

*Friday,
1st November, 1907*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XLVI

April 1907 - March 1908

ABSTRACT OF PROCEEDING
OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS,

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Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., Cap. 67, and 55 & 56 Vict., Cap. 14).

The Council met at the Viceregal Lodge, Simla, on Friday, the 1st November, 1907.

PRESENT :

His Excellency the Earl of Minto, P.C., G.C.M.G., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., Commander-in-Chief in India.

The Hon'ble Mr. H. Erie Richards, K.C.

The Hon'ble Mr. E. N. Baker, C.S.I.

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr. J. F. Finlay, C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Mr. S. Ismay, C.S.I.

The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

The Hon'ble Mr. Gopal Krishna Gokhale, C.I.E.

The Hon'ble Mr. T. Gordon Walker, C.S.I.

QUESTIONS AND ANSWERS.

The Hon'ble MR. GOKHALE asked :—

“(a) Are the Government aware that on 9th July last, in reply to a question by Mr. Redmond, asking whether the relatives of Lala Lajpat Rai were allowed to see him at any time, the Secretary of State for India said :—‘ There would, I presume, be no objection to their doing so under such supervision as would ensure that no mischievous or undesirable communications were made ’ ?

“(b) Are the Government aware that Lala Dhanpat Rai, a younger brother of Lala Lajpat Rai, applied on 19th July to the Superintendent of Jails, Mandalay, for permission to see Lala Lajpat Rai under such restrictions as the authorities

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in charge might impose, and in reply received a letter from the Government of Burma, dated 3rd August, referring him to the Government of the Punjab in the matter; that thereupon Lala Dhanpat Rai submitted on 22nd August an application to the Government of the Punjab for permission to see his brother; and that the Punjab Government in their reply, dated 2nd September, refused such permission, asking him to renew his application, if he thought fit, at the close of the current year?

“(c) In view of the statement made by the Secretary of State for India in Parliament quoted above, will the Government be pleased to state why permission has been refused by the Punjab Government to Lala Dhanpat Rai to see his brother?”

The Hon'ble SIR HARVEY ADAMSON replied:—“The Government of India are aware of the answer given by the Secretary of State for India to Mr. Redmond on the 9th July last. The Punjab Government refused permission to Lala Dhanpat Rai to see his brother because at that time it was considered undesirable that any such interview should take place.”

The Hon'ble MR. GOKHALE asked:—

“(a) Are the Government aware that on 9th July last, in reply to a question by Mr. Mackarness, the Secretary of State for India stated in the House of Commons that he presumed that Lala Lajpat Rai was at liberty to communicate with his legal advisers?

“(b) Are the Government aware that at the end of June last the Simla correspondent of the *Daily Express* wired to that paper, as coming from ‘a highly placed official’, a story of an interview which Lala Lajpat Rai was alleged to have obtained with the Amir of Afghanistan for submitting to His Majesty ‘a plot for the delivery of India from the British Raj’; that on this telegram being reproduced in this country Lala Lajpat Rai’s son and some of his friends wished to bring on behalf of Lala Lajpat Rai a civil action for defamation in England against the conductors of the *Daily Express*, and with a view to obtain the necessary power-of-attorney from Lala Lajpat Rai instructed Messrs. Dixit and Dhanjishah, Solicitors, Bombay, to communicate with him; that thereupon Mr. Dixit wrote on 9th September last to Lala Lajpat Rai in the matter; that delivery of this letter was taken and postal acknowledgment signed by the Assistant Superintendent of Jails of Mandalay, but that the letter was not delivered to Lala Lajpat Rai; and in reply to an inquiry from Mr. Dixit, the Superintendent of Jails, Mandalay, wired back to say that the letter in question had not been delivered to the prisoner?”

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“(c) In view of the statement made by the Secretary of State for India quoted above and in view also of the fact that even ordinary criminals in jails are allowed to give instructions to their relatives and friends for bringing civil actions in their name, will the Government be pleased to state why Mr. Dixit's letter was withheld from Lala Lajpat Rai?”

The Hon'ble SIR HARVEY ADAMSON replied :—“The Government of India are aware of the reply given to Mr. Mackarness by the Secretary of State for India on the 9th July last. If Lajpat Rai expresses a desire to consult with his own Solicitors permission to do so will be given. The Government of India have no knowledge of the circumstances in which the statement referred to in head (b) of the question appeared in the *Daily Express*. Applications have been received from two firms of Solicitors for permission to communicate with Lajpat Rai for the purpose of procuring from him authority to institute suits. The Government of India have not complied with either application. They do not consider it expedient that facilities should be given to third parties to induce political prisoners to engage in litigation.”

The Hon'ble MR. GOKHALE asked :—“Will the Government be pleased to state what monthly allowance Lala Lajpat Rai receives for his personal expenses, apart from the cost of the guard and other arrangements for his custody?”

The Hon'ble SIR HARVEY ADAMSON replied :—“The allowance sanctioned for Lala Lajpat Rai's personal expenses is Rs. 200 a month.”

The Hon'ble MR. GOKHALE asked :—“In view of the decision of Mr. Martineau in the case of Lala Hansraj and other Pleaders at Rawalpindi, will the Government be pleased to consider the desirability of reviewing afresh the information on which they have acted in the case of Lala Lajpat Rai?”

The Hon'ble SIR HARVEY ADAMSON replied :—“The reply to the question is in the negative.”

The Hon'ble MR. GOKHALE asked :—“Will the Government be pleased to state how far the question of separating Judicial from Executive functions has advanced?”

The Hon'ble SIR HARVEY ADAMSON replied :—“A definite scheme for the experimental separation of Judicial and Executive functions in a few selected districts of certain provinces is now under the consideration of the Government of India, and it is probable that the Local Governments concerned will be consulted on the subject shortly.”

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The Hon'ble MR. GOKHALE asked:—"Will the Government be pleased to state how far the question of making primary education free in the country has advanced?"

The Hon'ble SIR HARVEY ADAMSON replied:—"The question has been referred to Local Governments for opinion, and replies are still awaited from four of the larger provinces."

PREVENTION OF SEDITIOUS MEETINGS BILL.

The Hon'ble SIR HARVEY ADAMSON moved that the Report of the Select Committee on the Bill to make better provision for the prevention of meetings likely to promote sedition or to cause a disturbance of public tranquillity be taken into consideration.

The Hon'ble MR. GOKHALE said:—"For many years now it has been a well-established practice of this Council that no important legislation—especially of a controversial character—should be enacted at Simla, but that it should be reserved for the session at Calcutta, where alone the assistance of all Additional Members is available. This practice has behind it the authority of a clear instruction from the Secretary of State. Thirty-two years ago, on the Government of Lord Northbrook passing an important measure at Simla, Lord Salisbury, then Secretary of State for India, deemed it necessary to address a remonstrance to the Governor General in Council in the following words: 'In providing that laws for India should be passed at a Council consisting not only of the Ordinary Members of the Executive Government, but of Additional Members specially added for the purpose (of whom some have always been unofficial), it was the clear intention of Parliament that in the task of legislation the Government should, in addition to the sources of information usually open to it, be enlightened by the advice and knowledge of persons possessing other than official experience. Of these you were unfortunately deprived in discussing the subject in respect to which the assistance of non-official councillors is of special value.' My Lord, it is a matter for deep regret that the Government of India should have thought it proper to depart from this wise and salutary practice in the present instance. But the absence of most Additional Members from to-day's meeting is not my only ground of complaint against the course adopted by Government. I think it is no exaggeration to say that this Bill has been received throughout the country with feelings of consternation and dismay, and yet it is being rushed through this Council in such hot haste, that practically no time has been allowed to the public to state its objections to the measure. The Hon'ble Sir Harvey Adamson, in

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introducing the Bill last Friday, observed : ' From the date of its publication in the *Gazette* to the date on which it will be finally considered, an interval of twenty days has been allowed. I am confident that the time is sufficient for a full consideration of the merits of the Bill.' I suppose the Hon'ble Member was indulging in a bit of cynical humour when he said this. Else, my Lord, it is not possible to understand his statement. I presume the object of publication is to give the public affected by the proposed legislation an opportunity to say what it thinks of the measure. This it can only do after it has had time to examine the provisions of the Bill, and such examination must, in fairness to Government, be made in the light of the reasons adduced by the Member in charge in introducing it. Now, my Lord, this Bill was published at Simla on 11th October, and its provisions, as telegraphed from here, appeared in the columns of the daily press of the country on the morning of the 12th. There are only seven or eight towns in the whole of India which have a daily press of their own. Of the others, the more important ones, which are served by these same dailies, have to wait for a day or two, and in some cases, for even three or four or five days, before they get their daily budget of news. The smaller towns have as a rule to content themselves with weekly newspapers only. The Hon'ble Member must therefore allow at least a week's time for any thing telegraphed from here to spread all over so vast a country as India. Then, my Lord, the Bill was introduced in this Council only on 18th October, and a telegraphic report of the Hon'ble Member's speech in introducing it appeared in the dailies only on the morning of the 19th. Allowing another week as the very least time required for the speech to penetrate into the interior of the country, it brings us down to 26th October as the earliest date by which the whole case of the Government may be assumed to have been before the people. After this, some time would be required for deliberation, for the formulation of objections and for these objections to reach the Government ; and even if a month had been allowed for this purpose, it would hardly have sufficed. Meanwhile what happens here ? The Select Committee, to whom the Bill was referred for consideration, meets on 22nd October, concludes its deliberations on 23rd, and makes its report on 24th ! Now, every one knows that once the Select Committee has made its report, the door is closed on all further modifications, and therefore for any expression of public opinion to be of the slightest value in influencing the character or details of a Bill, it must reach the Government before the Select Committee finishes its labours. It is for this reason that the Rules of this Council lay down that ordinarily a Select Committee shall not make its report sooner than three months from the first publication of a Bill in the *Gazette of India*. In the present case, the Select Committee had not the

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advantage of a single expression of public opinion to assist it ; and even those few telegraphic protests, which had been received by the Government, and of which some of us had received copies independently, were not laid before the Committee. My Lord, in the face of these facts, to speak of having allowed sufficient time to the public for a full consideration of the Bill is to mock public opinion. Better far that the Hon'ble Member had said: 'The Legislature exists in India only to register the decrees of the Executive. The passage of a Bill through the Council is a mere formality, and on occasions like the present an inconvenient formality. We are facing the inconvenience in this case simply because we *must* face it. But the people may as well spare themselves the trouble of making any representations to us. For we have made up our mind and nothing they can possibly say will affect our determination to make this addition to the Statute-book. Moreover, it is not for them to reason why or to make reply. Their only business is to obey.' That the Hon'ble Member is not wholly unconscious of the fact that he has given practically no time to the public for what he calls 'a full consideration of the merits of the Bill' may be seen from his providing himself with a second line of defence. He says that though the Bill has been before the public for a few days only, the Ordinance which was promulgated in May last for the Provinces of East Bengal and the Punjab has been before the country for the last five months! He might as well have said that we had the History of Ireland before us all these years, or that we could not be altogether ignorant of what was taking place before our eyes in Russia!

"My Lord, I can imagine circumstances of such extreme urgency and such extreme gravity as to necessitate the passing of a law of this kind and passing it even in the manner the Government have adopted. Had there been an active and wide-spread movement of resistance to authority afoot in the country, if breaches of public peace had been frequent, if incitements to violence had been the order of the day, I can understand the Executive wanting to arm themselves with these vast powers of coercion. But, my Lord, can any one truthfully say that such a state of things has arisen in the country? On the contrary I assert, without fear of contradiction, that there is nothing in the circumstances of the land which constitutes even a distant approach to such a situation. It is true that there is wide-spread discontent throughout the country and very acute discontent in one or two Provinces, and to this discontent is now being added a fresh feeling of resentment—daily growing deeper and stronger—on account of the policy of repression on which the Government have embarked. But of active disaffection there is really very little anywhere, and whatever there is, is due to causes which lie almost on the surface, and should therefore be not difficult to understand. The Statement

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of Objects and Reasons, appended to the Bill, says: 'The occurrences of the last six months have convinced the Government of India that it is necessary, for the preservation of the public peace and for the protection of the law-abiding members of the community, to incorporate in the general law an effective measure for the prevention of seditious meetings and to take power to bring its provisions into operation in any part of India as occasion may require.' And the Hon'ble Member, in introducing the Bill, observed: 'We had hoped that the need for an enactment of this kind would cease before the Ordinance expired, but in this hope we have been disappointed. It has become painfully apparent that persistent attempts continue to be made to promote sedition and to cause such ill-feeling as is calculated to disturb the public tranquillity, and that these attempts are not confined to the two Provinces which came under the scope of the Ordinance.' My Lord, these are serious but vague statements, and I am astonished that the Hon'ble Member has not seen the necessity of supporting them by the testimony of facts. He mentions no cases, no statistics; one general assertion that persistent attempts continue to be made to promote sedition, and he thinks he has established the need for enacting a drastic law of this kind for the whole country! With due deference, I submit this is not a fair proceeding, and the vast bulk of the people throughout India, who are perfectly law-abiding, have just cause to resent it. Let us examine the Hon'ble Member's contention a little closely. He says, first, that he had hoped that, after the expiry of the Ordinance of May last, it would be unnecessary to renew its policy in the two Provinces in which it was in force, but that in this hope he has been disappointed; and secondly, that unless that policy is extended to all the other Provinces of India, public tranquillity in those Provinces also would be in danger of being disturbed. Now, what are the facts? Let us take the Punjab first. In the whole of this Province there has been, as far as I am aware, only one public meeting since the promulgation of the Ordinance. It was held in Dehli, before Dehli was proclaimed, it was attended by both Hindus and Mahomedans, and its object was to express regret at Lala Lajpat Rai's deportation. There has been no disturbance of public tranquillity anywhere in the Province during the time. The Hon'ble Member will very probably say—'But this is all due to the Ordinance'! Assuming for a moment, for the sake of argument, that it is so, the fact remains that the Hon'ble Member has no reason to complain of any disappointment in the Punjab. Turning next to East Bengal, we find that there too, after the Hindu-Mahomedan disturbances, which led to the promulgation of the Ordinance, were over, there has been no public disturbance. There have also been no public meetings held in defiance of the Ordinance, so far at least as the public is aware. A District Conference

