

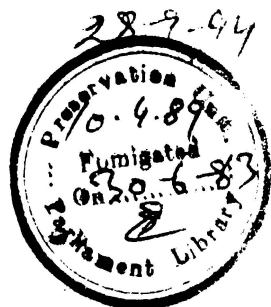
7th February, 1934

THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)

Volume I, 1934

(24th January to 16th February, 1934)

SEVENTH SESSION
OF THE
FOURTH LEGISLATIVE ASSEMBLY,
1934



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1934

Legislative Assembly.

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THE HONOURABLE SIR SHANMUKHAM CHETTY, K.C.I.E.

Deputy President:

MR. ABDUL MATIN CHAUDHURY, M.L.A.

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SIR LESLIE HUDSON, Kt., M.L.A.

MR. N. M. JOSHI, M.L.A.

Secretary:

MIAN MUHAMMAD RAFI, BAR.-AT-LAW.

Assistant of the Secretary:

RAI BAHADUR D. DUTT.

Marshal:

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

Committee on Public Petitions:

MR. ABDUL MATIN CHAUDHURY, M.L.A., *Chairman.*

MR. K. C. NEOGY, M.L.A.

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

MR. T. R. PHOOKUN, M.L.A.

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

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LEGISLATIVE ASSEMBLY.

Wednesday, 7th February, 1934.

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

THE INDIAN STATES (PROTECTION) BILL.

Mr. President (The Honourable Sir Shanmukham Chetty): The House will now resume consideration of the Indian States (Protection) Bill.

Sirdar Harbans Singh Brar (East Punjab: Sikh): Mr. President, on the last occasion when we dispersed, I was at the point regarding the rights exercised by the paramountcy. I want to bring to the notice of the House that the rights are not few but they are very many which are exercised by the Paramount Power in the affairs of the Indian States which give them a large amount of share in the internal administration of the States, and which, if exercised in a manner satisfying the wishes and demands of the subjects, can, to a large extent, stop the present agitation against the princes. In the rights exercised by the paramountcy are included external affairs, international relations, defence and protection, internal administration (i) the Paramount Power has duties of corrective obligation in cases where its intervention is asked for or becomes necessary; (ii) to enforce popular demand in the States for a change in the form of administration without eliminating the prince, intervention for the benefit of the prince, intervention for the benefit of the State, intervention for settlement and pacification, intervention for the benefit of India as a whole, and necessary British jurisdiction.

The cry against the princes has mostly been that they have not responded to the demands of popular opinion within the States and that the Paramount Power, having promised them protection from external attack as well as from internal disorder, have placed the princes in a position that they need not care whatsoever for the legitimate demands of the popular parties in the States and that it is the duty of the Paramount Power to exercise the right of paramountcy in a manner as to satisfy the demands of the princes as well as of their subjects so that harmonious relations between the princes and their subjects may continue for the peace and prosperity of the States. But the subjects of Indian States have shown by their speeches, by the literature that has been supplied to us and other things, that the Paramount Power has more often than not neglected to consider interference in the interests of the subjects of the Indian States and that, therefore, necessity arose for them to appeal to the British Indian public to sympathise with their down-trodden condition and to support them in attaining their objects. Nor is the position of the Paramount Power a happy one. While they are so much abused and criticised by the Indian States subjects, they do not

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get either the admiration or even good words from the princes. It is quite clear to us, if we refer to the published views of the princes, that they consider that, but for the too much interference of the Paramount Power, they might be able to give more attention to, and provide for the needs of their subjects. I may, Mr. President, with your permission, refer to the published proceedings of that august Chamber sitting in another part of this Building where . . . (*An Honourable Member*: "What is that Chamber?") (*Mr. B. Das*: "The Chamber of Horrors!"). . . . where one of their Highnesses in a speech, not long ago, but only in the year 1930, said as follows:

"Cases are not wanting—dating back not to antiquity when Political Officers have interfered or attempted to interfere, in support of rebellious or otherwise guilty Nobles of our States, regardless of the inherent rights and susceptibilities of their Sovereign Rulers. Indeed, about the time when I came of age, a veteran Political Officer expounded to me the strange doctrine that his policy always was—be it noted, that it was not the declared policy of the Paramount Power, but the personal policy of an individual Political Officer—invariably to support the State against the Nobles during periods of minorities, and, similarly, invariably to support the Nobles against their Rulers immediately the minorities cease! This obiter dictum, regardless of rights and wrongs, needs no further comment. It has been within my experience, soon after I came of age, to have been forced during my early days to dismiss proved and loyal men—who had served the State for a great many years, without the slightest enquiry or investigation or without the slightest opportunity being given to such loyal and deserving officials a single chance of repudiating the allegations made against them by intriguers in our States, or the charges preferred against them by such Political Officers—because the Political Officer held the view that they were 'mischievous' men and 'did not mean well in the least'.

We have had official letters of enquiries addressed to me and to my Prime Minister asking for explanations and even for files on petitions submitted to the Resident at Bikaner regarding even Police Jamadars and Constables against their dismissal by the Departments concerned and such matters.

We have been asked, on account of a petition similarly to the Resident from the gardener at Gajner—(a gardener in a garden in the Bikaner State!)—to furnish explanation of what the case was about; and we have had a letter from the Political Officer who was in these days accredited to our State asking why the butcher, who was a Bikaner subject, but who supplied meat to the Residency, had been dealt with in some matter according to the law and recognised practice, usage and custom of the State. The 'explanation' of my Government was actually demanded by the Resident in regard to the most heinous offence of our failing to supply a camel sowar required for the benefit of the domestic menials of the Residency; and ultimately, we were threatened by the statement that it was fortunate that the 'explanation'—in effect of course a reply—sent by my Political Department had 'arrived in time to render it unnecessary for the Political Officer to take any further steps in the matter!'

When, shortly after my coming of age, in 1902, I tried to inaugurate a system of Administrative Reforms and to introduce almost the identical Secretariat system followed by the Government of India themselves, I first had great difficulty in getting the Political Officers whom under the then conditions I had to consult to agree to this scheme, which was a distinct improvement on the old system carried on during my minority—which worked very well and which is still in force; and for years afterwards, I was pestered with questions and asked to 'furnish' 'reports' as to the manner in which the system was working—as if it was a totally strange and untried and dangerous Administrative Scheme which we were resorting to."

Mr. President, this is the speech of one of the distinguished members from the Order of Princes representing them at the Round Table Conferences. This is the speech of one of the most loyal and a progressive prince among the Order of Princes, who was also the Chancellor of the Chamber of Princes for no less than five years during the Viceroyalty of that great jurist, Lord Reading, I mean His Highness the Maharaja of Bikaner. It is not the complaint only of a prince belonging to the

majority community, but I will shortly make reference to the speech delivered in the same Chamber of another prince belonging to another gallant and martial community which has played not a small part for the progress and prosperity of this country. But, before I refer to that, I would like to ask the Honourable Members whether, in the state of affairs, as depicted by this speech, the princes can have time and leisure to think quietly about the work of the departments or even about the benefits of their subjects when, from morning till evening, they have to deal with letters and inquiries of this nature. There is another little reference from the speech of the famous prince whom I have already cited. He remarked that, early in the 20th century, when the princes, like the members of the criminal tribes, were required to take the permission of the Paramount Power before they left their own territories and that, when he was in an indifferent health and had proposed to proceed to Bombay on a purely private and informal visit for a change, he actually received a letter from the Resident advising him to defer his visit for another ten days as the Agent to the Governor General could not anticipate the order of the Government of India twice asked for and the delay showed that there might be some difficulty. His health was not taken into account. Later on, he was graciously informed that there was no objection to his proceeding to Bombay. We can imagine, Mr. President, the mental equilibrium of the rulers of the States under such conditions. How can they think of schemes of reformation and schemes of progress? Another very distinguished member of the noble Order of Princes said something in the same strain.

An Honourable Member: What is the book you are quoting from ?

Sirdar Harbans Singh Brar: It is a published document available to anybody in India.

Mr. K. C. Neogy (Dacca Division: Non-Muhammadan Rural): He is quoting from the proceedings of the meetings of the Chamber of Princes. It is in the Library.

Sirdar Harbans Singh Brar: His Highness the Nawab of Bhopal, who also had the honour of functioning as the Chancellor of the Chamber of Princes for one year, started with a simile to serve his purpose in support of what was stated by His Highness the Maharaja of Bikaner:

‘Imagine a man plagued with general indisposition which gives him a feeling of discomfort showing itself in many different ways. His doctor will administer some palliative to give relief to his immediate symptoms, but must diagnose and treat the real cause of his malady to cure him. So it is with the Indian Princes. All of us are attacked more or less seriously and more or less frequently with discomfort in the form of intervention, the results of which may vary between a general feeling of uneasiness and occurrences of acute irritation. An individual who complains may get relief in a particular instance; but that is not going to benefit others and even with him the evil may recrudescence at any time. We have, however, this advantage over the sufferer of my simile. We know what is the matter with us and that our trouble is one of the evil results which follow from a mis-application of the doctrine of Paramountcy. To take my simile a step further, one of the chief exponents of that doctrine (Sir William Lee Warner) wrote of it that ‘its extent is wisely left undefined’. Surely that is a very dangerous element when, as now, the application of that doctrine in respect of the exercise of intervention is so often left to the discretion, or in other words, to the idiosyncracies, of individual Political Officers. When a highly drastic

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remedy is invented, medical practice does not leave it to be experimented with by general practitioners, but hedges it round with the clearest instructions as to the purposes for which and the methods by which it is to be applied.

Even an expert will not lightly deal with a case of such a kind. He will surely welcome association with other opinion to help him to arrive at a sound and correct conclusion nor will he overlook the immense advantage to be gained by securing the confidence of the patient. Give us confidence with regard to intervention and we shall be satisfied. The analogy suggests quick sounds to my mind. The future would indeed be dark if on paramountcy and paramountcy alone can the states rely for their preservation through the generations that are to come. We stand on the firm lock of our treaties which state that the princes shall remain absolute rulers of their country and the jurisdiction of the British Government shall not in any manner be introduced."

Mr. President, later on His Highness referred to the same sort of incidents as narrated by His Highness the Maharaja of Bikaner—in which intervention was resorted to. I need not detain the House by reading out those small instances.

Now, it is for us to consider, whether, under these circumstances, either the princes or the Paramount Power is quite in a happy condition. It appears to me that either the Paramount Power must take direct responsibility for the administration in the Indian States on benevolent lines or must take away the protection from the Indian princes in cases of internal commotion or disorder and give up the right of interference within their territories. At present you protect the princes from external aggression as well as from internal disorders, leaving no opportunity whatsoever for the subjects of Indian States to seek their remedy to better their lot within their own borders and, at the same time, you try to deprive them even of seeking the sympathy of mankind outside, in order to better their lots. If we want that the British Indian public and platform and the British Indian newspapers should not be used for anything against either the princes or their representatives, then let us not meddle with them in their affairs. If we do not allow their subjects in British India or the British Indian subjects within their borders to create any agitation or any subversive movement to be organised with a view to coercing or to intimidating the administration of the Indian States, well and good. But, then, we must not deprive those people of the right to carry on an agitation peacefully or otherwise within their own borders and to seek their own remedies. Lord Curzon in his speech at Bahawalpur stated that paramountcy was everywhere unchallenged and that the Crown had itself laid down the limitations on the exercise of its prerogatives. It may as well be stated that paramountcy is supreme and unchallenged even in Central Asia or in East Asia, but that the Crown itself has laid down the limitations of its prerogatives and it is not exercised either in China or Manchuria or in Central Asia, but it has given all these parts autonomy to manage their own affairs. But when the Crown extended its sphere of interference and intervention, it did by similar pronouncements guarantee to the State subjects that their grievances would be looked into by the Paramount Power and redressed by it. The complaint of the Indian State subjects has been that that duty, taken over by the paramountcy, has not been discharged so as to secure any satisfaction of their grievances. Sir George Campbell stated very clearly that there was no uniform system and it was almost impossible to give any definite explanation of what things we meddled with and what we did not, I, therefore, say that if the Paramount Power would be gracious enough to

declare to the Indian State subjects that they would allow them to seek their grievances from their own masters within their own borders and that the Paramount Power, as far as it related to the internal administration of the Indian States, would not interfere with the complaints of the Indian State subjects, that would satisfy as much our friends of the Order of Princes as their subjects. They are as much tired of this intervention as their subjects are of the lack of it. Let the princes and their subjects themselves manage in a harmonious manner their own relations. Let their subjects petition to their own masters and let the masters comply with their prayers. If an agitation becomes necessary otherwise, it is their own business. We should not interfere if there are disorders: the princes might be left to look after themselves. That will, to a great extent, meet the demands, as far as the sympathies of the British Indian subjects in India as well as of the Indian State subjects who come here to seek our sympathy are concerned, and that will also meet the demands of the loyal friends and allies of the British Government who proved as great patriots when they went to the Round Table Conference and who agreed in joining hands with the people of British India in demanding responsibility at the Centre and who declared that they on their part would join hands in carrying out that responsibility in a successful manner. Sir, as Federation is to come, and as central responsibility is a matter on which opinion in India is one and united, we must see that we do not in any way prejudice that happy consummation, and for that, it should be our duty and privilege, in giving the advice to the Indian State subjects to seek their own remedy within their own borders and, that we do not meddle with their own internal forms of administration.

Sir, we have received a considerable amount of literature through the post or otherwise on the conditions in Indian States. It does burn our hearts to a great degree, it does tell very harrowing tales about the affairs in the Indian States, but if what I have suggested just now is considered and adopted, many of those grievances will no longer exist. Honourable Members, who spoke earlier in the debate, took exception to certain privileges of the princes and to certain forms of administration within the Indian States, because they thought that the system prevalent in British India was perhaps the only good form of Government. My friend, Mr. B. Das, referred to the conditions of forced labour in the Indian States. But, Mr. President, is not forced labour in existence in the so-called democracies and in countries administered by democracies like Great Britain?

Mr. B. Das (Orissa Division: Non-Muhammadan): I was damning not only the princes, but the British Government also for it.

Sirdar Harbans Singh Brar: My friend admitted that in the form of administration to which we are aspiring forced labour did exist, as in South Africa: and if democracies tolerate that, are we to condemn it as a system, because it may be partially prevalent in Indian States? Sir, forced labour is day by day lessening and lessening. It does not exist now-a-days except in the *shikar* areas or in the forests for hunting purposes when distinguished guests from across the seas are sent to the Indian princes to be entertained, and they must be treated in a nice and homely manner so that they should carry a good impression of our great hospitality and entertaining spirits, and those people who perform that duty also share in that good name which is given to India outside for being hospitable, because they have shared in entertaining those guests. That is not a thing to be

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wondered at. It should be remedied if it could be, but these are matters which must be removed by slow stages of improvement. Certain Members were very keen that the conditions prevalent in British India as regards the form of administration and other such features in the so-called civilized countries of the world should be repeated in Indian States, because to them it appeared that these were perhaps the best form and the most benevolent form of administration. Sir, we have seen the conditions of the so-called democracy. Would we like to have the democracy of Soviet Russia repeated in British India or in the Indian States? Would we like the conditions prevailing in South Africa, which is a member of the British Commonwealth of Nations, to be repeated here in India, namely, where all the British subjects, are not allowed to travel in the same carriage? Would you like those things to be repeated in the Indian States? Or would you like your own countryman to be lynched in the streets of Delhi as they do in New York and California even when people are acquitted by competent Court? Such things are happening in the most advertised democracy of the United States of America. Certainly we should demand a good administration for the subjects in the Indian States, but we are not concerned with the form of the administration, because democracy or popular franchise do not always produce the best results.

Mr. D. K. Lahiri Chaudhury (Bengal: Landholders): Strange doctrine.

Sirdar Harbans Singh Brar: Then Government would cease to function if you repeat the conditions prevailing in France where no Government last for more than a week. I do not deny that people's grievances must be remedied and their needs must be looked after, but the form of administration is not our concern. It has existed for centuries and it will exist for centuries if we do not interfere with them. We only mean the best for the subjects of the princes.

An Honourable Member: Antiquated.

Sirdar Harbans Singh Brar: If there is something good even though it is antiquated, we must retain it. We should not go in for a thing, because it is new, however wicked and however vicious the system may be.

Mr. N. M. Joshi (Nominated Non-Official): Would you like autocracy?

Sirdar Harbans Singh Brar: It is not bad if it is benevolent. When I was in an Indian State, I was asked if I would like to exchange my property in British India for the property in the Indian State, and my answer was and my answer is the same even now, that is, I do not mind it, that to persons who do not like to meddle in the political affairs of an Indian State and who do not engineer useless agitation, there is no harm even in an Indian State. The ordinary peasant in the Indian State is happy. I can speak from personal knowledge of my own district and my own constituency which has as many as 16 Indian States on its border and I have intimate knowledge of a good many of them. The ordinary village ryot and the ordinary peasant in the Indian State is much happier than a peasant in British India. It is only the educated classes and it is only people whom their parents have relieved of any stake or who themselves have relieved themselves of any stake in the State who get up this agitation and create mischief outside their own borders.

Mr. Vidya Sagar Pandya (Madras: Indian Commerce): Then why have you entered the Assembly?

Sirdar Harbans Singh Brar: I am a British Indian. I have never said that I do not want to enter politics. I said that those people who do not enter politics are quite happy as far as they are concerned. It is only those who are out to do mischief or who meddle with the political affairs of the Indian States and try to blackguard and blacken the administration of the State from outside, that are punished. Have we not allowed the Ordinance Bill to be referred to the Select Committee even without challenging a division in this House?

Mr. S. O. Mitra (Chittagong and Rajshahi Divisions: Non-Muhammadan Rural): So long as we were here, it was always challenged, but you were absent at Patiala at that time.

Sirdar Harbans Singh Brar: No, I was not. How would my friend tolerate an agitation on our borders against the form of Government in our country? We are shortly going to have a democratic constitution, and how would my friend like that form of Government to be criticised by outsiders on our borders? Then the administration cannot be carried on.

Mr. N. M. Joshi: What shall we do? We cannot do anything when they go out of our country and agitate.

Sirdar Harbans Singh Brar: The Indian State subjects want liberty, they want good Government, they want the affairs of their State to be left in their hands. Liberty is not a thing which can be got like begging alms. It is a very precious and a very valuable commodity and it has got to be got by paying a heavy price for it. They must get it in the ordinary way, they must not try to unsettle the conditions within our own borders when we have no concern and when we do not want them to meddle in our affairs.

