

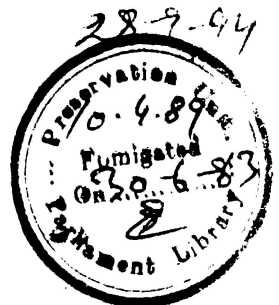
16th February, 1934

THE
LEGISLATIVE ASSEMBLY DEBATES
(Official Report)

Volume I, 1934

(24th January to 16th February, 1934)

SEVENTH SESSION
OF THE
FOURTH LEGISLATIVE ASSEMBLY,
1934



NEW DELHI
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1934

Legislative Assembly.

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Deputy President:

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

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

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LEGISLATIVE ASSEMBLY.

Friday, 16th 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.

QUESTIONS AND ANSWERS.

GRIEVANCES OF THE TRAVELLING TICKET EXAMINERS ON THE EAST INDIAN RAILWAY.

129. *Mr. M. Maswood Ahmad: (a) Has the attention of Government been drawn to an article "Life of a Travelling Ticket Examiner", as published in the *Railway Times*, Bombay, dated the 4th November, 1933, and reproduced in the *Muzdoor*, Khagaul (Dinapore), and the *Railways*, Calcutta, dated the 6th December, 1933, respectively? If so, will Government be pleased to state whether the complaints contained therein are correct?

(b) Is it true that the Travelling Ticket Examiners on the East Indian Railway are pressed for high earnings and, in case the earnings drop, their explanation is called for?

(c) Is it true that surprise checks are invariably performed on the East Indian Railway under the direct supervision of the Traffic Inspectors?

(d) Have the results of the check under the charge of the Traffic Inspectors been better than those performed under the supervision of the Ticket Inspectors?

Mr. P. B. Rau: (a) I have not been able to discover anything in the article referred to which calls for the intervention of Government. The writer of the article himself appears to have confidence in the capacity of the Agent of the East Indian Railway to redress whatever grievances exist.

(b) No.

(c) and (d). Government have no information. They have left these details of administration to the Agent of the Railway, and are not prepared to interfere.

GRIEVANCES OF THE TRAVELLING TICKET EXAMINERS ON THE EAST INDIAN RAILWAY.

130. *Mr. M. Maswood Ahmad: (a) Has the attention of Government been drawn to an article "Travelling Ticket Examiner on the East Indian Railway" published in the *Muzdoor*, Khagaul (Dinapur) dated the 6th December, 1933?

(b) If the reply to part (a) above be in the affirmative, will Government be pleased to state:

- (i) why the card passes of the Travelling Ticket Examiners on the East Indian Railway have been withdrawn;
- (ii) whether the passes for any other employees are also withdrawn; if not, why not;
- (iii) whether the Travelling Ticket Examiners on any other Railway are still provided with duty passes;
- (iv) whether the Travelling Ticket Examiners are booked with a train like Guards;
- (v) what authority has been given to them to carry their luggage which they usually take with them when out of headquarters for long periods;
- (vi) whether the privilege of a servant to those who are entitled to it has also been withdrawn; if so, whether this treatment has been accorded to the Travelling Ticket Examiners alone, or to any other staff as well;
- (vii) if the reply to part (vi) above be in the negative, in the absence of a duty pass, what authority is given to them to take their servants when required;
- (viii) whether it is a fact that relieving Assistant Station Masters who are entitled to a servant are allowed this on their duty card pass (intermediate class);
- (ix) whether it is a fact that officers while travelling on duty even in their reserved carriages have to be in possession of passes (metal or card);
- (x) how far the action of withdrawing passes from the Travelling Ticket Examiners is consistent with the provisions of section 68 of the Indian Railways Act, which reads as under.

"No person shall, without the permission of a railway servant, enter any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket."

- (xi) on what dates the orders of withdrawing the passes from the Travelling Ticket Examiners were issued in Howrah, Asansol, Allahabad, Lucknow, Dinapur, and Moradabad Divisions;
- (xii) whether it is a fact that a guard who is booked with the train and has no pass cannot travel anywhere except in his brake van and a Travelling Ticket Examiner has to travel anywhere and everywhere except the engine and the brake; and
- (xiii) what action Government propose to take to restore the privileges to which the Travelling Ticket Examiners were entitled to by virtue of the passes and under the pass rules, *viz.*, a servant, luggage, a cycle, etc., etc.? If none, why not?

Mr. P. R. Rau: (a) Yes.

(b) The questions dealt with in this article are entirely within the competence of the Agent, East Indian Railway, to settle. The staff aggrieved have moreover the usual constitutional channels of having their grievances redressed.

GRANT OF MILEAGE ALLOWANCE TO RAILWAY EMPLOYEES.

131. *Mr. M. Maswood Ahmad: With reference to the reply to starred question No. 1363, part (a), in this House on the 11th December, 1933, will Government be pleased to state:

- (a) whether firemen, shunters, and engine-*khalasis* are paid mileage allowance;
- (b) whether a driver is connected with the charge of a moving train, or the fireman and others mentioned in part (a) above are also connected;
- (c) whether it is a fact that a brakesman and train despatch clerk are paid mileage allowance; if so, whether they are connected with the charge of a moving train;
- (d) whether the consideration of an employee as running staff is based on the actual duty performed by him in the running train or on any other consideration; if so, what those considerations are; and
- (e) if it is a fact that the Travelling Ticket Examiners while travelling perform duty in the running train?

Mr. P. R. Rau: (a) I presume my Honourable friend is referring in these questions to the North Western Railway. Firemen and shunters are entitled to mileage allowance.

(b) Drivers and firemen are connected with the charge of moving trains and shunters and firemen are connected with the charge of moving engines.

(c) Brakesmen perform duties connected with the charge of a moving train and are entitled to mileage allowance. I am informed that there are no employees who are designated as train despatch clerks on the North Western Railway.

(d) I have already stated in my reply to paragraph (a) of question No. 1363 on the 11th December, 1933, that the staff performing duties directly connected with the charge of a moving train are treated as running staff.

(e) Travelling Ticket Examiners do not perform duties directly connected with the charge of a moving train.

MILEAGE ALLOWANCE TO THE TICKET CHECKING STAFF.

132. *Mr. M. Maswood Ahmad: (a) With reference to the reply to starred question No. 1361 (a) in this House, dated the 11th December, 1933, will Government be pleased to state:

- (i) whether an amendment (if any) was made before abolishing mileage allowance offered to the ticket checking staff at the time of their appointment, or it was done after it was abolished;
- (ii) why this amendment was not notified to the employees by a Circular or Gazette Notification; and
- (iii) whether it is not obligatory for the administration to maintain corrected and up to date copies of the rules?

(b) Will Government be pleased to lay on the table a copy of this amendment, and also state the date when it was communicated to the Agents of the State Railways in India?

Mr. P. R. Rau: (a) (i), (ii) and (iii). Government do not consider that any formal amendment was necessary.

(b) Does not arise.

ALLOWANCES OF THE TRAVELLING TICKET INSPECTORS ON THE EAST INDIAN RAILWAY.

133. ***Mr. M. Maswood Ahmad:** (a) Will Government be pleased to state:

(i) if Ticket Inspectors on the East Indian Railway, who are governed by Company Rules (old East Indian Railway), are paid night allowance in terms of their agreement; and

(ii) whether in the Moody-Ward Report such night allowance is allowed to Inspectors, or daily allowance is mentioned?

(b) Is it a fact that the East Indian Railway authorities sometime back issued a circular, asking the staff to give their choice whether they liked to retain the nature of allowance drawn by them or they wanted it to be regulated as per Fundamental Rules?

(c) If the replies to parts (a) and (b) above be in the affirmative, will Government be pleased to state why the mileage allowance of the old Travelling Ticket Inspectors has been compulsorily substituted by the consolidated allowance?

Mr. P. R. Rau: (a) and (b). Government have no information, but are making enquiries.

(c) I would refer the Honourable Member to the reply given by me to Sardar Sant Singh's starred question No. 476 on the 4th September, 1933.

NON-INCLUSION OF TRAVELLING TICKET CHECKING STAFF IN THE RUNNING STAFF ON THE EAST INDIAN AND NORTH WESTERN RAILWAYS.

134. ***Mr. M. Maswood Ahmad:** (a) With reference to the reply to the supplementary question by Dr. Ziauddin Ahmad to starred question No. 1361 on the 11th December, 1933, in this House, will Government be pleased to state if the travelling ticket checking staff on the East Indian Railway and the North Western Railway are not included in the running staff, amongst what staff are they included?

(b) Is it a fact that they not only travel in trains but do ticket checking duty in the running trains?

Mr. P. R. Rau: (a) I would refer the Honourable Member to my reply to part (d) of Sardar Sant Singh's question No. 1369 of the 11th December, 1933.

(b) Yes, but they are not in charge of the train.

NON-GRANT OF HILL ALLOWANCE TO THE TRAVELLING TICKET EXAMINERS POSTED AT HARDWAR.

135. ***Mr. M. Maswood Ahmad:** (a) With reference to the reply to question No. 1345 in this House, dated the 11th December, 1933, as laid on the table on the 29th January, 1934, will Government be pleased to state

whether the Ticket Collectors and the Travelling Ticket Examiners, if posted at Hardwar, either temporarily or permanently, are entitled to hill allowance? If not, why not?

(b) Is it a fact that some Travelling Ticket Examiners were posted at Hardwar for a few months when the Moody-Ward system was introduced from the 1st June, 1931?

(c) Are Travelling Ticket Examiners posted during *melas* at Hardwar for long periods?

(d) Why are Travelling Ticket Examiners alone not paid, and have not been paid in the past, this hill allowance when posted at Hardwar, either temporarily or permanently?

(e) Are Government prepared to take action that they are now paid this allowance and that they are paid for the days in the past?

Mr. P. R. Rau: I have called for the information and shall lay a statement on the table in due course.

ABSENCE OF MUSLIM INSTRUCTORS AND CLERKS IN THE RAILWAY SCHOOL OF TRANSPORTATION, CHANDAUSI.

136. ***Mr. M. Maswood Ahmad:** Are Government aware and if not will they please enquire and state, whether it is a fact that there is not a single Muhammadan amongst the Instructors and office (clerical) staff at the Railway School of Transportation, Chandausi, East Indian Railway? If so, do Government propose to remove this anomaly? If not, why not?

Mr. P. R. Rau: Government consider that it is impossible to take into account communal considerations in fixing the staff of individual offices and are not prepared to issue instructions to Agents to reserve a percentage of posts in any individual office for any particular community. The results of the general orders relating to recruitment which provide that a certain proportion should be reserved for minority communities can only be tested by taking the railway system as a whole.

ELIGIBILITY OF SUBORDINATE RUNNING STAFF FOR LEAVE WITH PAY ON STATE RAILWAYS.

137. ***Mr. N. M. Joshi:** Will Government be pleased to state whether the subordinate running staff are eligible for any leave with pay on the State-managed Railways? If so, how much? If not, why not?

Mr. P. R. Rau: There are no special rules governing subordinate running staff who are governed by the same rules as other railway staff. Copies of these rules are available in the Library of the House.

Mr. N. M. Joshi: May I ask why this subordinate running staff are not eligible for any leave on full pay?

Mr. P. R. Rau: I do not think that is so, Sir. Like other railway servants, they are entitled to leave on full pay.

APPLICATION OF NEW LEAVE RULES TO THE MONTHLY-RATED RUNNING STAFF ON STATE RAILWAYS.

138. ***Mr. N. M. Joshi:** Is it a fact that the monthly-rated running staff on State Railways coming under new leave rules, are not eligible for

30 days' leave on half pay on medical certificate, unlike the daily-rated running staff? If so, will Government kindly state the reasons?

Mr. P. R. Rau: So far as I am aware, the rules relating to monthly-rated staff are more favourable but if my Honourable friend, after again perusing the rules, copies of which are in the Library, will tell me what exactly he refers to, I shall endeavour to supply him with an answer.

PAY OF THE RAILWAY RUNNING STAFF ON CASUAL LEAVE.

139. ***Mr. N. M. Joshi:** (a) Are Government aware that in the case of the running staff, their actual pay is usually assessed by including the average overtime and mileage earned during the preceding twelve months subject to a maximum of 75 per cent. of the substantive pay?

(b) Are Government aware that when the running staff are on casual leave, they are paid only on the basis of substantive pay, and if so, will Government be pleased to state why the running staff on casual leave should not be paid on the same basis, as observed when granting privilege leave?

Mr. P. R. Rau: (a) Yes.

(b) Casual leave is considered not as leave, but as duty.

WORKING OF THE STATE RAILWAY PROVIDENT FUND SCHEME.

140. ***Mr. N. M. Joshi:** (a) Is it a fact that Government have undertaken an actuarial examination of the working of the State Railway Provident Fund Scheme, and if so, will Government be pleased to state the full terms of reference of the enquiry and the time when the examination is expected to be completed?

(b) Will Government be pleased to state whether they have taken any action to extend the benefits of the Provident Fund to those railway men who are now not eligible for the same?

Mr. P. R. Rau: (a) Yes. Necessary data are being collected to enable the Government Actuary to undertake the investigation. No terms of reference have so far been framed and it is not possible to say when the investigation will be completed.

(b) I presume that the Honourable Member is referring to the possible admission of inferior railway servants to the State Railway Provident Fund benefits. The question was under consideration in 1928, but has had to be postponed for the present on account of the expenditure involved.

RAILWAY STAFF BENEFIT FUND RULES.

141. ***Mr. N. M. Joshi:** Are Government aware that the staff Benefit Fund Rules, framed by the Railway Board, provide for five representatives elected by the staff without any restriction, and that the rules on the Madras and Southern Mahratta Railway restrict the election of representatives to staff getting comparatively higher pay, and if so, will Government be pleased to state whether they approve of this divergence from the prescribed rules of the Government of India?

Mr. P. R. Rau: The Staff Benefit Fund Rules apply in their entirety only to State-managed Railways. Company-managed Railways have been permitted to establish Staff Benefit Funds, and in the event of their doing so, the only rules that are binding on them are the rules regulating the amounts that may be paid into the fund and the objects to which expenditure from the fund should be confined.

UTILISATION OF THE RAILWAY STAFF BENEFIT FUND FOR RELIEVING THE DISTRESS OF RAILWAY EMPLOYEES AND THEIR FAMILIES DUE TO RETRENCHMENT.

142. ***Mr. N. M. Joshi:** Will Government be pleased to state whether the money of the Railway Staff Benefit Fund can be spent, according to the present rules, on relieving the distress of employees and their families due to retrenchment? Is it a fact that the Agent, Bengal Nagpur Railway, recently stated to the contrary?

Mr. P. R. Rau: Relief of distress amongst the members or *ex*-members of the staff or their families is one of the objects on which the committee have power to expend money from the fund. I am not aware of any statement to the contrary made by the Agent, Bengal Nagpur Railway.

Mr. N. M. Joshi: May I ask whether the Government of India would inquire from the Agent of the Bengal Nagpur Railway in this matter?

Mr. P. R. Rau: I am prepared to do that, Sir.

MACHINERY FOR A JOINT STANDING COMMITTEE ON RAILWAYS.

143. ***Mr. N. M. Joshi:** Will Government be pleased to state what action they have taken so far to implement the recommendations of the Whitley Commission in the light of the discussions with the All India Railwaymen's Federation on the subject of machinery for a Joint Standing Committee?

Mr. P. R. Rau: The question was discussed by the Railway Board with a deputation of the All-India Railwaymen's Federation twice last year, once in March and once in November. The suggestions put forward by the Federation are at present under consideration of the Railway Board.

Mr. N. M. Joshi: May I ask how long this recommendation of the Whitley Commission is to be under consideration?

Mr. P. R. Rau: My Honourable friend is aware that the suggestions made by them have not been accepted in their entirety either by the Railway Federation or by the Railway Department. The differences of opinion between the Railway Department and the Federation are not very many at present, and I hope a decision will be arrived at soon.

REDUCTION OF THE STATUTORY MAXIMUM OF HOURS OF PERMISSIBLE EMPLOYMENT OF RAILWAY SERVANTS IN A WEEK.

144. ***Mr. N. M. Joshi:** Will Government be pleased to state whether they propose amending the Indian Railways (Amendment) Act of 1930 to reduce the statutory maximum of hours of permissible employment of railway servants in a week?

Mr. P. R. Rau: No such proposal is under consideration at present.

Mr. N. M. Joshi: May I ask why, when the Government of India are changing the Factories Act, the Railway Department also should not similarly consider the effecting of changes in the hours of work for railway men?

Mr. P. R. Rau: The changes in the Factories Act will, I understand, be applicable to the railway staff to a certain extent.

Mr. N. M. Joshi: Yes, but you are not proposing changes in the Indian Railways Act. It will only apply to the factories on the railways: I am asking whether you propose making a similar change in the hours of work for others.

Mr. P. R. Rau: Not at present, Sir

Mr. N. M. Joshi: May I ask, why?

Mr. P. R. Rau: It is a question of expense as much as anything else.

BRINGING OF THE RUNNING STAFF OF RAILWAYS UNDER THE HOURS OF EMPLOYMENT REGULATIONS.

145. ***Mr. N. M. Joshi:** Will Government be pleased to state what progress has been made in bringing the running staff under Hours of Employment Regulations?

Mr. P. R. Rau: Government have not yet amended the Railway Servants' Hours of Employment Rules so as to bring running staff within their scope.

Mr. N. M. Joshi: Where, may I ask, is the difficulty about the running staff?

Mr. P. R. Rau: I believe it was explained, when the original proposals were before this House, that the running staff are paid partly by monthly pay and partly by mileage and overtime, and a revision of the rules, in order to adapt them strictly to the regulations, might result in a considerable number of the staff having their emoluments reduced.

CITY ALLOWANCE FOR RAILWAY EMPLOYEES DRAWING NO SPECIAL ALLOWANCE FOR WORKING IN THE MADRAS CITY AREA.

146. ***Mr. N. M. Joshi:** (a) Is it a fact that the Governor General in Council was pleased to decide that with effect from the 1st November, 1932, the Madras Government Order No. 568, dated the 18th October, 1932, regarding the raising of the existing rates of Presidency allowances, shall apply to servants of the Central Government in Madras?

(b) Is it a fact that the Railway Board commended the application of the said order to the Madras and Southern Mahratta Railway employees stating "normally the Railway Board have followed the Local Government in such matters"?

(c) Is it a fact that there are many railway employees in Madras who draw pay on a scale in force both in the city and the mofussil and are not given any city allowance?

(d) Is it a fact that according to the Governor General in Council's decision referred to, such staff who have been deprived of extra allowance for working in Madras would be eligible for a special allowance, and if so, do Government propose to sanction the necessary city allowance for the class of railway employees drawing no special allowance for working in the Madras city area?

Mr. P. R. Rau: (a) Yes.

(b) The Agent, whose views were invited on the proposal, was against it.

(c) Government have no information.

(d) I need not remind my Honourable friend that the staff he refers to are not Government servants.

Mr. N. M. Joshi: I am sorry I did not follow the last few lines of the answer: whose staff are not Government servants?

Mr. P. R. Rau: The staff of the Madras and Southern Mahratta Railway: they are servants of the Railway Company.

SUBJECTION OF THE RAILWAY STAFF TO WAGE-CUTS.

147. ***Mr. N. M. Joshi:** (a) Will Government be pleased to state whether the railway staff suffering loss in their earnings due to economy measures are also subjected to wage-cuts without any modification?

(b) Are Government aware that in such cases the staff are subjected to greater hardships, and do Government propose to exempt such staff from wage-cuts wherever the loss in earnings exceeds the loss that would be caused by wage-cuts?

Mr. P. R. Rau: The fact that workshop employees may have already suffered a reduction in wages by the imposition of short time has been taken into account in the rules governing emergency deductions. It has been provided that no deduction shall be made when the wages have been reduced by the imposition of short time by an amount equal to normal wages for 23 hours, and in case they have been reduced by a smaller amount, that the total reduction should not exceed the normal wages for 23 hours.

NEW SCALES OF PAY FOR SUBORDINATE RAILWAY EMPLOYEES.

148. ***Mr. N. M. Joshi:** (a) Will Government be pleased to state whether the new scales of pay for the subordinate railway employees have been issued; if not, when are they expected to be issued?

(b) Will Government be pleased to lay on the table the principles which Government have commended to be followed in fixing new rates of pay?

Mr. P. R. Rau: (a) Government are endeavouring to introduce the new scales of pay as early as possible in the next financial year.

(b) The principle on which Government have asked Railways to proceed is that future scales of pay should be fixed with a view to suit existing conditions in view of the decline in the cost of living in India during the last few years. They have not prescribed fixed percentages of reduction in different categories of staff as they realise that the scope for reduction varies. Railways have also been advised that incremental scales should generally be restricted to the earlier years of service, but that, if it is considered desirable to retain incremental scales in the later stages, they should be confined to a very short range.

DISCUSSION OF THE NEW RATES OF PAY WITH THE ALL-INDIA RAILWAYMEN'S FEDERATION BEFORE ENFORCING THEM.

149. ***Mr. N. M. Joshi:** Will Government be pleased to state whether they propose to discuss with the All-India Railwaymen's Federation the proposals for new rates of pay before enforcing them?

Mr. P. R. Rau: Government propose to communicate to the All-India Railwaymen's Federation the revised scales of pay to be introduced on each of the State-managed Railways. They will be prepared to consider any representations from the Federation on the subject if they wish to make any.

Mr. N. M. Joshi: May I ask whether Government will give an assurance that they will not take any final decision before they discuss the matter with the Federation?

Mr. P. R. Rau: I am afraid it is impossible to give an assurance on that point.

Mr. N. M. Joshi: What is the use of merely communicating the decision afterwards?

Mr. P. R. Rau: But surely Government cannot be expected to delay decisions for ever till the discussions are finished?

PAYMENT OF ENHANCED BENEFITS TO RETRENCHED RAILWAY EMPLOYEES.

150. ***Mr. N. M. Joshi:** Is it a fact that the Pope Committee recommended payment of enhanced benefits for those retrenched under the present economy campaign? If so, have the recommendations been accepted?

Mr. P. R. Rau: There is a reference in the report to the attraction of enhanced retiring allowances if granted as a means of reducing the surplus staff on railways, but no definite recommendation has been made by the Committee on this subject.

I may add that the question of improving the terms for voluntary retirement was recently considered by the Railway Board who came to the conclusion that it was unnecessary in view of the fact that no block retrenchments of any large magnitude are, so far as is known at present, necessary in the near future on State-managed Railways.

ECONOMIES EFFECTED AS A RESULT OF THE ADOPTION OF THE POPE COMMITTEE'S RECOMMENDATIONS.

151. *Mr. N. M. Joshi: Will Government be pleased to state the number of posts abolished and the economies effected as a result of adoption of the Pope Committee's recommendations?

Mr. P. R. Rau: The information at the disposal of Government on the progress of the investigations initiated as a result of Mr. Pope's recommendations was summarised and placed before the Standing Finance Committee for Railways in a memorandum which was placed before them on the 2nd of February. It will be found on pages 30 to 33 of their proceedings, Volume X, No. VI. Government are not in a position to give any more detailed information at present on this question.

Dr. Ziauddin Ahmad: Will it be available to those Members of the Assembly who are not members of the Standing Committee?

Mr. P. R. Rau: These proceedings are circulated to Members of the Assembly.

DISPUTE IN THE EAST INDIAN RAILWAY WORKSHOPS AT LUCKNOW ABOUT THE RETRENCHMENT OF STAFF.

152. *Mr. N. M. Joshi: (a) Will Government be pleased to give full particulars regarding the present dispute in the East Indian Railway Lucknow Workshops about the retrenchment of the staff?

(b) Will Government be pleased to state whether the East Indian Railway Administration propose to discuss with the East Indian Railway-men's Union, Lucknow, before discharging any workers?