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was proposed to be held at Faridpur with the District Magistrate's permission, but on his objecting to two of the resolutions on the Agenda paper—one about the deportation of Lala Lajpat Rai, and the other about the boycott of foreign goods—the organizers thought it best to abandon the Conference. There was great public indignation and disappointment in consequence, but there was no breach of the peace. It is possible that the Secret Police have been sending up to Government reports of meetings held surreptitiously in private houses in proclaimed areas in Eastern Bengal, and indeed the Hon'ble Member says as much in his speech of 18th October. But in the first place, it is necessary to accept with great caution what the Secret Police say in their reports, as the trial at Rawalpindi and other recent events have shown. And, secondly, even assuming that such meetings have been held, there have been no breaches of the peace, and no serious harm seems to have been done; and I think in affairs of State, no less than in private life, it is often the part of wisdom to wink at things, which it is difficult to prevent and which do no serious harm to anybody. So much about the two Provinces in which the Ordinance has been in force since May last. Outside these Provinces, public disturbances have taken place only in two places in all India—one at Coconada in the Madras Presidency some time ago, and the other at Calcutta more recently. The former had its origin in an assault made by a European officer on a student for shouting the words *Bande Mataram*. In the latter, the police themselves are alleged to have been the aggressors. But whatever the origin of these two disturbances, and however much one may deplore them, they certainly do not furnish any justification for saddling the whole country with such a measure as the Council is asked to pass into law to-day. As regards public meetings in the different Provinces, with the exception of some held in Calcutta, I do not think that they have been of a character to attract special public attention. Strong things have no doubt been said at some of these against the Government and even wild things have probably been said at a few, but this has been largely due to the measures of repression which the Government have thought fit to adopt since May last. My Lord, I do not think there is really anything in the situation of the country which may not be dealt with adequately by the ample powers which the Government already possess under the existing law, if those powers are exercised with tact, judgment and firmness. In any case there is nothing of such urgency and such gravity as to require an immediate resort to the dangerous provisions of this Bill and to justify its being rushed through this Council in this manner. The Hon'ble Member says that as the Ordinance of May last expires on 10th November, unless the Bill is passed before that date, there would be a *hiatus*. This applies only to Eastern Bengal and the Punjab, and of these, the Punjab

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has been so absolutely quiet that the Government of India may well give it a chance of being again under the ordinary law. And as regards East Bengal, if the situation showed signs of real anxiety, the Government could issue another Ordinance, or legislation might be undertaken in the Local Legislative Council. In such matters it seems to me far fairer that if there must be legislation, it should be undertaken by Provincial Governments in their own Councils. Such a course will ensure a proper discussion, with full knowledge on both sides, of all the special circumstances of a Province, on which the Executive base their demand for extraordinary powers. It will also obviate the risk of enacting coercive legislation for those Provinces for which the ordinary law ought to suffice.

“ My Lord, the bulk of the educated classes in India feel, and feel keenly, that during the last six months, their aims and their activities have been most cruelly misrepresented before the British public, and that they have not had fair play during the time. Exaggerated importance has been attached to the utterances of a few visionaries, and advantage has been taken of every accidental circumstance to represent an agitation for reform and for the removal of specific grievances as a movement of revolt. The malignant activity of certain unscrupulous Press correspondents has been largely responsible for achieving this result, but unfortunately colour has been lent to their stories by the series of repressive measures which the Government themselves have adopted. The saddest part of the whole thing is that the Secretary of State for India has fallen a victim to these grievous misrepresentations. Possessing no personal knowledge of the people of this country, and overwhelmed with a sense of the vast responsibilities of his office, he has allowed his vision to be obscured and his sense of proportion to be warped. From time to time he has let fall ominous hints in the House of Commons, and more than once he has spoken as though some great trouble was brewing in India, and the country was on the eve of a dark disaster. My Lord, in these circumstances, the passing of a Bill like the present and in such hot haste, is bound to have the effect of confirming the false impression which has been already created in England, and this cannot fail to intensify and deepen still further the sense of injustice and injury and the silent resentment with which my countrymen have been watching the course of events during the last few months. I think the Government are repeating in this matter the great mistake they made when they partitioned Bengal. Whatever advantages as regards administrative efficiency may have been expected from that measure, it has cost the Government the good-will of the vast majority of the people of that Province, and this is a loss which no amount of administrative

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efficiency can balance or compensate. Similarly, for one man whose wild talk the Government may be able to prevent by this Bill, nine hundred and ninety-nine will smart under a sense of injury that they have been placed under a law which they have not deserved and their minds will drift away silently and steadily from the Government, till at last their whole attitude towards the administration is changed.

“My Lord, so much has of late been said and heard of sedition in India that a brief inquiry as to how far it really exists and, to the extent to which it may exist, what is its origin and its character, may not be out of place at to-day’s meeting. Five years ago, when Lord Curzon announced to the whole world at the Dehli Durbar that the people of India were frankly loyal to the British connection and the British Crown, I believe he stated but the bare truth. Now when any one speaks of loyalty in India in this connection, he speaks not of a sentiment similar to that of feudal Europe or of Rajput India, but of a feeling of attachment to British rule, and of a desire for its stability based on enlightened self-interest—on an appreciation of what the rule has on the whole done for the people in the past and of the conditions which it ensures for future progress. In this sense the educated classes of India have been from the beginning entirely loyal. It was, however, inevitable that they should gradually grow more and more dissatisfied with their own position in the country and with the existing system of administration, and twenty-two years ago they started an organized agitation for reform. This agitation, perfectly constitutional in its aims and methods, rapidly grew all over the country from year to year. It had not received much encouragement from the Government, but no serious obstacles had anywhere been thrown in its way, and its current flowed more or less smoothly and on the whole free from racial bitterness till Lord Curzon’s time. Then came a great and in some respects a decisive change. Lord Curzon’s reactionary policy, his attempt to explain away the Queen’s Proclamation, his unwise Convocation speech at Calcutta—all these produced intense exasperation throughout India. This exasperation was the worst in Bengal, because though Lord Curzon’s measures affected all India, they fell with special weight on Bengal. And when on the top of these measures the Partition of Bengal was carried through, a bitter and stormy agitation sprang up in that Province, in which the general agitation for reform soon got completely merged. The bitterness of Bengal agitation gradually came to communicate itself to the reform movement all over the country by a sort of sympathetic process. Bengal has always been the home of feeling and of ideas more than any other part of India. The people took to heart very deeply the failure of their agitation against Parti-

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tion, and then the more reckless among them began to ask themselves new questions and came forward to preach what they called new ideas. It is true that they have received a certain amount of hearing in the country, but that is more on account of the passion and poetry of their utterance than on account of any belief in the practicability of their views. Their influence, such as it is to-day, is due to the alienation of the public mind from the Government, which has already occurred, but which the Government have it still in their power to set right. Measures of repression will only further alienate the people, and to that extent will strengthen this influence.

“ At the beginning of this year, another acute agitation sprang up, this time in the Punjab, against the Colonisation Bill and other agrarian grievances, and here a fresh element of bitterness was added to the situation by the State prosecution of the *Punjabee* on a charge of exciting racial ill-will, when the *Civil and Military Gazette* had been let off with only a gentle remonstrance. This agitation too on its side swallowed up for the time the general reform agitation in the Punjab, and the reform movement in other parts of India could not escape being affected by it. Then came the demonstrations at Lahore and the disturbance at Rawalpindi, and then the repressive measures of the Government—notably the deportation of Lala Lajpat Rai, the arrest and prosecution of Rawalpindi pleaders and the Public Meetings Ordinance. The whole country was convulsed, and while the Punjab itself was paralysed, in other parts of India even the most level-headed men found it difficult to express themselves with due restraint. That a man like Lala Lajpat Rai, loved by thousands not in his own Province only, a man of high character and of elevated feeling, a keen religious and social reformer, and a political worker, who, whatever his faults, worked only in broad daylight, should have been suddenly arrested and deported without a trial—this was a proceeding which stunned the people throughout India. And as regards the Rawalpindi case, what shall I say! For four months the whole country witnessed the spectacle of the venerable Lala Hansraj, a man as incapable of promoting disorder as any member sitting at this table—with other gentlemen equally respectable, rotting in the lock-up on a charge of inciting to violence and conspiring against the Crown! My Lord, it will be long before the memory of the sufferings of these men is wiped from the public mind. Meanwhile the country is waiting to see how the authorities deal with those who brought these sufferings on them by producing evidence which the trying magistrate has pronounced to be ‘most untrustworthy and probably fabricated’! My Lord, with these things happening in the country, is it any wonder that the voice of those who

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counsel patience and moderation and self-restraint should be for the time at a discount among their countrymen? The occurrences of the last six months have afforded ample encouragement to those who like to talk strongly and do not occasionally mind talking wildly.

“ This then is the position. A few men in Bengal have now taken to preaching a new gospel, and here and there in the country one occasionally hears a faint echo of their teaching. But their power to influence the people—to the extent to which they are able to influence them—is derived mainly from the sense of helplessness and despair which has come to prevail widely in the country, both as regards the prospects of reform in the administration and as regards the removal of particular grievances. The remedy for such a state of things is therefore clearly not more repression but a course of wise and steady conciliation on the part of the Government. Your Lordship has already taken a most important step in the direction of such conciliation so far as the Punjab is concerned by vetoing the Colonisation Act. Let the work of conciliation be carried further—let the deported prisoners be brought back, and if the Government have anything against them, let them have a fair trial; and let the Province remain under the ordinary law after the Ordinance expires. As in the Punjab the Colonisation Act has been vetoed, so in Bengal let Partition be modified in some manner acceptable to the Bengalees. The causes of acute discontent in these two Provinces will then have disappeared and the old stream of a movement for reform will be separated from the bitter tributaries that have recently mingled with it. The Government can then deal with the question of reform on its own merits, and if it is handled in a spirit of broad-minded statesmanship, a solution may be arrived at which will give general satisfaction. In this connection, I would like to say a word about a remark that fell from the Hon'ble Sir Harvey Adamson on 18th October. Speaking of the necessity of coercion, the Hon'ble Member said: ‘ The Government of India have all along recognized that unrest is not solely the outcome of seditious agitation, but has its basis on the natural aspirations of the educated Indians. To meet these aspirations and to associate Indians more closely in the administration of the country, we formulated a large and generous scheme of reform which is now before the public for criticism ’. And he proceeded to express his disappointment at the reception which the scheme had met with and to complain that that reception showed that the Government had to deal with a section of irreconcilables. My Lord, I am sure the Hon'ble Member had no intention of branding all who are unable to grow enthusiastic over the Government proposals as ‘ irreconcilables ’. The words employed by him have, however, been so understood,

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as may be seen from the telegram of the Bombay Presidency Association, and this is rather unfortunate. But what I want to say is this. If the Hon'ble Member expected that the publication of the Government scheme of August last would allay the discontent in the country in any degree, he was bound to be disappointed. The scheme is neither large nor generous and in some respects it is not a scheme of reform at all. And the general disappointment which it has occasioned has necessarily intensified the prevailing feeling of discontent. As though this was not enough, the language employed in explaining the proposals is in some places unnecessarily offensive to certain classes. And taken as a whole, the document, I regret to say, lacks that dignity of statement which one always likes to see associated with an important State paper.

“ My Lord, it has been said that though this Bill may be passed for the whole country, yet the people of any given place have two safeguards before they actually come under its provisions. The first is that the Government of India must extend this Act to their Province, and the second is that the Local Government must notify the place as a proclaimed area. A little consideration will, however, show that there is really not much in either of these safeguards. The first is purely nominal. A place may be absolutely free from sedition of any kind and yet if it is thought that some other place in the same Province requires the application of the provisions of this Act, the Government of India have no option but to extend the Act to the whole Province. And thus for the sake of even one place, a whole Province will have this Act applied to it. Again, when the Act has thus been extended to a Province, any place therein may find itself suddenly proclaimed for the seditious activity, real or supposed, of only a few persons, though the vast bulk of the population may be perfectly law-abiding and free from the faintest suspicion of sedition. And once an area is proclaimed, the whole population will be indiscriminately made over to police rule. It is this fear which, apart from other objections, lies at the root of the great anxiety and alarm with which the Bill is regarded in all parts of the country. The Hon'ble Member says that when it is thought necessary to proclaim an area, 'it is reasonable that law-abiding persons residing within that area should be prepared to suffer some slight inconvenience for the public good'. I wonder what the Hon'ble Member's idea of a slight inconvenience is. Is it a slight thing to be exposed to the annoyance and unpleasantness of domiciliary visits? Or to have social parties of more than twenty persons raided upon or broken up, and the host and even guests, hauled up for holding a 'public meeting' without notice? The presumption of clause 3, sub-clause (3), may be successfully rebutted in Court and the magistrate may acquit. But think of the trouble and misery which may be

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most needlessly caused. My Lord, with the kind of police we have in the country,—men, for the most part, without scruple and without remorse—these are not imaginary fears. We have just seen at Rawalpindi what they are capable of. Other instances can also be cited, where cases have been manufactured from start to finish. It is true that the intention of the Bill is not to interfere with social parties. It is also true that under section 4, notice has to be given only of such public meetings as may be called for the discussion of particular subjects. But a Police-officer who is interested in getting any man into trouble can always pretend that a gathering of more than twenty persons was a public meeting, and it will not be difficult for him to arrange for a little evidence that the gathering was held for the discussion of a political subject. And under the plea that an offence was taking place, *viz.*, that a public meeting was being held without notice, he may want to be admitted to the place of the gathering. If the host is a strong man and knows his legal rights well, he may resist the officer and decline to admit him. But he may then find himself hauled up before a magistrate and must be prepared to face a trial. But for one strong man who will thus defy the police, nine will tamely yield. Moreover in those cases which may go before a Court, how the magistrate will construe the definition of 'public meeting' must always remain a matter of uncertainty. A curious illustration of this is supplied by the Hon'ble Member himself. Last Friday, the Hon'ble Member told the Council that the object of adding sub-clause (3) to clause 4 was to exempt meetings like Municipal meetings from the requirements of notice or permission. 'If the provision,' he observed, 'were construed rigidly, it might be necessary to give notice or obtain permission before holding Municipal meetings in a proclaimed area.' In the Hon'ble Member's view, therefore, a Municipal meeting is a public meeting. My hon'ble friend, Dr. Ghose, on the other hand, tells me that a Municipal meeting cannot be a public meeting under the definition given in the Bill. Now, the Hon'ble Member was Chief Judge of Burma before he became Home Member of the Government of India. And Dr. Ghose is one of the most learned and distinguished lawyers in the country. A difference of opinion between two such authorities in construing the definition of public meeting, even before the Bill has become law, augurs ill for the manner in which the definition may be dealt with by pliant or inexperienced magistrates!

"My Lord, there are other objectionable features of the Bill, but I do not wish to tire the Council with any further observations. The Bill is a dangerous one, and the only satisfactory way to improve it, is to drop it. But more than the Bill itself is to my mind the policy that lies behind the Bill. I consider this policy to be in the highest degree unwise. It will fail in India as surely as it has failed

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everywhere else in the world. It will plant in the minds of the people harsh memories which even time may not soften. It will by no means facilitate the work of the administration, and it will in all probability enhance the very evil which it is intended to control."

