Honourable friend Mr. Hossain Imam who now happens to be the leader of the Muslim League Party in this House to support this Bill, because his Party supported this Bill in the Lower House. The League President, Mr. Jinnah, has already expressed his views.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: What orders has Mr. Jinnah given you on the subject ?

THE HONOURABLE NAWABZADA KHURSHID ALI KHAN: Why should I tell you ? I submit, Sir, that most of the speeches that have been made here are absolutely irrelevant and have no bearing on the subject. If my Honourable friend Rai Bahadur Lala Ram Saran Das has any further light to throw on the subject, I should like to hear him. But he himself does not belong to a martial race.

With these words, Sir, I support the Bill and I hope that it will receive the support of the House.

THE HONOURABLE MR. R. H. PARKER (Bombay Chamber of Commerce): Sir, there are several things which the last speaker mentioned which I will bear in mind. One is, I will try and keep to the point. We are living, as he says, in a world full of armed camps. Defence is certainly at this stage one of the most important things in the world. I agree with the Honourable Mr. Williams that this is obviously a complete omission at the time the law was enacted, and I would gladly leave it at that, but for the fact that so many other Members have mentioned points which I think must be referred to. The Honourable Mr. Sapru—I must admit that he reminded me of the man who called for the doctor after the child's death—seemed to think that the Bill was not wanted now. He said " We can have an Act later ". I do not think that is the time to send for the doctor. Then he referred to the prestige of England. I think England has made a great many mistakes, both in recent years and in history further back, but if her prestige has fallen since the war, I say solemnly that it has been because she made a definite attempt to lead the way to the introduction of disarmament and to live in a peaceful world. That is the reason why her prestige fell, if it did. I think it is on the up grade now. It seems to me that a law of this kind is essential to protect the unfortunate individual who may be liable to be persuaded to mutiny. What is his

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reward if he mutinies ? He is put against the wall and shot—rightly shot. What should you do with the man who tries to persuade the other man ? The other man is shot, and the first man ought to be shot too. One year's imprisonment is a miserable sentence ? He ought to be shot too. Supposing that the information given is wrong and that no such speeches have in fact been made. What harm is there in having a law like this ? If no such speeches are in fact made, what harm will be done in having a law like this ? None whatever. It is merely a precautionary measure in that case. I was interested to notice the other day, when I was looking a second time through Hitler's *Mein Kampf* that he said in it that he was glad that Britain was in India and nobody else. He did not go on to explain why. But I could not help wondering, when Mr. Pantulu was speaking, whether he would rather be under a Fascist Dictator. I rather doubt it.

THE HONOURABLE MR. RAMADAS PANTULU : I did not say it.

THE HONOURABLE MR. R. H. PARKER : Reference was made to the World War and to the help that India gave to England in the War—very great help indeed—as we all know, but I would say that if India had not helped England, and if in fact England had lost that war, the position of Indians today would be very, very much worse than it is now. I do not think they have any cause to regret any of the assistance they gave at that time.

As to the legal point which the Honourable Mr. Pantulu raised, I was rather upset about it, because he said that he staked his legal reputation. I cannot help feeling that he lost it. He apparently thinks that it is not unfair to deprive an army of recruits. I cannot follow his argument at all. It is surely unfair to interfere with the source of supply, for you are thereby attempting to create no army at all. I would very much like to know—and I am sure the Honourable Mr. Pantulu could tell us but he won't—what Congress would do if they were in the same position.

THE HONOURABLE MR. HOSSAIN IMAM (Bihar and Orissa : Muhammadan) : Mr. President, the Bill as it was introduced in the Assembly was much different from the Bill as it has come to us. The Bill was thought to be non-contentious, but it proved to be bristling with points of differences at which people began to fly. In the other House, Sir, the Members had the advantage of being able to traverse all the field and all the subjects which could be tacked on to this subject of Defence. But, here, Sir, without casting any reflection on the Chair of the other place or on you, I can say that we will not be allowed to do so—

THE HONOURABLE THE PRESIDENT : I have allowed absolute indulgence. I have allowed every speaker to speak on subjects today which had nothing whatsoever to do with the Bill. The Honourable Mr. Pantulu spoke for an hour at the time on subjects which had nothing to do with this Bill. I have given this House abundant latitude and indulgence.

THE HONOURABLE MR. HOSSAIN IMAM : Then we are grateful to you for this reform of the Council of State,

THE HONOURABLE MR. P. N. SAPRU : May I say, Sir, that we deeply appreciate the latitude that you have given us ?

THE HONOURABLE MR. HOSSAIN IMAM : The improvements in the Bill as it has come to us was due to the amendments made under the guidance of Mr. Jinnah. The Honourable Mr. Sapru was good enough to say that the Bill has been much improved.

THE HONOURABLE MR. P. N. SAPRU : I did not say " much improved ". I did not belittle the improvements.

THE HONOURABLE MR. HOSSAIN IMAM : I have the authority of the Congressmen to say that on this Bill the Government have been really defeated. Mr. Satyamurthi in the other place said—I cannot read out his exact words—that Government had never occupied a more humiliating position in the four years that he (Mr. Satyamurthi) had been in the House than they had on the question of this Bill. He said that Government had succeeded in getting a Bill through the House although it was not the Bill which the Government had introduced. On the one side we had the statement of the responsible Deputy Leader of the Congress in the Assembly saying that the Government have been practically humiliated, and we have the Leader of the Congress Party here saying that the Bill is as bad as it was. I for one cannot reconcile this. But with the Congress these are very small matters ! As has been pointed out by Sir A. P. Patro when they say they will wreck the constitution they mean they will work it ! In 1935 we believed the Congress, accordingly under the lead they had given, we in the Progressive Party opposed the Criminal Law Amendment Act tooth and nail ; and what has been the result ? The Bombay Provincial Government threatened to use it against Labour ; and Madras is using it every day ; and worse still, when a Bill was brought in the province of the Honourable Mr. Pantulu to repeal the Criminal Law Amendment Act, it was rejected by the Congress votes. A Bill that was not allowed even to be considered in this House is so good that it cannot be repealed by the new Congress Fascist mentality (as Mr. Sapru calls it). Are we to take it that the opposition in this case is of the same nature, so that when it is passed it will be worked, and the exigencies of the situation will be pleaded as justification for using this measure. The fact that it is being used in the Punjab will be cited as a reason why it should be used in the United Provinces too, because otherwise the Punjab may secure an ascendancy and a greater proportion of recruits in the Army in India.

Sir, much has been made of the fact that it is an interference with civil liberties. We are after all human beings and not automatic machines. We are actuated by sentiments. Circumstances change many of our rules of conduct. A motor car does not require to be clad in woollens when it is brought to Simla, but we do require woollens. Similarly, civil liberties are a thing which must be preserved. But it ill suits the Congress after a year of provincial autonomy to plead the cause of civil liberty. All the minorities, whether religious or economic, are feeling insecure in the Congress administered areas because they find that their fundamental rights are being trodden down. The same majority and the same mentality which actuates the Government

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in this House actuates the Congress Ministries in the provinces. (*An Honourable Member* : "Turn them out".) Turn them out. Are you so much in hate with democracy that you want to turn them out? You have to take the bad with the good.