The Honourable Sir Joseph Bhoré: (a) and (b). The position regarding retrenchment of staff in the East Indian Railway Lucknow Workshops is that early in December 1933, the East Indian Railway Administration found that there was a surplus of some 75 men in the Wagon Repair Shop and of some 182 men in the Loco. Shops. The East Indian Railway-men's Union, Lucknow, were advised by the Agent that it was intended to retrench these numbers by orders of discharge and by the offer of special terms for voluntary retirement. The President of the Union addressed the Agent on the 22nd December protesting against this retrenchment. The Agent replied explaining that these men were surplus to requirements and that the Administration could not agree to their retention in service. The matter was explained to the President of the Union at Lucknow by the Chief Mechanical Engineer, East Indian Railway, on the 2nd January, 1934, and the position was explained to the workmen through the East Indian Railway Employment Officer stationed at Lucknow and by the Welfare Committee. Further correspondence ensued between the Agent and the President of the Union and on the 24th January the Agent said that he would be glad to give the President of the Union an interview in Calcutta but the interview did not take place. On the 3rd February the President wired to me asking for the appointment of a Conciliation Board as the Agent refused to cancel the retrenchment order or to discuss alternative proposals. The attention of the President has been invited to Rules 4 and 5 of the

Indian Trade Disputes Rules, 1929, laying down the procedure for the submission of applications for the reference of a trade dispute to a Court of Enquiry or Board of Conciliation under the Act. The retrenchments had effect from the 8th February.

DENIAL OF MAXIMUM PAY ON PROMOTION TO THE STAFF IN THE GOLDEN ROCK WORKSHOPS OF THE SOUTH INDIAN RAILWAY.

158. ***Mr. N. M. Joshi:** Is it a fact that the Workshop Staff in the Golden Rock Workshops of the South Indian Railway, when promoted to a higher grade, are denied the minimum pay of the new grade? If so, will Government be pleased to state the reasons for this practice?

Mr. P. R. Rau: Government have no information. The staff referred to are not Government servants but servants of the South Indian Railway Company.

NON-APPOINTMENT OF MUSLIMS IN THE RAILWAY SCHOOL OF TRANSPORTATION CHANDAUSI.

154. ***Mr. S. G. Jog:** (a) Is it a fact that Mr. P. R. Rau, in answer to parts (b) and (c) of unstarred question No. 186 of the 5th April, 1933, informed this House that the Agents of Railways are requested that the employment of an adequate number of Muslims as Staff or Establishment or Employment Officers and also Office Superintendents and Head Clerks, may be borne in mind in making appointments to such posts? If so, will Government please state the percentage of such posts in the Moradabad Division of the East Indian Railway?

(b) Will Government please state the reason under which no Muslim has been appointed to the Railway School of Transportation, Chandausi, since 1932?

Mr. P. R. Rau: (a) The reply to the first part of the question is in the affirmative. As regards the latter part, Government have no information.

(b) My Honourable friend will, I hope, realise that it is impossible to staff individual offices on a communal basis.

TRAVELLING WITHOUT TICKETS ON RAILWAYS.

155. ***Mr. S. G. Jog:** (a) Has the attention of the Government been drawn to an article on "Ticketless Travelling" published in the *Railway Times*, Bombay, dated the 18th January, 1934?

(b) Is it a fact that the present system of ticket checking is running at a loss of about six lakh rupees per year?

(c) Is it a fact that the same system under Accounts Department yielded a great saving to the Railway?

(d) Are the facts contained in the article correct?

(e) If the reply to part (d) be in the negative, what are the actual facts?

(f) If the reply to part (d) be in the affirmative, will Government be pleased to state what enquiries have been made and what steps do they propose to take on it? If not, why not?

Mr. P. R. Rau: (a) Yes.

(b) I have called for a report from the Agent, East Indian Railway, and will lay a reply on the table in due course.

NON-PROVISION OF FREE QUARTERS TO THE TRAVELLING TICKET EXAMINERS ON THE EAST INDIAN RAILWAY.

156. ***Mr. S. G. Jog:** (a) Has the attention of Government been drawn to an article "Free Quarters to Travelling Ticket Examiners on the East Indian Railway" published in the *Railway Times*, Bombay, dated the 27th January, 1934?

(b) If so, will Government be pleased to state:

- (i) why the Travelling Ticket Examiners who are governed by Company Rules are not provided with free quarters or house rent in lieu;
- (ii) why rent is recovered from those who are old Oudh and Rohilkhand Railway employees and are occupying railway quarters where they are available;
- (iii) why those who enjoyed this privilege before the 1st August, 1928, are denied this now; and
- (iv) whether this privilege is admissible according to note 2 to paragraph 2 of Chapter II, section I of the State Railway Code?

(c) Are Government prepared to take action that the grievances complained of in the article are remedied? If not, why not?

Mr. P. R. Rau: I have called for the information and shall place a statement on the table in due course.

NON-EMPLOYMENT OF *ex*-ARMY MEN ON STATE RAILWAYS.

157. ***Pandit Satyendra Nath Sen:** (a) Are Government aware that Home Department Resolution No. 1099 of the 8th August, 1919, from the Governor General of India with the approval of the Secretary of State, recommending appointments to *ex*-Army men, is not observed by the Agent and the Divisional Superintendents of the East Indian Railway and some other State Railways?

(b) If the answer to part (a) be in the affirmative, do Government propose to issue fresh instructions to the same effect to the officers concerned?

Mr. P. R. Rau: (a) No.

(b) Does not arise.

UNSTARRED QUESTIONS AND ANSWERS.

IMPORT DUTY ON RAW CINEMATOGRAPH FILMS.

51. **Mr. B. V. Jadhav:** (a) Will Government be pleased to state what the revenue is from import duty on raw cinema films during 1931-32 and 1932-33 and the estimated revenue in 1933-34?

(b) What additional revenue per year do Government estimate in consequence of—

- (i) the change in the rates in the revised valuation per foot of exposed films imported into India.

- (ii) the change in policy about rebate on imported articles when exported out of India as shown in the Bill to amend the Sea Customs Act of 1878 now before the House, and
- (iii) the amount estimated from the saving in rebates on the export of exposed films previously imported into India by the policy referred to in (ii)?

(c) Will the Honourable the Industries Member state whether Government still adhere to the policy enunciated by him in the House on March 1st, 1933, when he said "we are prepared to reduce the import duties *pro tanto* to anything we get from the reduction or abolition of the rebate on exposed films re-exported", page 1448, Legislative Assembly Debates, Vol. II, No. 6 of 1933?

The Honourable Sir Frank Noyce: (a) 1931-32—Rs. 2,84,000,
1932-33—Rs. 2,72,000,
1933-34 (estimated)—Rs. 5,00,000,

(b) (i), (ii) and (iii). I regret I am unable to give the Honourable Member any figures that would be at all reliable. The effect of tariff valuations must naturally vary from year to year and as I pointed out in my speech on the subject the day before yesterday, the amount that may be secured by the modification of the law relating to drawback is at present hypothetical and can only be deduced from experience.

(c) Yes.

GRIEVANCES OF THE TRAVELLING TICKET EXAMINERS ON THE EAST INDIAN RAILWAY.

52. Khan Bahadur Haji Wajihuddin: (a) Has the attention of Government been drawn to an article on the "Grievances of the Travelling Ticket Examiners" published in the *Railway Times*, Bombay, dated the 6th January, 1934?

(b) Is it true that highly paid and long service men are superseded by men with less service and less pay?

(c) Is it a fact that the Chief Operating Superintendent, East Indian Railway, in his letter No. O. P. E./1306, dated the 11th February, 1933, laid down that the old Travelling Ticket Inspectors whose pay was restored to what they were drawing in their substantive capacity should be considered for promotion to higher posts when vacancies occurred?

(d) Is it a fact that when the pay of the old Travelling Ticket Inspectors was reduced to Rs. 95 from the 1st June, 1931, some of the Crew staff by virtue of their past pay and status got into higher posts against vacancies which occurred between the 1st June, 1931, and the date when the orders for the restoration of Travelling Ticket Inspectors' pay were issued?

(e) Is it a fact that if the pay of the Travelling Ticket Inspectors had not been reduced they would have been entitled to higher posts when they occurred?

(f) Is it a fact that on the restoration of pay with retrospective effect and with increments due the Travelling Ticket Inspectors became senior to many of the crew staff?

(g) Is it a fact that even now if any vacancy in higher cadre occurs, choice of promotion falls on the crew staff in preference to comparatively highly paid and long service Travelling Ticket Inspectors?

(h) While according decision in the case of the old Travelling Ticket Inspectors, did the Railway Board mention what has been communicated by the Chief Operating Superintendent as mentioned in part (c) above?

(i) Do Government propose to see that the rights of the old Travelling Ticket Inspectors who have since been restored to their substantive pay are not superseded by the crew staff?

Mr. P. B. Rau: (a) Yes.

(b) to (i). Government have no information; all these matters are within the competence of the Agent to decide.

SENIORITY LIST OF THE TRAVELLING TICKET EXAMINERS.

53. **Khan Bahadur Haji Wajihuddin:** Will Government be pleased to state whether the seniority list of the Travelling Ticket Examiners has not been notified to them? If not, why not?

Mr. P. B. Rau: Government have no information. This is a matter within the competence of the Agent to decide.

MEMORIALS FROM THE TRAVELLING TICKET EXAMINERS OF THE EAST INDIAN RAILWAY TO THE RAILWAY BOARD.

54. **Khan Bahadur Haji Wajihuddin:** (a) With reference to the reply to the supplementary question to starred question No. 1861, dated the 11th December, 1933, on page 2928 of the Debates, will Government be pleased to state if "certain memorials" include those submitted by the old Travelling Ticket Inspectors of the East Indian Railway to the Railway Board in the last week of July 1933 to which they have received no reply yet?

(b) If they have not been received yet by the Railway Board, are Government prepared to enquire from the Agent, East Indian Railway, and state as to what has happened to those memorials?

Mr. P. B. Rau: (a) No. I was referring to a memorial from North Western Railway staff.

(b) The disposal of any memorials regarding pay and allowances, etc., from non-gazetted staff is a matter which lies within the competence of the Agent. In matters regarding which, under the rules, no appeal lies to the Railway Board, the Board do not take part unless the Agent refers the matter to the Board for their orders.

DAILY-RATED RUNNING STAFF ON EACH OF THE STATE RAILWAYS.

55. **Mr. N. M. Joshi:** Will Government be pleased to state the number of daily-rated running staff on each of the State Railways and how many of them are eligible for leave on half pay for 80 days in any one calendar year according to the revised rules?

Mr. P. B. Rau: Government regret their inability to collect this information which is not readily available, as it will entail expenditure of time and labour not commensurate with its value.

STAFF CLASSIFIED AS INFERIOR UNDER THE NEW LEAVE RULES ON STATE RAILWAYS.

56. **Mr. N. M. Joshi:** Is it a fact that the Railway Board, according to their circular letter No. 8378-E., dated the 26th September, 1930, invited the Agents of the State-owned Railways to furnish to the Board a list of the staff treated as inferior for the purpose of the new leave rules to enable the Board to decide as to the advisability "of introducing a uniform list for all the Railways"; and if so, will Government be pleased to lay on the table a statement showing the staff classified as inferior service men under new leave rules on State-owned Railways?

Mr. P. R. Rau: Yes. "On further consideration it was considered that absolute uniformity was unnecessary and the old rule under which "Inferior Service" means any kind of service on a scale of pay the maximum of which does not exceed Rs. 30 per mensem and any other kind of service which may be specially classed as such by the Agent of a railway was allowed to stand.

CLASSIFICATION OF JOURNEYMEN ON THE EASTERN BENGAL RAILWAY AS INFERIOR SERVICE EMPLOYEES.

57. **Mr. N. M. Joshi:** Will Government be pleased to state whether the Railway Board received a representation from the All-India Railway-men's Federation in September last on the subject of classification of journeymen on the Eastern Bengal Railway as inferior service employees, and if so, will Government be pleased to state what reply has been sent to their representation?

Mr. P. R. Rau: The answer to the first part of the question is in the affirmative. The point is still under consideration.

PAYMENT TO THE LILLOOAH WORKSHOP DAILY-RATED STAFF.

58. **Mr. N. M. Joshi:** Will Government be pleased to state whether it is a fact that Lillooah Workshop daily-rated staff are paid on the basis of 26 days' pay in a month?

Mr. P. R. Rau: The reply is in the affirmative.

HOLIDAYS IN THE MECHANICAL WORKSHOPS ON STATE RAILWAYS.

59. **Mr. N. M. Joshi:** Will Government be pleased to lay on the table a statement regarding the number of holidays for which each of the mechanical workshops on each State-owned Railway remains closed in a year, and the number of closed holidays for which the staff are paid?

Mr. P. R. Rau: I am calling for information and will lay a reply on the table in due course.

SHORT TIME WORKED AND THE STAFF EMPLOYED IN THE STATE RAILWAY WORKSHOPS.

60. **Mr. N. M. Joshi:** Will Government be pleased to lay on the table a detailed statement showing the amount of short time worked and

the staff employed at present in the various railway workshops on each of the State-owned Railways?

Mr. P. B. Rau: I am calling for certain information and will lay a reply on the table of the House in due course.

WORKING OF THE STAFF BENEFIT FUND RULES.

61. Mr. N. M. Joshi: Will Government be pleased to lay on the table a statement showing the working of the Staff Benefit Fund Rules?

Mr. P. B. Rau: According to reports received from Railways during the year ending the 31st March, 1933, a total sum of approximately Rs. 7,12,000 was disbursed from the Staff Benefit Fund of which approximately Rs. 51,000 were spent on hospital aid to sick employees, Rs. 87,000 on compassionate allowances, Rs. 50,000 on schools and educational staff, and Rs. 2,18,000 on recreation clubs. I lay a statement on the table showing the figures for individual railways.

Statement showing disbursements from the Staff Benefit Fund/Fine Fund of Class I Railways for the year ending 31st March 1933.

| Railways. | Hospital for sick employees. | Compas- sionate allow- ances. | Schools and education of the Staff. | Recrea- tion Clubs. | Miscella- neous.. | Total columns 9 to 13. |
|------------------------------|------------------------------------|--|---|---------------------------|----------------------|------------------------------|
| | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. |
| 1. A. B. Railway | 951 | 303 | 1,374 | 12,190 | 2,543 | 17,421 |
| 2. B. & N. W. Railway | .. | .. | 10,941 | 9,303 | 1,170 | 21,414 |
| 3. B. N. Railway | 500 | 752 | 8,441 | 8,764 | 9,500 | 27,963 |
| 4. B., B. & C. I. Railway | 15,000 | 63 | 6,177 | 21,639 | 1,175 | 44,054 |
| 5. Burma Rail ways | .. | 30 | 8,012 | 20,027 | 1,600 | 29,573 |
| 6. E. B. Railway | 665 | 385 | 170 | 22,448 | 20,838 | 44,506 |
| 7. E. I. Railway | 22,686 | 80,038 | 3,294 | 23 | 1,01,309 | 2,07,440 |
| 8. G. I. P. Rail- way | .. | 510 | 2,977 | 24,199 | 10,209 | 37,895 |
| 9. Jodhpur Rail- way | 660 | .. | .. | 4,992 | 340 | 5,892 |
| 10. M. & S. M. Railway | 1,222 | .. | 160 | 1,143 | 10,719 | 13,294 |
| 11. N. G. Rail- way | .. | .. | 82 | 8,545 | 1,378 | 10,005 |
| 12. N. W. Rail- way | 9,635 | 652 | 5,410 | 68,376 | 1,30,714 | 2,14,787 |
| 13. R. & K. Rai- way | .. | .. | 2,430 | 3,335 | 61 | 6,826 |
| 14. S. I. Railway | 120 | 3,981 | 62 | 12,666 | 14,634 | 31,463 |
| TOTAL | 51,499 | 86,789 | 49,520 | 2,17,650 | 3,06,130 | 7,11,638 |

RAILWAY LINES OUTSIDE THE OPERATION OF THE INDIAN RAILWAYS ACT.

62. Mr. N. M. Joshi: Will Government be pleased to lay on the table a statement showing which railway lines do not come within the operation of the Indian Railways Act, on the ground that the railway lands within the Indian States have not been ceded to the British Government?

Mr. P. R. Rau: The information is being collected and a statement will be laid on the table in due course.

STAFF TREATED AS TEMPORARY FOR HAVING BEEN RECRUITED AFTER THE 16TH JULY, 1931, ON STATE RAILWAYS.

63. Mr. N. M. Joshi: (a) Will Government be pleased to lay on the table a statement showing the number of staff treated as temporary for having been recruited after the 16th July, 1931, on each of the State-owned Railways?

(b) Will Government be pleased to state the number of previously retrenched hands, out of those recruited after the 16th July, 1931?

Mr. P. R. Rau: (a) and (b). The information asked for is not available and Government consider that the collection of the information will entail expenditure of time and labour not commensurate with its value.

†64.

REPORTS OF RETRENCHMENT AND DEMOTION OF STAFF ON RAILWAYS.

65. Mr. N. M. Joshi: Will Government be pleased to state whether the Railway Board have received reports of retrenchment showing number of retrenched and demoted, respectively, from the individual Railways as desired in their circular letter, No. 381-L., dated the 11th June, 1932, and if so, will they please lay copies of the statements on the table of this House?

Mr. P. R. Rau: Yes. I lay on the table of the House a statement prepared from information furnished by Railways, showing staff discharged and demoted up to September, 1932, on principal railways. Figures of voluntary retirement have also been given as the major portion of the reductions effected was met by the acceptance of applications for voluntary retirement.

Statement showing the number of staff retrenched, demoted and voluntarily retired, on Principal Railways up to September 1932 in connection with the retrenchment authorised in the Government of India Communiqué of the 6th June 1932.

| Railways. | Staff Retrenched. | Staff demoted | Staff voluntarily retired. |
|------------------------|----------------------|------------------|----------------------------------|
| Burma | 57 | 2 | 98 |
| E. B. | | | 702 |
| E. I. | 1,246 | 343 | 733 |
| G. I. P. | 14 | | 963 |
| N. W. | 157 | | 907 |
| A. B. | | | |
| B. & N. W. | | | |
| B., B. & C. I. | 166 | | 316 |
| B. N. | | | |
| M. & S. M. | | | |
| R. & K. | | | |
| S. I. | | | 25 |
| Total | 1,640 | 345 | 3,744 |

†This question was withdrawn by the questioner.

SHORT NOTICE QUESTION AND ANSWER.

UNOFFICIAL AGREEMENT BETWEEN REPRESENTATIVES OF THE INDIAN AND UNITED KINGDOM TEXTILE INDUSTRIES.

***Mr. K. C. Neogy:** (a) Will Government be pleased to state:

- (i) what is the "unofficial agreement between representatives of the Indian and United Kingdom textile industries" referred to in the Statement of Objects and Reasons attached to the Indian Tariff (Textile Protection) Bill, 1934;
- (ii) whether Government have accepted the terms of that agreement; if so, when;
- (iii) whether Government have issued any Resolution or Press Communiqué regarding their acceptance of the agreement;
- (iv) whether Government will make the said "agreement" and all connected papers available to the Members of the House before any further motion of the Bill is made; and
- (v) whether Government consulted or invited the opinions of associations and others interested in the textile industry throughout India before they decided to accept the agreement?

(b) With reference to the agreement with Japan regarding textiles, why have Government not sought to place it before the Assembly for discussion before embodying it in the Bill above referred to?

The Honourable Sir Joseph Bhoré: (a) (i) The text of the agreement between the Millowners' Association, Bombay, and the British Textile Mission to India was published in the Press. A copy has been placed in the Library.—Pages 14—16.

(ii) The Government of India accepted the terms of the agreement when they decided to incorporate them in the Bill introduced by me on the 5th instant.

(iii) No, Sir.

(iv) The agreement was concluded between the Millowners' Association, Bombay, and the British Textile Mission. Government are not therefore in possession of the connected papers but if it is the wish of the House that copies of the Agreement should be circulated to Honourable Members I shall be glad to have this done.

(v) Government have had ample opportunity of studying the opinions of associations and others interested in the textile industry. There was no necessity to invite opinion.

(b) Government consider that the incorporation of the relevant terms of the Indo-Japanese Agreement regarding textiles in the Bill introduced on the 5th instant affords the most suitable opportunity for its discussion by the House.

Mr. K. C. Neogy: With reference to the agreement between the Bombay Millowners' Association and the Lancashire Trade Delegation, when was it officially communicated to Government and by whom?

The Honourable Sir Joseph Bhoré: I am afraid that I must ask for notice, because I do not carry the exact date in my head, but my recollection is that it was communicated to us by the Millowners' Association, Bombay.

Mr. N. M. Joshi: May I ask whether Government propose to abdicate their functions as regards the control of Indian commerce in favour of the Bombay Millowners' Association?

The Honourable Sir Joseph Bhoré: Certainly not, Sir; nor have they ever done so.

Dr. Ziauddin Ahmad: Do the Government realise that they have created a very bad example by allowing two private individuals to negotiate and afterwards they come forward to confirm their negotiations?

The Honourable Sir Joseph Bhoré: Most certainly not. They would have created a very bad precedent if one of the persons had been my Honourable friend.

Mr. K. O. Neogy: Does the Honourable Member realise that it is not quite correct to describe the agreement between the Bombay Millowners' Association and the Trade Delegation of Lancashire as an unofficial agreement between the representatives of the Indian and the United Kingdom Textile Industries?

The Honourable Sir Joseph Bhoré: I will join issue with my Honourable friend on that point, but I do not wish to anticipate, Sir, the discussion that must take place in this House. I have no doubt that on the appropriate occasion I shall be able to answer my Honourable friend if he makes that point.

Mr. N. M. Joshi: May I ask, Sir, whether the Government of India will circulate also the agreement which they have come to with Japan?

The Honourable Sir Joseph Bhoré: I shall certainly make available at the earliest possible opportunity all relevant papers so as to enable the House to be in full possession of all available details before the discussion takes place in this House. (Applause.)

Mr. B. Das: Referring to the reply of the Honourable the Commerce Member that the Government have in their possession the opinions of the different Textile Associations of India, is it not a fact that, in the matter of this alleged agreement between the Bombay Millowners' Association and the Lancashire Delegation, the other Millowners' Associations, except Bombay, are in complete disagreement with the Bombay Millowners' Association?

The Honourable Sir Joseph Bhoré: Some such Associations, I believe, are, Sir.

Mr. K. O. Neogy: Will the Honourable Member be pleased to make available to this House all opinions and criticisms that they have received from the various interests concerned?

The Honourable Sir Joseph Bhoré: I shall do that, Sir.

Dr. Ziauddin Ahmad: The Honourable Member brushed aside my question, but any kind of agreement between the Government of India and other Governments represents the whole people. An individual, however important he may be, does not represent the whole of India; he represents certain interests. Therefore, is it not a fact that it is a very bad precedent for a certain individual to speak in the name of India and carry on the negotiations?

The Honourable Sir Joseph Bhoré: My Honourable friend has made the initial mistake of suggesting that this was a settlement between individuals: it was not. It was a settlement between representatives of very important trade organisations. Government have not blind-folded accepted the result of that agreement; they have considered it; they have examined it in all its aspects and they have found it worthy of acceptance.

Mr. K. C. Neogy: Was this agreement, either officially or unofficially, referred to the Tariff Board for consideration in view of the fact that it may have important bearing upon the recommendations made by that Board?

The Honourable Sir Joseph Bhoré: No, Sir.

Dr. Ziauddin Ahmad: May I ask, Sir, if the Government have read all the criticisms that have been levelled against these negotiations by the Indian opinion?

The Honourable Sir Joseph Bhoré: I should think so. I have read most of the criticisms.

Dr. Ziauddin Ahmad: In view of these criticisms, do Government still believe that these negotiations represent Indian opinion?

The Honourable Sir Joseph Bhoré: I certainly think so.

Mr. Gaya Prasad Singh: May I ask, Sir, whether the Honourable Member in reply to a question of mine said that the Government had absolutely nothing to do with promoting this alleged agreement between the Bombay Millowners' Association and the Lancashire trade interests?

The Honourable Sir Joseph Bhoré: If my Honourable friend would re-read the answers that I gave, I am quite sure that he will find that I never suggested any such thing. What I did say was that Government took no part in this agreement and I would also point out that it is not an alleged but a definite agreement.

Mr. Gaya Prasad Singh: May I take it, then, that the Government in no way promoted this agreement between the Bombay Millowners' Association and the Lancashire trade interests?

The Honourable Sir Joseph Bhoré: What does my Honourable friend mean by "promoted"?

Mr. Gaya Prasad Singh: I should like to know whether the Government of India had any hand in bringing about this agreement between the Bombay Millowners' Association and the Lancashire Delegation?