The Hon'ble DR. RASHBEHARY GHOSE said:—"My Lord, I am not using a mere phrase of course when I say that I was never oppressed by a sense of responsibility so deep or so solemn as on the present occasion. I am well aware that one of the first duties of the State is to preserve law and order, and if I thought that either law or order or property was menaced, or that public tranquillity could not be maintained unless the Government were armed with the power which they now propose to take, I would be the first to vote in favour of the Bill, and to vote for it with all my heart. But we have been assured on the highest authority that the present situation is not at all dangerous, and that the heart of India is quite sound. The so-called unrest, we have been also told by one who ought to be a competent judge, is only skin deep, a cutaneous affection which will readily yield to judicious treatment. Again, only in June last Mr. Morley said that the disturbances were only local and sporadic. Now what has happened since? Is the condition of the country now worse than it was in June, and would not the passing of the present Bill be taken as a sign of that very nervousness, trepidation and fear which Mr. Morley thought would be not only unworthy of, but extremely perilous to, the Indian Government?

"My Lord, I am not in the confidence of the police or of special correspondents to the English press and cannot, therefore, speak with papal infallibility, but I can solemnly affirm that though there is discontent which may possibly by injudicious measures be turned into sedition, the people of India are thoroughly loyal. If anybody doubts it, let him recall the manifestations of loyalty and of the deep attachment to the throne which followed the Prince of Wales everywhere, when he visited this country. Calcutta was at the time in a fever of agitation and excitement, as Bengal was weeping for her children and would not be comforted because they were not, and yet the Prince was received with demonstrative enthusiasm, which showed beyond all cavil or controversy our devotion to the Crown. Do not be misled by the foolish speeches of a few irresponsible men, but remember what Burke says about the noise that a few grasshoppers can make in a field. Do not, I pray you, by exaggerating the danger, play into the hands of the seditious agitator. Yet, this is precisely the thing that Sir Harvey Adamson's Bill, which casts an undeserved slur on the loyalty of three hundred millions of men, is calculated to do, for it is nothing more, nothing less, than an indictment against the whole nation. And I am confident that this measure if carried

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would have a serious effect on the good people in England, who are daily fed with stories of Indian unrest, which would make one's flesh creep, by men who, though they may have grown fat in this 'land of regrets', cannot certainly plead the excuse of youth. These 'literary assassins', to use a phrase made canonical by Cobden, and their abettors would now be able to say that they were right, and would have the doubtful satisfaction of seeing our financial credit crippled. As regards the people of this country, there is only one very small section to whom the Bill would be welcome,—I mean the extremists, for it would enable them to adorn their perorations with references to Russian methods of Government. For whatever precautions you may take, speeches will continue to be delivered. You cannot effectually gag one-sixth of the population of the world.

"My Lord, I do not wish to indulge in well-worn commonplaces about the futility of coercion;—the danger of sitting on the safety-valve, for instance, which must be familiar even to men less gifted than Macaulay's forward school boy. But I must remind Hon'ble Members that the Irish question yet remains to be solved. It has certainly not been solved by the numerous Coercion Acts, fifty in number, which bulk so largely in the Statute-book. In that unhappy country, the 'Isle of Destiny', agitation has led to coercion, and coercion in its turn to greater and more dangerous agitation. But I am perhaps forgetting that Ireland is a cold country where a fur coat might be useful, and therefore the analogy may not quite hold good. One thing, however, I may safely assert, and that is that in Ireland as well as in India the application of drastic remedies to skin diseases which rapidly disappear under mild treatment always leads to serious complications. Is there any reason for thinking that this is not true of the body politic? The measure now before the Council may secure for a time outward quiet, and drive sedition underground, but its inevitable fruits will be growing discontent and distrust, which may under repression readily slide into disaffection. It will thus create more evils than it can possibly cure. And this reminds me that the movement in the Punjab was mainly agrarian and was arrested by Your Lordship's refusal to give your assent to the Colonisation Act, and not by the Ordinance; the powerlessness of which to keep down unrest is shown by the fact that there are no signs of improvement in East Bengal.

"My Lord, we have no doubt whatever that in devising the present measure, the Government have only the interests of peace and order at heart. But authority which is compelled to be severe is liable to be suspected, and when it seizes the rude weapons of coercion, its motives are liable to be misconstrued. People are everywhere asking, in fear and in trepidation, what next and next. What is to be the end of this new policy? For the spirit of coercion is not

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likely to die for lack of nourishment, as it makes the meat it feeds on, and trifles light as air are to it confirmations strong, shall I say as an Indian police report or a scare telegram from our own correspondent?

"I repeat that the situation is not in the least dangerous, and an over-readiness to scent danger is not one of the notes of true statesmanship. But suppose I am wrong and the position is really critical, what does it prove? It proves, unless we are afflicted, not merely with a double or even a triple, but with a quadruple dose of original sin, that the government of the country is not the most perfect system of administration that some people imagine.

"My Lord, I began by saying that this Bill is an indictment of the whole nation. If, however, it is true, and this can be the only justification of the measure, that India is growing more and more disloyal, this Bill is really an indictment of the administration. The positions will then be reversed. The Government, and not the people, will then be put on their defence. There is no escape from this dilemma. If there is no general disaffection, you do not want this drastic measure. The prairie cannot be set on fire in the absence of inflammable materials to feed it. If, on the other hand, a spirit of disloyalty is really abroad, it must be based on some substantial grievance which will not be redressed by Coercion Acts. You may stifle the complaints of the people, but beware of that dreary and ominous silence which is not peace, but the reverse of peace. Even immunity from public seditious meetings may be purchased too dearly.

"And this leads me to remark that the present Bill, which the Member in charge of it frankly admits is a repressive measure of considerable potency, does not seem to be modelled on any law of which I am aware. It may possibly be based on some ukase though the definition clause seems to be original, but I cannot speak with confidence because I never had occasion during the last forty years to study the jurisprudence of Russia, and I sincerely trust I shall not now be called upon to do so. There is no such law in Italy or Belgium, France or Switzerland, though the seditious agitator is not an unknown figure in Europe, which is honeycombed with secret societies of anarchists and socialists. Riots too, which the soldier is often called upon to quell, are not infrequent; and yet there is no such drastic law in any of these countries for the suppression of public meetings. In America, as Hon'ble Members are perhaps aware, the right of public meeting is safeguarded by the very constitution of the United States, which provides that Congress shall make no law 'abridging the freedom of speech or of the press, or of the right of the people, peaceably to assemble and to petition the Government for a redress of grievances'. And this

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has also been the wise policy of the English law which was interrupted only for a short time in the Georgian period when the public mind was much excited by the events in France, but Lord Sidmouth's Act, which did not prohibit but merely forbade any meeting of more than fifty persons to be held, unless six days' notice was given by seven householders to a magistrate, almost fell dead born, and is now remembered only on account of the Cato Street conspiracy which was its immediate outcome.

"My Lord, it has been said by a very high authority that, in view of the activity of the extremists, it would be the height of folly not to try to rally the moderates to the side of the Government, but surely, surely, repressive measures are not the best method of attracting their loyalty. The right of personal freedom and of meeting in public has always been regarded by us as an inalienable privilege of every subject of the British Crown. But we were painfully reminded only the other day that we may be deported without a trial, and now that the right of public meeting is going to be taken away from us, with what face can an Indian subject of His Majesty say '*Civis Romanus Sum*', which was at one time his proud boast. We must speak our convictions, and that in no hesitating or diffident notes, as our dearest interests are at stake, for this Act, if passed—we know how it would be administered—would, I fear, prove the grave of all our political aspirations. You are taking away from us who have not even that which we have. Put down disorder by all means, the civil sword is at present strong enough for that purpose ; but do not kill the free play of thought or the free expression of it. In the organ tones of Milton, which may still be heard across the centuries, 'that would be the slaying of an immortality rather than a life'. In pleading in those impassioned words, which nobody who has read them can ever forget, for the liberty 'to know, to utter and to argue freely according to conscience is a liberty above all other liberties,' the great protagonist in the arena of free discussion points out that England 'needs no policies, no stratagems, no licensings to make her victorious', neither I should add, at home nor abroad. And it is to this freedom of discussion that England owes, among other blessings, the abolition of the slave trade and slavery, Catholic emancipation, parliamentary reform and the repeal of the Corn Laws. It may be, we have been so long in the house of bondage, that the blaze of liberty has dazzled and bewildered some weak eyes. But in time we shall become accustomed to the light and able to bear it. Before that time arrives violent opinions may be sometimes expressed ; but folly, if treated with forbearance, has generally a short life.

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“ It is said that we are intoxicated with the new wine of freedom, that Locke and Milton, Fox and Burke, Bright and Macaulay, have unsettled our minds. But those who say so take no account of the Time Spirit against which even the Olympian gods must fight in vain. I trust I am no dreamer of dreams, but I see that what is passing before us is a social and political evolution. You may guide it, but you cannot arrest it, any more than you can make to-day like yesterday. Silent and as yet half conscious forces are at work, which a wise statesman would harness to law and order by timely concessions. But a reactionary policy would only make the last state of the country worse than the first; for angry passions, which under milder measures would have died away, would stiffen into deep and lasting hatred; and the infection is sure to spread with time.

“ Is the Government, I ask, afraid of the rant of a few agitators? Is the police unable to preserve public order, and has the Magistrate ceased to be a reality or the Statute-book a dead-letter? If the free right of public meeting is abused, is the ordinary law incapable of punishing such abuse? The question really comes to this—Is the right to meet in public for the discussion of political matters to be taken away from us simply because it is liable to abuse? There was no attempt to interfere with the right in England after the ‘No Popery’ riots when London was held by the mob for two days together, or even after the Reform riots when Bristol was sacked and the magistrates were powerless. It is true public meetings have been sometimes suspended in Ireland, but does the condition of India in any way resemble that of Ireland? Are there any cattle maimers, incendiaries or agrarian or Phoenix park assassins in India? Is there any association which openly preaches that killing is no murder? Thousands of mass meetings have been held in Bengal, every one of which was orderly except on a recent occasion where the police were sent to keep order. And here I may mention that our experience is that the custodians of the public peace themselves require a custodian, but if the salt hath lost its savour wherewith shall it be salted?

“ We do not however object to the admission of the police to meetings, which are really public; but what is the justification, and where is the necessity, for clause 5 of the Bill. It is true, Sir Harvey Adamson reminded us that public meetings can be prohibited only by officers of high standing and of large experience. But his assurance will hardly satisfy those who have read Bentham's Book of Fallacies.

“ It has been said that a loyal community has no more reason to apprehend

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the application of these powers than the imposition of the British death duties. This I venture to think is the reasoning of men who live in closets, and are unacquainted with practical affairs. The answer to this sort of argument is to be found in the speech of Sir Charles (afterwards Lord) Russell, Chief Justice of England, on the Irish Crimes Bill. As to public meetings, he said, they would be told with sincerity and truth that the only object of the clause was to prevent meetings which were treasonable or seditious, or openly hostile to the peace. Such professions, added the distinguished speaker, might be made in perfect good faith, as they had been on previous occasions; but he feared the public meetings clauses would be so applied as to put down the free expression of public opinion in Ireland, and the people would believe them to be directed to that object.

“ Now if such things can take place in a green tree, what may not happen in the dry. It is notorious that in this country we have even less to fear from a bad law than from its administration by the machinery entrusted with the task. And I have no hesitation in saying that if this Bill is passed, it will make the police, who are the eye and the ear of Government, the absolute masters of the people, who will be handed over to the tender mercies of a body of public servants who are not the most efficient or the most immaculate; and their domiciliary visits, which I take it, will not be few or far between, are sure to lead to breaches of the peace among a people to whom the sanctity of their homes is something more than a mere phrase. I wish to speak with all reserve, but I am bound to say that even the action of our magistrates, who are part of the executive, will be regarded with distrust as not possessing either adequate knowledge of the law or that judicial temper which is so essential to the discharge of those delicate duties which will now be entrusted to them. If any Hon'ble Member is inclined to think that my misgivings are unfounded, let him study the comments in the Irish press on the cases, and their name is legion, decided under the Coercion Acts.

“ Not only is the measure in my humble judgment uncalled for and impolitic, but it is also superfluous; as the Indian Statute-book gives the Government ample power to put down sedition. You will find the iron hand concealed in the velvet glove in section 108 and also in section 144 of the Code of Criminal Procedure, which enabled the Magistrate of Calcutta only the other day to prohibit public meetings. Unlawful assemblies again may be dispersed under sections 127 to 132 of the Criminal Procedure Code; while open sedition may be punished under sections 124-A, 153-A and 505 of the Indian Penal Code. We have, however, been told that the object of this Bill is to insure the free admission

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of the police to all public meetings for the purpose of taking notes of any seditious speeches that may be made, but does anybody seriously believe that the Indian Police are equal to the task? It may be easy to provoke a riot, it is sure to be provoked if private houses are invaded, but it is not quite so easy to report a speech correctly.

"My Lord, I wish to speak with that loyal frankness which is the best proof of true loyalty, and I repeat that repressive measures like the present would put a severe strain on the loyalty of the educated classes who have been considerably exercised in their minds by the resurrection of Regulation III of 1818 and by the Ordinance of May last. I am well aware that we are spoken of as a microscopic minority, an alliterative phrase which seems to have the same soothing effect on certain minds as that sweet word Mesopotamia. But though numerically not very large, the influence of the educated classes is not to be measured by their numbers. One of the effects of the Bill, it is my duty to warn you, would be to drive some of them into the camp of the extremists.

"It has been said that this Bill is a measure of great potency. I agree,—but potency for what purpose? For putting down sedition? I say, no. It will be potent for one purpose and one purpose only, for the purpose of propagating the bacillus of secret sedition. The short title of the Bill is—A Bill for the Prevention of Seditious Meetings,—but I venture to think the title requires a slight addition. It ought to be amended by the addition of the words 'and the Promotion of Secret Sedition'. Order may be kept, peace may reign in India, but this measure will produce the greatest disappointment among those by whom, though they are not the natural leaders of the people, public opinion is created and controlled. The logic of coercion we all know is charming in its simplicity, but its authors forget that they cannot coerce thought—they cannot make men loyal by a legislative enactment. It is true, a policy of thorough may be successful, but no Englishman at the present day, except possibly some of the oracles of the press, would counsel anything of the kind.

"I am sorry to find that the Hon'ble Home Member's mind is filled with despair on account of the coldness with which the recent reform proposals, which I may mention in passing are merely tentative, have been received by a section of the irreconcilables. But this is not the feeling with which English statesmen have approached the Irish question. They have never lost heart because they were unable by the most generous concessions—they were bread and not something else, to win the affections, I do not say of the irreconcilables, but even of the

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most reasonable and intelligent among the Irish people. Their motto has always been 'Be just and fear not'.