Mr. B. Das: We conquered them with our money and our blood.

Sirdar Harbans Singh Brar: Nobody was conquered. They came into relationship with the Paramount Power by treaties and alliances. My Honourable friend, Mr. Das, the spokesman of labour and democracy, also says, autocracy is good.

Mr. D. K. Lahiri Chaudhury: Autocracy by dictatorship, just as Gandhiji is good for India. That is what he said.

Sirdar Harbans Singh Brar: It only comes to this, that autocracy must be benevolent. If you allow the princes to manage their own affairs and if you do not meddle with them and if you allow them proper latitude, they will do things in the proper way. Some of them are even now very benevolent.

Mr. N. M. Joshi: What is your point?

Sirdar Harbans Singh Brar: I hope my Honourable friend would cultivate an attitude of patient expectancy. Those, who themselves live in Cecil Hotel and in Savoy Hotel in Simla and London, dare to condemn the

[Sirdar Harbans Singh Brar.]

princes if they try to keep up their style and live in palatial houses. We received certain pamphlets from the Indian State subjects and many of their criticisms are based on what I have already said, that they are not allowed by the British Government to carry on agitation within the Indian States and that they should at least not be prevented from carrying on their agitation from British India. I have already answered that we should allow them to do it within the Indian States. The other point is that as Federation is to come, all forms of administration must be the same among all the units of the British Indian Empire. How does the League of Nations exist? Different Nations with different forms of Government carry on very well in that united body for the well being and benefit of humanity at large. Similarly, without resort to forcing the same form of Government within the Indian States, we may be able by mutual contact with the princes and the people of India to bring a happy form of Federation into being in India.

Mr. Lalchand Navalrai (Sind: Non-Muhammadan Rural): How can there be mutual contact if you do not regulate the form of Government in the Indian State?

Sirdar Harbans Singh Brar: Would you like interference in your own affairs?

Mr. B. Das: You are inciting them to violence.

Sirdar Harbans Singh Brar: I am not. Sir, we see these States People Conferences with so much show and so much pomp and so much advertisement. There are generally not more than ten per cent. of the subjects of Indian States among those who take part in these Conferences. They meet probably at the instigation of somebody who has a grievance against some particular individual. They start from Rajkote where there are about 120 States round about them with the administration just as bad as anywhere else, if there is badness in them. They run the length of 1,100 miles and they select a State in Northern India to demonstrate against or to expose the conditions prevalent in that State which is in no way inferior to others. Somebody, probably sitting in Southern India, perhaps pays for them and they go to the Political Department, as they did day before yesterday to demonstrate against Patiala in batches of 100 or 120. If the grievances are really genuine, why don't they start at home which is much nearer to their borders and which would be much less costly to them? Thus, it is clear that they do not meet for the general welfare of the subjects of Indian States; their motives are something different and they meet at the instigation of some one to do harm to some one else in particular.

Mr. President (The Honourable Sir Shanmukham Chetty): Order, order. The Chair has been told that a good many Members of the House are anxious to take part in the debate. If the House has got that desire, there ought to be greater co-ordination among the Members.

Sirdar Harbans Singh Brar: Sir, the hint which has fallen from the Chair is always taken by me in the spirit in which it is offered, and I have not taken more time than other Members. But, as the hint is there, I will not take more time than is absolutely necessary, and will try to finish soon.

Sir, my points were two; that the opposition to the Bill is based on two things. That the grievances of the subjects of Indian States are to be looked into and I have suggested that, if the Paramount Power does not interfere in the internal administration of these States, most of the grievances will automatically be remedied, and that, freedom being a very precious commodity, they must pay a corresponding price for it either by passive resistance,—suffering always bears fruit and you cannot get anything without suffering,—and the other course of action is that which different countries have always resorted to and which has been applied in so many other places. That is their concern.

Then comes the Bill under reference. I think it is nothing but fair that our borders and our territories should not be used for purposes other than for our own concerns just as we should not allow our subjects to carry on agitation and organise *jathas* to coerce and intimidate the Government of a neighbouring Foreign State. But the Bill, as proposed, has not provided the remedy in a proper manner. My lawyer friends, Sir Abdur Rahim and Sir Hari Singh Gour, will perhaps take up this legal aspect of the Bill that, under the present Bill, as drafted, even a bare statement of fact is not exempt from the penal effects of this legislation. The other point is, that the power which we are giving to the Magistrates is not advisable to be given to them. We will be creating other semi-sovereigns, 400 or 500, within British India, acting at their will and pleasure. It has been admitted by responsible administrators and you will find that the Honourable Sir Henry Craik, Bart., admitted in the Punjab Legislative Council that the magistracy is corrupt. When dealing with ordinary semi-clad and half-starved British Indians, these Magistrates are corrupt; what will happen when they have to deal on the one side with Indian princes and, on the other, the ordinary humble people who are editors of papers? They shall have to repeat what Warren Hastings said:

"My Lords, when I look back, I wonder at my moderation amidst plenty."

I think the best course will be that these powers, which are now sought to be vested in the Magistrates, should be vested in the Governor General in Council, because they will know the conditions in the States and how they are going to be affected, and they will be the best people to decide whether anything against the States is cropping up within British India or not.

As regards the provision about the Press, I would suggest that it should, if possible, be restricted to a very few instances where it is actually inciting either to force or to coercion. I would request my Honourable friends to consider this measure in those lights and I suggest that the powers vested in the Magistrates should be vested in the Governor General in Council; and, so far as the Press is concerned, the provision should be so modified as to allow the largest amount of latitude to the wholesome Press and not the gutter Press which gets only 10 or 20 copies published and circulated to people who are concerned.

Sir, this is all I wish to say except one thing more. It has been said that, in the Indian States, things are not allowed to be published against the administration. I may say from personal knowledge that that is not so. And I have got with me copies of pamphlets and other things published in the Indian States, but not forfeited or stopped. They allow a large amount of criticism of their own actions and they will allow more if we let them do so.

Sir, I support the reference of this Bill to the Select Committee.

Mr. F. E. James (Madras: European): Mr. President, we support the reference of this Bill to Select Committee for the scrutiny of that Committee. I understand that the reasons for this measure are three-fold. The first is the growing identity of interests between Provinces in British India and the Indian States. The second is the approach of the Federation, and the third—and I would like to emphasise this because it is merely stating a fact in modern development—is the presence and growth in India and indeed throughout the world, and even in this Assembly, of iconoclasts like my friend, the Honourable Mr. B. Das, who are itching to overthrow any form of public or private security . . .

Mr. B. Das: You have misjudged me.

Mr. F. E. James: I am very glad indeed to hear that. That being the basis for the Bill, one turns to the Bill itself and finds that there are three main provisions. The first provision gives to the Indian Penal Code a new definition, a definition of India which covers the whole of India. It may be argued that this is not only a striking legal departure, but an undesirable legal departure as far as the Indian Penal Code is concerned, and I suggest that it is a matter which may receive the attention of the Select Committee itself. But there is no doubt as to the significance of that particular clause which inserts in the Indian Penal Code a definition of India which covers the whole of India including the Indian States. The second provision extends the effects of section 4 of the Indian Press (Emergency Powers) Act of 1931 relating to attacks in the Provinces on the administrations of Indian States; and the third takes powers to deal with unconstitutional agitation against a State administration from British India, and in particular against what I may describe as, border raids. We have had some experience in the past, in my own country, of *jathas* in the days when the Scots used to come down and raid us for various purposes . . .

An Honourable Member: There is one going on now.

Mr. F. E. James: . . . and it may astonish the House to hear that we appreciate the dangers of that form of unconstitutional agitation. I may remind students of modern history that one of the most famous *jathas* led to a war in South Africa—I refer to the Jameson Raid; and there is absolutely no doubt as to the desirability of some protection against that particular form of agitation which may not in itself be immediately dangerous, but may lead to the most extreme danger, not only to the State administration, but also to the administration of the Province in British India.

I find, on going through the various opinions that have been collected, that there is general agreement as to the necessity of some protection along these lines to the administration of the Indian States. My Honourable friend, Mr. Sitaramaraju, in his very able speech referred to the opinion in particular of the Madras Government and seemed to suggest that that opinion fortified him in his objection to the Bill. He knows as well as I do that in many respects the Madras Government is far in advance of many other Provinces in this country. He will also bear me out when I say that the particular States with which the Madras Government has more immediate relations are States that can challenge comparison with any British administered Province in India, and, therefore,

it is not surprising that the Madras Government should say in effect "We have no objection to this Bill: we see no reason to object to the general principles of the Bill; but, as far as our experience goes, we do not feel its necessity in quite the same way as Provinces in other parts of India do". That is really the basis of the Madras Government's opinion, and I think perhaps my Honourable friend, Mr. Sitaramaraju, went a little too far in claiming that Government's opinion as supporting his own particular view. I am always interested in two opinions which are given in these matters: one from the Government of the Province concerned, and the other from the Bar Association in the Province. I generally find that as a rule the Bar Association represents an extremely liberal view, very often far more liberal than that represented by the Provincial Government itself, and yet I find that in Madras, the Bar Association, which, I suggest to this House without making any invidious comparisons, compares favourably with the Bar Association of any other Province for its ability, says quite definitely:

"It is of the opinion that the Bill to protect the administration of States in India which are under the suzerainty of His Majesty from activities which tend to subvert or to excite disaffection towards or to interfere with such administration, is necessary in view of the impending reforms. The States have forms of government different from that of British India and, unless such forms of government are recognised and protected by some such legislation, they may not have confidence and be willing to join as partners in the Federation".

I will complete the quotation because I do not want to leave anything unsaid:

"In the case of States, where there is misgovernment, explicit provision should be made to protect agitation that is constitutional and press criticism that is *bonâ fide* and proper".

Now, there have been various objections to this Bill advanced by Honourable Members in different parts of the House, and I will only deal with two of those general objections. The first objection is that there are certain States in this country in which there is gross mismanagement and that, that being the case, they do not deserve the protection which this Bill seeks to afford. I may say in passing that that argument might be used in other quarters. There are local bodies in British India which are maladministered and in which there is corruption, and one might argue from the same premises that, therefore, local bodies administration should not be extended in this country. No one, I suggest, would take that line, and I put it to the House that it is not right to take a jaundiced view of the situation because of mismanagement in certain States. Everybody knows that there is mismanagement in some States: no one denies that. On the other hand, I can point to States such as Cochin, Travancore, Mysore, Hyderabad and Baroda, to mention just a few, where the administration is as efficient and as popular as the administration in any part of British India. Honourable Members of this House, who have visited any of these States, will know the loyalty of their subjects to the rulers of those States, a loyalty which is expressed in a way that is hardly found in this country owing to our system of administration; and I for one would never put my hand to any measure which had any deleterious effects upon that kind of loyalty which I believe is one of the precious things which India ought to preserve in the future. I may also say that even the worst States in this country are not immune from the liberalising influences which are at present abroad. The Honourable the Political Secretary in his speech the other day, on which, if he will permit me,

[Mr. F. E. James.]

I should like to offer my congratulations, the Honourable Member the other day spoke in general terms of the reforms which were proceeding in various States through the establishment of liberal institutions. I feel that it is, perhaps, a mistake that the States do not themselves issue from time to time, as British India issues, a statement of the moral and material advance of the peoples under their jurisdiction. I believe a great deal of misunderstanding that is abroad in this country about the administration of Indian States has been due to the lack of publicity as to the progress that is now being made in many States. Therefore, Sir, the argument that because some States are bad and, therefore, protection should not be given to all, is, I suggest, an argument which cannot be carried to its logical conclusion.

Then, Sir, there is a second argument, and that is that if this Bill is passed in its present form, it will in effect stifle legitimate criticism and will prevent the very operation of those liberal forces which I have mentioned. I need not remind Honourable Members in this House that that argument is used to every defensive measure that has been brought before this House, and yet these defensive measures which we have passed have not up to the present justified that particular criticism. The existence of maladministration in certain States pre-supposes that there must be opportunity for free criticism, and I personally shall make it my duty in the Select Committee, if this measure is referred to the Select Committee, to watch that point with very great care. Nothing must be done to prevent the free play of public opinion on the administration of Indian States, and I think that the rulers of those States themselves would welcome a statement like that and would welcome an attitude of that description in regard to this Bill. In any case, on that particular point, that is the spirit in which I am going into the Select Committee if the House sends it to a Select Committee.

Sir, the existence of a gutter snipe Press in regard to the Indian States has been admitted by my friend, Mr. Natarajan, who presided at the Indian States Subjects Conference the other day. In fact, his address to that Conference, which I very carefully read, has provided me with one of the most reasonable and careful arguments in favour of this Bill. I do not know whether Mr. Natarajan intended it as such, but undoubtedly with one small exception, he has merely strengthened the arguments in favour of sending this Bill to a Select Committee.

Then, Sir, there is one other objection that is raised to the Bill, and that is that the clauses, I think 5 and 6, may lead to abuse on the part of the Magistrates concerned

Mr. D. K. Lahiri Chaudhury: May I ask the Honourable Member to explain what part of Mr. Natarajan's argument went in favour of his argument? !

Mr. F. E. James: I should be very happy indeed to present my Honourable friend with a copy of the speech, because the whole speech itself is a powerful argument in favour of the Bill, and I am afraid, you, Sir, will not

Mr. D. K. Lahiri Chaudhury: The Honourable Member will remember that Shakespeare says in Julius Cæsar that "men may construe things after their own fashion clean from the purport themselves".

Mr. F. E. James: I am very grateful to the Honourable Member for his interruption, which is very charming, but entirely irrelevant. Now, Sir, the suggestion has been that the wording of these particular clauses is too wide, and that there is a danger that this wide wording might lead to abuse. That, I suggest, is a matter which the Select Committee must go into. Surely it is not a matter on which a reference to Select Committee needs to be rejected.

Now, Sir, there is one general observation that I should like to make. I understand that the basis of this Bill really is reciprocity, and I would put it to the Honourable the Home Member that the States are not entitled to ask for greater protection than they are able and willing to give. I would ask the Honourable the Home Member,—the Political Secretary himself did refer to this matter,—do the States give similar protection to British India? I view this as a very important matter, particularly in the light of the imminent organization of autonomous provinces under the new Constitution. Are Government satisfied that the protection which they are going to get from the Indian States is as great as the protection which they are now seeking to give to those States? There is one particular aspect of that matter in which we are specially interested, and that is, in connection with the spread of the terrorist movement. There is evidence that this movement has already spread its tentacles to some of the Indian States. In British India we are waging a warfare against that movement by the use of every weapon that is possible. One of the great difficulties in the past has been the control of the supply of arms, and I should like to ask the Honourable the Home Member whether, when we are considering the question of the protection of the Indian States, he will also invite the States to consider the question of the control within their areas of the supply of arms to British India. I have had evidence of an unimpeachable character that in some of the States there is no regulation at all as to the possession of arms, and, in other States while there may be regulation, that regulation is ineffective. I think we are entitled,—certainly my community has raised this point very definitely,—we are entitled to ask whether in this matter we can get some assurance from the Indian States that they will co-operate with us in what is one of the greatest defensive movements this country has ever embarked upon.

Now, Sir, I do suggest that the House, in looking at this particular motion, should take a broad and a long view of the matter. The States are a most important part in Indian polity. Of course, I know there are those in this House like my friend, Mr. B. Das, who do not agree with that. They would like to leave the States out altogether . . .

Mr. B. Das: You have misread me.

Mr. F. E. James: I am so glad that my friend interrupted me. He has played entirely into my hands. I was going to remind the House that Mr. Das makes many exaggerated statements, but none was more exaggerated than when he claimed to represent the nation the other day . . .

Mr. B. Das: You represent the Imperialists, and I represent the Indian nationalists.

Mr. F. E. James: I suggest, Sir, that Mr. Das should not interrupt me any more because he will get deeper into the mire.

[Mr. F. E. James.]

He does not represent a very wide point of view in the country. I believe it is now generally accepted that the new India that is being built here must be built upon a basis of Federation. In that Federation, there must be all the elements which represent the permanent factors of national character and judgment in this country. I suggest that in the building of that edifice, the foundations must be well laid—the foundations of security and stability. I admit that the blending of the old with the new is a difficult process, and we must go through a dangerous time in the blending of those two elements. Therefore, I suggest that in that transitional period, it is all the more essential that there should be no weakening of internal security and stability either in the States or in British India. In the building of the united India, fears must be allayed, and distrust must be dispelled. This Bill is one of the steps which is being taken in the building of that great Federation of a United India to which we all look forward, and I suggest that is the strongest justification for sending this Bill to the scrutiny of a Select Committee.

Sir Abdur Rahim (Calcutta and Suburbs: Muhammadan Urban): Now that Mr. James has spoken, the Government's case is completely before us. (Laughter.) I have often wondered who gives the lead to the policy of the Government of India,—is it my friends of the European Group or Sir Harry Haig?

An Honourable Member: They are all one.

Sir Abdur Rahim: I think that is correct. (Laughter.) This is a very important Bill and it cannot be treated in the more or less light way in which Mr. James has treated it. It has very serious implications. Now, let me state first of all what the general position of this side of the House is. I think I can state, without any fear of contradiction, that there is no one on this side of the House who wants to destroy the Indian States administrations or is hostile to the princes, the rulers of those States. (Hear, hear.) The rulers of those States are Indians and we are Indians equally, and those, who know the inner history of the movements in our part of India, will realise that our main object is to get as much power as possible in the hands of Indians. That being so, I think Honourable Members opposite will fully realise that it cannot be the object of any one on this side of the House in any way to weaken the position of the Indian rulers of Indian States, much less to destroy their administration. That is the first proposition which the Government should appreciate. We are not inspired by any hostility to the States administrations or to the rulers. All that we want is that there should be no unjust repressive laws in British India. Sir Harry Haig, with his usual tact, has placed the case of the Government before us. No one can quarrel with him for the manner in which he pleaded the cause of Government. He is not only gifted with great powers of expression, but he understands the temper of this House and he knows what to say and what not to say, and the skill, with which he avoided the dangerous corners, is one which we all must admire.