The Honourable Sir Joseph Bhore: As far as I know, Government had no hand at all.

Mr. Gaya Prasad Singh: Are Government aware that many important members of the Millowners' Association of Bombay have themselves repudiated this agreement which has made the position of Mr. Mody very unsafe in that Association?

The Honourable Sir Joseph Bhore: That, Sir, is a matter for the individual members to fight out with the Association of which they are members.

Diwan Bahadur A. Ramaswami Mudaliar: Is it a fact that the Bombay Millowners' Association at its meeting definitely adopted this agreement and ratified the action of Mr. Mody and of those who took part in bringing about this agreement?

The Honourable Sir Joseph Bhore: I think my Honourable friend is quite correct.

Mr. Gaya Prasad Singh: It was only by a majority of votes that the action was ratified?

Diwan Bahadur A. Ramaswami Mudaliar: Everything is done only by a majority of votes.

Mr. B. Das: Are Government aware that at the election of the Bombay Indian Chamber of Commerce all those who supported the Mody-Clare-Lees Pact were thrown overboard?

The Honourable Sir Joseph Bhore: I am afraid I did not follow the events in Bombay referred to, but I would suggest that if my Honourable friends wish to make these points, they had better be made when the debate takes place in this House.

Dr. Ziauddin Ahmad: Will Government give us an opportunity to discuss the terms of the agreement as they exist without any reference to the Bill and follow the same practice which they did in the case of the Ottawa Pact where first the principles were accepted and the Bill followed later? Why should Government adopt a different attitude with regard to this Bill?

The Honourable Sir Joseph Bhore: No, Sir.

Dr. Ziauddin Ahmad: Can Government give any reasons for the change in their attitude except that they have got an absolute majority of votes?

The Honourable Sir Joseph Bhore: The reason is apparent. The question of votes does not enter into it at all. If it were true that we have a majority of votes for the first discussion, we would have a majority for the second discussion as well.

Mr. Gaya Prasad Singh: May I know why opinions from other mill-owners have not been called for before the agreement is sought to be embodied in the Bill before the House?

The Honourable Sir Joseph Bhore: The other millowners did not give the Government an opportunity for calling for those opinions.

Diwan Bahadur A. Ramaswami Mudaliar: They volunteered.

The Honourable Sir Joseph Bhore: That is so.

Mr. Gaya Prasad Singh: Only the Round Tablers are supporting it.

Diwan Bahadur A. Ramaswami Mudaliar: They are right.

Mr. Gaya Prasad Singh: They have brought the country to ruin.

Diwan Bahadur A. Ramaswami Mudaliar: Wait and see.

STATEMENTS LAID ON THE TABLE.

The Honourable Sir George Schuster (Finance Member): Sir, I lay on the table the information promised in reply to starred questions Nos. 1489 to 1498 asked by Sardar Sant Singh on the 22nd December, 1933.

EMPLOYMENT OF SIKHS AS SUPERINTENDENTS AND DIVISIONAL ACCOUNTANTS IN THE OFFICE OF THE ACCOUNTANT GENERAL, CENTRAL REVENUES.

*1489. (a) The position is as follows :

| Name of office. | Year. | S. A. S. Superintendents. | | Divisional Accountants (excluding those employed in Divisional Offices). | | Clerks, etc. | |
|---|--|---------------------------|---------------|--|---------------|--------------|---------------|
| | | Total No. | No. of Sikhs. | Total No. | No. of Sikhs. | Total No. | No. of Sikhs. |
| Office of the Accountant-General, Central Revenues. | Strength prior to retrenchment and amalgamation effected in 1931-32. | 33 | Nil | 8 | Nil | 220 | 9 |
| Do. | Present strength 1933-34 | 28 | Nil | 2 | 1 | 248 | 9 |
| | | (a) | | | | | |
| Office of the Auditor-General. | Strength in 1931-32. | 27 | Nil | Nil | Nil | 80 | 1 |
| Do. | Present strength in 1933-34 | (b) | | | | | |
| | | 23 | Nil | Nil | Nil | 74 | 2 |

(a) Includes 19 Assistant Superintendents who are also members of the Subordinate Accounts Service.

(b) Includes 15 Assistant Superintendents who are also members of the Subordinate Accounts Service.

(b) and (c). As was explained to the Honourable Member in reply to part (b) of his starred question No. 467 asked on the 20th of September 1932, appointments to the Subordinate Accounts Service, with rare exceptions, are made as a result of a competitive examination open to clerks in Audit Offices, and the communal distribution in this Service is therefore necessarily dependent on the ability of the individual to pass the examination.

DIVISIONAL ACCOUNTANTS IN THE CENTRAL PUBLIC WORKS DEPARTMENT.

*1490. (i) In 1928.

(ii) Nine.

(iii) Government do not consider it advisable to publish the names of the Divisional Accountants in question. Recommendations made with regard to postings are always regarded as confidential.

DIVISIONAL ACCOUNTANTS IN THE CENTRAL PUBLIC WORKS DEPARTMENT.

*1491. (a) The Central Public Works Department was organised on a temporary basis only. The scheme of separation of accounts from audit in connection with which the divisional accountants were employed was also experimental and was afterwards abandoned.

(b) Three. No steps were taken as one of them was unqualified and the service of the other two was not sufficiently satisfactory to justify their re-employment.

DIVISIONAL ACCOUNTANTS IN THE CENTRAL PUBLIC WORKS DEPARTMENT.

*1492. The organisation of the Central Public Works Department has been declared permanent recently, and the question of making the posts of divisional accountants permanent is now under consideration.

SIKH DIVISIONAL ACCOUNTANTS IN THE CENTRAL PUBLIC WORKS DEPARTMENT.

*1493. One. He was discharged on reduction of establishment as his record was not satisfactory.

FILLING UP OF VACANT POSTS OF DIVISIONAL ACCOUNTANTS IN THE OFFICE OF THE ACCOUNTANT GENERAL, CENTRAL REVENUES.

*1494. Officiating arrangements only were made against permanent posts in accordance with the orders of Government that pending the revision of scales of pay of Subordinate Services no confirmations should be made.

FILLING UP OF VACANT POSTS OF DIVISIONAL ACCOUNTANTS IN THE OFFICE OF THE ACCOUNTANT GENERAL, CENTRAL REVENUES.

*1495. (a) Yes. In cadres under the Auditor-General affected by retrenchment a few posts have been kept substantively vacant in case there is a call for further retrenchment.

(b) Yes. A divisional accountant of another minority community was confirmed as he was senior to the Sikh divisional accountant.

SIKH DIVISIONAL ACCOUNTANTS IN THE CENTRAL PUBLIC WORKS DEPARTMENT.

*1496. No. Temporary.

EMPLOYMENT OF SIKHS AS DIVISIONAL ACCOUNTANTS IN THE OFFICE OF THE ACCOUNTANT GENERAL, CENTRAL REVENUES.

*1497. (a) Office of the Accountant-General, Central Revenues—one clerk, who officiated in that office for one month and five days, and one divisional accountant, who officiated in the late Central Accounts Office for five months and twenty days.

Auditor-General's office—None.

(b) Attention is invited to the reply given to parts (b) and (c) of question No. 1489.

RETRENCHMENT OF TWO SIKHS FROM THE LATE CENTRAL ACCOUNTS OFFICE.

*1498. The primary object of the orders to which the Hon'ble Member has referred was to secure economy combined with the minimum loss of efficiency, but it was made clear that so far as possible the existing ratio between the numbers of the various communities should be maintained in each category. No information is available with regard to the Sikh members of the late Central Accounts Office as that office has been abolished.

The Honourable Sir Joseph Bhore (Member for Commerce and Railways): Sir, I lay on the table the information promised in reply to starred question No. 1286 asked by Mr. B. R. Puri on the 7th December, 1933.

PRICE OF IRON AND STEEL EXPORTED FROM INDIA.

*1286. Two statements containing the information available are attached.

Statement I.

(a) Average declared value of exports of pig iron, and iron and steel.

| | Rs. A. P. |
|--|-----------|
| Pig iron— | Per ton. |
| From April 1932 to October 1932 . . . | 35 0 11 |
| From November 1932 to January 1933 . . . | 35 0 5 |
| From February 1933 to March 1933 . . . | 31 5 1 |
| Iron and steel (excluding pig iron) | |
| Average in 1932-33 | 56 11 1 |

(b) Prices of Pig Iron Foundry No. 1 at Calcutta.

| | |
|--|--------|
| From April 1932 to October 1932 | 69 0 0 |
| From November 1932 to January 1933 | 67 0 0 |
| From February 1933 to March 1933 | 55 0 0 |

Statement II.

Net realisations of the Tata Iron and Steel Company, Ltd., f. o. r. Tatanagar :

| | Average realisations | |
|-----------------------------------|-----------------------------------|---------------------|
| | For consumption in India 1932-33. | For export 1932-33. |
| | Rs. Per ton. | Rs. Per ton. |
| <i>Pig iron</i> | 30.6 | 19.7 |
| <i>Scrap iron or steel—</i> | | |
| Bloomng Mill | 24.7 | 21.4 |
| Sheet-bar & Billet Mill | 35.1 | 27.9 |
| Rail Mill | 27.8 | 17.4 |
| Bar and Merchant Mills | 68.6 | |
| Plate Mill | 52.9 | 22.1 |
| Sheet Mill | 40.2 | |
| Miscellaneous Scrap | | 24.0 |

The Honourable Sir Harry Haig (Home Member): Sir, I lay on the table the further information promised in reply to a supplementary question to starred question No. 946 asked by Mr. S. C. Mitra on the 15th September, 1933.

CHANGES IN THE TREATMENT OF TERRORIST PRISONERS IN THE ANDAMANS.

*946. I place a copy of the revised rules on the table.

Rules framed by the Chief Commissioner, Andaman and Nicobar Islands, under section 60 of the Prisons Act 1894 to regulate the classification and treatment of convicted prisoners.

Prisoners from Bengal and other Provinces who whilst in the Andamans are to serve their entire sentences in the Cellular Jail, Port Blair, will retain the classification which they had in their Provinces. The following rules are prescribed for the treatment of such prisoners in supersession of the rules issued on October 2nd 1933.

1.—B. Class Prisoners.

1. *Accommodation.*—Each prisoner shall be allotted a separate cell, but, except when imposed as a jail punishment, imprisonment shall in no case involve anything in the nature of separate confinement.

2. *Furniture and Equipment.*—Each prisoner shall be provided with the following furniture and equipment.

| | |
|---|---|
| Cot | 1 |
| Thin mattress | 1 |
| Pillow | 1 |
| Chair | 1 |
| Small table or shelf | 1 |
| Mosquito net | 1 |
| Blanket | 1 |
| Sheets | 2 |
| Pillow cases | 2 |
| Towels | 2 |
| Flat-bottomed urinal utensil with cover | 1 |
| Earthen drinking water surai or 1 aluminium water pot in lieu | 1 |
| Aluminium mug | 1 |
| Do. spoon | 1 |
| Do. plate | 1 |
| Do. cup | 1 |
| Small hand mirror | 1 |
| Comb | 1 |

3. Each prisoner shall be provided with the following articles for his personal use.

| | | |
|---------------------------------|-----------|----------|
| Snowene | 2 packets | Yearly. |
| Tooth brush | 2 | " |
| Emolin shaving stick | 2 | " |
| Shaving brush | 1 | " |
| Safety razor blades | 4 packets | " |
| Lifebuoy soap | 2 cakes | Monthly. |
| Colgate's tooth paste | 1 tube | " |
| Exercise books | 2 | " |
| Pencils and pens | 4 | " |

4. *Lighting*.—Lights in the cells, if any, shall be turned off by 10 p. m., but lights in the corridors, yards and latrines, if any, shall be kept on throughout the night.

5. *Clothing*.—Each prisoner shall be provided with the following clothing yearly and shall wear a distinguishing badge 2"×2" on the right breast.

| | |
|---|----------|
| Dhoties | 4 |
| Trousers | 2 pairs. |
| Kurtas | 4 |
| Shirts | 4 |
| Socks | 4 pairs. |
| Sandals or white canvas shoes | 2 pairs |

Suits shall be made of plain dosuti cloth without stripes. Prisoners employed as warders shall be provided with suits of plain cotton drill instead of dosuti cloth, and shall wear a distinguishing convict warder's badge on the right arm.

6. *Cropping of hair*.—Every prisoner shall have the hair of the head closely clipped and the hair of the face and the nails of the fingers and toes closely trimmed, and the operation shall be repeated once a fortnight.

The hair of convict officers shall be trimmed only to such an extent and at such times as may be necessary for the purpose of ensuring health and cleanliness; Provided that—

- (a) the Superintendent shall at his discretion exempt prisoners to whom this proceeding would be justly offensive or degrading;
- (b) the hair of a prisoner shall not be cut without his consent at any time within 30 days of the date on which he is entitled to be released; and
- (c) if on account of vermin, dirt, or disease the Medical Officer deems it necessary to clip the hair or shave the head of any prisoner, this shall be done on his written order on the prisoner's history ticket.

7. *Cleaning of cells*.—Prisoners shall keep their cells, utensils, clothing and bedding clean and neatly arranged and shall be allowed soap for washing their persons and their clothes.

8. *Opening of cells*.—All cells shall be opened daily at dawn. Twenty minutes before dawn the warder on duty shall rouse the prisoners by ringing the gong. Every prisoner shall fold up his bedding neatly and shall remain quietly by his bed until the Head Warder has ascertained if any prisoner is sick or wishes to see the Sub-Assistant Surgeon. Sick prisoners shall be seen by the Sub-Assistant Surgeon in the cells allotted to them.

9. *Latrine arrangements*.—After the Head Warder has completed his round of inspection, prisoners shall be allowed to go to the latrine in the yard.

10. *Bathing and washing arrangements*.—After all prisoners have been given an opportunity of visiting the latrine, they shall proceed to the bathing place.

11. *Night latrine arrangements*.—Each cell shall be provided with one flat bottomed urinal utensil with cover, but this shall not ordinarily be used except for the purpose of urination. If otherwise used the fact shall be brought to the notice of the Medical Officer.

12. *Diet*.—Prisoners shall receive diet on the following scale :

| For early morning meal. | | Chataks. |
|--------------------------------------|---|------------------------|
| Bread | . | 2 |
| Sugar | . | 1 |
| Butter | . | 3/8 |
| Tea | . | 1/4 |
| Milk | . | 1 |
| For other meals. | | |
| Fine rice | . | 8 |
| Dal | . | 2 |
| Vegetables | . | 4 + 1 1/2 for wastage. |
| Potatoes and onions | . | 2 |
| Meat or fish or eggs (or milk—6 ch.) | . | 2 |
| Condiments | . | 3/16 |
| Tamarind or lime | . | 1/16 |
| Salt | . | 1/2 |
| Goor | . | 1/4 |
| Mustard oil | . | 5/16 |
| Ghee | . | 1/4 |
| Dahi | . | 2 |

The Superintendent should regard this scale as a guide and may vary the diet within the sanctioned scale.

13. *Cooking*.—The diet of the prisoners shall as far as possible be cooked separately from that of the C. class prisoners in the kitchen provided for the purpose.

14. *Meals*.—All meals shall be distributed under the superintendence of the Head Warder, and complaints about food shall be reported at once to the Jailor. Prisoners shall wash their own utensils and will not be allowed to use other prisoners as their private servants.

15. *Tasks*.—The Superintendent shall see that the task allotted to each prisoner is assigned after due consideration on medical grounds and with careful regard to his capacity, character, previous mode of life, and antecedents.

16. *Silence during work*.—Silence shall be maintained during work except when any enquiry or instructions relating to the work is necessary. All loud talking, singing, or quarrelling is prohibited, but out of working hours prisoners shall be permitted to converse quietly.

17. *Exercise*.—Prisoners shall take such exercise daily in the open air as the Medical Officer considers necessary and under such regulations as the Superintendent shall prescribe.

18. *Weightment*.—Prisoners shall be weighed once a month and their weight recorded by the Sub-Assistant Surgeon on their history tickets. They shall be weighed in their shirt, trousers or dhoti and socks.

19. *Interviews*.—Subject to his behaviour being satisfactory a prisoner shall be permitted to hold interviews in accordance with the following rules:

- (1) A prisoner may be allowed to see a visitor once in three months for the purpose of discussing family or domestic affairs.
- (2) An application for an interview shall be made by letter to the Chief Commissioner who, if he sanctions it, will if necessary inform the applicant by what steamer he may come to Port Blair and by what steamer he will be required to leave Port Blair.
- (3) An interview shall be conducted in the presence of the Superintendent or Jailor and an interpreter, if necessary, and the discussion of political questions will not be allowed.
- (4) No person who has taken a prominent part in any political agitation, whether the prisoner was concerned in it or not, or whose object is suspected to be to obtain an opportunity of publishing accounts of alleged grievances in the press will be allowed to interview a prisoner.
- (5) If matters discussed at interviews or the substance of letters received from prisoners are published, the privilege of interviews and communications shall be liable to be withdrawn from the prisoner concerned.

20. *Letters and communications.*—No letters or communications from or to prisoners shall be permitted, but well conducted prisoners may be allowed to write and receive one letter to or from a near relation not more frequently than once a month under the same conditions as those applicable to interviews. On urgent occasions, *e.g.*, a death, serious illness in the family, this rule may be relaxed at the discretion of the Superintendent. The subject matter of all letters must be limited to private matters and there must be no reference to Jail administration and discipline, to other prisoners or to politics.

21. *Books and newspapers.*—Each prisoner may be allowed to have a maximum of 5 books at a time either from the Jail library or from outside subject to the approval of the Superintendent.

The following newspapers shall be supplied to prisoners:—The Illustrated Times of India, the Statesman (weekly edition), the Sanjibani and the Bangabasi.

22. No prisoner shall be permitted to have money in his possession. Any money found on the person of a prisoner or remitted officially from an Indian Jail shall be taken over by the Superintendent for safe custody. With the permission of the Superintendent a prisoner may be permitted to receive from time to time a sum not exceeding Rs. 10 for the purchase of the undermentioned articles or for expenditure on the occasion of authorised festivals. Any sum remitted which will bring the balance at a prisoner's credit to more than Rs. 10 will be returned to the sender.

Prisoners may purchase the following articles, or other articles with the special permission of the Superintendent, with any money that belongs to them, or they may ask their friends to supply them.

English First Book.

Exercise books.

Hair brush and comb.

Mustard oil.

Safety razor blades.

Shaving brush.

Shorts.

Sunlight soap.

Tooth paste.

Tooth powder.

Vests.

White canvas shoes-rubber soled.

23. *Complaints.*—Parades shall be held every Monday morning to hear complaints, but this does not preclude any prisoner from approaching the Superintendent at other times with a legitimate complaint.

24. *Handcuffs and fetters.*—Prisoners shall not be handcuffed or fettered except when this is necessary for the purpose of safe custody, or by way of punishment, or to prevent possible escapes or attacks on any member of the jail staff or any other official.

25. *Remission.*—Prisoners will be eligible for remission according to the following scale:

1. Ordinary Remission—

| | |
|---|--------------------|
| For good conduct | 2 days per mensem. |
| For diligence in work | 2 „ „ „ |
| For Jamadar, Tindals & Petty Officers | 8 „ „ „ |
| For convict Warders | 6 „ „ „ |

2. Special Remission—

For all prisoners, 15 days for clean sheet for one complete year.

26. Ordinary prisoners imported from Jails in Bengal and other Provinces for employment permanently as cooks and sweepers in the wings of the Cellular Jail allotted to terrorist convicts and who work on Sundays will be eligible for one-third remission of their total sentences.

27. *Punishment*.—Prisoners shall be subject to the ordinary rules of the Cellular Jail in regard to punishment, except that whipping shall only be inflicted with the previous sanction of the Chief Commissioner. In cases of misbehaviour the Superintendent may withdraw individual privileges subject to the sanction of the Chief Commissioner when the period exceeds one month. The Chief Commissioner has power to reduce a prisoner from the B class in the event of his misbehaviour. In such a case the prisoner will receive the ordinary C class treatment and not the special privileges granted to well behaved C class prisoners.

2.—C. Class Prisoners.

The rules for B. class prisoners are applicable to C class prisoners with the exception of rules 2, 5, 12, 21, 22 and 27 for which the following are substituted:—

Rule 2.—The following furniture and equipment shall be supplied:

| | |
|---|---|
| Aluminium katora | 1 |
| „ thali | 1 |
| Flat faced urinal utensil with cover | 1 |
| Earthen drinking water surai or aluminium water pot | 1 |
| Bed board | 1 |
| Blanket | 1 |
| Bed sheets | 2 |
| Pillow cases stuffed with coir | 1 |
| Towels | 2 |
| Mosquito net | 1 |
| Hurricane Lantern | 1 |

Rule 5.—The following clothing shall be supplied:

| | |
|-------------------|-----------|
| Kurtas | 4 yearly. |
| Jangias | 4 „ |

Rule 12.—Prisoners shall receive diet on the following scale:

| | Chataks. |
|-------------------------------|--|
| Rice | 12 |
| Salt | 1/2 |
| Dal | 2 1/2 |
| Vegetables | 4 |
| Mustard oil | 5/16 |
| Condiments | 1/8 |
| Dhai | 2 1/2 once weekly. |
| Tamarind | 1/8 |
| Goor | 1/4 |
| Onions and Potatoes | 2 1/2 thrice weekly. |
| Fish | 2 1/2 four times weekly whenever available. |

The Superintendent should regard this scale as a guide and may vary the diet within the sanctioned scale.

Rule 21.—The number of books which a prisoner may have shall be 2.

Rule 22.—The sum of money which may be remitted to a prisoner shall not exceed Rs. 5.

Rule 27.—The concessions made to prisoners in the matter of lights, newspapers and interviews are entirely conditional upon their good behaviour, and the Superintendent has the power of withdrawing all or any of these privileges as a punishment.

J. W. SMYTH,

Chief Commissioner A. & N. Islands.

PORT BLAIR,

The 8th January, 1934.

THE HINDU TEMPLE ENTRY DISABILITIES REMOVAL BILL.

PETITIONS LAID ON THE TABLE.

Secretary of the Assembly: Sir, under Standing Order 78, I have to report that twenty-two petitions, as per statement laid on the table, have been received relating to the Bill to remove the disabilities of the so-called Depressed Classes in regard to entry into Hindu temples, which was introduced in the Legislative Assembly on the 24th March, 1933, by Mr. C. S. Ranga Iyer.

Petitions relating to the Bill to remove the disabilities of the so-called Depressed Classes in regard to entry into Hindu temples, which was introduced in the Legislative Assembly on the 24th March, 1933.

| Number of signatories. | District or Town. | Province. |
|---------------------------|------------------------|----------------|
| 40 | Trichinopoly | Madras. |
| 30 | Saleem | Madras. |
| 38 | Saleem | Madras. |
| 36 | Saleem | Madras. |
| 37 | Saleem | Madras. |
| 36 | Saleem | Madras. |
| 35 | Saleem | Madras. |
| 52 | Tanjore | Madras. |
| 34 | Tanjore | Madras. |
| 43 | Kumbakonam | Madras. |
| 25 | .. | Madras. |
| 43 | .. | Madras. |
| 60 | .. | Madras. |
| 46 | .. | Madras. |
| 38 | .. | Madras. |
| 97 | .. | Madras. |
| 44 | .. | Madras. |
| 8 | Chingleput | Madras. |
| 161 | Gwalior | Central India. |
| 78 | Aligarh | U. P. |
| 65 | Moradabad | U. P. |
| 34 | .. | Madras. |
| 1,080 | | |

THE HINDU MARRIAGES DISSOLUTION BILL.

PETITION LAID ON THE TABLE.

Secretary of the Assembly: Sir, under Standing Order 78, I have also to report that one petition, as per statement laid on the table, has been received relating to the Bill to remove certain doubts regarding the dissolution of marriages of persons professing the Hindu religion, which was introduced in the Legislative Assembly on the 27th January, 1931, by Sir Hari Singh Gour.

Petition relating to the Bill to remove certain doubts regarding the dissolution of marriages of persons professing the Hindu religion, which was introduced in the Legislative Assembly on the 27th January, 1931.

| Number of signatories. | District or Town. | Province. |
|------------------------|-------------------|-----------|
| 88 | Purnea | Bengal. |

THE BENGAL STATE-PRISONERS REGULATION (REPEALING) BILL.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural):

Sir, I move:

"That the Bill to repeal the Bengal State-Prisoners Regulation, 1818, be circulated for the purpose of eliciting opinion thereon."