"My Lord, for the first time in the history of the world, as Mr. Morley said, not long ago a strong and effective administration has been found not only compatible with free institutions, but has been all the more effective by their side; and he recommended this noble though arduous policy to the country; because it is noble, and because it is arduous. Let it not be said that Your Excellency's Government found this noble and glorious task too arduous.

"And now I find I must stop. I trust I have said enough to justify my vote. I do not oppose this Bill in a party spirit, for there are no parties in this Council; nor have I any desire to embarrass the Government. I oppose this Bill because I am fully persuaded that it is foredoomed to failure. I oppose this Bill because it will intensify and not mitigate the evil which you are seeking to guard against. I oppose this Bill, it is no paradox, because I am a friend of law and order, both of which are menaced by it. I oppose this Bill because the Government already possess all the power they can reasonably want in the armoury of the Penal and the Criminal Procedure Codes. I oppose this Bill because it violates all the liberal traditions which have up to this time guided the Government. I oppose this Bill because I wish to see the English rule broad based on the peoples' will, and not resting merely on the sword, whether Indian or British. And lastly, I oppose this Bill because it will kill all political life in this country.

"My Lord, we are conscious we are fighting a losing battle. We know we shall be defeated, but we shall not be dejected. For there are some defeats which are more glorious than victories, and we shall count this among their number. We have been taught and have learnt to value the right of public meeting as one of our dearest rights, and we should have been unworthy of ourselves, unworthy of the trust reposed in us, if we quietly submitted to a measure which is aimed at it and which would be so fatal to all national growth. In our defeat, however, we shall be sustained by one great consolation, the consolation of having endeavoured, according to our lights, to do our duty to the Government and to the country.

"One word more. It is unfortunate that the 1st of November should have been fixed for this meeting. That day has always been associated in our minds with the gracious Proclamation of Queen Victoria. It will now be associated with the loss of one of our most cherished rights."

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The Hon'ble TIKKA SAHIB RIPUDAMAN SINGH OF NABHA said :—" I may, my Lord, be permitted to make a few observations on this measure, which is now before the Council. It is doubtful whether a law of this kind would help to produce better feelings between the Government and the people. The Bill at first was so vaguely drafted that I wondered whether even a meeting of this Council held in a proclaimed area would not also have come under section 3, sub-section (2). Therefore it is pleasing to note that some wholesome alterations and modifications have been suggested by the Select Committee. For instance, firstly, that this Act will not be permanently placed on the Statute-book, and secondly, that a notification made under section 2, sub-section (1), will expire after six months. I hoped that the Bill would be so modified and altered by the Select Committee as to make a silent vote on my part possible, but my hopes have not been realized. The definition of public meeting in section 3, sub-section (1), is very wide, so that even all social and religious meetings may be included, which is most undesirable. Section 3, sub-section (2), is also objectionable, because the sanctity of private houses should be respected by the Government, and because interference in the personal affairs of the people is always likely to cause much heartburning. The wording of section 3, sub-section (3), is very vague and likely to cause a great deal of annoyance to the general public and to the law-abiding members of the community, as private gatherings may be included under it, if the wording of this section is allowed to remain as it is. The object of the Bill is only to prevent the spread of sedition by public meetings; therefore, that should be quite clearly defined, as in section 4, sub-section (1), the words 'any subject likely to cause disturbance or public excitement' are too wide in their significance. In section 4, sub-section (3), I regret to note that no *clear* exception has been made in the favour of meetings of purely a social or religious character; as prohibition of, or the necessity of taking special permission for, religious or social gatherings would cause needless annoyance to the law-abiding and loyal subjects of the Crown. Apart from that, interference on behalf of the Government in the case of purely religious and social meetings would be calculated to cause real ill-feeling. For general purposes the Indian Penal Code and the Code of Criminal Procedure being quite sufficient, the scope of this Bill should be strictly restricted, and in section 5 all the words after the word 'disaffection', and also the same words in the preamble are, in my humble opinion, quite unnecessary. The objections which I have raised against section 3, sub-section (1), apply with equal force to section 7 of the present Bill. The words 'on any subject likely to cause disturbance or public excitement' in this section are superfluous and goes too far. It is not proper and desirable to interfere with the religious or

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social affairs of the people, and the Bill would lose none of its effect if something were done to prevent needless interference in the case of social and religious gatherings. If the Bill is passed at all, these defects should be removed, and the utmost care should be taken to prevent abuse of the provisions of the Bill by the over-zealous subordinate officials. For the above reasons, I am sorry, my Lord, that I have to oppose this Bill as it stands."

The Hon'ble SIR HARVEY ADAMSON said :—" With reference to a remark of the Hon'ble Mr. Gokhale I may say that when at a former stage of this Bill I alluded to irreconcilables I referred to the extremist party whose avowed policy is to make the government of the country impossible. I have read again what I then said, and I am unable to see that it can bear any other construction. With reference to another of the Hon'ble Member's remarks I bow entirely to the Hon'ble Dr. Ghose's superior knowledge of law.

" I explained at a previous meeting why this legislation had been undertaken in Simla. The criticisms that have been offered do not require me to add much to what I have already said. I explained that we considered it necessary to legislate so that the law should have effect before the Ordinance expired. If that necessity be doubted I point to recent events in Calcutta which, in the absence of the Ordinance, would certainly have spread the infection to Eastern Bengal and originated a new period of lawlessness there. It has been suggested in many communications made to me that the Ordinance might have been extended for a further period. This course would have been quite contrary to the spirit and the letter of the law, and I am sure that if we had adopted it, none would have more vigorously attacked us than those who have suggested it. I explained that we delayed legislation until experience revealed the defects of the Ordinance and especially that we were unwilling to legislate until we had seen whether the Council reforms that were laid before the public would meet any response in allaying seditious agitation. And I further showed that the time allowed for the discussion of this short Bill was ample. Nearly the whole of it has been before the public for over five months in the shape of the Ordinance, which has been discussed *ad nauseam* in every newspaper and on almost every platform in the country. The Hon'ble Mr. Gokhale says that the Bill is being discussed in a meeting of the Council which is not full. Whose fault is this? Every member has had ample notice and ample opportunity of attending, and I surely may presume that Hon'ble Members of this Council will take the trouble of undertaking a short railway journey if they consider the matter before the Council to be of sufficient importance to require their presence. The

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presumption to be drawn from the Council not being full is that the Hon'ble Members who are not present either approve of the Bill or at least do not so strongly disapprove of it as to consider their presence necessary. The objections to legislation at Simla are not so strong now when there is a railway that runs to the door of the Council Chamber as they were years ago in the time of Lord Northbrook when there were no such facilities. Every Member of the Council could easily have been present on the day when the Bill was referred to a Select Committee. The Bill has practically been before the country for months, and the full and complete arguments that have been urged against it to-day show that Hon'ble Members who are opposed to it have had ample time to prepare their briefs, and that objections on this account are groundless.

"In the objections of the Hon'ble Members who are opposed to the Bill and in the criticisms that I have received from elsewhere the feature that has struck me most forcibly is that these objections and criticisms have greatly exaggerated the scope of the Bill. It has been assumed that if a place is declared as a proclaimed area there will be an end for ever after—or at least for the three years during which the Bill will operate—of free speech and free meetings in that place. Now, quite apart from the fact that even in proclaimed areas the Bill gives power to prohibit only certain meetings of a kind harmful to the public peace, the assumption that the Bill contemplates any permanent curtailment of public liberty is absolutely unfounded. The Bill provides that the Local Government may declare any place to be a proclaimed area and it is quite true that it does not provide in words for rescinding such an order. But that is a mere trick in drafting. The General Clauses Act provides that the authority which has power to make an order has also power to rescind it. The declaring of a place to be a proclaimed area is therefore only a temporary measure. It is intended to meet only exceptional circumstances of danger, and when a proclaimed area reverts to its normal condition of freedom from danger of disturbance, then the necessity for retaining it as a proclaimed area ends, and the order will be rescinded, and the Bill will cease to have operation on that area. This is a point that should never be lost sight of in considering the effect of the Bill. When remembered in conjunction with the objections raised by Hon'ble Members its effect is to detract enormously from the strength of every objection that has been urged. I beg that this condition may be taken as qualifying every word that I say to-day, namely, that the Bill is designed to operate only in exceptional circumstances, exceptional places, and exceptional times of insecurity.

"Now, in defending the Bill against the attacks that have been made on it there are two points that I must endeavour to clearly prove. The first is that

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in the present circumstances of India a measure for repressing inflammatory oratory is necessary. The second is that the Bill does not give powers in excess of what is required to achieve that object. As regards the necessity I almost feel that I should apologise for wasting the time of the Council, for the course of events during the past few months has surely been sufficient, without words of mine, to prove to reasonable men that a preventive measure is necessary. The party of extreme agitation, at least so far as they consist of men of matured understanding, may be comparatively few—I doubt if they are so few as the Hon'ble Members represent—but they exercise a baneful influence. They are teaching the schoolboys and students of the country that the Government as established in India is a Government of despots whose only desire is to enrich themselves and to impoverish and depopulate the country. They are teaching the younger generation who in a few years will in the natural course of affairs take a large share in the administration of India that that administration is one of chicanery and deceit. It is no light thing that by the action and avowed policy of this disloyal party, the masses of the common people, who are contented and law-abiding when left to their own devices but whose natures contain elements that are easily stirred to violence, have been excited by plausible lies to plunge the country into disorder. Nor is it a light thing that determined attempts have been made to seduce the police and even the native army from its allegiance. The whole aim of the seditious party is to subvert the Government of the country, and it may be summed up in one word,—it is treason. But I will not content myself with general statements. I will take up the Hon'ble Mr. Gokhale's challenge and will show that in every part of India where seditious oratory has been poured on the people during the past eight months, the immediate result has been grave lawlessness and disorder.

“ In the Punjab during March and April last a flood of platform oratory was let loose. Speeches of a highly inflammatory nature were delivered almost daily. These speeches had a pernicious effect on the uneducated and uncritical minds of the people, who were wrought to a high pitch of excitement. This oratory culminated in the riots at Lahore and Rawalpindi, which would no doubt have been followed by similar occurrences elsewhere if prompt action had not been taken.

“ A similar flood of oratory was about the same time poured forth in Eastern Bengal, inculcating among other things the boycott. It excited the population of that Province and culminated in the serious riots at Comilla and Magrahât and the neighbourhood in Tippera district, at Nangalband in Dacca, at Jamalpur, Bakshiganj, Kharma, Bahadarabad, Dewanganj, Tarakandahât,

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Defuliyahât, and a number of other places in the Mymensingh district, at Solanga in Pabna and Kishorhât and Ekdala in Rajshahi. There were also incipient disturbances elsewhere, but these were nipped in the bud by the fortunate presence of the Magistrate or the police.

“ In Madras, which until the present year had been free from political disturbances, platform oratory of an inflammatory nature was carried on almost daily in the latter part of April and the beginning of May. The result was the outbreak of students at Rajahmundry, the serious riot at Cocanada in which the club was wrecked, and a disturbance at Rajahmundry which necessitated the despatch of troops to that place.

“ In Calcutta there had been meetings almost daily since the beginning of August, and a stream of seditious oratory was poured forth on the town. The police were urged to forsake their duty, the people were incited to attack the police, especially the European police, and students were advised to arm themselves with *lathis*,—advice which they accepted. The result was that disturbances took place on August 7th and 26th, September 9th and October 2nd to 5th, which became so serious that the authorities were compelled to take extraordinary action under Section 144 of the Criminal Procedure Code in restraint of public meetings.

“ The Hon'ble Members who oppose the Bill seem to be inclined to admit much of this. They admit that a party has been formed whose aim and object is to subvert the Government of the country. But they say ‘why do you not prosecute these seditious agitators? The existing law of the country—the Indian Penal Code—gives ample power to punish them. Why do you not enforce it instead of enacting a measure which will cause inconvenience to and may possibly imperil the loyal subjects of His Majesty?’ Do Hon'ble Members ask for an answer to that question? Do they not themselves know it? The answer is that in order to prosecute there must be witnesses. In western countries public sentiment is against the breakers of the law. If in a European country treason were preached at a public meeting many of those present would, from patriotic motives, come forward and denounce and testify against the traitors. But what happens in India? The public are assembled in a meeting at which the most violent sedition is preached. Most of those present—if we are to believe the Hon'ble Members who oppose the Bill—are loyal citizens. Surely it is the duty of loyal men in such a case to come forward and give evidence against traitors. When were men of the moderate party in India ever known to do this? It may be a moral certainty that sedition was preached, but no witnesses of respectability are to be

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found. The moderate party in India do not recognize the moral obligations that are accepted by loyal subjects in every other country in the world. That is the reason why in India we cannot rely on prosecutions, and are obliged to resort to preventive measures which entail inconvenience, and it may be further risks, on the innocent and the guilty alike. Herein lies the whole fallacy of the Hon'ble Dr. Rashbehary Ghose's argument, and of his comparison between India and England, and India and continental nations. There is a loose notion prevalent that the right to a free expression of opinion is a fundamental doctrine of the law of England. But as every lawyer knows the phrases 'freedom of discussion' and 'liberty of the press' are not to be found in any part of the Statute-book nor among the maxims of the common law of England. The true state of things in England is simply this, that the law permits anyone to say, write, and publish what he pleases, but if he makes a bad use of this liberty he is liable to prosecution and punishment. The Government of India have no desire that it should be otherwise in India, provided that prosecution is feasible. But prosecution in India has been amply proved to be an inadequate remedy for treason and sedition, owing to the want of public spirit and patriotic feeling among the very class who are now crying that their liberties are being endangered. Let this class act the part of good citizens, and there will be no need for any other remedy for sedition than that which exists in England. It is simply because the law-abiding people of India will not assist the authorities against the law-breakers—as law-abiding citizens in every other civilized country in the world are always ready to do—that the Government is driven to a policy of prevention instead of confining itself to the prosecution of law-breakers. I cannot at short notice follow the Hon'ble Dr. Rashbehary Ghose in his researches into the laws of Italy, Belgium, France and Switzerland. The hon'ble and learned doctor is an accomplished scholar and an extensive reader. His acquaintance with the constitutional history and law of western countries is profound. But he is a lawyer as well as a student. I hope that he will forgive me when I say that in his comparison between the freedom of India and the freedom of continental nations he has assumed the rôle of an advocate addressing a jury rather than that of a judge or of an impartial critic. Let me remind him of the *droit administratif* which is part of the system of most continental nations—whether Royal, Imperial or Republican—under which the Government as representing the State has rights and powers against individuals superior to and independent of the ordinary law of the land, and under which officials are exempted from the jurisdiction of the ordinary tribunals. Would the Hon'ble Member prefer for India unfettered executive action of this nature to the comparatively mild preventive measure which has so excited his indignation?