I was speaking of civil liberties. I yield to none in my love of civil liberty, and I claim that we have more cause (because I come from a minority province), to guard civil liberty. I have to guard the civil liberty of myself, not only from the Government of India but from my own Provincial Government. So we cannot lightly treat the question of civil liberty. But on this subject there must be clear thinking. The rights of the individual *vis-a-vis* the State must be clarified. There is a great deal of loose thinking. There are things which would be permitted, not only permitted but the neglect to do things would be criminal negligence. For instance, a doctor treating a patient for disease, if he thinks amputation is the treatment for it, he must amputate. But if a man does it without rhyme or reason he will be held criminally liable. Circumstances justify or do not justify action.

The question before us is whether recruitment to the army should be stopped now or should not be stopped. Those who are preaching are not preaching an abstract truth, that you should not join whenever war breaks out. I have been rather handicapped by the fact that Mr. Williams has not presented to us all that he had in his portfolio to throw a light on the subject. But let us consider this question. If the army is not maintained up to the strength required, what are the ways open to Government? The ways open to them are three. They can augment the British personnel in India to maintain the army at its present numerical level and thus burden India with additional expense. That is one way open to Government if Indian recruitment were to stop. A second course open to them is to recruit a larger number of the brown mercenaries, the Gurkhas, who have no interest in British India. I have heard much in condemnation of the white army of occupation, but nothing from the Congress Benches about the brown army of occupation, the Gurkhas, who have nothing in common with us and who never show any compassion or feeling for Indian causes. They could be augmented. Then there is another field of recruitment open to the Government. They could recruit their army from the Indian States. Even in the Punjab there are a number of Indian States. From there they could recruit men of almost the same class as the Punjabis to fill the gap.

Now, does the Congress and those who oppose this Bill prefer that Indian expenditure on Defence should be increased while the British Indian personnel becomes less and less? Those are the three ways open to the British Government, even if they do not embark on a policy of passing this law in the shape of an Ordinance or a Governor General's law. Last time in the case of the Criminal Law Amendment Act we went the whole hog, and the Assembly rejected the measure, would not even allow its consideration. What was the result? Did you advance the cause of civil liberties by even a hair's breadth? You made the position worse. It is all very well to say that I will not associate

myself with this and that. But that is being idealistic. It is not being practical. (*An Honourable Member*: "What is being practical?") According to the Congress being practical means that you should refuse to pass an Act and then use it and resist its repeal! We do not want to be as practical as that. We believe, Sir, in the adage that a stitch in time saves nine. We believe that it is better, powerless as we are, to improve our position as much as we can. No doubt in the other House as well as in this a proposition was enunciated that we should have demanded more for passing this Bill. There was a list of six items which was thought to be the price for this piece of legislation. I need not labour the point. Mr. Jinnah has cleared it up and said that the lever (*i.e.*, this Bill) which was sought to be used was too weak to demolish the big fetters of British Imperialism. This Bill has been brought rather hurriedly. That much I can concede. The matter might have been allowed to go to a Select Committee or for circulation till the 31st October if there was a genuine desire on behalf of our Congress friends to improve the Bill; and the only reason why I think it was not done in the Assembly was that people did not think that it was anything but a dilatory motion. The facts have not been quite clearly stated about the actual effect on recruitment which this campaign had. But I have learnt one interesting thing. The Congress has been championing the cause that recruitment can be and should be stopped pending a settlement of the question of control of the Indian defence forces, but the people who have been preaching this out in the country are not Congressmen and therefore they have admitted that there exists an organization which is more patriotic than the Congress itself, that it is working where the Congress is content to pass resolutions only. Those who have been addressing these 115 meetings in the Punjab up till December and 113 after December to July have been described as boys, socialists, communists. Congress now seems to rely more upon passing resolutions than in indulging in action.

There is no doubt that even the Government thought that the wording is not very happy. There was an amendment given to sub-clause (3) of clause 1 by Mr. Ogilvie which could not be passed on account of want of notice in the Assembly. Some Honourable friends of mine attacked the framing of this Bill, but I may say that merely because there is bad drafting it is no reason why this Bill should be rejected. It was open to Honourable Members to move amendments, and the Government too should adopt a reasonable attitude, and if there is any amendment not of substance but of drafting, it might be adopted in this House. After all, in other measures we have made improvements in this House and there is no bar against making an improvement in this Bill.

Sir, I do not wish to prolong the debate and therefore I shall conclude by stating that although the Muslim League has supported this measure, it should not be understood that it means an endorsement of the frontier policy of the Government of India. It is neither a sanction for increased army expenditure on the many improvements which are being made at the present moment. Nor should it be regarded as giving a long rope to the British Government to utilise the army, the British Army in India, for Imperial purposes. On that question there is a definite consensus of opinion among all sections of Indians

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that in future the Indian Army shall not be used outside India except with the sanction and concurrence of the Indian people. We may have our quarrels, but that refers only to our internal affairs. But on this one vital question the Congress and the Muslim League should be united and if ever a demand is made to utilize Indian forces on a large scale for Imperial purposes, it will be opposed tooth and nail by all patriotic Indians.

THE HONOURABLE MR. RAMADAS PANTULU : That is the object of the Bill.

THE HONOURABLE MR. HOSSAIN IMAM : We do not want to put the cart before the horse. I am not going to reduce the army from now onwards and make it weaker and weaker because I wish that it should not be used by England.

An Honourable friend of mine asked me about the recruitment policy. When Mr. Sapru broached this question I felt that he was adopting my child. From the first day when I came into this Council in 1931 I have been advocating a broad basis for the Indian Army and Imperial services. It should no longer remain the preserve of any one province, because it infringes the fundamental purpose of Government. The purpose of Government is to make a more equitable distribution of the wealth of the country. Now, equitable distribution of the wealth of the country is made through salaries and disbursements. That can only take place if all the provinces are taken in all the services of the Government. The army should not be singled out. I have been insisting on giving a provincial bias to the recruitment in all its services, and not only in the army. Madras has the monopoly of the Finance and Commerce Departments. They are not prepared to give us a right of entry there. Similar is the case with regard to the army so far as the Punjab is concerned. Bengalis have their share. Only three A. B. C. provinces are the most unfortunate in this respect, Assam, Bihar and the Central Provinces—three minor administrations. We have no place in the sun of the Government of India and in the army. So my Honourable friend knows my opinion on that.

Sir, we support this measure because we think that the time has not come to oppose it and when the time comes to oppose it the punishment will not deter us. One year or seven or eight years is nothing to a patriot. It is only the Congressmen who are now frightened and feel it. We do not feel like that. When the time comes we will fight, but as long as the time has not come we are prepared to give the Government a chance to make our army better and more efficient than it is at present.

THE HONOURABLE SARDAR BUTA SINGH (Punjab: Sikh) : Sir, I must confess that it was something of a surprise to me when this Bill was introduced in the Legislative Assembly and the opposition that it encountered in its passage. It is my firm belief, and I am not speaking without knowledge, that if recruitment was started today, thousands will be ready to join the army and no persuasion on the part of any individual or party would deter them from following the profession of their fathers. Indeed, there is a good

deal of discontent in the countryside on account of restricted recruitment and short term of service. So far as my community is concerned it would welcome the raising of a few new regiments and training the youth of the community even on a voluntary basis.

The Opposition leaders have made no secret that they apprehend that war may at any moment break out. They know that other nations are busy arming themselves. Can India defend itself without an army? Does not self-government require all patriotic men and women to revise their ideas about defence? They who talk of severing connection with the Empire, what do they propose to do to make India impregnable?