Sir, ten long years have elapsed since I first moved a Resolution in this House for the repeal of this Regulation. After that I have made various attempts to have this archaic Regulation taken out of the Statute-book, for, I believe that it disgraces the pages of the Indian Statute-book. Sir, if we once turn over the Preamble of the Regulation, we will find the reasons that led to the enactment of it at that time. The reasons given there are:

"Whereas reasons of State embracing the due maintenance of the alliances formed by the British Government with foreign powers, the preservation of tranquillity in the territories of Native Princes entitled to its protection and the security of the British Dominions from foreign hostility and from internal commotion."

Sir, those who have studied Indian history know what was the state of India at the time when this Regulation was enacted. Hardly the East India Company was master of one-fourth of this vast Continent, there were Indian Rulers and there were menaces from the North-West Frontier as well as from our northern neighbour, the King of Nepal. In fact it was on the eve of the Nepal War that this Regulation was enacted. That being so, we may take it that there was ample justification for a Regulation like the one which was enacted then. But more than a century has elapsed, and conditions have become quite different. In place of the old Mughal Emperor, who was at that time in his palace in this very Imperial City, instead of that great Sikh Ruler, Maharaja Ranjit Singh, ruling almost up to Kabul, instead of other great powers in Southern as well as in Northern India, we are now having, according to the prophecy of Maharaja Ranjit Singh, "*sab lal hōgiyā*", the whole of the map of India is now red. In fact, if there are any other colours in the map of India, we may ignore them, because it is the hand of the Britisher and the policy of the British administration that are to be found in those places. That being so, we may take it and it has been asserted that the Britisher is the Paramount Power in India, and the other smaller States, which are called Indian States or Native States, own British suzerainty. If I am moving for the circulation of this Bill, it is in order to give the Government an opportunity of eliciting opinion both from the Local Governments in the Provinces as well as from responsible public bodies. And why? Because I am aware of the situation in the country, I am aware of the subversive movements that exist at the present moment in the country and I certainly

shall not try to embarrass the Government when they are trying to bring in the new Constitution and peace and order in the country. But, I may also submit that in the Provinces as well as in the Centre we have enacted a series of laws which empower the Government both at the Centre and in the Provinces to deal with any suspicious character in the land. The Government can extern him and intern him, they can have him tried by speedier methods by these enactments and I think the hands of Government are sufficiently strengthened to deal with internal commotion. So, I think that a portion of the reason has gone away. The only reason for which the Government might still ask us to have this Regulation retained on the Statute-book is for the preservation of tranquillity in the territories of the Indian princes, and for that we have now a Bill pending before this House. The report of the Select Committee has also been published and we know that that will go a great way towards the preservation of tranquillity in the territories of Indian princes. Then, what more is left? Security of the British dominions from foreign hostility. Sir, if it be urged by Government that it is still necessary for that purpose, I ask them to have the Bill at least so amended as to confine its scope only to that extent, and not further.

Sir, I will not tire the patience of the House by repeating all that has been said in this House on several occasions about the recommendations of the Repressive Laws Committee, but I think the relevant portions of the recommendations of that Committee still hold good with respect to this Regulation. The same runs as follows:

"We appreciate the fact that the use of the ordinary law may in some cases advertise the very evil which a trial is designed to punish. But we consider that in the modern conditions if India the risk must be run. It is undesirable that any statutes should remain in force which are regarded with deep and genuine disapproval by a majority of the members of the Legislature,"

—and they recommended its amendment so that it can be used only for—

"the due maintenance of the alliances formed by the British Government with foreign powers, the preservation of tranquillity in the territory of the native Princes entitled to its protection",

—this, as I have shown, goes away,—

"the security of the British Dominions from foreign hostility, and"

—only so far as the inflammable frontier is concerned—

"from internal commotion."

That was the recommendation of the Repressive Laws Committee and I submit that in view of recent legislation, both here and in the Provinces, it is necessary that this Regulation, if not repealed, should be amended so as to confine its scope to those cases only, and for that it may be necessary to have the opinion of the various Local Governments as also of responsible public bodies. I, therefore, ask for the circulation of this Bill to elicit opinion thereon. I hope, Sir, Government will have no objection to this circulation motion.

Sir, I move.

Mr. President (The Honourable Sir Shanmukham Chetty): Motion moved:

"That the Bill to repeal the Bengal State-Prisoners Regulation, 1818, be circulated for the purpose of eliciting opinion thereon."

Rao Bahadur B. L. Patil (Bombay Southern Division: Non-Muhamadan Rural): Sir, I rise to support the motion for circulation. My friend has tabled this Bill for repealing this old, antiquated and out-of-date Regulation. Sir, I may bring to the notice of Government that similar Regulations were passed in Madras and Bombay, and that Government should themselves bring forward a Bill to repeal those two Regulations also. The simple reason for repealing these three Regulations seems to be this. If we take into consideration the political situation existing in the first quarter of the last century, we find that the whole of India was in a very disturbed condition. There were frequent rebellions against the British Government. The British had established themselves to a greater extent in Bengal, but at that time they were just making progress in acquiring new territories in other parts of India. Therefore, in those days, it was necessary to check those rebellions, and, for that purpose, Government armed themselves with the summary power of detaining leaders of rebellions and ringleaders of agitators. May I ask Government whether those conditions exist today in this country or in any part of this country? I am sure the conditions are now altogether different. Therefore, there is absolutely no justification for Government to press for the retention of these Regulations. As my Honourable friend, the Mover, has pointed out, both in the Provinces and in the Centre numerous repressive laws have been recently enacted and nobody can see any reason to invoke the aid of these old Regulations. Therefore, I support very heartily the motion moved by my Honourable friend, Mr. Amar Nath Dutt.

Mr. S. C. Sen (Bengal National Chamber of Commerce: Indian Commerce): Sir, I regret I cannot support this motion, nor can I support the principles underlying this Bill which has been produced after so much labour and after such a long time by my friend, Mr. Amar Nath Dutt. He told us that he first introduced this Bill about ten years ago. Since then, I do not know how many millions of gallons of water have passed under the bridges of the rivers of this country. The authorities and the Legislatures since that time have not been slow to pass measures in comparison to the provisions of which the provisions of this Regulation pale into insignificance. Sir, this Regulation must be considered a very humane measure compared to the atrocious and barbarous Statutes which have since adorned the Statute-book of this country. It was at one time thought that this measure could not be applied to civil commotions in this country, but there is no way of getting a judicial decision on that point, and we have, therefore, to take it that this measure is one which can be used by Government for purposes for which the Regulation was never meant, but which they think come within its provisions. In any case, under that measure, at least persons who are detained are entitled to be treated as human beings. Instead of keeping alive that measure and trying to abolish the other Statutes, I am sorry that my Honourable friend, Mr. Amar Nath Dutt, has tried to take away the most humane measure in comparison to the others which now adorn the Statute-book of this country. Sir, I oppose this Bill altogether.

Sardar Sant Singh (West Punjab: Sikh): Sir, unlike my friend sitting on my left, I stand to support this measure. Really it is a great shock to me to hear a lawyer of the eminence of my Honourable friend giving his blessings to a mode of punishment without trial and without examination of

evidence against any person. This Regulation provides a restriction of the liberty of a subject without open trial

Mr. N. M. Joshi (Nominated Non-Official): Trade union interest that lawyers get no benefit!

Sardar Sant Singh: My friend, Mr. Joshi, may have that consolation, but it is against the principle of British jurisprudence. It seems that my friend has taken the various repressive legislations that this Assembly has passed into consideration, and, by comparing those measures with this Regulation, he has come to the painful necessity of supporting this Regulation as a lesser evil rather than asking for its repeal. There can be no doubt that when an Administration is forced or begins to ask for repressive legislation, it becomes conscious of the fact that the State is being shaken to its very foundation. The larger the number of repressive measures on the Statute-book, the greater and clearer the evidence that there is something very seriously wrong with the administration of the State. However, the present Administration may pride itself for having brought about the present stale-mate in society where no comment is possible in the Press, where no freedom of speech is allowed where no action, however *bonâ fide* it may be, can be taken by any person without running the risk of being sent to jail; no sane person can congratulate the Government on this state of things. I cannot congratulate the present Government on account of their having succeeded in obtaining from us the repressive laws which have shaken the entire society to its very foundation. (Interruption.) My friend from Bihar says: "Just like the earthquake in Bihar". Probably that is the punishment which has been inflicted by God upon us, human beings, just to remind us of our duty to ourselves . . .

Mr. N. M. Joshi: Government's fault is visited on us!

Sardar Sant Singh: You and I are party to that fault; when we were a willing party to that fault, certainly we share the responsibility of such sins. However, that is beside the point. What I am submitting is that this Regulation has been now in existence for a very long time; and no lawyer, with the least pretence of loyalty towards the principles of jurisprudence, can afford to be a willing party to the existence of such repressive measures. My submission is that if we really want that the present discontent in the country should be removed to the advantage, both of the administration and the people; the first step that we will have to take sooner or later is to repeal all the repressive laws in the country and take the people into confidence. In the interests of the Administration itself, it is absolutely essential that the Administration should extend their hand of fellowship towards the people by taking them into their confidence by removing some of the grievances which are at this time to be found in society, so that good relations may be established between the Administration and the people. This measure may be considered inopportune at this moment in the presence of so much repressive legislation that is to be found in the Statute-book; but the Government will have to take a bold step one day, a statesmanlike step to meet the wishes of the people before they can ask for the co-operation of the people in the administration of the country. Therefore, I will most respectfully and yet emphatically support the Bill put forward by my friend, Mr. Amar Nath Dutt.

The Honourable Sir Harry Haig (Home Member): Sir, my Honourable friend, the Mover, reminded us that the Bill which he presents to the House today has been before the country more or less for ten years, and

[Sir Harry Haig.]

it appeared to me that as he spoke we were listening rather to the echoes of those old debates of ten years ago than to the living voice of today; for indeed events have not stood still during the last ten years.

My Honourable friend, Mr. Amar Nath Dutt, referred to the report of the Repressive Laws Committee. I was reading through that report this morning; it was written, I think, in 1921, not very long after the termination of the Great War, in those days of unthinking optimism when everybody was hoping that, on the conclusion of the War, the world was going to become a better and an easier place to live in, that all our difficulties were going to disappear. The last ten years, I am afraid, have disproved those optimistic anticipations. At the present time, if we look round the world, we see in almost every country revolution raising its head and either proving victorious or being suppressed by means which involve fundamental constitutional changes. India in these present world conditions cannot expect immunity. We know only too well the forces that are at work in India at the present time. We stand as a Government for constitutional progress, but constitutional progress is threatened in India as elsewhere by open violence and by hidden conspiracy. It is not enough to stand before those enemies naked and shivering repeating the old formulas of liberalism, however much we may respect them. We must have weapons in order to deal with those threats. Unless we are prepared to defend ourselves even by means which may be repugnant to liberals, we may find that we lose our liberties, our real fundamental liberties, which are of more value to us than formulas. I claim, Sir, that in these troublous times, during the last few years, we have been able, on the whole by means of measures such as are typified by this Regulation III, to safeguard the country against these dangers, and that, if we were deprived of these weapons, we should be forced either to deal with the situation much more drastically or to succumb to the forces of disorder. How is the Regulation, Sir, used at present? In the first place, a certain number of individuals are detained on account of what might be called considerations of foreign policy. I do not think in fact anybody seriously questions the necessity of certain powers of that kind. In the second place, we have in the recent past used the Regulation in certain cases in connection with civil disobedience. Well, Sir, it is said that the various Legislatures have now passed legislation which enables the Governments to take action comparable to the action they can take under the Regulation in regard to civil disobedience. That is, in fact, not strictly accurate, because the legislation which has been passed by the Local Governments does not as a rule include such powers as these, nor has it in fact been passed by all Local Governments. However, fortunately at the moment civil disobedience is, shall I say, quiescent. But there remain two other very serious threats to the tranquillity of this country. I refer to terrorism and communism, and the Regulation is at the moment being used in connection with both those movements, and it is, in the judgment of the Government, absolutely essential that it should continue to be used for that purpose. It is true that in Bengal, which is the heart of the terrorist movement, special powers have been taken by the Local Government for dealing with its manifestations, but in other parts of India there are also manifestations, from time to time, of terrorism. There are conspiracies in other parts of India unfortunately as well as in Bengal, and from time to time it does become necessary to invoke these powers in order to deal with terrorists in Northern India for instance.

With regard to communism, that, in my judgment, is the most serious danger of the future, and we have found it necessary in the last few years to deal with several communist agents under the power given us by Regulation III. At the present moment, therefore, the existence of this Regulation is absolutely essential if the Government are to have a reasonable chance of maintaining tranquillity in this country at a time when, as I have said, the forces of revolution are pressing in throughout the world on every side, and I do not think any less opportune time could have been suggested for the repeal of this Regulation.

I would like just to remind the House once more of that Report of the Repressive Laws Committee which, recognising these dangers, recognising that they could not dismiss as improbable the danger of sudden sectarian, agrarian or labour disorder on a large scale culminating in riots, recognising the existence of the Bengal terrorist movement, recognising the dangers of the Civil Disobedience Movement, nevertheless made that optimistic recommendation. And yet I find that Sir Malcolm Hailey, dealing with a Resolution similar to this, in the year 1924, used these words:

"Soon after the Report of that Committee was received, we were faced with the Moplah rebellion which reminded us very powerfully of the form which internal disorder can take in this country and of the need of retaining exceptional powers to deal with it. Soon afterwards, again, we began to learn of the existence of that class of association which is sometimes called Bolshevik",

—I fear we have learnt a great deal more since Sir Malcolm Hailey used those words in 1924—

"and finally we were met with the recrudescence of conspiracy in Bengal."

All those factors are still present in the life of the country today, and I feel sure that the House, at a time like this, will not press us to part with a weapon which enables us to deal with all these dangerous revolutionary movements and to deal with them as they can best be dealt with in the initial stages, and not wait until they have broken out into open violence.

My Honourable friend, the Mover, suggested that we should agree to the circulation of his Bill with a view to ascertaining the opinion of the country. Sir, the view of the Government in regard to this Bill is perfectly clear. They are entirely opposed to it, and, in those circumstances, they cannot agree to the circulation of the Bill or to any suggestion that they are prepared to consider the repeal of Regulation III.

Mr. Amar Nath Dutt: Sir, I am very sorry that I could not get support

12 Noon. for circulation of this Bill from the Government. My friend says that there are Non-Official Members opposing it. Of course, my friend, Mr. Sen, is over there. I do not think that he was in earnest. Probably he was in one of those jovial moods, which he often exhibits, when he opposed this motion for circulation.

Sir, I have heard all that has fallen from the Honourable the Home Member with respectful attention, and I quite appreciate his statement when he says that the last ten years have disproved Government's optimistic anticipations. But, Sir, in spite of that, I would like to press for the circulation of this Bill, because this Bill has nothing to do with the retarding of constitutional progress, or, for the matter of that, helping the Government in any way to uproot the causes of terrorism or communism.

[Mr. Amar Nath Dutt.]

My suggestion was that, according to the recommendations of the Repressive Laws Committee, this Regulation might be so amended as to be made applicable only to the foreign relations of the Government and not to civil disorder, because, as I have already said, laws have been enacted in all Provinces wherever they were necessary, which, according to my friend over there who opposed this motion, are more barbarous and more inhuman. I am not here to discuss about either the merits or the demerits of the laws that have been enacted either in the Provinces or here, but what I do say is that there is no necessity to retain this archaic piece of legislation at the present moment in the Statute-book, considering that the Government are armed with all the powers that are necessary to put down subversive movements. I hope the Government will still see their way to accede to this motion for circulation. It may be the opinion of the Central Government that this Regulation is necessary, but there may be other Governments which may hold different views and they may hold that they are sufficiently armed with powers under the existing laws. Again, there is another body which deserves our respectful attention, namely, the responsible public opinion of the country. I am sure that neither the Home Member nor the Government of India will ignore that, and if responsible public opinion coincides with what has been expressed by the Honourable the Home Member, then it will be for us to consider whether we should not drop this Bill. But, before that, I once more appeal to the Government that no harm will be caused if the Bill is allowed to go into circulation, and I hope that Government will still see their way to give their hearty support to this motion.

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

"That the Bill to repeal the Bengal State-Prisoners Regulation, 1818, be circulated for the purpose of eliciting opinion thereon."

The motion was negatived.

THE INDIAN PENAL CODE (AMENDMENT) BILL.

Mr. C. S. Ranga Iyer (Rohilkund and Kumaon Divisions: Non-Muhamadan Rural): Sir I move:

"That the Bill to amend certain provisions of the Indian Penal Code relating to offences under Chapters VI and VIII of the said Code, be circulated for the purpose of eliciting opinion thereon."

This Bill owes its authorship to a great extent to the late Mr. A. Rangaswami Iyengar, an eminent journalist, who has been snatched away from his earthly activities to the deep grief of Indian journalism and Indian politics. Sir, after consulting journalists in this country, his colleagues in the Upper India Journalists' Association and out in the country, he thought that the time had come to bring forward a legislation of this kind. You will realise how much opposition there was in this country when the Indian Penal Code was first enacted; and when it was amended, the opposition grew. My Honourable friend, Raja Bahadur Krishnamachariar, who is a close student of legal developments in this

country and of opposition to the restriction of popular freedom, will probably be able to recall the famous opinion of Diwan Rangacharlu who objected strongly to that enactment. My friend and Leader, Sir Hari Singh Gour, in his able writings, has placed on record the opposition that was recorded, and I may read for the benefit of this House and those out in the country the objections that were taken to the section from Sir Hari Singh Gour's book, "The Penal Law of India", Volume I, page 765. paragraph 1230.

Mr. N. M. Joshi (Nominated Non-Official): Is it a presentation copy?

Mr. O. S. Ranga Iyer: "Presentation copy?" Presentation to the Library for the benefit of Honourable Members in this House. (Laughter.) I wish I had a conversation on that subject with my learned Leader, but unfortunately it was only last evening that I noted the fact that this Bill would be coming this morning, and, therefore, I have tried my best under the worst circumstances, not being a lawyer myself, though I shall occasionally be helped by Mr. Joshi's lucid interruptions, such as the one he indulged in just now as to whether this was a presentation copy. I wish he had helped me in carrying all these Volumes to my home from the Library. (Laughter.)

"The clause, as originally drafted, was animadverted upon by those to whom the Bill had been sent for opinion. Mr. Norton (*the father of the famous Norton that we knew*) remarked:

'I conceived the composers of this Code are as unfortunate as all others have been in that effort. Words *spoken* and *signs* made and words written with a view to sedition or of exciting disaffection are of very different effect and criminality, and the vagueness in the definition of slander is such that no two persons would probably agree in their sense of it. But the greatest objection appears to me to be the enormous severity with which the most trivial slander against Government by the most trivial sign of communication may be visited; extending as it may to banishment for life added to unlimited fine.'

Mr. Huddleston considered the clause to be wholly indefensible while Mr. Cochrane considered 'that, as a mere matter of public policy, every Government should avoid punishing mere words unless such be accompanied by acts injurious to the interests of the State. But this clause does not only apply to words, but is in fact a direct attack on the public press. The expression as is compatible, with a disposition to render obedience, which is the qualification of the clause appears to me of a very dangerous tendency, and calculated to place men's rights and liberties in the discretion of each particular Judge'."

—Sir Hari Singh Gour here adds the information:

"He also commented on the severity of the sentence provided for the offence."

This was nevertheless amended, but, before it was amended, when it was introduced in the old Governor General's Council in 1870, the Mover of the Bill stated in his reply, because objection had been taken even by the British Indian Association to this section of the Indian Penal Code—and objection was taken on the ground that even the provision of intention, the burden of proof falling upon the Government who proceed against the Press or arrest the politician who offends under this section, even that was considered by the British Indian Association not to be adequate—the Honourable Mr. Stephen replied to it in the following terms. But before I read the reply, I may state that even though he said the mention of intention in the section itself or the explanation was an improvement of the matter, still the subsequent amendment took away even that intention. The whole purpose of my Bill will be to provide, in the light of

[Mr. C. S. Ranga Iyer.]

the judgments delivered by High Court Judges, that intention is a vital matter to be taken into consideration before coming to a decision in cases under this particular section. I shall now read to you what the Honourable Mr. Stephen said to the British Indian Association who objected to this Penal Code amendment in 1870: He said:

"Another objection was that the law punished intention and we were told that the effect of it would be, that people whose intentions were innocent might be convicted. That merely amounted to saying that mistakes might be made; but that was the case with all laws."

That was the opinion held in those distant days and there were not any special laws to which the Honourable the Home Member just referred with obvious delight:

"In the Penal Code, wherever you might refer to it, you would find that the intention made the crime. It was strange that that argument should be used, when it was considered that the Act, which declared that the intention of the publisher of an alleged libel should be determined like other questions of fact, had always been regarded as one of the greatest triumphs of the popular cause in England."

The trouble arose in the year when this was subsequently amended and it was then that our friends in the old Governor General's Council, including the Maharaja of Darbhanga, took very strong objection to the amendment of the Indian Penal Code. It was in 1893. I shall presently refer to what the Maharaja of Darbhanga said on that particular occasion. What he said has been justified in the light of subsequent judgments, that of Justice Strachey and others. He said that the word "intentional" should not have been omitted and, on the contrary, included. He moved an amendment in the old Governor General's Council, as it used to be known, to substitute the word "intentional" in its proper place. He said:

"The object of my amendment is to make it quite clear by the insertion of the word 'intentional' that an intention to produce the effects contemplated by section 124-A is the basis of the offence. In this proposal I am happy to find that I have been so fortunate as to obtain among others the weighty and valuable support of the majority of the Honourable Judges of the Calcutta High Court and of the Calcutta Bar. I observe on reference to the letter received from the High Court that the majority of the court are of the opinion that it should be clearly stated in the section that the gist of the offence of sedition lies in the intention to produce the effects mentioned therein. I need not dwell upon the importance or upon the significance of such a declaration from such a body. To the deliberate opinion of these matured judicial minds I have to add that of the Calcutta Bar."

This is what he said. I hope the Honourable the Home Member, when he rises to speak, will not put the Maharaja of Darbhanga under the category of modern politicians, because he wore loyalty not only in his heart, but also on his sleeves.

Mr. Amar Nath Dutt (Burdwan Division: Non-Muhammadan Rural): My friend probably refers to the grandfather of the present Maharaja and not to Rameshwar Singh, the father of the present Maharaja.

Mr. C. S. Ranga Iyer: The old Maharaja of Darbhanga was a great patriot, but he was loyal, and with that loyal frankness, which, as Sir Rash Behari Ghosh said on a later occasion, is the true symbol of loyalty, he spoke his feelings in opposition to this particular amendment

and he quoted for his authority the very loyal people of the Calcutta High Court, as I am going to read: He said:

"It is in the ranks of the Calcutta Bar that Your Lordship will find some of the most brilliant intellects and some of the ripest and most experienced lawyers in the country. I have only to mention such names as those of Sir Charles Paul, Mr. Pugh, Mr. Jackson, Mr. Bonnerjee and Mr. Garth to command instant assent to my proposition. What do these learned counsel and their colleagues of the Bar say with regard to this matter? The gist of the offence undoubtedly is the intentionally exciting or attempting to excite feelings incompatible with due obedience as a subject and disposition to assist the Government of the country in time of need. Anything short of this may be defamation, but it is not sedition."

The Maharaja Sahib went on to quote the opinion of Justice Cave and Justice Stephen. He proceeded further to point out the danger that, according to the Indian view, they stood by the amendment of that section and he spoke, as Mr. Amar Nath Dutt just suggested, in the language of those 19th century politicians who were the leaders of the Congress, for Congress in those days had not embarked on uncharted seas of what the Honourable the Home Member might call disloyalty. Its organiser and founder was a Viceroy, and if some of the books on that subject are read, it will be found that Lord Dufferin communicated with Allan Octavian Hume, a distinguished member of the Service to which the Honourable the Home Member belongs. (Hear, hear.) Lord Dufferin suggested to Hume the necessity of starting the Congress and, therefore, even the founders of the Congress in those early days were staunchly loyal people. (Interruption by Mr. Amar Nath Dutt.) Mr. Amar Nath Dutt knows these facts and I am sure he will be able to help me at a later stage. The Maharaja of Darbhanga then pointed out:

"According to the proposed law for India, the intention is to be inferred from the words used. As regards the assertion of the Honourable the Legal Member that in England the intent is inferred from the words used, I would venture to observe that Sir James Stephen has given a very different testimony, as will be seen from the following lines quoted from his 'History of the Criminal Law of England' and which are those referred to by Mr. Justice Cave in the extract I have just given."