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“ The Bill has been challenged on the ground that it can be applied to Provinces in which no actual case of urgency has yet occurred. I have explained that in three Provinces and in the capital town of India circumstances have occurred that showed the necessity for a measure of prevention of inflammatory oratory, which can be promptly applied when the necessity arises. It would be criminal folly to neglect that warning. What has happened in these Provinces may easily happen elsewhere. Indications are not wanting that seditious oratory followed by the same unhappy consequences may any day run riot in other Provinces. The reason for extending the Bill to the whole of India is that experience has shown that it may be necessary anywhere to resort with promptitude to such measures as are made lawful by the Bill.

“ I think that I have completed the first part of my task and proved that prevention is necessary. The truth is that India under British Government has enjoyed a liberty—whether in the press or on the platform—that has been given to no other country in the world except England. That liberty has degenerated into a license which would not for a moment be tolerated in any country in the world—even in England. This abuse of freedom not only retards progress but it threatens to engulf India in anarchy and riotousness, and no Government on earth—unless it abnegated its functions—could dare to leave such an evil unchecked.

“ And now, having proved the necessity for a measure of prevention, I will proceed to the second part of the task which I have undertaken to-day, and show that the Bill which is before us gives no unreasonable powers, and that it gives no power in excess of what is barely necessary for achieving the object in view. The chief point of attack has been the definition of public meeting. It has been urged that it is too wide and too all-embracing. I admit that the definition is a wide one. It has been made wide on purpose so as to include all meetings of a public nature that may by any possibility be harmful and to leave no room for evasion. But the definition can harm no one. It is not the definition of an offence. It is no offence to hold any such meeting as is contemplated in the definition, provided that a very simple formality is observed. Nay, more; the Bill does not even give power to prohibit meetings merely because they are meetings that fall within the definition. A further and a perfectly reasonable condition has to be satisfied before a meeting can be even prohibited. The District Magistrate or the Commissioner of Police has to exercise his discretion. This means that he has to consider all the circumstances and all the facts at his disposal. It is only when he has done so, and when in the exercise of his discretion he has come to the conclusion that the meeting in question is one that is likely to promote sedition

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or disaffection or to cause disturbance of the public tranquillity, that he is empowered to even prohibit it. It will be observed that the only officers who are empowered to exercise this discretion are officers of high standing and of large experience,—the District Magistrate and the Commissioner of Police. They are the highest officers that under the ordinary criminal law of India are entrusted with preventive jurisdiction. It has been contended that if the discretion is given to these officers it will make room for oppressive proceedings. This contention assumes that officers of high standing are devoid of common sense and of a sense of justice, and is tantamount to an assertion that the whole scheme of preventive jurisdiction as embodied in the Code of Criminal Procedure is wrong. I cannot for a moment admit this contention. This is a very important feature of the Bill, which is to be borne in mind in judging of the reasonableness of the measure. None but officers of the very highest standing are empowered to prohibit meetings. Another even more important feature, which has hardly received justice from the Hon'ble Members who are against me, is that the Bill nowhere gives an opening to indiscriminate or doubtful interference by the police. It provides for the attendance of persons who may be police officers at public meetings for the purpose of reporting the proceedings. I cannot conceive that any reasonable objection can be taken to this provision. The Bill provides that if persons deliberately break the law and hold a public meeting in defiance of a special prohibition, the meeting shall be deemed to be an unlawful assembly. In this case the persons concerned are deliberately resisting the execution of a law and in this respect the Bill, in allowing the police to act, does not go a single step beyond the provisions of the ordinary criminal law. The only other case under the Bill in which the police can interfere of their own accord is the case in which a person, without permission in writing, delivers a speech in a public place within a proclaimed area. In this case the police may arrest without warrant, but their action is taken in open day and in the face of the public. There is therefore in the Bill not the slightest opportunity for any doubtful interference by the police. But there is in the penal clauses of the Bill an offence which falls into a somewhat different category from those I have mentioned. If a public meeting of a certain kind is held in a proclaimed area without either notice being given or permission obtained the promoters of that meeting have committed an offence. But there is not the element of plain sailing here that there is in the other offences. It is not apparent to every onlooker that an offence has been committed. Before taking steps to vindicate the law the officer concerned has to satisfy himself both that the meeting is a public one and that it is of the kind for which notice or permission is required. In this case police action, if allowed, might be based on grounds that could be questioned. For this reason and in this

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case the Bill gives to the police no power to interfere. The clause to which I refer is clause 6, sub-clause (1). When read with the provisions of the Code of Criminal Procedure it will be seen that the offence is one which the police are not empowered to take cognizance of. Any contention, therefore, that the Bill allows any dubious or questionable interference by the police falls completely to the ground. The effect of the operative clauses of the Bill may be summed up in three sentences—

- (1) They require notice to be given of the intention to hold public meetings for the discussion of political topics in order that accurate reports of the proceedings may be obtained.
- (2) They enable officers only of the highest standing to prohibit seditious public meetings.
- (3) They completely exclude dubious action on the part of the police.

And now I have completed the task that I set before me. I have shown that the Bill is necessary, and I have shown that it is reasonable. Every measure of prevention must entail a curtailment of liberty. It is no pleasure to me to be piloting a repressive measure through this Council. I would much rather be occupied with a measure of constitutional progress. But if it is my fate to be in charge of a repressive Bill I say, let it be strong enough to be effective. I have no belief in half measures for suppressing treason. I am not called upon to-day to defend the Bill from attack on the ground that it is not sufficiently drastic to meet the evil which it is intended to remove. I believe that it gives all the power that is necessary. But I can assure Hon'ble Members that I would find it more difficult to defend it from the criticism that it is not sufficiently strong, than I do to-day in defending it against the objection that it is too drastic.

“ The Hon'ble Members who oppose the Bill do not deny that in India of late there has been a considerable amount of seditious platform oratory. They cannot but admit that inflammatory oratory working on the minds of an ignorant and excitable people must be a grave source of danger. I cannot see how, after the experience of the past eight months, they can believe that in India with the limitations which the conduct of its inhabitants imposes, this evil can be suppressed by the existing criminal law. Now, what policy do Hon'ble Members who are against me advise that in these circumstances Government should adopt? Their criticism is rather destructive than constructive; but I gather that rather than risk any interference with liberty they would let matters drift, and let sedition run its course in the hope that things will eventually right themselves. I may point

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out that this was the policy followed for many years in respect of the native press. In Bengal for over thirty years sedition in the press was neither punished nor prevented. During the whole of this time the dissemination of sedition in the press never ceased. Did the forbearance of Government lead to any good result? On the contrary the native press went from bad to worse, until now, when the evil that it does can be ignored no longer, it seems that it is almost impossible by the strictest enforcement of the criminal law to stem a tide of sedition which by inaction has been allowed to increase to enormous proportions. Can it be doubted that the same result will follow in the case of seditious platform oratory if we do not take timely measures to check it?

“In conclusion I ask, who is responsible for the enactment of this measure of repression. The Hon'ble Members who oppose the Bill will say that it is the act of the Government. But I assert most solemnly that they and the party whom they represent are responsible. They profess to abhor sedition, and they are never tired of saying that the party of sedition are few and that they, the moderate party—are many. What has the moderate party done to disavow sedition and to assist the Government of their country in this emergency? I must regretfully answer that they have done absolutely nothing. What has the Anglo-Vernacular Press done,—the organs which reflect or ought to reflect the opinions of educated Indians? With a few honourable exceptions their chief aim has been to distort the motives and acts of the Government. If the true leaders of educated India, men who have the views that are professed by the Hon'ble Members who oppose this Bill—they are many though they are silent—would only have the courage of their opinions and take a firm stand against sedition, whether on the platform or in the press, the day of sedition would be ended. Let educated Indians who can love their country and yet be loyal to its Government ponder over this. It is they—and not the Government—who have forged this fetter on their country. Let them even now set their faces against sedition and against the wilful misconstruction of the motives and acts of Government, and within six months the Bill which we are now endeavouring to pass into law will become a dead letter.”

The motion was put and agreed to.

The Hon'ble SIR HARVEY ADAMSON moved that the word 'public' be inserted before the word 'meetings' in the title of the Bill. He said:—“My Lord, the Bill makes provision for the prevention of only public meetings. The Hon'ble Dr. Rashbehary Ghose is about to move an amendment to the preamble in expression of this. I propose to accept his amendment, and the

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amendment which I now move is consequential on his amendment to the preamble."

The motion was put and agreed to.

The Hon'ble DR. RASHBEHARY GHOSE moved that in the preamble of the Bill as amended by the Select Committee, before the word 'meetings', in line 2, the word 'public' be added.

The motion was put and agreed to.

The Hon'ble DR. RASHBEHARY GHOSE moved that clause 3 of the Bill be omitted. He said:—"My Lord, clause 3 of the Bill purports to contain a definition of the expression 'public meeting'. It says 'the expression 'public meetings' means a meeting which is open to the public or any class or portion of the public'. Now, one of the first things that a draftsman learns is that it is always dangerous to attempt to define anything. Statutory definitions seldom stand the test of the Socratic method. Now, it is clear, from what has fallen from Sir Harvey Adamson, that the true meaning of this definition is open to considerable controversy. Speaking for myself I do not think that a meeting of an association like, say, the British Indian Association, would be a public meeting, because it is not open to the public or to any class of the public, simply as one of the public or class of the public. But I have reason to think that other persons may take a different view. Under the circumstances we ought to leave it to the Court to say whether a particular meeting is or is not a public meeting, an expression which the Legislature has, and I think wisely, never attempted to define."

The Hon'ble SIR HARVEY ADAMSON said:—"My Lord, I cannot accept this amendment. The Bill contains penal clauses, the construction of which depend on the significance of the term 'public meeting'. In criminal law it is necessary, for the protection of the public, that the language should be precise, in order that people may know whether they are infringing the law or not. From the point of view of the public this is a strong argument in support of the insertion of a definition. From an executive point of view there is also a necessity for defining 'public meeting'. If the Bill is to be really practical, and if proceedings under it are to have any finality, some indication must be given to those who administer it, which will enable them to determine whether a specified meeting is public or private. If no definition is made, the significance of the term 'public meeting' must be built up gradually by case-law. Now, in a preventive measure designed to meet times of particular stress and to apply to special places that are

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in a disturbed condition, it is necessary that the authorities should be empowered to take prompt and incontestable action. Undefined action, liable to subsequent vindication by case-law, is particularly inappropriate in circumstances where promptitude is essential. Whether, therefore, from the point of view of the public or the point of view of the executive, it is necessary to define the term 'public meeting'; and I regard the definition as an essential and indispensable part of the Bill. For these reasons I cannot accept the amendment."

The motion was put and negatived.

The Hon'ble DR. RASHBEHARY GHOSE moved that in clause 3, sub-clause (1) of the Bill, before the word 'class', in line 4, the word 'specific' be added, and the words 'or portion' be omitted. He said:—"My Lord, I have tried to find out the source of this definition; and I think I have found it in a well-known text book on the Law of Libel, in which it is said that the Legislature intended, in the Law of Libel Amendment Act, to include meetings of any specific class or portion of the public, for instance, the rate-payers of a particular ward. I venture to think that if the definition must be retained, that is to say, if it really defines anything, the word 'specific' should be added before the word 'class' so as to make it quite clear that this definition includes only meetings which are open to a specified class of the public. Then again to my mind the word 'portion' conveys no meaning whatever."

The Hon'ble SIR HARVEY ADAMSON said:—"The Hon'ble Dr. Rashbehary Ghose is a great lawyer, but I am afraid that he also shines as a wit. I suspect that one reason for proposing this amendment is to originate a dialectic and sophistical argument on technical legal phraseology, from which the Home Member, pitted against a master of legal casuistry, would come out second best. It is not very apparent what the difference in meaning is between a meeting which is open to the public or to any class or portion of the public and a meeting which is open to the public or to any specified class of the public. I gather that the Hon'ble Member argues that the words 'any class or portion of the public' mean 'any persons'. If that had been the case the language of the Bill would simply have been 'any persons'. A class or portion of the public is a readily intelligible phrase and simply means a part of the public as such. On the other hand, it is hard to say what a specific class of the public may mean. It is no doubt intended to exclude bodies of the public which cannot properly be called specific—whatever that may mean. If so, the amendment would defeat the object of the Bill. I fancy that there is some indefinite idea in the Hon'ble Member's mind that 'specific class of the public' would be a legal nut to be

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cracked with much edification by a Bench of the High Court. I quite appreciate the Hon'ble Member's desire that there should be something in the Bill which will give occupation to lawyers and will conserve the High Court from idleness, but in the interests of finality, which is a very important requisite in a preventive Bill, I prefer a simple phraseology that is readily intelligible, and therefore I regret that I cannot accept the amendment of the Hon'ble Member."

The motion was put and negatived.

The Hon'ble DR. RASHBEHARY GHOSE moved that clause 3, sub-clause (2) of the Bill be omitted. He said:—"My Lord, that clause says 'a meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto may have been restricted by ticket or otherwise'. No doubt it is very desirable that persons guilty of sedition should be prosecuted, but, at the same time, we know that it is very undesirable that the police should have access to private houses. I find that in Lord Sidmouth's Act, to which I have already had occasion to refer, there was a proviso which excluded meetings or assemblies held in any room or apartment. Section 16 of 60 Geo. III and 1 Geo. IV contained the following enactment:—"Provided always, and be it further enacted, that nothing hereinbefore contained shall extend, or be construed to extend, to any Meeting or Assembly which shall be wholly holden in any Room or Apartment of any House or Building; anything hereinbefore contained to the contrary notwithstanding."

"Now in this country we cannot be too careful in a matter like this, as the intrusion of the police into a private house is sure to be deeply resented."

The Hon'ble SIR HARVEY ADAMSON said:—"My Lord, I cannot accept the amendment. A great many public meetings are held in private halls or private compounds. If these were excluded, the Bill would be reduced to a nullity. I am aware that the sub-clause is merely explanatory, but the explanation is necessary. Experience has shown that the Ordinance has been evaded in the two ways mentioned in the sub-clause, *viz.*, by holding meetings in private places and by restricting admission. I think it essential that the Bill should clearly show that these devices do not necessarily exclude a meeting from being a public meeting."

The motion was put and negatived.

The Hon'ble DR. RASHBEHARY GHOSE moved that clause 3, sub-clause (3), of the Bill be omitted. He said:—"My Lord, that sub-clause says 'a

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meeting of more than twenty persons shall be presumed to be a public meeting within the meaning of this Act until the contrary is proved'. This is a new departure from what I take it is the cardinal principle of English criminal jurisprudence; that is, that every presumption ought to be made in favour of the accused. Under the clause in question, if a meeting consist of more than 20 persons, the onus will be on the accused to show that it was not a public meeting; whereas it ought to be for the Crown to prove affirmatively that a meeting was a public meeting."