It is not true that when Indian armies fight in the far flung battlefields of the Empire, they are not fighting on behalf of India; one may as well say, that when England went into the World War it did not fight for England. Fortunate are the countries that fight their battles on lands other than their own. Fortunate is India to enjoy peace, untroubled by the ravages of war. In fighting the battles of the Empire India is fighting her own. I sincerely believe that India has fought and will continue to fight her battles wherever it is called upon to do. We must assure Britain in our progress towards self-government that we are not going to forget the benefactor who has made the growth of self-government possible, and without whose protection progress towards self-government would remain an idle dream.

I have already said that introduction of this law ^{it} was not required, but if Government feels that it must have a legal weapon ready for use if such a contingency arises, I cannot see how we can refuse our support. Even the most democratic countries are ready to accept conscription and we ought to be ready to play our part, and to take our share in the defence of the Empire which has given us unbroken peace for more than a century.

THE HONOURABLE MR. G. S. MOTILAL (Bombay: Non-Muhammadan): Sir, we know it too well to our shame that India is not a sovereign State, that the Dominions are sovereign States and that we are far from sovereignty. Yet, Sir, we also know that India is determined to achieve her object in that direction. She is not prepared to wait until some day England is prepared, if she so pleases, to confer sovereignty on India. But India will do everything possible to accelerate the pace of progress and be a sovereign State as the Dominions are.

Sir, we have to note that whenever any measure, whether a Bill or any other proposition, is brought before this House, we have to consider it on merits and all the relevant considerations must be weighed and if we cast our vote one way or the other, we are expected to state our reasons and grounds for it. For this reason, Sir, whenever any occasion arises it is not merely the text of a particular Bill with which we have to deal but it is the broader aspects of it as well which we have to take into consideration. My Leader has in his own admirable way dealt at length with the broad principles of the Bill as well as the textual aspects of it. It has been suggested that it was not the Government of India which was very anxious to bring this Bill but it was the Punjab Government who requested the Government of

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India to bring in this Bill. That was the effect of what had been said. The initiative was taken by the Punjab Government. It was the Punjab Government who wanted this Bill. Well, Sir, I was also, while reading the speech which was made the other day in another place, struck by the argument which was advanced by a leader of one of the parties there, that there was something in what he said that this was not a provincial subject or a concurrent subject and it was only this House, the Central Legislature, which had got to deal with it. But, although I was not quite satisfied with that argument when I came here, and discussed it with my Leader, the arguments which he advanced impressed me as being unassailable, in spite of what Mr. Parker might say. Mr. Parker might presume that he is a great authority on law, but with all respect to him I maintain that what my Leader has said is right, namely, that it is not in the exclusive sphere of the Central Legislature in which this Bill could be brought. It was open to the Provincial Government and it is open to this Government also to enact legislation on this subject. The contention was that, if the Provincial Government wants this Bill, it was proper for the Provincial Government to enact it. Why does the Provincial Government fight shy of a Bill which they want, and want to shift the responsibility to this House. We have not been given any reason for it. Well, it is not contended on our behalf that it was a provincial subject pure and simple and that it could not be brought in this House. What he wants and he still maintains—and I hope Mr. Williams will not contradict my Leader when he said that it is a question which falls under the concurrent list and not entirely under the Federal list.

Sir, I would like to make a few remarks now with regard to the broader aspects of this Bill. We have been told that it will affect the defence of India and it is to save our own necks that we want this Bill. For the interests of this country we want this Bill. If we were satisfied that in the interests of this country the Bill is required, we too would have supported it. But far from being satisfied that it is required in the interests of the country, we are convinced that it is against the interests of this country to pass such a law. Very often we use misnomers and incorrect expressions. The English language is particularly apt for them. You can almost have contradictions in terms: Like when the Government of India say that the defence forces of India are for the defence of India. The defence forces of India are intended to defend the British interests in India and incidentally Indian interests. If you were in a fortress defending yourselves and there in the fortress you had a number of servants and others also, if you said that you were fighting for the defence of those who were your servants, that would not be the correct position to state. The real truth is that the defence forces of India are mainly and principally for the defence of the British interests in India. I was not surprised to hear Mr. Parker saying that he entirely agreed with the Government. He always agrees with the Government, and for very good reason, because it is the British interests which he represents that are protected by the Government, although they are protected at India's cost. Our army is an Indian army in the sense that India has to pay for it. It has to fight for British interests and it has to

be manned by Indians. Except in that sense, the term "Indian Army" or the "Indian Defence Force" is a misnomer. We have declared times out of number, and we declare it again here today, that whenever some measure is necessary for the defence of India and in the interests of the country, no party in India will lag behind in adopting necessary measures. We object to this Bill on many grounds.

(At this stage the Honourable the President vacated the Chair which was taken by the Honourable Mr. Hossain Imam.)

One speaker suggested that if the drafting of the Bill was not very happy and perfect it could have been improved. But to suggest improvement is possible only when there is agreement on the principle of a Bill. It is the agreement on principle which is wanting in this case. We do not at all agree with the principle of this Bill, and we cannot make any contribution towards the improvement of its drafting. In the Statement of Objects and Reasons it is very clearly said that the Bill is required for the protection of the Empire. This is not the way to protect the Empire. To protect the Empire, you must have the spontaneous, genuine and whole-hearted sympathy and support of India. If you force India to support the measure, that support is a very dangerous support to obtain. It is open to England to obtain India's genuine support provided she makes the Indians feel that they are masters in their own house as are the Dominions or the people of England. All the speakers, whether they spoke in opposition to the Bill or in support of it, whether they disagreed with us and tried to ridicule us and flew at the throat of the Congress^d, we do not mind that—all of them agreed as to the fundamental principle enunciated by the Congress. My friend opposite says he does not agree, but his speech indicated that he did agree. Either I should believe his words or I should believe his nod. I am prepared to disbelieve either that he wants me to disbelieve. Anyway, barring the Honourable Member whose speech perhaps did not convey, or as he believes that it did not convey what I stated, to my mind, however, it did convey—and others also who have spoken have made it clear—that the defence of this country must be under the control of responsible Ministers, and until that is done, India is entitled to refuse to give you any support required for Imperial purposes.

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

Sir, I remember having read some years ago what Herbert Spencer said in one of his books, and although I do not remember the exact expressions used by him, I will express what he said. He said: "We, Englishmen, read with glowing admiration the accounts of the Zulu rebellion and read with horror the efforts made to put it down. But when we come to ourselves and see that the Hindu rises in revolt against our rule in British India, we see nothing but a heinous crime in it". The facts are the same, the motives are different. In the former case the Englishman has taken a very dispassionate view, but in the latter he is biased. In the case of India, there is a bias and there Spencer says the Englishman's judgment is warped, and therefore, when the Hindu rises in revolt against British rule, the Englishman thinks it is a heinous crime! What the Honourable Mr. Williams said was that "It was intolerable" that the Indians should have made the speeches ascribed to them. In his own country—we have