—I do not propose to read the whole of the extract, but I shall just read this:

"In order to make out the offence of speaking seditious words, there must be a criminal intent on the part of the accused, they must be words spoken with a seditious intent and although it is a good working rule to say that a man must be taken to intend the natural consequences of his acts and it is very proper to ask a jury to infer, if there is nothing to show the contrary, that he did intend the natural consequences of his acts, yet, if it is shown from other circumstances that he did not actually intend them, I do not see how you can ask a jury to act upon what has then become a legal fiction. I am glad to say that, with regard to this matter, I have the authority of my learned brother Stephen."

This was the opinion of Justice Cave in the well-known case of *Queen v. Burns*:

"The maxim that a man intends the natural consequences of his acts is usually true, but it may be used as a way of saying that, because reckless indifference to probable consequences is morally as bad as an intention to produce those consequences, the two things ought to be called by the same name and this is at least an approach to a legal fiction. It is one thing to write with a distinct intention to produce disturbances, and another to write violently and recklessly matter likely to produce disturbances."

[Mr. C. S. Ranga Iyer.]

Then the Maharaja of Darbhanga said :

"My Lord, I cannot forget that although Sir James Stephen, in spite of the protest of a large section of the Native and European public, thought fit to support the enactment of the Sedition Law of 1870, he yet felt bound to give that protection to freedom of speech and writing to which it is entitled, by providing good safeguards, namely, by making criminal intent and incitement to force essential ingredients of the law of sedition."

I want that the Indian Penal Code should be restored to its original purity. My contention is that it has been spoilt, as explicitly stated in the Statement of Objects and Reasons, by bureaucratic tendencies and "bureaucratic Courts"—a phrase which the late Mr. A. Rangaswami Iyengar used. Sir, it may be asked why, when the Government are bringing forward so many repressive measures, I should think of amending the Indian Penal Code.

It may be said in the identical words just now used by the Honourable the Home Member—"events have not stood still during the last ten years". I may go on and say, events have not stood still during the last twenty years. Events have not stood still during the century, which is still young, and, therefore, the prophets of the last century provided for the events of this century by altering the Penal Code in 1898. They were then on the morning, nearly on the threshold of this century, and, as true prophets, they provided for events. I am perfectly willing to concede that they knew that events were marching fast in this country: and as Lloyd George said about his own country and the world—as to events after the War, "we were being dragged through the track of centuries". Therefore, I can understand—even though not agreeing—I can understand why the Indian Penal Code was amended. It was objected to, as students of the then opposition to this amendment are aware, not only by the Indian press, but by the European press and the Anglo-Indian press in this country; it was objected to by every politician, whether Indian, European, or Anglo-Indian, every non-official politician worth his salt and it was opposed strongly by the non-official representatives in the old Council. In spite of that, it was enacted, and it was enacted with a view to meeting sedition, which was growing in this country. And what was that sedition? That sedition was nothing less, nothing more than to acquire for ourselves the right which England has—the right of self-government. During this century, politicians and the press have carried on a raging, tearing campaign for self-government, "colonial self-government" as Dadabhoj Naoroji first described it, though some of the speeches of Dadabhoj Naoroji in England, if re-published and reported in India in those days, would have come under section 124A as amended in 1898. All his speeches and all his writings could not be published in this country even though he could preach and write what he liked in Great Britain, because the law of suppression masquerading as the law of sedition in this country is unknown in England, unknown in the manner in which it has been exercised in this country with the deliberate intention and purpose of a foreign Government, too foreign in those days and far off towards settling the destinies of this race away from the people and public opinion—that Government had to protect themselves by bureaucratic laws, and thus the law of sedition was made very severe. Even the scope and the proving of intention was taken out of the Bill which, later on, became the Act, though subsequent Judges and subsequent rulings insisted that the intention should be proved. In this connection

I may draw the attention of this House to the judgment in what is probably known as the Ramnath case in the Punjab Chief Court, as it then was. If, Sir, you will read Ramsay Macdonald's beautiful book, "The Awakening of India", you will find he talks of the I. C. S. bureaucrats in this country as Imperial and imperious, strutting about like peacocks. (Laughter). Those were the unregenerate days of socialist Macdonald. If you will read that book, you will find that the Government of this country were very chary about the expression of opinion in this country. When he went to Bengal in those days, he said: "The winds whispered to me, 'beware of the Bengali, beware of the Babu'." Those were, Sir, terrible days, because those were the days of awakening, and what happened? As public opinion grew, the Government pursued their own amended Indian Penal Code. They bravely came forward, as the Honourable the Home Member just now, in replying to my friend, Mr. Amar Nath Dutt's Bill to repeal Regulation III of 1818, said, "not standing before enemies, naked and shivering". That is the policy of the Government; their enemies have increased in the country. Everyone who said, "change this Government, let us have self-government", was an enemy of the Government. Those were days when Surendra Nath Banerjee was an enemy; those were days when Aswini Kumar Dutt was interned under Regulation III, though a Home Member years after regretted that he should have been interned as he was only responsible for "a whirlwind campaign in the country"; and thinking that this section was not enough for their purposes, and feeling that their enemies would construe them as standing before them "naked and shivering", they gave us a shower of repressive laws. Those repressive laws were gone into by the Repressive Laws Committee, the Chairman of which was a distinguished Law Member, the distinguished predecessor of his distinguished successor, I mean Sir Brojendra Mitter; that Chairman was no less than Sir Tej Bahadur Sapru, who recommended the repeal of some of those repressive laws, because he thought section 124A of the Indian Penal Code was long enough and strong enough. If the Honourable Sir Brojendra Mitter were to repeat from his memory—for I am certain he has committed that speech to memory—the famous speech of Sir Rash Bihari Ghose opposing the Bill in the old Imperial Legislative Council, if he were to read the relevant passages of that classical speech delivered by the late Rash Bihari Ghose, he will find that Rash Bihari Ghose opposed that Bill on the ground that the civil sword is long enough and strong enough to put down and exorcise an inconvenient public awakening. Therefore, he asked, why bring in a Seditious Meetings Bill? Sir, at every stage the Opposition in this Assembly and during its predecessor's life opposed the special laws and the repressive laws.

Lastly, Sir, there was the Press law. We went into committee over it, we came to a decision in regard to that. Many compromises were arrived at, and the Bill was passed. We objected to clauses to which we did not agree, and the Special Press Emergency law came into existence. As soon as we reached our homes, an Ordinance was issued amending a law which the Government themselves had brought before us, which the Government had discussed with us in committee and which the Government had agreed to, on the floor of the House; lest they should be considered as standing "naked and shivering", they indulged in the luxury of enacting this naked and almost savage Ordinance (Hear, hear) to meet, as they felt, those savageries of an awakened or an awakening public

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goaded by the spirit of civil disobedience. I admit "events have not stood still during the last ten years". Government, like the Honourable gentlemen opposite, had been feeding upon diets of repressive laws, perhaps over-feeding. Lately, we had the Criminal Law Amendment Bill. We opposed it tooth and nail, but it was passed. Fortunately, so far as the press was concerned—and the press was concerned with that particular Bill mainly—it was stipulated for a particular period. Sir, the only healthy piece of legislation that they have brought forward is, I should think, making it impossible for the Indian press to criticise poor native princes more strongly than even alien bureaucrats are criticised. But in the light of so many repressive laws wrung out of us, wrung from unwilling hands, I ask, has not the time come to amend the Indian Penal Code? I ask, is it not repugnant to the feeling of the Honourable the Law Member to make the Indian Penal Code worse than what it is? It is repugnant. I find the Honourable Member taking notes, because he will show that it is repugnant, that he and we agreed in the Select Committee, as you can judge from the published report, that the Indian Penal Code should not be tampered with, but a special Bill be introduced for the purposes which the Government have in view. Sir, it is with the tampering with of the Indian Penal Code that I am concerned today. And in many cases, when the press was put down, it was put down with a purpose, the purpose being to cut off the coals that feed the political life, the political upheaval in this country.

I do not grudge the bureaucrat the rules, the laws, the special laws and the amended Indian Penal Code that he had up till now. But I have a right to ask, now that we are living in spacious times, now that Swaraj is coming to us, now that provincial autonomy is coming to us, and when this section of the Indian Penal Code can be administered not only by the Government of India, but also by the Local Governments, why do you want to have the present laws meant for a past occasion? Why not approximate, as closely as possible, the spirit of our laws like section 124A to the spirit of the British laws? And, in regard to the British laws, my friend and Leader, Sir Hari Singh Gour, in his informing Volumes has succinctly stated the case, the case for the differences between these two laws. This is what he says:

"Sedition was in England formerly classed as a contempt and misprision against the King's person and Government, and which it was said 'may be by speaking or writing against them, or cursing within him ill, giving out scandalous stories concerning him, or doing anything that may tend to lessen him in the esteem of his subjects, may weaken his Government, or may raise jealousies between him and his people.'"

And now he comes to the distinction:

"But while it is so, English Law presents some noticeable divergence which should not be overlooked. In the first place, the law of sedition is regarded in England as a branch of the law of defamation, and as English law makes a difference between spoken and written libel, the same difference marks the laws of seditious libel which, however, is absent from the Code. So, while it is perfectly true to say in England that words *merely spoken* against the King or his ministers cannot amount to treason it will be absurd to apply the rule to India."

Sir, I wish to point out now that as parties are going to develop in this country, will it not be dangerous to put into the hands of one set of party leaders in power the same weapon of section 124A which was put

in the hands of our "ma-bap Government", the custodians of the conscience of the people and irremovable from their places of power and, therefore, immune from the kind of criticism that will necessarily have to be levelled against parties in power? Many of the English newspapers cannot be conducted in India in the same spirit and style in which they are conducted. I remember the occasion when the *Daily Mail* carried on a raging campaign against Macdonald's Socialist Government. It spoke "lies" against that Government, as the Socialists described its attacks. Then we had the "forgery", as the Socialist Ministers of a later date and of an earlier date and of the same date decried it, though after the election they were thrown out of power. Such lying publications are possible in England and they were condemned by the Government's opponents, the Tory opponents as they were at the time, as forgers. The Government were described as consisting of bounders, who were plunging their hand deep into forgery to carry on the Government of the country. Can such a cry be raised in this country? Supposing our Socialists come into power and a Tory die-hard wants to stand up and say that some kind of document has gone from this Government to one of the Governments just beyond India, I would put it like that at present. And then a newspaper calls them names, as many names as the *Daily Mail* called during the Zinovieff election and the great Conservative Ministers followed suit by carrying on a tearing, a monstrous campaign against their opponents, because they wanted to capture those places of power. They were election lies, I admit, but they were levelled against Government. The Government bear it: they cannot take action. In the first place, there is the tradition which you do not have in this country. We have the tradition of repressive laws: we have the tradition of suppressing the newspapers. Inconvenient criticisms can be put down and the Indian Penal Code, in their opinion, could not be constantly abused, and, therefore, special laws are brought into existence.

I know from my own personal experience that this section has been very very much abused indeed. When I was editing the newspaper, the *Independent* of Allahabad, I indulged in a series of serious criticisms against the Government. Those were the days of Kisan awakening, and without going into names on this occasion there was shooting of the *Kisans* in Rai Bareilly. My special correspondent was Pandit Jawaharlal Nehru. He went in a motor car to Rai Bareilly and saw dead bodies piled on *tongas*. I got my account from him which has not up till now been disproved, either by the Government or in a Court of law. I was not prosecuted under section 124A; they abandoned the prosecution. But they prosecuted me under section 108, a very convenient section. They arranged for a special train to march me to the prison. I was considered to be so dangerous then. A letter came from the Home Secretary or the Private Secretary to the Governor giving me a *locus poenitentiae*. They were very generous to me. They showed me, even in taking me to the prison, that generosity which the great leaders do not enjoy. I got a special train; they do not get a special train. I had super-special treatment in the jail; they do not get super-special treatment. Though the verdict was pronounced that I was to get one year's rigorous imprisonment, I was treated only as a "first class misdemeanant", a treatment which, I am sure, no other person then received. The Jail Superintendent described me as "a first class misdemeanant". I was not proceeded against under section 124A. If I were to read that letter on the floor of the House today, you will find there was sufficient implication in that letter that if I were to reject the *locus poenitentiae*

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that was given, I would be proceeded against under section 124A. Extracts, as is the custom of all Governments which want to suppress the newspapers in all parts of the world, were made from the articles that suited the Government's purpose torn out of the context, and it was for me, even though my colleagues including Pandit Jawaharlal Nehru did not like my writing a long letter in reply

Mr. President (The Honourable Sir Shanmukham Chetty): The Chair proposes to adjourn in five minutes.

Mr. C. S. Ranga Iyer: Thank you very much. I can resume my speech after Lunch and then probably I will be in a better position to develop my arguments. I am very grateful to you for reminding me that you propose to adjourn in five minutes and, therefore, I shall conclude this part of the story in a hurry. At least this part must be completed.

. That is what some of my colleagues did not agree to. But I showed by my quotations from the self-same articles that what I had preached was not violence, but what I had condemned was the violence of the Government. I must make it perfectly clear that so far as the Rae Bareilly affair was concerned, there was no case of official violence.

But the articles referred to various other things that were happening in the United Provinces, every time calling upon my people to be non-violent and condemning the official violence, the official excesses. They abandoned taking action under section 124-A and, as a result of which, I happen to be a Member of this House though one year inside the prison. Sir, every journalist does not get the same concession that I got, the same consideration that I got. (Hear, hear.) I was editing in those days a great paper, which was the favourite of a great man, my friend, the Raja of Mahmoodabad, then the Home Member of the Government of the U. P., although Aldous Huxley, in his interesting book, "The Jesting Pilate", refers to a conversation which took place at a dinner at which Sir Lancelot Graham was present and the late Pandit Motilal Nehru was also present and I and a few others were also present, and there it was mentioned that rivers of Champagne used to flow between a particular person in Lucknow, M— (dash) and the Governor of the Province, B— (dash), not B. Das. (Laughter.) Sir, Huxley suspected that rivulets united them. I am now placing before you the pleasantest occasion in the public life of the United Provinces, for Pandit Motilal Nehru was a great favourite of the Government. They all disliked his becoming an opponent of theirs, but they had a soft corner for him and, therefore, in the United Provinces, in a newspaper, though owned by the public, the Chairman of which was the Pandit, they showed a great deal of consideration, though putting inside the prison all his editors, they proceeded against every one of them under one section or another, and I got the most convenient section, section 108, which, I say, is quite good enough to put down the poor editors. There is also section 124-A. Besides, you have now got your Press Laws. I find my esteemed friend, the Leader of the Opposition, Sir Abdur Rahim, with all his judicial experience and legal knowledge, taking a strong exception to the expansion in the new Bill of the spirit and purpose of section 144. That is even though he supports one of the

main sections of this new Bill, he does not want it to be expanded. Of course I have not joined hands with him, because, having agreed to the main principle in the Bill, namely, putting down *jathas*, well, it is not very much my concern whether you expand or contract section 144. My purpose is this. I tell the Honourable the Home Member that I do not want the Government to stand "naked and shivering" when their enemies are fighting them. I do not mind giving the Government weapons which they take often times in spite of me as they have done so often on the floor of the House. I tell the Government: "You have got laws to meet all your purpose, why not restore this Indian Penal Code to its original purity, and that original purity has been argued at some length by many learned judges that they insist in various cases the establishment of the point in regard to intention."

Mr. President (The Honourable Sir Shanmukham Chetty): The House now stands adjourned till two o'clock.

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

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

Mr. C. S. Ranga Iyer: Sir, I had given some legal arguments this morning though they lie in the sphere of learned friends like Sir Muhammad Yakub and Raja Bahadur Krishnamachariar. I think I must continue, now that I have stated the press and the political arguments, the legal arguments to justify the amendment that I seek to be put into the Penal Code. Sir, for this it is necessary to place before the House, though lawyers know it, how in the old Penal Code this particular section stood, how it was amended and how I seek to amend it further now. For surely mine is a little more far-reaching than the repealed Penal Code as it stood before 1898, for I am incorporating these words into it: "with intent to incite to disorder, or violence, or the use of force in any form calculated to subvert or resist the lawful authority of the Government". And I am also mentioning "simple imprisonment which may extend to three years, or with fine or with both". Sir, it was Lord Macaulay, who first wrote out this particular section, and Macaulay's words were these, though I do not know whether they were actually enacted,—I believe they were not enacted:

"Whoever by words, either spoken or intended to be read, or by signs or by visible representations, attempts to excite feelings of disaffection to the Government established by law in the territories of the East India Company among any classes of people who live under that government shall be punished with banishment for life or for any term from the territories of the East India Company, to which fine may be added, or with simple imprisonment for a term which may extend to three years to which fine may be added, or with fine."

Explanation.—Such a disapprobation of the measures of the Government as is compatible with a disposition to render obedience to the lawful authority of the Government, and to support the lawful authority of the Government against unlawful attempts to subvert or resist that authority is not disaffection. Therefore the making of comments on the measures of the Government with the intention of exciting this species of disapprobation, is not an offence within this clause."

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As enacted in 1870, the section ran thus,—I am quoting from Mayne's Criminal Law, 4th Edition:

"Whoever by words, either spoken or intended to be read, or by signs, or by visible representation, or otherwise, excites or attempts to excite feelings of disaffection to the Government established by law in British India, shall be punished with transportation for life or for any term, to which fine may be added, or with imprisonment for a term which may extend to three years, to which fine may be added, or with fine.

Explanation.—Such a disapprobation of the measures of the Government as is compatible with a disposition to render obedience to the lawful authority of the Government, and to support the lawful authority of the Government against unlawful attempts to subvert or resist that authority, is not disaffection. Therefore, the making of comments on the measures of the Government with the intention of exciting only this species of disapprobation is not an offence within this clause."

In 1898 this was amended and the "intention" was left out. It was no longer necessary for the Government to prove the intention of the man or the newspaper they catch under the amended section. This is the amended section of 1898:

"Whoever by words, either spoken or written, or by signs or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt or excites or attempts to excite disaffection towards His Majesty or the Government established by law in British India shall be punished with transportation for life or any shorter term, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine."

Not one of these *Explanations*, so far as I remember and as you will presently see when I read it out, contained the intention clause.

"*Explanation 1.*—The expression 'disaffection' includes disloyalty and of feelings of enmity.

Explanation 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection do not constitute an offence under this section."

Sir, I want, in the light of the numerous judgments that have been delivered under section 124-A on the offending press and politicians, to incorporate what the Judges themselves have said into the section itself. In the famous Bal Gangadhar Tilak case, Justice Strachey mentioned at length the aspect relating to intention before delivering his judgment. Intention, I admit, is taken into consideration by the Judges, because the other side argues very strongly and at length on the intention of the accused. Therefore, it is impossible for the Judges to ignore this argument while addressing the jury. Numerous cases may be cited. There is the case of Mrs. Besant *versus* the Advocate General in Madras in 1919; you had numerous press cases in Calcutta and Justice Jenkins' remarks, and so on. Justice Fawcett held in Philip Spratt's case also about intention. We have also the notes of the Judicial Committee of the Privy Council on this matter. I shall, if necessary, go into these presently, but it will suffice to say that the Bombay High Court has held it impossible to convict the accused under this section unless it was found that he had the intention of exciting disaffection. You find that in Ratanlal, page 282.

After hearing the reply of the Honourable Law Member, I shall, if necessary, quote in my reply relevant parts of judgments which refer to intention. As it has become customary for Judges to dwell on this matter and as codification of laws is generally the result of accumulation of judgments, I do not and I cannot understand why my amendment should not be accepted. "No intention means no sedition" is the argument that we generally urge, and that the Judges take notice of while addressing the jury. Why then not make your law clear, because the law should be clear, the law should be definite, the law should not depend upon the judgment of the Judges? Ratanlal has several paragraphs on this question of intention. I need not read the whole lot of them, because it will take much of the time of this House, but relevant portions may be read. He says:

"Justice Strachey has elaborately discussed the circumstances which should be taken into account in judging the intention of the accused. In his charge to the jury in the Bal Gangadhar Tilak case, he said 'You will thus see that the whole question is one of the intention of the accused in publishing these articles'."

If that be so, why not incorporate the intention clause as I have suggested, which you had eliminated from the *Explanation* clause in 1898 by substituting three new *Explanations* instead of the old comprehensive one? Justice Strachey says:

"Did they intend to excite in the minds of their readers feelings of disaffection or enmity to the Government? Or did they intend merely to excite disapprobation of certain Government measures? Or did they intend to excite no feeling adverse either to the Government or its measures, but only to excite interest in a poem about Shivaji? If you think that such readers would naturally and probably be excited to entertain feelings of enmity to the Government, then you will be justified in *presuming* that the accused intended to excite feelings of enmity or disaffection."

Why leave it to presumption? Why not leave it to proof itself? Let the party concerned, which wants to lock up a particular person, which wants to deprive a press of its freedom, or the newspaper man of his liberty, be called upon to prove the intention by law. Justice Blackwell in *Krishnaji Khadilkar* (1929), Second Criminal, Sessions, case No. 1, decided on March 27, 1929, says (I am quoting from Ratan Lal, page 281):

"You must judge the intention having regard to the time at which it was written, the place where it was written and the whole circumstances in which it was written."

It is not very clear from this whether it is Justice Strachey's opinion or Justice Blackwell's or whether actually Justice Blackwell based it on that; but judging from the foot-note it is clear that this view is attributed to Justice Blackwell, though identical views have also been expressed by Justice Strachey:

"In judging the question of intention of course the language of the article itself is of the utmost importance in enabling you to decide what was the intention of the writer, reading the article as a whole. But you are by no means confined to the language of the article itself. The subsequent articles are also admissible for the purpose of ascertaining the intention of the accused. It has been laid down that provided the words used and the article sought to be introduced were used and published within a time reasonably near to the time of the publication of the words which you are seeking to construe, then it is open to the prosecution to put even the subsequent words in evidence for the purpose of enabling the jury, taking the matter as a whole, to come to a conclusion as to what was the intention of the writer"

Jenkins, C. J., very tersely said:

"To determine whether the intention of the accused was to call into being hostile feelings, the rule that a man must be taken to intend the natural and reasonable consequences of his act must be applied: so that if on reading through the articles the

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reasonable and natural and probable effect of the articles on the minds of those to whom they are addressed appears to be that feelings of hatred, contempt, or disaffection would be excited towards the Government, then it is justifiable to say that the articles are written with that intent and that they are an attempt to create the feelings against which the law seeks to provide."

I can read more opinions, but it is unnecessary at present to go further into it. Pages 278, 279, 280, 281, 282 and part of 283 deal with the question of intention in the beautiful volume on the "Law of Crimes" by Ratanlal and Dhirajlal Thakore. Honourable Members, lawyers, in this House, know these things better than I do

Sir Lancelot Graham (Secretary, Legislative Department): Yes.

Mr. C. S. Ranga Iyer: I hear my Honourable and learned friend, Sir Lancelot Graham, who I wish were speaking on my side today, saying "yes", for he could have presented the case of this side better than I, a layman, am able to present it. I have pointed out—more correctly, my friend, the late Mr. A. Rangaswami Iyengar, whom I miss today in this House and in the country, has pointed out in his Statement of Objects and Reasons—because it is his Bill—

"We are trying really to amend the Penal Code as to incorporate in it the spirit of the judgments made by the Judges from time to time."