Sir, there are many dangerous corners in this measure, though nothing is apparent from the two speeches of my Honourable friend, the Home Member. I will tell him what they are as I proceed. Sir, his case

is this. Indian India and British India are one. Perfectly correct, no one will quarrel about it. We are so intimately inter-related that what happens here is bound to react upon the Indian States and whatever happens in the Indian States is bound to react upon British India. That is the proposition which Sir Harry Haig himself has made. I build my argument upon that. We cannot ignore what happens in the Indian States. I do not want to compare one administration with another, there are, as a matter of fact, no means of making such a comparison. Indian States have various forms of administration as we have been told by Mr. Glancy, the Political Secretary, but I think they can all be summed up in one word, autocracy or personal government. We are living under a Government which, I think, the Home Member designated as democracy. I do not think that that is an apt description,—I think Sir Harry Haig himself should recognise that. We cannot call it democracy by any stretch of language. What it is, is that it is a form of autocracy, but under a rule of law, and that is what we greatly appreciate. We do want democratic Government, because this rule of law is bound to lead to that. But it is not at present democracy. I do not want to quarrel about the language. We may take it that there are different forms of rule in the two parts of India, nor is it my desire to suggest for one moment to any side of the House that we should try to change the form of rule that prevails in the Indian India into the form of rule that prevails here or into democracy more correctly speaking. That is not our object. At the same time, I am unable to agree with the Home Member in his abstract proposition that, because there are different forms of rule, they must be preserved at any cost. Political institutions are not like geological or archaeological specimens that they must be preserved. They are living active organisations which affect the daily life of the people in every aspect of it. But there is no abstract question before us. I am ready to recognise that there may be good autocratic rule, there may be bad democratic rule. That is perfectly correct, but, at the same time, what we are anxious about is this, that we do not want to stop the natural ordinary process of evolution. We want that there should be, as Mr. James himself has admitted, free play of public opinion on every kind of administration that prevails. That is our attitude, and nothing else. We are not influenced by any abstract ideas or principles, but by practical considerations. If there are autocratic administrations well run in one part of India, I am absolutely sure that, so far as we are concerned, we do not want to quarrel with it. We do not want to turn it into a parliamentary form of Government or a dictatorship of the modern type; we would let it rest. All that we seek is this, that those who live here which is called British India should not be further subjected to laws which are repugnant to us. This Bill is not meant for anybody living in the Indian States. We cannot legislate for the Indian States, it must be remembered that the legislation is entirely for us. It is to restrain certain liberties of ours. The whole question is whether the Bill is justified on that ground, whether there are certain activities in British India which require to be dealt with in the manner proposed in this Bill. Sir, I was hearing with great care the interesting speech delivered by the Honourable the Political Secretary, but I must say that the general impression which he created here was that the people of the Indian States are perfectly happy, why disturb them in their happiness? I ask the Honourable the Home Member, if the people of British India are not equally happy? (Laughter.) Why disturb them? Why are we agitating, why are we

[Sir Abdur Rahim.]

fighting with them every day? Sir, the question of happiness does not arise over this Bill at all. There are certain kinds of happiness which I would not call happiness at all. We want to uplift the peoples, both of the States and of British India, from their present position. That is our case, that is what we are striving for, and if Mr. Glancy wants to suggest that the people of the Indian States are enjoying a happy status and economic prosperity and the ordinary amenities of life, that they do not require any help, that they do not want any administrative measures for their uplift or the improvement of their condition, then I venture emphatically to differ. Sir, that is not a case which even the best advocate of the Indian States can put forward—that there is a perfect condition of things, and let the people concerned remain in that condition and let that condition of things prevail.

Now, as regards this Bill, what is the case of the Honourable the Home Member? You know, Sir, that the Assembly the other day, that is, in 1932, passed the Criminal Law Amendment Bill. The whole object, the whole effect and tenor of that Act is to curtail the jurisdiction of the Courts and substitute executive action for judicial procedure. Sir, I was one of the minority when that Bill was passed. I objected strongly on that ground,—that if the Bill was meant to crush the Civil Disobedience Movement and certain other objectionable activities of the Congress, I had no objection to that, but my objection was: “Do not go further than the case requires. Do not strike at the ordinary liberties and rights of the people”. That is to say, we have been enjoying certain rights, privileges and liberties under the protection of the Courts. Do not destroy the jurisdiction of the Courts. That was the case I pleaded for on that occasion. I know, the majority of the House did not agree with me, and the Bill was passed. Taking that as the verdict of the House, still I say that this Bill is not justified. You are going to extend the provisions of that Act when the necessity no longer exists. I do not know what were the real causes, but let us take it that the Criminal Law Amendment Act did help to crush the Civil Disobedience Movement. Well and good. Where does the necessity arise for a further extension of that measure? That is the point before this House. Let us not wander from it into all sorts of discussion. Sir, what was the policy which was then enunciated by the Government and by no less a personage than the Viceroy himself? Let me remind the Honourable the Home Member of the phrase which was used on that occasion—“the dual policy”—the policy of restoring law and order in British India in order that the political measures, which were then under contemplation, might have a proper chance of operation. That is to say, we were told that Government were contemplating the introduction of responsible government in this country and, therefore, in order to pave the way, we must in the meantime restore peace and order, crush the Civil Disobedience Movement, the no-rent campaign and all other subversive movements of that sort. Sir, the majority of the House accepted that. It was in that belief and upon that assumption that the Criminal Law Amendment Act was passed. Now, may I ask the Honourable the Home Member—is there any such policy underlying this Bill? Can it be said that this Bill is being placed before us in order to restore peace and order so that responsible Government will be established in the Indian States? That is certainly not the case. The Indian States will not be interfered with in their internal administration. We do not want to do it.

[At this stage, Mr. President (The Honourable Sir Shanmukham Chetty) vacated the Chair which was then occupied by Mr. Deputy President (Mr. Abdul Matin Chaudhury).]

Neither do the Government want to interfere nor does the Political Department. Therefore, there is no such policy behind this Bill. Then, I submit to the House in all confidence that the argument of the Honourable the Home Member that the two sides of India, the two parts of India are so inter-related and inter-connected that if you pass laws to protect our own administration, you must apply that law to Indian States, falls absolutely to the ground. I ask—what then is the basis of the whole Bill? Mr. Glancy told us that the Federation would come sooner than perhaps most people expected. Mr. James also has proceeded upon that assumption, and asked for reciprocity. Now, let me explain to the House what I think about the future of Federation.

Sir, I had the privilege of listening to discussions, very able and meticulous discussions, on every clause of the White Paper scheme at the Joint Select Committee and of hearing the evidence of Sir Samuel Hoare, the Secretary of State for India. What emerges is this, that so far as Indian States are concerned, in their internal administration, in that matter the States are self-contained, but there is the Political Department which watches the administration of the States on behalf of the Suzerain and Paramount Power. At the present moment, Mr. Glancy is here in this House as representing the Political Department. Now, what will happen under the proposed Federation? The Political Department will not be in the picture of the Constitution at all. It will be removed from the Constitution itself. It will be placed under the Viceroy who will be advised by an officer of the Political Department. Of course, we will have to pay for it, but it will be removed altogether from our cognisance. Sir Samuel Hoare repeatedly advised the Ministers, who represented some of the States in the Delegation, when they asked for certain provisions for their protection, that it was very inadvisable. He advised them not to mention the States at all in the Constitution. Now, what is the significance of that statement? Mr. Glancy repeatedly told us in his speech—at least that was the gist of his speech—we are there to look after the administration of the States and the princes: leave it to us, and everything will be all right: do not let the Press or anybody on behalf of the public here interfere with them. Sir, if that were the state of things, namely, that one department could sufficiently guard the interests of the people, then, I, for one, would not trouble to be in this House and to speak here and discharge certain rather unpleasant duties. Even the Honourable the Home Member, who is part of the Government, does not claim that they are sufficient and nobody should criticise them or give them advice. In the future administration, to which Mr. James apparently is looking forward as a solution of India's difficulties, the Political Department will be absolutely sacred and sacrosanct; no voice can be raised against its operations.

Mr. B. Das: It will be like the Ecclesiastical Department.

Sir Abdur Rahim: Ecclesiastical and Political will be classed together. The question then is: Do the Government of India really expect under the circumstances that the people of British India should not concern themselves with the administration of the Indian States? Not in the sense that we want to change it or destroy it, but are we not entitled to express

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our opinion freely and frankly about the administration in the Indian States? We do not interfere with anyone who criticises our administration; we criticise it ourselves. Now comes the question as to how far public opinion in British India ought to be restrained and in what way? The Penal Code is wide enough. Everybody knows the criminal law of India, the Penal Code is very stringent, far more stringent than the laws of many other countries. In 1922, the Government passed a measure applying section 124A to statements and expressions of opinion with reference to the administration of Indian States. This House would not even allow the Bill to be introduced, and the Governor General certified it. The objection to that Bill was—it was introduced, I believe, by Sir William Vincent—that the law of sedition or seditious libel, as it is called in English law, could only apply to a State to which the people owed allegiance. We, who live in British India, owe no allegiance to the Indian States, no more than the subjects of Indian States owe allegiance to us. Therefore, the Honourable the Home Member, in his Statement of Objects and Reasons, has put in that the Indian States are under the suzerainty of the British Crown and, therefore, section 124A is applicable to both. I am perfectly sure that if the Honourable the Home Member consults the Honourable the Law Member, he will be told that this is not a sound legal position. Suzerainty in the case of the Indian States is something very different from the position of the Crown with reference to British India. We are subjects of the British Crown and, therefore, any administration, which is established by the Crown in British India, is entitled to our allegiance, but that is not the case with the Indian States. They are autonomous. They may be under the suzerainty of the British Crown, but that is a different matter. I do not know what all the legal implications are, because it is more or less a novel situation. I do not know really if it is dealt with in modern jurisprudence, for this sort of thing did not exist when laws like that under section 124A developed. Anyhow, what I am now pointing out to the House is that we have got that law. You have extended that law which constitutionally you ought not to have done. The case of the Government is that it affords no protection; the offence is triable by Courts and the procedure of the Courts is so dilatory. That is where I quarrel with the Honourable the Home Member. Not very long ago, the Government, I believe with the consent of this side of the House, amended the Criminal Procedure Code, in order to obviate certain delays. The procedure has been put right in that respect. But may I tell the Honourable the Home Member that, whatever procedure you may have and whatever laws and rules you may have, a great deal depends upon the Magistrates and the Judges themselves. Some Judges and Magistrates are more expeditious in their methods than the others. If the Judges and Magistrates are strong, the Government need not be afraid that any case will be unduly prolonged. But, Sir, is it any reason, because the Courts established by the Government and under their very laws sometimes allow the cases to be unduly prolonged in spite of the rules of procedure which, if properly taken advantage of, would curtail the proceedings, is it because of this that the Government want to deprive the Courts of their jurisdiction? The Government enacted the Criminal Law Amendment Act so far as British India is concerned, because of exceptional circumstances. I think that is the phrase used by the Honourable the Home Member when introducing the Bill, in exceptional circumstances, and under special conditions. Those conditions and circumstances do not exist any longer. Then, may I ask, why

should you extend the law and deprive the Courts of jurisdiction in a matter which really does not concern you.

A great deal has been said about the criticism of the press and the way in which the press is conducted in this country. I have just come from another country. I was for seven months in England and I used to read, of course, the newspapers, and I have come to this conclusion that though there is difference of method in essence, there is not much to choose between the British press and the Indian press. Our methods are a bit cruder undoubtedly and many of us like my friend, the Raja Bahadur, have suffered from that. I am no exception and I think I have suffered perhaps more than the Raja Bahadur. But that is not the point. The press all over the world is a partisan press and nowadays propaganda is the object of practically every newspaper in the world. If the press is to criticise at all, you must allow sufficient liberty. Who is to judge whether a certain comment is a fair one or not. Sometimes even in this House Honourable Members who criticise one another often exceed the limit. But I know if you exceed the limit beyond a certain point, no doubt you create mischief. But who is to judge? We cannot give to the executive the power to judge that. By this Bill you are introducing provisions for forfeiture of the press and this power is given to the executive when, in the opinion of the executive, the press has transgressed certain limits. Now, what I submit to the House with every confidence is this, that everyone, who has any public function to perform and who deals in matters affecting the public and the people generally, has got to put up with criticism, sometimes biased criticism and sometimes very unpleasant criticism. But that is no reason why the rulers of Indian States should claim exemption. They are dealing with the lives of millions of people and, surely, in this twentieth century, why should the princes claim exemption?

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): Do they claim exemption?

Sir Abdur Rahim: If they do not, I do not really see any object in passing this law.

Mr. S. O. Mitra: The princes do not want it, but it is the British Government that are forcing this on the princes.

Sir Abdur Rahim: That is again a point on which I should like to have information from the Honourable the Home Member, whether any large body of princes have asked for this law.

Mr. N. M. Dumasia (Bombay City: Non-Muhammadan Urban): The members of the Standing Committee of the Chamber of Princes asked for it in 1930.

Sir Abdur Rahim: I am talking in 1934.

Mr. N. M. Dumasia: The Government have been very dilatory.

Sir Abdur Rahim: If the princes have asked for protection, then are we not entitled also, on behalf of the people whom the princes rule, to ask for certain protection? There ought to be reciprocity in matters like this. We have been told by the Political Secretary that there are 563

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Indian States and there are 442 newspapers in those States. I must say, this is a bit of revelation to me, yet I am not convinced what sort of newspapers there are in the Indian States. Are they really conducted by Government, a sort of Government Gazette, the Prince's Gazette? If that is so, it is no use to anybody. So far as my experience goes and from all that I have heard, there is no such thing as a free press in the Indian States. I believe there are some States where there is a good deal more toleration than in the others, but they may be not more than half a dozen. In most of the States, there is no such thing as a press. I am certain of that, and, I am sure, the Political Secretary will not challenge me on that point. There is no such thing as a free press in the Indian States.

Now, apart from the press, what other means do the people of the Indian States have for the redress of their grievances? We have here this Assembly, we have in the Provinces the Legislative Councils where there is freedom of speech. Is there any such body in any Indian State? I know in some there are some sort of Councils and perhaps in some States a certain amount of freedom is allowed, but in most there are no representative bodies and, if there are any, they are very different from the bodies such as we have in British India. Then, what remains? What means have they got? What are the remedies available to the people of the Indian States? Each one of them must go with a petition to the prince or his minister. I ask the Government if, in the twentieth century, even in India, that is the proper remedy? If the mass of the people of the Indian States are to be confined to that remedy, that they have to go with folded hands with a petition in their hands and place them before some one if he chooses to accept it, surely that is not a remedy which we can regard as at all efficacious or worthy of our approval.

Mr. S. C. Mitra: The petitioner will be victimised the next day.

Sir Abdur Rahim: Then there is the Political Department. The operations of the Political Department are wrapt in obscurity, I think even my Honourable friend, Mr. James, wanted more publicity. Will he plead for it with the Political Department? If he does, then I shall be partly relieved of the anxieties I feel. The operations of the Political Department are wrapt in obscurity and they take their position on the basis of dealing with foreign States. Is that the real position? If that were so, I could understand it, but that is not the position. They represent a sovereign all powerful power. They say all that we want is, we do not want to be interfered with by public opinion in British India. But I ask the Honourable the Political Secretary, whether public opinion in British India has not strengthened their hands on occasions. Can he deny that? Has he not obtained suggestions from British India which he has accepted? In these days, you cannot shut out public opinion, nor is it desirable to do so. We must allow some latitude. If there were proper constitutional means available to the people of Indian States for expressing their views on public measures and what concerns them in their lives, then, I am sure, no such question would have risen today and in British India nobody would occupy themselves with the affairs of the Indian States. We have got enough to do for ourselves. To look after our own affairs is a pretty big task; we give the Government of British India a good deal of trouble, and we would never think of interfering with

the States if they had institutions like these. We appealed in London to the representatives of Indian States,—I think it was His Highness the Aga Khan himself who appealed to them,—to see that they do institute some modern methods and institutions by which the people can represent their views and grievances, and I, on the floor of this House, wish emphatically to endorse that appeal. Sir, both the Hindus and the Muhammadans are vitally interested in this; we want the States to prosper. We want States' Administrations to establish themselves as beneficent Governments, Governments which may usefully be imitated by others. That is our desire. The personnel of these States and Administrations is mainly Indian and we want them to be as successful in their administration as possible. That is our desire, and we do not want to hamper them in their administration. Therefore, we say that the Political Department should see to it that, as soon as possible, some sort of representative institutions are established there. I do not say they should take away the power of the rulers; the rulers will naturally have certain overriding powers left to them. Here, even in this Assembly, we cannot criticise the actions of the Viceroy and the Governors. The rulers can, therefore, legitimately expect that their actions should not be criticised on the floor of any representative Assembly. But apart from that, means will have to be devised by which there will be some constitutional way of expressing the views and wishes of the people.

Sir, I shall now come to some of the more important provisions of the Bill. As regards the provision relating to prevention of formation of groups of men in order to invade any Indian State, I do not think there will be any opposition from this side of the House, provided you want to prevent not mere demonstrations, but real conspiracies to subvert any State or Administration by violent means. If any groups of persons form themselves into a conspiracy in order to subvert the administration of any Indian State, I think this side of the House will generally agree that such a provision may be allowed. That, I believe, is clause 5, but clause 5 is so worded that it is not merely aimed at preventing people from forming themselves into groups or assemblies in order to overawe any Government in the States; it goes much further. It may strike at any movement for obtaining redress of the grievances of the subjects of the States. If my reading of that clause is correct, then it is to be re-worded and the present wording is to be set right.

Then, as regards clause 6, I must say that I find it very difficult to understand what it really means; and most of us are rather afraid that it might be used in a most arbitrary manner, because it gives power to the Magistrate to direct any person to abstain from any act if the Magistrate considers that such direction is likely to prevent or tends to prevent interference with the Administration of a State in India, etc. That is really so widely worded that it may stand in the way of any one taking any action in order to see that certain evils which may prevail in any Indian State may be set right.

Now, as regards clause 3, i.e., amendment of section 121A of the Indian Penal Code, apart from the question of its constitutional correctness, it will also have to be considered how far it is desirable to have a law in the way that it is worded in this clause. But the clause in the Bill, which is giving us the greatest amount of uneasiness, is clause 4; and the real objection to that, from my point of view, is that it wants to curtail the jurisdiction of the Courts and substitute executive action for

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judicial procedure. Sir, I do not wish to take up any more time of the House; I want only to make this clear once again that the causes and the circumstances which led to the passing of the Criminal Law Amendment Act do not exist in this case at all. There is no question of dual policy and there is no civil disobedience with respect to any of the Indian States which is to be dealt with; and these were the two reasons by which the Criminal Law Amendment Bill was justified. The Honourable the Home Member will remember that, were it not for the announcement of the dual policy, and were it not for the fact that the new Constitution was actively under consideration, a new Constitution to which we were all looking forward as inaugurating a new era in the history of India, he would never have got a majority of this House in support of that Bill. If the Honourable Member bears that in mind, then I say that there is no justification whatever for extending the provisions of this law to the matter under consideration.