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read English history—Englishmen have risen many a time and have overthrown monarchs and established constitutional government without any compunction of conscience. That was tolerable because they were Englishmen and it was their own government which they wanted to establish. It is intolerable here when Indians want to establish a government of their own, and when they tell their own countrymen that this is a war in which they will be asked to go and fight, shed their blood and give their lives, not for India, but for the defence of England. I thought that in the year of grace 1938, at any rate, even Englishmen in India would realize that India like the Dominions should have freedom to join or not in an Imperial war. Even when war clouds are hovering in the atmosphere, the Dominions are saying that it would be for them to decide whether to engage themselves in the impending war or not. There is no question of their being involved in a war automatically. It does not mean that because England declares war, therefore, they must also join. Even in this situation they have made those declarations and we all know that their defence forces are not as adequate as that of India, and they depend a great deal upon the Imperial Navy and the Royal Air Force. True, they are trying to make up their deficiency, and we want also to make up our deficiency too. In these circumstances I would request Government to consider whether they should tell us that it is intolerable for them to hear us say that we shall go and tell our people not to enter the army. Sir, a country may enter a war, but then it must feel that it is a righteous war and a just war; and further there must be another consideration. It must stand to gain something very substantial or it must be to avert a national calamity. If it is not to avert a national calamity it need not involve itself in a war. Now, is not India entitled to ask herself this question, if there is an Imperial war what is the substantial gain for India? What is the national calamity which will befall India if she does not join in the war? We all know that in the Abyssinian campaign Italy was entirely wrong. There was justice on the side of Abyssinia. It was an entirely aggressive and unprovoked war, and many nations of the world sympathized with Abyssinia, but none of them raised even their little finger, and even Britain passed note after note, resorted to economic barriers against Italy, but it stopped short there. She would not involve herself in that war.

Now, if there is a war in Europe and England is involved why should India go to the help of England? She can only do so if it is definitely and clearly to her interest. We know that large promises were made during the last war when England wanted India's help and assistance sorely. They made very generous and very large promises, and I believe they were quite sincere too at that time. I remember soon after the outbreak of the war Lady Willingdon presided at a school prize distribution ceremony in Bombay and Lord Willingdon, the then Governor of the province, with a ring of sincerity at that school ceremony said that "India has a future so bright that it never had one like it before". That was in 1914. Twenty-four years have gone by since then and we all know what little has been done and the repressive régimes we have had to pass through and the few rights which India has obtained under the 1935 Government of India Act.

It is the control of defence which is the crucial test of a country's self-government and power. When India has that power then we can feel that England is really sincere in trying to put India on the road to self-government. Again, in the Indian Army there are 4,000 officers and out of them only 300 are Indian officers and they also are in the lowest ranks and their salaries are one-half or two-thirds of the salaries of the British officers. Recently, we have had an illustration of the way they do things in England. Because the emoluments were not sufficiently attractive to Britishers in their army and because a larger army is wanted at this time, even patriotic Englishmen had to be attracted by better emoluments; and now the emoluments of both officers and men have been increased. I feel that the Punjab Government is not unconscious of this. Even the Punjab Government knows that the Indian soldiers are daily getting to know that, though they are in no way inferior to their English comrades, they get only one-fourth the salary of the British soldier, leaving aside the other amenities with which the Britisher is provided and with which the Indian has to go without. That is quite sufficient to make an Indian discontented. I know that British recruits are not forthcoming; if you believe in a real partnership and want the help of India, if it is necessary for your defence to have a large army, why don't you recruit Indians for your home army? If such a proposal was made, we would consider it. But to tell the truth, the army in India is nothing but an army meant for protecting British interests, and it is intolerable that in this army you should use our men at a pittance of Rs. 15 or Rs. 16 a month to shed their blood outside our shores, and then penalize those patriotic souls who tell their countrymen not to join and fight for you. It is unrighteous and we cannot approve such a measure.

Sir, some friend has said on the floor of the House that the time has not yet come. "We should wait for the proper time to come and we can then make this law a dead letter. I quite believe they are sincere. I am sure they mean what they say. They are prepared to support this Bill here because they think that when the proper time comes this Bill will be ineffectual and meaningless. One year's imprisonment—or even if it were 10 years imprisonment—will not deter them from their course. This measure will not prevent them or us. That is one way of looking at things, I agree. Some statesmen do take that view also. I was told that in one Indian State a very distinguished statesman of the Mutiny days gave his support to the mutineers on the one hand and to the British Government on the other, and waited to see which way the scale would turn, and then lent his support to the winning side. But that is not our method of approach to any measure that will come up before this House. We want to say plainly, very frankly, what we are doing and what we will do. We do not want to delude the Government into believing before war is declared that we are with you and when the war is declared that we are not with you. It is for the Government to take the warning. I know that Englishmen are human beings and as such they have a bias, but may I ask my own countrymen very respectfully what bias they have in order to support, what patriotic or even communal bias they have to support, this measure? Once a man is in the army will you go and tell him, "Now you do not fight". My Honourable friend Mr. Parker said that nations have been described as being

[Mr. G. S. Motilal.]

armed camps and that is exactly the reason why we say that nations in Europe being armed camps we should not throw our weight with them unless and until we are satisfied that we are in possession of freedom. Let there be no mistake. We shall fight another war for strengthening our own bondage. No, we want to break these fetters!

Sir, I may now briefly refer to some of the remarks which have been made by some Members whose privilege it is, and it gives them great pleasure to indulge in gibes against the Congress. It was said that the Indian Criminal Law Amendment Act which was vehemently opposed by the Congress has been used in the Madras Presidency in dealing with persons who have been opposing the introduction of Hindi in the manner in which they have done. There is all the difference between a responsible Minister using a particular power and an irresponsible Minister using it. You might know that John Stuart Mill has said somewhere that the danger is that where you have a responsible minister you give him too much power and not too little; but there is the safeguard. If he misuses that power or abuses that power, he will have to say good-bye. Sir A. P. Patro was a Minister himself and he should have realized that if his policy had been really one which had the approval of the majority they would be able to still carry on —.

THE HONOURABLE SIR A. P. PATRO: Steam-roller or the Car of Jugger-nauth?

THE HONOURABLE THE PRESIDENT: Please do not make personal remarks.

THE HONOURABLE MR. G. S. MOTILAL: He cannot turn out the Honourable the Leader of the House, but he can surely turn out Rajagopalachariar. One Honourable Member referred to the intended use of the Criminal Law Amendment Act by the Government of Bombay with regard to some labour trouble. He said they are now using it. But it is forgotten that they are using it with the approval of the Legislature, of the electorate.

THE HONOURABLE SIR A. P. PATRO: Steam-roller!

THE HONOURABLE MR. G. S. MOTILAL: What is there to prevent my Honourable friend from going to the electorate and persuading them to support him and not be steam-rolled but put the steam pipe, into the Ministry.

THE HONOURABLE SIR A. P. PATRO: What a philosopher!

THE HONOURABLE MR. G. S. MOTILAL: There have been a number of by-elections held in all the provinces and they provided a test whether the Ministries had the support or not of the electorate. I do not say that for all time they alone will have the support. As long as they serve the people sincerely they will have it. I do not wish, Sir, in deference to your wishes to indulge in personal remarks; in spite of provocation I will refrain from doing it. If the Congress is using that measure, it is not encroaching on civil liberties, it is to repel the encroachment on civil liberties. No fair critic can deny that the Congress has given greater civil liberties to the people than existed before they took up the Government.

THE HONOURABLE MR. HOSSAIN IMAM : Question ?

THE HONOURABLE MR. G. S. MOTILAL : I know Members can question, and I do not wish to prevent them from questioning. I am only saying that in their calm and dispassionate moments, fair critics will admit the correctness of my statement. I know there are incorrigibles also who would never admit anything, but that does not matter because one has to depend upon the good sense and the solid common sense of the larger number of people who are the proper judges of what the facts are.