I have only now to refer to the other section, and I may refer to it very very briefly, because there too my desire is to incorporate these words "with intent to incite to disorder or violence or disturbance of public tranquillity". I admit intention is mentioned in the *Explanation*. I need not labour that point very much, but I need only point out that this section 2 has got to be modified, so that, as the Government have got now ample stock of repressive measures, the Penal Code can become a little narrower in its scope and in its outlook. I have already given the political reason that, when parties come to power, it will be a temptation for the parties to pounce upon their opponents especially when strong and adverse criticisms are made, as they are made for instance in the British press. When I was in London in the stormy days when the British press wanted a Viceroy's head on a charger, very filthy statements appeared in the *Daily Mail* attacking the Government as having entered into a league with the Leader of the Opposition with whom the Viceroy was also supposed to have entered into a league. The Government was headed by Macdonald and the Viceroy was Lord Irwin; and in England he was headed by his old chief, Baldwin. Flaring streamer headlines appeared—for which if an editor in India had said the same thing about the Viceroy would have been locked up long long ago and then if Mr. Neogy, with all his talents and enthusiasm for the press, had stood up on the floor of the House on an adjournment motion, our friend, the Honourable the Home Member would have said, as he said this morning: "Do you want our Government to stand naked and shivering when the cold blast of public opinion through this uncomfortable press is so furiously blowing?" I sent, Sir, to one of my friends in the Government of India a cutting from the *Daily Mail* in those good old days with the remark that no vernacular newspaper in India descended so low, and probably, though I did not get a reply to my letter, he shared my enthusiasm for the condemnation of newspaper irresponsibility which runs riot on party occasions in England and are bound almost

to run riot in spite of oriental restraint in this country when new reforms and autonomous institutions come into existence. I ask, are our newspapers to have the same liberty as the British press, or are they to be condemned under the Penal Code in the manner in which they have been hitherto restrained. Party politics means you are attacking your opponent. It is a war. You declare war on your enemy. You want to capture his fortress and hand over to him your wilderness. You say the Leader of the House is a wild ass, as Chesterton freely writes. "Wild Ass" is an ordinary expression in English journals. Worse things are often said in his *New Age*,—that is the paper, I think, in which he was writing day after day when Lloyd George was Prime Minister. I was astonished. Again I looked and saw Chesterton repeating it and I felt that British politics and our politics would rise to the same heights, and I want that we should have the same charter. I wish that our liberties in this particular matter were as closely approximated as possible to what obtains in England. That is why I said, let us go back to the days of Macaulay, and if you are not prepared to go so far back, then go back to the free bureaucratic days, by which I mean the generously bureaucratic days . . .

Mr. F. E. James (Madras: European): You will be burnt at the stake.

Mr. C. S. Ranga Iyer: My friend, Mr. James, is thinking of his own country when he says "you will be burnt at the stake", for I know when people were burnt at the stake in England,—in India, Emperor Akbar, a great, large-hearted, high-souled Mussalman was ruling and India was shedding her light over the barbarous mistakes under which England was suffering. So much for my friend, Mr. James' interruption, for in India in those good old days, there were no stakes . . .

Mr. F. E. James: You only burnt your wives.

Mr. C. S. Ranga Iyer: My friend, Mr. James, says we only burnt our wives. Our wives burnt themselves. We did not burn them. As Raja Bahadur Krishnamachariar said the other day, the Pandits at Madras sent a deputation to Lord William Bentinck to stop that voluntary burning, but these were involuntary stakes, and, as between involuntary stakes and voluntary burning, at any rate there is a certain amount of comparative divinity in the latter misfortune.

Sir, I must now refer briefly to section 153A with which my Bill deals in its third clause. I need not very much labour my argument on this particular aspect. As Ratanlal points out at page 849:

"This section was added by Act IV of 1898, section 5. It is extremely wide, though controlled by the *Explanation*. It supplements the law of sedition enacted in section 124-A.

It is unnecessary under this section, as in section 124-A, to establish the success of an attempt. A man cannot escape from the consequences of uttering words,—(and mark these words)—"with intent to promote feelings mentioned in the section", solely because the persons to whom they are addressed may be too wise or too temperate to be influenced by them. . . . The gist of the offence is the intention to promote feelings of enmity or hatred between different classes of people. The Court must be satisfied that the accused had a conscious intention of promoting, causing or exciting enmity and hatred between various classes, e.g., Europeans and Indians. There must be a deliberate attempt to incite one class against another. The essence of the offence is malicious intention. If there is no malicious intention

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in the publication, honesty of purpose may be inferred. It is necessary for the prosecution to prove that the accused had the intention in acting as he did, to promote enmity between the Hindus and Moslem communities. His intention may be gathered from the words themselves or may be proved by evidence dehors those words. Equally it is not incumbent on the prosecution to prove that his attempt to promote discord",

and so on.

Therefore, I ask, what objection do you have to bring these words which I suggest into the section itself,—I mean after the words "hatred between different classes" the words "with intent to incite to disorder or violence or disturbance of public tranquillity". I should like to know, Sir, why, in the light of the statements made by Judges in their judgments and commentators, the law should not be properly codified and clarified. (Applause.)

Mr. President (The Honourable Sir Shanmukham Chetty): Motion moved:

"That the Bill to amend certain provisions of the Indian Penal Code relating to offences under Chapters VI and VIII of the said Code, be circulated for the purpose of eliciting opinion thereon."

Raja Bahadur G. Krishnamachariar (Tanjore *cum* Trichinopoly: Non-Muhammadan Rural): As a matter of suggestion, Sir, may I respectfully ask what the view of the Government on this Bill is, so that we may know exactly what to say and what not to say. I have not got a political record behind me to give stories about it, but I shall only . . .

Mr. President (The Honourable Sir Shanmukham Chetty): Is the Honourable Member making a speech?

Raja Bahadur G. Krishnamachariar: No, Sir; I simply made a suggestion for your kind acceptance.

Mr. President (The Honourable Sir Shanmukham Chetty): What is the suggestion?

Raja Bahadur G. Krishnamachariar: The suggestion is that the Government should state now what their position is with regard to this Bill.

The Honourable Sir Brojendra Mitter (Law Member): Sir, I may say at once that we oppose it.

Raja Bahadur G. Krishnamachariar: Mere opposing is not sufficient. My friend, Mr. Ranga Iyer, has been speaking for such a long time, and surely we are entitled to know exactly what are the grounds on which the Government oppose this proposition.

Mr. President (The Honourable Sir Shanmukham Chetty): Order, order. Mr. Sullivan.

Mr. D. N. O'Sullivan (Bombay: European): Sir, I wish to make one or two very brief observations. I have listened with the greatest interest to what my friend, Mr. Ranga Iyer, has said. It is a matter of both pleasure and interest, outside this House and here to hear my friend on any topic in the world. Particularly amusing is it to us, who, to some extent, know and have an interest in the Law, to hear his views on legal

matters. I can hardly think he is serious in introducing this Bill with a view to remedying some of the evils which he suggests exist today with reference to the law as to the liberty of the press and the right of public speech. I imagine that this Bill has really been introduced with a view to giving him some scope for the outlet of his eloquence on these great subjects, and I am in entire agreement with his observations, broadly speaking on those subjects. We all agree that the liberty of the press in this as in any country is really a safeguard of civilization. In fact, I have no doubt that if the great Beaverbrook or any of the other great newspaper groups which exist today had existed in England at the time of King John, they would have had a provision inserted in the Magna Charta in this respect.

Sir, coming to this Bill, it seems to me that the whole matter is one of intention. The gist of the offence, as my friend said, is the intention. I well remember hearing of a case tried in Ireland where the prosecutrix charged a man before a magistrate for stealing her purse. It was elicited that the purse was secreted in the lady's garter. The question arose as to the knowledge of the man regarding the location of the purse. When the lady was questioned on the point, she said: "Your Honour, I thought his intentions were honourable." (Laughter.) Clause 2 of the Bill reads as follows:

"Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, excites or attempts to excite, feelings of disaffection to the Government established by law in British India, *with intent to incite to disorder*. . . ."

It will be very interesting to hear from my Honourable friend with what intention a man ordinarily excites disaffection. There are constitutional methods open to him if he wishes to improve a certain state of affairs. It is not necessary for him to go to the extreme length of exciting disaffection against Government. But, apart from that, it appears to me that these words "with intent, etc.," are entirely redundant. No man can be convicted under the clause, as it stands, without being proved to have a particular intent. The difficulty in my Honourable friend's mind would appear to be—and he has complained of this—as regards the *proof* of intention—it is obvious to anybody that you cannot prove what is in a man's mind, you can only infer from his actions what his intention was. For instance, if I were leaving this House and my Honourable friend assaulted me violently on the back of my head with a thick stick and said, "My intention was entirely laudable to hasten your departure to lunch", I do not think that an ordinary man would really accept that as a statement of his intention. Therefore, it seems to me, as the clause now stands, that the words "with intent, etc.," are entirely redundant and ridiculous. With regard to the hardship that is inflicted upon a person by the working of these sections, I will refer my Honourable friend in regard to one of his observations—he said something in the course of his speech about the Civil Service and the difficulties in criticising members of that service—I would refer my Honourable friend to the well known case of the Crown *vs.* Tilak, the second case, I think, it was against Mr. Tilak. Mr. Tilak strenuously criticised the Indian Civil Service:

"He maintained that the British officials were paid too highly; that the Indians though free to discuss, had no effective control over finance or policy, that the present officials, though able and industrious men, did not really understand the needs of the people, that the Indians were kept in a position of slavery, and that the Government, as an alien Government, looked mainly to its own interest."

[Mr. D. N. O'Sullivan.]

It was held by the Bombay High Court that the speeches taken as a whole "were fair political criticism, not obnoxious under section 124A".

What more could my Honourable friend want? I think a judgment of that kind, which is a correct exposition of the law on the subject, entirely meets his case that section 124A inflicts any hardship in cases where there is a genuine criticism. A glance at the Statement of Objects and Reasons is instructive. My Honourable friend says:

"This development renders it necessary that early steps should be taken to amend the law so as to bring it into conformity with the acknowledged principles of civilised and free Governments and with the sound principles on which it was originally based. . . ."

At a later stage, he again refers to civilised Governments:

"It is sufficient to say that with the acceptance of the policy of responsible self-Government in India, the restoration of the law of sedition to the position it occupied in other countries and ought to have occupied in India all along. . . ."

I may not have listened with all the attention that my Honourable friend's speech deserved, but I failed to hear any reference from him as to what the state of the law was in other countries. It would have been most interesting if my Honourable friend explained to us what the state of the law as to sedition and as to the rights and liberties of the press in Italy is today, in Germany today, in any other country, to use his own words. (Mr. N. M. Joshi: "England.") In England? With the greatest respect, I think anybody, who knows anything about the law of seditious libel or the liberty of the press, will agree that the liberty of the press in India today far exceeds the liberty of the press in any country, civilised or otherwise, in the world. The law as to the liberty of the press, the law of seditious libel in England is just as much as, if not more stringent than, it is in India in its application.

Mr. C. S. Ranga Iyer: Question.

Mr. D. N. O'Sullivan: Further more, the Courts in England have a great deal more control over expressions in the press than they have in India today, despite certain provisions in the law as to control by High Courts in cases of contempt of court. That, I think, meets my Honourable friend's remark regarding the liberty of the press in England. I will ask the House to agree in opposing this Bill. For these reasons, I hope this Bill will be thrown out.

Mr. Muhammad Yamin Khan (Agra Division: Muhammadan Rural): I congratulate my Honourable friend, Mr. Ranga Iyer, on the very moderate tone of the speech that he made and also the spirit which he kept up throughout his speech, in spite of the sufferings through which he had himself undergone, although other people in the same position did not enjoy the privileges which he enjoyed.

My Honourable friend has brought out some points which are really serious and we ought to take notice of what would be the future position. He drew the attention of the House that in future the Government would be a Party Government and not a Government as it is today, and it is very likely that one Party which is in power may become very aggressive and like to put down their opponents in a very unjust manner. Or the Party may try to suppress all kinds of criticism fair or foul, and, therefore, my friend is anxious that the law should be amended now in advance. There is a great deal of force in his argument and there is a certain amount of apprehension that in future the law may be misused in order to gain power

for one Party over another. That time is very remote and we in 1934 cannot legislate for things which may come several years afterwards. The question is whether any amendment is required to the existing law or not. I wholeheartedly support one observation which he has made, namely, that we should not try to play with the Indian Penal Code every now and then. That law is one of the greatest assets to the Statute of this country. The amendment in the Penal Code must be made only when no other recourse can be had. My friend has made one observation that he, along with the Honourable the Home Member, agreed that in the other Bill, which had been referred to the Select Committee, the law should be a separate one and that the Indian Penal Code should not be altered. I congratulate those Honourable Members who hold this view and I think they have done a great thing in order to meet the wishes of this House. In the same way, I ask my friend, Mr. Ranga Iyer, that he should not play with amendments to the Indian Penal Code. He may say that sections 124A and 153A were not the original sections and that they had been put in later on, but they have been on the Statute-book for a long time, and they have been found to be useful. They have worked as a check on disruptive forces. The question here is whether it is a good law or a bad law. The second point is whether the circulation will bring any benefit or not. If it will not bring any benefit, then it is a useless motion and if the law, in the way it is sought to be modified, is not a good law, then it is not desirable to alter that law. My friend wants to drop the words "to bring into hatred or contempt" and to add the words "with intent". We must take the Government as they stand today. We do not know what the future will be like. There has been, of late, much evidence that people, in order to bring the Government into hatred or contempt, have done great mischief. One phase of their activity is to create an agitation against the Government in order to weaken them and to make the Government to yield to certain demands. If they wanted to make some sort of progress, their activity would have been welcome, but they ignored the result of their action. The result was that they began threatening people who were not of the same views as they were of. They encouraged all kinds of lawlessness in the country which culminated in murders and in the depression in which we find ourselves today. That is a thing which has got to be checked. The people may have one object, but they never keep within bounds, and their action has brought very bad results for the country, as a whole. Speaking as a zamindar, I know that several zamindars have been murdered in the United Provinces who went for the collection of their rents. The excitement created an idea in the minds of innocent people that the Government were going out and that they could give no protection. Anarchism was brought to the villages, which was accompanied by many other things which are bound to destroy our peace and peaceful progress. Peaceful progress in India is most essential. No Honourable Member will say that we have reached such a state of progress that no more help is required from the British Government. Whatever the views of some people may be, I am confirmed in my belief that for a long time to come India should welcome the association of England for her progress and prosperity. In this country, which has been accustomed to autocracy, ideas of democracy must come in slow degrees, and if we have to advance in these ideas, it must be by the association of Englishmen who bring with them these ideas from their country, in order to teach the people of India about the high traditions of real democracy by abiding by the law and not having recourse to license in the shape of liberty. I do not wish to give a kind of license to the press. I want to give liberty to the press.

[Mr. Muhammad Yamin Khan.]

Another section which my friend wants to amend is section 153A. The words here are "if any person promotes or attempt to promote feelings of enmity or hatred between different classes of Her Majesty's subjects". Now, it is not a common thing nowadays to find so much of communal tension rampant. Sir, communalism is prominent throughout this country. Have we not heard of cases like the *Rangila Rasul* case? Do we not know that many murders have been committed simply because one man excited the feelings of other persons? Such action in a country like India, which is an intensely religious country, should never be tolerated as it is bound to bring about hatred and feelings of enmity which are not beneficial for the country, but are bound to divide the communities unnecessarily. One man writes some ridiculous literature in order to gain popularity in one community, never considering that by his action he is responsible for dividing the whole country into two groups! Is it beneficial to divide the country into two groups? Should not all our efforts be to unite the communities, and not to say anything which may bring the two communities into unnecessary conflict and tension? Sir, I find every day the press alone is responsible for such actions and for creating disruption in the country. Sir, the whole country has been demoralised. Why? Because the press has been exciting the mobs and goading them into actions which should not be allowed to be taken. I think the press, however laudable may be their motives, do already have full opportunities of expressing themselves, and they must keep within the bounds of reasonable and temperate criticism and comment. But when their intention, as in some cases, is to gain cheap popularity and to go on intriguing with other people, certainly that is a position which we must put a stop to. Therefore, no responsible Member in this House would like these words to be taken away or dropped, especially at this time when the constitution is in the melting pot and when there are so many other people who are disturbing the peace of the country and who are dividing the country into communal camps. Why do you want to allow the press to have a free hand in order to do propaganda for all sorts of communalistic people? Communalism, Sir, everywhere is bad, and that ought to be checked. Sir, if the press had not been broadcasting all these mischievous things, these stories of little rubbish which they hear from some so-called special correspondent in a newspaper in black, bold head-lines, which are read by hundreds and thousands of people, without giving a moment's thought as to whether there is anything real underlying all these stories,—Sir, then there would not be so much trouble. One man is out to gain some cheap popularity; the other community begins to hate the other community simply because of one man's silly action.

Mr. Amar Nath Dutt: What about communal Leagues?

Mr. Muhammad Yamin Khan: Communities may be living peacefully together and may be desiring to come together, but there is one thing which stops them from coming together, and that is the unlicensed press which indulges in this sort of abuse and vituperation knowing that they cannot prosper unless they excite the feelings of their readers. That is the whole of their object, because it is their business to make money and they cannot make sufficient money without becoming popular in some way or other. Sir, nowadays, there is one thing. To abuse the Government or to abuse one community or the other is a great favourite game of many people. If one begins to abuse the Government right and left, he

at once becomes the greatest hero of the day, nobody considering whether what he says has any sense in it or not. Then, another person who is hailed as the greatest hero is the man who can swear and curse the other community with as much unlicensed and sharp tongue as he can use. Sir, such are the people who are called the heroes of the day in this country, the "leaders of the people", people who, however, are doing nothing but dividing the communities sharply instead of bringing them together! That is unfortunately the state of things in this land in which we live! People, who want to say something with moderation, who want to unite all sections of the people, must be sent into the background, they will never be liked by the press. Each Honourable Member who gets up in his seat and says that it is the Government which are dividing the communities in India is at once applauded in the press. Now, may I ask, is it right to say all these? If the Government are responsible for dividing the communities, why does this messenger of peace broadcast it all over the country, from Calcutta to Peshawar, from Madras to Baluchistan? Who is taking up all these things? Are we not going to stop these people? Do we want that this sort of thing should be broadcasted like this? No. As long as India and our unfortunate country does not destroy communalism, it is but right that these words should be kept in the section, and there should not be any such words as "with intent". A man's intention may be called to be very innocent, although he may be cursing somebody. I may begin to say something in criticism with good intent about *Shiva*. I may pass an innocent criticism, but still there will be hordes of people who will come down upon me, and they will not simply look into what, I say, my intention is. I may be thus, whatever be my intention, inadvertently creating a kind of dissatisfaction in the minds of some people, and their passions will be roused to the highest pitch. In the same way, any person, as in the *Rangila Rasul* case, may be writing something,—and what happened? Was it not a foolish and mischievous thing for one man to write all that and thus to bring about all these disturbances in the country? I may have a Hindu gentleman sitting next to me who may be one of my closest friends and with whom I may want to live peacefully and amicably; but this man comes in, and he simply wants to divide us into two! Why should he be allowed to divide us in that way? Sir, I say this. Section 153A is the best section which ought to stand today in the Indian Penal Code (Hear, hear), and that should not be amended in any manner, in the present circumstances and at the present moment and in the present days. My friend's object in amending the Code in this way will not prove in the least beneficial to the country, it is not a thing which is at all wanted by the sane and responsible sections in the country and it is wholly unwanted, and this motion will not serve the purpose which my Honourable friend seeks to serve. Therefore, I oppose his motion.

Mr. Muhammad Anwar-ul-Azim (Chittagong Division: Muhammadan Rural): Sir, I am very grateful to you for allowing me this opportunity to speaking on this motion. Sir, I was rather surprised that it occurred to some Honourable Members on the floor of the House just to suggest that unless and until, in the words of Mr. Ranga Iyer, the pristine purity of the Indian Penal Code is restored, there will be trouble when there are changes in the Constitution. The purity is there. The Rule of Law is the purest all over the world. Mr. President, I am a very quiet man and this Bill has touched even a man of my calibre and temperament, because it is a great slander on the capacity, integrity and honesty of the Indian people. The insinuation both of Mr. Ranga Iyer and Mr. Muhammad Yamin Khan was

[Mr. Muhammad Anwar-ul-Azim.]

this that, if any Ministry came into power either at the Centre or in the Provinces, they would use their powers in such a way that they would crush the very spirit of the Indian Penal Code and use it against their "opposition".

Mr. Muhammad Yamin Khan: I never said that they will do it. My friend is misinterpreting my speech. What I said was that the
 3 P.M. speech of my friend, Mr. Ranga Iyer, deserved some kind of consideration as there was a likelihood that it might be used. I never said that it would be used.

Mr. Muhammad Anwar-ul-Azim: When boiled down, it comes to the same thing, because the apprehension is there. The apprehension of Mr. Yamin Khan is that, unless and until these things are added in the very words of Mr. Ranga Iyer, perhaps there will be trouble in the working of the future Constitution. I am the last person to share this pessimism, nor is it shared by the class of people who are likely to play an important part in the coming Constitution. I can assure both the Honourable Members that it is very much regrettable that elected Members of this Assembly should think that things of that nature will ever happen. If I have listened carefully to the long and interesting speech of Mr. Ranga Iyer, I think his only grouse is this, that unless and until the much maligned word "intention" is clarified and properly put at a certain place in the Indian Penal Code, against sections 124-A and 153-A, all the activities of persons of his class will be jeopardised. I can assure him that, really speaking, that is a very pessimistic view to take. If his contention is, Mr. President, that things are different in different parts of the world, such as America or Europe, then I can only say that the blame does not lie at the door of the Government of India, rather it is we who are to blame. Mr. Ranga Iyer has tried to analyse the evolution of this particular section relating to sedition. My reply to him is that if he impartially judges things for himself and takes a proper perspective of the whole thing from 1837 up till now, I can assure him and the other Members in this House that they will find that things have changed so rapidly and we have so rapidly advanced in our so-called civilisation that a law which was perhaps useful and applicable in all its force in 1837 is not likely to meet the requirements of the present day. Mr. President, section 124-A does not penalise the press alone. There are three *Explanations* to this section which you yourself, Mr. President, must have noticed. If the conduct of a particular man or a particular press was free from these *Explanations*, as could be gathered from their action, I am certain that not even an over-zealous Judge or a Magistrate would touch even the fringe of his person. You must have noticed yourself, Sir, hundred and one people are coming out with all sorts of publications and caricatures, and, if there is going to be any modification of this section of the Indian Penal Code, I do not know what will be the position of people who might not have an influential press backing. With regard to the other section, namely, 153-A, I am sure that a politician of Mr. Ranga Iyer's calibre and experience cannot be so short-remembered as to forget the troubles that have arisen in all parts of India, especially in the Punjab and Calcutta. If this section is taken away, I am afraid that lots of people who are law-abiding on account of this legislation, will let loose their conscience and try to do things which are unthinkable. Even in this section there is an *Explanation*. So, on the whole, I think it will not be right for us at this stage just to disturb

these arrangements that are to be found in the Indian Penal Code. If, by experience, we feel the real need for the amendment of this or that particular section, I am sure, both the Assembly and the country will rise to the occasion and ask the proper authorities to come to their rescue.

Raja Bahadur G. Krishnamachariar: Sir, I congratulate my Honourable friend, Mr. Ranga Iyer, on his excellent speech with which he treated us this morning and the dexterous way in which he treated the somewhat difficult branch of the criminal law, which relates to sedition. Sir, I have not got any political career behind me to draw upon for instances to illuminate anything that I might submit

Mr. C. S. Ranga Iyer: But my Honourable friend has a great deal of legal career behind him.

Raja Bahadur G. Krishnamachariar: Well, Sir, I do not know about the legal career, nor can I bring myself to roam about the whole of India as my friend, Mr. Yamin Khan, did, from the British connection to *Rangila Rasul* and the whole lot that one can imagine existed between them. But as one who has had something to do with law, I shall only try to deal with this Bill from one aspect, namely, the question of law. I have got a complaint against the Government in connection with this matter. My Honourable friend, the Law Member, when he was asked what the attitude of Government was with regard to this Bill, said that he was going to oppose it. Of course, we knew that. But as we are very anxious that the time of the House should not be wasted, it would be a helpful thing if those who want to take part in the debate knew exactly what the position of the Government was. Therefore, I respectfully submit for your consideration and for such action as you may deem fit to have some such arrangement as we have in a Court of justice where directly the plaintiff makes his statement the defendant is asked to state what he has got to say and then we know exactly what the issues are, and then you need not roam about the whole country just to put forward arguments which may after all be perfectly useless. That is the reason why I ask the Government to say what exactly their position is, and the mere fact that they object is neither here nor there. Consequently I have got to assume so many things and take into consideration matters which are absolutely unnecessary and would, therefore, be a waste of time of the House. But I cannot help it, it is only the Government that provoke that position and I do hope that they would hereafter consider if only out of courtesy to this side of the House to tell us exactly what they mean to do, so that we may confine our debate within reasonable limits.