Sir, so far as the reference of this Bill to the Select Committee is concerned, there are certain provisions which, if properly amended, would be supported. But there are other provisions the principle of which will, I think, be resisted, but, as both are mixed together, it may be difficult for us to say whether it should go to the Select Committee or not. This is all that I have got to say at present and I do ask the Honourable the Home Member and the Government generally to consider very seriously whether this is the time and the occasion on which the principle of the Criminal Law Amendment Act should be extended.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural):

1 P.M. Sir, this Bill involves certain principles and I will deal with every point in its proper place. I think the first thing which it aims at is the control of the press which wantonly attacks princes and their administrations with the purpose of blackmailing. The other thing aimed at is to stop the agitation against the States when that agitation is carried on in British India for the purpose of coercing the administration of an Indian State to accede to the demands which may not be considered right by the ruling prince. The third principle on which this Bill is based is reciprocity.

As to the first point, nobody in this House can hold any different view: it ought to be stopped. We know that there are two kinds of attacks made on princes: the first is on the personal character of a prince, which certainly every one deplors and it must be stopped at once. No encouragement from any side can be given to the press, which, in order to get some money from princes, indulges in attacks on them or on their families.

[At this stage, Mr. President (The Honourable Sir Shanmukham Chetty) resumed the Chair.]

This kind of blackmail is one which ought to be stopped at once. I know there are certain papers which are living merely on the money they receive from these quarters; and as the Honourable the Political Secretary, whom I congratulate very much on his very lucid speech—it was the first time I heard him—said, some papers, go on attacking the princes and, all of a sudden, their attitude changes, because the material which is supplied to them is changed. This has got two aspects: first of all, it shows that the press was guilty of trying to extort money; and there is, therefore, every justification to stop these blackmailers; but, at the same

time, I will say: "Is it right for the princes to give money to encourage these people to go on blackmailing them?" Have we not suffered from the hands of the press? Have we not found ourselves attacked day after day by certain papers? What is the attitude we took then? We just treated them with the contempt they deserved; even when this press was indulging in attacks against those Members of the House who supported the Government at the time when the Ordinance Bill was under discussion—and the Government can see from the cuttings from papers how we were depicted and what attacks we were subjected to—we carried on without being in the least influenced by them; and I am glad to say that those of us who supported that Bill in 1932 find that it has brought about such results as were looked for at the time: we come here as the representatives of our constituencies, but our constituencies can only know what they read in the newspapers; we are not going to challenge and show our speeches and explain our character to each and every member of our constituency. Our constituencies are influenced by what they read in the papers; and although we knew we would suffer personally and that the results will not be beneficial to us when we stand for the next election, we came here to do our duty, no matter whether we get elected next time or not: we did not care about it as long as our conscience was clear that what we did was for the good of India; and I am glad that the results show that it was for the good of India. If the Indian princes adopt this attitude and ignore the press which attacks them, these people will soon die because they will have nobody to support them. The only remedy, as I say, is to treat them with contempt if they are attacked in their personal capacity. But there is another side and that is when their administration is attacked. When such attacks are made a prince cannot stop it altogether, because, as long as it is fair criticism and is kept within bounds and is made for the betterment of the people, no objection can be taken. But if such criticism is not *bona fide* but is made with a view to extorting money and not for the good of the people, then it ought to be stopped. I find there is another justification in this Bill about that section which has been pointed out by the Honourable the Political Secretary: that once the State subjects begin to demand or agitate about their rights from the ruling prince and that ruling prince happens to belong to a community different from his subjects, then there springs up a kind of propaganda within British India to attack some other ruling prince belonging to the religion of the former's subject for the purpose of counteracting that propaganda. This is really a very deplorable thing, and people who indulge habitually in this kind of attacks must be stopped, because, they are prompted entirely by malicious motives, and, therefore, Sir, so far as this aspect of the matter is concerned, I give my full support.

There are, however, one or two observations which I wish to make in regard to this matter. I have several Indian princes who are my personal friends. I have a great regard for them for their great qualities of head and heart. They are very charming people, and, as far as I know, they have tried to do their best for their subjects. Some of them have a great desire to improve the general condition of their subjects, and they look upon their subjects with the same paternal care as we in British India look upon our tenants, and I would be the last person to subscribe to the view that has been expressed here that every prince is a bad man and that none of them has any good qualities. Of course, there may be a few princes who may not have very good qualities judged from a British Indian

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point of view, but still most of them have very good qualities and deserve our admiration. At the same time, when I say this, I say there are some who are lacking in independent judgment of their own and are generally guided by their advisers. In this connection I may give the House one illustration. I know of an Indian State in which a British Indian possessed a vast property consisting of about eight villages. He also possessed a big estate in British India almost adjoining the State. This gentleman had a suit by another claimant who wanted to have a share in this property. He challenged it and the matter went up before the High Court, and the real owner of this property was successful. But the appeal was again preferred by the rival claimant to the Privy Council, and there too the real owner was successful, but the claim of this man against the property, which was situated in the Indian State, was pending in regard to the eight villages. Now, the gentleman who was successful even in the Privy Council petitioned to the Indian ruler to the effect that he had won in his case and produced all the copies of the judgments, etc., of the Privy Council and prayed that the case pending in respect of the property in the Indian State might be decided in his favour according to the judgment of the Privy Council and on the same grounds. Some of the flatterers of the Indian prince told the prince: "Oh, look here, this man defies your authority, he wants to coerce you by quoting the authority of the Privy Council, and, therefore, judgment must be given against him". The result was that the Indian prince, instead of entrusting this case to his judges, decided the case himself, and he gave a decision against the man which was absolutely contrary to the decisions given by the District Court, the High Court and the Privy Council, with the result that all the eight villages of this poor fellow were confiscated, and the prince, instead of giving those eight villages to the litigant in whose favour the matter was decided, quietly took half of that property for his own use, and thus even the successful litigant did not get much and five out of these eight big villages went to the prince himself. Well, Sir, if this kind of administration goes on, and if anybody comes up to criticise in British India, it is but right. . . .

Mr. President (The Honourable Sir Shanmukham Chetty): The Honourable Member can resume after lunch.

In future, the Chair proposes to cut short the luncheon hour by a quarter of an hour. The luncheon hour will be from quarter past one to quarter past two, and the House will not normally be adjourned before 5 O'Clock.

The House now stands adjourned till a quarter past Two.

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

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

Mr. Muhammad Yamin Khan: Before Lunch, I was giving an illustration of the kind of justice that is meted out in an Indian State so far as

the judiciary is concerned. Several cases have occurred and we should see that care is taken to ensure that proper justice is done to the people living in the Indian States. Comment on judicial acts in Indian States which are not properly done should be allowed in British India if that is not allowed in the particular Indian State concerned. At present, there is an Indian State, the young ruler of which is squandering all the money that was saved by his ancestors. Several crores of rupees were saved by his ancestors and, I do not know how far it is correct, the Political Department might know about it, it is rumoured the whole of the money so saved has been squandered by this young ruler. I know myself several cases of his extravagance. I heard one pitiable tale—I cannot take upon myself the responsibility for its truth, but as it has come up in the shape of a pamphlet which was addressed to the Political Department, a copy of which was sent to me, I take it that the allegation may be true, and that allegation is that a beautiful house which was built at a cost of nearly a crore of rupees by the young ruler's late father has been demolished and a new building is going to be erected in its place. In this way, the money is being squandered when the subjects of the State should have money devoted for the education of their children, for sanitation and other matters. The people began to agitate and they were turned out of the State. They came up to British India and began to hold meetings and the result has been that all their families have been badly treated by the Indian prince. When the injuring party is the prince himself, where can his subjects go for a remedy of their grievances? If the subjects say anything against the prince, they are thrown into prison without any trial and the only allegation against them is that they are agitators. We have heard a lot of tales since the death of the late ruler and the installation of the present one. There must be something underneath these grievances; they cannot all be false. If these subjects are not allowed to say anything within their own State, they must at least be allowed to come to British India, ventilate their grievances in the press, seek remedy at the hands of the Political Department. There must be somebody who should listen to these grievances if they are not properly treated, because we are accustomed here in British India that, even when a petty servant is injured, he has got the right of appeal from one authority to another, and so on, at last to the Governor General in Council. But, in the Indian States, the subjects are summarily dismissed, their property is taken away and confiscations are galore. As such, it is a matter of doubt whether any protection should be given to the princes in the way it is sought to be given in this Bill. But I will whole-heartedly support the proposition that the princes should be given protection when they are the injured party and not the injuring party.

It may have come to the notice of the Home Member that one executive engineer in British India, who was doing well here and held a very responsible post and was thought of well by his Department, was asked by a certain ruling prince to resign his British Indian post and accept the post of Chief Engineer in his own State. He resigned and his misfortune began when he accepted the Chief Engineership of that State. He was a favourite for some years, nothing could be done in that State without his intervention. If he recommended anybody, he got everything done. Then came suddenly a day when on some matter—I need not describe it here on the floor of this House—he gave offence to the ruling prince and the prince thought that he dared to talk to a person whom he should not have talked to. This being the offence, he was thrown into prison for his whole life and in order to hoodwink the British Government if intervention was threatened, some charges were framed against him after he had been thrown

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into prison. The result was that not only he suffered, but his father's property was confiscated, his brother's property was confiscated, and the whole family was turned out of the State. People who had been very loyal till the previous day were suddenly turned out of the State the next day. There must be some kind of provision by which the princes should be debarred from doing so. I must say that if there are a few whom we may be charging with this sort of thing, there are certain States which are doing very well and they are living up to the level of the British Indian administration; but we see that the grievances do not come from those States. There is Hyderabad, there is Baroda, there is Bikaner, there is Gwalior and other places: we have never heard of any grievances emanating from those places. These States do not care anything about themselves. Protection should not, however, be given to those people who do not come under this category and who are not treating their subjects in the same way as Hyderabad, Baroda and others are doing. The analogy or illustration is absolutely wrong, because if we had found that this administration is good and that, in spite of the good administration, there has been any attack or there have been some *jathas* going on or that the people are trying to subvert the administration, then there would be some justification. But the attacks in the press have been only against those people who have given some kind of cause for grievance to their subjects. Therefore, I submit the Select Committee should go deeply into this matter and remember that while they may protect the States from being blackmailed, at the same time they should amend the Bill in such a way that no hardship may be done to those people who are genuinely suffering at the hands of such administration. My only motive in giving these illustrations was just to give a hint to the Select Committee that they may not ignore the other side also. while, in their zeal, they may be wishing to protect one class of people.

Then, the question of reciprocity was raised. Sir, I think that question does not arise so much. I do not lay so much emphasis upon that as my friend, Mr. James, was doing in this respect. I think there is sufficient protection given by the British Government to the Indian princes, namely, that they are left free to do whatever they like in their States, and sufficient protection is given to them from being attacked from outside. They already enjoy full liberty in their States; nobody can encroach upon their States; people living in British India are incurring heavy burdens in keeping up a big military force which is meant for the protection, not only of British Indian frontiers, but also for the protection of these Indian States. Sir, if the protection of British India is taken away, then these States will be fighting against one another, as at the beginning of the eighteenth century they were doing. One will try to snatch away a portion of a State from the other. Sir, surely, after that, they cannot want anything more in the shape of reciprocity. If the British Government in India wants that protection should be given to them on this understanding alone that the British Indian Government fully protect them from whatever they may apprehend from outside, then certainly that is more than sufficient. Sir, my Honourable friend, the Political Secretary, was quite right when he said that people look to the ruler of a State with a paternal feeling. Sir, people in India are really accustomed to looking to personal rule. They have more confidence in men who can do justice at once and redress promptly all their grievances. Even the British officials know that wherever they have gone in any district, they become more popular if they are good autocrats. If, for example, the District Magistrate deals personally with

all questions, he becomes very very popular in an Indian district. That is an open secret. There is still a feeling prevalent in the districts that they like the District Magistrate to do justice at once, promptly, by himself and to be ready to listen to all things, and he may sometimes even ignore the technical law if thereby he may help the people and he may not feel bound by mere technicalities. I do not say that an Indian prince is not a very popular person in his own State, but there was a time when all these Indian princes came to be princes, because they still had to rely on the people of their State for their own protection and for the protection of their States. One ruler of a State was fighting with another ruler. All these persons mostly—not all of them excepting the Rajputana States, all of them came into existence when the Mughal Empire began to dwindle away and then these petty States began to be created. They started fighting and collecting forces and they entered into a treaty with the British Government and thus they got their States recognized, but these people formerly relied upon the protection which they got from the people of their own States, because, without their help, they could not possibly retain their property, and, therefore, they had perforce to look more paternally upon the demands of their own people, but, now, they are getting full protection from the British Government—not from their own Indian subjects—and thus they are becoming as it were a separate and opposite party to their own people. (Hear, hear.) That very idea which united them and which gave rise to the feeling in the minds of the people in the State to look to their rulers is gone and thus the paternal feeling of the Indian rulers also is gone, because their protector is somebody else, not their own State people. (Hear, hear.) The princes formerly used to be like tribal leaders. Just as we have come here backed by the support of our constituencies, so these people existed on the support of their people and so they had to look to their interests in the past, but now they have not got the similar feeling. (Hear, hear.)

Mr. S. C. Mitra: Like the Official Members?

Mr. Muhammad Yamin Khan: Of course enlightened rulers realise that their strength lies in the strength and prosperity of their State people, but many of them, I am afraid, have forgotten that they have to depend for their security and safety upon the prosperity and well-being of the people of their States. It does not now matter to them whether their people are prospering or not as long as they can get full enjoyment (Hear, hear), and they do not care for the benefit of their people, but, on the other hand, they set themselves up as an opposite party, and thus the kindly feelings of their subjects must go against them. Sir, I can give one example to illustrate my point. In 1926, there came up a Bill in the United Provinces Legislative Council, which changed the position of the Zamindars, and lots of Zamindars wanted to eject their tenants, because they could then re-lease the lands to other people on higher rent, and so the Board of Revenue issued instructions that the ejectment cases should not be allowed except up to a certain percentage based on the average of the past three years before this Act became law. On this condition the Courts said that "you can institute only so many cases". Unfortunately, Sir, I had one case instituted to eject one of my tenants in one village, and when that suit came before the Court, they asked me to withdraw it on the ground that I had not instituted a single ejectment case in my village for the last 20 years. The fact of the matter is that we have never looked upon our tenants in a harsh way. If they had no money to pay, they need not

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pay: we do forgo it. If they prosper, we also prosper, and if they do not prosper, we also share their lot. So, if the ruling princes still go on looking at their subjects in that spirit, they can still enjoy their confidence as they did before. But they are not doing that, because they depend upon their protection from somewhere else. Therefore, I think that the law should be framed in such a way that it gives protection to both the sides. The point in this section is about the administration. The principle of the protection of the prince is one thing and the protection of the administration is quite different. The Administration will have to be criticised by the people when they are injured and notice may be taken of this point by the members of the Select Committee.

Now, Sir, there is also a legal point involved in this which I have to bring before the House. This Bill also affects the provisions of the Indian Penal Code, and I would be the last person to say that a good law may be altered into a bad law even for the sake of an emergency. Of course, I do not mind if a separate enactment is made for the purpose. I see that section 15 of the Indian Penal Code is being amended and a new definition is being put for the word "India". If we look at section 1 of the Indian Penal Code, we will see that it applies only to a certain part of India; it does not apply to the whole of India. Besides, that law was not made by the Indian Legislature; it was made by the Parliament and, therefore, it cannot be altered by any Act of this Legislature. The words of section 1 are:

"This Act shall be called the Indian Penal Code and shall take effect throughout the whole of the territories which are or may become vested in His Majesty by the Statute XXI and XXII Vic. Chapter 106, entitled 'An Act for the better Government of India'."

Now, the Indian Penal Code is applicable only to those territories which are mentioned therein, and you are applying one section alone out of this whole Act to the territories which do not come under the purview of this section and where the Indian Penal Code is not applicable. Merely by putting in a definition and by putting in "local administration", something is being done which is not really desirable. I do not like the word "India" which is given here. What does it mean? The words "an Act for the Government of India" are again repeated in section 14 where it is said:

"An Act for the better Government of India by or under the authority of the Government of India or any Government."

Now, Sir, in order to change the words "British India" the word "India" is introduced, which includes the territories of the Indian princes. So, it means that only those territories are taken away from this section which do not come under either of these two categories, such as, the French and Portuguese possessions. Now, Sir, I will refer you to section 108A of the Indian Penal Code. That section says:

"A person abets an offence within the meaning of this Code who in British India abets the commission of any act without and beyond British India which would constitute an offence if committed in British India."

Now, Sir, this section gives to the Government the power of reciprocity for which they are asking. Suppose a British Indian subject begins to conspire within the territories of the Indian princes, he can at once be hauled up in British India although he did not commit the offence within British India, but committed it in an Indian State. Not only this, but this section also dealt with another thing. If anybody comes from outside British India or he may be a British Indian subject and begins to conspire

to do a certain act which is an offence within British India, but is not committed within British India, but is going to be committed in the territories of the Indian princes, that man can also be hauled up here. Therefore, I maintain that this law is sufficient to give protection against the *jathas* if the object of these *jathas* is to commit an act in the Indian State territory which, according to the Indian law, is an offence if it had been committed within British India. So I do not think there is any need of having any kind of Act against the *jathas* when the provisions under the existing law are quite sufficient and I do not wish that we should try to meddle with this law again. Section 121A of the Indian Penal Code is sought to be amended. I see in that section there are many difficulties. This section will be spoiled if the amendment which is sought to be made here is incorporated. It will become meaningless. This section says:

"Whoever within or without British India conspires to commit any of the offences punishable. . . ."