THE HONOURABLE SIR A. P. PATRO : The majority in Congress assemblies !

THE HONOURABLE MR. G. S. MOTILAL : Some Honourable Member asked here, " If the British Empire goes down, do you know what will happen to India " ? He did not himself describe what would happen to India. Is India the only part in the world ? If the British Empire goes down, what will happen to so many other countries ? Even Britishers are not so unimaginative to fancy that disaster will befall India when some day Britain ceases to dominate India. India will be a self-governing country. It may happen some day that some great disaster may overtake one country or another—though we do not wish it. If any one thinks that a large country like India should always depend upon another country, then I can only regret his mentality, his inferiority complex. Such people as he do not possess confidence in themselves. India has lived for thousands of years and will live for thousands of years, Sir, either in friendship with England, if England wants it, or as other countries have lived and are living. I do not believe that except for England India will be nowhere. Some members have said that there have been 115 speeches and so on and young men have been carrying on anti-recruiting propaganda. But the Honourable Member from the Punjab who has first-hand knowledge of his province told this House a short while ago that the people of the Punjab are eager to go into the army. They cannot be dissuaded by these speeches. I quite believe it. That is the correct position. And I say, Sir, that it was not necessary to bring in a Bill like this. But even if Government had some doubts they could have sent those Members who have been eloquently pleading for this measure to tour round the Punjab and persuade the people to go into the army for the support of the British Empire. I do not know why Government did not do so. And if they are loyal enough—and I believe they are—why should they not themselves go instead of waiting till Government asks them to go ? Let them go to the villages, let them go from place to place and say : Look here, my Punjabi boys, go into the army ; it is for the good of the country ; it is for patriotic reasons. And if they have a good case, then after all they should be able to persuade them to enlist. Persuasion and dissuasion are two methods that can be employed by either party and whichever champions the better cause will be able to succeed. But there are people who want to use the British Army and Government and to take shelter behind them and say : " Without the British Empire we shall be nowhere " . Sir, this measure is entirely opposed to what I should call a sense of reasonableness.

Some reference was made to C.I.D. reports—

THE HONOURABLE MR. A. DE C. WILLIAMS: No reference was made to C. I. D. reports, at any rate by me.

THE HONOURABLE MR. G. S. MOTILAL: I did not say that reference was made by Mr. Williams, Sir.

THE HONOURABLE MR. A. DE C. WILLIAMS: Nobody is qualified to say anything about the C. I. D. reports. They know nothing about them.

THE HONOURABLE MR. G. S. MOTILAL: Sir, reference was made in this House by more than one speaker to certain C. I. D. reports. But merely because of such C. I. D. reports, are we to rush to a measure of this kind? Should not the Punjab Government be told that if they feel the necessity of it, they should, with the consent of the Members of their Legislature, enact a law of this kind? Sir, in this House there are representatives of provinces also. Well, if recruitment is affected in the Punjab, will anybody say that in the other provinces also recruitment has been affected? Our grievance has been that our Punjabi friends, whom we helped the British Government to subdue with our men in the army, are the only persons now recruited. I do not think even our friends from the Punjab would say that they and they alone should form the army and that the other provinces should be deprived of their share in the defence forces. The other provinces have been pressing this point. The recruitment figures do not show that recruitment has been affected in any sense. And no party in India will say, if it is a question of the defence of India, that recruitment to the Indian Army should be opposed. On the other hand, there is a Resolution coming very shortly before this House from a member of a province to the extreme south of India, who wants that his province should also get a due share in the recruitment to the army. But if the Government had followed a wise policy of getting the recruits to the army from each and every province, then they could have told the Punjab Government that it was not necessary to introduce such a coercive measure in order to maintain the recruiting strength. If recruitment is affected in the Punjab, there are other provinces to satisfy the requirements of the defence of India. The policy which the Government has adopted is to punish opposition to recruitment. Under these circumstances, we must, and do, oppose the Bill.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab: Non-Muhammadan): Sir, I regret that I have to oppose the Bill whose consideration has been moved by my Honourable friend Mr. Williams. My regret is because the unpopular Bill should have to be piloted here by the former popular Secretary of this House and by Mr. Ogilvie (a very popular and able Punjab Civilian) in the other House. Again, my regret is that I should have to oppose a Bill which professes to prevent discouragement to recruitment for the Army in India. I am one of those who would make every young man undergo compulsory military training in order to form a militia for national defence. I belong to a community which has to its credit great martial traditions even though the British have failed to encourage them. I am all for training on a nation-wide scale in the art of national self-defence.

Holding these views why do I oppose this Bill? The Bill, Sir, smacks of the very bureaucratic method which we all thought was a thing of the past. It is amazing how when provincial autonomy is working all over India the authorities at the Centre are displaying such a reactionary outlook. They seem to be living in a world of their own. They are not alive to the popular standards by which governments must justify their policies and actions.

My own belief is that the reason for this attitude of Government is the peculiar position of politics in another House. For some reason or other Congress and the Muslim League are at loggerheads. The latter must oppose the Congress whether the cause deserves it or not. The Government felt fortified by this unfortunate division in the ranks of the Opposition in another place and got the Bill passed in the teeth of popular disfavour. What did the Government do? It did not examine the Bill in the light of popular opposition but in the light of conciliating a section of opinion whose minority support was required to pass the Bill. The Bill, therefore, as amended by the other House does not have popular sanction.

It may be argued legitimately that we in this House, representing vested interests, should not be swayed unduly by mass sentiment. I agree. But we cannot surrender the right of examining the Bill on its merits and if our view coincides with the mass view so much the better for national progress.

I have already made it clear that I do not support any one who would carry on propaganda to discourage recruitment in the army. But how would I oppose such men? Would I arm the executive with extraordinary powers for repression? No. My contention is that those who believe in the army's utility should preach it to the people and drown the voice of those who plead to the contrary. That is the fundamental basis of freedom of speech and freedom of thought. We must not impose our will on the people by laws passed in the teeth of their opposition.

It is said that the Punjab Government wanted this Bill to be enacted. At one time there was a disclaimer against this suggestion but I find from the speeches of the Punjab's Premier that he supports the Bill. May I ask whether Sir Sikandar Hayat is so afraid of public opinion in the Punjab that he wishes to arm his Government with these extraordinary powers? We have been told day in and day out that the Unionists of the Punjab are the representatives of the masses and that their lead is accepted by the masses. If that is so why the need for this legislation? Cannot Sir Sikandar flood the countryside with propaganda by his legionaries and counteract the propaganda by a handful of pacifists?

To my mind, Sir, this Bill is not only a confession of incompetency by the Central Government, but what is more so, it is a confession of rapidly losing popularity by the Sikandar Ministry. I can understand the adoption of conscription as a national policy but so long as this is not adopted we must let citizens be free to choose whichever career they wish to adopt. The pacifist has as much right to preach his creed as the Recruiting Officer to paint a glowing account of an army career. I have enough confidence in the patriotism of our people to feel sure that the army will continue to attract the necessary number of recruits even though the army is not national and subserves an Imperialist purpose.

[Rai Bahadur Lala Ram Saran Das.]