The Honourable Sir Brojendra Mitter: Sir, it is out of courtesy to my Honourable friends on the Opposition Benches that I did not get up. I want to listen to their arguments and try to meet them. I do not want to anticipate those arguments and probably put arguments into their mouths which they had no intention of using. It is out of sheer courtesy to my Honourable and learned friends that I restrained myself.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadan Urban): You do not want to give this side ammunition.

The Honourable Sir Brojendra Mitter: I wanted to know what the attack was before I spoke.

Raja Bahadur G. Krishnamachariar: I think my Honourable friend, the Law Member, out of mercy to me, might just as well have supplied me with some ammunition that Sir Cowasji Jehangir referred to. Perhaps he was afraid to do so. If he had done so, I can always rely upon the arguments that he put forward and then submit the whole thing for the consideration of the House. However, the whole question depends upon a very simple position, whether or not intention is a necessary ingredient of the offence of sedition.

Now, there can be no question that according to the cases decided by Judges in India, as well as in some of the cases in the Privy Council, intention is essential under section 124-A. Now, if intention is an essential ingredient of that offence, no Court will convict a man, unless the prosecution proves positively—I do not say that you can bring a man to the witness box and make him say that the man intended such and such a thing—the prosecution should place such evidence before the Court from which the Court, as a reasonable person, could infer that a certain state of things exist. That is, Sir, how proof is defined in the Evidence Act. The placing before the Court circumstances from which a reasonable man could infer whether a certain state of circumstances exist or do not exist, that is the definition of proof, and, consequently, if you start from the position that intention is a necessary ingredient of this offence, then the prosecution has got to prove it. From the judgments cited, from the opinions cited, from the statements of law in Stephen's Digest of the Criminal Law, it is perfectly clear that, at this time of the day, it is impossible to contend that a conviction could be obtained without the prosecution affirmatively proving the existence of intention. Now, as far as I understand the object of this amendment by Mr. Ranga Iyer, it is to make that law clear, so that you need not go after the decisions of the Judges who, in having to decide particular cases, sometimes go out of their way to make observations which later on are held to be *obiter dicta* and in the meanwhile the man who relied upon these observations as part of the decision comes to grief. It is a dangerous thing to rely upon the decisions of Courts alone and I understand—I may be perfectly wrong—I understand that the duty of the Legislature is that even if a Court has made certain observations even after a particular portion of the law has been codified and the object of codification has among other things been stated to be certainty, because you want to be quite certain of your law and not that persons should make mistakes about law, because ignorance of law is no excuse except in the case of Judges—they can make mistakes and the party pays for the mistakes—and, in view of the fact that ignorance of law is no excuse except in the case of Judges, I say that it is the bounden duty of the Legislature to follow the course of decision upon Acts framed by them and so to amend their enactments from time to time as to ensure that first and foremost condition underlying codification and that is certainty. Now, if you read section 124-A, as it stands and as pointed out by my Honourable and learned friend, Sir Hari Singh Gour, in his exhaustive commentary upon this section—my Honourable friend is an extraordinary gentleman in writing commentaries and you can never say where he begins and where he ends, and that is the reason why I have got to search for it . .

The Honourable Sir Brojendra Mitter: Is it permissible to quote a living author? (Laughter.)

Raja Bahadur G. Krishnamachariar: I do not quite understand the cause of this hilarity. Let me read this section:

"Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise brings or attempts to bring into hatred or contempt or excites or attempts to excite disaffection towards Her Majesty etc., etc., shall be punished."

It is pointed out that matters that you have got to prove under this section are—and I want particularly to invite the attention of the Honourable the Law Member to this—the points requiring proof are that the accused wrote or spoke the word or made the signs or representations or did some other act, that the accused thereby brought or attempted to bring into hatred or contempt or excited or attempted to excite disaffection, that such disaffection was towards the King or the Government of India. Throughout these clauses, these are the only points you have got to prove as a Counsel for the prosecution before you can ask for a conviction of the man. There is no question of intention. You need not prove intention according to the wording of the section and yet Judge after Judge, Court after Court, up to the Privy Council, have said that without intention there is no sedition. Now, the object of my Honourable friend, Mr. Ranga Iyer, is this; at least the late Mr. Rangaswami Iyengar, the great constitutional lawyer that he was, the object that he had in view, when he drafted this Bill, was this, if you accept the position that intention is a necessary ingredient of this offence and if, from the words of this section, intention has not been made clearly to be a component part of this offence, why not make it clear, why not be straightforward, and by express words say that intention is essential and be done with it. Why do you have something up your sleeve and make things very vague and then see whom you can catch. No, Sir. That is not the idea. The fact of the matter is this. I was not in the Legislature when this Act was passed and for some reason or other these words were not put in in spite of the objection brought forward. As the late Maharajadhiraja of Darbanga said, eminent Judges of the Calcutta High Court and still more eminent Counsel of the Bar at Calcutta which, as you know, Sir, is the most influential Bar in all India, and I say so advisedly, because, when the Indian Constitution was first framed, the Calcutta Bar was given special representation and, of course, it ceased to exist after that—my Honourable friend, the Law Member, was a very distinguished member of that Bar, and I hope he will follow the traditions of his profession and will not raise any objection, as the late Maharajadhiraja of Darbanga said, all the Judges of the Calcutta High Court wanted the insertion of those words, so that the point might be made clear and so that you could bring the law into conformity with what the Judges have held from time to time. I hope the Honourable the Law Member would raise no objection to inserting the word "intention", so that it may be in conformity with the opinion of those eminent Judges of his own Court and the traditions of his own Bar. That, in short, is the idea of this Bill and I really cannot imagine what objection there could be, and that, I respectfully submit, was my reason why I should have liked to hear my Honourable friend, the Law Member, before giving my reply. Another thing is this.

We have been told in this House and outside, whenever there is some little difficulty, that the law of England is like that, and my Honourable friend behind me, who was speaking immediately after Mr. Ranga Iyer, wanted to have a disquisition upon what the law in England was, and upon what the law in the Continent was. I did not know that the reason why he wanted a disquisition upon that was to point out, according to his

[Raja Bahadur G. Krishnamachariar.]

own satisfaction, that the law of sedition in India was the easiest to break, I suppose; that is to say, we are under a system of law which is the least oppressive; in Germany and France and England and in every other place the law is so very strict that we need not trouble about those places, but you should keep the law as you have it, because it is very good to you.

[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 am not sufficiently acquainted with the profession of my Honourable friend

Mr. C. S. Ranga Iyer: He is a distinguished Barrister at Karachi.

Raja Bahadur G. Krishnamachariar: I did not know that he belongs to the legal profession, but I am very sorry that he has forgotten for the moment that the Indian law is the strictest law regarding sedition. I have not got the books with me at present, but I could read from the judgments of eminent Judges of the Calcutta High Court to show how strict the Indian law of sedition is. To take only one instance, in the Tilak case, in the year 1898, disaffection was interpreted as want of affection. That was seriously put forward by Justice Strachey in his address to the jury. Now, Sir, I do not profess to be a student of International Law or the laws in other countries, but at one time I happened to know something about English law, although I do not say I remember it now. I do not know that the word occurs anywhere in connection with the law of seditious libel and, if so, that it was ever interpreted by eminent Judges to mean want of affection. Now, I should like my Honourable friend, when he has an opportunity, to tell this House how he is going to prove or disprove that there was want of affection in respect of a writing or in respect of a speech that has been delivered and which is the subject of the prosecution.

Now, Sir, my friends, Mr. Yamin Khan and Mr. Anwar-ul-Azim, in their great anxiety to support the traditions of our Indian nation, specially my Honourable friend, Mr. Yamin Khan, in his anger against those people who started that *Rangila Rasul*, and in his anxiety to stop a repetition of all that

Mr. Muhammad Yamin Khan: I was not at all angry.

Raja Bahadur G. Krishnamachariar: I should be surprised if you are not, because, when your Prophet is attacked in that manner, you should certainly be very angry, and I was angry myself, although I am not a Muhammadan. So that my friend, in that state of mentality, has absolutely forgotten his law, because he said that intention is not part of the offence. And yet all the while for a whole hour and a half or more than that, my friend, Mr. Ranga Iyer, was citing authority after authority to show that intention was always considered essential by the Judges who decided the question. And his only request, put in a nutshell, was that if you really mean that intention is a part of the offence, do for God's sake put it in your section and make the Code clear, as it is the intention of the codified law to make that law quite clear, so as not to admit of any more doubt. Sir, it is perfectly true that certain words have been omitted from

the existing section and I take it, the reason why my Honourable friend has forgotten to refer to it is that the psychological conditions underlying those words are such that you can only guess what the motive or the intention was; and from a guess you simply come to a judgment, and no Appellate Court can ever say whether your guess is correct or not. When, Sir, you have got a sheaf of criminal laws behind you, you have got a great many repressive laws which my friend, Mr. Yamin Khan, has blessed and which he warned Government not to remove at all from the Statute-book until at least the new Constitution came into existence, and then "after me the deluge",—anything may happen. But he has given away his case in view of all those contentions. Why do you want this law in these vague terms and why will you not agree to make it clear?

Now, Sir, proceeding to section 153-A, it is exactly the same thing. The same principle underlies section 153-A, where also the whole question is, whether you intended to create hatred between one class and another. Now, the chief ingredient of an offence under this section is the intention to promote hatred or ill-will between several classes. Now, Sir, the result of this section 153-A without that clear indication in the section itself, that intention is the chief ingredient, is this. There have been political meetings all over the country like the Hindu Mahasabha and the All-India Muslim Conference, and I do not know what and what, all these were brought together by a compromise which I read in this morning's papers,—each one of them is trying to consolidate its or his position, so far as the particular community is concerned; and, in doing so, you have got necessarily to speak strongly upon the urgency for your consolidating your position and for putting forward your demands. If intention is not the ingredient of the offence, the mere fact that you want more than what I am prepared to do is bound to create ill-feeling in me and consequently every one of those speakers and those persons who act in this matter would be liable to prosecution. That, Sir, is not the way to advance the political cause of India, and I submit that, in view of the admitted fact, there ought not to be any objection to this Bill and it should be accepted as it is.

This Bill in clause 2 says:

"With intent to incite to disorder or violence or the use of force in any form calculated to subvert or resist the lawful authority of the Government."

That, I need hardly point out, is exactly what the law is in England. In fact, if I had the time and if I thought it necessary to do so, I could cite, from the debates of the Imperial Council on a former occasion, numerous extracts which were read before that Council, where it is stated that a spoken word or something said in the heat of the controversy ought not to be taken into account unless the idea is to incite people to violence or to disorder or to produce a mentality of disobedience to the lawful constitutional order of the Government, as one case lays down. Unless it is done with that idea, the mere fact that somebody is saying something which you do not like should not be, could not be and ought not to be made the subject of a prosecution, and that, Sir, is the whole scope of this amendment.

The Honourable Sir Brojendra Mitter: Sir, I am at a loss to understand whose arguments I am to meet, Mr. Ranga Iyer's arguments or my learned friend, the Raja Bahadur's argument. (*An Honourable Member* : "Both.") With regard to Mr. Ranga Iyer's argument, I am in a further

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difficulty, because he made one argument in the forenoon and another in the afternoon. I shall deal with both. In the morning, Mr. Ranga Iyer's argument was in effect that he wanted to liberalise the law of sedition: in the afternoon, his argument was that he wanted to clarify the law of sedition. What is it that he wants? Is he wanting merely to clarify the law, or is he wanting to liberalise the law of sedition? I found no very certain note in his eloquent speech. His speech was wrapped up in so much of politics that his legal arguments got clouded. I thought, while he was speaking, that he had probably missed his vocation: he might have been a member of my profession; and so, when he had a bad case, like a skilful advocate he clouded the issues and confused the jury. That was his method.

Mr. N. M. Joshi: You do the same here in the Legislature.

The Honourable Sir Brojendra Mitter: Looking at the Statement of Objects and Reasons, I find that Mr. Ranga Iyer's intention is to bring the Bill into conformity with the acknowledged principles of civilised and free Governments. His second intention is to bring the law into conformity with sound principles on which it was originally based before it was amended in 1898. These are the two intentions in the Statement of Objects and Reasons. I shall deal with the first,—to bring it into conformity with the acknowledged principles of civilised and free Governments. As Mr. Sullivan rightly complained, Mr. Ranga Iyer never referred to the laws of any civilised and free countries and made no attempt to show that the Indian law was in any way more stringent or more oppressive than the laws of those other countries. I am not familiar with the laws of continental countries, but I am to some extent familiar with the law of England. What is the law of England? I am quoting from Stephen's Commentaries on the Laws of England. At page 158, dealing with sedition, he states what the law in England is:

"Sedition embraces all those practices which do not amount to treason, but whether by word, deed or writing directly tend to have for their object either to bring into hatred or contempt or to excite disaffection against the King or the Government and the constitution of the United Kingdom or either House of Parliament or the administration of justice."

The word "intention" does not occur there. I shall deal with the word "intention" presently, but at the moment all I am pointing out is that the word "intention" is not there

Raja Bahadur G. Krishnamachariar: That is not codified law.

The Honourable Sir Brojendra Mitter: I know it is not codified law: all I am saying is, here is a statement of the law by one of the recognised authorities on criminal law, and in his statement of the law the word "intention" does not occur, although intention is an essential ingredient in the offence of sedition. My point is that it is not necessary to mention the word "intention"; any one interpreting the law would interpret the language in its proper implication, and intention is always there. To proceed, he says further:

"Secondly, to excite the King's subjects to attempt otherwise than by lawful means, the alteration of any matters in Church or State by law established; or (iii) to incite any persons to commit any crime in disturbance of the peace; or (iv) to raise discontent or disaffection amongst the King's subjects; or (v) to promote feelings of ill will and hostility between different classes of such subjects."

In so far as our section 124-A is concerned, that is covered by the first head here, that is, "Sedition embraces all those practices, etc., etc." Here is the law of England which is substantially the same as the law in India and substantially in the same terms, without express mention of the word "intention", although, in interpreting the law, Judges in England have always held that intention is a necessary ingredient in the law of sedition. Similarly, in this country, Judges have always held that intention is a necessary ingredient. The Raja Bahadur said: "Well, if it is a necessary ingredient, why not make it clear?" But why make clear something about which there has never been any doubt in the mind of any lawyer, either a practising lawyer or a Judge administering the law? Mr. Ranga Iyer said before the midday adjournment: "where is the harm in incorporating into the section what the Judges have always said?" That is a vicious principle in legislation. We are not to proceed to legislation on the basis that there is no harm in doing a thing. The real test is: "Is there necessity for it?" I will tell you the difference. For the last thirty-six years, we have had section 124-A in certain terms. That section has been interpreted scores of times; no Judge has ever felt any the slightest doubt about the meaning of that section; all the judgments and all the rulings have been more or less to the same effect; there cannot be greater certainty than that, namely, the course of decisions lasting over so many years all going the same way. Since there has been no doubt and no uncertainty, the introduction of even a comma or a semi-colon would introduce an element of uncertainty. Therefore, my submission to the House is this: do not tinker with a law about which there has been no doubt. If it is oppressive, change it by all means; but with regard to the meaning of the law, if there has been no doubt entertained by any Judge in any Court, do not introduce unnecessary words, the introduction of which is bound to raise doubts. Judges will immediately say: "Well, here was this law which was interpreted in this way, the Legislature has changed the law; the Legislature must have intended something different". Therein lies uncertainty. Why introduce uncertainty where certainty exists today? The Raja Bahadur took hold of the wrong end of the stick. It is not a question of there being no harm in introducing the word "intention". If the word was originally there, I would not have quarrelled with it. It is now there by such clear implication that nobody has entertained the slightest doubt about it. The introduction of the word "intention" will introduce a new element, and there will be speculation as to what this new introduction means. I repeat, why make uncertain what is certain at the present moment? Sir, that is my answer to the argument that there is no harm in incorporating into this section something which the Judges have always held. If the Judges have always held something, future Judges are likely to follow that; be content with it. Sir, legislation is resorted to in circumstances of doubt or conflict. If we find that a particular section has been interpreted one way by one High Court and in a different way by another High Court, when there is a conflict, then the Legislature ought to intervene and say: "Well, this ought to be the law; such and such a High Court is right, we shall endorse that High Court's decision by means of legislation". But, Sir, when all the High Courts are of one mind, the Legislature ought not to intervene.

Sir, the morning's argument of my friend, Mr. Ranga Iyer, was upon the meaning of section 124-A, whether intention was a necessary ingredient or not, and he quoted from the speech of the Maharaja of Darbhanga and other authorities. There is no difference of opinion between us and Mr. Ranga Iyer, and so I shall not labour that point. Everybody knows that intention is a necessary ingredient.

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Mr. Ranga Iyer then went on to say in the morning that the law was made more severe in 1898. I say no. The law has been the same all through. The essential ingredients of the offence of sedition were the same in 1870 as in 1898 and subsequently. In order to correct some deficiencies, *Explanations* were added and the language was slightly changed in 1898, and for 36 years that has been found to be satisfactory.

Then, Sir, Mr. Ranga Iyer referred to a number of Statutes which he described as repressive laws and said that, since you have passed so many repressive laws, what is the use of section 124A.—but that is not the Bill. His Bill is not to repeal 124A,—it is to amend 124A. Therefore, I could not appreciate the relevancy of his argument. There have been repressive laws,—what then? Repressive laws were made to meet the needs of the times, but that has no bearing upon the language of section 124A.

Then, the next argument was that 124A has been abused by the magistracy or by the Courts in a large number of cases. I shall assume, for the sake of argument, that it has been abused, but that is no argument in support of the contention that the language is defective or the law is defective. It only points to this,—that your magistracy does not know its duty or your Judges are not competent. What is the remedy? The remedy is not to amend 124A, but to improve your judiciary. That is the remedy.

Now, coming to the Bill itself,—I will take clause 2. Mr. Ranga Iyer said this afternoon, and that was repeated by Raja Bahadur Krishnamachariar, that we were merely clarifying the law, we were merely bringing the law into conformity with the judgments made, and nothing new was going to be introduced into this section. I shall presently show, there is a good deal in the Bill which goes far beyond anything that the Judges have said . . .

Mr. N. M. Joshi: Is it good or bad?

The Honourable Sir Brojendra Mitter: Bad.

According to the existing law, as has been interpreted by the Judges, what is the intention which the prosecution has to prove? The intention is to excite feelings. I shall not quote the words at length, but I shall give the effect of it,—to excite feelings of disaffection, hatred or contempt. That is the intention which the prosecution has to prove, and they can prove it only from the language used. I am not going meticulously into every part of the section, but I am taking the section broadly. Supposing there is an article or a speech,—it is from the language used that the intention is to be gathered. The intention is the intention to excite feelings of disaffection, hatred or contempt. What is the intention which Mr. Ranga Iyer wants to introduce into the law? He wants to introduce a second intention,—that is, “with intent to incite to disorder, or violence or the use of force in any form calculated to subvert or resist the lawful authority of the Government”. In Mr. Ranga Iyer’s section there are two intentions which have to be proved,—the intention to excite disaffection and the intention to use violence . . .

Mr. N. M. Joshi: Liberalisation scheme.

The Honourable Sir Brojendra Mitter: That is the liberalisation scheme. So, I say, it was a false argument to use that this section was merely bringing the law into conformity with the existing cases. This clause imposed upon the prosecution the duty of proving two intentions,—to excite feelings of disaffection, and, secondly, intention to excite to disorder or violence or the use of force. We all know that in the law of sedition the ultimate effect is supposed to be disturbance of public tranquillity. But the direct intention with which Courts are concerned is the intention to excite feelings of disaffection, although, as I say, its remote effect may be disturbance of tranquillity. Mr. Ranga Iyer wants us not merely to concern ourselves with the immediate, but with the remote, that is to say, to make the prosecution doubly difficult. I do not suggest for a single moment that that is Mr. Ranga Iyer's motive but I say that that will be the effect of this clause. It is difficult enough to prove intention to excite disaffection from the language used. Prosecution is not launched lightly, not unless the prosecution is prepared to prove from the language used that there is that intention to be gathered from the speech or the writing. But here the prosecution will have to prove that the intention was to incite to violence. If this be the law, it would be easy enough for any journalist or any speaker to go to the extreme length without being brought within the mischief of the law. The law of sedition would be impossible to administer if this clause be passed.

Mr. C. S. Ranga Iyer: Was it not to make the administration of the law of sedition easy that the Penal Code was amended in 1898?

The Honourable Sir Brojendra Mitter: Not to make the administration easy, but to make the law clear and by the addition of an *Explanation* to liberalise the law. That was the effect of the change in 1898. The additional *Explanation* liberalised the law.

Mr. C. S. Ranga Iyer: But by leaving out "intention" did they not make it easy for the prosecution?

The Honourable Sir Brojendra Mitter: No. That is precisely what the Judges have always said. You may leave out the word "intention", but the language used in the section without the word "intention" nevertheless necessitated proof of intention. It might have been left out in terms, but it was never left out in its true meaning, as the Judges have held, and there has been no conflict of decision on this point between any of the High Courts. Sir, I have nothing very much more to say, because my comments on the clause dealing with section 153A will be on the same lines as my comments on clause 2 dealing with section 124A.

Shortly, my submission is this. There is no necessity to change the law, because there is no doubt about the law, and it is positively mischievous to change the law when the law has been certain for the last 36 years. No doubt has arisen in the minds of anybody. It has not been shown that the law should be changed because it is oppressive. It has not been shown that the law is more oppressive than in any other civilised country. I have attempted to show that the law is substantially the same as it is in England, and in our criminal law we generally follow the precedent of English law. My further submission is this, that it is a wrong policy to rush to amending laws on the ground that there is no harm in amending. The right policy is to find out whether any necessity has arisen for changing the law. If no necessity has arisen, I would much

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rather have a law which is certain but defective in language, instead of a law which will be logically perfect, but uncertain. By changing the language at a time when there is certainty, you will be introducing an element of uncertainty. Lastly, my submission is that the Bill is a great deal more than merely clarifying the law or bringing it into conformity with the decided cases. It imposes an unnecessary burden on the prosecution which, in the present circumstances or in any circumstances, would not be justified. (Applause.)

Sardar Sant Singh (West Punjab: Sikh): Sir, the law, as it stands, is not so innocent as it has been made out by the Law Member. This section has been used in the past in a manner which has created a good deal of discontent with the administration of this law. During the days when the Congress had been following a policy of non-violence, this policy was forced on the Congress when no amount of constitutional agitation was considered sufficient to bring pressure upon the Government in order to promote constitutional changes which the country so earnestly desired, this section was used in order to punish those who, in their efforts to change the constitution by constitutional methods, were doing all they could. Even today we are reminded of the existence of this law by the latest news that Pandit Jawaharlal Nehru has been convicted and sentenced to two years' imprisonment. The upholder of the bureaucratic system of Government certainly will never desire that there should be any liberalisation in the administration of the country. I quite appreciate the necessity for the law of sedition finding some place in the penal laws of a country. But this law of sedition should only apply to those cases when an attempt is made to bring about a disturbance in the tranquillity of the country or any conspiracies are hatched out in order to create civil war or produce conditions which bring about a civil war in the land. But if it is made more stringent by which it restricts the freedom of speech or freedom of writing, then it is high time that we should look into it. The law, as it stands, is different from what it was in 1870.

The Honourable the Law Member has just now tried to show that in 1898, when the change was made by Act IV of 1898, there was practically no change so far as the law was concerned, but that only certain *Explanations* were added and the law was made more liberal than it stood in 1870. With your permission, I will try to show to the House that Act IV of 1898 did make a good deal of change in the law as it stood in 1870 and which it replaced. It was not a change towards the liberalisation of the law, but it made it more stringent than it had stood before. In 1870, the section stood as follows:

"Whoever by words either spoken or intending to be read, or by signs, or by visible representation, or otherwise, excites, or attempts to excite, feelings of disaffection to the Government established by law in British India, shall be punished with transportation for life or for any term, to which fine may be added, or with imprisonment for a term which may extend to three years, to which fine may be added, or with fine."