There are two places where a man can conspire to commit an offence either within British India or outside British India. Here the word used is "whoever". What does it mean? Does it mean a British Indian subject or anybody coming from an Indian State? Supposing the people of the Rampur State try to conspire and do an act in the Alwar State against Rampur, will they come within the purview of this section or not? The words used here are "any Local Government or the administration of an Indian prince". Supposing some people in Rampur want to commit an offence in the Rampur State, but they conspire to do so in the Alwar State, will they be hauled up under this section? What does the word "whoever" mean in this case? As we understand the word "whoever", it only applies to people living in British India, British Indian subjects. If a British Indian subject conspires within or outside British India for this purpose as enumerated in section 121A, he is guilty, and he can be hauled up before a Court. But if a Russian State subject or if a man coming from Germany, but living in Russia, should conspire, can he be hauled up under this section, because you have no extradition rules about this? I, therefore, submit that this word "whoever" cannot apply to anybody except a person who owes allegiance to the King-Emperor and who wants to deprive His Majesty of his sovereignty by conspiring within British India or without British India. That is the whole gist of the Act. Now, by your amendment, you are complicating the whole thing and how do you expect the Courts to decide what it means and who is a guilty person and who is not and who comes within the purview of this section and who does not? Therefore, it will be far better to leave this section alone. If you want to give any protection to the Indian princes, by all means have a separate enactment, and it will have my whole-hearted support. Do not touch the Indian Penal Code which is really a great asset to British India and it will be very deplorable to spoil such a measure.

Another point that I wish to say is this. How is a District Magistrate expected to know that two persons are going to commit an affray because an affray is, if two persons fight in a street, and if more than two persons are involved, it becomes a riot. How on earth can a District Magistrate know that an affray is going to be committed and how can he stop it? I know there is section 107 and section 110 of the Criminal Procedure Code under which the District Magistrate can stop people from doing a certain act. Again, there is section 108 under which the District Magistrate can stop people from doing certain other act. Those are preventive measures. But what will be the authority through whom a District Magistrate is

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expected to know that two people will begin to fight in the streets of an Indian State after walking up 20 or 30 miles? Take, for instance, the people in Gurgaon, and if two people of Gurgaon go to Alwar and start fighting, how is a District Magistrate in British India expected to know this? Supposing two men from Moradabad walk into Rampur and begin to fight with another man, how can a District Magistrate in British India take notice of it? So this is a very difficult question and the law that you are going to enact will find very little support and the object which the Government have in view will not be achieved. If a man is determined to commit an offence in the British territory, he can be proceeded with under section 107 or 109. But if a man concealing his identity wants to commit an offence, he comes within the jurisdiction of a District Magistrate in British India and can be hauled up here.

The Honourable Sir Harry Haig (Home Member): Offence committed where?

Mr. Muhammad Yamin Khan: The offence may be committed anywhere. If the man is within the jurisdiction of a Magistrate, he can be stopped from committing the offence. Either the offence intended to be committed within the jurisdiction or the person is to be within the jurisdiction of a District Magistrate if he has to proceed against the man. Supposing a man living in Delhi wants to commit burglary in Meerut

The Honourable Sir Harry Haig: We are not now talking of Meerut District, but we are talking of Indian States. Can the Honourable Member explain to me how a Magistrate in a British District is able to prevent a man within his jurisdiction from committing an offence in a State?

Mr. Muhammad Yamin Khan: That is why I quoted section 108A of the Indian Penal Code which says that a person who abets an offence within or beyond British India which would constitute an offence if committed in British India can come under this section. If a person in British India instigates another man in an Indian State to commit an offence, then that man, who abets the commission of the crime, can be hauled up in British India as if the crime has been committed in British India. So I submit that section 108A gives full power for the Magistrate and I do not know how this section has escaped the notice of the Legal Advisers of my Honourable friend. If they go thoroughly into the matter, they will find an *Illustration* given under section 108 which is as follows:

"A' in British India instigates 'B' a foreigner in Goa to commit a murder in Goa, 'A' is guilty of abetting the murder."

The *Illustration* is given under this section. So it is quite plain that anybody committing an offence outside India, which is an offence within British India, is punishable already under the Indian Penal Code. I, therefore, submit that this point should not escape the notice of the Select Committee that there is ample provision, and I do not know how it can be said that the law is not sufficient at present. If I were a Magistrate, I would certainly hold up the man at once under this section and say that it is within my jurisdiction. I want that proper care and attention should be paid to this. There are certain Indian princes who will certainly not like a thing as this, because, if a man wants to proceed in their territory,

they can catch him up and he can be much better tried in the Indian States than in British India. If Government here proceed against him, they will be courting unnecessary criticism, but, if he is proceeded against in the Indian State, nobody will ask questions here. If such people are caught within a British district, there will be hundreds of questions from my friends, Mr. S. C. Mitra or Mr. Gaya Prasad Singh, or Dr. Ziauddin. If Government want to do this, let them alter the law in such a way as would serve their purpose and not bring injury to anybody.

I attach great importance to one thing which has been mentioned by my Honourable friend, Mr. James, although I have no knowledge of it myself, but I accept his authority for it. The point is that in the Indian State they have no Arms Rules; and if firearms from the States find their way into British India in connection with the terrorist movement, certainly the Political Department of the Government of India will be justified in taking action to prevent that. My idea up till now was that these arms were not coming from the Indian States, but from somewhere else; but if it is the case that they are coming here from the States, then certainly steps have to be taken against it.

I do not agree to a certain extent when it is said that there are treaty rights with these Indian princes. I say there is no treaty right.

3 P.M. What is the treaty and with whom is the treaty? There were three kinds of treaties which were made. The first treaty was made by the East India Company when they were carrying on some work in India without any legal authority. That treaty was not with the Crown in England, but with a purely commercial body who did this for their protection and they also gave protection with their soldiers. But that treaty cannot be called a treaty with the British Crown. The second class of treaties were those entered into by the East India Company as a legal authority carrying on contractors' work on behalf of a legally established authority, i.e., the Mughal Emperors Shah Alam II, and Akbar Shah II. On their behalf, they entered into certain treaties, because they were the legally established authority, and whatever they did on behalf of the Sovereign may be called a treaty. Then, when the British Crown took up the government of this country, Queen Victoria occupied the same position as the Mughal Emperors and the treaties made in the name of the Mughal Empire became treaties with the British Crown. The British Crown can be considered in two aspects; one is the King acting in Parliament, the other is the King acting with the Indian Government. I need not deal with all this and will leave this point for my Honourable friend, Mr. Raju, who has made a study of this and written articles in the papers about it. But I think the constitutional position is that a treaty can be made with a *de jure* authority, and not with a *de facto* authority only. But both must exist side by side and, therefore, the King of England holds the same position, as far as India is concerned, as would have been a treaty with the established legal authority at that time in India. Therefore, they are bound by those treaties, but there were certain people also existing at that time with whom there was no treaty either on behalf of the Mughal Empire or on behalf of the East India Company. Those treaties are nothing. Some people came in simply because they were subordinates or hereditary people who were governing certain provinces on behalf of the Empire. If there is a treaty with them against the established legal authority, that treaty must be null and void. No constitutional authority will pronounce these treaties as sound, but I am not an authority and this House is not an authority to go into these questions. These may be left

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to the proper authorities to decide. But my position is this, that whatever may be the constitutional position, those princes are enjoying a great protection and prosperity on account of the army which is kept in British India by the Supreme Power but for whom they might have been washed away. In return for this, the Supreme Power has a right to demand that nothing should be done in their States which may endanger the established Government within British India. I am not very much charmed with the Federation which is coming, because I see ahead a danger that these people will demand from British India something which they are not entitled to at present. They will want many things which they do not deserve and they will be threatening from inside. Now, they can only beg, but once they come inside, they will combine against the British Indians and even against the Government of India, because they are worshippers of the rising sun and not of the outgoing authority and the result will be that they will want to take everything at the point of the bayonet where they are coming now to beg. That is the danger of the Federation which is coming. But that is not the concern of this House at present. The only thing is that, when this Bill is considered in the Select Committee, these points should not be ignored. I am not against the reference of this Bill to the Select Committee, but they should take account of the matters which I have stated. Although I was opposed to the kind of protection being given in the Ordinance Bill at that time, my objection was not this that these princes should not enjoy protection, but the objection only was that it might not be amalgamated with the Bill which was meant only to restore peace and order within British India, and if the restoration of peace and order within the Indian States was also aimed at and protection to the genuine people was being given simultaneously, innocent people might not suffer.

Mr. S. C. Mitra: You wanted a separate Act: you should oppose it.

Mr. Muhammad Yamin Khan: I did oppose it in the Ordinance Bill. Now, Sir, that Ordinance Bill has not become a permanent law, but is a temporary law. If this clause had been inserted there, it would have been a temporary provision. Therefore, the present measure also should be temporary until the Federation comes, because the Indian princes will then be strong enough in this House and in the other House to have any measure they want, and there will be no difficulty in giving them any protection that they ask for: but now the only concern of the British Government is to give this power till that time comes. I, therefore, think that this should be a temporary measure without touching the Indian Penal Code, so that nobody will suffer and both sides will gain. With these words, I support the motion for Select Committee.

Sir Hari Singh Gour (Central Provinces Hindi Divisions: Non-Muhammadan): Sir, I confess that I have suffered from a certain disability in not being present in the House when the Honourable the Home Member moved the reference of this Bill to Select Committee. But it is clear from his speech and from the Statement of Objects and Reasons appended to the Bill that the Honourable the Home Member had undertaken the onerous duty of piloting this Bill through this House with a view, as he says in the Statement of Objects and Reasons, to facilitating the forthcoming constitutional changes adumbrating a new Federation for India;

and, in the speech which he delivered on the 6th September, 1933, I find these pregnant sentences: at page 1033 of the Debates, he says:

"But the facts of India render that impossible unless we intend to cut out the Indian States from India—an impossible task, I would suggest—and if we want to achieve that broader unity which is essential in the interests of India as a whole, I think it can only be achieved by recognising a wide diversity in the form of Government in the various units. That, indeed, has been from the beginning one of the obvious and unavoidable facts of the problem. It has been accepted as a fundamental proposition by those who have for some years past now been devoting their attention to the evolution of a new constitution for India. There is no need to press all units, Princes and Provinces alike, into the same mould; and any such attempt would lead to complete failure and disruption instead of unity. Therefore, let British India at the outset show that it is not entering into a Federation with the States with a feeling of fundamental hostility to the form of Government that prevails in the States. This is no foundation on which a partnership can be built."

That seems to be the main objective which prompted the Honourable the Home Member in piloting this Bill through this House; but when we heard the other day the speech of the Honourable the Political Secretary, upon which I congratulate him, he made it abundantly clear that the three outstanding facts which have prompted his Department to initiate this measure of legislation are, first, the maintenance as far as possible of paternal rule in the States; and, secondly, the non-interference by British India with that rule ensured by the two methods recommended by the Bill, which are, first, preventing the assemblage of persons in British India with a view to making an incursion into the territories of an Indian State, and, secondly, preventing newspapers from animadverting upon the administration of those States; and, thirdly, as the sequel, I think, is the clause—clause 6—which generally deals with interference with the administration of those States.

Now, if the principle of the Bill be to protect the Indian princes in the paternal administration of their States. I do not think that this Bill will serve that purpose; and, if it did serve that purpose, I ask the Honourable the Political Secretary, whether he is not doing the greatest disservice that any friend of the Indian States can do to the Indian princes themselves; we have heard of a safety valve and we know that by the pressure that is being exercised in British India the Indian States are moving in the direction of progress and the Honourable the Political Secretary has pointed out that many States have initiated institutions on the lines of institutions in British India. If that be the case, I submit that we should pause before interfering with the progressive pressure that is being brought to bear upon the Indian States by British India, and I go further and say that with the best will in the world, if British India and the Indian States had both been locked up in water-tight compartments and had not been scattered all over the country as they are, it seems to me humanly impossible that British India should progress and the Indian States should not. Their progress may be slow, but I venture to submit that no legislation, that has yet been devised, would ever bring about the result which I see underlying the speech of the Political Secretary, that the Indian States bear a paternal relationship to their subjects and the subjects, when in difficulty, go to the princes. Well, Sir, I do not wish to offer any comment on that statement, but what I do say is this. I ask the Honourable the occupants of the Treasury Benches to answer two questions that I wish to address to them. They know that the scheme of paternal Government was tried for British India; and it has been tried for long, and they know now that it is a failure,

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and, consequently, with the introduction of the reforms from time to time and the reforms now looming large in the horizon, a democratic form of Government is recognised as the only form of Government suitable for British India. I do not think there will be any doubt about it in the mind of any one

Mr. N. N. Anklesaria (Bombay Northern Division: Non-Muhammadan Rural): I certainly doubt it.

Sir Hari Singh Gour: Barring certain reactionaries whom I do not take into account, but I say that, so far as British India is concerned, the policy of the British Government is in the direction of a democratic rule. Now, let anybody look at the map of India and see how these 600 and odd States, large and small, are situated throughout the length and breadth of India. The difference between a British Indian province and the Indian States is merely a geographical distinction, always imaginary, and never real. People from British India go to the Indian States, and those from Indian States come to British India. Can we for one moment believe that, while in British India we have a system of democratic Government, the subjects of Indian States would be happy in the thought that they have still a patriarchal form of Government? I ask this question in all seriousness. That is the first question. Then the second question, Sir, is this. Assume for the sake of argument that we placed upon the Statute-book not this Bill, but a still more rigorous measure barring the intrusion into Indian States of any man or woman imbued with a political feeling

Sir Muhammad Yakub (Rohilkund and Kumaon Divisions: Muhammadan Rural): Women also?

Sir Hari Singh Gour: Yes, women also,—imbued with a political feeling and suspected of inculcating democratic ideas into the minds of the Indian State subjects, but the subjects of the Indian States, land-locked as they may be, would still have their schools and colleges, they will still read English books, they will still study newspapers and they will cast their eyes around the changing kingdoms and changing history of the world, and when they sit round their fires, they will ask themselves one question—Here is a map of the globe. During the last 25 years there has been a marked transformation in that globe; old kingdoms that traced their descents from the sun and the moon have disappeared from the face of the earth; there is not one single autocratic Government in any country; in all Asiatic countries you have some form of Parliamentary Government. In Europe also you have some form of Parliamentary Government; we the Indian States are the only States in the whole universe which have a form of paternal Government in which all power is centered in one man and his will is the law for the State

Mr. F. E. James: What about Germany?

Sir Hari Singh Gour: Now, I ask Honourable Members to say whether they think that the subjects of Indian States would for long be satisfied with this Government, and I go further and ask—if there is not to be a steady progress stage by stage towards a democratic form of Government, would it not be like a slow fire simmering in a house of which the doors and

windows have all been sealed up? What would be the result?—a sudden explosion, and these monarchies, preserved by the mighty arm of the British, will disappear from the face of history. The repercussion of British India upon Indian States is, therefore, unavoidable, and I venture to think, to a certain extent, it is profitable to both sides. Now, I see an undercurrent of thought both in the speech of the Honourable the Home Member and in the speech of the Honourable the Political Secretary that, in order to prepare ourselves for the coming Federation, we must dangle a carrot before the Indian princes.

Now, Sir, I myself am a confirmed believer in the Federation, and, therefore, I can speak with a certain amount of bias in favour of the Federation. But let me ask Honourable Members two questions, and those questions are these: What is the position of the Indian princes *vis-a-vis* the Government of India today, and what will be their position under the Federation? We have been often told, and it seems to be an underlying current of thought passing through the speech of the Honourable the Home Member that the Federation would be made easier if we were to give the Indian princes the kind of assurance which this Bill is calculated to give, and it is in that connection that I wish, Sir, to speak to you, and through you, to those outside this House who may be of a similar view, that, in coming into the Federation, the Indian princes are conferring upon British India a signal favour. From a constitutional point of view, the position as I see it today is as follows. Under the Government of India Act, the Governor General's Executive Council has not only jurisdiction over British India, but over princely India. Consequently the occupants of the Treasury Benches are responsible for the good Government of the two Indias, British and Princely, and though we have no responsibility, nor indeed are we entitled under the Government of India Act to directly criticise the administration of Indian States, the fact remains that, under the very treaties and the interpretations of those treaties, the Viceroy's Executive Council can use the British arm, which means the British and Indian troops in this country, for the purpose of maintaining law and order in the Indian States, and what is more, to preserve the internal sovereignty of the Indian States. So far as the Indian army is subject to the control of the Legislative Assembly—and it is to a very small extent—we can use pressure upon the Viceroy's Executive Council for the purpose of exercising their power for the good government of the whole of India. Under the federal form of Government, the position would be greatly changed. Under the scheme of the White Paper, the Federal Government will have a certain circumscribed jurisdiction over the two Indias, both British and Princely, but, outside that jurisdiction, neither the Governor General nor his Ministers will have any jurisdiction and much less will the Federal Assembly or the Council of State that will take the place of the present Central Legislature.

Now, I said a few moments ago that if this Bill is intended to be a bait to bring the Indian princes into the scheme of the Federation, it is misconceived, and I wish very briefly to give my reasons in support of my view. It has been spoken from the platforms and also written in the press that the whole scheme of the White Paper, so far as it introduces responsibility in the Centre, depends upon the co-operation of the Indian princes. That is perfectly true, but it is equally true, though

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it is not stated in the White Paper, that responsibility in the Centre cannot long be delayed, and whether the princes do come in or do not come in, he would be a very bold statesman who would declare that he could rule this country for long without giving a large measure of responsibility in the Centre. That seems to be the inevitable evolution of the Indian Constitutional Reforms. Therefore, if the princes do not come in, what is the position? At the present moment, undue emphasis is laid by the Indian princes on the fact that their relations are with the Crown and that the Crown and the Crown alone can control their action. The princes seem to entirely misconceive their situation. I will assume, for the sake of argument, that the Indian princes are in relation with the British Crown. Is there anything in the treaty that prevents the British Crown from acting upon the advice of its Ministers? Today it acts upon the advice of its Cabinet in England. Today it acts upon the advice of Honourable Members who constitute the Viceroy's Executive Council. The princes may have their treaty with the Crown, but they cannot circumscribe the action of the Crown in acting in a constitutional manner which it has been doing for a long time past. The voice of the King is the voice of the British Cabinet, and it is the British Cabinet that determines the policy regarding the Indian Princes. Therefore when the princes speak of their constitutional relationship with the British Crown, they seem to forget that the British Crown is now a constitutional monarch and the constitution of the British Empire transfers those sovereign rights to the British Parliament. Consequently, whatever rights the person of the King possessed have all been transferred—barring one or two which I am not going to detail now—to the Parliament of Great Britain. The Parliament of Great Britain is perfectly entitled to delegate its powers to the British Indian Government and the British Parliament can say that whatever counsels it gave to the King shall hitherto be given by the Indian Cabinet. The British Indian Cabinet can, therefore, be the voice of the King in its relation with Indian princes. So, if the princes do not come into the Federation, they will be the worse for it, and let them not for one moment think that they are conferring any special boon upon British India by coming into the Federation. I used these words elsewhere and pointed out that the Indian princes should not for one moment think that they would be in a position to exact their own terms, because they can indefinitely defer the grant of responsibility in the Central Government. Now, Sir, that is the real constitutional position, and it has been accepted and will be accepted by any impartial constitutional lawyer who considers it.