I oppose the consideration of the Bill finally because I am afraid if this weapon may not be used by the Punjab Ministry to deal unjustly with its political opponents. I warn the Central Government that the responsibility for this unfair political warfare will fall on their shoulders and that they would be proving to the world that though Parliament has enacted a measure of reforms the Central Government remains the champion of reactionary opinions.

Sir, this Bill does not come to us in the form in which it was presented to the other House. In the present case the amended form in which the Bill was passed shows conclusively that the conditions which alone would make the Bill necessary is non-existent. We find that the reason for formulating this is to give Government the power of repression. Where was then the occasion for making this addition to the armoury of repression ?

A word about the Government of India's virtual change of front with regard to the Punjab. Their original position was that the Punjab Government wanted the Bill. That is why they included in the Bill provision for making the Bill immediately applicable to the Punjab. By accepting the Punjab Premier's recommendation, which I believe was only informal, this Bill was introduced in the other House. Sir, I might mention that there seems no necessity for this Bill at all. I agree with my Honourable friend Sardar Buta Singh that in the Punjab any number of recruits will be forthcoming whenever there is any real need. I know that recruitment is going on in the Punjab on a fairly good scale. The only fear is that as the Punjab Ministry is fastly losing its popularity, they want to be armed with this Bill. Sir, I must say that Government have introduced this Bill realizing that perhaps there may be influence on the masses by the persuasion of Congress people who do not favour recruitment. I would like the Government to study the root causes which led to their bringing this Bill before the Central Legislature. Sir, I have already said that during the Great War, the people were offering themselves as recruits in very large numbers, and as I mentioned before, I was instrumental in providing over 8,000 recruits to the army. So, I was in the personal know of what the feeling of the people then was. Many people came to me and said, " We want to enlist in the army ; give us preference over others ". But now I do want to know why this Bill is necessary. For those people who do not want to go to the army, you cannot force them to enlist. If I rightly remember, I understand that during the Great War, an Indian regiment which was sent abroad refused to fire at the enemy for communal reasons. I know the Defence Department had very great powers to deal with that particular regiment, the military law was, however, not fully applied and that regiment was withdrawn from that field. So, even those people who did join the army and whose sacred duty was to obey the commands of their commanders, refused to fire. This thing happened, if I rightly remember, in other places also. So, as my Honourable and esteemed friend Sir Phiroze Sethna remarked the other day, that you cannot make an unwilling horse drink water. You cannot entirely depend upon those whom you recruit by force.

The Honourable Sir A.P. Patro made an attack on me and submitted that the C. I. D. always make right reports. Perhaps that may have been his experience

as a Minister in Madras. Because he probably went by the C. I. D. reports, he does not want to admit the fact now. I can mention several instances in which the C.I.D. made wrong reports and misled the Government and the consequences were bad. I do not want to bring in personalities, but to illustrate and convince Sir A. P. Patro and the House I may say that some time back, when we had Mr. Mant (now Sir Reginald Mant) as Deputy Commissioner, Lahore, I went to see him one day on some business, and Sir Reginald Mant told me that all was peaceful in the town. I said that was wrong and I told him that his bungalow would be invaded the next day by a mob and every window pane would be broken. He was surprised to hear that and said there was no C. I. D. report about it. I said I was in personal touch with the masses and I knew that there was no peace and he was to be treated in the manner I had described to him. He telephoned to the Superintendent of Police, Mr. Rundall, and informed him of what I had said and asked if he had any information. The Superintendent of Police told him there was nothing to be anxious about and there was nothing in the C. I. D. reports. But the next day the bungalow was invaded by the mob and every window pane was broken. Sir Reginald telephoned to the Superintendent of Police for assistance which arrived though late but dispersed the mob.

How can one expect from an illiterate person correct reports? If the C. I. D. recruits be the right sort of people, they will be of great assistance. I can give this House many instances in which the illiterate informers of the C. I. D.—I am not talking of the officers, very few of whom come in direct contact with the masses as the reporters do—have done so badly. There was a political crime in Lahore some time ago and several people were arrested. One of these was found to be a C. I. D. man from another province. After inquiry of course he was released, but though that man knew what was to happen he had not the courage to inform the Government.

THE HONOURABLE THE PRESIDENT: These are all secondary matters on which much can be said on both sides. And you have given enough illustrations.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: Very well, Sir. Then Sir A. P. Patro said there was peace in the country. I can say that people in India have no peace of mind, and when there is no peace of mind, then where is the peace?

Then, Sir, he talked about British prestige. I am one of those who want British prestige to be supermost, because I believe in the British connection. But, Sir, history repeats itself, and we find now that although raids are being made on British ships and on the British Navy the Government is taking it lying down. If you go on taking things lying down your supremacy will be in danger.

Sir, my own opinion is that the Punjab Ministry were induced to urge this measure because of Congress persuasion of the masses. That is my impression and that impression is strengthened because they did not approach the Government of India as a Provincial Government; the Premier possibly did that informally.

[Rai Bahadur Lala Ram Saran Das.]

Sir, I would ask the Government to open recruitment to all classes. My friend the Nawabzada Sahib said that I did not belong to a martial class. There he was wrong. I may not belong to those statutory martial classes which have now been created, but I can tell him that as long as my great grand-father was in command of the army not even the Maharaja Ranjit Singh could invade the then Lahore State. However, Sir, that is a matter on which I need not dwell longer. But what I must say is that when in the British Army the sons of tailors and cobblers are admitted as King's commissioned British officers and they prove to be good officers, why should there be class discrimination amongst Indians? I can mention a few names to prove that what I am saying is right. There are two tailors at Lahore whose sons have got the King's commission in the British Army; there is a third, a cobbler, whose son is now a captain. My contention is that the time has now come when with scientific war it is intellect which is now required and not merely physique. There was a time when a non-intellectual man might have served the army better than an intellectual one. But with science taking a major part in warfare now, it is in the interests of Government to extend recruitment to the intellectual classes. Then Government will never have a lack of people offering themselves. I know from personal contact with the masses that there will be no dearth of people coming forward from the Punjab. Resentment has been caused by the treatment meted out to the Indian officers in the army in particular. I won't mention any names but I can tell you that many officers now in the army have told me that the treatment accorded to them is not what it ought to be.

Sir, we also see that the Government is not Indianizing the army at the pace that public opinion demands. If these drawbacks are removed I think there will be no difficulty at all in finding recruits. I might mention that the Ghirths in the Punjab which is mainly an agricultural community rendered great service in the war, but as soon as the war was over that community was refused recruitment in combatant units although the authorities in the army admitted that they did well in the war. The same is the case with many other communities, and so, as other Members have observed, the time has come when recruitment should not be confined to the so-called martial classes which have been patronized by the Government and who have done well in the past. My belief is that any man who is given a good training can be as good a military officer as anybody else. Nawabzada Kurshid Ali Khan said that his views were confirmed by the Zamindar Conference which Kisans term as sarkari conference which was recently held at Lyallpur. I might say that it was a purely big landlords' conference who were generally exploiting the poor cultivating tenants and on whom Ministers in power brought their influence to bear. The Punjab has no longer a popular ministry now as the Nawabzada knows that there was a mammoth rival Kisan Conference where resolutions were passed condemning the present Punjab Ministry—

THE HONOURABLE NAWABZADA KHURSHID ALI KHAN: That was by the zamindars.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: You may hold all those who own lands as zamindars. I am a landlord myself and hold

that the real reason is that these zamindars are not giving fair treatment to their tenants. They generally take half of their produce for the work and for the hard labour that the cultivators put in. The Zamindars Conference was purely a conference of those landlords who do not work with their own hands, do not plough the fields themselves, and do exploit the poor cultivator (tenant) and had the patronage of the Ministry.