The Hon'ble-SIR HARVEY ADAMSON said :—" My Lord, I regard the presumption contained in this sub-clause as a vital portion of the definition. Its object is to prevent such evasions of the Ordinance as have been practised in Eastern Bengal. It is intended to meet the case where public meetings are held in private places without notice or permission. The promoters of such meetings are punishable under sub-clause (1) of clause 6. An important question in a prosecution under this clause will be whether the persons present are the public. The manner in which those persons were congregated is a fact specially within the knowledge of the promoters. The effect of the presumption is that they will have to prove it. The strength of the sub-clause lies in the incident that in proving it they will be subject to cross-examination. The sub-clause comes to nothing except to shift the onus of proof of this particular fact to the shoulders of those who have special knowledge of it. It does not relieve the prosecution from proving the character of the meeting. It merely relieves them from proving the terms on which the people assembled. If the meeting is a *bona fide* private meeting no harm can ensue to the promoters from being required to prove a fact which they know well and of which they must have ample proof. From the events that have occurred in the proclaimed areas of Eastern Bengal it is abundantly clear that though the Ordinance was sufficient to regulate very large public meetings it had little effect in preventing seditious agitation from being fomented and kept up by small public meetings, and that these meetings have been a grave source of danger in disturbed areas. In order to touch this source of danger we must have something in the definition more drastic than the general terms of the first two sub-clauses. The presumption that we have inserted as sub-clause (3) is intended to meet the case. It gives facilities for a prosecution which would be wanting if the definition were confined to general terms. It is an essential part of the necessary vigour of a Bill which applies only to exceptional places in an exceptional time of public disturbance. I do not anticipate that the presumption will give rise to many prosecutions. But in giving facilities for a fructuous prosecution in the case of this dangerous

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and injurious class of meetings, which have hitherto, owing to the general language of the Ordinance, been practically free from check, it will, I hope, act as a preventive of seditious agitation, and will thus greatly facilitate the object of the Bill, which is prevention and not punishment. For these reasons I am unable to accept the amendment."

The motion was put and negatived.

The Hon'ble MR. GOKHALE moved that in clause 3, sub-clause (3), of the Bill for the word 'twenty' the word 'fifty' be substituted. He said:— "My Lord, this is the sub-clause of which my hon'ble friend Dr. Rashbehary Ghose just now moved the omission. It provides that 'a meeting of more than 20 persons shall be presumed to be a public meeting within the meaning of this Act until the contrary is proved'. My reasons for moving that 50 be substituted are the following: Firstly, all limits of this character are arbitrary. There is no more merit in 20 than in any other number. In my opinion however 50 would be a more reasonable number than 20. Secondly, we have the precedent of the English Acts of George III's reign. There the number was always 50. Thirdly, under the number proposed by me ordinary social parties will be excluded. A great deal of apprehension prevails that social parties might be disturbed and that a host might get into trouble if there was any ill-feeling between him and the police. It would be a good thing if ordinary social parties could be put outside the jurisdiction of the clause. Fourthly, the object of this provision is that inflammatory oratory should be suppressed or prevented. Now, I should like to know what public speaker could make an inflammatory speech to 20 people. The material is lacking: the atmosphere is lacking. An address to a meeting of 20 people could not but be more or less a quiet affair. I think therefore that the limit should be fifty and not twenty."

The Hon'ble SIR HARVEY ADAMSON said:—"The numerical limit has been fixed at 20 not with the object of interfering with meetings of 25 or 30, which slightly exceed the limit, but with the object of including meetings in the case of which there can be no manner of doubt that the numerical limit has been exceeded. The proposed amendment would entirely defeat the object of the sub-clause. It is easy for the most casual witness to truthfully say that a meeting which in reality contained 60 or 80 persons is a meeting of more than 20 persons. But it is not by any means easy to say at a glance that such a meeting consisted of more than 50 persons. The effect of substituting 50 for 20 would thus be to make the presumption ineffective in respect of the very class of meetings for which it has been framed. I am unable to accept the amendment."

The motion was put and negatived.

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The Hon'ble MR. GOKHALE moved that in clause 4, sub clause (1), of the Bill for the word 'subject', in line 5, the word 'grievance' be substituted. He said:—"My Lord, the amendment has reference to those public meetings of which notice has been given to the Superintendent of Police or for which permission has to be obtained from the authorities. The words in the clause are: 'No public meeting for the furtherance of or discussion of any subject likely to cause disturbance or public excitement or of any political subject or for the exhibition or distribution of any writing or printed matter relating to any such subject shall be held in any proclaimed area—"

- (a) unless written notice of the intention to hold such meeting and of the time and place of such meeting has been given to the District Superintendent of Police or the Commissioner of Police, as the case may be, at least three days previously; or
- (b) unless permission to hold such meeting has been obtained in writing from the District Superintendent of Police or the Commissioner of Police, as the case may be '.

"I do not understand why the Government should want to control the discussion on any political subject. I should be inclined to propose that the words 'political subject' be omitted altogether. The section would then be confined to subjects likely to cause a disturbance or public excitement. This is all that the Executive want. However, I understand the authorities want to know what is said about any political grievances, in the discussion of which sentiments, actually seditious, or at least bordering on the seditious, are likely to be expressed. From that standpoint I think the requirements of Government would be met if the word 'grievance' were substituted for the word 'subject'.

"If a professor of a college were to ask more than 20 pupils to his house to discuss a political subject, under the provisions of the Bill, it will be open to a Police officer to represent this as a public meeting. Of course the Courts will probably hold that it was not a public meeting. But if there was any ill-feeling between the Professor and the Police, there might be trouble. I do not see why such wide powers should be taken by the Government; and therefore I suggest the substitution for 'subject' of the word 'grievance'."

The Hon'ble SIR HARVEY ADAMSON said:—"My Lord, in clause 4 it is difficult to choose words so as to please everybody, and arguments might be brought against almost any form of words. As an illustration of this I may

[*Sir Harvey Adamson ; Dr. Rashbehary Ghose.*] [1ST NOVEMBER, 1907.]

mention the fact that in Select Committee, at the Hon'ble Mr. Gokhale's request, we altered in this clause the word 'ill-feeling' to the words 'public excitement'. I have since received a telegram from the Secretary of the Sarvajanik Sabha, in Poona, the Hon'ble Mr. Gokhale's own head-quarters, protesting against the substitution of 'public excitement' for 'ill-feeling' on the ground that it makes the penal clauses more dangerously wide. When a place is in so dangerous a condition that it is necessary to declare it a proclaimed area, it is surely not too much to require that notice should be given or permission obtained before holding public meetings in that place for the discussion of political subjects. The effect of substituting 'grievance' for 'subject' would be to unduly restrict the requirements of the clause. The amendment would introduce an absolutely unnecessary uncertainty, and would thus give room for evading the clause. For this reason I am unable to accept the amendment."

The motion was put and negatived.

The Hon'ble DR. RASHBEHARY GHOSE moved that in clause 4, sub-clause (2), of the Bill, after the word 'meeting' in line 5, the words and figure 'within the provisions of sub-section (1)' be added.

The Hon'ble SIR HARVEY ADAMSON said:—"My Lord, I accept the spirit of this amendment. But I have pointed out to the Hon'ble Member that exactly the same object will be achieved in a simpler way by substituting the word 'such' for the word 'public', and I understand that he agrees. I therefore move as an amendment of this amendment that in clause 4, sub-clause (2), of the Bill the word 'such' be substituted for the word 'public'.

The amendment was put and agreed to.

The Hon'ble DR. RASHBEHARY GHOSE moved that in clause 5 of the Bill after the word 'meeting' in line 6, the words and figures 'within the provisions of section 4, sub-section (1)' be added. He said:—"My Lord, clause 5 does not contain the qualifying words which we find in clause 4; which deals not with public meetings generally, but with public meetings held for the furtherance or discussion of any subject likely to cause disturbance or public excitement, or any political subject. Now, the effect of my amendment, if carried would be to bring clause 5 into line with clause 4. I take it that it is not the object of clause 5 to authorize a District Magistrate or Commissioner of Police to prohibit a public meeting which had not been convened for the purpose of discussing or furthering, any subject likely to cause disturbance or public excitement or any political subject."

[1ST NOVEMBER, 1907.] [Sir Harvey Adamson; Mr. Gokhale.]

The Hon'ble SIR HARVEY ADAMSON said:—"My Lord, the amendment which is proposed would not either add to or detract from the meaning of clause 5. It would not exempt from clause 5 a single meeting. For it is impossible to conceive any meeting that is likely to promote sedition or disaffection or to cause a disturbance of the public tranquillity that is not also a meeting for the furtherance or discussion of a subject likely to cause disturbance or public excitement or of a political subject. Therefore, so far as the construction of clause 5 is concerned, the amendment would be meaningless. But the real object of the amendment is different. The clause gives a discretion to a magistrate. I believe that, as the clause stands, it would not be open to the High Court to question that discretion in revisional proceedings. But the amendment inserts a condition that qualifies the exercise of this discretion, and the object of it is to admit revisional jurisdiction on the question whether this preliminary condition has been satisfied. I doubt whether any High Court would listen to an argument of this kind, even if the amendment were inserted. But that is its object and it is most undesirable to provide the opportunity. Preventive action under this clause has been entrusted only to officers of great experience, and it is essential that their action should be final and decisive. I can accept no amendment that might possibly have the effect of giving a want of finality to the discretion exercised by them. I am therefore unable to accept the amendment."

The motion was put and negatived.

The Hon'ble MR. GOKHALE moved that in clause 9 of the Bill, for the word 'three' the word 'one' be substituted. He said:—"My Lord, this new clause, which was added by the Select Committee, restricts the operation of this Bill to three years. Originally it was proposed that this law should be a permanent addition to the Statute-book, but in the Select Committee the Hon'ble Member in charge of the Bill was good enough to recognize the force of the objection that such a measure should not be permanently added to the Statute-book, and he expressed his willingness to limit the period to three years. I think, however, that the limit of even three years is too high, and I think for the present we should be satisfied with one year. The Hon'ble Member has told us that when the Ordinance was promulgated it had to be done in a hurry, and that after experience of its working certain suggestions were received from the two Local Governments which had to enforce it. The same thing is likely to occur with this Bill. A year's time may reveal defects which may have to be set right; and therefore, if it is found necessary to maintain this legislation in force longer, the subject should come before the Legislature at the end of a

[*Mr. Gokhale ; Sir Harvey Adamson.*] [1ST NOVEMBER, 1907.]

year. I have another ground on which I move this amendment. I have already pointed out that very few of the Additional Members have been able to attend this Council meeting. Sir Harvey Adamson seemed to make light of the absence of the Additional Members and considered that, if they had thought this matter was of importance, they would have been present. It was only a matter of travelling a little distance, he said. But I know at what inconvenience I had to travel 1,300 miles just for the sake of taking part in these deliberations. There was no notice given to the Members of this Bill,—the first thing I saw anything about it was in the papers. I may mention that at this Simla session of the Council Additional Members are not expected to be present. A formal summons is, no doubt, sent us at the beginning of the session, but the Secretary sends a private letter saying that the presence of Additional Members is not necessary. If Government wanted to introduce a measure which has created so much feeling throughout the country, surely some notice should have been sent to Additional Members. But no notice was sent and it cannot therefore be said that the absence of Additional Members indicates that they have no interest in the measure. That the public has been greatly stirred is shown by the many telegrams and protests that there are being received even now against the measure. In view of these facts, in view of the necessity of giving the public a proper opportunity to express their views, and in view of the desirability of setting right any defects that might be revealed in the course of a year, I propose that the limit should be fixed at one year instead of three."

The Hon'ble SIR HARVEY ADAMSON said :—“ My Lord, in restricting the life of the Bill to three years a great concession has already been made to public representations. Hon'ble Members are very sanguine if they think that the necessity for this Bill will have passed away in a year. I have already pointed out that if their party will loyally, by deeds as well as words, assist the Government of their country, the need for the Bill may soon disappear. But no indications have yet been given that this assistance will be forthcoming. I am afraid that it is impossible for me to accept the amendment.”

The motion was put and negatived.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill, as now amended, be passed.

The Hon'ble MR. GOKHALE said :—“ My Lord, I had not intended saying more than just a word at this stage of the Bill and that only by way of an appeal to Your Excellency, but certain remarks have fallen from the Hon'ble Member in charge of the Bill with regard to the responsibility for this legislation,

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which make it necessary that I should say a few words in reply, as it is impossible to allow those remarks to pass unchallenged. The Hon'ble Member says that the responsibility for this Bill really rests with those who are described as the moderate section of the Reform party in India. Now I for one have never been in love with the terms—moderates and extremists. There is at times a good deal of moderation among some of those who are called extremists and on the other hand there is no small amount of what is the reverse of moderation among some who are known as moderates. However, I fear the terms as they are now in use will stick, and for purposes of my present observations, I will take them as they have been used by the Hon'ble Member. My Lord, I think it is most unfair to put the responsibility for such sedition as may be in existence in this country on what is called the moderate party. In the remarks which I made at an earlier stage of to-day's proceedings, I went at some length into the question as to how the present situation had come to be developed. I do not want to go over the same ground again, but there are one or two things which I would like to mention and emphasise. My Lord, when the officials in this country talk of sedition, they do not always mean the same thing. Different officials have different ideas of sedition. There are those who think that unless an Indian speaks to them with 'bated breath and whispering humbleness' he is seditious. There are others who do not go so far, but who still think that any one who comments adversely on any of their actions or criticises the administration in any way or engages in any political agitation, is guilty of sedition. Lastly, there are those who take a larger view of the situation and recognize that the term sedition should be applied only to those attempts that are made to subvert the Government. Now I have no wish to say anything on this occasion about the first two classes of men. I will take sedition in the sense in which it is used by the third class, and I will say this, that if such sedition has come into existence, it is comparatively a recent growth—a matter of the last three or four years only—and the responsibility for it rests mainly, if not entirely, on the Government or rather on the official class.