Then there was an *Explanation* added to it: .

"Such a disapprobation of the measures of the Government as is compatible with a disposition to render obedience to the lawful authority of the Government, and to support the lawful authority of the Government against unlawful attempts to subvert or resist that authority, is not disaffection. Therefore, the making of comments on the measures of the Government, with the intention of exciting only this species of disapprobation, is not an offence within this clause."

The present law tries to punish bringing or attempting to bring into hatred or contempt or exciting or attempting to excite disaffection towards Her Majesty or the Government established by law in British India. Then three *Explanations* have been added. The distinction between the two is in four ways. In the repealed section, the offence consisted in exciting or attempting to excite feelings of disaffection. In the present section, in addition to this disaffection, feelings of hatred or contempt are made punishable. Secondly, in the old section, the object of the feeling was the Government established by law in British India. In the present section, the addition is made "bringing into hatred or contempt or exciting or attempting to excite disaffection towards Her Majesty". This is an addition. Then, thirdly, the old section contemplated punishing exciting disaffection, while the present has a more embracing word "sedition". It punishes sedition, and the fourth is that while the *Explanation* has not attempted to cover disapprobation of the measures of the Government, as is compatible with a disposition to render obedience to the lawful authority of the Government, and to support the lawful authority of the Government against unlawful attempts to subvert or resist that authority is not disaffection, while here the *Explanation* added is: "The expression 'disaffection' includes disloyalty and all feelings of enmity". Then, the second *Explanation* is about the same as existed before. So, my submission is that the section, as it stood in 1870, was more restrictive in its operation than the section which was substituted for it in 1898.

The Honourable the Law Member's interpretation of this that it was a mere change in phraseology to bring it into conformity with the existing practice or interpretation of the law is, in fact, not the change that was brought about then. The other argument which he has brought forward is that this law has stood the test of 36 years and it should not be lightheartedly changed or amended when experience has shown that the law is effective. My submission is that the necessity for changing this law has arisen on account of the abuse of the section that has taken place during the last three or four years. The attention of the public is diverted towards the amendment of the law only when there is an abuse of the law. It may be partially true that the Judges are not competent to administer the law, and the remedy lies, as has been suggested, that we should rather have competent Judges than change the law. This may be one of the methods, but it is not in the power of the Opposition to appoint or dismiss Judges or to promote them or stop their promotions. It is the business of the Government. They are responsible for the appointment of the Judges and, if the Judges are not competent, the blame lies on the Government, and not on the Opposition. My submission is that if the Judges are not competent lawyers to understand the law, then the law should be made clearer, so that the Judges may be able to follow up the law and administer it in the right spirit in which the Legislature intended that the law should be administered. Honourable Members know that, during the last three or four years, several persons were prosecuted for this offence. Mostly during the Civil Disobedience Movement, the accused did not make any defence and suffered the sentences which were imposed upon them by the lower Courts. But in some cases, the accused went up to the High Court on appeal, and we find that, in interpreting the law, the High Court was greatly influenced by the fact whether the articles promoted violence or not. In cases where violence

[Sardar Sant Singh.]

was preached, the sentences were far more severe. What we want is that if a person writes anything or speaks anything without advocating the use of violence or force, he should be exempt from prosecution for sedition and should not be punished for the mere expression of an opinion. There is no doubt that the Bill, as framed by my Honourable friend, Mr. Ranga Iyer, goes much beyond the section that it was originally in 1870. It says:

“Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, excites or attempts to excite, feelings of disaffection to the Government established by law in British India, with intent to incite to disorder, or violence, or the use of force in any form calculated to subvert or resist the lawful authority of the Government shall be punished”,

and so on.

Now, here it is made clearer that unless the social fabric is disturbed by any speech or writing, the person, holding a particular opinion, should not be punished merely because of his opinions. Therefore, Sir, I think it is high time that the law is made clearer, and this Bill should be considered, at any rate, on its merits. If the provisions of the Bill go too far, I think they should be modified in the light of facts, in order to bring them into conformity with this principle that the expression of a mere opinion should not be punishable.

Mr. C. S. Ranga Iyer: Sir, the Honourable the Leader of the House has received unexpected support from the Leader of the United India Party, my Honourable friend from Meerut. When my friend, Mr. Yamin Khan, followed the Honourable Member from Karachi, who spoke as the good Irishman, that he is, with a great deal and a good sense of humour, I imagined I was getting support from one of my men, but with his usual subtlety he turned, I admit, the tables upon me by suggesting that the Home Member had the same weakness to which I had alluded as having been discovered in the Law Member while in committee, judging it from its report which is a public document, that they did not want to tinker with an Act so dear to their heart. Sir, if only they had not started tinkering with it as they did or at any rate as they threatened they would in the last Session when they mildly or rather hurriedly agreed to circulate it—hurriedly, again, so that this House could legislate on it, when they sent it to the public, I at any rate thought that they were tinkering with it. But I subsequently discovered that the Law Member and the Home Member were two magicians; they were merely placing something before you to quarrel with and then they placate you in committee, take the most objectionable thing out of it, so that the Opposition will not have any legs to stand upon; and now, Sir, my Honourable friend, instead of waiting for another occasion to use that argument, is stealing my own thunder and says: “How dare you tinker with the Indian Penal Code, so repugnant to every true lawyer?” Sir, my excuse or justification for tinkering with it is that it was already tinkered with in 1898. I know my Honourable friend, the Law Member, has said—you cannot tamper with the Indian Penal Code unless there is a clash of judgment, unless there is a conflict of judgment; there has been such a wonderful unanimity of judgment that the occasion has not yet arisen. But did such an occasion arise in 1898 for the law to be tampered with? If he did not answer this, it is probably because my Honourable friend did not want to emulate or, shall I say,

imitate me by speaking for so long, but he did not give us any single instance of the clash that took place before 1898 justifying the amendment. Sir, in the absence of the information which I have a right to ask for from the Honourable the Law Member, all that I could do now is to enquire: "Is the information forthcoming, Sir?" Well, Sir, I am waiting for the information.

The Honourable Sir Brojendra Mitter: On what point?

Mr. C. S. Ranga Iyer: The Honourable the Law Member said that the Indian Penal Code should not be amended, because there has been no conflict of judgment in regard to the amendment of 1898. I should like to know why it was interfered with before 1898.

The Honourable Sir Brojendra Mitter: Sir, I would refer my friend to Ratanlal's book on the Law of Crimes—I don't think you have got my edition, this is the 13th edition, page 290, and there the author says:

"The present section differs from the repealed section in four ways. In the repealed section, the offence consisted in exciting or attempting to excite feelings of 'disaffection'. (*This is the point.*) In the present section, in addition to this, the feeling of 'hatred' or 'contempt' is made punishable."

That is one change. Secondly:

"In the old section, the object of the feeling was 'the Government established by law in British India', in the new section, in addition to this, 'Her Majesty' is also made the object of such feeling."

The third is that:

"The offence under the old section was designated 'exciting disaffection', under the new it is called 'sedition'. The old section had one *Explanation*, the new has three", and that is all.

The changes were more or less formal changes—not substantial changes.

Mr. C. S. Ranga Iyer: But where is the conflict? There was no conflict before 1898; and if there had been any conflict before 1898, at any rate contemporary critics felt that there was no necessity for the alteration, and I shall quote the authority of a very important critic, the Honourable Pandit Bishwambhar Nath, who said so in the Governor General's Council of those days.

The amendments proposed by me are certainly calculated to soften the rigor of the law. The Honourable the Law Member has opposed my amendments, because he fears they are calculated to soften the rigour of the law. I admit, that is my intention in the light of coming democracy, as the rigour of the law has been softened in England in actual administration. Will the Honourable the Law Member or rather the Honourable the Home Member place on the table of the House the number of cases, from 1898 till this day, under section 124-A in India and under a corresponding section, because we have no penal code in England, under the seditious laws of England, action taken in that country under similar circumstances within the last so many years? The House will then understand, the country will then find a revelation as to how section 124-A has been administered. The Honourable the Law Member and the Honourable the Home Member cannot deny that it has been administered in this country

[Mr. C. S. Ranga Iyer.]

with what I may call ruthless devastation, devastating the rights and liberties of the press and the platform. (Hear, hear.) The purpose of section 124-A has been to change the platform and to imprison the press man, and that is why the Honourable the Law Member, I admit, has been quite clear that my purpose is to make the law less severe. Sir, Sir Hari Singh Gour, I remember to have read while expressing his opinion about the punishment in this section, has clearly stated that it goes far beyond the needs of a law, but I am dealing with the matter more from the political point of view, and, from that point of view, here is a ruthless law, a law which is so wide and has been so deliberately widened, as was pointed out by politicians in those days who were also lawyers, that it must be modified. This is what Pandit Bishwambhar Nath said in the Governor General's Council in 1898:

"The new section 124A, in its present form, is no improvement upon the old one. It has been observed that it is wanting in precision. Judging by the results, the section, as it stood before, did answer its object well for all practical purposes."

The Honourable the Law Member said, the law has operated all right for the last 36 years. Well, my Honourable friend could have gone back to the period from 1898 backwards to 1870 and said it had operated all right for nearly half a century and more: (*A Voice*: "64 years.") for the last sixty-four years, as some one seems to have calculated—"I failed fifteen times in arithmetic at the Matriculation", some one humorously said when asked to calculate. (Laughter.) As I was suggesting, for more than half a century, he could have maintained this, had this so called "improvement" not taken place. In my opinion, it was no improvement; it was making it worse. It was a preparation to combat the new forces that were coming into the country as a result of English education. It was a political move on the part of the then Government to combat the press, to combat the platform, with the help of the law. They were entitled to it, but they are no longer entitled to it now, because they have conceded all that the old stagers stood for, asked for and struggled for. Having done that, my point is, why not make it a little more difficult to launch prosecutions in the future? Sir, I take off my hat to the legal integrity of the Honourable the Law Member. He admitted, and I concede, that my purpose is to make it easier, to liberalise it and, by liberalising also clarify it with a view to meeting the democratic requirements of a democratised era. There is not much difference between liberalisation and clarification. I want that it should be clarified liberally and, if it is so clarified liberally, I am certain, they will meet the requirements of the future.

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

The Honourable the Law Member spoke as a great lawyer, the Law Member of the Government of India has to speak not only to interpret the old law which so many Judges have interpreted for the last 36 years, but also to interpret it in the way in which he has interpreted it, so that he could justify the action that not only this Government, but also their predecessors have taken against the press and against the platform. Sir, they have abused this section, hopelessly abused it, and if the Honourable the Home Member wants to deny my charge, he has to place on the

table of the House a comparative statement showing how many presses and politicians were proceeded against under this section for the period which the Law Member mentioned, namely, 36 years, here and in England and then we can understand the difference between the English law and the Indian law, and you can interpret the law as to how it is administered. Here is a law which is put in the hands of the executive and here is an executive in this country which enjoys a judicial position unknown to the executive in England. You cannot take away these two realities and they are the realities that have existed for the last 36 years of the maladministration of section 124-A. I find that my old friend, Pandit Jawaharlal Nehru has been proceeded against under section 124-A and I wish to make no comments upon his case today.

Sardar Sant Singh: I hear that he has been convicted for two years.

Mr. O. S. Ranga Iyer: My friend says that he has been convicted for two years, and I am free to comment if that information is correct. I hope that information is correct, and the only comment that I can offer is this, that here is section 124-A which is made easy to jump upon politicians; nothing more at present. If Honourable Members of this House want to make elaborate comment upon this important matter, they can take advantage of it in a motion for adjournment. So far as I am concerned, I say this that if my amendment to this section had been accepted, Government would have thought twice before pouncing upon a gentleman who, so far as I know from the newspapers, is no personal friend of mine today. He is today my political opponent, but I must give to my political opponents, when they are down, what is their due. Here is a gentleman of remarkable energy, with a great personality . . .

Mr. President (The Honourable Sir Shanmukham Chetty): The House has no authentic information whether the case has been disposed of by the Court. In the absence of such information, the Chair would ask the Honourable Member not to comment upon it.

Mr. O. S. Ranga Iyer: I say that the information that has been given to me by an Honourable Member of this House is authentic unless the Government contradict its authenticity. Are they prepared to contradict it, because they are supposed to have more easy and more facile information than any Non-Official Member? In the absence of that contradiction, my statement stands.

The Honourable Sir Harry Haig (Home Member): I have no information on the subject at all—one way or the other.

Sardar Sant Singh: The Associated Press has just received the news that he has been sentenced to two years.

Mr. O. S. Ranga Iyer: The President seems to read the mind of the Government. The Honourable the Home Member seems to be hopelessly out of date as compared to the Honourable Members opposite who seem to be full of information on matters of current interest. Sir, this is the whole position. Pandit Jawaharlal Nehru was proceeded against under section 124-A. I do not know what is the judgment; I comment upon the policy, and that is my whole case about the administration of section

[Mr. C. S. Ranga Iyer.]

124-A for the last so many years. Here is a youngman—he is hardly young now—he is, I believe, over 40 years, who just preaches communism and all things which are so hopelessly out of tune and out of harmony with the feelings of the people. If the Government had given him a long rope, he would not have survived the freedom that would have been given him, because the United Provinces, from which Sir Muhammad Yakub and I come and the constituencies which we represent, are so conservative that a communistic propagandist like Pandit Jawaharlal would have been destroyed by his freedom. Sir, I do not find much difference between socialism and communism. An aggressive socialist propagandist like Pandit Jawaharlal Nehru, had he not been proceeded against under this convenient section which can catch anybody, would not have survived for long. Already he was becoming hopelessly unpopular in my province. But now, when I go again to speak in the provinces, I dare not fight him. No, it is impossible, and I am saying this as a practical politician. He is now behind the bars. I find the Honourable the Home Member laughing. But he will know if he goes and preaches, as I have to preach, unpopular things to very big audiences what it is to fight a martyr behind the prison bars and how easy it is to fight a man outside the prison. I fought Pandit Jawaharlal Nehru. My platform was very small. But I knew it was like a little cloud which will spread and spread all over the United Provinces. I was fighting a man who had unsheathed the sword of socialism to destroy the existing institutions including religion itself. Tomorrow when I go to speak, what will the people say? The people will hoot me as I will deserve to be hooted, for I cannot attack the propaganda initiated by Pandit Jawaharlal Nehru though it had no legs to stand upon. Here is a section presented to the executive and they can turn it on whomsoever they like, and we, the politicians, have to face the music. I want to take away this executive power from the hands of this Government. It is an elaborate machinery for repression and suppression, because they are making our task very very difficult. It is very difficult to face the fury of an imprisoned martyr behind the bars. It is easy to fight him on an open platform as a free man fighting a free man. That is the feeling in this country, and I know I am talking as one who understands the people. I am prepared to retire from public life, leaving it to the Government on the one side who are extremists of extremists as the speech of the Honourable the Law Member has shown today, who want to preserve this law in all its extremism, and to the extremists on the other to fight it out. There are much better things to do in India than standing between two fires.

Now, Sir, let me deal with another aspect of the Honourable the Law Member's speech. It is the legal aspect. I am not a lawyer; but, as I have said, you cannot always talk like a lawyer and ignore the political doings made under cover of law. As section 124-A has been repeatedly abused, I want that the burden of proof must lie upon the Government in regard to "intention". I admit there is no difference between me and the Honourable the Law Member in regard to "intention". All Judges have mentioned it. Why not then put it, because there is no difference in the point of intention between the Honourable the Law Member and myself, and the Judges have always said that intention must be taken into consideration. Why not—in the light of the lightness with which Government have maladministered this section to keep down unfair agitation

which was not the purpose of this section—why not amend the section and add one more to the proof that is to be established in a Court of Law, namely, the intention. That, Sir, is my purpose. I know the Government will not circulate this Bill. They are afraid of circulating this Bill, because the opinion of all those who are good lawyers will be given in the light of the frivolous way in which the Government have applied that section 124-A, the opinions of every one of them will be to condemn the Government as having misapplied that section. That is why they do not want circulation. I do not bother myself, I wanted to make it easy for the future Governments. They do not like it, they want to keep the section in its present form.

Now, Sir, it is more pleasant to deal with a detached critic like my Honourable friend, Mr. O'Sullivan, who, I said, had the humour of an Irishman. He referred to an English King. Well, King George III, while referring to his subjects and their politics, said: "Politics is the last resort of rascals". Obviously the purpose of section 124-A is to interpret politics in that light. George III, when he used that expression, was really in his own mind imagining his subjects. He was very unpopular and so they were fighting him. If I may be pardoned, the Honourable the Home Member, whose conscience keeper is the Honourable the Law Member, both of whom are tarred with the same brush, use their brains for the same cause. The Honourable the Home Member and the Honourable the Law Member have been dealing with their opponents in the country, whose hands are not stained with blood, as rascals. They have the same mentality as the good old King George III. I shall not be so disloyal as to cast any reflection on one of the great Kings of England, King George III.

Mr. N. M. Joshi: It was Dr. Johnson who said so and not King George III.

Mr. C. S. Ranga Iyer: Well, my Honourable friend says that it was Dr. Johnson. Well, Dr. Johnson said: "Politics is the last refuge of scoundrels".

The Honourable Sir Brojendra Mitter: He said "patriotism".

Mr. C. S. Ranga Iyer: Yes, "patriotism is the last refuge of scoundrels", so said Dr. Johnson, while King George III improved upon it and he said: "Politics is the last resort of rascals", and he was all the time thinking of his own political opponents. When I heard Mr. O'Sullivan speaking about the intentions and about a lady and a purse—I do not know exactly to whom it belonged—he said; "Heaven favour", and when he said so, he reminded me of the old Spanish Proverb "Heaven favour good intentions". I wish Mr. O'Sullivan had also favoured the same good intentions case, and he would have, if I choose to press this motion to a division, to decide to vote with me. He then said: "What about constitutional agitation? This is meant to put down constitutional agitation." That is what he said. I see my Honourable friend, Mr. O'Sullivan, shakes his head. I do not want that constitutional agitation should be put down. That is important to my case. My Honourable friend, Mr. O'Sullivan, is very honest and like a true and good Barrister that he is, he has spoken the truth. The Government have been using this to put down constitutional agitation and they have no business to do so, and if my amendment is introduced now, that constitutional agitation will result in the production of a Constitution now. (Interruption.) I see my Honourable friend, Sir Lancelot Graham, interrupts me, I shall be glad to hear what he has got to say.

The Honourable Sir Brojendra Mitter: He says that constitutional agitation has been used in the sense of agitation against the constitution.

Mr. C. S. Ranga Iyer: I think constitutional agitation is rightly used in the sense of an agitation to bring about a new Constitution, and, now that the agitation has resulted in a new Constitution, why cling to the old corpse, why not rejuvenate in the older way. My Honourable friend, Mr. O'Sullivan, said that the intention clause was ridiculous. If that is so, why do Judges dwell upon it? I can quote pages after pages. It is not good as the Honourable the Law Member gave the lead, even a lawyer does not read so many quotations and it is not good for me to read them. But when they dwell at so much length on the intentions, surely they were not making themselves "ridiculous" though my Honourable friend says that the intention clause will make it ridiculous. I admit the Honourable the Law Member put it less enthusiastically, but I know that Mr. O'Sullivan enjoys the enthusiasm of freedom or the freedom of enthusiasm, I do not know how to put it, that an Honourable Non-Official Member, with no official responsibility, enjoys. He was so pleasant, he wanted to kill my case with satire and he referred to the Tilak case and the good judgment in that. After the case, Tilak came out vindicated, but if he reads the older case and Justice Strachey's judgment to which I referred in my morning speech,—and long quotations can be made still from that judgment,—if he refers to it, he will find that intention cannot be left out. But, Sir, both Mr. O'Sullivan and the Honourable the Law Member were united is one thing and, that is, in keeping the law extreme. I admit I wanted to make it moderate. Sir, extreme law can also mean extreme injustice and in the present case in actual fact it is meant to be extreme injustice. Some one said in this House, "why not think of Italy and Germany". Well, we shall soon be thinking of them. Socialism on the one side and Fascism on the other.

Mr. N. M. Joshi: Socialism is good.

Mr. C. S. Ranga Iyer: Yes, Socialism on the one side and Fascism on the other, that is the future of Indian politics. You cannot escape from it.

Mr. B. V. Jadhav: But the Fascists were Socialists at first.

Mr. C. S. Ranga Iyer: Quite. Socialism in its extreme form creates its own reaction. It creates a certain amount of disgust which all extremists create. It leads on to Fascism afterwards. Socialism goes through the crucible of extremism and then you get fascism. That is why I objected to the Government so flagrantly using section 124A against the leaders of Socialists, for I want two parties in India, the Socialists on the one side and the Fascists on the other, and so long as you make an easy use of section 124A, there will be only two parties in the country, and that is the martyrs in prison and out of prison on the one side and nobodies on the other if the Lothian electorate is to be enforced and if those gentlemen were to think of coming into this Legislature. The Government are making it more and more and more difficult under this section 124A for constitutionalism to come into existence. By suppressing this agitation for a larger Constitution and by suppressing the right of free speech, what are the Government doing? The Government are making it impossible for us to carry on. I tell them in the words of Shakespeare:

"You must not make a scarecrow of the law,
Setting it up to fear the birds of prey."

(Applause.)

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

"That the Bill to amend certain provisions of the Indian Penal Code relating to offences under Chapters VI and VIII of the said Code, be circulated for the purpose of eliciting opinion thereon."

The Assembly divided:

AYES—22.

Abdul Matin Chaudhury, Mr.
Das, Mr. B.
Dutt, Mr. Amar Nath.
Gour, Sir Hari Singh.
Harbans Singh Brar, Sirdar.
Jadhav, Mr. B. V.
Jog, Mr. S. G.
Joshi, Mr. N. M.
Krishnamachariar, Raja Bahadur G.
Mahapatra, Mr. Sitakanta.
Neogy, Mr. K. C.

Parma Nand, Bhai.
Patil, Rao Bahadur B. L.
Ranga Iyer, Mr. C. S.
Roy, Rai Bahadur Sukhraj.
Sadiq Hasan, Shaikh.
Sant Singh, Sardar.
Sen, Mr. S. C.
Sen, Pandit Satyendra Nath.
Singh, Mr. Gaya Prasad.
Thampan, Mr. K. P.
Uppi Saheb Bahadur, Mr.

NOES—47.

Abdul Aziz, Khan Bahadur Mian.
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.
Chatarji, Mr. J. M.
Clayton, Mr. H. B.
Clow, Mr. A. G.
Cox, Mr. A. R.
Dalal, Dr. R. D.
Darwin, Mr. J. H.
Dillon, Mr. W.
Dudhoria, Mr. Nabakumar Sing.
Gidney, Lieut.-Colonel Sir Henry.
Graham, Sir Lancelot.
Grantham, Mr. S. G.
Haig, The Honourable Sir Harry
Hardy, Mr. G. S.
Hezlett, Mr. J.
Irwin, Mr. C. J.
Ismail Ali Khan, Kunwar Hajee.
Ismail Khan, Haji Chaudhury
Muhammad.
Jawahar Singh, Sardar Bahadur
Sardar, Sir.

Lal Chand, Hony. Captain Rao
Bahadur Chaudhri.
Lindsay, Sir Darcy.
Metcalf, Mr. H. A. F.
Mitter, The Honourable Sir Brojendra.
Mujumdar, Sardar G. N.
Mukharji, Mr. D. N.
Mukherjee, Rai Bahadur S. C.
Nihal Singh, Sardar.
Noyce, The Honourable Sir Frank.
O'Sullivan, Mr. D. N.
Pandit, Rao Bahadur S. R.
Puri, Mr. Goswami M. R.
Rafiuddin Ahmad, Khan Bahadur
Maulvi.
Ramakrishna, Mr. V.
Rau, Mr. P. R.
Schuster, The Honourable Sir George
Sher Muhammad Khan Gakhar,
Captain.
Singh, Mr. Pradyumna Prashad.
Talib Mehdi Khan, Nawab Major
Malik.
Tottenham, Mr. G. R. F.
Trivedi, Mr. C. M.
Yakub, Sir Muhammad.
Yamin Khan, Mr. Muhammad.

The motion was negatived.

The Assembly then adjourned till Eleven of the Clock on Saturday, the 17th February, 1934.