THE HONOURABLE MR. A. DEC. WILLIAMS: Surely, Sir, on a point of order what have landlords and tenants to do with the Bill?

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS: It is mostly tenants mainly who come forward for recruitment. The difficulty has been felt that those tenants do not offer themselves in such big numbers as they used to do in the past. Recruitment is so limited to certain classes that I know that although Jats are considered as very good fighting material, Jats of the Jullundur Division are not being freely enlisted in the army. Sir, the economic condition due to the depression in the Punjab is so low that people must come forward for recruitment to keep their body and soul together. Sir, I do not want to say any more on the subject but I can tell you that by adopting this Bill and making recruitment by force of law will not be in the interest of the army.

With these words, Sir, I oppose the Bill.

THE HONOURABLE THE PRESIDENT (to the Honourable Mr. A. deC. Williams): Will you reply now or on Monday?

THE HONOURABLE MR. A. DEC. WILLIAMS: I shall be very brief, Sir.

At the outset I must take the gravest exception to the observations made by my Honourable friend Lala Ram Saran Das in relation to the popularity or otherwise of the Ministry in the Punjab. Whether or not the information at the disposal of this Government was conveyed through that Ministry has nothing whatever to do with their popularity or otherwise, and the fact that this Bill was not brought in the Provincial Legislature is due to the view taken of the legal position by the Government of India. I am aware that it is a view which is not shared by Honourable gentlemen opposite, or some of them; but it is the view which was taken in another place by the Honourable the Law Member of the Government of India and it is the official view of Government; and so long as we take the view that this Bill regulates a List I subject it is manifestly impossible for the Bill to have been brought in the Provincial Legislature, and therefore no inference can be drawn as to the unpopularity or otherwise of that Ministry from the fact that it was not responsible for introducing the Bill in the local Legislature.

Now, Sir, as you yourself have pointed out to the House, an absolute welter of irrelevant matter has been brought up in connection with the consideration stage of this Bill. I think that perhaps it will make for expedition if I associate myself warmly with everything that every Honourable Member has said in this House which did *not* relate to this Bill (and that is practically everything that they did say). There were very few points made which appeared to be really relevant. One which struck me was made I think by my Honourable friend Sir Phiroze Sethna. It was this. Why, if Government

[Mr. A. deC. Williams.]

regards these activities as so serious in this country, does the British Government tolerate speeches of this kind when made in Britain? Why do they allow the members of the Oxford Union to pass resolutions of such and such a character? The explanation was partly given by my Honourable friend Mr. Sapru who said that the common sense of the British nation is such that they pay no attention to these speeches. I think it is a fact that the average British citizen—and I mean no disrespect to my Honourable friends opposite—has the greatest suspicion of anyone who is gifted with too much eloquence and who is given to political utterances at large. But I think there is another explanation of the tolerance of the British Government for speeches of this kind, and that is the sense of humour of the average British citizen. I do not know how many Honourable Members have heard public orators in Hyde Park on a Sunday afternoon, but they get quite as much laughter as applause. So far as the Oxford Union is concerned, a body which is as likely as not to discuss whether marmalade is normally preferable to jam for breakfast, I do not think that Government need pay overmuch attention to its conclusions.

We have heard a great deal about different kinds of policy in connection with this Bill. I can assure the House in all sincerity that this Bill has no connection with *any* kind of policy, the policy of the Congress, the policy of the Muslim League, the policy of the totalitarian powers or even the policy of the League of Nations. It has nothing to do with any of these. It has not even anything to do with any particular policy of Government. It is the business-like effort of an employer to secure that his services shall be supplied with personnel and that that personnel shall be under decent discipline. It is no more than that. There is no trick about it, and for that reason and without further parley, I commend it to the Council for consideration.

THE HONOURABLE THE PRESIDENT : Motion made :

“ That the Bill to amend the Criminal law, as passed by the Legislative Assembly, be taken into consideration.”

The Council divided :

AYES—26.

Abdus Sattar, Hon. Mr. Adur Razzak Hajee.
Buta Singh, Hon. Sardar.
Charanjit Singh, Hon. Raja.
Chinoy, Hon. Sir Rahimtoola.
Das, Hon. Rai Bahadur Satyendra Kumar.
Devadoss, Hon. Sir David.
Ghosal, Hon. Sir Josna.
Govindaehari, Hon. Rao Bahadur K.
Haidar, Hon. Khan Bahadur Shams-ud-Din.
Hossain Imam, Hon. Mr.
Hydari, Hon. Mr. M. S. A.
Ismail Ali Khan, Hon. Kunwar Haji.

Jagdish Prasad, Hon. Kunwar Sir.
Khurshid Ali Khan, Hon. Nawabzada.
Lal, Hon. Mr. Shavar A.
Menon, Hon. Sir Ramunni.
Muhammad Yakub, Hon. Sir.
Mukherjee, Hon. Sir Satya Charan.
Parker, Hon. Mr. R. H.
Patro, Hon. Sir A. P.
Roy, Hon. Mr. S. N.
Russell, Hon. Sir Guthrie.
Slade, Hon. Mr. M.
Stokes, Hon. Mr. H. G.
Thorne, Hon. Mr. J. A.
Williams, Hon. Mr. A. deC.

NOES—8.

Mitha, Hon. Sir Suleman Cassam Haji.
 Motilal, Hon. Mr. G. S.
 Pantulu, Hon. Mr. Ramadas.
 Ram Saran Das, Hon. Rai Bahadur
 Lala.

Ray Chaudhury, Hon. Mr. Kumarsankar.
 Roy Chowdhury, Hon. Mr. Susil Kumar.
 Sapru, Hon. Mr. P. N.
 Sethna, Hon. Sir Phiroze.

The Motion was adopted.

THE HONOURABLE THE PRESIDENT : This Bill has been thrashed out most thoroughly and exhaustively today and I do not wish to trouble the Honourable Members to come specially here on Monday next to see it through. I presume it won't take more than 15 or 20 minutes to finish it now. But I am in your hands as to whether we should finish it now or adjourn its consideration till Monday next.

(A number of Honourable Members cried : " Take it now ".)

THE HONOURABLE MR. RAMADAS PANTULU : I feel, Sir, it is necessary to speak on some of the clauses and also on the third reading. There are two amendments by a member of my Party.

THE HONOURABLE THE PRESIDENT : What is the general sense of the House—to proceed now or to adjourn ? (Only eight declared for adjournment.) From what I see now the general sense of the House is that we should proceed with the Bill.

The Question is :

" That clause 2 stand part of the Bill ".

The Honourable Mr. Kumarsankar Ray Chaudhury has given notice of two amendments. In my opinion those amendments cannot be allowed because the amendments require the sanction of the Governor General and as that sanction has not been obtained I am afraid under the rules I cannot allow them. I shall read first rule 19A. the new rule :—

(1) If any member desires to move an amendment which under the Act cannot be moved without the previous sanction of the Governor General he shall annex to the notice required by the Standing Orders a copy of such sanction and the notice shall not be valid until this requirement is complied with.

(2) If any question arises whether an amendment is or is not an amendment of the nature referred to in sub-rule (1), the question shall be referred to the Governor General and his decision on the question shall be final".