“ My Lord, from 1885, *i.e.*, since the close of the beneficent Viceroyalty of Lord Ripon, the Congress has been endeavouring to secure some much-needed reforms in the administration. The present form of the administration is about fifty years old. We have long outgrown that now and the fact is admitted even by officials. But while they admit in a general sort of way that changes are necessary, they have some objection or other to urge against every change that is proposed. The result is that there has been hardly any movement forward in spite of our efforts all these years and the patience of the more impatient among

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my countrymen has at last given way. In the earlier years of the Congress, there used to be some room for a hope that the desired changes in the administration would come. After Lord Ripon came Lord Dufferin, who was not unfriendly to the Congress, though he was somewhat suspicious and he gave us the Public Service Commission. After him came Lord Lansdowne. He too was on the whole friendly, though he was over-cautious, and he gave us the first Reform of the Legislative Councils. Then came Lord Elgin and from his time the fortunes of the Reform party have been at a low ebb. Lord Elgin's term of office was darkened by plague, famine and Frontier Wars, and towards its close came repressive legislation against the Press. Then came Lord Curzon. He was a consummate master of glowing periods, and during the first two years of his régime, high hopes were raised in the country. These hopes, however, were soon dashed to the ground on account of a series of reactionary measures, which he forced on the people. This disappointment, coupled with the sense of constant irritation which we felt during the last three years of his rule, proved too much for a section of the Congress party and they began to declare that their old faith in England's mission in this country was gone. Then came the Partition as the proverbial last straw. The people of Bengal did all they could and all they knew to avert that Partition. Hundreds of meetings were held all over the Province, prayers and protests poured in upon the Government, and the people used every means in their power to prevail upon Lord Curzon to abandon his idea. But he simply treated the whole agitation with contempt and carried his measure through. The men who are called moderate pointed out again and again to the Government the unwisdom of its course. They warned them that the measure, if forced on the people, in spite of all the furious opposition that was being offered to it, would put too great a strain on their loyalty and that some of them at any rate would not be able to stand that strain. And events have happened as they had been foreseen. The Hon'ble Member complains that open disloyalty is now being preached in Bengal. But no heed was given to the words of the moderates while there was time. And now, when the mischief has been done, the Hon'ble Member turns round and wants to throw the responsibility for what has happened on us !

“ As regards the question of the moderates denouncing the extremists, it is not such a very easy matter. In the first place, I am not sure that there is such an absence of disapproval or remonstrance as the Hon'ble Member imagines. But secondly, such denunciation is largely a question of temperament. All people do not always denounce whatever they disapprove. I will answer the Hon'ble Member's question in the matter by a counter-question. There are cer-

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tain Anglo-Indian newspapers which constantly revile Indians. Has the Hon'ble Member ever denounced anything that has appeared in their columns? I am sure he and many others like him disapprove what often appears in the columns of the *Civil and Military Gazette* or the *Englishman*. But have any Englishmen in any place ever met together and expressed their condemnation of these papers? I hope the Hon'ble Member will now see that the question of denouncing those whose conduct you disapprove is not such an easy one. Moreover, with us there is an additional reason. We do not want to make confusion worse confounded, there are already enough divisions in all conscience in the country and we do not want to have a fresh cause of contention if we can help it. But let me say this to the Hon'ble Member. Whether the moderates remain silent or denounce the extremists, it will make very little difference in the hold which the extremists are acquiring on certain minds of India. There is only one way in which the wings of disaffection can be clipped, and that is by the Government pursuing a policy of steady and courageous conciliation.

“My Lord, the appeal that I want to make to-day is this. Now that the Government have armed themselves with these drastic powers of coercion, I would humbly say to your Lordship—keep these powers in reserve, do not use them immediately as far as possible, and—conciliate Bengal. My Lord, there is the root of the trouble. With Bengal unconciliated in the matter of Partition, there will be no real peace, not only in Bengal, but in any other Province in India. The whole current of public life in the country is being poisoned by the bitterness engendered in Bengal over this question of Partition. My Lord, I am not a Bengalee, and therefore I can say these things with the less reserve and without any fear of being misunderstood. The people of Bengal are the most emotional people in all India, and they will far sooner forget a material injury than one to their feelings. Now in this matter of the Partition—whatever its advantages or disadvantages, I am not concerned with that just now—there is no doubt whatever that their deepest feelings are involved. They feel that they have been trampled upon. And while they feel like that, there can be no peace. Already great alienation has taken place between them and the Government, and every day the position is growing worse. The refusal of the sufferers in the recent disturbances to appear before Mr. Weston to give evidence is a significant illustration of the change that is coming over Bengal. The Government propose to meet this change by a policy of repression. My Lord, knowing the people of Bengal as I do, I venture to predict that they *will* not be thus put down by force. The Bengalees are in many respects a most remarkable people in all India. It is easy to speak of their faults; they lie on

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the surface. But they have great qualities which are sometimes lost sight of. In almost all the walks of life open to Indians, the Bengalees are among the most distinguished. Some of the greatest social and religious reformers of recent times have come from their ranks. Of orators, journalists, politicians, Bengal possesses some of the most brilliant, but I will not speak of them on this occasion because this class is more or less at a discount in this place. But take science or law or literature. Where will you find a scientist in all India to place by the side of Dr. J. C. Bose or Dr. P. C. Roy? Or a jurist like Dr. Ghose? Or a poet like Rabindra Nath Tagore? My Lord, these men are not mere freaks of nature. They are the highest products of which the race is regularly capable, and a race of such capability cannot, I repeat, be put down by coercion. One serious defect of national character has often been alleged against them,—want of physical courage—but they are already being twitted out of it. The young men of Bengal have taken this reproach so much to heart that, if the stories in some Anglo-Indian papers are to be believed, so far from shrinking from physical collisions, they seem to be now actually spoiling for them. My Lord, if the present estrangement between the Government and the people of Bengal is allowed to continue, ten years hence there will not be one man in a thousand in that Province who has a kindly feeling for Englishmen. Then the Government will have on their hands a tremendous problem, for there are thirty-three millions of Bengalees, and the unwisdom and the danger of driving discontent underground amidst such a population will then be obvious. My Lord, I appeal to your Lordship to stanch this wound while there is yet time. I know the question is now complicated by the fact that the Mahomedan population of East Bengal expect certain educational and other advantages to accrue to them from Partition. No real well-wisher of India can desire that any of these advantages should be withdrawn from them, for the more the Mahomedan community progresses, the better for the whole country. But surely it cannot be beyond the resources of statesmanship to devise a scheme, whereby, while the expected advantages are fully secured to the Mahomedans, the people of Bengal may also have their great grievance removed. My Lord, considerations of prestige which have so far stood in the way of this work of conciliation may continue to obstruct it. I cannot understand how a Government, with the vast strength of a mighty Empire behind it, will suffer in prestige by such a line of action. But one thing is certain. Your Lordship has it in your power to set this matter right. And you will earn the blessing not only of Bengal, but of all India, if this source of continued bitterness and ill-feeling is removed from the land."

[1ST NOVEMBER, 1907.] [Dr. Rashbehary Ghose ; Mr. Baker.]

The Hon'ble DR. RASHBEHARY GHOSE said :—" My Lord, all I wish to say in connection with the unrest in Bengal to which reference has been made is that to talk of an administrative measure as a settled fact is as reasonable, if I may say so without disrespect, as to talk of an irrevocable law."

The Hon'ble MR. BAKER said :—" My Lord, I shall not detain the Council more than a very few minutes, but I should like to add a few words to what fell from the Hon'ble Home Member at an earlier stage of the discussion on the general policy of this measure.

" We have been told to-day with characteristic force and eloquence that there is little or no sedition in India, and that those persons whose acts have led to the present legislation are a class insignificant both in numbers and influence. A similar argument has I think been used in a part of the press : but so far as I have observed it only acquired prominence after it became known that legislation was in contemplation. Prior to that time, the tendency of those organs of which I am thinking seemed to be rather to magnify the extent of the disorder, and to represent large tracts of the country as seething with discontent. If, as our critics allege, we are inclined to exaggerate the evil, are they quite sure that they themselves are not going to the opposite extreme ?

" It is a matter of common knowledge that there is a section of the press, published largely but not exclusively in Bengal, which has openly endeavoured to excite hatred of the Government and advocated its subversion ; which has sought to make the administration impossible, and has denounced all Indian servants of the State as traitors to their country. During the last two or three years, perhaps even during the last few months, these organs have increased in numbers, in circulation, and in the virulence and audacity of their attacks on the established order. If those by whom these journals are supported are really so insignificant and negligible as is represented, how is it that the latter are able to appeal to so large and expanding a circle of readers ?

" Not for a moment would I seek to make too much of what is in great part frothy declamation : but I find it impossible to admit that the residuum is too trivial to notice. In the *Civil and Military Gazette* which reached Simla this morning there is a telegraphic summary of a Resolution just issued by the Bengal Government, in which the Lieutenant-Governor directly ascribes the rioting and disturbances which occurred in Calcutta on the 2nd and 3rd October—and

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which have been referred to by several speakers to-day—to the violent writings and speeches of irresponsible agitators during the past few months.

“Sedition in the press can be reached by the ordinary law of the land. But that is only one weapon in the armoury of disorder. Not less dangerous, and more difficult to touch, is the seditious harangue, delivered often by men who are skilled in the arts of the demagogue, not for the legitimate ventilation of any real or fancied grievance, but to work upon the immature, ill-informed minds of their hearers; to instil into them feelings of hatred and hostility towards the State, and to incite them to the open use of force and violence for its disruption. Are we to believe that these addresses always fall on deaf, unwilling ears? I wish that I could think so. But I fear that a sufficient answer is to be found in the rioting and disorder which have only too often followed in their train, in the grotesque yet mischievous organizations known as the National volunteers, in the forcible interference with the freedom of purchase and sale of foreign goods, and in the constant resort to social ostracism of those who adhere to a different way of thinking.

“I am not in the least afraid of driving sedition underground. To men of the class we have now to deal with, men who make it their business to fish in troubled waters, publicity and self-advertisement are as the breath of their nostrils: and when these are gone, more than half the attractions of the game are gone with them.

“It is a matter of profound regret to every member of Your Excellency's Government that occasion should have arisen for legislation of this character, even of the very limited scope of the present Bill. It is true that for a short time, and within any areas to which it may be extended, it will imply some restriction on the free right of public meeting. But Hon'ble Members may rest assured that, while we hold that an evil exists which must be grappled with, it is utterly foreign to our intention to cast the smallest imputation on the loyalty or good faith of those multitudes who are, as we firmly believe, wholly out of sympathy with the propaganda at which this measure is aimed: and I will venture to express the confident hope and expectation that the great mass of the population of India will never have reason to know that any such enactment has found a place in the Statute-book.”

The Hon'ble SIR HARVEY ADAMSON said:—“We are now approaching

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[*Sir Harvey Atkinson.*]

the concluding stage of this long discussion, and as these are the last words that I will have to say on the subject of this Bill, I propose to drop controversy and to devote the few remaining moments at my disposal to allaying any apprehensions that loyal and law-abiding men may feel, lest they should suffer harm from the provisions of this Bill. If there be any fear that the Bill will be worked oppressively, I would point to the fact that it is no new measure. For nearly six months it has, in the shape of the Ordinance, been in force in two Provinces, and not a single act of oppression in connection with its operation has been cited. The Ordinance contained almost the same penal provisions as the Bill, and I cannot remember a single prosecution that resulted from it. When a great evil has to be averted, no loyal citizen can reasonably complain of being put to some slight inconvenience for the public good. In framing the Bill the greatest care has been taken to protect the law-abiding public from unnecessary inconvenience. The Bill provides that public meetings shall be really public meetings, in the sense that their proceedings shall be liable to be reported, and no legitimately conducted public meeting can reasonably object to this provision. The preventive and punitive provisions apply only to meetings the proceedings of which are either unlawful in themselves or are dangerous to the public tranquillity owing to public excitement in special localities. These provisions have been devised with the greatest care so as to restrict preventive powers to officers of high standing and large experience and to exclude entirely action of an oppressive nature by the police or by officers of immature judgment, and thus to minimise the risk of unnecessary interference with loyal and law-abiding people. Then as to the range of the operation of the Bill, the Government of India have retained it entirely in their own hands, and I can assure Hon'ble Members that the whole circumstances will be well weighed before the Bill is extended to any Province. But I admit that there is one unpleasing aspect of this Bill. It may be a sentimental aspect—but it is a painful one. It is a regrettable thing that a repressive measure is being placed on the Statute-book of India. I think it is this feeling rather than any fear of the consequences of the Bill, that has chiefly impressed loyal men who dislike the Bill. I fully share in the feeling myself. But we have regretfully been driven by necessity to the enactment of this measure. So far as possible we have mitigated the bitterness by restricting the life of the Bill to three years."

[1ST NOVEMBER, 1937.] [Mr. Gokhale ; The President.]

The Hon'ble MR. GOKHALE asked for a division, and the Council divided as follows :—

Ayes—9.

The Hon'ble Mr. T. Gordon Walker.
 The Hon'ble Mr. S. Ismay.
 The Hon'ble Mr. J. O. Miller.
 The Hon'ble Mr. J. F. Finlay.
 The Hon'ble Sir Harvey Adamson.
 The Hon'ble Major General C. H. Scott.
 The Hon'ble Mr. E. N. Baker.
 The Hon'ble Mr. H. Erle Richards.
 His Excellency the Commander-in-Chief.

Noes—3.

The Hon'ble Mr. G. K. Gokhale.
 The Hon'ble Dr. Rashbehary Ghose.
 The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.

So the motion was carried.

His Excellency THE PRESIDENT said :—“Before I in any way attempt to discuss the merits of the measure we have had before us, I feel that I shall very fully express the views of my Hon'ble Colleagues in saying that they have only asked for the powers it confers and accepted the policy it embodies with the gravest feelings of responsibility and after much thoughtful deliberation, and that though we have considered legislation to be a matter of urgent necessity, we have been most anxious, notwithstanding the remarks which have fallen from the Hon'ble Mr. Gokhale, to afford the Indian public ample time for an expression of opinion upon the line of action we have decided to adopt. On the 18th October Sir Harvey Adamson introduced the Bill, and in doing so told us that the Government of India had been unwillingly forced to the conclusion that, when the Ordinance expired, it was necessary, not only to continue the powers it gave, but to define more clearly certain of the provisions it contained. He has to-day entered still more fully into the history of the Bill, and has very ably explained to us its various clauses and the amendments suggested in the Select Committee's Report. There is therefore no reason for me to attempt to further elucidate its technicalities, and I would only venture to recapitulate to Council the course of events and influences which have led up to our present position. That position the Hon'ble Mr. Gokhale and the Hon'ble Dr. R. Ghose have fully dealt with, and I can assure them I gladly recognise their honesty of purpose and the sincerity of their endeavours to advance the political claims of their fellow-countrymen, but I am afraid my

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[*The President.*]-

Hon'ble Colleagues have allowed their enthusiasm for the cause of political reform to blind them to the necessities of the moment, and that they have failed to recognise that the first duty of any Government is the maintenance of law and order and the protection of the people entrusted to its charge. They would lead us to believe that we have been frightened by a phantom, that we have accepted the vapourings of a few agitators as evidence of dangerous sedition, and that by the Act which we have passed we are imputing disloyalty to the masses of the people of India,—that I emphatically deny,—but at the same time I refuse altogether to minimize the meaning of the warnings and anxieties of the last few months.