[At this stage, Mr. President (The Honourable Sir Shanmukham Chetty) vacated the Chair which was then occupied by Mr. Deputy President (Mr. Abdul Matin Chaudhury).]

I, therefore, think that we should not offer more than is legitimately due to the Indian princes for the purpose of bringing them into the scheme of the Federation. I wish to ask the Honourable the Home Member and the Honourable the Political Secretary not for one moment to cast their eyes upon the Indian princes by giving them any special facility for perpetuating their autocratic rule as a sort of solatium for their coming into the Federation. The question, therefore, must be decided independently of the question of the Federation.

The Federation having gone out of the consideration of this Bill, what remains? The Political Secretary said that we find the people of the

Indian States very fond of their rulers. They look upon the ruler as the parent of the people, and, whenever they are in a difficulty, they go up to him. If the Political Secretary were indulging in a myth, then I would congratulate him upon its aptness, but, as a statement of fact, can the Political Secretary think that the people of the Indian States are satisfied with the autocratic rule of the princes? What becomes of the Conferences after Conferences that are being held throughout the length and breadth of this country for the purpose of terminating the autocratic rule of the Indian princes? What becomes, Sir, of the numerous telegrams which must have been disturbing the repose and leisure of the Honourable Members on this side of the House? (*Mr. N. M. Joshi*: "And destroying their sleep too") . . . and, as my friend, *Mr. Joshi*, says, destroying their sleep and their slumber too, in which they have asked that this Bill threatens the most elementary rights of the people's liberties in the Indian States and must be resisted at all costs? Now, is that an ebullition of an occasional feeling? Does that prove that the people of the Indian States are satisfied with the paternal rule of the Indian princes? (*Laughter*) I would ask in all humility this question—have the distinguished occupants of the Treasury Benches got even one or two telegrams from the people of the Indian States to say: "We, who love our princes (*Laughter*), we who want no rights, we, who want to be taxed without any right to say as to how these taxes are to be disposed of, want nothing whatever (*Laughter*), and we are the happiest of all people, happier even than our discontented brethren in British India?" (*Laughter*). Is there a single telegram which they have received, or which anybody else has got?

Major Nawab Ahmad Nawaz Khan (Nominated Non-Official): Yes, I have received a telegram.

Sir Hari Singh Gour: I would then regard it as a fabrication, and I would question its authenticity. Sir, we must face the facts: it is no use appealing to sentiments. The facts are clear. We all know what the facts are. My Honourable friend, the Political Secretary, told this House that in many States institutions on the lines of those in British India have been inaugurated. Well, Sir, I have also read of the inauguration of Legislative Councils and Legislative Assemblies in the Indian States, and I have attended one or two of them. It has also been my good fortune to appear in some of the High Courts of the Indian Princes (*Laughter*), and I can assure my friend, the Honourable the Political Secretary, that when he compares those institutions with institutions in British India, he is doing the institutions of British India an unconscious but nevertheless gross injustice. (*Mr. S. C. Mitra*: "An insult.") (*Hear, hear.*) Sir, I should be very glad if the Indian States had institutions on the lines of those in British India, if they had their High Courts independent of the will of the sovereign, but I am quite sure that in the portfolio of the Honourable the Political Secretary you will find tons of paper refuting his own statement that the people of the Indian States are perfectly satisfied with the paternal rule of their rulers. I have only to appeal to him to go back to his Department and look at the numerous applications and complaints which are made by the people of the Indian States against their rulers. Therefore, I submit that if the object of this Bill be to support the autocratic rule of the Indian princes in the future, then the elected Members of this House will be guilty of a gross dereliction of their duty (*Loud Applause*) if they gave their votes in favour of

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the perpetuation of such rule. Are they in favour of this? (*Cries of "No, no"; "No, no."*) Are they in favour of such rule in this country ("No, no"), and if they are not, would they be doing justice to themselves if they demand that their brethren across the border should have a rule different to their own? ("No, no.") That, Sir, is the question which agitates the minds of those who occupy the Opposition Benches and, therefore, when we are asked that we must perpetuate the paternal rule of the Indian States, and if that be the object of this Bill, then I submit my Honourable friends on the Treasury Benches will obtain scant support from this side of the House.

Now, I pass on to one more aspect of the question. It is stated in clause 6 of the Bill that the intention of the Government is that we should not in the slightest degree interfere with the administration of a State in India. The Honourable the Political Secretary knows and he has in fact confessed it that the administration of the States in India follows three degrees: bad, worse, and the worst. The best of them is bad, and the worse of them is no doubt worse than you can ever conceive of anywhere else! (Hear, hear.) Now, if the people in British India demand that there should be an improvement in the administration of the Indian States, would you penalise them if this clause is enacted into law, thereby once more making the Legislative Assembly of India responsible for the ossification of princely administration? (Sir, I do not think any self-respecting Member of this House, who has been returned by his constituency for the purpose of liberalizing the Constitution of British India, would lend his hand to the perpetuation of this evil of maladministration in the Indian States.)

Now, that is so far as the perpetuation of autocratic rule is concerned. But there are two other aspects of the Bill to which I should like to draw the attention of the House. If Honourable Members will turn to clause 4, dealing with the press—and I have some little difficulty due no doubt to my ignorance—and if they will turn to the marginal note of clause 4, they will find that there are references to two Acts, one of which is Act XXIII of 1931, an Act known as the Indian Press (Emergency Powers) Act, 1931. This Act had a life of one year from the 9th October, 1931, with a power to the Governor General in Council to extend it for a period of one year by notification and, therefore, by force of this notification, the Press Act must have ceased to exist as such on the 9th October, 1933. I do not know whether in the Simla Session or any other Session, at which I was not present, the life of this Act was extended or not. I do not know. If the Bill has already spent itself and, in any case, even if the life of this Bill has been extended to a further period of which I know not, then clause 4 is only of a temporary character. It will be either for a period of one year or two years or three years as the case may be. Now, take the other Act, Act XXIII of 1932. That Act is known as the Criminal Law Amendment Act and its life is three years from the date of 19th December, 1932. So that both these Acts, the Criminal Law Amendment Act and the Indian Press Emergency Act, are short-time Acts extending to two or three years. Now, this clause 4 amends these Acts, and, therefore, I wish to ask whether the intention of the draftsman or indeed of the Mover of the Resolution was to give clause 4, that is to say, the press restraint clause, only a short duration of two or three years. That is the first question I wanted to ask the Honourable the Home Member. If that be the intention, then that raises another question. We

have been told that there are a very large number of papers published in India which live by blackmailing. Now, I ask this question that if this clause has only a life of one or two years more after which it will cease to exist, only two things can happen. Either during that time you will have forfeited all these papers and none will exist or that the blackmailing after these two years will continue without any remedy which you wish to provide under this clause. So, I have not been able to understand why in this Act a matter dealing with a temporary emergency is coupled with measures which are presumed to be of a lasting duration.

Now, Sir, I pass on to the next point. Clause 5 deals with *jathas*. Now, the Honourable the Political Secretary has made no secret of the fact that he wants that there should not be a gathering of force in British India with a view to overawing Indian States and, to that extent, I do not think that there will be two opinions in this House. So far as these organised *jathas* are concerned and which were stopped by the Ordinances of His Excellency the Governor General, time has come when the Legislature should intervene and proscribe the gathering of force for the purpose of invading Indian princes. That, I submit, is a salutary provision in the Bill, and I do not think that anybody on this side of the House has any complaint to make against that provision which prohibits the gathering of force for the purpose of using it outside the British territory. But, then, when we review clause 5, it seems to be too wide, and judging from the opinions received on the Bill, I find that many people, who have recorded their opinions, are also of the same view. I would, therefore, submit that, while the object of preventing the massing of force in British India for its use in the Indian States with a view to overawing those States and to make them do things which they would not otherwise do is a laudatory provision, the clause must not go beyond the mischief it is intended to prevent. But the clause, as it is worded, does go beyond the immediate necessities of the case. Let me read the operative words of this clause:

"When a District Magistrate is of opinion that there is in his jurisdiction a movement for the promotion of assemblies of persons for the purpose of proceeding from British India into the territory of a State in India and that the entry of such persons into the said territory or their presence therein is likely or will tend to cause interference with the Administration of the said State."

Now, that, I submit, is not the real object. That object is also preserved in clause 6. The language "interference with the administration of the State" is too wide and that is a phrase used both in clause 5 and clause 6, and I submit it is to be recast. If you really wish that the clause must be restricted to the prevention of *jathas* to cross the border for the purpose of intimidating and overawing Indian princes and their administrations within their own territories, the clause must be so worded, but it should not go beyond the immediate purpose you have in view. Then, Sir, I have already said what I had to say regarding the press. I do not feel at all happy about this clause. It may be that I have not had the advantage of following the course of legislation last year, nevertheless I do not see the purpose that this clause is intended to serve. If I may respectfully say so, the Honourable the Political Secretary is on the horns of a terrible dilemma and that dilemma is that, if there is a body of blackmailing press which lives upon the Indian States, then the clause must be a permanent clause in the Bill. If, on the other hand, it is only a passing menace and will disappear in the course of a few months or the course of a few years, then I do not see how this clause will serve that purpose.

[Sir Hari Singh Gour.]

The only thing that occurs to me, as I said before, is that you must have somewhere in your sub-conscious mind a feeling that if this clause has only a life of one or two years, I shall see the end of those presses that have been in existence and living upon the ill-gotten gains which they make from the Indian princes, but that could not be your object. You must give them a chance to reform themselves and, I am quite sure, that I should be the last person to accuse the Government of that intention. Therefore, I feel somewhat perplexed at this clause which I have not been able to understand. I daresay that other Members of this House may be in a similar state of perplexity and I would, therefore, ask either the Political Secretary or the Honourable the Home Member to clarify our minds on this point. Sir, there is one more point to which I wish to draw the attention of the House. I have been very anxiously following the various clauses of this Bill, but I have not found anywhere any provision giving the convict the right of appeal. I want to know whether the Honourable the Home Member or the Honourable the Political Secretary wishes to bar the right of appeal against an unjust conviction under the operative clauses of this Bill. I have been very anxiously studying this point and I do not find that by any analogy, drawn from the Criminal Procedure Code, a right of appeal would be given to a convicted person. It is conceivable that he may have a right of revision, but a revision is another matter altogether. What I want to know is that if a person is convicted under clauses 5 and 6, has he got a right of appeal?

Mr. S. G. Jog (Berar Representative): The right of appeal is always there unless it is expressly taken away.

Sir Hari Singh Gour: Where is the right of appeal? Perhaps in the brains of my Honourable friend. The general law is that there is no right of appeal unless the Statute provides for it, and has the Statute provided for it? If the Statute has not provided for it, is there anything in the Criminal Procedure Code or anything in the processual law of this country that will give a convicted person a right of appeal? That is the question that I wish to ask.

Lastly, I agree entirely with my Honourable friend, Mr. Yamin Khan, that this question of *jathas* making incursions into Indian States is of recent occurrence brought about by a general rising in British India and the Indian States for greater liberty and more freedom and we hope that, with the advance of the new Constitution the mischief will not recur and if it does, the future Constitution must be trusted to deal with it. I would, therefore, suggest agreeing with Mr. Yamin Khan that the life of the Bill should be limited to a period of, say, three years.

Another point that I wish to state in this connection is the point to which my Honourable friend, Mr. Yamin Khan, has drawn the attention of the House, namely, that this is more or less an emergency measure and it would be much better if it were enacted independently of the Indian Penal Code. There are a number of difficulties, some of them have been pointed out by Mr. Yamin Khan, and one of them occurs to me at the present moment and it is this. Coming to the Indian Penal Code, it was primarily intended to codify the law of British India with reference to the offence committed in British India and though this would be an offence committed in the Indian State, it would be an offence begun in British India for the

purpose of committing a real offence in the territory of an Indian prince. I would, therefore, suggest that, for the purpose of making the Bill a little more palatable to this side of the House, the Honourable the Home Member might see his way to making it an independent Bill like so many other Bills that have found their place on the Statute-book.

Mr. Jagan Nath Aggarwal (Jullundur Division: Non-Muhammadan):

Sir, after this very long and exhaustive debate starting from 4 P.M. Simla, I do not feel still convinced of the utility of the provisions of this Bill. My first difficulty with regard to this Bill is as to the necessity for it. The House will remember that in 1922 the Government of Lord Reading certified a measure known as the Indian States (Protection against Disaffection) Act, 1922. The first Assembly refused permission to the Home Member for the introduction of that Bill and that Bill, on being passed by the Council of State, was certified by the Governor General and placed before the House of Commons. That Bill got its life in that way. My point in drawing the attention of the House at this late hour to the history of that measure was that the very first Assembly in which a measure, independent of the Indian Penal Code, was sought to be enacted to protect the Indian States against disaffection, in other words against seditious libel, enacted in section 124A of the Indian Penal Code, was not considered good enough to be granted leave for introduction. It was not that the House considered the measure and gave its decision against it, but it summarily refused permission even to look at the measure. Now, one thing in that controversy that was prominently brought out was that the States had enjoyed protection from the attacks of the press from 1910 upto that time when the Press Act was repealed on the inauguration of the new Constitution, and it was felt that something might be done for the princes, but it is a remarkable fact that when the Committee for the repeal of repressive laws toured the country, the princes made out no case and led no evidence and, as they say in legal language, allowed judgment to go by default. A still more important point which will be found in the literature presented to Parliament along with that Bill of 1922 is that it was only on three occasions from 1910 to 1921 that prosecutions were launched against newspaper proprietors for offences committed against the Indian States. True, when this measure was tried to be placed on the Statute-book, an attempt was made to show that the occasions on which action was sought to be taken or in which occasion arose for curbing the liberty of the press were not only those three cases, but a lot more, but there was no satisfactory evidence that the trouble was widespread. But now that is past history, and let us go a little further. Under this Act of 1922, there have been no more than three prosecutions. I put it to the House that in a country in which there are no less than 600 odd princes and princelings, owners of large States in various stages of development and holding mighty powers and some of them wielding very great powers of life and death, if for 600 princes and, during the course of these 10 or 12 years, there have been no more than three prosecutions, I submit this is all to the credit of the Indian press. It is not that the Government are afraid of launching prosecutions or that these Indian States are afraid of seeking redress in our Courts, for they have faith in our Courts in spite of the fact that here and there there may be a case which may have dragged its life for a fairly long time which is one of the things we are used to in Indian litigation, I say that during the past ten years and

[Mr. Jagan Nath Aggarwal.]

over in regard to 600 princes, only three occasions have arisen for launching prosecutions. I say this is a very great testimonial to the good behaviour of the press. Of course there are black sheep in any community and in any profession, and if there are blackmailers or the so-called gutter press owners, such blackmailers and such gutter presses are to be found all over the world. They are not peculiar to India and, even in the Western countries, they masquerade under different names, only our methods here are cruder. But, I say, this by itself is proof of the fact that there was no urgent need for protection against attacks in British India directed towards the princes. I go further and say that the princes have an organised institution for ventilating their grievances and for putting forward demands which they want for the protection of their Princely Order. Well, Sir, we have not been yet told whether there was any insistent demand from the Chamber of Princes. We were told that there was such a demand in 1930, and my Honourable friend, Mr. Dumasia, had been at such great pains to justify this measure.

Mr. B. Das: He has presented the Government case.

Mr. Jagan Nath Aggarwal: My Honourable friend forgets that the Government case is presented not only from the opposite side, but from this side as well. Anyway, the point is that if it was put forward once in a way some three years ago, can we say that there was an insistent demand for a measure of this kind? If the Indian press had fallen foul of the princes, there should have been more insistent and more repeated demand for curbing the press than there has been.

Well, Sir, if I may say so, the real thing is, as the previous speaker said, that an attempt was made to bring this measure in under the shadow of the Federation, that this would be either a bait for the princes to come into the Federation or it would be a thing which would be necessary for keeping up, so to say, the reputation or honour of every unit of the Federation. Sir, I think the princes, who have taken such a long time to make up their minds and who know the pros and cons of the Federation, certainly are too careful people to be deluded into the Federation by the mere prospect of this Bill being passed. Then, Sir, as has been pointed out by my friend, Sir Hari Singh Gour, it would be but a slender kind of protection which would be afforded to princes or to anybody under this Bill. Apart from the fact that the Bill would have, under the ordinary law, nothing more than a life of two years, this measure does not tackle the problem in the real sense. Let me just examine what the position is with regard to us in British India. As a matter of fact, this Bill, if one may say so, creates offences for us. I do not know what it does for the State people. The State people come into the show because we are going to be punished for saying something on their behalf. It is something as if the people of England were going to be punished for talking of the Armenian atrocities or the Bulgarian atrocities. It is just like that. This question of the State princes and their organisations has been before the Indian public and the English public too for more than five years. What is the position of the State people? Before the Butler Committee, —and I make a particular point of it,—the people of the Indian States wanted to have a hearing and the curt reply of the President of the Committee was that they had no jurisdiction to hear them; that they were to

expound the relations or to look into the relations of the Paramount Power with the princes and not to look into the relation of the princes with their people. And since that inquiry was tabooed, my friend, the Political Secretary, can very well say that the Indian State people are in the happiest frame of mind and they are content with the paternal Government they have. In a way, this question of Paramountcy then has an important interest for us. The net result of that inquiry was that the princes,—I do not know to please whom, themselves or anybody else,—struck a line that their relations will be with the Crown of England, having nothing to do with the Indian Government. Previously they had their relations with the East India Company which had very little of the insignia of royalty, thereafter they had them with the Governor General in Council exercising delegated authority from the Crown of England. But now a new line was struck that they have direct relations with the Crown and they tried to fight shy of the people of this country. I do not know if they would still fight shy of the people of this country. Anyway there it was and the curious phenomenon for us is that in the new Constitution the relations of the princes are sought to be put in the hands of an adviser to the Viceroy and not in the hands of the Cabinet of the Governor General. At present, this paramountcy is a matter which is within the competence of this Legislative Assembly in the sense that the person who advises the Governor General sits in this Assembly, but that is all. We cannot ask questions about the Indian States and our position is going to be worse. So far as the relationship with the princes is concerned, the new Constitution places all relations of the princes with the Crown outside the purview of the Indian Cabinet of the future. Well, Sir, it has been said very often that the Crown guarantees to the princes freedom from aggression from without as well as safety from internal commotion. How is that freedom to be given to the princes? At the cost of the army and the administration in British India for which we have to pay and pay very heavily. If that is so, it is a curious proposition that, for the safety of the princes and for the sake of this paramountcy, we have to maintain an army and to lend them the support of that army. But when we are going to look into this question of the purpose for which that army is going to be used, we are told that we have nothing further to do with it. I prominently bring to the notice of this House that there is a rule which exists among our Standing Orders which says that no question affecting the relations of the Governor General or any Local Government with any prince or chief in British India can be put in this House. And this was exemplified in a manner when certain unfortunate happenings were going on in the State of Nabha and no questions with regard to it were allowed to be put. Now, Sir, my position with regard to this question is that we are debarred from putting questions or discussing the relations of the Indian Government or the Crown with the States.