In the present case, no attempt has been made to obtain the sanction of the Governor General. I draw the attention of Honourable Members to section 108 of the Government of India Act which states—

" Unless the Governor General in his discretion thinks fit to give his previous sanction, there shall not be introduced into, or moved in, either Chamber of the Federal Legislature any Bill or amendment which.....

(c) affects matters as respects which the Governor General is, by or under this Act, required to act in his discretion ;"

[Mr. President.]

And further I draw attention to section 313 clause (4) which says :

“ Any requirement in this Act that the Governor General shall exercise his individual judgment with respect to any matter shall not come into force until the establishment of the Federation, but, notwithstanding that Part II of this Act has not come into operation, the following provisions of this Act, that is to say—

(a) the provisions requiring the prior sanction of the Governor General for certain legislative proposals ;

shall have effect in relation to defence, etc., etc.”.

So the Governor General's sanction is absolutely necessary for these amendments.

THE HONOURABLE MR. RAMADAS PANTULU : May I say, on a point of order, Sir—

THE HONOURABLE THE PRESIDENT : If you propose to question the ruling of the Chair, I cannot allow it, because the ruling of the Chair stands incontrovertible and is binding on all Members. If you want information—

THE HONOURABLE MR. RAMADAS PANTULU : I am making a submission to you. How does this relate to Defence ? This is a Bill to amend the Criminal Law.

THE HONOURABLE THE PRESIDENT : You have been arguing the whole day that the Bill relates to Defence. Every one of you has been arguing that this ought not to have been done. I do not think it lies in the mouth of Honourable Members, who have spoken the whole day in these terms against the Bill to say now that it does not relate to Defence.

THE HONOURABLE MR. HOSSAIN IMAM : On a point of information Sir. Did all the amendments that were moved in the Assembly have the previous sanction of the Governor General ?

THE HONOURABLE THE PRESIDENT : I do not know. I presume that they must have had the previous sanction of the Governor General. The President of the Assembly is a very old and experienced man and I do not think he would have allowed those amendments unless sanction had been given.

THE HONOURABLE MR. HOSSAIN IMAM : I would like the Additional Defence Secretary to enlighten the House on this point. I do not find any mention about it in the proceedings.

THE HONOURABLE THE PRESIDENT : It is no concern of mine as to what was done or not done in the other House.

THE HONOURABLE MR. HOSSAIN IMAM : I am asking the Honourable Mr. Williams to tell us.

THE HONOURABLE MR. A. DE C. WILLIAMS : I have no information. It makes very little difference having regard to the provisions of sub-section (2) of section 109 of the Act. Failure to obtain previous sanction in many cases does not invalidate a measure. It makes no difference.

THE HONOURABLE MR. HOSSAIN IMAM : Was sanction of the Governor General obtained for introducing this Bill ?

THE HONOURABLE MR. SHAVAX A. LAL : That is printed on the Bill itself as introduced in the Legislative Assembly.

THE HONOURABLE MR. A. DEC. WILLIAMS : May I submit that the fact that the Governor General has given his sanction will operate as a ruling by him under rule 19A, sub-rule (2) ? The question cannot be raised.

THE HONOURABLE THE PRESIDENT : Yes. We must carry out His Excellency the Governor General's orders.

The Question is :

"That clause 2 stand part of the Bill."

The Motion was adopted.

Clause 2 was added to the Bill.

Clause 1 was added to the Bill.

The title and Preamble were added to the Bill.

THE HONOURABLE MR. A. DEC. WILLIAMS : Sir, I move :

"That the Bill, as passed by the Legislative Assembly, be passed."

THE HONOURABLE MR. RAMADAS PANTULU : Sir, I rise to oppose this Motion. I promise that I will not take any long time over it —

THE HONOURABLE THE PRESIDENT : I cannot stop you from talking as long as you please.

THE HONOURABLE MR. RAMADAS PANTULU : I know. I do not however wish to put you to the necessity of doing it. I will be failing in my duty if I record a silent vote, without once more raising our protest against this most inequitable and most obnoxious Bill. It cuts at the very root of the liberty of speech and liberty of public meeting in this country, and I am sure that the opposition to this Bill, when it is promulgated in any province, will make itself felt most unequivocally.

Sir, I only wish to say one word in reply to certain observations made by some Honourable Members with regard to the Criminal Law Amendment Act having been used by the Madras Government and that therefore the Congress Party is not acting here consistently in opposing this Criminal Law Amendment Bill when their own Party is using a similar measure in the Province of Madras. There are two misapprehensions about this. First of all, a declaration has already been made by the Congress authorities that very soon the Criminal Law Amendment Act will be repealed in that province. Secondly, this law is not being used at present in Madras to suppress the civil liberties of any individual but to bring to book those who are trying to interfere with the civil liberties of citizens. What the anti-Hindustani agitators are doing is to picket the houses of the Premier and the Education Minister in Madras. They gather in large numbers before their houses to disturb them and prevent them from doing their legitimate business and indulge in filthy abuse.

THE HONOURABLE SIR A. P. PATRO : No, that is wrong.

THE HONOURABLE MR. RAMADAS PANTULU : That is absolutely correct. That is what is being done.

THE HONOURABLE SIR MUHAMMAD YAKUB (Nominated Non-Official) : Did not the Congress do the same thing? Was not the house of Sir Shanmukham Chetty, President of the Assembly, besieged by the Congresswalas at Delhi and he was not allowed to vote and preside?

THE HONOURABLE MR. RAMADAS PANTULU : Why did you not proceed against them under the Act? I may tell you, Sir, that what is sought to be prevented is interference with the civil liberty of the Premier and of the Education Minister who are both citizens and are entitled to exercise their liberty. The anti-Hindustani agitation is not prohibited or suppressed.

THE HONOURABLE SIR DAVID DEVADOSS (Nominated Non-Official) : How is all this relevant to the third reading of the Bill?

THE HONOURABLE MR. RAMADAS PANTULU : It is as relevant as the attack when it was made.

THE HONOURABLE SIR DAVID DEVADOSS : Two wrongs do not make one right.

THE HONOURABLE MR. RAMADAS PANTULU : So long as the Act is on the Statute-book, the Ministers are entitled to use it. There is a world of difference between a responsible Government using the Act and an irresponsible Government using it. There is all the difference, because if the Act was misused by a responsible executive there is the safeguard of the electorate or the Legislature for correcting it. You can turn the Ministers out of office. Let it be tried. Let my friend Sir A. P. Patro, and his party, go to the polls, try their luck and turn out Mr. Rajagopalachariar and his Ministry from Madras Legislature for the misuse of the Act. The constitutional procedure open to any Party that is aggrieved by the mis-government of any Ministry is to appeal to the electorate. There were many numerous bye-elections to the Madras Legislature; why did Sir A. P. Patro's party men not try their chance on this issue? Their appellate court is the electorate and not this House. There is no use of complaining to the Government of India or the Council of State that the Madras Ministry has been mismanaging affairs. Their electorate is his forum to judge and I would advise my Honourable friend Sir A. P. Patro to try his luck at the polls at the next opportunity that occurs.

THE HONOURABLE THE PRESIDENT : Motion made :

“ That the Bill, as passed by the Legislative Assembly, be passed.”

Question put and Motion adopted.

The Council then adjourned till Eleven of the Clock on Friday, the 9th September, 1938.