“ We cannot afford to forget the events of the early spring—the riots at Lahore and gratuitous insults to Europeans, the Pindi riots, the serious view of the Lieutenant-Governor of the Punjab on the state of his Province, the consequent arrest of Lajpat Rai and Ajit Singh, and the promulgation of the Ordinance, and, contemporaneously with all this, a daily story from Eastern Bengal of assault, of looting, of boycotting, and general lawlessness, encouraged by agitators, who, with an utter disregard for consequences no matter how terrible have by public addresses, by seditious newspapers, by seditious leaflets and itinerant secret agents, lost no opportunity of inflaming the worst passions of racial feeling, and have not hesitated to attempt to tamper with the loyalty of our magnificent Indian Army. I hope that Your Excellency as Commander-in-Chief will, on my behalf as Viceroy and as representative of the King-Emperor, convey to His Majesty's Indian troops my thanks for the contempt with which they have received the disgraceful overtures which I know have been made to them. The seeds of sedition have been unscrupulously scattered throughout India, even amongst the hills of the frontier tribes. We are grateful that it has fallen on much barren ground, and can no longer allow the dissemination of unlimited poison.

“ That is the position the Government of India have had to face—that is why we have had to tighten the curb and shorten the reins. That is why we have felt compelled to provide ourselves with a weapon against insidious attacks.

“ The Bill is aimed at the inaugurators of dangerous sedition, not at political reform, not at the freedom of speech of the people of India.

“ But there is another side to all this. I am well aware of the growing strength of political hopes and ambitions in this country, and I welcome them as the natural results of the education British administrators have done so much

[*The President.*]

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to introduce and to encourage. I have said so over and over again, and I deny the accusation of a disregard of the growing influence of the educated classes of India. Far from wishing to check the growth of political thought, I have hoped that, with proper guidance, Indian capacity and Indian patriotism might earn for its people a greater share in the government of their country. They have proposals before them now which I trust may greatly contribute towards that end. The Government of India would be blind indeed to shut its eyes to the awakening wave which is sweeping over the Eastern world, overwhelming old traditions, and bearing on its crest a flood of new ideas. We cannot check its flow, we can but endeavour to direct it into such channels as may benefit the generations that are to come.

“ We may repress sedition—we will repress it with a strong hand—but the restlessness of new-born and advancing thought we cannot repress. We must be prepared to meet it with help and guidance. We must seek for its causes.

“ In the first speech I made on my arrival in this country I said that I looked for assistance in furthering that sense of security and rest throughout the length and breadth of India so indispensable for the development of her internal resources, and her over-sea trade, for the careful consideration of her vital necessities and the general happiness of her people’. Is it too much to hope that the leaders of Indian political thought will give that assistance to the Government of India? I can assure my Hon’ble Colleagues, the Hon’ble Mr. Gokhale and the Hon’ble Dr. Rashbehary Ghose, that a heavy responsibility rests on the shoulders of Indian reformers, for it is upon their support and upon their influence with their fellow-countrymen that British administrators should largely be able to rely.

“ I will not believe that the great bulk of the educated community are opposed to law and order, and I do believe that the masses of the Indian people render loyal homage to their King-Emperor. Moreover, I repudiate once for all the insinuation that has sometimes reached me, that the Government of India has, for political reasons, favoured the interests of one community against those of another. It has been the pride of the British Raj to balance without prejudice the claims of nationalities, of religions, and of castes ; it will continue to do so, and I am grateful for the numerous expressions of loyalty I have received from Ruling Chiefs, and from the leaders of influential Associations of every denomination throughout India.

“ I have merely sketched the conditions which appear to me to surround us,

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and I come now to the business of to-day—To the question of the utilisation, so to speak, of the Act which we have just passed. It seems to have been very generally assumed that, because it is applicable to the whole of India, it is to be universally enforced. That has never been the intention of the Government of India. The Bill, as the Hon'ble Sir Harvey Adamson has explained, was framed to meet the peculiar circumstances of certain localities and to take the place of the Ordinance when it lapsed automatically on the 10th November. The Ordinance has been in force for six months in the Punjab and in Eastern Bengal, and it has been our duty to consider, in consultation with the Lieutenant-Governors of those Provinces, to what extent we need now rely upon the Act. Sir Denzil Ibbetson has replied that quiet is restored in the Punjab, and that he has no need for extra powers, and Sir Lancelot Hare has asked for them only in the district of Bakarganj. With the exception of that district therefore there will be now in India no legislation in force that did not exist before the promulgation of the Ordinance. I earnestly trust that there will be no further need for an appeal to the powers of the Act, but should the necessity unfortunately arise, the Government of India will not hesitate instantly to support the demands of its Lieutenant-Governors.

“I am very far from saying that our anxieties have passed away,—there is much cause for watchful thought as to the state of affairs in many parts of India, and especially in Eastern Bengal—the future happiness of that Province rests with her people and their leaders. We cordially extend to them a helping hand, and I hope they will not hesitate to take it.”

AGRICULTURAL PROSPECTS.

The Hon'ble MR. MILLER said:—“My Lord, I greatly regret that it should again be necessary to make reference in your Excellency's Council to the imminence of famine. We have suffered severely from untoward seasons in this country in recent years; in addition to the great famines of 1896-97 and 1899-1900, there have been serious droughts in different parts of the country, there have been floods so destructive as to necessitate the opening of relief works, and we have seen the promise of unusually fine harvests blighted on one occasion by unprecedented frost, on another by long-continued wet weather. In the present season the late arrival of the monsoon occasioned great anxiety, and towards the end of July the Government of India thought it necessary to call for special reports on agricultural prospects. Happily the monsoon, though late, arrived before the end of that month, and

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its appearance removed for the time being all anxiety as to damage from drought. In August we had heavy and continuous rains; in many parts of the country bumper crops were anticipated; in others there were unusual floods causing great distress and loss; complaints were made not of insufficiency of rain but of the urgent necessity for a break. Towards the end of August however the rainfall suddenly ceased in Northern India and was slight and fitful over large areas further south; September over a great part of the country was practically rainless; it became clear that widespread distress was almost inevitable; and special reports which we received at the end of that month from all the Governments showed that in Northern India the position had become very serious indeed. These special reports have all been published, and it is unnecessary therefore to go into great detail as to the circumstances of the different provinces, or as to the area affected, especially as the position alters rapidly from week to week. It may be of some interest, however, to compare the rainfall of the present season with the monsoons of 1896 and 1899, the two most recent years of widespread failure.

“Speaking generally the failure of the present monsoon has been far less serious than that of 1899. The total actual deficiency of rain has been much less, being only about half of what it was in 1877 and 1899, and the rain which has fallen in the distressed areas has been received at a more useful time, that is to say in July-August instead of June-July. In 1899 the Punjab, Rajputana, Bombay, the Central Provinces and Hyderabad all had a deficiency approaching 50 per cent; this year the failure has reached this amount only in the United Provinces. If, however, the comparison be made with 1896 the result is less favourable. We have had about the same amount of rain in August but less in June and July. In September and October the similarity in the weakness of the monsoon has been close, and the area affected much the same; but the total rainfall has been less, and in some parts of the country prospects are at present even worse than they were in that year.

“The United Provinces have received only one-half of their normal fall. In the Punjab, Rajputana, Central India and the Central Provinces the deficiency is between 24 and 30 per cent. and in Hyderabad it is 18 per cent. In particular localities there has been still more marked failure; Meerut has received only $5\frac{1}{4}$ inches of rain as compared with a normal of 28, Delhi $7\frac{1}{2}$ instead of 25.

“Serious, however, as the situation is there has not been the same early development of indications of distress as in the other years I have named. In

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October, 1906 there were already 50,000 persons on relief works, in 1899 at the same date owing to the early cessation of the rains there were 250,000. This year relief works have not yet been found necessary anywhere, but liberal and prompt measures have been taken where the failure of crops was most pronounced to meet the difficulties of the people, and to encourage them in their struggles by the free advance of loans for agricultural purposes, and by arranging for suspensions of revenue. The Council are well aware of the moral as well as the material importance, which, as all experience of famines shows, attaches to the adoption of prompt measures of this description. They give confidence to the people, they encourage the continuance of agricultural operations wherever possible, they provide work as for instance in the sinking of wells, and they delay the time at which it becomes necessary for the State to make its own arrangements for the administration of relief. The Government of India have sanctioned upwards of a crore of rupees for agricultural loans in the United Provinces, and we know that arrangements on a liberal scale have been made for the suspension of revenue where necessary, though we do not yet know with what financial result. In parts of these Provinces test works must be opened at an early date, and arrangements are being made for the organization of relief works on an extensive scale, if they should unfortunately become necessary. These arrangements include the collection of additional establishments, the purchase and distribution of tools and the making of baskets for the relief workers, the recruiting of non-official agency, the organization of private charity, and the drawing up of preliminary lists of persons eligible for gratuitous relief. In other Provinces the distress is not so widespread, but with the holding off of rain the position is daily becoming more serious. A great part of the Punjab is protected by canals, but the sorely tried districts of the south-eastern part of the Province are again threatened with famine, and in the Delhi Division at least actual famine is now inevitable. In a great part of Rajputana and Central India the position is similar and applications for assistance have already been received on behalf of some of the smaller States whose resources are insufficient to enable them adequately to cope with the distress. In Guzerat and the Northern Deccan the autumn crop on unirrigated land is a complete failure, and in parts of the Central Provinces the outlook is very gloomy.

“ In Bengal the want of rain is being felt in many parts, and though the reports do not as yet indicate any serious anxiety of widespread scarcity they are weekly becoming more unfavourable; in Madras there is not at present any apprehension of distress, and in Burma prospects have recently much improved, and an excellent rice crop is anticipated. Everywhere however rain is badly required

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either for the present crops or to allow of sowings for the spring crops, and much depends on whether any is soon received.

“During recent years the arrangements for coping with famine have been reconsidered in the light of the experience gained from 1896 onwards in the various droughts with which the country has had to contend. The Famine Codes have been revised, and a special code has been drawn up for use in the States. The responsibility for detecting and taking prompt steps to relieve distress rests with the Local Governments, and the Government of India are aware that they are all watching the situation with great anxiety and are concerting measures where necessary to meet it.

“We have the advantage now of fully systematized arrangements, as well as of the presence of numerous officers who have unfortunately had only too much experience of famine work. We have also better programmes of relief works, and though these can probably never be entirely satisfactory it may be hoped that if the provision of work on a large scale becomes necessary, the labour will be employed with somewhat more useful permanent results than before. We cannot expect that all contingencies have been provided for. Each famine brings its own problems; and modifications are required in the arrangements for solving them, but the general principles on which action should be taken are thoroughly understood, and the details have at the same time been laid down with a clearness not attempted before.

“There are two features of the present scarcity that deserve attention. One is the very high range of prices that has prevailed for many months, and has caused much hardship, especially to the urban population, to the poorer members of the higher castes and to all classes on fixed incomes. Grain has been selling for many months at rates approaching or equalling scarcity rates. On a reference to the prices at two well known marts which are in the heart of distressed areas—Cawnpore and Delhi—I find that the prices of wheat and rice are now distinctly higher than at the same time in 1899, though almost exactly the same as they were in October 1896. There has not, however, been the same rapid rise as occurred in these years between June and October.

“The other feature to which allusion may be made is the great demand there has been in recent times for labour and the great rise in wages. It would be tedious to attempt to illustrate this rise by statistics, but the fact itself is well known: great public works, railways and canals, mills, factories and mines have all made their demands on our labouring population, the supply is barely equal to

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the demand, and the remuneration of unskilled labour has greatly increased in consequence.

“Taken together these two features of the situation seem to suggest that there may possibly be some change in the direction in which relief is most required, that it may not be necessary to provide on quite so large a scale for the unskilled labourer as in former seasons of drought, and that more attention may have to be given to those who are unfitted for such labour as our ordinary relief works will supply.

“A serious feature of all famines, and one which is ever attracting more attention is the destruction of cattle owing to dearth of fodder. This is an exceedingly important problem and at the same time an exceedingly difficult one. The transportation of cattle to grazing grounds and the importation or storing of fodder for the cattle alike present great difficulties, and it cannot be said of any of the measures hitherto taken in this direction that they have been successful in preventing great mortality. The Government of India attach much importance to this question and desire to call the attention of all concerned to the recommendations of the last Famine Commission on the subject, though the Commission attached perhaps more importance to private enterprise in this matter than the present state of private enterprise in the fodder trade justifies. The Government of India hope that all Governments will make timely provision whether by baling and transporting fodder, by throwing open their Forest reserves—measures already taken in the United Provinces—by arranging for the migration or transportation of cattle to grazing grounds, or by forming cattle camps, according as the circumstances of the different tracts suggest, for the preservation of the animals on which the recovery of prosperity by the peasantry when the effects of drought have passed away so greatly depends. The question of cheapening the transport of fodder by rail is under consideration.

“Over 20 years ago the first great Famine Commission expressed the hope that the experience gained then and in the previous famine in Lord Northbrook’s time would effectually prevent the repetition of the popular suggestion that one remedy for distress is Government interference with trade. This hope has not been fulfilled, and in spite of the further experience gained since then, of the pronouncements of other Commissions and of the reiteration by Government of its policy of non-intervention, save under very special and exceptional circumstances, proposals in favour of interference with trade are still put forward as often as famine threatens or as prices rise abnormally. It cannot be too clearly understood that the policy of the Government is, as on previous occasions, to leave private enterprise unfettered. The grain merchants are

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the best allies of the Government in the distribution of the grain supplies of the country. The Government would incur an immense responsibility if it took any step that threatened to dislocate the trade. It has trusted to private enterprise in much more serious situations than the present, at times when such enterprise was less developed than it now is, and it has no intention of altering its general policy of abstention from interference with trade. Restrictions have, it is believed, been imposed or considered in certain States, but the Government trust that the rulers of these States will recognize the harm they are likely to do to themselves in the long run by a policy of intervention.

"In another fortnight we shall be in a better position to estimate the needs of the situation. For the present it is enough to say that every precaution is being taken against surprise, and that preparations are being made to deal with a serious emergency, if it arises, not only in British India, but in the Protected States, the rulers of which have shown on former occasions their readiness to take effective measures for alleviating distress in their territories. I should like to close these remarks with an expression of sympathy with our agricultural population in the calamity that threatens them, and with the people generally in the hard times which high prices bring upon them; and at the same time to express admiration of the spirit of self-reliance and confidence in which the situation is being faced by all classes, as far as our information goes, in the tracts where the distress is most severe."

The Council adjourned *sine die*.

T. W. RICHARDSON,

*Offg. Secretary to the Government of India,
Legislative Department.*

SIMLA;

The 1st November, 1907. }