[At this stage, Mr. President (The Honourable Sir Shanmukhan Chetty) resumed the Chair.]

We are debarred from debating their internal affairs and, what is more important, is that they are going to have a very direct say in our own affairs. They are going to sit and assist in the making or unmaking of our laws. I put it to you, at this time of the day, is it fair or proper for the Government of India to put forward a Bill in which we are going to create an offence for the people of India for doing anything to interfere with the administration of those States?

[Mr. Jagan Nath Aggarwal.]

Now, Sir, with regard to this matter let me make the position of those who sit on this side of the House clear. We are actuated by no sense of hostility to the Indian princes. In fact, if we were actuated by such a feeling, we would not have resented the attempt to create a gulf between Indian India and British India. We feel that they are but parts of our body politic, of one organic whole. If that is so, this debate should be viewed from two points of view. One is the great compliment to the British administration, because we say that, unless they have this kind of administration in their States, we are not prepared to allow an offence to be created which would make any interference with that administration a penal offence. It is, I say, a great compliment to the British administration when we say that the same institutions should be repeated or multiplied in the Indian States. Secondly, I say that those, who are coming into the arena of the Federation, should not be so thin-skinned and they should be prepared to shoulder their public responsibilities, subjected to the due criticism of the press. The position with regard to this matter then is that we are quite prepared to concede that any vilification of the princes is entirely disagreeable to us. We do not in the least lend any support to any campaign which may be launched in British India for overawing by force or show of force or by the leading of *Jathas* into the territories of the Indian States, the government or administration of any Indian State. But it is a different proposition to be told that, though the Indian States have a different form of Government, we should have nothing to do and have no say in the matter of how that administration is being run. We have had dictatorships in the present world starting with the dictatorship of Mussolini; the dictatorship of Russia, the dictatorship of President Roosevelt, etc. But the important difference is that there is a rule of law prevailing in those countries. Under the rule of law, if you have a benevolent dictator, it is all to the good, and I wish we could appoint an Indian dictator in any of those Indian States who has adopted the rule of law as the basic foundation of his constitutional structure. Are we asking too much at this time of the day if we were to say that before you afford protection of your laws and before you make it a criminal offence to interfere with those administrations, you should at least insist on this that some constitutional guarantees should be vouchsafed to the people of those Indian States? That is our claim and that is our demand. We are pained at this measure, because we find that those administrations and those forms of Government, which you may be supporting, do not at times deserve the name. You may distinguish between Governments; you may say, here is a Government established by law in which those for whom the Government is run have a certain share in the administration, that the responsibility for running that Government is partly with the princes and partly with the people. But an autocratic rule in which nobody is responsible, in which there is no freedom of person, no liberty of speech, no right of association, in which the right to property even is not guaranteed, how can we be asked to be a party to making a law that any interference or any discussion of that form of Government should become punishable in this country? The worst of this measure is that it makes no distinction whatever between these six hundred princes: it makes no distinction between the owner of a few acres and the owner of a mighty principality, between the progressive prince who may have established a legislative assembly in his

territory and who may be living only on his civil list, and those who may be wielding the most autocratic power.

The real difficulty in this measure is that whereas the previous Bill, which was certified, created an offence to be tried by Courts and a person could be deprived of his life or liberty only after conviction by proper regular Courts, in this measure we are going to have the substitution of executive for judicial action. I submit, this is a very great departure from precedent and runs counter to the tendency of Indian legislation. I am quite conscious of the fact that at extraordinary times during the last twenty years the Indian Legislature did have recourse to certain measures for curbing the liberty of the press, and two such measures are even now on the Statute-book; but may I remind the House that those measures came into existence at abnormal times to meet certain emergencies, and their life was temporary; and who has ever pretended that this question of agitation against the princes has assumed such gigantic proportions that you must look upon it as an emergency and a menace to society. The resort to extraordinary powers is, therefore, wholly unjustified. One must take it that if the Government of India were keen on protecting the princes for all time to come against such attacks, they would have embodied their proposals in the form of a Bill and brought it forward as a substantive measure creating an offence, not merely providing for executive action being taken. In fact, if one were to look at the question from the point of view of the Honourable the Political Secretary, who mentioned yesterday that there are no less than 400 newspapers in the States, one is left to guess what these four hundred journals are. From the best information that I have been able to gather, I find that some progressive States in the south of India—and the south of India may safely be congratulated on it—Cochin, Travancore and Mysore, and Baroda in the north—have between themselves no less than 300 papers or journals. I do not know why such journalism flourishes in the South Indian States—it does not seem to exist in Northern India; and if it did exist in Northern India, we would not have had the trouble of debating this measure; we need not now go into the reason why journalism prospers in the south. But, anyway, I put it like this: if there are 400 journals in these various States, then how have the princes protected themselves against these 400 journals? They must look at their homes first and protect themselves against these journals before they come to us and ask us to legislate

Mr. N. M. Joshi: But they do not allow them to write politics.

Mr. Jagan Nath Aggarwal: Then, of course, it is a different proposition. If the politics of the States are talked of only in British India, then these papers in the States exist more in name and more for discussing theoretical or theological propositions than for discussing current affairs of the day. Then this question of the existence of 400 journals should not mislead us. There are no journals worth the name in the Indian States, and the reason why our journals are being castigated by this executive action is that they are the only journals which discuss the affairs of these Indian States.

One or two provisions of this measure may call for just a passing notice. It has been claimed that the provisions relating to the gathering of armed men, otherwise known as *jathas*, who may indulge in incursions into the territory of Indian States is a matter not acceptable to any system of laws. In fact, such a situation might arise in any country; those who have read

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history and are familiar with the Jameson Raid in South Africa and the trial of those offenders in England would agree that such a measure is all to the good. The need for that thing has arisen as was demonstrated by the promulgation of an Ordinance by His Excellency the Viceroy a couple of years back; and if a state of affairs like that arose, certainly action should be taken; but one looks in vain in these clauses for any safeguards that are necessary in a matter of this kind. In fact it is laid down "if any people are collecting and are, in the opinion of the District Magistrate or the Presidency Magistrate". In that Ordinance we had the judgment of the Governor General and his Cabinet to rely upon before the collecting of these people could be stopped; but now we are giving it to the District Magistrate; and what is worse, the words used are "interference in the affairs of a State", not subverting any State or creating any trouble for the State. If, for example, they were only discussing the alienation of land in that State or only going to have a deputation or demonstration to or before the Political Agent or the Resident or the Cabinet of the Indian prince, they would be immediately proceeded against, and there does not appear to be any provision for having these orders re-heard by any higher authority, which makes the matter still worse. In fact, it was pointed out by the Government Advocate of my Province that there was no provision even for service of the order. You could not penalise a man unless you have served the order on him; there does not appear to be any provision for serving the order on the man whose actions are sought to be restrained. Similarly, it has been pointed out in a number of opinions which have been received that the word "interference" is a word of too large an import and it goes beyond the object which the Honourable the Home Member had in view in introducing the Bill and the purpose for which this Bill is to be enacted.

My Honourable friend, Mr. James, took credit for the proposition that there is an intense feeling of loyalty in the States and that feeling of affection for the ruler is a great asset for all Governments and that we should not lightly meddle with that feeling. That that feeling of loyalty and affection is sacred, I agree, but whether that feeling has not been dissipated by the misrule or the actions of the princes is a different matter. But I can safely say that when Mr. James wanted to protect that feeling, he should also bear in mind that that feeling is one of those sentiments which may disappear in course of time; and, if we can protect that feeling, it can only be protected by making the princes appear as the protectors and the benefactors of their people as they originally were. If, in course of time, the placid contentment of the people of this country has been disturbed by reforms, it is a very big proposition to lay down that the people across the border would remain entirely unmoved by what is happening in this country. It is much too great a proposition to be accepted by anybody,—that we should go on here at break-neck speed, if you like, and you should leave the princes and their people entirely untouched by what is going on in British India. In fact, the very proposition which my friend, the Political Secretary, mentioned the other day disproves this assertion. It was claimed by him, Sir, that under the impact of forces in British India any number of States were putting their house in order and that reforms were going on all round. If that is so, is it not time, I ask, to wait and see the result of such impact, and should we not in this time of transition proceed cautiously, and if you

are to allow them time to develop along the same lines, then creating this an offence for the press would be creating a very anomalous situation indeed. Let me visualise the position, Sir. What is it that the press can be hauled up for saying or doing? A newspaper press, if it discusses, shall we say, the constitution of a Cabinet or the appointment of a minister in an Indian State, that is likely to be construed as interference with the Government, it would be obnoxious. Suppose a measure is brought forward, and it is a measure which is not very much liked by the public; and if it is criticised in the press, then you will say: "Oh, here is a criticism of the measure in a newspaper press and it is unjustified", and the result will be, the security will be forfeited. Let us go further. Let us say, for instance, there is a communal tension or an agitation in the State or any dispute between *jagirdars* and the ryots. Suppose a newspaper in British India takes one side and makes comments. Immediately the Cabinet of the State may not like the side for which the British Indian press takes up cudgels, and there will be trouble for this press. In other words, then the position comes to this, a British Indian press would be simply deprived of the power of discussing any question touching the affairs of any prince or chief, in India. If that is so, it appears to me that it would be a very dangerous proposition indeed. In fact, the Government of India have realised themselves the need for improving the lot of the people of the Indian States, and their warnings to the princes have not been few and far between. I find, Sir, Lord Chelmsford, a short time ago, gave the following advice at Bharatpur. This is at page 216 of this book, called "Indian Princes under British Protection" by Chudgar:

"If the wheels of administration are to run smoothly, the stirring times in which we live, and particularly the events of the past few months, have emphasised the danger that attends the exercise of autocratic rule without proper regard to the interests of the people. In the vast majority of the countries of the world the realisation of this danger has led to the substitution of government by the people for the uncontrolled authority of an individual sovereign."

—Well, Sir, if a newspaper were to write like this, it may immediately be proceeded against on the ground that it is interfering with the Government—

"The rulers of the Indian States, in virtue of their protection by British Government, enjoy an unusual degree of personal control over the welfare of their subjects, and the responsibility that lies upon them is correspondingly great."

—But, I would submit, it would be correspondingly great on the Indian Government also which guarantee both freedom from external aggression and internal commotion—

"In India itself the British Government has decided to grant a substantial measure of power to the people in the administration of their own affairs. Autocratic rule anywhere in future will be an exception and an anomaly."

Well, Sir, if these pregnant words were uttered by the head of the Government of India to the Indian princes in their own homes, I should like to know why it is that the Indian Government have felt themselves compelled to put forward this measure for which there does not appear to be any great demand from the princes themselves?

Sir, there have been a number of demands by princes, all kinds of demands from princes. Have the Government of India ever given way to other demands which the princes have made? I know of one such,

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and I hope, Sir, you will pardon me for referring to it at this late hour of the day. In the proceedings of the meeting of the Chamber of Princes for 1930, at page 128, I find His Highness the Maharaja of Bikaner said as follows:

"British India is more vocal than ourselves. The Provinces have been vociferously clamouring for greater provincial autonomy, more freedom from interference by the Central Government and less restrictions upon their own authority. They ask for a gift of new rights. The States ask for a restoration of their original status what actually belonged to them. If the British Indian Legislatures and Provincial Governments are to be invested with greater autonomy, so as to minimise intervention with their administration from the powers that be, the States have a greater justification for claiming for a restoration of their own internal original autonomy so as sufficiently to safeguard it from encroachments in the near or distant future. Such a happy consummation will bring in its train substantial political and other advantages of the highest mutual importance which are obvious. Moreover—what, comparatively speaking, is of no small consideration—it will conduce to the peace of mind of all concerned and to the increased efficiency of our respective work in the task of administration untrammelled by unnecessary interruptions and worries and anxieties, so far as the relations of the Crown and the States are concerned."

I say, Sir, that if it was not possible for the Government of India to accept that demand, it should be equally impossible for the Government of India to create for us an offence arising out of discussion of the affairs of the States. And, after all, we have removed the only safety valve in the case of the States that existed before. The people had the right by force or by revolution to dethrone a ruler. You are now guaranteeing them security of position. If you are giving them all those things, can you not insist upon an elementary Constitution being given to the people before you give them all these privileges? If the States grant a certain standard of constitutional Government and constitutional rights for their people, I for one would be happy to give them all the protection, but, as things stand at present, I do not see any justification for a measure of this character. The moment you have Federation, you are going to protect all its units. If that is the case, then you better leave the whole thing to the Federation. If you are going to make it a bait for the princes to come in, then I can assure you that no prince would care to accept the bait and come in. At present all I can find is that all these three unnecessary offences are going to be created for us, and power to the executive is going to be given which may be used to the utter ruin of the press and which may place extraordinary powers in the hands of the Executive Government of this country. And be it said to their credit, they are not fond of it. It was a pleasure to find from the opinions received, mostly from Collectors and District Magistrates, that they do not want any of these powers. This power of ruthlessly proceeding against the keeper of a press is a power which even the District Magistrates say they do not want. If that is so, then, I say, we are the only people directly concerned with this matter at the present moment, and it is singularly inopportune to bring forward a measure of this description at this time in the form that it has been brought in.

Several Honourable Members: Sir, the question may now be put.

Mr. President (The Honourable Sir Shanmukham Chetty): The question is that the question be now put.

The Assembly divided:

AYES—59.

Abdul Aziz, Khan Bahadur Mian.
 Ahmad Nawaz Khan, Major Nawab.
 Allah Baksh Khan Tiwana, Khan
 Bahadur Malik.
 Bajpai, Mr. G. S.
 Bhowre, The Honourable Sir Joseph.
 Chatterji, Mr. J. M.
 Clayton, Mr. H. B.
 Clow, Mr. A. G.
 Cox, Mr. A. R.
 Dalal, Dr. R. D.
 Darwin, Mr. J. H.
 DeSouza, Dr. F. X.
 Dillon, Mr. W.
 Dumasia, Mr. N. M.
 Ghuznavi, Mr. A. H.
 Gidney, Lieut.-Colonel Sir Henry.
 Glancy, Mr. B. J.
 Graham, Sir Lancelot.
 Grantham, Mr. S. G.
 Haig, The Honourable Sir Harry.
 Hazlett, Mr. J.
 Hockenhull, Mr. F. W.
 Hoon, Mr. A.
 Hudson, Sir Leslie.
 Ibrahim Ali Khan, Lieut. Nawab
 Muhammad.
 Irwin, Mr. C. J.
 Ishwarsingji, Nawab Naharsingji.
 Ismail Khan, Haji Chaudhury
 Muhammad.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur
 Sardar Sir.

Lal Chand, Hony. Captain Rao
 Bahadur Chandhri.
 Mackenzie, Mr. R. T. H.
 Millar, Mr. E. S.
 Mitter, The Honourable Sir
 Brojendra.
 Morgan, Mr. G.
 Mukharji, Mr. D. N.
 Mukherjee, Rai Bahadur S. C.
 Nihal Singh, Sardar.
 Noyce, The Honourable Sir Frank.
 Rafiuddin Ahmad, Khan Bahadur
 Maulvi.
 Raghbir Singh, Rai Bahadur
 Kunwar.
 Raisman, Mr. A.
 Rajah, Rao Bahadur M. C.
 Ramakrishna, Mr. V.
 Ranga Iyer, Mr. C. S.
 Rau, Mr. P. R.
 Sarma, Mr. R. S.
 Schuster, The Honourable Sir George.
 Scott, Mr. J. Ramsay.
 Sher Muhammad Khan Gakhar,
 Captain.
 Singh, Mr. Pradyumna Prashad.
 Sloan, Mr. T.
 Studd, Mr. E.
 Suhrawardy, Sir Abdulla-al-Mamin.
 Talib Mehdi Khan, Nawab Major
 Malik.
 Taylor, Mr. J. B.
 Tottenham, Mr. G. R. F.
 Wajihuddin, Khan Bahadur Haji.
 Yamin Khan, Mr. Muhammad.

NOES—38.

Abdul Matin Chaudhury, Mr.
 Abdur Rahim, Sir.
 Aggarwal, Mr. Jagan Nath.
 Anklesaria, Mr. N. N.
 Azhar Ali, Mr. Muhammad.
 Ba Maung, U.
 Bhuput Singh, Mr.
 Das, Mr. A.
 Das, Mr. B.
 Dudhoria, Mr. Nabakumar Sing.
 Dutt, Mr. Amar Nath.
 Gour, Sir Hari Singh.
 Harbans Singh Brar, Sirdar.
 Ismail Ali Khan, Kunwar Hajee.
 Jadhav, Mr. B. V.
 Jog, Mr. S. G.
 Joshi, Mr. N. M.
 Krishnamachariar, Raja Bahadur G.
 Lahiri Chaudhury, Mr. D. K.

Lalchand Navalrai, Mr.
 Liladhar Chaudhury, Seth.
 Mahapatra, Mr. Sitakanta.
 Mitra, Mr. S. C.
 Neogy, Mr. K. C.
 Pandya, Mr. Vidya Sagar.
 Parma Nand, Bhai.
 Patil, Rao Bahadur B. L.
 Puri, Mr. Goswami M. R.
 Rastogi, Mr. Badri Lal.
 Reddi, Mr. P. G.
 Reddi, Mr. T. N. Ramakrishna.
 Roy, Kumar Gopika Romon.
 Roy, Rai Bahadur Sukhra.
 Shafee Daoodi, Maulvi Muhammad.
 Singh, Mr. Gava Prasad.
 Sitaramaraju, Mr. B.
 Thampan, Mr. K. P.
 Uppi Saheb Bahadur, Mr.

The motion was adopted.

The Honourable Sir Harry Haig: Sir, we have had an interesting and comprehensive discussion on this motion and I think it has helped us to clear our ideas and our attitude towards the general principles that underlie the measure which the Government have placed before the House. In the very fair-minded speech which we heard this morning from the Honourable the Leader of the Independent Party, I was particularly glad to observe the assurance he gave that Honourable Members on the other side were not hostile to the administration of the Indian States, that they were not anxious to weaken them, and that they desired their prosperity and advancement. I think even there is a feeling of some pride in what is known commonly as "Indian India", and I believe that that represents the general attitude of the House in taking up this question. I admit it is not quite the impression that I derived while I listened to the speech of my Honourable friend, Sir Hari Singh Gour. I seemed to detect there a somewhat different under-current of thought: but just as he detected in my initial speech an under-current of thought which was not there, I trust that, perhaps, my suspicions also may not be justified by his speech, and that in fact he did not wish to abolish the Indian States, to sweep away their present form of administration, and to replace them by some copies of a British Indian Province. (Hear, hear.) As I have mentioned, the reference which my Honourable friend, Sir Hari Singh Gour, made to my speech and the under-current that he there detected, I may as well deal with that at once. He suggested that in bringing forward these proposals, we had in mind the necessity of offering some bait to the Indian States in order to induce them to enter into the Federation. No such idea ever crossed my mind. In the reference which I made to the Federation, I had no idea at all of offering any inducement to the States to enter the Federation. I was thinking of conditions when the Federation is in operation: and it seemed to me that no Federation would operate successfully unless the various units were working harmoniously and were not in a state of constant suspicion and hostility amongst themselves.

Well, Sir, I think that I have found during the debate a general recognition that some action is called for. It is a matter of common knowledge that unconstitutional activities have been pursued in British India in recent years against the Indian States, and after listening to what my Honourable friend, the Political Secretary, in an extremely able speech said on Monday, I do not think anyone can doubt that the liberty of the Press has in many cases been abused. If, then, it is true that some action is called for, if it is true that there have been these undesirable activities, then those critics, who desire that nothing should be done, are driven back to the position that we have in fact already the power to suppress them and that we are consequently inviting the House to give us powers which it is quite unnecessary for us to possess. I do not think that that line of argument will really stand any close examination. If a body of men entered into a conspiracy in British India to subvert the administration of an Indian State, what powers have we got to prevent it? I do not think any Honourable Member attempted to point out any powers which we have at the present moment in our Penal Codes. And would it be a reasonable position to assume towards a State to say, if a dangerous conspiracy is entered into in British India,—“we are very sorry, we sympathise with you, but we are powerless, we cannot control our own subjects, we can do nothing for you. We must allow our territory to be used as a base of hostile operations against you.”? Is that a reasonable position for British India to take up as against the States?

Then, again, with regard to the organization of *jathas*, it has been suggested that we have already in section 144 of the Criminal Procedure Code all the power that we require in order to prevent the assembling and marching of these bodies of men from British India into the Indian States, and my Honourable friend, Mr. Yamin Khan, developed at considerable length a legal argument somewhat on the same lines. I have, I hope, a proper respect for the legal abilities of my Honourable friend, but he will perhaps not quarrel with me, if I say, I have an equal and perhaps greater respect for the legal abilities of our official legal advisers and of my Honourable colleague, the Law Member, and the fact remains that, when a few years ago, a very difficult and dangerous situation developed in British India and *jathas* were formed and were marching into an Indian State, we were quite definitely advised that our present Indian law was not sufficient to prevent those activities. And this was not only an opinion, a mere paper opinion, but so serious was the situation that the Government of India came to the conclusion that they must have the powers which the existing law did not give them and, in order to get those powers, they asked the Governor General to issue a special Ordinance, which he did. That, Sir, I think, ought to dispose of the point that we have already sufficient powers to deal with the assembling of *jathas*.

And, then, finally, about the Press provisions. We are told that the existing Act—the Princes Protection Act, passed in 1922—is sufficient, and that it gives us ample powers if properly used. Well, Sir, if those powers are sufficient, why have they not in practice been effective? No one can have listened to the debate in this House without realizing that in fact those powers have not been effective,—that an undesirable Press propaganda, malicious and dishonest, has been carried on steadily against many States. If the powers were there, why have we not used them? It is not that conditions have improved since 1922. They have got worse. It is not that the States are not interested. They are keenly interested. The fact of the matter is that the procedure is practically useless, and that is why it is not used. And why is the procedure useless? Because, in order to put that Act into operation, it is necessary to give the widest publicity to the charges, very often most scurrilous charges, that are made, to advertise them, and while the case is going on, there is nothing to prevent the newspaper repeating those charges day after day. In the second place, the procedure is terribly slow. If a defendant is anxious to use all the resources of the law for delaying a case, it is unfortunately very often possible for him to protract it to a most unreasonable length, and my Honourable friend, the Political Secretary, told us on Monday that the last case which had been instituted under this Princes Protection Act had occupied, from start to finish, I think, something like four years. Well, Sir, that is not an encouraging prospect for any prince who wants to protect his honour or the credit of his administration. In the third place, when all this elaborate and dilatory procedure has been gone through, there is no assurance that the person really responsible will be punished, for it is always possible for the man who is really organising and inspiring these attacks to put up before the public and before the Court a dummy editor who will bear such punishment as may, after four years, be inflicted. Can we be surprised under these conditions that the number of cases under this Act has been so small? You have heavy expenditure, intolerable delay, the widest publicity to the charges and inadequate punishment at the end. So long as that is the only remedy available to the States, is it surprising that some of them take the line of least resistance and submit themselves to the degrading process of blackmail? We are told,

[Sir Harry Haig.]

Sir, that the measure we propose will be a wanton interference with that vigilant watch-dog of the interests of the State subjects, the British Indian Press. Now, Sir, is the British Indian Press, in fact that vigilant watch-dog of those interests? Is it really the fact, as is claimed, that the only means by which grievances in the States are brought to light and remedied is through their publication in the British Indian Press? I think that claim is very much overstated. The reputable Press and their readers are not primarily interested in the internal affairs of the States. They have, as certain Honourable Members have pointed out, their own interests, and absorbing interests, in British India. On the other hand, the disreputable members of the British Indian Press, as we have heard, can always be silenced at a price. Too often the interest that is taken is either personal or communal, and it is not based on a real regard for the welfare of the State subjects. But I quite admit the justice of the argument when we are asked whether it is not right that abuses which take place in the States should be ventilated? I do not deny it for a moment. We have no objection to honest ventilation of abuses with a view to obtaining their alteration by lawful means. I think there has been a certain amount of misconception as to the object we are aiming at in regard to these Press provisions. We do not want to let down a *purdah* in front of the States or to shut out all the influences of public opinion. We do not want, as I said before, to stereotype misgovernment or to stop the natural processes of change and evolution. We claim that, in fact, our Bill does not prevent a reasonable statement of public opinion which is, in effect, not an unhealthy symptom.

I listened with some interest, to my Honourable friend, Mr. Jagan Nath Aggarwal. He drew a most terrifying picture of the state in which the British Indian Press would find itself if these provisions were passed, and so heated was his imagination that, unless I do him an injustice, he was quoting not the words of the clause that relates to the Press, but the words of the clauses relating to the 'Assembly of *jathas*. He suggested that we were going to prevent the Press from publishing anything that might interfere with the administration of the State. Those words do not occur at all in the Bill. What we are trying to stop is anything that will bring the administration of a State into hatred or contempt and will cause disaffection. Those are the words, in fact, that are very familiar to my Honourable friend in section 124A of the Indian Penal Code, and I would like to ask him whether, in fact, the British Indian Press are entirely precluded from uttering any criticisms of the British Indian administration. If my Honourable friend is of opinion that this country lies bound and gagged, unable to utter a word in deprecation of any act of the Government, I do not think he can be such an extensive student of the Indian Press as I am. Personally, I find that it is very seldom that any measure of Government is not criticised widely, elaborately and sometimes very heatedly. But, we do not hold that that criticism brings the Press within the provisions of the law, and I do not think that my Honourable friend need be so nervous that any different policy could be pursued in regard to criticisms about the administration of Indian States. I would also remind him, though I have no doubt he is well aware of the fact, that in the Indian Press Act which our proposals seek to amend, there are two definite explanations which are intended to safeguard reasonable and legitimate comment.

One other point perhaps I might mention because there seems to be some misunderstanding. It has been suggested that when an order demanding security or forfeiting security has been passed, there will be no kind of appeal to any Court. Well, Sir, we are merely amending the existing Indian Press Act, and that Act, as Honourable Members are aware, contains a provision for an appeal to the High Court against an order of forfeiture. Therefore, there will be exactly the same appeal in the case of forfeiture ordered on account of an attack on an Indian State. Our position has been throughout that we do not wish to penalise constitutional activities. A complaint has been made that Government and their critics have different ideas as to what constitutes constitutional activity. In some cases that may be so. We have heard from my Honourable friend, Raja Bahadur Krishnamachariar, that some of the opponents of the Bill claim openly the right of rebellion against the States.

Raja Bahadur G. Krishnamachariar: I did not say that, but it is the States people who say it.

The Honourable Sir Harry Haig: Yes. The States people. Well, Sir, that is not the kind of activity that we propose to allow or that we should describe by the term constitutional. An Honourable Member, speaking on Monday last, if I understood him aright, suggested that if a Government had been established by force and fraud, it would be legitimate that it should be overthrown by the same methods. That, again, we should certainly not regard as a constitutional activity. But if these extreme methods are not to be resorted to, how are abuses to be remedied? The argument has been put forward very prominently that the Governments of the States are protected by the Paramount Power against revolt by the people and that, therefore, the Paramount Power has a special responsibility to see that a reasonable standard of good government is maintained in the Indian States. That is a point that has been made in many of these telegrams which Honourable Members have been receiving during the course of this debate and I see that one says "Remind the Paramount Power of the obligations towards the States people to ensure good government". My answer to that would be a reference to what my Honourable friend, the Political Secretary, said on Monday. He made it clear to the House that that responsibility of the Paramount Power was fully recognised, and that when occasion arose, it was exercised; and, to my own knowledge, that is so. But let us not toy with ideas of rebellion and revolution, whether in British India or in the States.

My Honourable friend, Mr. James, in a very interesting speech made a suggestion that if we protect the administrations of the Indian States on the lines proposed in this Bill, we should also expect a reasonable degree of reciprocity from them. I think it is fair to say that we already receive in a very full degree the reciprocity required. (Hear, hear.) My Honourable friend, the Raja Bahadur, gave from his own personal experience an example to the House the other day how when the British Indian Government required the assistance of the great State of Hyderabad, it was given instantly and ungrudgingly, and I think that that is typical of the attitude of the Indian States. With regard to the particular point which Mr. James brought to notice, namely, control over arms which might get into the hands of terrorists, we did in fact, take up this matter as long ago as July 1932, for it is a point of very great importance and we have been in correspondence with the States with a view to ensuring that, as far as possible, a close watch is kept over revolvers and pistols which are the weapons that are really dangerous in this connection. We do not believe

[Sir Harry Haig.]

that smuggling of arms in Indian States is carried on on an organised scale, but it is possible that a certain amount of sporadic smuggling does take place, and we are at present in communication with the Indian States to see whether anything could be done further to tighten up their administration and prevent these unauthorised weapons falling into the hands of terrorists.

In conclusion, Sir, I would claim that this debate has shown that there is a very strong case for a measure on the lines proposed by the Government. This Bill has not been put forward without full consideration of the facts and a conviction that, with the existing powers, we are unable to deal satisfactorily with the situation. I hope that the House will confirm our judgment and agree to this motion for a Select Committee where the detailed criticisms on some of the provisions of the Bill can be more closely examined. I am sure that the House will not agree to the continuance of conditions that are in the interests, neither of the Indian States, nor of British India, nor of the future development of India as a whole. (Applause.)

Sir Abdur Rahim: May I ask the Honourable Member one question whether he will be satisfied if provisions regarding the prevention of conspiracies for subverting the Indian States administration and also to prevent organisation of *jathas* remain in the Bill and the rest of the provisions are deleted? Will he be satisfied with that?

The Honourable Sir Harry Haig: No, Sir. The provisions relating to the Press are an essential part of the Bill.

Mr. K. P. Thampan (West Coast and Nilgris: Non-Muhammadan Rural). Sir, I wish to move by way of an amendment to the motion before the House, that for the name of Sardar Sant Singh in the personnel of the Select Committee, the name of Mr. Jagan Nath Aggarwal be substituted.

Mr. B. Sitaramaraju (Ganjam *cum* Vizagapatam: Non-Muhammadan Rural): Sir, I wish to withdraw my name from the Select Committee and, in my place, I suggest the name of Rao Bahadur B. L. Patil.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhammadan Rural): Before the motion for reference to the Select Committee is put, I wish to know whether the Select Committee is not the proper place where questions can be raised for weeding out the chaff and selecting the grain, and *vice versa*.

Mr. President (The Honourable Sir Shanmukham Chetty): The question is:

"That the names of Sardar Sant Singh and Mr. B. Sitaramaraju be deleted from the list of names of members to the Select Committee and the names of Rao Bahadur B. L. Patil and Mr. Jagan Nath Aggarwal be substituted."

The motion was adopted.

Mr. President (The Honourable Sir Shanmukham Chetty): The question is:

"That the Bill to protect the Administrations of States in India which are under the suzerainty of His Majesty from activities which tend to subvert, or to excite disaffection towards, or to interfere with such Administrations, be referred to a Select Committee, consisting of Sir Abdur Rahim, Rao Bahadur B. L. Patil, Sardar Sohan Singh, Mr. K. C. Neogy, Mr. Jagan Nath Aggarwal, Sardar G. N. Mujumdar, Mr. N. N. Anklesaria, Mr. C. S. Ranga Iyer, Mr. F. E. James, Captain Sher Mahammad Khan Gakhar, Mr. N. M. Dumasia, Rai Bahadur S. C. Mukherjee, Mr. B. J. Glancy

and the Mover, and that the number of members whose presence shall be necessary to constitute a meeting of the committee shall be five."

The Assembly divided:

AYES—68.

Abdul Aziz, Khan Bahadur Mian.
 Ahmad Nawaz Khan, Major Nawab.
 Allah Baksh Khan Tiwana, Khan Bahadur Malik.
 Anklesaria, Mr. N. N.
 Anwar-ul-Azim, Mr. Muhammad.
 Bajpai, Mr. G. S.
 Bhore, The Honourable Sir Joseph.
 Brij Kishore, Rai Bahadur Lala.
 Chatarji, Mr. J. M.
 Clayton, Mr. H. B.
 Clow, Mr. A. G.
 Cox, Mr. A. R.
 Dalal, Dr. R. D.
 Darwin, Mr. J. H.
 DeSouza, Dr. F. X.
 Dillon, Mr. W.
 Dudhoria, Mr. Nabakumar Sing.
 Dumasia, Mr. N. M.
 Ghuznavi, Mr. A. H.
 Gidney, Lieut.-Colonel Sir Henry.
 Glancy, Mr. B. J.
 Graham, Sir Lancelot.
 Grantham, Mr. S. G.
 Haig, The Honourable Sir Harry.
 Hezlett, Mr. J.
 Hockenhull, Mr. F. W.
 Hudson, Sir Leslie.
 Ibrahim Ali Khan, Lieut. Nawab Muhammad.
 Irwin, Mr. C. J.
 Ishwarsingji, Nawab Naharsingji.
 Ismail Ali Khan, Kunwar Hajee.
 Ismail Khan, Haji Chaudhury Muhammad.
 James, Mr. F. E.
 Jawahar Singh, Sardar Bahadur Sardar Sir.
 Krishnamachariar, Raja Bahadur G.

Lal Chand, Hony. Captain Rao Bahadur Chaudhri.
 Mackenzie, Mr. R. T. H.
 Millar, Mr. E. S.
 Mitter, The Honourable Sir Brojendra.
 Morgan, Mr. G.
 Muazzam Sahib Bahadur, Mr. Muhammad.
 Mukharji, Mr. D. N.
 Mukherjee, Rai Bahadur S. C.
 Nihal Singh, Sardar.
 Noyce, The Honourable Sir Frank.
 Pandit, Rao Bahadur S. R.
 Puri, Mr. Goswami M. R.
 Rafiuddin Ahmad, Khan Bahadur Maulvi.
 Raghubir Singh, Rai Bahadur Kunwar.
 Raisman, Mr. A.
 Rajah, Rao Bahadur M. C.
 Ramakrishna, Mr. V.
 Ranga Iyer, Mr. C. S.
 Rastogi, Mr. Badri Lal.
 Rau, Mr. P. B.
 Sarma, Mr. R. S.
 Schuster, The Honourable Sir George.
 Scott, Mr. J. Ramsay.
 Sher Muhammad Khan Gakhar, Captain.
 Singh, Mr. Pradyumna Prashad.
 Sloan, Mr. T.
 Studd, Mr. E.
 Suhrawardy, Sir Abdulla-al-Māmūn.
 Talib Mehdi Khan, Nawab Major Malik.
 Taylor, Mr. J. B.
 Tottenham, Mr. G. R. F.
 Wajihuddin, Khan Bahadur Haji.
 Yamin Khan, Mr. Muhammad.

NOES—30.

Abdul Matin Chaudhury, Mr.
 Abdur Rahim, Sir.
 Aggarwal, Mr. Jagan Nath.
 Azhar Ali, Mr. Muhammad.
 Bhuput Sing, Mr.
 Das, Mr. A.
 Das, Mr. B.
 Dutt, Mr. Amar Nath.
 Gour, Sir Hari Singh.
 Hoon, Mr. A.
 Jadhav, Mr. B. V.
 Jog, Mr. S. G.
 Joshi, Mr. N. M.
 Lahiri Chaudhury, Mr. D. K.
 Lalchand Navalrai, Mr.

Liladhar Chaudhury, Seth.
 Mahapatra, Mr. Sitakanta.
 Mitra, Mr. S. C.
 Neogy, Mr. K. C.
 Pandya, Mr. Vidya Sagar.
 Parma Nand, Bhai.
 Patil, Rao Bahadur B. L.
 Reddi, Mr. P. G.
 Reddi, Mr. T. N. Ramakrishna.
 Roy, Kumar Gopika Romon.
 Shafee Daoodi, Maulvi Muhammad.
 Singh, Mr. Gaya Prasad.
 Sitaramaraju, Mr. B.
 Thampan, Mr. K. P.
 Uppi Saheb Bahadur, Mr.

The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Thursday, the 8th February, 1934.